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AGENDA
KERMAN PLANNING COMMISSION
REGULAR MEETING
Kerman City Hall
Monday, September 28, 2015
6:30 PM

AGENDA PACKET AVAILABLE FOR
REVIEW 72 HOURS PRIOR TO
THE PLANNING COMMISSION
MEETING AT THE PLANNING DEPT.
AND ON THE CITY WEBSITE
ITEMS RECEIVED AT THE
MEETING WILL BE AVAILABLE
FOR REVIEW AT THE CITY
PLANNING OFFICE

Chairman Robert Epperson, Vice-Chairman Kevin Nehring
Commissioners Robert Bandy, Charlie Jones, Eric Kehler, Mario Nunez, Katie Wettlaufer

ALL MEETING ATTENDEES ARE ADVISED THAT ALL PAGERS, CELLULAR TELEPHONES AND ANY OTHER COMMUNICATION
DEVICES SHOULD BE POWERED OFF UPON ENTERING THE COUNCIL CHAMBERS,
AS THESE DEVICES INTERFERE WITH OUR AUDIO EQUIPMENT.

OPENING CEREMONIES

Call to Order – Chairman, Robert D. Epperson

Roll Call – Secretary, Olivia Pimentel

Pledge of Allegiance

AGENDA APPROVAL/ADDITIONS/DELETIONS

1. PRESENTATIONS

REQUEST TO ADDRESS THE COMMISSION

This portion of the meeting is reserved for members of the public to address the Commission on items of interest that are not on the Agenda and are within the subject matter jurisdiction of the Commission. Speakers shall be limited to (3) three minutes. It is requested that no comments be made during this period on items on the Agenda. Members of the public wishing to address the Commission on items on the Agenda should notify the Chairman when that Agenda item is called, and the Chairman will recognize your discussion at that time. It should be noted that the Commission is prohibited by law from taking any action on matters discussed that are not on the Agenda. Speakers are asked to please use the microphone, and provide their name and address.

2. APPROVAL OF MINUTES

A. August 10, 2015

3. PUBLIC HEARING

A. Amend Conditional Use Permit 12-02, Mid Valley Disposal Expansion

Planning Commission by motion open public hearing, consider any testimony, close public hearing and approve amendment to conditional use permit 12-02, Mid Valley Disposal relating to the phasing of the project

4. PETITIONS/RESOLUTIONS

A. Resolution Approving Change of Regular monthly meeting dates of Planning Commission

Planning Commission Approve by motion Resolution to change regular monthly meeting dates from the fourth Monday of each month to the second Monday of each month

5. ADMINISTRATIVE REPORTS

A. Setting Public Hearing on Petition of Amendment to Zoning Ordinance Related To Massage Business Establishments in General Commercial Zone District Conditional Uses

Planning Commission adopt resolution setting public hearing on October 12, 2015 to consider petition of amendment to Zoning Ordinance relating to permitting procedures for massage business establishments in General Commercial Zone District Conditional Uses.

COMMUNICATIONS

ADJOURNMENT

In compliance with the American with Disabilities Act (ADA), if you need special assistance to participate at this meeting, please contact the City Clerk at (559) 846-9380. Notification of 48 hours prior to the meeting will enable the City Clerk to make reasonable arrangement to ensure accessibility to this meeting. Pursuant to the ADA, the meeting room is accessible to the physically handicapped.

AGENDA POSTING CERTIFICATION

I, OLIVIA G. PIMENTEL, Planning Secretary for the City of Kerman, do hereby declare under penalty of perjury that I caused the above agenda to be posted at City of Kerman Planning & Development office at 850 So. Madera Avenue, and at Kerman Community/Teen Center, 15100 Kearney Plaza, and emailed to interested parties on.

/s/ Olivia G. Pimentel
Secretary to the Planning Commission

MINUTES
KERMAN PLANNING COMMISSION
Regular Meeting, Kerman City Hall 850 S. Madera Avenue Kerman CA 93630
Monday, August 10 2015
6:30 p.m.

Call to Order – Chairman, Robert D. Epperson

Roll Call –Olivia Pimentel, Secretary

Pledge of Allegiance

Approval of Agenda

1. Presentation(s) None offered

Request to Address Commission - None offered

2. Approval of Minutes July 27, 2015 were approved as presented

3. Public Hearings

A. Subject: Initiation of Zoning Ordinance Amendment No. 15-02 Related To Expedited Permitting Procedures For Small Residential Roof Top Solar Systems

Planning Commission opened public hearing, considered any public testimony, closed public hearing and adopted resolution of intent to recommend that City Council initiate Zone Ordinance Amendment No. 15-02 relating to permitting procedures for small residential roof top solar systems.

B. Subject: Request to Amend Conditional Use Permit 04-04, Punjabi Temple

Planning Commission by motion opened public hearing, considered any testimony, closed public hearing and approved amendment to conditional use permit 04-04, Punjabi Temple Church to construct a 2,400 s.f. patio on the south side of the Punjabi Temple Church subject to certain findings and conditions of approval.

4. Petitions, Resolutions - None offered

5. Administrative Reports - None offered

6. Communications

A. Commissioners Comments

C/Jones inquired about the Planning Commission monthly stipends, staff was directed to make a request to the City Council for an increase.

Adjournment



/s/ Olivia G. Pimentel
Secretary to the Planning Commission



City of Kerman

"Community Comes First"

Chair Vice Chairperson
Robert Epperson Kevin Nehring, PLS 8200

COMMISSIONERS
Robert Bandy Eric Kehler Charlie Jones Mario Nunez Katie Wettlaufer

STAFF REPORT
PLANNING COMMISSION MEETING
September 28, 2015

To: City of Kerman Planning Commission
From: Olivia Pimentel, Planning Technician
Subject: Amend Conditional Use Permit 12-02, Mid Valley Disposal Recycling and Transfer Station Facility Expansion

Recommendation:

That the Planning Commission conduct a public hearing, receive public testimony, close the public hearing, and approve the following:

1. Adopt Resolution No. 15-04 (Exhibit 'A'), recommending that the City Council approve an Amendment to Conditional Use Permit No. 12-02 for the Mid Valley Disposal, Inc. Recycling and Transfer Station Expansion, relating to the phasing of the project subject to the findings and conditions of approval.

Applicant/Developer:

Kalpakoff Properties, LLC (Owner)
Mid Valley Disposal, Inc. (Operator)
15300 W. Jensen Avenue
Kerman, CA 93630

Planning Commission Action:

The Kerman Planning Commission is an advisory body appointed by the Kerman City Council to make recommendations on all land use matters. The Kerman Municipal Code identifies the Planning Commission as the decision making body on several land use entitlements such as, but not limited to, conditional use permits. The Planning Commission evaluates these applications and makes a determination whether to approve, deny or modify the request following a public hearing. The applicants have a right to appeal any action to the City Council within ten (10) days of the decision. The City Council would then make a final decision on the proposed amendments at a later date.

Executive Summary

Mid Valley Disposal, Inc. is a locally owned and operated company established in 1997. In 2005, the City of Kerman issued Mid Valley Disposal, Inc. Conditional Use Permit No. 05-07 to permit the company to expand their recycling and transfer station operations on a 9.81 acre site in the Kerman industrial park

located on the north side of Jensen Avenue approximately ¼ mile west of Madera Avenue. Mid Valley Disposal offers collection, recycling, and public disposal services for clients throughout Fresno County.

In 2012 Mid Valley Disposal, Inc. proposed to expand its operations in three phases on 28± acres adjacent to their existing facility. The company applied and was granted multiple land use entitlements to expand its existing recycling and transfer station operations in three phases. The land use entitlements required for the proposed project included a conditional use permit for the operation of the facility, pre-zoning of the site from agriculture to industrial uses, annexation of the subject property from the County of Fresno to the City of Kerman, and certification of a Mitigated Negative Declaration in accordance with the California Environmental Quality Act (CEQA).

At full build-out the facility will expand the permitted tonnage of waste from 500 tons per day to 1,500 tons per day and consist of a material recovery facility (MRF), transfer station, construction and demolition (C&D) debris recycling operation, maintenance shops, truck wash stations, fueling islands, organic chipping and grinding operations, organic composting operations, organics/food waste covered composting operation, and future anaerobic digestion. The facility will serve the City of Kerman, other local cities, and unincorporated Fresno County within Mid Valley Disposal's franchise area.

In 2014 Mid Valley Disposal was awarded a grant from Cal Recycle to cover part of the costs of the project. Also in 2014, the company acquired all of the solid waste operations and facilities of Sunset Waste Systems, which secured additional material to process at the composting site. The acquisition of Sunset Waste required the company to enter into a new credit agreement with multiple lenders. The credit agreement contains certain restrictive covenants with respect to capital projects.

Mid Valley Disposal approached staff regarding the possibility of changing the phasing of the construction of the project to allow for immediate construction of the composting facility, followed by other offsite and onsite improvements. Staff indicated that the project must be constructed consistent with the site plan which had not been updated and that any changes to a conditional use permit once it has been approved requires the Planning Commission's review and approval. The building plans have been approved as of July 15, 2015; however The Civil plans still have not been re-submitted for final approval.

Environmental Review

There are no changes and therefore no additional CEQA requirements. On January 22, 2013, the Final Mitigated Negative Declaration (Final MND) was made available on the project, including all land use entitlements. Both the Planning Commission and City Council reviewed and approved.

Project Site

Figure 1, Vicinity Map, shows the location of the existing facility including the area of the proposed expansion totaling 37± acres. The site is surrounded on the east by vacant land, on the north by light industrial uses, on the south by agricultural land, and on the west by the City of Kerman' wastewater treatment plant.

Figure
Vicinity Map



General Site Information:

- Site Location: 15300 W. Jensen Avenue about ¼ mile west of Madera Avenue and just east of the City of Kerman's Waste Water Treatment Plant.
- Assessor's Parcel No.: Per APN Map 023-080-19S and 023-080-33s
- Acres: 28±
- Existing Uses: Primarily agriculture land to the south, north, and east with the City of Kerman's Wastewater Treatment Plant located to the west.
- General Plan: The site is designated Heavy Industrial in the Kerman General Plan. The site was located outside the City limits but within the City's sphere of influence. In 2012 the City annexed and zoned the site according to the General Plan.
- Zoning: The site was zoned AE-20 (Agricultural Exclusive) in the Fresno County General Plan. The City annexed the site and zoned the site (M-2) Heavy Industrial Zone District consistent with the land use designation. The M-2 zoning allows for a range of industrial uses.

Surrounding Uses
& Zoning:

Location	Existing Land Uses	General Plan Designations	Zone Districts
North	Light Industrial Uses	Heavy Industrial	M-2
South	Agricultural Land	Fresno County Agricultural	AE-20
East	Agricultural Land	Fresno County Agricultural	AE-20
West	Wastewater Treatment Plant	Public Use	PU

General Plan Consistency

The site is designated for heavy industrial uses in the Kerman General Plan. The proposed uses would be and extension of existing operations consistent with the general plan.

Zoning

The site was annexed into the City of Kerman in 2012 and zoned Heavy Industrial (M-2) consistent with the General Plan Land Use Element. The propose project will be required to comply with all of the development standards of the heavy industrial zone district.

Project Description:

The proposed project would expand existing recycling and transfer station operations for the collection, processing, recycling and disposal of a variety of non-hazardous material received at the facility including material from curb-side collection programs, mixed load of residential, commercial and industrial solid waste, as well as construction and demolition debris and self-haul material. No designated, special, medical, or liquid hazardous waste will be accepted at the facility.

At full build-out the facility will expand the permitted tonnage of waste from 500 tons per day to 1,500 tons per day and consist of a material recovery facility (MRF), transfer station, construction and demolition (C&D) debris recycling operation, maintenance shops, truck wash stations, fueling islands, organic chipping and grinding operations, organic composting operations, organics/food waste covered composting operation, and future anaerobic digestion. The facility will serve the City of Kerman, other local cities, and unincorporated Fresno County within Mid Valley Disposal's franchise area.

There are no changes being proposed to the site, only to the phasing of the project.

Site Plan:

The Site Plan, Figure 2, shows the original layout of the proposed project including major structures, parking, ingress and egress, and operational components such as location of tipping areas, processing area, baler, material storage and load out areas.

The original proposed project was to be developed in three phases. The only change being requested is the phasing schedule that will allow for the composting facility to be constructed immediately, in order to generate revenue that supports the remaining build out.

The following phasing plan and facility design includes the following major components for each phase. Mid Valley Disposal is confident that initial phase will support build out of remaining phases within 2 years of completion.

Phase I (A, B, and C)

- Expand C&D and organics processing area (290,000 sq. ft.) (Phase 1-A)
- Covered composting system (Phase 1-A)
- Self-haul tipping area (Phase 1-B)
- Expand concrete and asphalt crushing area (100,000 sq. ft.) (Phase 1-B)
- Open storage of recovered materials in bales; (Phase 1-B)
- Finished project storage bunkers; (Phase 1-B)
- Two additional inbound/outbound truck scales (Phase 1-B)
- New administration building including scale office (6,097 sq. ft.) (Phase 1-C)
- New maintenance building (6,840 sq. ft.) (Phase 1-C)
- Material Recovery Facility (MRF) and Transfer Station (44,000 sq. ft.) (Phase 1-C)

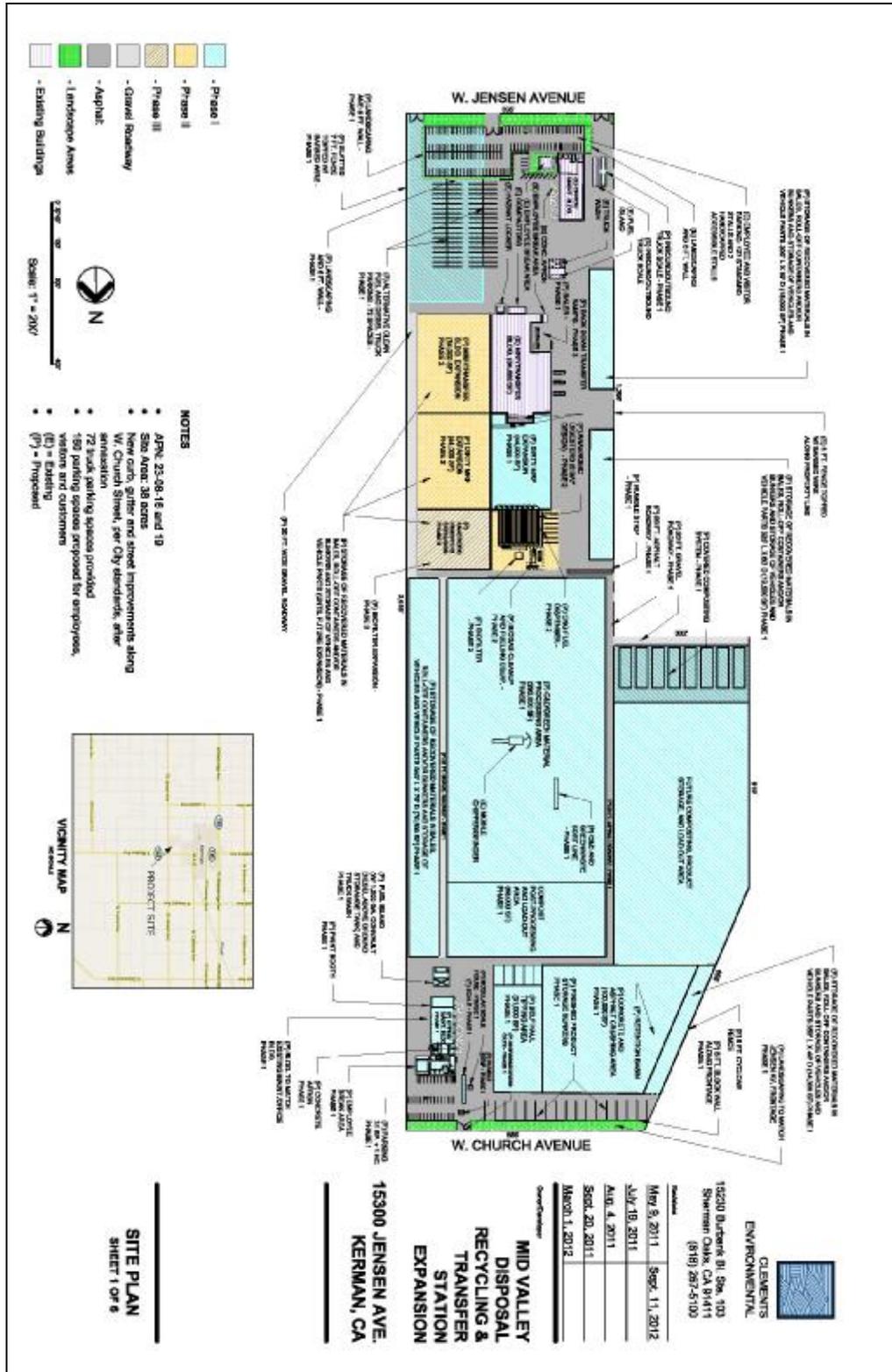
Phase II

- MRF and transfer station expansion (34,000 sq. ft.)
- "Dirty" MRF building expansion (44,000 sq. ft.)
- Add 44,000 SF to existing building for dirty material recovery facility;

Phase III

- Expand anaerobic digester

Figure 2
 Original Site Plan Approved



Public Notice

A public hearing notice for the proposed amendments to this project was published in the *Kerman News* on September 9, 2015. Notices were also mailed to adjacent property owners within 700 feet of the project boundary. The public hearing notice was also posted on the City's website.

Conclusion

The proposed project would result in the expansion of an existing recycling and transfer station facility. The project would create an additional 52 jobs and provide for significant diversion of waste to the landfill, helping the City of Kerman meet state mandated diversion rates. The proposed project has been evaluated by staff and found to be consistent with the goals contained in the City's General Plan. The proposed change in phasing would not create any potential harmful effects.

Attachments:

- A. Project Site Location
- B. Site Photographs
- C. Site Plan original
- D. Site Plan amended phasing plan

Exhibits:

- Exhibit "A" Resolution No. 15-04 , Recommending Approval of Amendment to Conditional Use Permit 12-02

Attachment 'A' Project Site Location

Figure 1 – Vicinity Map



Attachment 'B' Site Photographs

View from Jensen Avenue facing north



View from Madera Avenue facing west



View from Church Avenue facing south



Attachment 'C'

Original Site Plan 2012

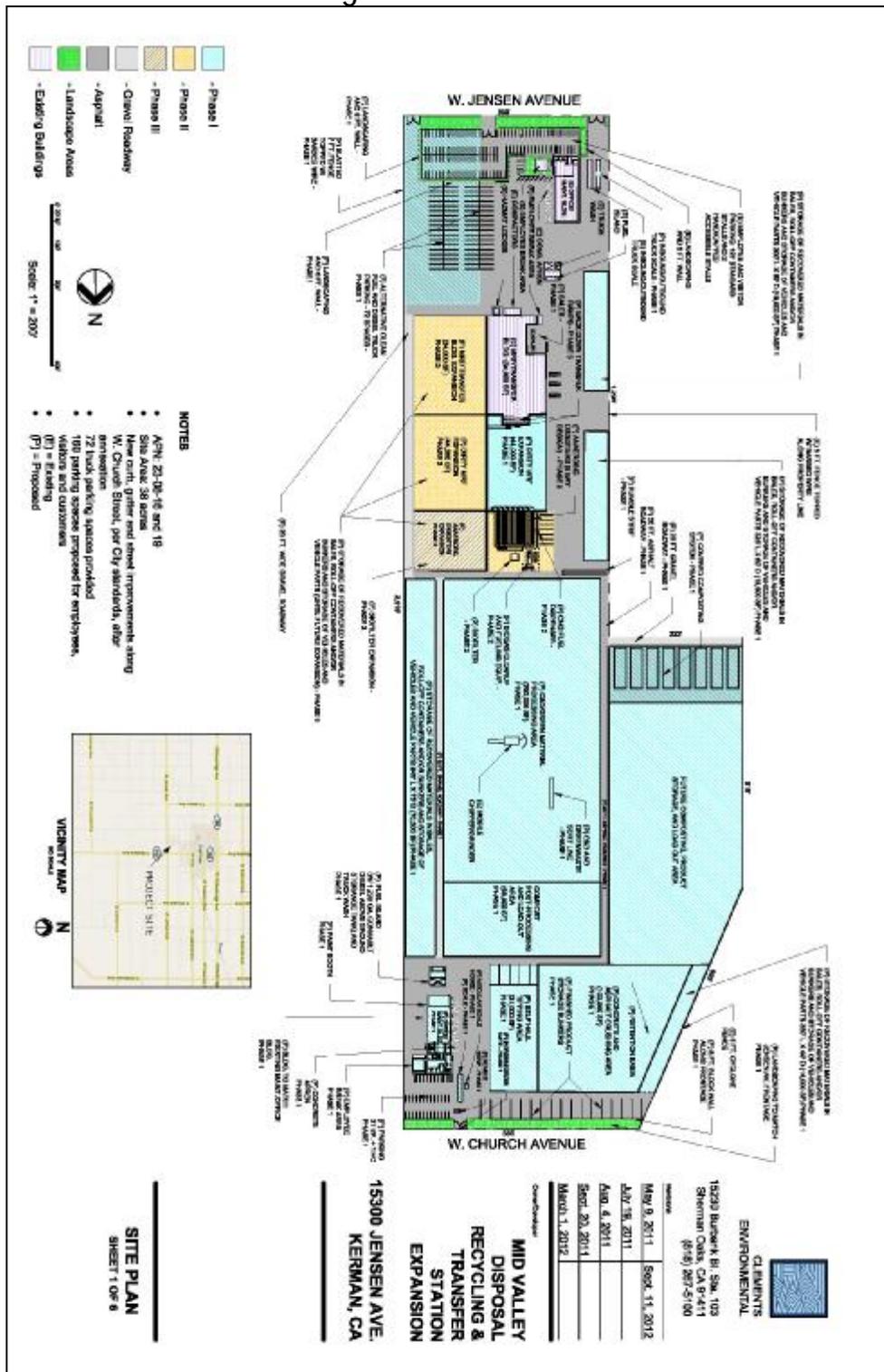


Exhibit 'A'

RESOLUTION NO. 15-04

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KERMAN,
CALIFORNIA, RECOMMENDING APPROVAL OF AMENDMENT TO CONDITIONAL USE PERMIT
NO. 12-02 FOR THE MID VALLEY DISPOSAL, INC. RECYCLING AND TRANSFER STATION
EXPANSION PROJECT LOCATED AT 15300 W. JENSEN AVENUE, KERMAN, CA, 93630**

WHEREAS, at a regular meeting of the Planning Commission of the City of Kerman (the "Planning Commission") duly called and held on Monday September 28, 2015, at 6:30 p.m., it was moved by Commission member _____ and second by Commission member _____ and carried that the following resolution be adopted:

WHEREAS, the Planning Commission considered an application for an amendment to conditional use permit No. 12-02 from Mid Valley Disposal, Inc. relating to the phasing to allow for immediate construction of the composting facility, followed by other offsite and onsite improvements. The original conditional use permit will remain the same with amendments to the phasing of the project only and will allow Mid Valley to expand its existing recycling and transfer station operations on an additional 28± acre parcel owned by Mid Valley Disposal bordering the existing facility on the east and north of the site as shown in Exhibit 'A'; and,

WHEREAS, pursuant to Section 17.12.040c of the Kerman Municipal Code, the Planning Commission hereby grants conditional use permit based on the following findings:

1. That the location, size, design, and operating characteristics of the proposed uses are compatible with the existing and known future uses and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City. *The proposed project is an extension of an existing recycling and transfer station facility located on a 9.81 acre site. The design of the facility including operational controls will ensure that the proposed project would not significantly contribute to on noise, traffic, odor, and other conditions that may be adverse to the public.*
2. That the proposed use in substantially is consistent with the Kerman General Plan and Zoning Ordinance. *The subject site is designated heavy industrial in the Kerman General Plan Land Use Map. The subject site was rezoned to M-2 Zone District and zoned M-2 upon annexation to the City of Kerman in 2012. Thus, the proposed use will be substantially consistent with the Kerman General Plan and Zoning Ordinance.*
3. That the appropriate environmental review process per the California Environmental Quality Act (CEQA) was considered prior to a decision in 2012. *An Initial Study was prepared for the proposed project and it was determined that the potential impacts of the project could be mitigated to less than significant with mitigation measures. A Draft and Final MND was*

prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines for the project in 2012. That there are no changes to the project only to the phasing.

4. That the subject site is physically suitable for the type and intensity of use being proposed. *The subject site is currently vacant. The topography is flat with no structures or large trees. The site is designated for industrial uses which are compatible with uses to the north and west.*

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission after considering all the evidence presented, including public testimony, determined that the conditional use permit is hereby amended;, subject to conditions of approval listed in Exhibit 'B'.

I HEREBY CERTIFY that the foregoing Resolution was approved at a regular meeting of the Planning Commission of the City of Kerman on the 28th day of September 2015, and was fully adopted at said meeting by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert D. Epperson, Chairperson

ATTEST:

Olivia Pimentel, Secretary

Exhibits

- A. Original Site Plan 2012
- B. Amended Site Plan 2015
- C. Conditions of Approval As Amended

Exhibit 'A'
 Original Site Plan 2012

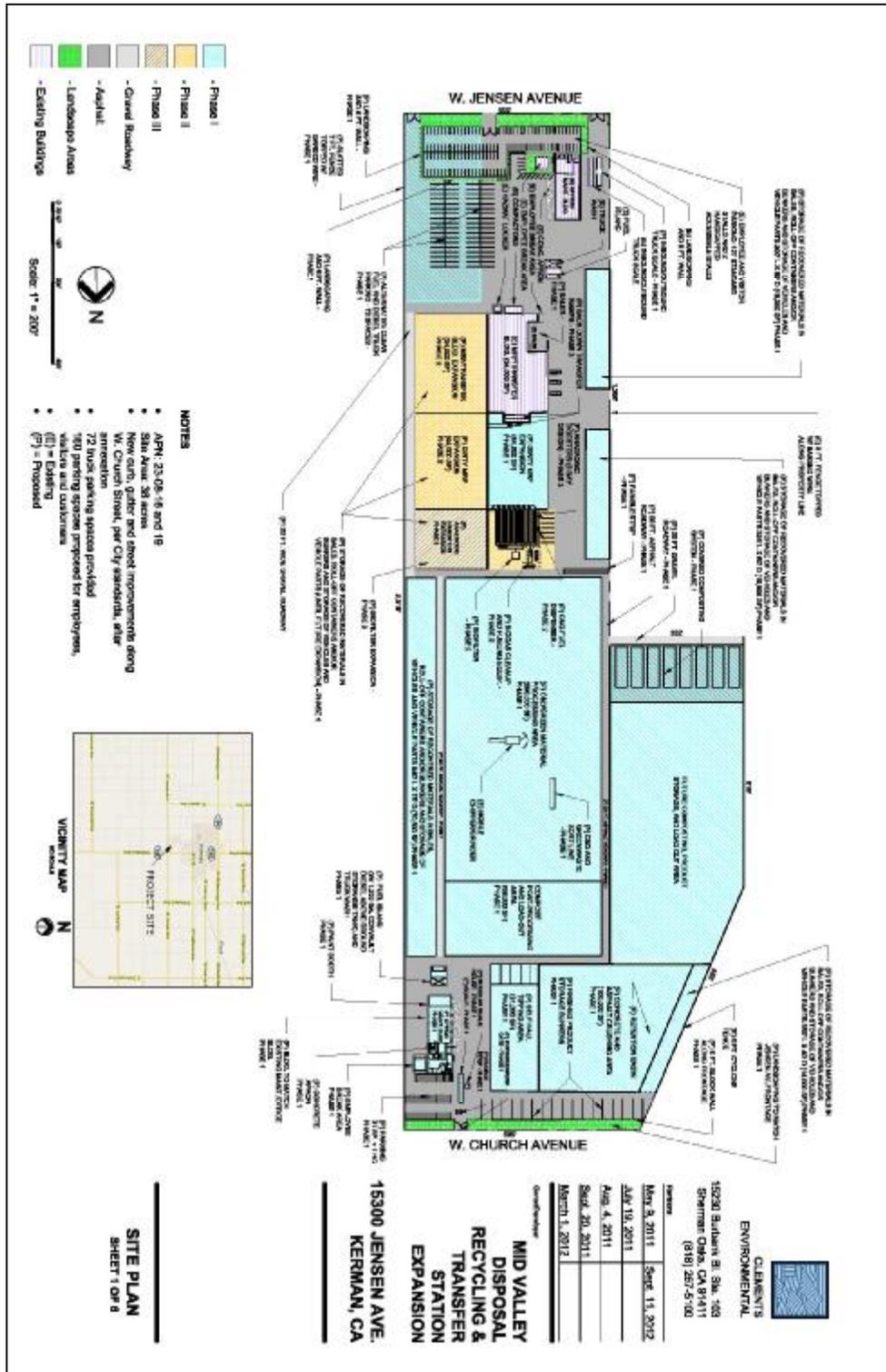


Exhibit 'B'
Amended Site Plan 2015

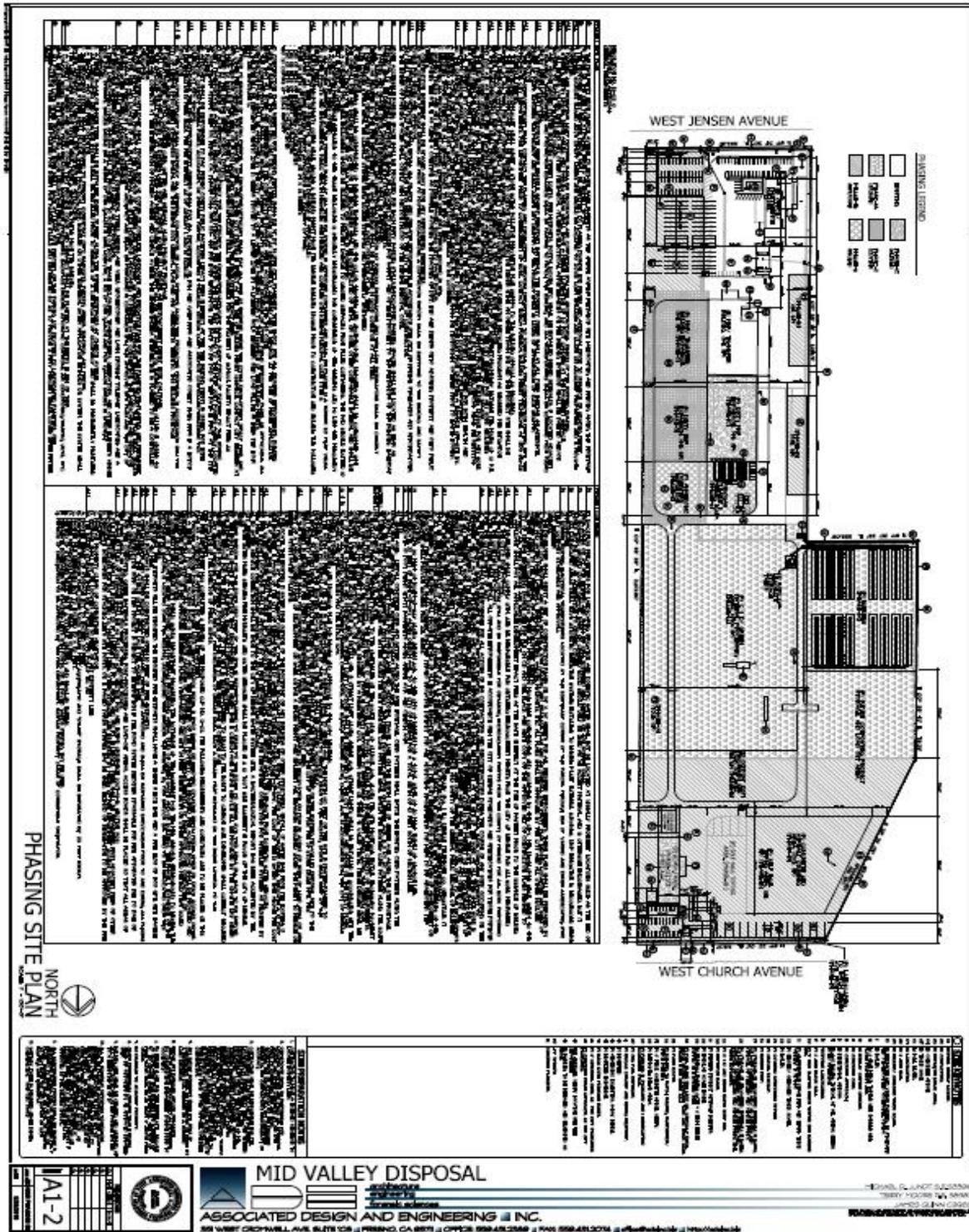


Exhibit 'C'

Conditions of Approval as amended September 28, 2015

General Requirements

1. The proposed amended project shall be constructed/designed consistent with site plan, building elevations and floor plan drawings prepared by Associated Design and Engineering, Inc. Architects last revision dated August 31, 2015 for the Mid Valley Disposal Recycling and Transfer Station Expansion Project as shown in Exhibit 'B-1a' and 'B-1b' attached hereto.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineer.
3. All other applicable codes, ordinances, policies, etc., adopted by the City of Kerman shall apply.
4. This Site Plan Review and Conditional Use Permit approval shall become null and void if all conditions have not been complied with and the occupancy, use and/or development of the land have not taken place within two (2) years of the date of approval. Extensions of time, not to exceed one (1) year may be granted upon written request with the appropriate fee. PLEASE NOTE: This will be the only notice given for the specified expiration date. The applicant is responsible for initiating an extension request.
5. Any alteration or expansion of these facilities or increase in the developed area of the site from that shown on the approved site plan may require submission of an additional land use application for review and approval.
6. All of the conditions of this approval are continuously in effect throughout the operative life of the project for the use approved. Failure of the property owner, tenant, applicant, developer or any operator to comply with any or all of the conditions at any time may result in a public hearing and possible revocation of the Conditional Use Permit. The City shall provide adequate notice, time and opportunity to the property owner or other interested party to correct the non-complying situation.
7. The property owner shall maintain all landscaping, fencing and structures regularly so that all facets of the development are kept in continual good repair, including but not limited to the removal of graffiti and the continued provision of healthy thriving landscaping. The property shall be maintained so that it is visually attractive and not dangerous to the health and welfare of the surrounding properties.
8. The site plan and building elevation drawings shall be revised as appropriate to reflect all conditions of approval, indicate phasing and plans shall be resubmitted to the Planning Department for final review and approval by the Director of Planning and Development or designee prior to the issuance of a grading permit. Full compliance with conditions of approval shall be achieved prior to issuance of any Certificates of Occupancy or as modified by the Director of Planning and Development.

9. Prior to the commencement of any work within the City of Kerman, the general contractor and all sub-contractors shall obtain a business license from the City of Kerman. For a business license application or for more information, contact (559) 846-6121.
10. Prior to issuance of certificate of occupancy by the Building Division, the applicant shall obtain a business license from the Planning & Development Services Department. For a business license application or for more information, contact (559) 846-6121.
11. No sign shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety, or interfere with the safe operation of a motor vehicle on public streets. This includes, but is not limited to, the driver's view of approaching, merging or intersecting traffic.
12. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
13. Pursuant to Government Code Section 66474.9, the developer/applicant (including any agent thereof) shall indemnify, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and any claim, action, suit or proceedings against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attach, set aside, void, or annul, arising in connection with an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such government entity. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
14. The applicant shall fully comply with the adopted Mitigation Monitoring and Reporting Program (MMRP) and all mitigation measures of the Final Mitigated Negative Declaration for the proposed project is required. The applicant shall pay all actual direct and indirect costs incurred by the City for the MMRP, including but not limited to, the cost of a consultant to perform the mitigation monitoring and City staff time to manage such contract. Prior to issuance of the first building permit for the project, a contract for mitigation monitoring must be in place. The applicant shall pay the initial fee estimate, prepared by the Director of Planning and Development in coordination with the consultant, with the payment made prior to issuance of the building permit for this project. After compliance with the MMRP, but prior to issuance of a "program completion certificate", the Director of Planning and Development will determine whether or not a refund or additional fees are due.

Site Plan

15. The main entry from Church Avenue to include same elements as the Jensen Avenue entrance with landscaping and fencing along the frontage as shown on the amended site plan attached hereto as Exhibit 'B-1a'.
16. The proposed entry feature design shall be submitted to Planning Division for review and approval prior to issuance of grading permit.
17. Lighting sources should have cut off lenses and should be located to avoid light spillage and glare on adjacent properties and in private properties.
18. Parking and pedestrian light fixtures shall be decorative and compatible with the architectural design of the existing building.
19. Streets, entry drives, drive aisles, and parking areas shall have a minimum illumination of 1.0 foot candles at the pavement surface.
20. All meters, valves, pipes and any other mechanical /plumbing/electrical appurtenances on the building exterior shall be painted and/or textured to match the building color.
21. Any above ground utilities including street lights, fire hydrants, postal boxes, etc. shall be installed behind sidewalks. If located adjacent to buildings, transformers and protective bollards shall be painted to match the building and all transformers shall be screened from public view by dense landscaping.
22. The project shall incorporate where feasible graffiti resistant materials. The property owner shall at all times maintain an adequate amount of paint, matching the project and shall abate any graffiti at the project within 48 hours of appearance of such graffiti.

Construction

23. The developer/applicant shall contact the Planning and Development Services Department to schedule a pre-construction meeting with the appropriate city departments, fire department prior to commencement of work. Contact Olivia Pimentel, Building Permit Technician, at (559) 846-6121 to schedule meeting.
24. The developer/applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) to the Building Official as required.
25. The developer/applicant shall be required to contain all construction debris within an on-site trash bin and the project site shall be watered at all times for dust control during grading and construction.
26. The developer/applicant shall comply with the City of Kerman Construction and Demolition Recycling Program as required per mitigation measure PSU-6a. Contact Building Department, at (559) 846-6121 for more information.
27. The developer/applicant shall prohibit grading/construction activities including start-up of equipment/machinery between the hours of 10 p.m. and 7:00 a.m. as required per mitigation measure NOI-4b. Prior authorization must be obtained from the City Engineer for any work

(including underground work) occurring on weekends and holidays. For more information contact Jerry Jones, City Engineer, at (559) 244-3124.

28. The developer/applicant shall be responsible for obtaining and complying with encroachment permits from the Building Division for any work performed within the street or alley right-of-ways. A performance bond in the amounts prescribed by the Building Official shall be submittal with encroachment permit application. Please contact Chris Kufis, Building Official, at (559) 842-2301 for more information.
29. All property not occupied by structures, paving or landscaping on the subject site shall be properly maintained for both health and aesthetic reasons. Grass, weeds and debris shall be abated as required by the Code Enforcement Division and Fire Department.
30. The construction contractor(s) shall implement dust suppression techniques to prevent fugitive dust from creating a nuisance off-site by:
 - a. Watering active sites at least two times daily (locations where grading is to occur shall be thoroughly watered prior to earth moving).
 - b. Requiring all trucks hauling dirt, sand, soil, or other loose materials to be covered.
 - c. Reducing traffic speeds on all unpaved roads to 15 mph or less.
 - d. Suspending all excavating and grading operations when wind speeds exceed 25 mph.
 - e. Washing trucks and any equipment prior to exiting unpaved roads onto paved roads.
 - f. Maintaining the site in as clean a condition as possible avoiding the tracking of dirt, mud and debris onto adjoining property and onto public streets.
31. Construction equipment shall be staged away from any surrounding residences.
32. Upon completion of rough grading and prior to footing excavations, a compaction report shall be submitted to the Building and Safety Division for review and approval.
33. The developer/applicant shall install all on-site and off-site improvements in accordance with City of Kerman Standards and Specifications, and shall provide and pay for any compaction tests required by the City in the course of construction.

Parking

34. The number of parking spaces shall comply with Section 17.74.020 of the Kerman Municipal Code.
35. One handicap accessible parking space shall be provided for each fifty parking stalls. Handicapped parking spaces shall be located as near as practical to the primary entrance or shall be located to provide for safety and optimum proximity to the entrances of the building. Handicap parking shall be designed in accordance with standard requirements.
36. Parking and on-site circulation requirements shall be maintained.
 - a. All markings to include parking spaces and directional designation. No Parking

- designations and Fire Lane designations shall be clearly defined (as required by the Fire Department) and said markings shall be maintained in good condition at all times.
- b. Parking and site circulation surfaces shall be maintained in good condition at all times.
 - c. All parking stalls shall be clearly striped using double stripping and permanently maintained

Trash Enclosure

37. Trash enclosures shall be constructed of durable materials and the color, texture and architectural detailing shall be consistent with the overall site and building design. Gates on the enclosures shall be constructed of metal or some other comparable material and shall be painted to match the enclosure. Use of chain link/wood for gates is prohibited.
38. A concrete pad inside enclosures should be included to prevent damage to ground surfaces from filled containers. The pad should extend 10 feet in front of gates.
39. A separate pedestrian entrance to the trash enclosure is strongly encouraged for convenience of the tenants and to limit the frequency of access gates being opened.
40. All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that visual or other impacts and environmental public health nuisances are minimized and complies with Kerman Municipal Code Title 8.

Building Permit

41. The developer/property owner shall secure a building permit from the Kerman Building Division prior to construction and include the following information at time of submittal of construction drawings (if applicable):
 - a. Completed and signed Building Permit Application and payment of fees.
 - b. Three (3) sets of construction drawings on 24" x 36" sheets
 - c. Two (2) sets of engineering calculations
 - d. Two (2) sets of energy calculations
 - e. Two (2) sets of truss calculations
 - f. Two (2) copies of soils report
42. Construction plans submitted for building permits shall be 24" by 36" with city standard title block for all required improvements. Building plans be based on the 2009 CBC, CED, CMC, CPC & Energy Code or as subsequently amended and in enforce at the time of permit application. Ensure that all notes and references on the construction drawings are in accordance with this code.
43. The construction plans shall also include any street, site utility, grading and drainage or other public improvement plans, as applicable. All construction plans shall be approved by the city and all other affected agencies prior to the issuance of the building permits.
44. The site will be designated seismic zone "D", unless proved to a lesser zone by a licensed soils engineer. Win load will be 85 miles per hour (mph) and exposure C.

Fees

45. Prior to issuance of building permits, the developer/applicant shall pay all fees as required under the City's Development Impact Fees, and all other fees/charges for wastewater, water, and other City utilities in effect at the time of building permit issuance. Contact City Engineer at (559) 244-3123 for updated fees or if you have any question regarding the development impact fees.
46. Prior to issuance of building permits, the developer/applicant shall be responsible for the payment of school facility impact fees as adopted by the Kerman Unified School District.
47. Prior to issuance of a certificate of occupancy for the project, the developer/applicant shall submit proof of payment to the Fresno County Transportation Authority's Regional Transportation Mitigation Fee (RTMF). The RTMF must be paid to the RTMF Joint Powers Agency, located at 2035 Tulare Street, Suite 201, Fresno, CA. Please call (559) 233- 4148 for more information. The rate to be paid is the rate in effect at the time of payment.
48. Applicant shall be responsible to pay Fresno County Public Facilities Impact Fees in effect at the time building permit is issued. For more information, contact Teresa Parks, Accountant, or Stephen Farmer, Accounting & Financial Division Chief, Auditor-Controller/Treasurer Tax Collector at (559) 488-2892.
49. If applicable, the developer/property owners shall pay all Department of Fish and Game fees and associated County filing fees if a Notice of Determination is filed (NOD). The fee in effect as of January 1, 2010 is \$2,010.25.

Circulation

50. The developer/applicant shall construct all arterial, collector, or local streets along the project's frontage, in accordance with the City of Kerman Improvement Standards Manual and the Kerman 2027 General Plan and any amendments thereto. This includes frontage improvements along Church Avenue.
51. The applicant shall instruct all drivers that the primary route to the facility will be Jensen Avenue via Madera Avenue (SR 145) in order to minimize any conflicts at the intersection of Madera Avenue and Church Avenue. The Jensen/Madera intersection is planned to be a controlled intersection.

Landscaping

52. The developer/applicant shall provide four (4) copies of complete landscape and irrigation plan for the planting/re-planting and permanent irrigation system for the project to the Director of Planning and Development as required per mitigation measure AES-1c. The plan shall include the type, size, and location of all plant material and utilize indigenous landscaping to minimize water consumption. The Landscape and Irrigation Plan shall be prepared by a licensed landscape architect and shall be prepared in compliance with the approved site plan and the City of Kerman's Water Efficiency Landscape Ordinance.

53. Landscaping shall incorporate shade and ornamental trees, shrubs and vines, groundcover and lawn. Drought tolerant landscaping and a drip irrigation watering system are encouraged in areas as appropriate.
 - a. Dense landscaping (vines, shrubs) shall be provided to screen outdoor trash enclosures, transformers, generators, and other elements visible from public streets. Shrubs should be a minimum of one gallon in size; however, a mix of one gallon and five gallon shrubs is strongly encouraged.
 - b. A minimum 15-gallon shade tree shall be installed every 25 feet along the street frontages at Church Avenue.
 - c. All landscaping and irrigation system shall be installed prior to issuance of a certificate of occupancy and shall be permanently maintained in a healthy and weed free condition.
 - d. The irrigation system shall be designed to prevent overspray onto walkways, parking areas, buildings, and fences.
 - e. The irrigation system shall include, where practical, drip, bubbler or other non-aerial water application methods or system. The system shall include automatic valves/timers for controlled application.
 - f. The landscape irrigation system shall have a separate meter from the building.
 54. A variety of shrubs and ground cover that provide color and vibrancy shall be planted at the entry in lieu of turf.
 55. Voltage boxes, mailboxes, trash enclosures, maintenance structures, backflow devices, automatic controls, air conditioning/heating units, etc. shall be screened with landscaping and/or decorative fencing/trim.
 56. All parking lots of ten spaces or more shall have at least five percent of the parking lot devoted to landscaped planters. One fifteen-gallon tree shall be planted for every five parking stalls and distributed so as to provide a fifty percent shade cover within fifteen years.
 57. Backflow preventers for landscaping irrigation and domestic water shall not be located at visually prominent locations (such as the end of drive aisles or at site entries) and shall be well-screed with shrubs or low screen walls.
 58. Inorganic ground cover (gravel, bark, or crushed rock) should only be used as an accent material and is otherwise encouraged, but it should not be used an alternative to ground cover.
 59. All landscaped areas shall have automatic irrigation systems installed to ensure plan material survives. Drip irrigation is encouraged where appropriate.
 60. Screen existing electrical transformers located at the southeast corner of the parcel through use of varied and dense landscaping (per utility company standards and approval).
-

City Engineer

NOTE *Each condition applies to the entire development, unless a specific phase is noted in parenthesis. If a specific phase is noted, that condition must be satisfied during that phase of development.*

GENERAL

61. The developer shall submit a set of construction plans on 24" x 36" sheets for all required improvements. These plans shall be prepared by a registered civil engineer, and shall include a site grading and drainage plan and an overall site utility plan showing locations and sizes of sewer and water mains, laterals, manholes, meters, valves, hydrants, etc. All plans shall be approved by the City and all other involved agencies prior to the release of any development permits.
62. Within twenty (20) calendar days after all improvements have been constructed and accepted by the City, the developer shall submit to the City of Kerman Engineering Division one PDF file on CD and one black and white copy of the approved set of construction plans revised to reflect all field revisions and marked "AS-BUILT".
63. Applicant shall pay all applicable development impact fees at the rate in effect at the time of payment prior to the issuance of Building Permit.
64. The developer shall comply with, and be responsible for obtaining encroachment permits from the City of Kerman for all work performed within the City's right-of-way.
65. The developer shall comply with, and be responsible for obtaining encroachment permits from the County of Fresno for all work performed within the County's right-of-way.
66. The developer shall install all off-site improvements in accordance with the City of Kerman standards and specifications for those portions within the City's rights of way.
67. The developer shall be responsible for all actions of his contractors and subcontractors during the course of any work occurring on the site. The developer shall designate, in writing before starting work, an authorized representative who shall have complete authority to represent and to act for the developer. Said authorized representative shall be present at the site of the work at all times while work is actually in progress on the development. During periods when work is suspended, arrangements acceptable to the City Engineer shall be made for any emergency work which may be required. When the developer or his authorized representative is not present on any particular part of the work where it may be desired to give directions, orders may be given by the City Engineer which shall be received and obeyed by the person or persons in charge of the particular work in reference to which the orders are given. Whenever orders are given to the developer's representative or superintendent or foreman to do work required for the convenience and safety of the general public because of inclement weather or any other such cause, such work shall be done at the developer's expense.

68. The developer shall comply with the requirements of the Pacific, Gas and Electric Company (P.G. & E.), Kerman Telephone Co. (Sebastian) and Media One. It shall be the responsibility of the developer to notify P.G. & E and Sebastian to remove or relocate utility poles where necessary.
69. All existing on-site agricultural irrigation systems shall be identified. Their disposition shall be in accordance with the requirements of the City Engineer. The developer shall provide details of all existing irrigation systems to the City Engineer for specifications of abandonment or relocation. The developer shall consult with the Fresno Irrigation District for any additional requirements for lines to be abandoned. The developer shall provide waivers from all users.

DEDICATIONS (ALL DEDICATIONS ARE REQUIRED AS PART OF PHASE 1A)

70. Dedicate 20 feet of right-of-way along Jensen Ave. to the City of Kerman for a total width of 40 feet north of section line. *(Phase 1A)*
71. Dedicate 22 feet of right-of-way along Church Ave. to the City of Kerman for a total width of 42 feet south of section line. *(Phase 1A)*
72. Dedicate 10 foot Public Utility Easements along Jensen Ave. and Church Ave. *(Phase 1A)*

STREETS

73. Jensen Ave.: Install concrete curb and gutter along the site frontage. Curb pattern shall match the existing curb pattern along the north side of Jensen Ave. at the existing Mid-Valley Disposal site. *(Phase 1B)*
 - a. Install 18 feet of permanent paving for parking lane and additional travel lane on the north side of Jensen Ave. along the site frontage. Install necessary pavement transitions from the existing roadway. The minimum pavement section on Jensen Ave. is 3½" AC on 7" AB. *(Phase 1B)*
74. Church Ave.: Install concrete curb and gutter along the site frontage. Curb pattern shall match the existing curb pattern along the south side of Church Ave. west of the site. *(Phase 1B)*
 - a. Install 30 feet of permanent paving to the centerline on the south side of Church Ave. along the site frontage. Install necessary pavement transitions from the existing roadway. The eastbound 12' center travel lane paving is eligible for Development Fee credits or reimbursements. *(Phase 1B)*
 - b. The developer shall, at his expense, obtain "R Value" tests in quantity sufficient to represent all street areas along the Church Ave. frontage, and have street structural sections designed by a registered civil engineer based on these "R Value" tests. These designs shall be compared to the minimum section of 3" AC on 6" AB. *(Phase 1B)*
75. Install street lights along Church Ave. Install one (1) street light along Jensen Ave. Street lights shall be installed in accordance with the City of Kerman standards and specifications. Street light locations shall be designated by the City Engineer and shown on the utility plans. *(Phase 1B)*

76. Install all striping, markings, pavement markers, delineators, and signage required along Church & Jensen Avenue. in accordance with the City of Kerman standards and specifications and the MUTCD (CA). *(Phase 1B)*.

GRADING & DRAINAGE

77. Prepare Grading and Drainage Plan for review and approval by the City Engineer.
78. The south 830 feet of the site is master-planned to surface drain to Jensen Ave. The north 660 feet of the site is master-planned to surface drain to Church Ave. The middle portion of the site is master-planned to surface drain to the existing storm drain inlet at the northwest corner of the existing Mid-Valley Disposal site. Site shall be graded accordingly.
79. Install 24" storm drain pipe from the existing storm drain manhole at the northwest corner of the existing Mid-Valley Disposal site to the east property line. Developer shall dedicate a 20 foot wide easement in favor of the City of Kerman for the 24" storm drain pipe. This improvement is eligible for fee credits or reimbursement from Development Impact Fees. *(Phase 1A)*
80. The property owner shall, for construction activity prior to clearing, grading or excavation on five (5) acres or more of land area or are part of a larger common plan of development or sale, obtain a NPDES permit and implement all measures required under the permit to reduce or eliminate storm water pollution.

WATER

81. Relocate the existing 12" water main outside of the footprint of any buildings or other structures. Install 12" water main from the existing 12" water main, capped at the northeast corner of the existing Mid-Valley Disposal site, north to Church Ave. Developer shall dedicate a 10 foot wide easement in favor of the City of Kerman for the 12" water main outside of public right-of-way. The cost of the 12" water main above the cost of an 8" water main is eligible for fee credits or reimbursements from Development Impact Fees. *(Phase 1B; Dedication shall be part of Phase 1A)*
82. All water services shall include a RP backflow device. Landscape water services shall be separate from domestic water services.
83. Fire hydrant locations shall be approved by the Fire Department. Install fire department connections for sprinkler systems as required by the Fire Department. Fire sprinkler services shall have detector check valves.
84. No water service connection shall be made to the City of Kerman water system until a bacteriological report has been accepted by the City Engineer.
85. On-site water mains serving fire hydrants and water services shall be placed in a 10 foot wide easement in favor of the City of Kerman.

SEWER

86. Sewer service for the south 1,330 feet of the site is master-planned to drain to the south to Jensen Ave. This area will have to be served by the existing on-site lift station that discharges into the sewer main in Church Ave. Future service will be provided by the on-site dry sewer main installed as part of the initial Mid-Valley Disposal development.
87. Sewer service for the north 1,330 feet of the site is master-planned to drain to the north to Church Ave. Developer shall connect required sewer services for the northern portion of the site to the sewer main in Church Ave.
88. Any sewer services that are at risk of the discharge of grease shall have a grease trap installed on the sewer lateral to the satisfaction of the Director of Public Works.

Fire Department

The Fire Department has completed a review of the proposed CUP No. 12-02. The following requirements and conditions were to be placed on this plan as a condition of approval by the Fire Department.

89. Provide approved police/fire bypass lock ("Best" padlock model 21B700 series or electric cylinder switch model 1W7B2) on drive access gates.
90. A minimum 20 foot fire access road is required around the perimeter of the property. The required fire access road shall be provided and maintained with an approved "all weather" surface capable of supporting 80,000 lb. vehicles (minimum 4" of base rock over compacted or undisturbed native soil or per approved engineered plans) year-around and with 24 feet minimum width or other approved method that would prevent shoulder degradation.
91. Coordinate with Kerman City Public Works Department regarding the extension of the easement for the fire service underground to ensure the easement is not located under proposed green materials processing areas, piles of green waste and/or buildings. The Phase II expansion of the MRF/Transfer building is located over the existing underground fire service. The existing UG fire service will need to be relocated once this expansion begins.
92. Additional fire hydrants will be required. The required fire hydrants shall have a minimum 8 inch main and a fire flow of 1500 GPM, with maximum spacing of 450 feet.
93. Access roadways shall be constructed within 10 feet of fire hydrants.
94. Fire hydrants and access roads shall be installed, tested and approved and shall be maintained serviceable prior to and during all phases of development. The 4½ inch outlet shall face the access lane.
95. All construction work on this project is subject to interruption if the road system becomes impassable for fire apparatus due to rain or other obstacles.

96. For the composting, green materials processing, post-processing and load-out areas, access roads shall be placed so that all areas of the piles shall be accessible within 200 feet of the access roads.
97. Un-bailed piles of storage shall be as follows: (CFC, Section 1908 and NCFPD Ordinance 2007-93-b, Section 1908)
- a. Pile dimensions shall not exceed 20 ft. in height, 50 ft. in width, and 250 ft. in length. Piles shall be separated from adjacent piles or other exposures (including, but not limited to, property lines, other storage and buildings) by means of fire department access roadways.
 - b. Designate boundaries for stacking limits with posts, or in paved yards striping may be used. Method of designation to be approved by the Fire Department.
 - c. Maintain property clear of combustible vegetation.
 - d. Storage shall not be located within 20 feet of any property line.
98. The bailed storage shall be as follows: (FFD Policy No. 216)
- a. Maximum height of storage not to exceed 20 feet.
 - b. Restricted storage piles (over 5,000 square feet aggregate) and "other" storage shall be separated by 20 feet minimum.
 - c. Maximum pile dimensions not to exceed 50 x 50 feet.
 - d. Minimum separation between piles shall be 10 feet.
 - e. Method of stacking shall be in a stable, orderly and regular manner.
 - f. Designate boundaries for stacking limits with posts, or in paved yards striping may be used. Method of designation to be approved by the Fire Department.
 - g. Maintain property clear of combustible vegetation.

END OF CONDITIONS

Applicant hereby acknowledges receipt of and agrees with the Conditions of Approval.

Applicant/Agent:
Mid Valley Disposal, Inc.

Date

Exhibits

- B-1a – Amended Conceptual Site Plan 2015
- B-1b – Conceptual Office/Maintenance Building Elevations
- B-1c – Conceptual Transfer Building/MRF Elevations
- B-1d - Amended Phasing Plan

Exhibit "B-1a"
 Amended Conceptual Site Plan 2015

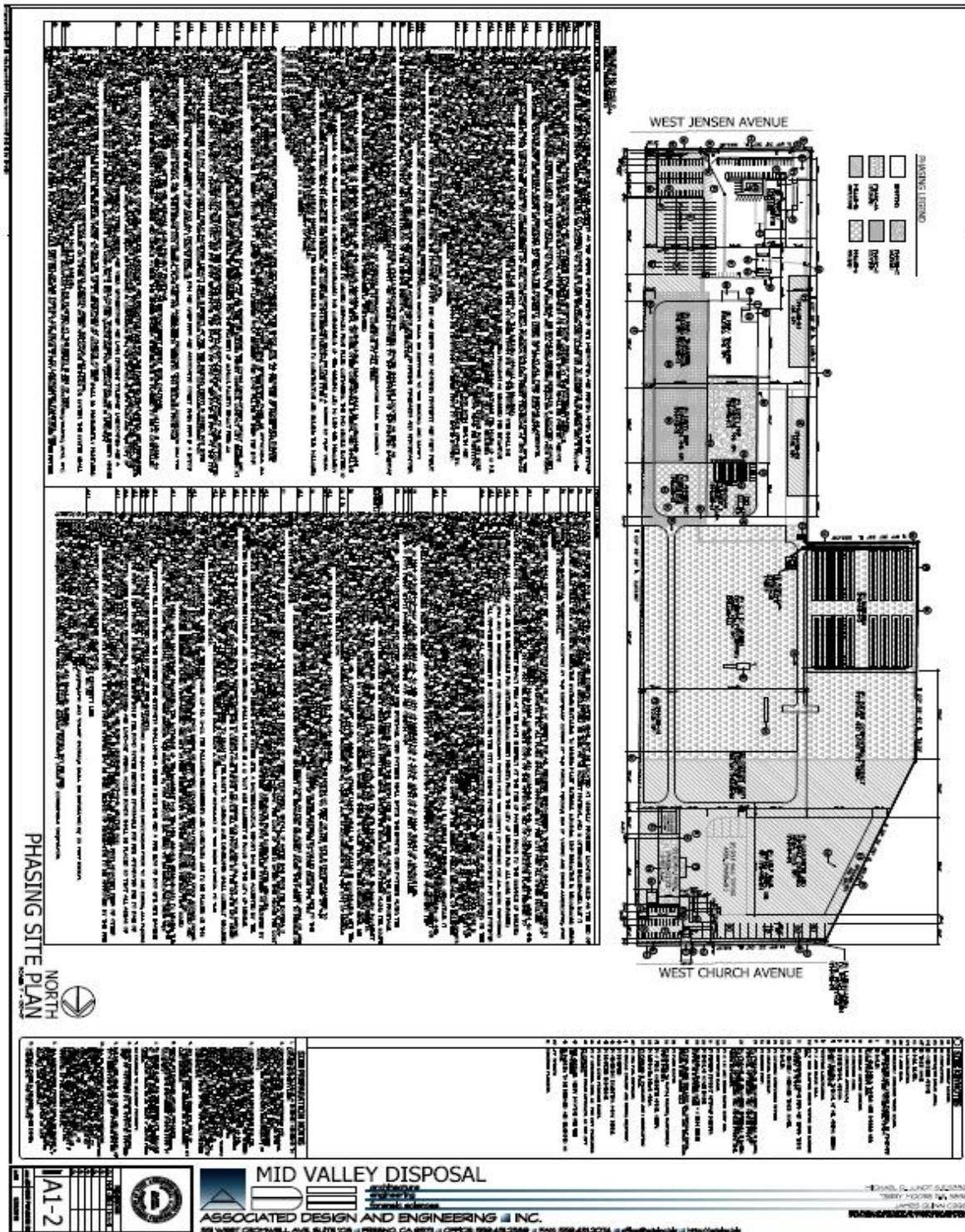


Exhibit 'B-1b'
Conceptual Building Elevations Office/Maintenance Building

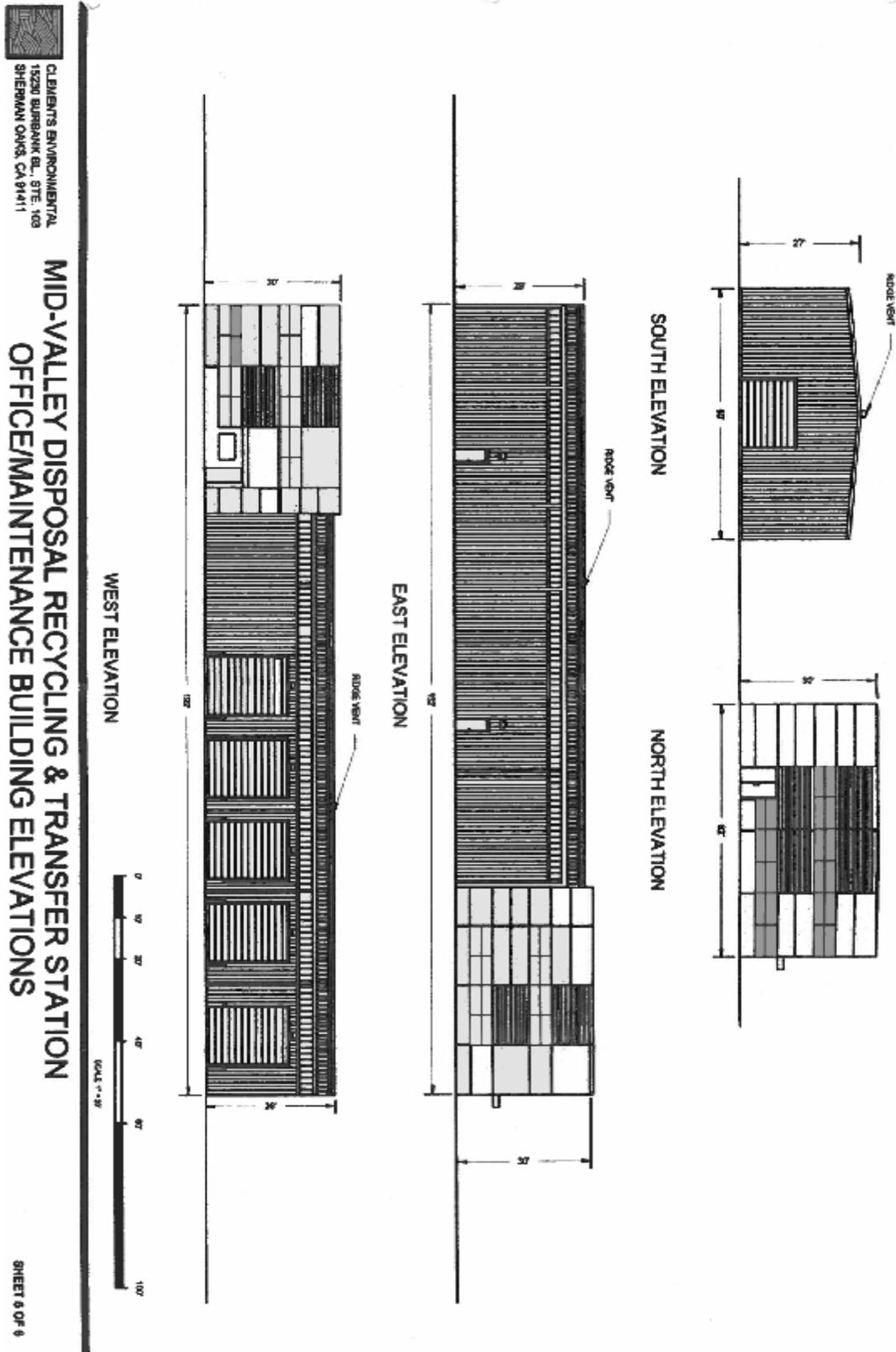


Exhibit 'B-1d' Amended Phasing Plan

The following phasing plan and facility design includes the following major components for each phase. Mid Valley Disposal is confident that initial phase will support build out of remaining phases within 2 years of completion.

Phase I (A, B, and C)

- Expand C&D and organics processing area (290,000 sq. ft.) (Phase 1-A)
- Covered composting system (Phase 1-A)
- Self-haul tipping area (Phase 1-B)
- Expand concrete and asphalt crushing area (100,000 sq. ft.) (Phase 1-B)
- Open storage of recovered materials in bales; (Phase 1-B)
- Finished project storage bunkers; (Phase 1-B)
- Two additional inbound/outbound truck scales (Phase 1-B)
- New administration building including scale office (6,097 sq. ft.) (Phase 1-C)
- New maintenance building (6,840 sq. ft.) (Phase 1-C)
- Material Recovery Facility (MRF) and Transfer Station (44,000 sq. ft.) (Phase 1-C)

Phase II

- MRF and transfer station expansion (34,000 sq. ft.)
- "Dirty" MRF building expansion (44,000 sq. ft.)
- Add 44,000 SF to existing building for dirty material recovery facility;

Phase III

- Expand anaerobic digester



City of Kerman

"Where Community Comes First"

CHAIRMAN VICE CHAIRMAN
Robert Epperson Kevin Nehring PLS 8200

COMMISSIONERS
Robert Bandy Charlie Jones Eric Kehler Mario Nunez Katie Wettlaufer

DEPARTMENT: PLANNING & DEVELOPMENT
STAFF REPORT
PLANNING COMMISSION MEETING
SEPTEMBER 28, 2015

To: Chairman and Commissioners
From: Olivia Pimentel, Planning Technician
Subject: Change Regular Meeting Date from fourth Monday of each month to the second Monday of each month

RECOMMENDATION

Commission adopt resolution changing the regular monthly meeting date from the fourth Monday of each month to the second Monday of each month.

EXECUTIVE SUMMARY

The Commission discussed changing the dates of the regular monthly meetings in order to accommodate the public during the holidays. The Planning Commission like many agencies cancel meetings due to the holidays Therefore any entitlement applications received are moved to a later date or a special meeting is scheduled depending on the urgency of the project. Staff was directed to discuss the possible change in the regular monthly meeting date from the fourth Monday of each month to the second Monday of each month with the City Attorney to assure compliance with the ordinance. The City Attorney recommended that a meeting date be changed by resolution.

OUTSTANDING ISSUES

The Kerman Municipal Ordinance does not have a clear policy relating to the Planning Commission meeting dates or on what days that meetings are to be conducted; nor requirements on the actual number of meetings, therefore staff is recommending that the Planning Commission adopt a resolution to change the regular monthly meeting date from the fourth Monday of each month to the second Monday of each month. A publication in the Kerman Newspaper and a posting of the said change will be made upon approval.

FISCAL IMPACT

None

PUBLIC HEARING

None

Attachments:

A. Resolution No. 15-05

Exhibit 'A'

RESOLUTION NO. 15-05

BEFORE THE PLANNING COMMISSION
CITY OF KERMAN, STATE OF CALIFORNIA

A RESOLUTION OF THE KERMAN PLANNING COMMISSION CHANGING ITS REGULAR MEETING DATE FROM THE FOURTH MONDAY OF EACH MONTH TO THE SECOND MONDAY OF EACH MONTH

WHEREAS, the Kerman Planning Commission meetings are held on the fourth Monday of each month; and

WHEREAS, on certain months, the fourth Monday is a holiday, in which meetings are rescheduled or cancelled and can delay projects; and

WHEREAS, the Planning Commission wishes to change the meeting dates from the fourth Monday of each month to the second Monday of each month; and

WHEREAS, the Planning Commission has reviewed the Kerman Municipal Code, for compliance and recommends that the meeting dates be changed to ensure availability of Planning Commission members and the continuity of the Planning Commission's business by changing the regular meeting date from the fourth Monday of the month to the second Monday of the month.

NOW, THEREFORE, the Planning Commission of the City of Kerman hereby resolves as follows:

Section 1. The foregoing recitals are incorporated by reference.

Section 2. Regular meetings of the Planning Commission shall be held on the second Monday of each month at 6:30 p.m.. In the event the second Monday falls on a holiday, the regular meeting shall be held on the second Tuesday of the month at 6:30 p.m.

The foregoing Resolution was adopted at a regular meeting of the Kerman Planning Commission held on this 28th day of September, 2015, by the following vote.

YES:

NOES:

ABSENT:

ABSTAIN:

APPROVED BY:

Chairman, Robert D. Epperson

Date

Secretary, Olivia Pimentel

Date



City of Kerman

A Place Where "Community Comes First"

CHAIRMAN VICE-CHAIRMAN
Robert Epperson Kevin Nehring

COMMISSIONERS
Robert Bandy Eric Kehler Charlie Jones
Mario Nunez Katie Wettlaufer

DEPARTMENT: PLANNING & DEVELOPMENT
STAFF PETITION
PLANNING COMMISSION MEETING
MEETING DATE: SEPTEMBER 28, 2015

To: Chairman and Commissioners
From: Olivia Pimentel, Planning Technician
Subject: Petition of Amendment to Zoning Ordinance

In accordance with Section 17.26.020 subsection D of the Municipal Code, this memorandum serves as a Petition of Amendment to the City of Kerman Zoning Ordinance. Under said code section the Petition of Amendment may be filed by a city planner with the Planning Commission.

The Petition of Amendment is a method for initiation of a Zoning Ordinance Amendment. The Petition requests that the Planning Commission consider amendments relating to permitting procedures for massage establishments in the General Commercial Zone District. The specific language of the amendments will be presented at the public hearing and distributed to the Planning Commission with the agenda for that meeting. Under Section 17.26.040 of the Municipal Code, upon receipt of a Petition of Amendment, the Planning Commission shall set a date for a public hearing on the amendment.

By separate cover, the undersigned has submitted a detailed report to the Planning Commission that addresses the basis for the Petition of Amendment and the setting of a public hearing by resolution. That report is incorporated herein by reference.



City of Kerman

A Place Where "Community Comes First"

CHAIRMAN VICE-CHAIRMAN
Robert Epperson Kevin Nehring

COMMISSIONERS
Robert Bandy Eric Kehler Charlie Jones
Mario Nunez Katie Wettlaufer

DEPARTMENT: PLANNING & DEVELOPMENT
STAFF REPORT
PLANNING COMMISSION MEETING
MEETING DATE: SEPTEMBER 28, 2015

To: Chairman and Commissioners
From: Olivia Pimentel, Planning Technician
Subject: Setting Public Hearing on Petition of Amendment to Zoning Ordinance Related To Massage Business Establishments in General Commercial Zone District Conditional Uses

RECOMMENDATION

Planning Commission adopt resolution setting public hearing on October 12, 2015 to consider petition of amendment to Zoning Ordinance relating to permitting procedures for massage business establishments in General Commercial Zone District Conditional Uses.

EXECUTIVE SUMMARY

In 2008, the Governor signed into law Senate Bill 731, which preempts local government controls relating to massage establishments. All local regulation of massage establishments were superseded by the law that took effect in September 2009. The bill created a non-profit organization, the California Massage Therapy Council (CAMTC) that issues licenses to massage therapists and practitioners. These laws were amended in 2011 and 2012, further limiting local governments' abilities to regulate massage establishments.

The results of the foregoing has been a proliferation of massage establishments throughout California and with that a myriad of code enforcement issues and crime. In September 2014, the Governor signed AB 1147 into law. That law returns some authority to regulate massage establishments to local governments.

Currently, there is nothing in the Kerman Municipal Code to address businesses offering massage services. City staff and the Police Chief are concerned that under the current Municipal Code, the City would be unable to prevent a proliferation of massage establishments and the secondary effects in crime in the City similar to what many California cities have been experiencing. In order to ensure the protection of the public health, safety, and welfare, City staff required time to study the effects of the massage businesses on the City and to determine what regulations might best serve the interests of the City. The intent of this moratorium is to provide staff the opportunity to prepare an ordinance to address massage establishments.

On August 19, 2015, the Council adopted an urgency ordinance prohibiting the issuance of new business licenses or other permits or entitlements for massage establishments for an initial forty-five (45) day period to allow the City to study this issue in more depth.

The temporary 45-day moratorium ordinances is set to expire on October 3, 2015. The Council has a special meeting on September 29, 2015, to extend the ordinance by 120 days.

At this time and after considerable review, staff is proposing to address this matter twofold: with a regulatory permit that would be processed through the Police Department and through a Conditional Use Permit (CUP) processed by the Building and Planning Department.

Staff requests that a public hearing be set for October 12, 2015, so that the Planning Commission may review the proposed Zoning Ordinance amendment and to make a recommendation with findings to the City Council.

OUTSTANDING ISSUES

There is no anticipated fiscal impact, costs would be recovered through existing planning entitlement fees

DISCUSSION

In order to address concerns regarding massage businesses, staff is requesting the Commission adopt the attached resolution setting a public hearing to consider a proposed amendment to the Zoning Ordinance requiring a Conditional Use Permit for massage establishments.

Attachments:

- A. Resolution Setting Public Hearing to Amend Municipal Ordinance Adding Massage Business Establishments to the General Commercial Zone District's Conditional Uses

Attachment 'A'

RESOLUTION NO. 15-06

BEFORE THE PLANNING COMMISSION
CITY OF KERMAN, STATE OF CALIFORNIA

A RESOLUTION SETTING A PUBLIC HEARING FOR A ZONING ORDINANCE AMENDMENT
TO THE KERMAN MUNICIPAL ORDINANCE REQUIRING A CONDITIONAL USE PERMIT FOR
MASSAGE ESTABLISHMENTS IN THE GENERAL COMMERCIAL ZONE DISTRICT

WHEREAS, the Planning Commission has received a Petition of Amendment to the Zoning Ordinance of the City of Kerman; and

WHEREAS, Section 17.26.030 of the Kerman Municipal Code provides that upon receipt of a Petition of Amendment the Planning Commission shall set a date for a public hearing on the amendment.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission, as follows:

Section 1. The foregoing recitals are incorporated by reference.

Section 2. A public hearing is hereby set for October 12, 2015, at 6:30 p.m. at Kerman City Hall at which time the Planning Commission shall conduct a hearing regarding proposed amendment to the Municipal Code requiring a Conditional Use Permit (CUP) for massage establishments.

The foregoing resolution was adopted at a regular meeting of the Kerman Planning Commission held on this 12th day of October 2015, by the following vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED BY:

Chairman, Robert D. Epperson

Date

Secretary, Olivia Pimentel

Date

Attachment 'B'

ORDINANCE NO. 15-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KERMAN
AMENDING CHAPTER 17.48.030 OF TITLE 17 OF THE KERMAN MUNICIPAL CODE ADDING MASSAGE
PARLORS TO THE GENERAL COMMERCIAL ZONE DISTRICT CONDITIONAL USES

The City Council of the City of Kerman does hereby ordain as follows:

Section 1: Upon becoming effect this ordinance shall amend Chapter 17.48.030 of Title 17 of the Kerman Municipal Code as set forth herein.

Section 2: The Council incorporates the following additions to the Kerman Municipal Ordinance:

- a) Amend the text of Chapter 17.48.030 adding Massage Parlors to Conditional Uses in the General Commercial Zone District, to read as shown in Exhibit 'A'.

Section 3: The City Council has considered the implications of the proposed amendment prior to taking action and determined that: The proposed Ordinance Amendment will protect the public health and safety for the citizens of Kerman.

Section 4: The City Council finds the proposed Ordinance Amendment is consistent with the goals and polices of the City of Kerman for establishing appropriate requirements for these types of businesses.

Section 5: If any section, subdivision, sentence, clause or phrase of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision, and that holding shall not affect the validity of the remaining portion thereof.

Section 6: This ordinance shall become effective and in full force 30 days after its adoption. Publication of this ordinance or a summary of the same within fifteen days (15) of passage pursuant to the laws of the State of California in the Kerman News, a newspaper of general circulation published and circulated in the City of Kerman is hereby ordered and directed.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Kerman held on the 21st day of October, 2015, and was passed after a public hearing at a regular meeting of the City Council held on November 18, 2012 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

The foregoing ordinance is hereby approved.

Stephen B. Hill
Mayor

Attest:

Marci Reyes
City Clerk.

Exhibit 'A'

17.48.030 Conditional uses.

Conditional uses in this district are as follows:

- Auction houses;
- Auto lease and rental;
- Automobile, motorcycle, and small engine repair;
- Auto sales, new and used;
- Bar, liquor store, and tavern;
- Boarding or rooming facilities;
- Bowling alleys;
- Bus depots;
- Cabinet shops;
- Card rooms;
- Carwash;
- Churches;
- Equipment sales and rental;
- Feed and seed store;
- Friction shop;
- Furniture upholstery shops;
- Glass, radiator, tire and muffler shops;
- Hotel and motel;
- Hospital;
- Library;
- Liquor store;

Massage Parlors

- Multiple-family residential dwellings (R-2 and R-3 district);
- Outdoor sales and storage;
- Second-hand store;
- Sign shops;
- Theater and auditorium;
- Utility yards;
- Veterinary offices with enclosed boarding structure;

A residential dwelling associated with a business listed above. (Ord. 93-09 §1, 1993; Ord. 91-09 §1, 1991; Ord. 90-02 §2(part), 1990)

Exhibit 'B'

Kerman Police Department City of Kerman

850 S. Madera Ave. • Kerman, CA 93630

Massage Establishment PD Advisement Form Massage Therapist PD Advisement Form

ALL INFORMATION REQUESTED ON THIS ADVISEMENT IS REQUIRED. INCOMPLETE APPLICATIONS WILL BE RETURNED DENIED, THUS DELAYING THE ISSUANCE OF THE MASSAGE ESTABLISHMENT PERMIT. **IT IS UNLAWFUL FOR ANY NEW APPLICANT TO BEGIN BUSINESS WITHOUT FIRST ADVISING THE POLICE DEPARTMENT OF THE EMPLOYEMENT LOCATION.**

*****COMPLETED APPLICATIONS REQUIRE (30) THIRTY DAYS TO PROCESS*****

Date of Application _____

CAMTC Permit # _____

BUSINESS LOCATION

Business Name _____

Business Phone _____

Address of Business _____

Hours of Operation _____

City of Kerman Business License Number _____

Business Owner _____

Business Owner's Phone _____

Will the massage establishment premises be owned, leased, or rented? _____

If the premises will be leased or rented, please provide Property Owner/Manager information:

Owner's/Manager's Name _____

Address _____

Phone Number _____

APPLICANT IDENTIFYING INFORMATION

Applicant's Full Name _____

Aliases or other names used _____

Current Address _____

Previous Address _____

Date of Birth _____ CDL or ID _____ POB _____

Sex _____ Height _____ Weight _____ Eye Color _____ Hair Color _____

Are you a United States Citizen _____ If not, please describe resident status _____

State of California Massage Therapist Certification Number _____

If you are a prior Massage Establishment Permit Holder, please list the name and locations

- 1. _____
- 2. _____
- 3. _____

Have any of your prior business massage permits or license ever suspended or revoked? _____

Any action ever taken against any of your prior business massage your permits or license? _____

Have you ever been convicted of a crime? _____

If yes to any question, explain _____

PHONE NUMBERS

Home _____ Work _____ Cell _____

Other _____

SIGNATURE & VERIFICATION

I affirm that the information provided in this application, including all attachments, is true and correct. I understand that a material omission or misstatement of fact in this permit application is grounds for denial, suspension or revocation of a massage establishment permit.

Signature of Applicant _____ Date _____

SUPPORTING DOCUMENTATION NEEDED

1. Provide proof of identification for all owner(s) and all employees.
2. Two (2) front face photos of each owner(s) and all employees.
3. Live scan fingerprints of all owner(s) and all employees. Taken by the Kerman Police Department to be submitted to Department of Justice.
4. Business license fee to be paid upon application.

DECLARATION

As an applicant for a MASSAGE PERMIT, I am required to furnish information for use in determining my eligibility. In this connection, I authorized release of any and all information of a confidential or privileged nature, or any data or materials which have been sealed or understood to be held pursuant to any prior agreement or court proceeding involving disciplinary matters.

I understand that a license is required for any person to engage in MASSAGE PERMIT for compensation within the City of Kerman, that the City Manager of the City of Kerman or his delegate, and/or the Chief of Police of the City of Kerman will conduct an investigation of my criminal and/or business record and that if the City Manager issues a Notice of Intention to Issue the License, further application must be made by me to the Planning Commission for a land use permit to conduct the business of MASSAGE PERMIT, as the same is defined in Kerman Municipal Code at a fixed location and that the Planning Commission may require certain conditions of approval, including but not limited to a fixing or prescribing of advertising and signage, an approval of exterior appearance and elevation of the premises, a limit on the number of employees and/or prohibitions against persons convicted of specific crimes engaging in such activity on the premises and/or a limitation of hours of operation. I understand that this application for a MASSAGE PERMIT license will not result in issuance of any such license unless and until the Planning Commission has issued the land use permit required by Kerman Municipal Code.

I hereby release, discharge, and exonerate the agency, its agents and representatives, and any person furnishing information from any and liability of every nature and kind arising out of the furnishing and inspection of such documents, records, and other information. This release shall be binding on my legal representatives, heirs and assigns.

I hereby declare under penalty of perjury, that all information stated within or submitted for approval is true and correct. I hereby authorize the City of Kerman, its agents and employees, to seek information and/or conduct an investigation in an effort to confirm the authenticity of the statements set forth in this application and accompanying documents, along with my qualifications as the applicant for the permit.

Signed: _____ Date: _____