

**DRAFT PC RESOLUTION NO. 24-016**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING CONDITIONAL USE PERMIT (CUP-000111-2024) TO PLACE A CONVENIENCE RECYCLING FACILITY AT A COMMERCIAL DEVELOPMENT ON A LOT LOCATED AT 805 E. PHILADELPHIA STREET (APNS: 8329-002-001, 8329-002-002, 8329-002-010) IN THE C-1 NEIGHBORHOOD STORES ZONING DISTRICT AND SB330 OVERLAY DISTRICT**

**WHEREAS**, the applicant, Milton Elias Amaya Saenz, has submitted an application for a Conditional Use Permit (CUP-000111-2024) for the installation of a 160 square-foot convenience recycling facility consisting of four (4) 6' x 5' recycling containers for aluminum, plastic, and glass beverage container recycling on a site located at 805 E. Philadelphia Street (APNs: 8329-002-001, 8329-002-002, 8329-002-010);

**WHEREAS**, the subject property is currently located within the C-1 (Neighborhood Stores) Zoning District and SB330 Overlay District;

**WHEREAS**, the subject property is on a parcel designated as "Activity Center" on the General Plan Land Use Map;

**WHEREAS**, the subject property has a General Plan Transect Zone designation of "T5" allowing up to 80 dwelling units per acre and building heights up to six (6) floors;

**WHEREAS**, the approval of a conditional use permit by the Planning Commission is required for a Recycling Facility-Convenience within the C-1 (Neighborhood Stores) Zoning District;

**WHEREAS**, the subject site is located within a "convenience zone" as defined and certified by the California Department of Conservation under the California Beverage Container Recycling and Litter Reduction Act (Public Resources Code 14500 et. seq.);

**WHEREAS**, Public Resources Code 14571 (a) requires that at least one certified recycling center be located within every convenience zone's radius in California that can redeem all CRV (California Redemption Value) bottles and cans unless other conditions are met;

**WHEREAS**, the subject convenience zone had been unserved by any convenience recycling facility;

**WHEREAS**, the applicant submitted a Conditional Use Permit application to legally establish a convenience recycling center under local laws;

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on July 24, 2024 concerning the requested Conditional Use Permit (CUP-000111-2024); and

**WHEREAS**, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearings of July 24, 2024.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the Planning Commission of the City of Pomona, California:

**SECTION 1.** The Planning Commission exercising independent judgment finds that the proposed project will not have a significant effect on the environment. The City of Pomona, as lead agency, has conducted an environmental review on the proposed project per the California Environmental Quality Act (CEQA). Pursuant to the provisions of CEQA (Public Resources Code, Section 21084 et. seq.), the guidelines include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. The Planning Commission hereby adopts a Categorical Exemption in compliance with Article 19, Section 15303, Class 3 (New Construction or Conversion of Small Structures) in that the proposed project consists of the installation of small new equipment and facilities in small structures.

**SECTION 2.** If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

**SECTION 3.** In accordance with Section .580.B of the Zoning Ordinance, the Planning Commission must make five (5) findings in order to approve this Conditional Use Permit. Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds as follows:

1. That the proposed use at the particular location will contribute to the general well-being of the neighborhood or community.

The proposed use of the subject site for the development of a convenience recycling facility will contribute to the general well-being of the neighborhood and the community by expanding the opportunity for residents to redeem a refund value within a convenient location as it will be located within an existing commercial shopping center. It will also provide a service to the residents of Pomona as recycling centers have been eliminated in the City by the Waste through Recycling Ordinance (Ordinance No. 4234).

2. That such use will not, under the circumstances of the particular case be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity or detrimental to the use, valuation or enjoyment of property or improvements in the vicinity.

The proposed project will not be detrimental to the health, safety, peace, and general welfare of persons working or residing in the vicinity nor detrimental to the value of the

property and improvements in the neighborhood as the proposed recycling facility area is approximately 160 square feet in size and will be located within an existing screened enclosure area. The recycling facility will only collect material eligible for refund value including beverage containers made of aluminum, glass, and plastic to be weighed and directly stored in containers with a lock. The facility will be screened from the public right-of-way behind an existing block wall and landscape planters. Two wrought iron gates will ensure security during non-hours of operations. Although the site is adjacent to residential land uses, the convenience recycling facility is a compatible use and will be further separated by an additional block wall along the property lines to the north. The site will be approximately 67' from the nearest single family residences to the north. The proposed facility will have a new patio cover to further enclose the facility as well as a drainage connection to the existing wastewater sewer to prevent any water run-off from the site into storm drains. Therefore, the use will not, under the circumstances of the particular case, be detrimental to the use, valuation or enjoyment of property or improvements in the vicinity.

3. That the site of the proposed use is of adequate topography, size and shaped to accommodate said use as well as all yards spaces, walls, fences, parking, loading, landscaping and any other features necessary to allow said use with the land and uses in the neighborhood and make it compatible thereto.

The site is of adequate topography, size, and shape to accommodate the proposed use. The site has an area of approximately 0.70 acres and is relatively flat with 51 open parking spaces. Therefore, the site has the adequate topography, size, and shape to accommodate the proposed convenience recycling.

4. That the site abuts streets and highways are adequate in width and improvements to carry traffic generations typical of the proposed use.

The subject site has street access directly to Philadelphia Street, a Minor Arterial, and Towne Avenue, a Major Arterial, both of which are of adequate width and improvements to carry the traffic generations that are typical for commercial development projects and the proposed convenience recycling.

5. That granting of such conditional use permit will not adversely affect the General Plan of the city and conforms to the provisions of the zoning ordinance.

The granting of the proposed project as conditioned is consistent with the Pomona General Plan and all and all applicable requirements of the Pomona City Code. The proposed request is within the "Activity Center" Place Type designations under the Pomona General Plan. The proposed project specifically meets Pomona General Plan Goal 6A.G8 for "Activity Center," which reads encourages new developments to "improve the physical quality of existing neighborhood centers throughout the City, particularly those within or next to residential neighborhoods." This goal is being satisfied as the project will establish a use within an area that was previously outdoor storage at an existing commercial

development. Additionally, the proposed use will provide a convenience use to a unserved convenience zone.

**SECTION 4.** Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit subject to compliance with all applicable laws and ordinances of the City as well as the addition of the following conditions, violations of which (or failure to complete any of which) shall constitute grounds for revocation of the conditional use permit or any portion thereof:

### **PLANNING DIVISION**

#### General Conditions

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Planning Commission on July 24, 2024, and as illustrated in the stamped approved plans. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Director of Development Services.
2. This approval shall lapse and become void if the privilege authorized is not utilized within two years from the date of this approval (July 24, 2026), in accordance with Pomona Zoning Ordinance section .580.I. The Planning Commission may extend this period for one year upon receipt of an application for a Time Extension request submitted by the applicant at least thirty days before the expiration date of this approval.
3. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.

City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

4. In case of a violation of any of the conditions of approval and/or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein Conditional Use Permit.
5. The project is subject to a twenty day appeal period. Written appeals may be filed with the City Clerk within twenty calendar days by one or more City Council members, the applicant, or any person owning property within four hundred feet of the exterior boundary of the applicant's property. The appeal shall be filed with the City Clerk within twenty calendar days from the date of action by the Planning Commission (August 13, 2024).
6. Within six months from certificate of occupancy, Applicant shall file for a Conditional Use Permit Inspection application and pay applicable fees. The Development Services Director and Code Compliance Supervisor shall conduct an inspection of the proposed operation, at any such time deemed necessary, and review any complaints received on the property. The Director shall determine if the applicant is satisfactorily in compliance against all conditions of approval identified in this Resolution. The Development Services Director may, at his or her discretion, pass or fail an inspection. If noncompliance is determined, the Director may schedule the matter for review by Planning Commission to consider bringing revocation proceedings. Applicant shall file for subsequent Conditional Use Permit Inspection Requests on an annual basis.

#### Plan Check

7. The applicant shall include all conditions of approval from Conditional Use Permit on the title sheet of construction plans prior to plan check submittal.
8. The site plan shall include all utility apparatus, such as but not limited to, backflow devices and Edison transformers. Utility meters shall be screened from view from public right-of-ways. Backflow prevention devices shall not be located in the front yard setback and shall be screened from public view. The site plan and elevations shall include the location of all gas meters, water meters, electrical panels, air conditioning units, mailboxes (as approved by the United States Postal Service), and similar items. If located on a building, they shall be architecturally integrated with the design of the building, non-obtrusive, not interfere with sidewalk areas, and comply with required setbacks.
9. The installation of fences and walls that were not contemplated as part of this request will

require the submittal of a “Fence and Wall Permit” for review and approval by the Planning Division.

#### Site Development & Maintenance Conditions

10. During demolition, grading, site development, and/or construction, all requirements of the Pomona Zoning Ordinance and Municipal Code, including the noise provisions, shall be adhered to. All activities including truck deliveries associated with construction and grading will be limited to Monday through Saturday, between 7:00 AM and 8:00 PM, and provided the noise level created by such activities do not exceed the noise standard of 65 dB(A) plus the limits specified in section 18-311(b) as measured on residential property and any vibration created does not endanger the public health, welfare, and safety.
11. There shall be no activity conducted on the subject site that exceeds the noise and vibration parameters of Pomona City Code Section 18-301, *et seq.*, and City Council Ordinance No. 3939 at any time, or such other ordinance enacted related to noise and vibration.
12. The construction area shall be kept clean at all times prior to, during, and after construction.
13. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti shall substantially match the existing structure. In the event that the paint finish of the abated area is noticeably distinguishable from the rest of the structure, the property owner shall paint additional portions of the building to minimize the disparity, subject to the approval of the Development Services Director.
14. All landscaping shall be maintained in a neat and clean manner, and in conformance with the approval of Conditional Use Permit. Prior to removing or replacing any landscaped areas, check with the Planning Division. Substantial changes may require approval by the Development Services Director.
15. The property shall be maintained free of trash, weeds, and debris at all times.
16. The hours of operation shall be limited to Monday through Saturday from 9:00 AM to 5:00 PM, and on Sunday from 9:00 AM to 6:00 PM.
17. The convenience recycling facility’s storage containers and cashier kiosk area shall be secured with lock boxes after hours of operation.
18. There shall be two employees present during hours of operation.
19. The collection facility shall only collect recyclable material eligible for refund value, such

as empty beverage containers made of aluminum, glass, and plastic.

### **BUILDING & SAFETY DIVISION**

20. This project must comply with 2022 California Building Codes
21. The undergrounding of utility facilities is required. (PMC 62-31)
22. The design must be reviewed and stamped by an architect or engineer licensed in the State of California – (Business and Professions code Sections 5537, 5538 and 6737.1)
23. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2022 California Building Codes.
24. Provide a site plan showing the following information:
  - a) All structures, property lines, and set backs.
  - b) Existing parking including all designated ADA parking stalls
  - c) Location of all proposed equipment and/or storage facility
  - d) Location of all proposed electrical and water lines and fixtures.
25. Building Department comments and conditions are subject to plan check. Comments are based on information provided.

### **PUBLIC WORKS – LAND DEVELOPMENT**

The following conditions and public improvements, as well as all applicable plan check fees, permit fees and bond deposits shall be complied with, completed and paid for by the Developer in accordance with the City standards, fee schedules and applicable laws.

All the required plans, studies and calculations shall be performed by a registered civil engineer or other registered/licensed professional as required, and submitted for review and approval of the City Engineer.

#### Land Development Requirements

26. Property Owner shall submit a **Certificate of Compliance** application for the real property associated with APN 8329-002-010, in accordance with the Subdivision Map Act Section 66412.6(b). The submittal shall be made to the Public Works Engineering Division. The Certificate of Compliance shall be recorded prior to the issuance of the building permit(s). Note: Any future improvements and/or permit applications associated with the main building/land use will trigger the following requirements: (i) Submittal of a lot merger application for the consolidation of three (3) lots (APNs 8329-002-001, -002, & -010), and (ii) Submittal of the agreement with the landowner of the easterly neighboring property

designated with APN 8329-002-012, for the use of a portion of this parcel as additional parking lot.

#### Improvement Plans Requirements

27. Prior to the issuance of the building permit(s), Applicant/Developer shall submit a Revised Site Plan to include the following items, and shall be responsible for the construction thereof:
  - a. Reconstruct the easterly Philadelphia Street driveway approach, to comply with the City standards and ADA requirements.
  - b. Any pavement cuts/trench repairs that may impact Philadelphia Street are subject to Asphalt Rubberized Hot Mix (ARHM) overlay repaving, in accordance with the City standard A-26-02, Case III (moratorium repaving).
  - c. Construct new patio cover extending beyond the footprint of the area dedicated for recycling activities. No rain water is allowed within the recycling facility boundaries.
  - d. The waste water resulting from the daily washing activities of the collection containers and the surrounding areas shall be discharged to the onsite sanitary sewer. No such runoff is allowed to sheet flow over the parking lot, driveway/sidewalk/driveway approach and be discharged to the public street gutter (public storm drain system).
  - e. It is the owner's and the contractor's responsibility to repair all damage to the existing public improvements due to the proposed construction activities and to address all repairs requested by the Public Works Inspector based on the inspector's review of the current condition of the said public improvements and a note to this effect shall be added to the site plan.
  - f. The property abutting sidewalk, parkway and alley, as applicable, shall be maintained free of weeds, rubbish and refuse by the property owner, as required by the City's Municipal Code Section 18-261 and a note to this effect shall be added to the site plan.
  
37. Applicant/Developer shall implement Good Housekeeping Best Management Practices (BMPs) for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.

#### Public Works Improvements Permit

All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.

38. Prior to the issuance of the building permit(s), Applicant/Developer shall post surety bonds for all public improvements, including but not limited to: water, sewer, driveway approach and street repaving.



39. Permittee shall procure and maintain throughout the period of the Permit the following policies of insurance:
  - a. Commercial General Liability;
  - b. Automobile Liability;
  - c. Worker's Compensation as required by the State of California;  
Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured.
40. Permittee shall pay fees associated with and possess the City of Pomona Business License.
41. Changes and additions to the proposed work, including but not limited to detail plans for street improvement work, water plans and/or other work associated with this project and due to developer's or City's request shall require additional conditions to be completed by the applicant.

#### **PUBLIC WORKS – SOLID WASTE DIVISION**

42. Solid waste, recycling and green waste services are to be provided by the City's approved commercial franchise hauler.

#### **WATER RESOURCES DEPARTMENT**

##### Water

43. The site is within the City of Pomona's water service area, in Hydraulic Zone 5.
44. Static water pressure at the site is approximately 80 psi at an elevation of 785 feet. A fire hydrant flow test may be requested to verify water pressure.
45. There is an existing domestic water service with 1-inch meter (#21310448) that may continue to be used to serve the property. There is no record of a backflow device for this water service.

The domestic water service shall be equipped with a reduced pressure principle backflow assembly (RP) downstream of the meter to be in compliance with backflow requirements.

46. Contact Los Angeles County Fire Department (LACoFD) to determine fire flow demand for the property, location and number of fire hydrants, and fire sprinkler system requirements. A copy of Fire Department conditions and requirements shall be provided to WRD.  
If required by LACoFD, fire protection services shall be equipped with a double check detector assembly (DCDA) per City Standard Drawing 14 for backflow protection.
47. Backflow devices shall be low-lead (0.25%), testable, and shall be identified on the "USC

List of Approved Backflow Prevention Assemblies.” Product information (manufacturer, model, size) shall be supplied to the City prior to installation.

Backflow devices shall be installed on private property s close as practicable to the water meter and/or public right-of-way. Backflow devise may be installed within the building for constrained sites; these conditions will be reviewed on a case-by-case basis.

48. If improvements to the water system are proposed, a civil plan will be required and must be prepared by a Professional Engineer registered in the State of California. The water plan shall include water main extensions, new services, meters, and backflow devices with details for proposed connection(s) to the existing water main.
49. A 15-foot easement will be required for new water main, water services, water meters, fire hydrants, and DCDA backflow devices on private property.
50. All newly installed water lines shall be disinfected per the City of Pomona Water Division Standard Specifications for Water Facility Construction (January 2006) before connection to the existing water main.

#### Wastewater

51. The site is within the City of Pomona’s wastewater service area.
52. The existing sewer lateral may continue to be used to serve the property without modification.

**SECTION 5.** The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

**APPROVED AND ADOPTED THIS 24TH DAY OF JULY, 2024**

---

ALFREDO CAMACHO  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

---

ATA KHAN  
PLANNING COMMISSION SECRETARY

**APPROVED AS TO FORM:**

---

MARCO MARTINEZ  
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)  
COUNTY OF LOS ANGELES) ss.  
CITY OF POMONA)

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.