



Sonoma County Planning Commission STAFF REPORT

Sonoma County Permit and Resource Management Department
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FILE: PLP04-0046
DATE: March 5, 2009
TIME: 1:40 p.m.
STAFF: Steve Padovan

**Board of Supervisors Hearing Date
March 24, 2009**

SUMMARY

Applicant/Owner: Dutra Materials, Inc.

Location: 3355 Petaluma Boulevard South
APNs 019-220-001, 019-320-022 and 019-320-023
Supervisorial District No. 2

Subject: General Plan Land Use Policy Addition

PROPOSAL: Request for a General Plan Text Amendment to the Land Use Element Policies to add a new Planning Area policy that allows the Dutra Haystack Landing Asphalt and Aggregates Facility to exceed the allowable noise standards contained in Table NE-2 of the General Plan Noise Element.

Environmental Determination: Dutra Haystack Landing Asphalt and Recycling Facility Environmental Impact Report

General Plan: General Industrial and Limited Commercial

Specific/Area Plan: Petaluma Dairy Belt Area Plan
Land Use: Limited Commercial

Zoning: M2 (Heavy Industrial) B8 (Frozen Lot), F2 (Floodplain), BR (Biotic Resource) LC (Limited Commercial), HD (Historic District), SR (Scenic Resources), SD (Scenic Design), F2 (Floodplain)

RECOMMENDATION: Staff recommends that the Planning Commission hold a public hearing on the proposed special area policy and recommend that the Board of Supervisors approve the General Plan Text Amendment.

ANALYSIS

Background:

At its regularly scheduled hearing on October 16, 2008, the Planning Commission, on a 3-1 vote, recommended that the Board of Supervisors adopt the EIR and approve the proposed Dutra Haystack Landing Asphalt and Aggregate Distribution Facility (PLP04-0046). On February 3, 2008 the Board of Supervisors considered the Draft and Final EIR and took public testimony on the proposed project. The

Board closed the public hearing, deliberated, and on a 4-1 straw vote, tentatively approved the project. The Board then continued the matter to March 24, 2009 for a final vote on the EIR and the project. The Board referred a proposed General Plan text amendment not previously considered by the Planning Commission back to the Planning Commission for consideration and recommendation to the Board as required under state law. The proposed General Plan text amendment would add a Planning Area Policy to the Land Use Element under the "Petaluma and Environs" subsection that would allow the project to exceed the noise standards contained in Table NE-2 of the Noise Element. The Board recommended that the new Land Use policy provide greater consistency with the General Plan, since barge docking and off-loading would generate noise levels in excess of the allowable noise standards in Table NE-2.

Any legislative action to amend the General Plan must be reviewed by the Planning Commission for recommendation to the Board of Supervisors. Since the Planning Commission had not reviewed the proposed General Plan text amendment at previous hearings, the Board referred the matter back to the Commission for review and a recommendation.

Hearing Purpose:

The purpose of this public hearing is to allow the Planning Commission to review only the proposed General Plan planning area policy. The public hearing will be limited solely to the above referenced General Plan policy and will not include review of any other aspects/merits of the project or associated environmental impacts.

Proposed Land Use Planning Area Policy:

Staff has drafted the following new General Plan Planning Area Policy to be added Section 3.8 of the Land Use Element - Petaluma and Environs as follows:

LU-19i - Noise generated by the Dutra Haystack Landing Asphalt, Aggregate and Recycling Facility (PLP04-0046), including barge operations, shall not exceed a 60 dB Ldn average day/night noise level at the exterior of the nearest noise sensitive receptor or at Shollenberger Park. Asphalt, aggregates and recycling operations shall not exceed the adjusted daytime maximum L_{50} of 55 dBA or adjusted nighttime maximum L_{50} of 50 dBA. On the riverfront parcel (APN 019-220-001), noise sources related to barge docking, off-loading and conveyor operations may exceed the adjusted maximum daytime L_{50} of 55 dBA and may exceed a nighttime maximum L_{50} of 50 dBA up to six nights per year but shall not exceed a maximum L_{50} of 67 dBA at the nearest noise sensitive receptor, subject to a noise management plan.

Surrounding Land Use and Zoning:

Surrounding land uses consist of a vacant, commercial zoned parcel to the northwest, several non-conforming residential uses to the east along the Petaluma River (LC zoning), vacant agricultural lands to the southeast, and residential and agricultural uses to the west (across Highway 101). The Petaluma River is located east of the site, and on the river's eastern shore, directly across from the project site, is Shollenberger Park, a 165-acre wetland and sensitive habitat area.

Existing land uses on Landing Way north of the proposed facility are zoned M2 (Heavy Industrial) and contain aggregate resource related uses owned by Shamrock Materials, Inc. which operates two facilities that provide sand and aggregate storage and distribution (primarily for concrete production) to the construction trade, including barge off-loading facilities for receipt of materials on the Petaluma River.

DISCUSSION OF ISSUES

Issue # 1: General Plan Noise Consistency

The project was originally submitted under the 1989 General Plan and the proposed a text amendment to Land Use Policy LU-17e in addition to a change in land use from Limited Commercial to Limited Industrial. However, after the Board adopted General Plan 2020 (GP2020) in September 2008, the applicant requested the project be reviewed under the new GP2020 policies.

The GP2020 Noise Element contains standards for the development of new noise sensitive land uses in noise impacted areas by requiring new development to meet specific interior and exterior noise levels.

Policy NE-1b: *Avoid noise sensitive land use development in noise impacted areas unless effective measures are included to reduce noise levels. For noise due to traffic on public roadways, railroads and airports, reduce exterior noise to 60 dB Ldn or less in outdoor activity areas and interior noise levels to 45 dB Ldn or less with windows and doors closed. Where it is not possible to meet this 60 dB Ldn standard using a practical application of the best available noise reduction technology, a maximum level of up to 65 dB Ldn may be allowed but interior noise level shall be maintained so as not to exceed 45 dB Ldn. For uses such as Single Room Occupancy, Work-Live, Mixed Use Projects, and Caretaker Units, exterior noise levels above 65 dB Ldn or the Table NE-2 standards may be considered if the interior standards of 45 dB Ldn can be met. For schools, libraries, offices, and other similar uses, the interior noise standard shall be 45 dB Leq in the worst case hour when the building is in use.*

The General Plan also sets specific limits on the noise a new use can generate adjacent to other noise sensitive land uses, such as residences. In particular, Noise Policy NE-1c states the following:

Policy NE-1c: *Control non-transportation related noise from new projects. The total noise level resulting from new sources shall not exceed the standards in Table NE-2 as measured at the exterior property line of any adjacent noise sensitive land use. Limit exceptions to the following:*

- (1) If the ambient noise level exceeds the standard in Table NE-2, adjust the standard to equal the ambient level, up to a maximum of 5 dBA above the standard, provided that no measurable increase (i.e. +/- 1.5 dBA) shall be allowed*
- (2) Reduce the applicable standards in Table NE-2 by five dBA for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises, such as pile drivers and dog barking at kennels*
- (3) Reduce the applicable standards in Table NE-2 by 5 decibels if the proposed use exceeds the ambient level by 10 or more decibels*
- (4) For short term noise sources which are permitted to operate no more than six days per year, such as concerts or race events, the allowable noise exposures shown in Table NE2 may be increased by 5 dB. These events shall be subject to a noise management plan including provisions for maximum noise level limits, noise monitoring, complaint response and allowable hours of operation. The plan shall address potential cumulative noise impacts from all events in the area.*
- (5) Noise levels may be measured at the location of the outdoor activity area of the noise sensitive land use, instead of the exterior property line of the adjacent noise sensitive land use where:
 - (a) the property on which the noise sensitive use is located has already been substantially developed pursuant to its existing zoning, and*
 - (b) there is available open land on those noise sensitive lands for noise attenuation.**(This exception may not be used on vacant properties which are zoned to allow noise sensitive uses.)**

TABLE NE-2: Maximum Allowable Exterior Noise Exposures for Non-transportation Noise Sources

<i>Hourly Noise Metric*, dBA</i>	<i>Daytime (7 a.m. to 10 p.m.)</i>	<i>Nighttime (10 p.m. to 7 a.m.)</i>
<i>L50 (30 minutes in any hour)</i>	50	45
<i>L25 (15 minutes in any hour)</i>	55	50
<i>L08 (5 minutes in any hour)</i>	60	55
<i>L02 (1 minute in any hour)</i>	65	60

* (The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour)

The EIR for the Dutra Haystack Landing Asphalt and Recycling Facility found that the median existing ambient noise levels for the riverside residences and the trail at Shollenberger Park is 53 decibels during the day and 50 decibels at night. Therefore, based on subsection (1) of Policy NE-1c and Table NE-2, the maximum allowable ambient noise level for the project increases by 3 decibels during the day and 5 decibels at night to match the current noise levels.

Upon analysis of the noise levels that would be generated by the new facility, the EIR concluded that even with mitigation, the composite noise levels from the barge off-loading, asphalt plant and the recycling operations would exceed the noise standards in the General Plan and therefore be significant and unavoidable. The Planning Commission, in an effort to further reduce noise impacts, included additional sound reduction features in the conditions of approval including sound walls around the asphalt drum burner, reduced hours for the recycling and barge off-loading operations and berming of recycled materials. The Board further added an additional condition requiring containment and enclosure of the plants burner and drum mixer.

Staff and the Board received an additional sound analysis from Rosen, Goldberg, Dur & Lewitz on January 30, 2009, which found that the provision of a 16 foot high sound/retaining wall along the railroad right-of-way and the location of the recycling operations behind 15 foot high piles of aggregates would reduce noise impacts from asphalt production to the adjusted ambient levels prescribed in Table NE-2 (53 decibels for day and 50 decibels for night) at the riverfront residences. However, the sound analysis also found that the noise levels from truck movements around the site would exceed the GP2020 noise standards at the adjacent residences.

Based on the potential for continuous long term noise generated by the truck movements (e.g.: the asphalt plant could be operating throughout the night), the applicant recommended that the proposed sound wall be extended northward into the hillside at the northerly end of the property, including a sound insulated gate across the private access road that could be automatically opened by the residents on the east side of the railroad tracks. Staff would require that the gate be placed far enough back from the railroad tracks to ensure that any vehicle crossing the tracks had adequate line of sight before crossing. The sound consultant also recommended that a sound insulating blanket be placed on the recycled material crusher when it is operating to reduce sound impacts to the hillside residents west of the freeway. Rosen, Goldberg, Dur & Lewitz provided a final sound analysis (attached) that addresses these design changes. Although these improvements reduce sound from the asphalt plant and recycling operations to General Plan standards, the barge docking and unloading operations cannot be feasibly mitigated to the required noise levels, and a General Plan Area Policy is necessary to achieve project consistency with the GP2020 Noise Element.

The proposed Planning Area Policy allows for a maximum average daytime noise level of 60 dB Ldn at the exterior of the nearest noise sensitive receptors. These sound levels are identified in GP2020 under Policy NE-1b for new residential construction but are proposed as part of this new policy to conform to

generally accepted noise guidelines that state that sustained exterior noise levels can be detrimental to persons exposed to these levels for extended periods of time (such as a residential use). It should be noted that standard construction can attenuate 20 dBA to provide an interior noise level of 45 dB Ldn per the County and State standard for sleeping.

Barge off-loading of materials would typically occur twice a week and last approximately 4 to 5 hours during high tides, which vary throughout the year. Therefore, the noise impacts would be limited rather than continuous. In addition, exterior noise levels at the nearest sensitive receptors would be reduced by mitigation measures currently in the project conditions of approval, including the following:

- Enclosure of points along the conveyor where materials transfer from one belt to another.
- The tug boat's engines shall be shut down once the barge is docked and the tug boat shall utilize on-shore electricity while the barge is off-loading.
- Noise barriers shall be placed on the southern portion of the barge where feasible.
- Utilize strobe lights in place of back-up beepers for all plant operated vehicles at night.
- Front-loaders shall be properly tuned and utilize proper muffling equipment.
- An eight-foot solid wood fence shall be placed along the property line between the barge facility (APN 019-220-001) and Mr. Yee's parcel (APN 019-320-010)
- Upgrading of windows in the adjacent Yee and Fontes residences.

Regarding the six nighttime exceptions to the Table NE-2 standards, these events are subject to a noise management plan including provisions for maximum noise level limits, noise monitoring, complaint response and allowable hours of operation. The plan would also be required to address potential cumulative noise impacts from noise events in the area.

State law requires that all projects be found consistent with the adopted General Plan. Consistency, however, does not require conformance with every policy of the Plan. Conflicts with some policies may occur when a project meets other General Plan goals and objectives. For example, there are policies related to the supply of adequate aggregate resources within the County and policies related to the use of the Petaluma River for river dependent industries. In addition, the parcel is designated General Industrial, which allows for a variety of heavy industrial uses and the adjoining non-conforming residences are located on lands designated Limited Commercial. Therefore, the Planning Commission must weigh the public benefits of each policy and determine whether a project, on balance, is consistent and in harmony with the overall intent of the General Plan.

As discussed in previous staff reports, the proposed operations of the asphalt plant and aggregate distribution facility, including the barge off-loading operations meet the criteria under the Land Use Element for amending the land use plan to the Limited Industrial designation. In addition, the barge facility, which is located on property designated as Limited Industrial, conforms to Land Use Policy LU-19c as it relates to river dependent industrial uses as follows:

Policy LU-19c: Apply the "General Commercial" and "General Industrial" categories only to appropriate uses existing as of 1986 inside the Urban Service Boundary. Apply the "Limited Commercial" and "Limited Industrial" categories only to appropriate uses existing as of 1986. However, consider additional river dependent commercial and industrial uses along the Petaluma River, where necessary to maintain the river as a navigable waterway connecting the Bay to downtown Petaluma.

In conclusion, the river dependent nature of the use, the site's direct access to river, rail and highway, the similarity of uses north of the site, and the nonconforming status of the adjacent residential land uses support a finding that the project is compatible with the goals, objectives and policies of the General Plan.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission hold a public hearing on the proposed special area policy and recommend that the Board of Supervisors approve a General Plan Text Amendment by adding Planning Area Policy LU-19i.

FINDINGS FOR RECOMMENDED ACTION

1. The proposed text amendments to the General Plan Land Use Element with the addition of Land Use Policy LU-19i reflects the industrial nature of the area. The amendment is in harmony with the other goals, objectives, and policies of the General Plan and is therefore consistent with the General Plan.
2. Although the project is not in complete conformance with every policy stated in the General Plan, it is fully consistent with most policies and is compatible with the objectives, policies, general land uses and programs in the General Plan. In particular, the river dependent nature of the use, the site's direct access to river, rail and highway, the similarity of uses north of the site, and the nonconforming status of the adjacent residential land uses support a finding that the project is compatible with the objectives and policies of the General Plan.
3. The new General Plan Planning Area Policy would be consistent with Noise Element Policy NE-1b which allows for a maximum average daytime noise level of 60 dB Ldn at the exterior of the noise sensitive receptors and 45 dB Ldn for the interior of the residences.
4. The EIR for the project finds that the noise impacts from the proposed barge operations are significant and unavoidable and there are no feasible mitigation measures available to reduce the noise to a less than significant level as any noise reduction barriers would need to be located in the river channel.
5. The noise impacts from the barge docking and unloading operations are limited in their duration as the barge off-loading facilities will typically be used twice a week for a period of 4 to 5 hours during high tides.

LIST OF ATTACHMENTS

- EXHIBIT A: Draft Amended Conditions for the Board of Supervisors
EXHIBIT B: Noise Analysis by Rosen, Goldberg, Dur & Lewitz dated January 30, 2009
EXHIBIT C: Noise Analysis by Rosen, Goldberg, Dur & Lewitz dated February 27, 2009
EXHIBIT D: Letter from the City of Petaluma dated February 2, 2009
EXHIBIT E: Site Plan
EXHIBIT F: Draft Resolution

Separate Attachment for Commissioners: Public E-mails regarding the Project