

..title

Public Hearing to consider an application for a Minor Revision No. 5 of Use Permit U-79-34 and Minor Revision No. 4 to Marsh Development Permit MD-79-04 for the **FP Smith Project** to include improvements including grading/gravel and fencing to lease eight acres of an 18-acre outdoor storage area of the FP Smith farm machinery and equipment business to Copart, Inc. The project provides an outdoor storage yard in support of Copart’s online agricultural vehicle and equipment sales. The project is located at 3190 Ramsey Road within the Marsh Preservation “MP” and Suisun Marsh Agriculture “A-SM-160” Zoning Districts. The subject site straddles both the Primary and Secondary Management Areas of the Suisun Marsh, and is located east of highway 680, and one-half mile east of Fairfield; APN: 0046-050-270.

..body

Published Notice Required? Yes X No
Public Hearing Required? Yes X No

I. DEPARTMENTAL RECOMMENDATION

The Department of Resource Management recommends that the Planning Commission:

1. Conduct a noticed public hearing to consider Minor Revision No. 5 to Use Permit Application No. U-79-34 and Minor Revision No. 4. to Marsh Development Permit MD-79-04 for the FP Smith Copart Project to allow eight of the 18-acre outdoor portion of the 414-acre site to be used by Copart for an outdoor agricultural storage yard in support of their online vehicle and equipment business.

II. INTRODUCTION

The Planning Commission is being asked to consider the approval of Minor Revision No. 5 of Use Permit U-79-34 and Minor Revision No. 4 to Marsh Development Permit MD-79-04 for the FP Smith Copart Project to allow eight of the 18-acre outdoor storage area to be leased by Copart. Copart’s use would not be open to the public and all vehicle storage would be agriculturally related. No public access to the area would be allowed.

The Planning Commission, after the conduct of a public hearing on this matter, may choose one of the following options:

1. Approve, or conditionally approve, the revisions to the Use Permit and Marsh Development Permit for the project, or
2. Deny the use permit, or
3. Continue the hearing in order to obtain additional information.

SUMMARY:

Dennis Smith, property owner of the subject site, is requesting approval of a revision to an existing Use Permit and Marsh Development Permit granted to the FP Smith Equipment Company located at 3190 Ramsey Road within unincorporated Solano County. The Use Permit Revision and Marsh Development Permit Revision would allow the FP Smith Equipment Company to lease a portion of the site (eight acres) to Copart, Inc. to utilize the area as a storage yard in support of online agricultural vehicle and equipment sales.

BACKGROUND:

Since 1954, the FP Smith farm machinery and equipment business has been operating on site. The land use was first permitted in 1979 as an agricultural service use. Over the years the business's consistency with applicable land use regulations has fluctuated between being a permitted use and a legal, nonconforming use due to changes in General Plan Designations, Zoning Districts, and the enactment of the Suisun Marsh Preservation Act.

SETTING:

The parcel is situated within the boundaries of the Suisun Marsh as identified by the Suisun Marsh Preservation Act of 1974 (enacted 1977). The eastern portion of the parcel is located within the Primary Management Area, while the western portion is within the Secondary Management Area. The entire parcel is relatively flat and covered in gravel.

Access to the site is via private driveway off Ramsey Road, a frontage road which parallels Interstate 680. I-680 is identified as a Scenic Roadway in the Solano County General Plan.

The parcel is bound to the west by Ramsey Road and I-680; bound to the east by Cordelia Slough; and surrounded by undeveloped grassland and marsh to the north and south. Grizzly and Suisun Bays are approximately six miles southeast of the developed site. The area surrounding the project site is predominantly managed wetlands, utilized as grazing land and outdoor recreation.

Developed Footprint

The FP Smith equipment sales business is approximately 25 acres in size (of the 414-acre site), which includes existing residential, recreational, wireless telecommunications, and commercial land uses on-site.

Residential structures are generally located in the northwest corner of the developed footprint, which include: a primary single-family dwelling, a secondary dwelling, and a caretaker's residence. Just to the east of the developed footprint are small sheds and barns which support outdoor recreation (duck hunting) activities on-site. Wireless telecommunications facilities consisting of two monopoles and associated equipment are also located within the developed footprint.

The FP Smith Equipment Company utilizes a majority of the site. An 18-acre area south of the access road contains all structures associated with the business with the balance of the area serving as outdoor storage of parts, vehicles, and equipment. There is also a 2.5-acre area utilized for outdoor storage north of the access road and east of the residential development.

In 1979, the business was granted a use permit for the storage, sale, and repair of farm machinery and equipment as an agricultural service land use. A large portion of their business involves the resale of equipment parts.

The total building area and access road measures approximately 2.5 acres, leaving a balance of 18 acres devoted to the outdoor storage of farm machinery and equipment. All domestic water and sanitation serving the existing and proposed uses on the property is provided by on-site wells and septic systems. Access to the property is provided via a private driveway off Ramsey Road.

III. PROJECT DESCRIPTION

Proposed Copart, Inc. Use

The proposal involves leasing eight-acres of the 18-acre outdoor storage yard from FP Smith to Copart, Inc. to provide an outdoor storage yard in support of online agricultural vehicle and equipment sales. Copart intends to hold inventory in this area which would be placed in rows and tracked via GPS tracking. Trucks would bring the vehicles in and out of the facility.

Several improvements were made to the site 2017 without permits. This includes the placement of approximately 500 yards of aggregate base gravel throughout Copart's proposed 350,000 square foot outdoor storage yard to smooth out potholes. In addition, an eight-foot tall, 3,600 linear foot corrugated metal panel fencing has been constructed around Copart's lease area providing security and visual screening to the storage yard. A security gate has been constructed.

A 1,000-foot long, dirt farm road was also paved to 20-feet wide and upgraded with six-inch of base rock and four-inch of pavement to provide access to the project. This driveway would provide direct access off of Ramsey Road to the Copart leased area, just before FP Smith's main entrance. According to a letter dated September 1, 2017, Public Works issued a grading permit for the road at that time (Attachment F). The addition of the fencing and gravel would be permitted with this use permit.

A 480-square foot commercial coach is proposed near the entrance of the site to facilitate administrative functions of the business (Attachment E, Office Trailer Example). The office would be served with non-potable water through connection to an existing well on the property. Bottled water would be required for the employees. Sanitary sewer service would be through a vault system. A service company would remove sewage from the coach offsite, to serve the Copart facility.

Copart anticipates that the storage yard would hold a maximum of 50 vehicle types, and/or equipment at any given time. All vehicles and equipment will be required to be agriculturally related. Units will be stored and staged in organized rows within the secured storage yard behind limited-access gated fencing. Transportation and frequency of items delivered to and from the site will be dependent on the assignment from Copart's customers; however, an average of five units per day is anticipated to arrive via truck, trailer, or suitable carrier. The number of units leaving the site would happen typically within two days after Copart's weekly on- and offline auction to registered licensed members. No public will be allowed on the site.

Typical operating hours are Monday through Friday 8 a.m. to 5 p.m. The Copart facility will have one full-time and two-part time employee's dependent on the volume of business. The FP Smith site stores hazardous materials and has a Hazardous Management Plan. No hazardous materials are anticipated to be store on the Copart portion of the site; however, the Applicant has supplied an Environmental Management Response program which addresses spill response, storm water runoff best management practices, and noise control.

IV. ENVIRONMENTAL ANALYSIS

The Project qualifies for a Categorical Exemption from CEQA, under CEQA Guidelines Section 15301, Existing Facilities, Class I, which consists of operation, maintenance, leasing, or minor alteration of existing structures, or facilities involving negligible expansion of an existing or former use. The Copart portion is proposed within the developed footprint of the facility including a minor

improvement of the existing developed footprint, adding gravel and fencing, and an office trailer, with no expansion of use.

V. DISCUSSION

LAND USE CONSISTENCY:

General Plan

The Solano County General Plan Land Use Diagram designates the western portion of the property as Agriculture and the eastern portion Marsh. Attachment C depicts the subject site.

Agricultural Designation

The Agricultural Designation is intended to provide areas for the practice of agriculture as the primary use, including areas that contribute significantly to the local agricultural economy, and allows for secondary uses that support the economic viability of agriculture. The Agricultural land use designation protects these areas from intrusion by nonagricultural uses and other uses that do not directly support the economic viability of agriculture (General Plan, Page LU-19).

Marsh Designation

The Marsh Designation provides for protection of marsh and wetland areas. It permits aquatic and wildlife habitat, marsh oriented recreational uses, agricultural activities compatible with the marsh environment and marsh habitat, educational and scientific research, educational facilities supportive of and compatible with marsh functions, and restoration of historic tidal wetlands (General Plan, Page LU-19).

Resource Conservation Overlay

The Resource Conservation Overlay (RCO) identifies and protects areas of the County with special resource management needs. This designation recognizes the presence of certain important natural resources in the County while maintaining the validity of underlying land use designations. The eastern portion of the project site carries the Resource Conservation Overlay which generally follows the underlying Marsh Designation.

Scenic Roadways

The Resources Chapter of the General Plan identifies Interstate 680 as a scenic roadway. In addition, the surrounding marshland is also identified as a scenic resource. The subject parcel is located adjacent to Interstate 680; however, the proposed development including fencing, paved access road, and office trailer is set back approximately ½ mile east of the freeway. The existing operation and proposed development are visible from I-680 but is filtered from view by a row of existing windbreak trees.

Zoning

The parcel is split zoned Agriculture Suisun Marsh “A-SM-160” and Marsh Preservation “MP”. The property has undergone several zoning changes since the business was initially established in 1954.

In 1995, 1998, and 2007, the Applicant was granted minor revisions to the Use Permit and the Marsh Development Permit. The County found during the permit approval process for those revisions that as long as the business was not expanding beyond the 18 acres of outdoor storage, as approved with the 1979 use permit, and the nature of the land use had not changed, the revisions were consistent with the provisions of the Land Use and Circulation Element of the Solano County General Plan and with Chapter 28 of the Solano County Code (Zoning Regulations), and the Applicant would be allowed to make revisions.

The current project involves development within the existing footprint of the permitted farm machinery repair and sales business and therefore is consistent with the existing General Plan Designations and applicable Zoning Districts.

Suisun Marsh Preservation Act

In 1977, the California State legislature enacted the Suisun Marsh Preservation Act (Act). The San Francisco Bay Conservation and Development Commission (BCDC) prepared the Suisun Marsh Protection Plan (Plan), which provided a mechanism to preserve and enhance the wildlife habitat of the Suisun Marsh and to assure retention of upland areas adjacent to the marsh in uses compatible with its protection. In brief, the Plan established (1) a primary management area encompassing the 89,000 acres of tidal marsh, managed wetlands, adjacent grasslands, and waterways over most of which the BCDC has jurisdiction, and (2) a secondary management area of approximately 22,500 acres of significant buffer lands. BCDC represents the state's interest, serving as the land use permitting agency for projects within the Primary Management Area, and as an appellate body with limited functions in the Secondary Management Area. BCDC's certification of the County's Local Protection Program (LPP) on November 4, 1982, established Solano County's role as the permitting agency for projects within the Secondary Management Area. In addition to the Local Protection Program, the County has since established General Plan Designations and Policies along with Zoning Districts and Land Use Regulations which support the vision and policies of the Act.

For projects located within the Secondary Management Area, the County's LPP contains development controls designed to protect wetlands within the Marsh, protect agricultural land both within and adjacent to the Marsh, and to designate principal permitted uses on land within the Marsh. The types of land uses encouraged throughout the LPP include wildlife habitat management and preservation, agriculture (with an emphasis on grazing), and outdoor recreational activities with minimal adverse impacts to the Marsh. As seen in Agriculture Policy No. 3 of the Solano County Policies and Regulations Governing the Suisun Marsh, the LPP also addresses existing non-agricultural uses that should be allowed to continue if they are conducted so that they will not cause adverse impacts on the marsh. The existing FP Smith use qualifies for this non-agricultural use exemption due to its existence prior to the Act, and the fact that it supports agricultural equipment that supports agricultural use.

Travis Air Force Base (TAFB) Land Use Compatibility Plan

The Project site is within the TAFB Airport Influence Area. The use is consistent with the General Plan and therefore, is consistent with the TAFB Land Use Compatibility Plan. The Project would lease an existing area and would not exceed the height limit or cause any impacts to the Air Base. Therefore, the Project does not require a compatibility finding by the Airport Land Use Commission.

LAND USE CONSISTENCY ANALYSIS:

FP Smith is permitted by the County as an agricultural service land use with a defined footprint and scope. Staff has determined that the lease of a portion of the site to Copart is consistent with the existing uses on site. The Applicant submitted a definition of “Implements of Husbandry” (Attachment F) to show that the equipment to be stored by Copart would fall under the agricultural equipment category, consistent with the FP Smith use. Condition of approval No. 2 (Attachment A) requires that the use be agriculturally related per the California Vehicle Code and consistent with uses identified for agriculture, hydroculture, aquaculture and forestry by the American Farm Bureau and US Department of Agriculture (USDA).

The proposed Project supports agricultural uses in the area and in the region by supplying used agricultural equipment to farmers at a more affordable price than if bought new.

Agency Review

As part of the Department of Resource Management project review process, the application has been reviewed by various County Divisions and Departments, as well as Local and Regional Agencies. Any recommended conditions of approval have been incorporated into the resolution. The following entities were solicited during project review:

Local Agencies

County Dept. of Resource Management
City of Fairfield Planning Department
City of Vacaville Planning Department
Solano Irrigation District
Cordelia Fire District

Regional Agencies

Bay Area Air Quality Management District
Regional Water Quality Control Board
Bay Conservation and Development Commission (BCDC)
Suisun Resource Conservation District
Mosquito Abatement District
California Fish and Wildlife
U.S Army Corps of Engineers

Substantial outreach to BCDC has occurred by both the Applicant and staff. As background, BCDC issued a Cease-and-Desist Order No. 95-1 on October 28, 1996 to FP Smith related to expansion of use without a permit. The Order outlines the activities allowed on the site. BCDC staff reviewed the proposal and determined that the proposed use is consistent with the existing Order in a letter to the County dated November 2, 2021 (Attachment H):

BCDC staff conclude that Copart’s proposed lease and use of FP Smith’s property that is the subject of the Order are within the scope of the Order as being substantially similar, and thus “a continuation of,” the activities stipulated to by the Commission under the Order. In other words, we determine that Copart’s proposed lease and use of FP Smith’s property qualify as “uses associated with [Mr. Smith’s] equipment leasing and storage and sale

businesses” stipulated to by the Commission under section I.C.3 of the Order use and no additional permit would be required from BCDC.

In a follow up to the November BCDC letter, County Counsel requested confirmation that the prior improvements including: (1) the driveway between the road and the existing developed footprint; (2) some grading or other improvements to the developed footprint; and (3) installation of fencing would not require any additional approval by BCDC. In a letter dated January 28, 2022 (Attachment I), BCDC reiterated their understanding of the project and confirmed that the use was consistent with the Order and consistent with the letter submitted to the County on November 28, 2022, stating that the project did not require any additional permitting from BCDC.

Conclusion

It is the conclusion of staff that the project as proposed is consistent with all applicable plans and policies of Solano County.

VI. RECOMMENDATION

The Department of Resource Management recommends that the Planning Commission:

1. Conduct a noticed public hearing to consider Minor Revision No. 5 to Use Permit Application No. U-79-34 and Minor Revision No. 4. to Marsh Development Permit MD-79-04 for the FP Smith Copart Project to allow eight of the 18-acre outdoor portion of the 414-acre site to be used by Copart for an outdoor storage yard in support of their online vehicle and equipment business.

VII. FINDINGS

Staff recommends that the Planning Commission make the following findings in support of an approval of Minor Revision No. 5 of Use Permit No. U-79-34 and Minor Revision No. 4 of Marsh Development Permit No. MD-79-04:

1. **The establishment, maintenance, or operation of the proposed use is in conformity with the County General Plan with regard to traffic circulations, population densities and distribution, and other aspects of the General Plan.**

The proposed project would not create a substantial increase in traffic nor increase population in the area. The proposed project is in conformity with the General Plan in regard to traffic circulation, population densities and distribution and other pertinent impacts. No residences are proposed in the project, so there would be no change in the population density of the area. No public would be allowed on the Copart portion of the site. Equipment storage related to agriculture is consistent with the existing use of the site.

2. **Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.**

Access to the Copart portion of the project is provided via a private driveway off Ramsey Road. On-site utilities would be developed. Bottled water is required for human consumption for the Copart portion of the site and “non-potable” water will supply the sanitation system. The sanitation service related to the office trailer would be included in a vault system maintained and hauled offsite by a service company.

3. **The subject use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.**

The FP Smith Equipment Company has operated since 1947. Minor Revision No. 5 does not propose any uses that would create a nuisance or would be detrimental to the people of the County. The proposed Copart use is consistent with the FP Smith operations and is therefore not expected to constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of others in the neighborhood.

ATTACHMENTS:

- A – Draft Resolution
- B – Vicinity Map
- C – Aerial Photograph
- D – Site Plan
- E – Office Trailer Example
- F – Definition of Implements of Husbandry/Agricultural Use
- G – Memo from Public Works Dated September 1, 2017
- H – BCDC letter dated November 2, 2021
- I – BCDC letter dated January 28, 2022

SOLANO COUNTY PLANNING COMMISSION RESOLUTION NO. xxxx

WHEREAS, the Solano County Planning Commission has considered Minor Revision No. 5 of Use Permit U-79-34 and Minor Revision No. 4 to Marsh Development Permit MD-79-04 for the FP Smith Project to include grading/gravel and fencing, improvements to an access road and placement of an office trailer, to lease eight acres of an 18-acre outdoor storage area of the FP Smith farm machinery and equipment business to Copart, Inc. The Project provides an outdoor storage yard in support of Copart's online agricultural vehicle and equipment sales. The project is located at 3190 Ramsey Road within the Marsh Preservation "MP" and Suisun Marsh Agriculture "A-SM-160" Zoning Districts. The subject site straddles both the Primary and Secondary Management Areas of the Suisun Marsh, and is located east of highway 680, and one-half mile east of Fairfield; APN: 0046-050-270; and

WHEREAS, The Commission has reviewed the report of the Department of Resource Management and heard testimony relative to the subject application at the duly noticed public hearing held on March 17, 2022; and

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

- 1. The establishment, maintenance, or operation of the proposed use is in conformity with the County General Plan with regard to traffic circulations, population densities and distribution, and other aspects of the General Plan.**

The proposed project would not create a substantial increase in traffic nor increase population in the area. The proposed project is in conformity with the General Plan in regard to traffic circulation, population densities and distribution and other pertinent impacts. No residences are proposed in the project so there would be no change in the population density of the area. No public would be allowed on the Copart portion of the site. Equipment storage related to agriculture is consistent with the existing use of the site.

- 2. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.**

Access to the Copart portion of the project is provided via a private driveway off Ramsey Road. On-site utilities would be developed. Bottled water is required for human consumption for the Copart portion of the site and "non-potable" water will supply the sanitation system. The sanitation service related to the office trailer would be included in a vault system maintained and hauled offsite by a Solano County permitted service company.

- 3. The subject use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.**

The FP Smith Equipment Company has operated since 1947. Minor Revision No. 5 to the Use Permit and Minor Revision 4 to the Marsh Permit does not propose any uses that would create a nuisance or would be detrimental to the people of the County. The proposed Copart use is consistent with the FP Smith operations and is therefore not expected to constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of others in the neighborhood.

The Project qualifies for a Categorical Exemption from CEQA, under CEQA Guidelines Section 15301, Existing Facilities, Class I, which consists of operation, maintenance, leasing, or minor alteration of existing structures, or facilities involving negligible expansion of an existing or former use. The Copart portion is proposed within the developed footprint of the facility including a minor improvement of the existing developed footprint, adding gravel and fencing, and an office trailer, with no expansion of use.

BE IT, THEREFORE, RESOLVED, that the Planning Commission of the County of Solano does hereby approve Minor Revision No. 5 of Use Permit U-79-34 and Minor Revision No. 4 to Marsh Development Permit MD-79-04 subject to the following recommended conditions of approval:

1. The proposed project shall be established in accord with the Minor Revision No. 5 of Use Permit U-79-34 and Minor Revision No. 4 to Marsh Development Permit MD-79-04 Permit Application submitted January 20, 2022, signed by FP Smith and approved by the Solano County Planning Commission.
2. Copart will be limited to selling implements of husbandry (as defined in Section 3600 of the California Vehicle Code). An "implement of husbandry" is a vehicle which is used exclusively in the conduct of agricultural operations. An implement of husbandry does not include a vehicle if its existing design is primarily for the transportation of persons or property on a highway, unless specifically designated as such by some other provision of this code and related equipment (consistent with uses identified for agriculture, hydroculture, aquaculture and forestry by the American Farm Bureau and USDA) through its proprietary online auction system.
3. No onsite public sales shall be allowed. Site access shall be restricted to employees of Copart, Inc. and FP Smith.
4. The permittee shall maintain compliance with all applicable requirements of the General Industrial and General Construction Activity Storm Water Permits as adopted by the State Water Resources Control Board.
5. Exhibit A of Minor Revision No. 5 identifies the limits of the area that may be used for the outside storage of new or used agricultural equipment. All other areas except those identified may not be used in any way for the business operation held under these permits.
6. All requirements of the Environmental Health Services Division shall be met including:
 - a. The sewage disposal system shall be maintained so as not to create a public health nuisance.

- b. Water connections to office, warehouse, toilet rooms, mop sinks and other non-potable use locations must be labeled as “non-potable” and not for human consumption. The proposed placement of an office trailer with water source must meet the requirement to label all water spigots as “non-potable” and not for human consumption. Bottled water is required for human consumption and bottled water shall be available at the locations labeled “non-potable”, not for human consumption.
- c. The permittee shall maintain a count of all water service connections on the property.
 - i. If the number of water service connections on the property equals or exceeds five (5), the permittee shall secure a State Small Water System permit thru Solano County Environmental Health. All permit requirements, including sampling and user notifications shall be followed.
 - ii. If the number of water service connections on the property equals or exceeds 15, or if the combined number of users (residents, employees, and guests) served by the water system exceed 25 persons for more than 60 days out of the year, the permittee shall obtain a Public Water System permit from the State of California Division of Drinking Water. The Public Water System permit shall be maintained and be kept valid for as long as the property meets the Public Water System permit threshold requirements for service connections and/or water users.
 - iii. The term “service connection” and “user” shall be interpreted the same as is defined under the California Health and Safety Code, Section 116275.
- d. Prior to issuance of a building permit for the modular office, the permittee shall install, under Environmental Health permit, a vaulted septic system for any sewage generated by the office trailer. The vaulted septic system shall consist of a vaulted septic tank with floats and alarms – no leach lines shall be included in this system. The system shall be installed under Environmental Health permit and comply with all applicable requirements of Solano County Code Ch. 6.4. The system shall be pumped out periodically by a septage pumper licensed to perform work within Solano County – pump out receipts for the prior 12 months will be provided upon request of the Department.
- e. The permittee shall continue to operate under the provisions of their Hazardous Materials Management Plan. The permittee shall ensure that any handling of hazardous materials on site in reportable quantities is reported to the online California Environmental Reporting System (CERS) as part of a Hazardous Materials Business Plan. Reportable quantities include quantities equal to or greater than 55 gallons of liquids, 200 cubic feet for gases, and 500 pounds of solids.
 - i. If a Hazardous Materials Business Plan (HMBP) is required, the permittee shall fully comply with the HMBP requirements and submit all required elements of the HMBP.
 - ii. If Copart’s operations require a separate Hazardous Materials Business Plan (HMBP), Copart shall fully comply with the HMBP requirements and submit all required elements of the HMBP.

- f. The permittee shall ensure that hazardous materials are not discharged to the ground during operations. Any significant discharge shall be reported immediately to the California Office of Emergency (Cal OES) State Warning Center and the Certified Unified Program Agency (CUPA) – the Solano County Hazardous Materials program.
7. All requirements of the Building Division shall be met including:
 - a. Prior to any construction or improvements taking place, a Building Permit Application shall first be submitted as per Section 105 of the 2016 California Building Code. “Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.”
 - b. Plans and Specifications shall meet the requirements as per Section 107 of the 2019 California Building Code. “Construction documents, statement of special inspections and other data shall be submitted in one or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be submitted.
 - c. Any structures located in a special Flood Hazard Area (SFHA) must be elevated at least 1 foot above the base flood elevation.
 - d. The site and all facilities shall meet all of the accessibility requirements found in Chapter 11B of the 2019 California Building Code. The designer is required to design for the most restrictive requirements between ADA Federal Law and the 2019 California Building Code. The Solano County Building Division will be reviewing the plans for the most restrictive requirements of the two. There shall be a complete site plan, drawn to scale, and designed by a licensed architect reflecting all site accessibility.
 - e. All accessible paths of travel and parking areas shall be a hard-scaped surface and shall meet all of the worst-case requirements between Chapter 11B of the 2019 California Building Code and the ADA Federal Law.
 - f. A building Permit is required for the existing fence and gate.
 - g. The fire district will reassess the site for fire life and safety requirements.
8. All gate access points shall be provided by a Knox Pad lock. Application for a pad lock is required from Cordelia Fire District.

- 9. Fire access shall include a 25-foot fire access roadway to the lot. A 20-foot-wide fire access roadway shall be provided around the perimeter of the property. All radius corners around the property will meet fire code requirements.
- 10. The permittee shall obtain and meet all requirements of a Marsh Development Permit, as necessary, from the San Francisco Bay Conservation and Development Commission.
- 11. No additional uses, new or expanded buildings shall be established or constructed beyond those identified on the approved plot plan without prior approval of a new permit or minor revision to the permit.
- 12. The permittee shall apply for, obtain and comply with the conditions of an appropriate grading permit for the placement of the modular office building and any other improvements as necessary.
- 13. The permit shall be in effect for a five (5) year period with the provision that a renewal may be granted if said request is received prior to the expiration date of March 17, 2027, and the use remains in compliance with permit conditions of approval.

I hereby certify that the foregoing resolution was adopted at the regular meeting of the Solano County Planning Commission on March 17, 2022 by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

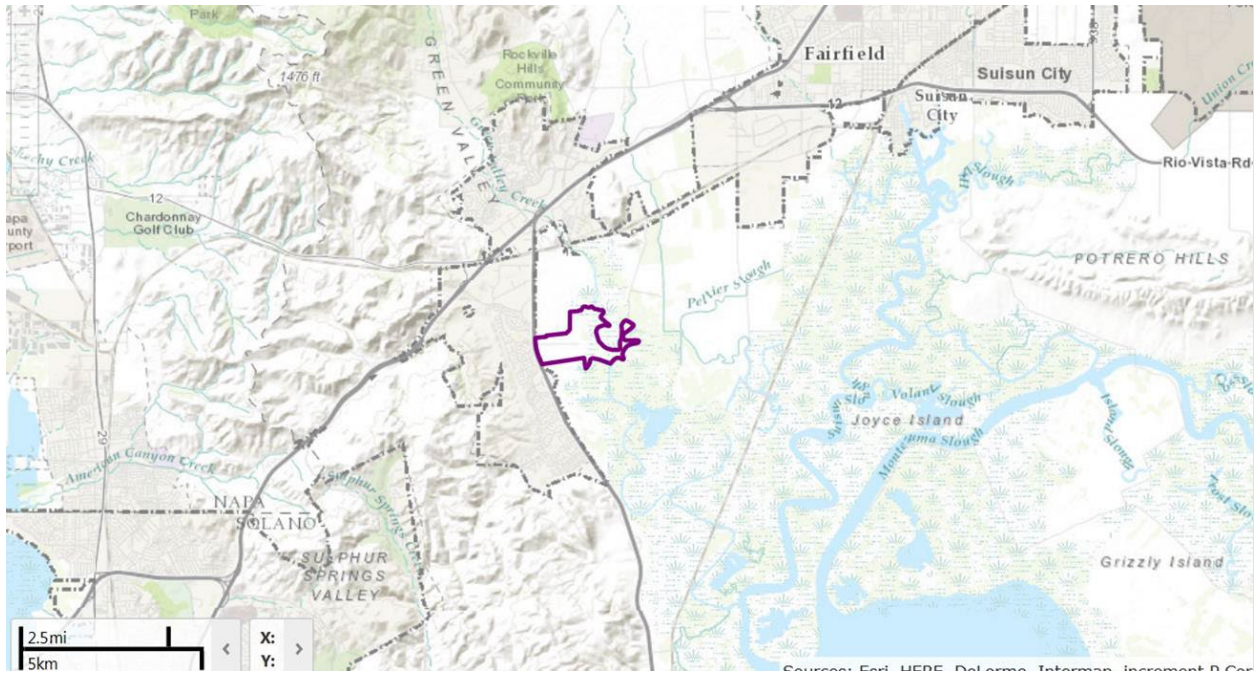
ABSTAIN: Commissioners _____

ABSENT: Commissioners _____

 Kelly Rhoads-Poston, Chairperson
 Solano County Planning Commission

By: _____
 Terry Schmidtbauer, Secretary

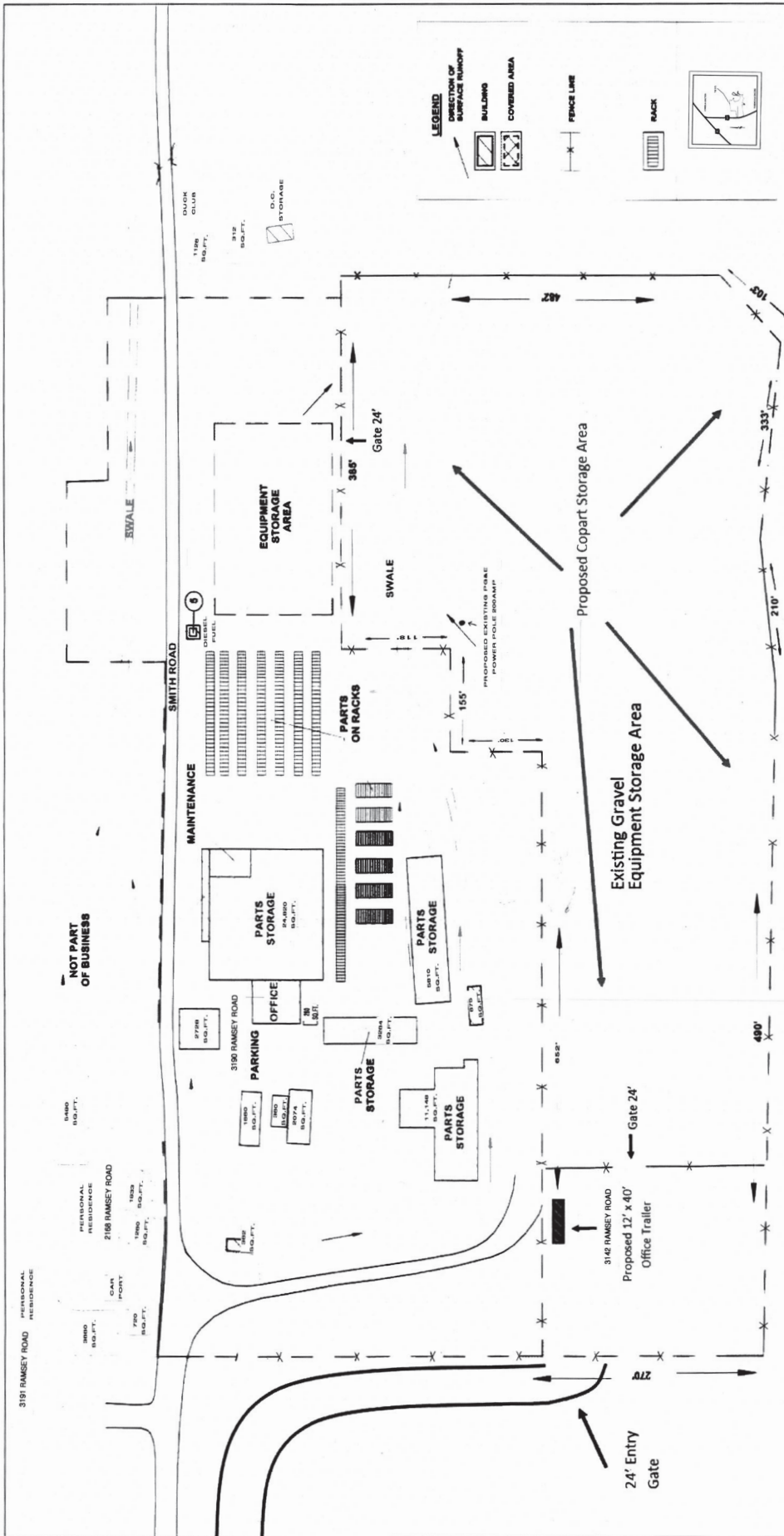
FP Smith Vicinity Map



Aerial Photograph



SHEET 1: PROPOSED COPART STORAGE AREA

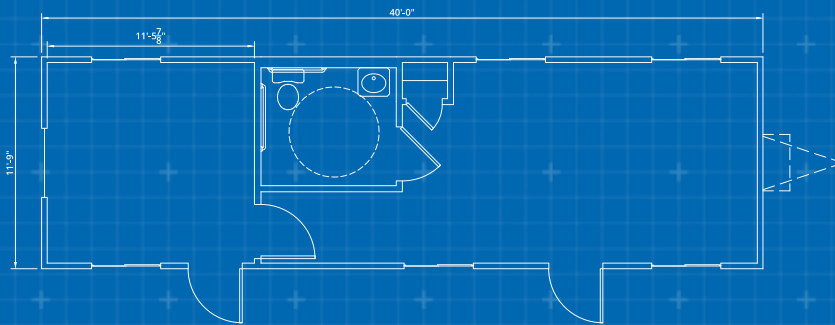


APN: 0046-050-270 SHEET 1	N 	SITE PLAN FP SMITH PARTS & EQUIPMENT 3190 RAMSEY ROAD FAIRFIELD, CALIFORNIA	SCALE 1" = 100 FEET	00295
			DRAFTED/MODIFIED DJD/JWC	DATE 08/17

44' x 12' OFFICE TRAILER



In addition to your office solution, we can provide additional products and services that complete your space- creating a more productive, comfortable, and safe work environment.



CUSTOMIZATION

- Steps & Ramps
- Furniture & Appliances
- Technology
- Site Services
- Loss Protection

Dimensions

- 44' Long (including hitch)
- 40' Box size
- 12' Wide
- 8' Ceiling height

Exterior Finish

- Aluminum or wood siding
- I-Beam Frame
- Standard drip rail gutters

Interior Finish

- Paneled walls
- Carpet or vinyl tile floor
- Gypsum or T-grid suspended ceiling

Electric

- Fluorescent ceiling lights
- Breaker panel

Heating/Cooling

- Central HVAC or thru-wall AC

Windows/Doors

- Horizontal slider windows
- (2) Vision panel doors with standard locks or (2) steel doors with dead bolt lock

Other

- Private office(s)
- Optional restroom

Vehicle Code definitions of “Implements of Husbandry”

36000. An “implement of husbandry” is a vehicle which is used exclusively in the conduct of agricultural operations.

An implement of husbandry does not include a vehicle if its existing design is primarily for the transportation of persons or property on a highway, unless specifically designated as such by some other provision of this code.

36005. An implement of husbandry includes, but is not limited to, all of the following:

(a) A lift carrier or other vehicle designed and used exclusively for the lifting and carrying of implements of husbandry or tools used exclusively for the production or harvesting of agricultural products, when operated or moved upon a highway.

(b) A trailer of the tip-bed type when used exclusively in the transportation of other implements of husbandry or tools used exclusively for the production or harvesting of agricultural products.

(c) A trailer or semitrailer having no bed, and designed and used solely for transporting a hay loader or swather.

(d) A spray or fertilizer applicator rig used exclusively for spraying or fertilizing in the conduct of agricultural operations. This subdivision does not apply to anhydrous ammonia fertilizer applicator rigs which have a transportation capacity in excess of 500 gallons.

(e) (1) A trailer or semitrailer that has a maximum transportation capacity in excess of 500 gallons, but not more than 1,000 gallons, used exclusively for the transportation and application of anhydrous ammonia, if the vehicle is either equipped with operating brakes or is towed upon a highway by a motortruck that is assigned a manufacturer’s gross vehicle weight rating of 3/4 ton or more.

(2) These vehicles are subject to Section 24603 if the stop lamps of the towing vehicle are not clearly visible.

(3) For purposes of this subdivision, a combination of vehicles is limited to two vehicles in tandem.

(f) A nurse rig or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of an applicator rig or an airplane used for the dusting, spraying, fertilizing, or seeding of crops.

(g) A row duster.

(h) A wagon or van used exclusively for carrying products of farming from one part of a farm to another part thereof, or from one farm to another farm, and used solely for agricultural purposes, including any van used in harvesting alfalfa or cotton, which is only incidentally operated or moved on a highway as a trailer.

(i) A wagon or portable house on wheels used solely by shepherds as a permanent residence in connection with sheep raising operations and moved from one part of a ranch to another part thereof or from one ranch to another ranch, which is only incidentally operated or moved on a highway as a trailer.

(j) Notwithstanding subdivision (f) of Section 36101, a trap wagon, as defined in Section 36016, moved from one part of a ranch to another part of the same ranch or from one ranch to another, which is only operated or moved on a highway incidental to agricultural operations. The fuel tank or tanks of the trap wagon shall not exceed 1,000 gallons total capacity.

(k) Any vehicle that is operated upon a highway only for the purpose of transporting agricultural products and is in no event operated along a highway for a total distance greater than one mile from the point of origin of the trip.

(l) A portable honey-extracting trailer or semitrailer.

(m) A fertilizer nurse tank or trailer that is not self-propelled and which is moved unladen on the highway and auxiliary to the use of a spray or fertilizer applicator rig.

(n) Any cotton trailer when used on the highways for the exclusive purpose of transporting cotton from a farm to a cotton gin, and returning the empty trailer to such farm, except that Section 5014 shall apply to such trailers.

(o) A truck tractor or truck tractor and semitrailer combination specified in this subdivision which is owned by a farmer and operated on the highways, (1) only incidental to a farming operation, (2) not for compensation, and (3) for a distance of not more than two miles (on the highway) each way. This subdivision applies only to truck tractors with a manufacturer's gross vehicle weight rating over 10,000 pounds that are equipped with all-wheel drive and off-highway traction tires on all wheels, and only to semitrailers used in combination with such a truck tractor and exclusively in production or harvesting of tomatoes. The vehicles specified in this subdivision shall not be operated in excess of 25 miles per hour on the highways.

(p) An all-terrain or utility-terrain vehicle used exclusively in agricultural operations.

36015. "Implement of husbandry" includes any farm tractor, otherwise an implement of husbandry used upon a highway to draw a farm trailer carrying farm produce, or to draw any trailer or semitrailer carrying other implements of husbandry, between farms, or from a farm to a processing or handling point and returning with or without the trailer.

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DEPARTMENT OF RESOURCE MANAGEMENT



**SOLANO
COUNTY**

ATTACHMENT G

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Public Works – Engineering Services Division
MEMORANDUM

DATE: September 1, 2017
TO: Eric Wilberg, Associate Planner

A handwritten signature in black ink, appearing to read "Stuart Hagerman".

FROM: Stuart Hagerman, County Surveyor
SUBJECT: U-79-34MR5, FP Smith

Public Works Engineering has reviewed the application from FP Smith for a use permit revision to add Copart's heavy agricultural equipment inventory on an 8 acre leased portion of an existing agricultural service business. The parcel (APN 0046-050-270) is located at 3190 Ramsey Road south of Cordelia and north of Gold Hill Road, and the parcel is approximately 414.8 acres in size.

Access to the existing facility is from a driveway connected to Ramsey Road. An encroachment permit for this driveway is on file with the County of Solano. A site visit on August 28, 2017 found the driveway connection to be in good condition. A grading permit from the County of Solano has been issued and finalized for the proposed grading prior to review of this minor revision.

Public Works Engineering has no concerns with the proposed use.

This response addresses concerns of Public Works Engineering for roads, mapping, and grading.

Please feel free to call me at 784-6073 if you have any questions.

SAEED IRAVANI
Building Official
Building & Safety

MIKE YANKOVICH
Program Manager
Planning Services

JAG SAHOTA
Manager
Environmental
Health

SARAH PAPPAKOSTAS
Senior Staff Analyst
Administrative Services

MATT TUGGLE
Engineering Manager
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CHARLES BOWERS
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November 2, 2021

Randy Racine, Associate General Counsel

Copart, Inc.

14185 Dallas Parkway, Suite 300

Dallas, Texas 75254

Via email only

SUBJECT: Copart Proposed Lease and Operation of FP Smith Property, Unincorporated Solano County (CCD No. 1-95)

Dear Mr. Racine:

I am writing to you to follow up on my letter dated June 8, 2021 – which was sent in response to your letter dated May 6, 2021 regarding Copart, Inc.’s (“Copart”) proposed lease and operation of FP Smith’s property in Solano County. As you know, FP Smith’s property which Copart proposes to lease and use is the subject of Commission Cease and Desist Order No. 1-95, Dennis Smith, issued by the San Francisco Bay Conservation and Development Commission (the “Commission” or “BCDC” or the “agency”) on October 28, 1996 (the “Order”).

Following further internal discussions with staff at BCDC, including the agency’s Executive Director and General Counsel, we have determined that Copart’s proposed lease and use (as have been represented to BCDC staff to date) of FP Smith’s property that is the subject of the Order are within the scope of the Order as being substantially similar to, and thus “a continuation of,” the activities stipulated to by the Commission under the Order – subject to the qualifications specified in this letter below. Therefore, Copart requires no further authorization from BCDC at this time for its proposed lease and use of FP Smith’s property that is the subject of the Order.

Background Information Regarding the Order

As you are aware, in issuing the Order the Commission made the following relevant findings:

- “[T]he developed portion of the site is used for storage and other activities associated with Mr. Smith’s business of selling used tractor and other farm equipment parts.” (Order, Finding II.B at p. 2.)
- “Mr. Smith operates a used tractor parts and other farm equipment parts business on the site.” (*Id.*, Finding II.E at p. 2.)
- “The Commission finds that the area shown on Exhibit A to this order (SE 32 and 33), within which Mr. Smith can continue to operate his business without obtaining a Commission permit, is a reasonable area for Mr. Smith to continue to operate his



business. The Commission also finds that the impact of using this property for Mr. Smith's business will be minimal on the marsh's resources. Finally, the Commission finds that it would be very time-consuming and take substantial Commission resources to try to determine precisely what 'grandfather' rights Mr. Smith has under these circumstances and that the outcome of this effort would be very uncertain. Under these circumstances, the Commission finds that the issuance of this order is appropriate." (*Id.*, Finding II.P at p. 3.)

In consideration of these findings, the Commission stipulated that: "Mr. Smith may do the following without a permit ... Use the areas shown on Exhibit A to this order for uses associated with his equipment leasing and storage and sale businesses." (*Id.*, Settlement and Stipulated Cease and Desist Order section I.C.3 at p. 2.)

Copart's Proposal in Relation to the Order

As I previously explained in my June 8, 2021 letter:

"Under the legal nonconforming use principles that inform how the scope of FP Smith's grandfathered activities should be understood, the California Supreme Court has explained that 'when continuance of an existing use is permitted by a zoning ordinance, the continued nonconforming use must be similar to the use at the time the zoning ordinance became effective.' [Citation.] Furthermore, 'intensification or expansion of the existing nonconforming use ... is not permitted.' [Citation.]" (p. 2.)

According to your letter dated May 6, 2021, Copart proposes to limit its lease and use of FP Smith's property as follows:

- "The existing use of the referenced property has been for the 'sale, repair and storage of farm machinery and equipment.' This has been its consistent use for more than 70 years, operated and during those years by FP Smith and various lessees. This application seeks to continue those uses, while adapting to changing technology, and enhanced environmental requirements – including the required retrofitting of existing diesel farm equipment with cleaner diesel motors." (p. 1.)
- "At this site, Copart will sell implements of husbandry (as defined in the California Vehicle Code) and related equipment (consistent with uses identified for agriculture, hydroculture, aquaculture and forestry by the American Farm Bureau and USDA) through its proprietary online auction system." (*Id.*)
- "Equipment will be stored for a short period of time (approximately 90% of the equipment will be held on site for less than 45 days), sold through the online auction, and removed from the site for delivery to purchasers. As part of the relationship between Copart and FP Smith, FP Smith will have the opportunity to remove vehicles and equipment to their existing repair site for use with their existing and expanding client base." (p. 2.)

- “Copart’s proposed uses of the property are, in fact, limited to the sale and storage of implements of husbandry as defined, and will not include the storage of passenger vehicles.” (*Id.*)

Based upon these, as well as prior, representations by representatives of Copart, including Dan Sharp, BCDC staff conclude that Copart’s proposed lease and use of FP Smith’s property that is the subject of the Order are within the scope of the Order as being substantially similar, and thus “a continuation of,” the activities stipulated to by the Commission under the Order. In other words, we determine that Copart’s proposed lease and use of FP Smith’s property qualify as “uses associated with [Mr. Smith’s] equipment leasing and storage and sale businesses” stipulated to by the Commission under section I.C.3 of the Order.

Furthermore, BCDC staff’s determination is premised on the dual understandings that: (1) Copart’s proposed lease and use of FP Smith’s property is limited strictly to the area depicted in Exhibit A to the Order¹; and (2) Copart’s *actual* use of the FP Smith property will not have any significant impacts on Suisun Marsh resources beyond the “minimal” impacts recognized by the Commission with respect to Mr. Smith’s use of the property at the time that the Order was issued in 1996.

Conclusion

Subject to the limitations of Copart’s proposal as described above, Copart requires no further authorization from BCDC at this time for its proposed lease and use of FP Smith’s property that is the subject of the Order. However, please be aware that BCDC (as it does throughout its jurisdiction in Suisun Marsh or elsewhere) retains the authority and discretion to determine at any given time whether unauthorized activity is occurring at the FP Smith property *vis a vis* activities undertaken by Copart and/or FP Smith that is beyond the scope of activities stipulated to by the Commission under section I.C.3 of the Order, including any impermissible intensification of the activities stipulated under the Order.

Sincerely,

DocuSigned by:

785B9E96237D403...

Michael Ng

¹ As stated in Finding II.R of the Order: “Exhibit A to this order consists of: (1) an enlargement of a portion of Pacific Aerial Survey’s aerial photograph AVP 5160-1 dated May 28, 1996, at a scale of approximately 1”=150’; and (2) a plastic mylar sheet with registration marks and outlining in red the area within which Mr. Smith may continue to operate his used tractor parts business and to maintain existing elevations to prevent flooding (SE 32 and 33).”

Randy Racine
Copart Lease & Operation of FP Smith Property (CCD No. 1-95)

Page 4
November 2, 2021

Senior Staff Attorney
San Francisco Bay Conservation and Development Commission
375 Beale Street, Suite 510
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Tel: 415-352-3600

cc: Dan Sharp
Allan Calder, Solano County
James Leland, Solano County



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January 28, 2022

Allan Calder, Planning Manager, AICP
Solano County Department of Resource Management
Planning Division
675 Texas Street, Suite 5500
Fairfield, CA 94533
Email: Amcalder@solanocounty.com
Via Email Only

SUBJECT: After-the-Fact Authorization for Certain Improvements by Copart at the FP Smith Property, Unincorporated Solano County

Dear Allan:

The purpose of this letter is to provide a formal response on behalf of the San Francisco Bay Conservation and Development Commission (“BCDC”) to a pair of emails sent by you (on December 28, 2021 at 10:12am) and Deputy County Counsel Jim Laughlin (on December 28, 2021 at 3:20pm). Together, these emails request BCDC’s view as to authorizing after-the-fact (“ATF”) certain physical improvements which have already been made at the FP Smith property by Copart in relation to the latter’s lease of the former.

As described by Deputy County Counsel Laughlin, the improvements in question consist of: (1) improvements to the driveway between the road and the existing developed footprint; (2) some grading or other improvements to the developed footprint; and (3) installation of fencing. While in his December 28, 2021 email at 3:20pm Deputy County Counsel Laughlin indicated that the driveway improvements were entirely within the Secondary Management Area (“SMA”) of Suisun Marsh (“Marsh”), in an email dated January 12, 2022 at 6:04pm Deputy County Counsel Laughlin subsequently suggested that the grading and fencing improvements had occurred within both the SMA and the Primary Management Area (“PMA”) of the Marsh (as appears to be corroborated by aerial imagery provided by the County to BCDC).

Over the course of these communications the County suggested its proposal to authorize the improvements ATF by revising its existing “combined use permit/marsh development permit” (U-79-34/MD-79-04, or “County CUP/MDP”) which pertains to the FP Smith property. Specifically, Deputy County Counsel Laughlin suggested revising the County CUP/MDP to: (1) clarify the scope of the currently authorized use consistent with a letter that I sent to Randy Racine (Associate General Counsel for Copart) dated November 2, 2021 with subject “Copart Proposed Lease and Operation of FP Smith Property, Unincorporated Solano County (CCD No. 1-



95)” (“November 2, 2021 Letter”); and (2) authorize ATF the aforementioned improvements, at least within the SMA (though Deputy County Counsel Laughlin posed the question whether the revision to the County CUP/MDP could authorize the ATF improvements within the PMA).

As a matter for the record, I would just note that it is not apparent to me that any current BCDC staff with working knowledge of the regulatory issues at the FP Smith site appear to have been previously aware of the existence of the County CUP/MDP.¹ For some reason, there is no mention of the County CUP/MDP in Commission Cease and Desist Order No. 1-5 (“Order”), and, as you know, the existence and applicability of the Order was critical to BCDC’s determination that Copart’s proposed lease and use of the FP Smith property required no further authorization from BCDC at this time.²

Considering all of the above, BCDC’s guidance to the County with respect to appropriate authorization of the ATF improvements in question is as follows:

- First, just to reiterate my statement made to Deputy County Counsel Laughlin in an email dated January 12, 2022 at 5:02pm (and concurred by Deputy County Counsel

¹ Again, as a matter of record and based on documentation provided to me by the County (a Resource Management Staff Report for the County Planning Commission’s consideration of minor revision #4 of the CUP/MDP at the Planning Commission’s December 6, 2007 meeting), my understanding of the history of the County CUP/MDP is as follows: The FP Smith site became legal nonconforming when it was originally zoned by the County in the 1960s. In 1979 the County approved an CUP which then rendered the site legal and conforming. Following enactment of the Suisun Marsh Preservation Act (“SMPA”) in 1977 and the County’s subsequent rezoning of the site in 1981 as part of its certified component of the Local Protection Program, the site again became legal nonconforming. In 1986 the County approved a minor revision to the existing CUP. It appears that at this time the CUP as amended also became a combined CUP/MDP authorization, as allowed for under the SMPA (see Public Resources Code § 29502(b)) and the County Code (see County Code § 28.104.B).

The County has revised its CUP/MDP a total of four times: the second revision in 1995 confirmed that the outside storage area was limited to the original 18 acres defined in the original 1979 CUP; the fourth revision in 2007 resulted in demolition and replacement of certain buildings at the site. Notably, seven buildings were demolished and replaced with only two, but the coverage increased significantly (10,275 sq. ft. v. 69,000 sq. ft.); likewise, two other buildings were also replaced with two, but again the coverage increased significantly (1,613 sq. ft. v. 8,400 sq. ft.).

In terms of the legal nonconforming use nature of the site (accounting for the CUP/MDP in relation to the current zoning), the County rationalized that as long as the development footprint did not expand beyond the original approved footprint, approval of the fourth revision did not impermissibly expand the legal nonconforming use. In terms of SMPA compliance, apparently BCDC’s stated concerns at that time were limited to whether the new buildings would be within the PMA or the SMA and whether upland grasslands would be affected. The County responded that the proposed development was limited to the SMA and that no upland grasslands would be affected.

² See page 2 of my November 2, 2021 Letter which states in relevant part: “Subject to the limitations of Copart’s proposal as described above, Copart requires no further authorization from BCDC at this time for its proposed lease and use of FP Smith’s property that is the subject of the Order.”

Laughlin in a response email dated January 12, 2022 at 6:04pm), in relation to the County's question whether the CUP/MDP could be construed to constitute an MDP approval within the PMA, as a matter of law the SMPA does not authorize the County to issue MDPs within the PMA. (See Public Resources Code § 29501(a); see also County Code § 28.104.B.)

- Second, BCDC concurs with the County's proposal to revise its CUP/MDP to both: (1) clarify the scope of the currently authorized use at the FP Smith property consistent with my November 2, 2021 Letter (as well as this letter); and (2) authorize ATF the aforementioned improvements **within the SMA**.
- Third, to the extent that the ATF improvements are within the PMA, BCDC's position is that, consistent with my November 2, 2021 Letter, so long as said improvements were undertaken solely for the purpose of facilitating Copart's proposed use of the FP Smith property (as described on page 2 of my November 2, 2021 Letter) and are **in-fact limited to the existing developed footprint of the FP Smith property within the PMA** as depicted in Exhibit A to the Order (see page 3 of my November 2, 2021 Letter and, in particular, footnote 1), no further authorization from BCDC is required at this time.
- While page 3 of my November 2, 2021 Letter recites what BCDC understood as Copart's proposed use of the FP Smith property and on page 4 **limits** acknowledgment of these activities to being within the scope of the Order (such that Copart required no further authorization from BCDC at this time for its proposed use), I do hereby acknowledge that in prior discussions Copart did communicate to BCDC the necessity to undertake certain limited physical improvements (generally consistent with the extent of the ATF improvements at issue here) in order for Copart to use the FP Smith property as proposed. In this regard, to the extent that the ATF improvements are within the PMA, these can also be understood as being within the scope of the Order.
- To be clear, I believe that this letter can be construed consistent with my earlier November 2, 2021 Letter, and nothing in this letter is intended to undermine or invalidate any statements made in that letter.
- Fifth, in processing a minor revision to its CUP/MDP to authorize ATF the improvements within the SMA, the County should ensure that it properly notices BCDC of any pending application for the minor revision and the County's action thereon as required by sections 11412 and 11430, respectively, of BCDC's regulations (codified at 14 CCR §§ 11412, 11430). (See also County Code § 28.104.G.4.(ii).) Furthermore, please consider this letter to be an open-ended request to be notified of any future proposed changes to the County's CUP/MDP. (See County Code §§ 28.104.E, .F, .M; 28.04.B.2.e.)

Please do not hesitate to contact me if you have any questions or concerns about this letter.



Allan Calder
ATF Improvements by Copart at FP Smith Site

Page 4
January 28, 2022

Sincerely,

DocuSigned by:

785B9E96237D403...

Michael Ng
Senior Staff Attorney

cc: Jim Laughlin, JWLaughlin@SolanoCounty.com
Kathy Pease, kpease@masfirm.com
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