



A Tradition of Stewardship
A Commitment to Service

Planning Commission Mtg.

JUN 04 2014

Agenda Item # 9B

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

David Morrison
Director

MEMORANDUM

To: John McDowell, Deputy Planning Director	From: Kim Withrow, Environmental Health Supervisor
Date: May 29, 2014	Re: Use Permit – Allied Clean Fuel Facility APN 057-020-033 File #P13-00436 UP

This Division has reviewed the application for a clean fuels facility including convenience store. The Division has no objection to approval of the application with the following conditions of approval:

1. Complete plans and specifications for the food preparation, service area(s), storage area(s) and the employee restrooms must be submitted for review and approval by this Division prior to issuance of any building permits for said areas. A plan check fee must be paid at the time the plans are submitted. An annual food permit will be required.
2. Any hazardous waste produced on site, including laboratory wastes, must be stored and disposed of in a manner consistent with Chapter 6.5, Division 20 of the California Health and Safety Code and with Title 22, Division 4.5 of the California Code of Regulations. Additionally, a Hazardous Waste Generator Permit must be obtained from this Division.
3. Pursuant to Chapter 6.95 of the California Health and Safety Code, businesses that store hazardous materials above threshold planning quantities (55 gallons liquid, 200 cubic feet compressed gas, or 500 pounds of solids) shall obtain a permit and file an approved Hazardous Materials Business Plan with this Division within 30 days of said activities. If the business does not store hazardous materials above threshold planning quantities, the applicant shall submit the Business Activities Page indicating such.
4. The applicant shall obtain an above ground storage tank (AST) annual operating permit from this Division. Additionally, plans for the AST facility may be required to be submitted for this Divisions review and approval prior to issuance of building permits for the project.
5. The applicant shall file a Notice of Intent (NOI) and complete a Storm Water Pollution Prevention Plan with the State of California Water Resources Control Board's (SWRCB) Industrial Permitting program, if applicable, within 30 days of receiving a temporary or final certificate of occupancy. Additional information, including a list of regulated SIC

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codes, may be found at:

http://www.swrcb.ca.gov/water_issues/programs/stormwater/industrial.shtml

Additionally, the applicant shall file for a storm water permit from this Division, if applicable, within 30 days of receiving a temporary or final certificate of occupancy. Certain facilities may be exempt from storm water permitting. A verification inspection will be conducted to determine if exemption applies.

6. All waste water lines of the proposed development must be connected to the Napa Sanitation District.
7. The proposed development must be connected to the City of American Canyon water system.
8. All solid waste shall be stored and disposed of in a manner to prevent nuisances or health threats from insects, vectors and odors.
9. During the construction, demolition, or renovation period of the project the applicant must use the franchised garbage hauler for the service area in which they are located for all wastes generated during project development, unless applicant transports their own waste. If the applicant transports their own waste, they must use the appropriate landfill or solid waste transfer station for the service area in which the project is located.
10. Adequate area must be provided for collection of recyclables. The applicant must work with the franchised garbage hauler for the service area in which they are located, in order to determine the area and the access needed for the collection site. The garbage and recycling enclosure must meet the enclosure requirements provided during use permit process and be included on the building permit submittal.

Mount Veeder Stewardship Council

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Planning Commission Mtg.

JUN 4 2014

June 3, 2014

Agenda Item # 9B

RECEIVED

JUN 03 2014

Napa County Planning, Building
& Environmental Services

Napa County Planning Commission
County Administration Building
1195 Third Street, Suite 201
Napa, CA 94559

Re: Napa County Planning Commission Notice of Intent to Adopt Mitigated Negative Declaration for the Allied "Clean Fuels" Terminal Use Permit No. P13-00436 and Specific Plan Amendment P13-000329
Hearing Scheduled for June 4, 2014

Dear Planning Commission:

The Mount Veeder Stewardship Council submits the following letter in Opposition to the Allied "Clean Fuels" Terminal Use Permit Application currently pending before the Napa County Planning Commission, and urges the Planning Commission to reconsider its intent to adopt a Mitigated Negative Declaration for the project and instead deny the use permit application.

The goal of the Mount Veeder Stewardship Council is to encourage sustainability of our natural resources and to ensure that the rich biodiversity and rural quality of life in the private and public lands of our pristine watershed are respected, conserved and protected for future generations through education, local community involvement and outreach to government and business stakeholders. At this time, the Mount Veeder Stewardship Council is concerned about the approval of new uses for water, during this serious drought.

Based upon our review of the Allied "Clean Fuels" Terminal Use Permit Application and subsequent submittals, it is our opinion that the Planning Commission should not adopt the proposed Mitigated Negative Declaration, due to the fact that an adequate analysis of actual water available for the project was not performed, nor did the Planning Department take into consideration, while reviewing this application, the fact that Northern California is currently in a serious drought.

Furthermore, the Allied "Clean Fuels" Terminal is a request to install large tanks for the storage of large quantities of **hazardous materials** at the facility, for sale to the public. It should be noted that the applicant's designation of it's "Clean Fuels" facility in no way changes the fact

that the materials which will be stored in the tanks and sold to the public are hazardous materials. If there is a release of any quantity of those hazardous materials to the soil or groundwater, those materials then become **hazardous waste**.

There is no discussion in the application or subsequent submittals as to how the applicant will prevent releases of these hazardous materials into the soil and groundwater at the proposed facility location, which would then become hazardous waste. Just because the proposed Mitigated Negative Declaration states that there will be no release of hazardous materials to the environment, does not mean that there will not be a release of hazardous materials to the environment. There will be releases of hazardous materials to the environment, if this project is approved.

Allied “Clean Fuels” Terminal Application for Storage and Sale of Hazardous Materials Cannot Guarantee That There Will Not Be a Release of Hazardous Materials to the Environment

The application is for the storage and sale of gasoline, diesel, compressed natural gas, liquified natural gas and propane. These are all hazardous materials. If these materials are released into the soil or groundwater, they become hazardous waste. There is no discussion in the application or in the proposed Mitigated Negative Declaration, as to how the applicant proposes how to keep these hazardous materials from being released into the soil and groundwater.

Although the tanks for the storage of the hazardous materials are aboveground tanks, there is no discussion of the containment for the aboveground storage tanks, the size of the containment area, or if there is even going to be containment for the aboveground storage tanks.

Furthermore, there is no discussion regarding the containment for the piping between the above-ground storage tanks and the dispensers for the hazardous materials. It is not uncommon for there to be leaks in a piping system.

In addition, there is no discussion regarding the containment for the dispensers which are connected to the aboveground storage tanks through the piping for the hazardous materials. It is very common for there to be leaks beneath dispensers at a gas station. In fact, it is almost a certainty that there will be leaks beneath dispensers.

Finally, there is no discussion as to how overfill by the customers, of the hazardous materials, onto the pavement at the pump stations, will be contained, so they will not run off into storm drains and into the Napa River, which is located nearby.

Neither the Application nor the Negative Declaration discuss how the applicant will keep the hazardous materials, stored in the aboveground storage tanks, and then dispensed to customers

via the underground piping to the dispensers, out of the soil and groundwater at the site. There is a blanket statement in the Mitigated Negative Declaration on page 11, item b. at the top of the page which reads "the project would not result in the release of hazardous materials into the environment." This statement is just not true; the Mitigated Negative Declaration is wrong. **There will be releases of hazardous materials into the environment, as a result of this project, and as soon as a release occurs, the hazardous materials immediately become hazardous waste.**

The Mount Veeder Stewardship Council requests that the Napa County Planning Commission deny the Allied "Clean Fuels" Use Permit Application.

Notice to Neighbors

In Napa County, with a large percentage of properties located in the County, the notice which was provided to neighboring properties, only those neighbors who own a property within 300 feet of the project property, were provided notice. Given the fact that the impact of the project extends well beyond 300 feet of the subject parcel, the notice by the County should really be extended to a distance of 1,000 feet of the subject parcel, to alert neighbors to the proposed project and allow them to contact the applicant directly or contact the County regarding their concerns for the proposed project.

Greenhouse Gas Impacts of the Project

The County includes a Greenhouse Gas Checklist with any use permit application. Completion of the checklist should be mandatory. Since the County of Napa sets forth one of its tasks to be stewardship of this County and its natural resources, the County should require all applicants to complete the checklist. In addition, the applicant should be required to implement a certain number of the items in the checklist.

In the Allied "Clean Fuels" Terminal use permit application, the applicant, although it is planning on building a convenience store on the property, in addition to the installation of above ground storage tanks to store and sell fuels which are classified as hazardous materials, opts to implement 7 of 34 Best Management Practices (BMP's) on its project. There are many other BMP's which the applicant could chose to implement, but it does not. Calling the project the Allied "Clean Fuels" Terminal does not qualify as a BMP.

The Project Fails to Consider Several Water Related Concerns

Currently, the State of California is experiencing one of the most significant droughts in the State's recorded history. Yet, the applicant fails to take the drought into consideration. Instead, the applicant is planning on using water from the City of American Canyon and use almost the

maximum amount that it could use for the project. Likewise, the Planning Department, in its evaluation of the Allied “Clean Fuels” Terminal, fails to take the drought into consideration.

There is no information provided on actual water usage on the property, nor how much water will be used on the property, only that the applicant will use almost the entire water allotment from the City of American Canyon on a daily basis for the project. This is a gas station. Why does it need to use so much water? Maybe for the landscaping?

The Water Availability Analysis for Napa County presumes that there is 1.0 acre feet of water per year available under each acre of land on the Valley Floor, presumes that there is 0.5 acre feet of water per year available under each acre of land on the Hillsides, and presumes that there is 0.3 acre feet of water per year available under each acre of land in the M-S-T. These presumptions were formed years ago, when California was not experiencing a drought, and these presumptions are flawed. In the midst of the drought, to assume that the same amount of water is available, as during a year with normal or higher than normal rainfall, after two winters with less than normal rainfall is not supported by any evidence. Followed by the current winter, which is clearly a drought year.

California Water Code section 106 states “It is hereby declared to be the established policy of this State that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation.”

Water Code section 1254 states “In acting upon applications to appropriate water the board shall be guided by the policy that domestic use is the highest use and irrigation is the next highest use of water.”

The use of water, for a gas station, is neither domestic, nor is it irrigation, accordingly, it is a less important use of water, as set forth by the State of California.

The Planning Department has failed to consider state law in the allocation of scarce water; that domestic water use is the primary use of water, and irrigation is secondary use of water. The proposed Allied “Clean Fuels” Terminal is neither domestic use nor is it irrigation. It falls into a category significantly lower than domestic and irrigation uses.

The County Fails to Consider, the Cumulative Impact of the Project on Napa County

Before any issuance of a Mitigated Negative Declaration for the Allied “Clean Fuels” Terminal Use Permit application, applicant and the County must consider how the addition of another gas station, in a location close to the Napa River will impact the County as a whole. There has been no such consideration or discussion of how the continued approval of use permit after use permit will impact the County of Napa. This analysis should consider all predictable and cumulative

impacts such as traffic, noise, waste water, water, air, carbon, hazardous materials, the potential for release of hazardous materials, which then become hazardous wastes, and quality of life for those of us who call Napa County our home.

Adoption of a Mitigated Negative Declaration for Allied “Clean Fuels” Terminal Project Would Set a Bad Precedent in the County

In the County of Napa, any approval of a use permit application must comply with California law, including the California Environmental Quality Act, and the California Water Code, as well as County policy. As set forth above, the Allied “Clean Fuels” Terminal Use Permit application fails to comply with CEQA.

The Allied “Clean Fuels” Terminal Use Permit application raises the question as to whether the Napa County General Plan even contemplates approval of water intensive uses, in this case a gas station, in areas in the County which are lacking in water resources. The Mount Veeder Stewardship Council believes that it does not.

The core of the 1976 Land Use Element (since protected by Measure J) was an analysis of the “intrinsic suitability” of land for development, which took into account the County’s understanding of water availability, at that time. Today, the County has a better, but still incomplete, understanding of water use and water availability throughout the County. There is increased competition for water from springs, streams and wells. Today, more rural properties are suffering the effects of water shortages.

There is a problem with water availability in the Agriculture, Watershed and Open Space areas, even in years of “normal” rainfall. This is not a year of even normal rainfall; California is in a severe drought.

The adoption of a Mitigated Negative Declaration for the Allied “Clean Fuels” Terminal Use Permit, at this time, without an adequate study of the actual amount of water available for the project, would set the stage for a whole class of applications, whose cumulative impacts would severely harm the County, its resources, and their neighbors.

Accordingly, this use permit and any upcoming permit applications should be seriously weighed by the Planning Commission, and should contain a complete and thorough analysis of actual water availability, during this, California’s worst drought, in the history of the State, instead of resting upon the faulty assumption upon which the County currently relies for water calculations.

The Mount Veeder Stewardship Council objects to the adoption of a Mitigated Negative Declaration for the Allied “Clean Fuels” Terminal Use Permit Application on the basis that there has been no consideration of the current drought, no consideration of the actual amount of water

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available for the proposed permitted activity. Furthermore, there is no analysis of the reduced aquifer recharge, for the City of American Canyon's water source, and subsequent water availability analysis in the face of significantly reduced rainfall.

In addition, the Allied "Clean Fuels" Terminal Use Permit also raises the question as to whether a gas station, with hazardous materials, should be located so close to the Napa River, which when a release occurs, because a release will occur, and can not only impact the groundwater but the Napa River as well. Given the fact that the Mitigated Negative Declaration contains errors regarding the release of hazardous materials to the environment, the Planning Commission should deny the application.

For the foregoing reasons, the Mount Veeder Stewardship Council respectfully requests that the Planning Commission deny the Allied "Clean Fuels" Terminal Use Permit application.

Respectfully Submitted.

MOUNT VEEDER STEWARDSHIP COUNCIL


Gary Margadant, President