

## **ATTACHMENT NO. 1**

### **SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL**

#### **COASTAL DEVELOPMENT PERMIT NO. 16-016/ CONDITIONAL USE PERMIT NO. 16-034**

#### **SUGGESTED FINDINGS FOR CEQA:**

The Planning Commission finds and determines that no additional environmental review is necessitated in that the project is covered under the Environmental Impact Report for the Ascon Landfill Remedial Action Plan (State Clearinghouse No. 2013041010) certified by the Department of Toxic Substances Control on June 18, 2015. Per Section 15162 of the CEQA Guidelines no further environmental review is required as no substantial changes are proposed with the project; therefore there are no new significant environmental effects nor a substantial increase in the severity of previously identified significant effects.

#### **SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 16-034:**

1. Conditional Use Permit No. 16-034 for the establishment, maintenance and operation of a 6 ft. tall aluminum fence with 6.5 ft. tall pilasters at a 3 inch front setback along Hamilton Avenue and Magnolia Street instead of a minimum 15 ft. setback and gated access to the site will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because the proposed fence complies with the required visibility triangle at the corner of Magnolia Street and Hamilton Avenue. It is designed in substantial compliance with the Urban Design Guidelines by incorporating attractive materials, an open view design with pilasters, and ground cover which soften its appearance. The gated site access provides adequate vehicle stacking of over 40 feet and will comply with Fire and Police Department emergency access requirements.
2. The granting of the conditional use permit will not adversely affect the General Plan because it is consistent with the Land Use Element designation of Residential Medium Density – Specific Plan Overlay on the subject property. In addition, it is consistent with the following objectives and policies of the General Plan:
  - a. Objective C 4.7: Improve the appearance of visually degraded areas within the Coastal Zone.

- b. Policy C 4.7.10: Encourage the remediation and cleanup of the NESI (Ascon) site. Work with other responsible agencies and property owner to facilitate site clean-up.

The project will result in the remediation of the Ascon Landfill which will improve the environmental quality of life in the area as well as the visual appearance of the landfill. Upon completion of the remediation the landfill will be enclosed with a decorative fence and a vegetated cap further enhancing the appearance of the landfill. The fence is designed in substantial compliance with the Urban Design Guidelines by incorporating attractive materials, an open view design with pilasters, and ground cover which soften its appearance and is compatible with surrounding uses. The reduced fence setback is also compatible with the perimeter tract walls of the nearby residential areas which also do not have any setbacks along Magnolia Street and Hamilton Avenue.

3. The proposed 6 ft. tall aluminum fence with 6.5 ft. tall pilasters at a 3 inch front setback along Hamilton Avenue and Magnolia Street, instead of a minimum 15 ft. setback, and gated access to the site will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and any specific condition required for the proposed use in the district in which it would be located, except for the reduced front setback which is permitted with approval of a conditional use permit because the proposed fence complies with the required visibility triangle at the corner of Magnolia Street and Hamilton Avenue and no other deviations from the zoning code are proposed. As required by the HBZSO, the gated site access provides adequate stacking of over 40 feet which exceeds the required minimum of 20 feet and will comply with Fire and Police Department emergency access requirements.

#### **SUGGESTED FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 16-016:**

1. Coastal Development Permit No. 16-016 to implement the final remedial action plan for the Ascon landfill with grading involving more than 25,000 cubic yards of import/export as modified by conditions of approval, conforms with the General Plan, including the Local Coastal Program. The General Plan Land Use Map designation on the subject property is Residential Medium Density – Specific Plan Overlay. The proposed project is consistent with this designation because it only involves the final remediation of the property. It is also consistent with the goals, objectives, and policies of the City's General Plan as follows:

##### **A. Coastal Element**

Policy C 2.2.2: Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

Policy C 4.6.3: For new re-development, require the preservation of existing mature tree (as defined by the City's Landscape Ordinance). If preservation of existing mature trees is not feasible, require that removed trees be replaced at a minimum 2:1 ratio either on site, or elsewhere within the Coastal Zone, as prescribed by the City.

Objective C 4.7: Improve the appearance of visually degraded areas within the Coastal Zone.

Policy C 4.7.10: Encourage the remediation and cleanup of the NESI (Ascon) site. Work with other responsible agencies and property owner to facilitate site clean-up.

B. Natural and Environmental Hazards

Goal HAZ-5: Environmental cleanup and management of brownfield sites improves environmental quality of life, desirability of surrounding neighborhoods, economic development, and housing options in the community.

Policy HAZ-5(A): Continue to identify, map, and remediate existing hazardous waste sites and require remediation when a property is redeveloped.

The project will result in the remediation of the Ascon landfill which will improve the environmental quality of life in the area as well as the visual appearance of the landfill. Upon completion of the remediation the landfill will be enclosed with a decorative fence that is in substantial compliance with the Urban Design Guidelines further enhancing the appearance of the landfill. The remediation will result in the removal existing landscaping onsite including 14 mature trees. While 2:1 tree replacement onsite is not feasible due to the restrictions resulting from the remediation, a condition of approval is recommended to require the applicant to pay a fee to the City equivalent to the cost of planting 28 trees in the southeast area of the City. Coastal access through existing area roadways and sidewalks will remain throughout the remediation process.

2. Coastal Development Permit No. 16-016 to implement the final remedial action plan for the Ascon landfill with grading involving more than 25,000 cubic yards of import/export is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code, except for the reduced front yard setback for the fence along Magnolia Street and Hamilton Avenue which is allowed with the approval of a conditional use permit, and is being considered concurrently. The site is surrounded by previously developed properties. Public access and use signs are not required because the site is not adjacent to recreation areas, public access ways, public use areas, or the shoreline. The site does not have public views to and from the bluffs, to the shoreline/ocean, or to the wetlands
3. Coastal Development Permit No. 16-016 to implement the final remedial action plan for the Ascon landfill with grading involving more than 25,000 cubic yards of import/export can be implemented and maintained using infrastructure such as roadways and utilities already provided in the area.
4. Coastal Development Permit No. 16-016 to implement the final remedial action plan for the Ascon landfill with grading involving more than 25,000 cubic yards of import/export conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act because no public access to the landfill site is required or desirable. No public

recreation facilities exist at the site and no opportunities for providing public recreation facilities are present. The project will not impede public access, recreation, or views to coastal resources.

**SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 16-034/  
COASTAL DEVELOPMENT NO. 16-016:**

1. The site plan, elevations, concept imagery, grading plan, cross sections, and site staging plan received and dated June 18, 2018 shall be the conceptually approved design.
2. Prior to issuance of grading permits, the following shall be completed:
  - a. The applicant shall submit to the Public Works Department a check payable to the City of Huntington Beach equivalent to the cost of planting 28 trees (36 inch box) based on the average of estimates from two landscape services. The funds shall be deposited in an account by the Public Works Department to be retained until the funds are applied to plant trees at location(s) in southeast Huntington Beach to be selected by staff. The City shall complete the tree planting within one year of receipt of the check.
  - b. At least 14 days prior to any grading activity, the applicant/developer shall provide notice in writing to property owners of record and tenants of properties within a half mile radius of the project site as noticed for the public hearing. The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number for use by the public to report any undesirable noise conditions or any concerns associated with the project. If the telephone is not staffed 24 hours a day, the project owner shall include an automatic answering feature, with date and time stamp recording, to answer calls when the phone is unattended. This, or a similarly effective telephone number, shall be posted at the project site during construction where it is visible to passersby. This telephone number shall be maintained until the project has been completed. Prior to issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Community Development Department.
3. The final building permit(s) cannot be approved until the following have been completed:
  - a. All improvements must be completed in accordance with the approved plans.
  - b. Compliance with all conditions of approval specified herein shall be verified by the Community Development Department.
  - c. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
  - d. The applicant shall submit a landscaping and property maintenance plan for review and approval by the Community Development Department a minimum of 30 days prior to final building permit approval.

4. The project shall comply with all Mitigation Measures and Project Design Features of the Ascon Landfill Environmental Impact Report certified by the Department of Toxic Substances Control on June 18, 2015.
5. Throughout the construction and operation of the project, the project owner shall document, investigate, evaluate, and attempt to resolve all legitimate project-related noise complaints, for noise generated by the project outside of the permitted hours, as defined by the City of Huntington Beach Municipal Code Chapter 8.40. The project owner or authorized agent shall:
  - Use a Noise Complaint Resolution Form, or a functionally equivalent procedure acceptable to the City, to document and respond to each project-related noise complaint that exceeds the City's exterior noise limits outside of the permitted hours;
  - Attempt to contact the person(s) making the noise complaint within 24 hours;
  - Conduct an investigation to determine the source of noise in the complaint; A legitimate complaint refers to a complaint about noise that is caused by the project as opposed to another source (as verified by the City). A legitimate complaint constitutes a violation by the project of Municipal Code Chapter 8.40 (Noise Control) (as confirmed by the City), which is documented by an individual or entity affected by such noise.
  - If the noise is project related, take all feasible measures to reduce the source of the noise; and
  - Submit a report documenting the complaint and actions taken. The report shall include a complaint summary, including the final results of noise reduction efforts.
6. Heavy equipment operation, noisy construction work, construction, and grading activities relating to any project features, including noisy construction work relating to construction staging and warm-up activities, shall be restricted to the times delineated below:
  - Mondays through Saturdays: 7:00 a.m. to 6:00 p.m.
  - Sundays and Federal Holidays: Construction and grading not allowed

Employee arrival, safety meetings, and quiet work day preparations (e.g. equipment inspections) can begin as early as 6:00 a.m. in accordance with the certified Final EIR for the RAP for the Ascon Landfill. Haul trucks and other engine-powered equipment shall be equipped with adequate mufflers and other state-required noise attenuation devices. Haul trucks shall be operated in accordance with posted speed limits. Truck engine exhaust brake use (jake braking) shall be limited to emergencies.

7. All truck/vehicular stacking, staging, and parking shall be onsite only.
8. Only the project described in the project narrative dated August 2018 shall be permitted.
9. Based on mutual review (by the applicant and the City of Huntington Beach Public Works Department) of pavement conditions along the approved haul route before and after the completion of work, the applicant shall repair damaged pavement or reimburse the City for

proportionate share of pavement deterioration caused by vehicles associated with the project, as determined by the City Engineer. Repairs or Reimbursement shall be received by City prior to final grading permit inspection. **(PW)**

10. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
11. The development services departments (Community Development, Fire, and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Community Development may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for grading and building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.
12. Conditional Use Permit No. 16-034 in conjunction with Coastal Development Permit No. 16-016 shall become null and void unless exercised within two years of the date of final approval by the Planning Commission or City Council, or within one year of the date of final Coastal Development Permit approval by the Coastal Commission if the Coastal Development Permit is appealed, or such extension of time as may be granted by the Director pursuant to a written request submitted to the Community Development Department a minimum 30 days prior to the expiration date.

#### **INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.