

Department of Resource Management

Solano County Zoning Administrator

675 Texas Street, Suite 5500 Fairfield, CA 94533

Telephone No: (707) 784-6765 Fax: (707) 784-2894

Bill Emlen, Director Clifford Covey, Asst Director

Meeting of February 21, 2013

Use Permit Renewal - Staff Report

Application: U-98-06-EX3 (Concrush)

Project Planner: Eric Wilberg

Agenda Item No. 1

Location: 2216 Cement Hill Road General Plan: Urban Project Area Assessor Parcel Number: 0166-110-190 Zoning: General Manufacturing 'MG 1/2'

Requested Action

Request for Zoning Administrator approval of extension No. 3 to U-98-06 to continue operation of a rock, concrete, asphalt and recycling/crushing facility located at 2216 Cement Hill Road.

Background

At the June 18, 1998 Planning Commission meeting, the Commission adopted the Negative Declaration and approved use permit U-98-06. Subsequent extensions have been approved by the Zoning Administrator.

Review

Upon review of the permit conditions of approval and based on the absence of code compliance cases on file, staff has determined that the concrete, rock, asphalt and recycling/ crushing operation is being operated in compliance with the conditions of use permit U-98-06.

A viewing of the property indicates the operation to be established in accord with the approved site plan. Comments received from the Building & Safety, Environmental Health and Public Works Divisions indicate that the facility is being operated in compliance with each division's respective conditions of approval. In addition, the applicant has submitted a report that indicated tonnage received by jurisdiction pursuant to condition No. 10. As such, staff recommends that the Zoning Administrator approve extension No. 3 of U-98-06.

Permit Term

Section 28.70.10 (C) of the County Zoning Regulations requires uses established in the Fairfield Train Station Area, designated Urban Project Area within the County General Plan, be interim uses which terminate upon annexation to the City of Fairfield. Condition No. 13 reflects this language and addresses the concerns outlined in the Fairfield Community Development Department's letter, dated January 15, 2013.

USE PERMIT RENEWAL MANDATORY FINDINGS

1. The owner/applicant has requested renewal.

On December 18, 2012 Concrush, Inc. filed extension No. 3 to U-98-06.

2. The owner/applicant has paid a renewal fee as may be set by the Board of Supervisors pursuant to Section 11-111 of the County Code.

Along with the required application materials, the applicant has paid the use permit extension fee of \$969.

3. The use is being conducted in full compliance with all conditions of the use permit. If the Zoning Administrator is unable to approve a renewal, the use permit shall be set for revocation.

On the basis of site inspection, as well as a lack of complaints on file with the Department of Resource Management, staff believes the existing use is being conducted in compliance with the conditions of use permit U-98-06. As a result, staff recommends approval of this extension and that the Zoning Administrator does not consider revocation of the permit.

CONDITIONS OF APPROVAL

- 1. The proposed use shall be established in accord with the plans and information submitted with Use Permit Application No. U 98-06 as approved by the Solano County Planning Commission.
- 2. The operating hours of the recycling operation shall be limited to the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, and 8:00 am to 5:00 pm on Saturday.
- 3. The permittee shall improve the private driveway with decomposed granite to a minimum width of eighteen (18) feet. The proposed onsite driveway and parking area shall be improved with decomposed granite.
- 4. No additional uses shall be established beyond those identified on the project plot plan without prior approval. No new or expanded buildings shall be constructed without prior approval of a minor revision to this use permit or approval of a new use permit.
- 5. All requirements of the Solano County Building and Safety Division shall be met including:
 - a. The permittee shall obtain approval from the Building and Safety Division prior to construction, erection, enlargement, altering, repairing, moving, improving, removing, converting, demolishing any building or structure, fence or retaining wall regulated by the Solano County Building Laws. Submit four sets of plans to the Building and Safety Division for plan review and permits prior to beginning any improvements.
 - b. Except as exempted in Chapter 31 of the Solano County Code, no person shall commence or perform any grading, filling, excavation, or clearing of vegetation for any purpose without having first obtained a grading permit from the Building and Safety Division.

- 6. All requirements of the Solano County Environmental Health Division shall be met, including the filing of a Hazardous Materials Management Plan with the Division of Environmental Health.
- 7. The premises shall be maintained in a neat and orderly manner and kept free of accumulated debris or junk. The permittee shall plant thirty 15-gallon redwood trees twenty feet apart along downwind property line of site operations.
- 8. The permittee shall take such measures as may be necessary or as may be required by the County to prevent offensive noise, lighting, dust, or other impacts which constitute a hazard or nuisance to surrounding property.
 - a. Cover with base rock the apron of all access roads, parking areas and staging areas.
 - b. Sweep daily (with water sweepers) the apron of all paved access roads, parking areas and staging areas.
 - c. Sweep adjacent public streets daily with water sweepers if visible material is carried onto the streets.
 - d. Water stockpiles regularly to insure reasonable moisture content. The stockpiled materials shall be watered as often as necessary to minimize dust impacts on adjacent properties.
 - e. Limit traffic speeds on facility to 15 mph.
 - f. Temporarily halt operations if wind is causing visible dust plumes from project operations and leaving the property.
 - g. Manage stockpiles to avoid conical tops.
- 9. Failure to comply with any of the conditions of approval or limitation set forth in this permit shall be cause for the revocation of this permit and removal of the recycling operation at the permittees' expense.
- 10. The permittee shall submit quarterly reports to the County, indicating the tonnage by jurisdiction of origin of the material it is accepting and diverting.
- 11. The permittee shall comply with all applicable Federal, State and local enactments, laws, and regulations, as they now exist and as they may be amended. A copy of correspondence concerning any enforcement action shall be provided to the Department of Resource Management.
- 12. Upon residential homes being constructed and occupied within 150 feet of the property line of the operational site, the following condition shall become effective:

Should the County receive two complaints it deems valid within one year regarding particulate matter (i.e., dust) impacts from project operations, the applicant shall place or cause to be placed at their cost one or more dust aerosol monitors in a manner deemed acceptable by the County. The County (or designee) shall record data from monitor(s) to determine compliance with dust exposure limits as set by the California Ambient Air Quality Standards (CAAQS). The project operator shall be responsible for all County-incurred costs associated with collecting readings

from the dust aerosol monitor. In the event that either monitor shows a reading that exceeds the CAAQS, the operator shall employ additional watering or other mitigation measures necessary to obtain compliance with the standard. Should monitors exceed the standard for more than two consecutive days, the County shall be authorized to temporarily suspend offending project operations until compliance can be assured through additional mitigation measures or rescind the Use Permit if acceptable remedies are unavailable. Monitors shall be placed and monitored until such time that the County is satisfied that offsite impacts have been remedied.

13. Uses established in the Fairfield Train Station Area, designated an Urban Project Area by the Solano County General Plan, shall be consistent with existing development and considered interim uses which terminate upon annexation to the City of Fairfield.

Attachments

Attachment A: Draft Resolution

Attachment B: Fairfield Community Development letter, revised January 23, 2013

SOLANO COUNTY ZONING ADMINISTRATOR RESOLUTION NO. XX

WHEREAS, the Solano County Zoning Administrator has considered Extension No. 3 to Use Permit No. U-98-06 of Concrush, Inc. for the continued use of a concrete, rock, asphalt and recycling/crushing operation located at 2214 Cement Hill Road adjacent to the City of Fairfield in an "MG-½" General Manufacturing Zoning District, APN: 0166-110-190, and;

WHEREAS, said Zoning Administrator has reviewed the report of the Department of Resource Management and heard testimony relative to the subject application at the duly noticed public hearing held on February 21, 2013, and;

WHEREAS, after due consideration, the Zoning Administrator has made the following findings in regard to said proposal:

1. The owner/applicant has requested renewal.

On December 18, 2012 Concrush, Inc. filed extension No. 3 to U-98-06.

2. The owner/applicant has paid a renewal fee as may be set by the Board of Supervisors pursuant to Section 11-111 of the County Code.

Along with the required application materials, the applicant has paid the use permit extension fee of \$969.

3. The use is being conducted in full compliance with all conditions of the use permit. If the Zoning Administrator is unable to approve a renewal, the use permit shall be set for revocation.

On the basis of site inspection, as well as a lack of complaints on file with the Department of Resource Management, staff believes the existing use is being conducted in compliance with the conditions of use permit U-98-06. As a result, staff recommends approval of this extension and that the Zoning Administrator does not consider revocation of the permit.

BE IT THEREFORE RESOLVED, that the Zoning Administrator has approved Extension No. 3 to Use Permit No. U-98-06 subject to the following recommended conditions of approval:

- 1. The proposed use shall be established in accord with the plans and information submitted with Use Permit Application No. U 98-06 as approved by the Solano County Planning Commission.
- 2. The operating hours of the recycling operation shall be limited to the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, and 8:00 am to 5:00 pm on Saturday.
- 3. The permittee shall improve the private driveway with decomposed granite to a minimum width of eighteen (18) feet. The proposed onsite driveway and parking area shall be improved with decomposed granite.

- 4. No additional uses shall be established beyond those identified on the project plot plan without prior approval. No new or expanded buildings shall be constructed without prior approval of a minor revision to this use permit or approval of a new use permit.
- 5. All requirements of the Solano County Building and Safety Division shall be met including:
 - a. The permittee shall obtain approval from the Building and Safety Division prior to construction, erection, enlargement, altering, repairing, moving, improving, removing, converting, demolishing any building or structure, fence or retaining wall regulated by the Solano County Building Laws. Submit four sets of plans to the Building and Safety Division for plan review and permits prior to beginning any improvements.
 - b. Except as exempted in Chapter 31 of the Solano County Code, no person shall commence or perform any grading, filling, excavation, or clearing of vegetation for any purpose without having first obtained a grading permit from the Building and Safety Division.
- 6. All requirements of the Solano County Environmental Health Division shall be met, including the filing of a Hazardous Materials Management Plan with the Division of Environmental Health.
- 7. The premises shall be maintained in a neat and orderly manner and kept free of accumulated debris or junk. The permittee shall plant thirty 15-gallon redwood trees twenty feet apart along downwind property line of site operations.
- 8. The permittee shall take such measures as may be necessary or as may be required by the County to prevent offensive noise, lighting, dust, or other impacts which constitute a hazard or nuisance to surrounding property.
 - a. Cover with base rock the apron of all access roads, parking areas and staging areas.
 - b. Sweep daily (with water sweepers) the apron of all paved access roads, parking areas and staging areas.
 - c. Sweep adjacent public streets daily with water sweepers if visible material is carried onto the streets.
 - d. Water stockpiles regularly to insure reasonable moisture content. The stockpiled materials shall be watered as often as necessary to minimize dust impacts on adjacent properties.
 - e. Limit traffic speeds on facility to 15 mph.
 - f. Temporarily halt operations if wind is causing visible dust plumes from project operations and leaving the property.
 - g. Manage stockpiles to avoid conical tops.

- 9. Failure to comply with any of the conditions of approval or limitation set forth in this permit shall be cause for the revocation of this permit and removal of the recycling operation at the permittees' expense.
- 10. The permittee shall submit quarterly reports to the County, indicating the tonnage by jurisdiction of origin of the material it is accepting and diverting.
- 11. The permittee shall comply with all applicable Federal, State and local enactments, laws, and regulations, as they now exist and as they may be amended. A copy of correspondence concerning any enforcement action shall be provided to the Department of Resource Management.
- 12. Upon residential homes being constructed and occupied within 150 feet of the property line of the operational site, the following condition shall become effective:

Should the County receive two complaints it deems valid within one year regarding particulate matter (i.e., dust) impacts from project operations, the applicant shall place or cause to be placed at their cost one or more dust aerosol monitors in a manner deemed acceptable by the County. The County (or designee) shall record data from monitor(s) to determine compliance with dust exposure limits as set by the California Ambient Air Quality Standards (CAAQS). The project operator shall be responsible for all County-incurred costs associated with collecting readings from the dust aerosol monitor. In the event that either monitor shows a reading that exceeds the CAAQS, the operator shall employ additional watering or other mitigation measures necessary to obtain compliance with the standard. Should monitors exceed the standard for more than two consecutive days, the County shall be authorized to temporarily suspend offending project operations until compliance can be assured through additional mitigation measures or rescind the Use Permit if acceptable remedies are unavailable. Monitors shall be placed and monitored until such time that the County is satisfied that offsite impacts have been remedied

13. Uses established in the Fairfield Train Station Area, designated an Urban Project Area by the Solano County General Plan, shall be consistent with existing development and considered interim uses which terminate upon annexation to the City of Fairfield.

I hereby certify that the foregoing resolution was adopted at the regular meeting of the Solano County Zoning Administrator on February 21, 2013.

BILL EMLEN, DIRECTOR RESOURCE MANAGEMENT

Michael Yankovich
Planning Program Manager



CITY OF FAIRFIELD

Wilberg

Incorporated December 12, 1903

COMMUNITY DEVELOPMENT DEPARTMENT Planning Division

RECEIVED

JAN 24 2013

COUNTY OF SOLANO

RESOURCE MANAGEMENT

COUNCIL

Mayor Harry T. Price 707.428.7395

Vice-Mayor Rick Vaccaro 707.429.6298

707.429.6298
Pam Bertani
Catherine Moy

John Mraz

City Manager Sean P. Quinn 707.428.7400

City Attorney Gregory W. Stepanicich 707.428.7419

City Clerk Jeanette Bellinder 707.428.7384

City Treasurer Oscar G. Reyes, Jr. 707.428.7496

DEPARTMENTS

Administrative Services 707.428.7394

Community Development 707.428.7461

Community Resources 707.428.7465

Fire 707.428.7375

Police 707.428.7362

Public Works 707.428.7485 January 23, 2013

Founded 1856

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Bill Emlen

Solano County Department of Resource Management 675 Texas Street, Suite 5500

Fairfield, CA 94533

Re: Request for Review – Concrush Use Permit (U-98-06-EX3)

Dear Mr. Emlen:

On January 15, the City of Fairfield provided a letter to you in response to your Request for Compliance Review for the extension of the Concrush Use Permit. It has come to our attention that the letter contained a typo. With this error, the letter provided inconsistent statements regarding the City's position on extension of the Use Permit.

The typo is contained in the fourth paragraph on the first page of the letter. In that paragraph, the sentence that begins: "Please note...." was missing the word "not". The sentence should have read: "Please note: Fairfield strongly opposes any extension of the Use Permit that does not terminate upon annexation of the subject property." A corrected version of the letter is enclosed.

If you have any questions, feel free to call Dave Feinstein, Senior Planner, at 707-428-7448.

Sincerely,

ERIN L. BEAVERS

Director of Community Development

ELB:DMF:ccs

Attachment: Revised comment letter

c: Eric Wilberg

ATTACHMENT B



CITY OF FAIRFIELD

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Incorporated December 12, 1903

COMMUNITY DEVELOPMENT DEPARTMENT Planning Division

COUNCIL

Mayor Harry T. Price 707.428.7395

Vice-Mayor Rick Vaccaro 707,429,6298

Councilmembers 707.429.6298 Pam Bertani

Catherine Moy

John Mraz

City Manager Sean P. Quinn 707.428.7400

City Attorney Gregory W. Stepanicich 707.428.7419

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January 15, 2013 REVISED JANUARY 23, 2013

Bill Emlen Solano County Department of Resource Management 675 Texas Street, Suite 5500 Fairfield, CA 94533

Re: Request for Review - Concrush Use Permit (U-98-06-EX3)

Dear Mr. Emlen:

Founded 1856

This letter is being provided in response to the *Request for Compliance Review* for the extension of the Concrush Use Permit received in this office on January 4, 2013.

Included with the above *Request* is a letter from Concrush to you dated December 18, 2012. In the letter, Concrush states that:

We are applying for a five year extension without additional conditions automatically triggered by the future annexation of this property. It is unreasonable to expect a business to make capital investments or even retain current employees when its future is unknown for even a year in advance. [sic]

The City interprets this as a request for the County to extend the Use Permit, but remove annexation contingency language from Condition 13. Condition 13 states that the permit "shall be in effect...contingent upon the property not being included in an annexation request by the City of Fairfield." Please note: Fairfield strongly opposes any extension of the Use Permit that does <u>NOT</u> terminate upon annexation of the subject property. This position is not new, and was communicated to both the County and Concrush during the previous Use Permit extension. Moreover, as explained below, the City's request is consistent with County policies and zoning regulations, which we believe now formally require termination of the Use Permit upon annexation.

As noted above, Concrush seeks to have the termination clause removed, and cites the challenge of operating under a condition of uncertainty. To the contrary, the City believes that Concrush should be operating as if the future is effectively known. When the current Use Permit was extended in 2008, the City made clear that it intended to annex the property and seek redevelopment. This was formalized when the Train Station Specific Plan (TSSP) was adopted in 2011. Under the TSSP, the property and surrounding land is designated for residential uses. A concrete recycling facility is neither permitted nor conditionally permitted in this area. Further, as you are aware, on October 12, 2012, the City of Fairfield submitted an application to Solano LAFCo formally requesting annexation of the "Core Area" of the TSSP. This request includes the Concrush property, and is intended to facilitate near-term redevelopment of the site

and surrounding area. Under zoning regulations adopted for the TSSP, the City does have the ability to enter into a "pre-annexation agreement" that allows for short-term continuance of the operation. City staff is willing to support such an agreement. Concrush should be aware, however, that staff will not support continuance of the operation once housing construction begins in the near vicinity. With recovery of the housing market underway, new housing development could begin as early as the next two years.

In addition to City plans being formalized since the previous Use Permit extension, the County has formalized its policies and regulations to require termination. Specifically, the County adopted General Plan Policies LU.P-7 and LU.P-9 and Zoning Ordinance Section 28.70.10.C (see attached). The message of each is clear: discretionary County permits must be set to terminate *upon annexation*.

Recognizing the above policies, regulations and facts, Concrush should now be making imminent preparations to either: 1) seek a pre-annexation agreement with the City, or 2) vacate the premises. Regarding option 1, under provisions in the Specific Plan zoning, the City is willing to enter into a pre-annexation agreement that would allow for limited-period operation. Regarding option 2, potential sites for relocation do exist elsewhere in the adopted Train Station Specific Plan (consistent with County General Plan Policy LU.P-30) and in the unincorporated area north of Vacaville (consistent with County General Plan Policy LU.I-6). We encourage Concrush to explore either or both of these options.

In conclusion, because City staff recognizes that our annexation request could be denied or approved, but subsequently protested, we do not oppose the County extending Concrush's Use Permit. We firmly request, however, that conditions 1-12 remain in place and Condition 13 be modified only to make clear that the Use Permit will terminate immediately upon annexation of the subject property to the City of Fairfield.

If you have questions, feel free to call Dave Feinstein, Senior Planner, at 707-428-7448.

Sincerely,

ERIN L. BEAVERS

Director of Community Development

ELB:DMF:ccs

Attachment: Solano County Zoning Regulations and General Plan Policies

c: Eric Wilberg

Solano County Zoning and General Plan Language Pertaining to Concrush

Solano County Zoning Ordinance: Section 28.70.10.C

C. Fairfield Train Station Specific Plan Area. Uses established in the Fairfield Train Station Area, designated an Urban Project Area by the Solano County General Plan shall, be consistent with existing development and considered interim uses which terminate upon annexation to the City of Fairfield.

Solano County General Plan

LU.P-7: Permit temporary land uses and uses consistent with current agricultural zoning on unincorporated lands within municipal service areas that do not conflict with planned land uses until the property is annexed to a city for urban development.

LU.P-9: Within the municipal service area in the Peabody Road area where development has already occurred, allow establishment of uses consistent with existing zoning until annexed to the City of Fairfield.

LU.P-30: Establish another location within the Fairfield MSA in consultation with the City of Fairfield that can be used to relocate the types of commercial service and industrial uses from the Fairfield Train Station Specific Plan area.

LU.I-6: Provide for detailed land planning through the Specific Project Area land use designation and subsequent planning process.... The Specific Project Area north of Vacaville (see Figure LU-8) will be subject to a policy plan overlay or specific plan. The intention for this Specific Project Area is to provide space for large scale users that can not be accommodated within city industrial areas and other uses that may not be compatible within city industrial parks consistent with the Limited Industrial designation.... Prior to preparation of a Specific Plan or Policy Plan, businesses forced to relocate from the Peabody Road area that cannot be relocated within or through annexation to the City of Fairfield and cannot be accommodated in the City of Vacaville may be permitted subject to a development agreement that addresses items 1–4 above...