



CITY OF POMONA COUNCIL REPORT

August 6, 2018

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted by: Mario Suarez, AICP, Development Services Director

Subject: **Request for Public Hearing on the Planning Commission's Non-Action of Conditional Use Permit (CUP 7049-2017) to Allow for the Construction of a 1,392 Square Foot Detached Structure to Be Used as an Employee Lounge and the Legalization of Six Pre-fabricated Shade Canopies for an Existing Recycling Business in the M-2 (General Industrial) Zone Located at 2490 Pomona Boulevard; Appellant: Ai Buangsuwon, Applicant**

OVERVIEW

Recommendation –

1. Staff recommends based upon the facts and public testimony presented at the previous public hearing of the Planning Commission, uphold the decision of the Planning Commission and not set this item for a City Council public hearing; or
2. Alternatively, the City Council may schedule the appeal for a public hearing. If the City Council decides to schedule a formal public hearing, staff recommends that the item be placed on the September 10, 2018 agenda.

Fiscal Impact – None.

Public Noticing Requirements – None required.

Previous Related Action – On June 27, 2018, the Planning Commission held a public hearing and voted on a motion to approve Conditional Use Permit (7049-2017) to allow for the construction of a 1,392 square foot detached structure to be used as an employee lounge and the addition of six pre-fabricated shade canopies for an existing recycling business in the M-2 (General Industrial) zone located at 2490 Pomona Boulevard). The vote resulted in a non-action due to a lack of affirmative votes (3-1-1), with Commissioner Brown absent.

EXECUTIVE SUMMARY

On July 12, 2018, the Applicant, Ai Buangsuwon submitted a request to appeal the June 27, 2018 “non-action” decision of the Planning Commission on Conditional Use Permit (CUP 7049-2017). At the June 27, 2018 Planning Commission meeting there was insufficient Commission support for what was proposed (in order to correct a cited code violation) as an expansion to provide amenities for employees of Stericycle, a waste transfer operation. The proposed project would have added 1,392 square feet to the existing facility which has a current CUP but is subject to the new waste and recycling ordinance. The new ordinance and standards ban new recycling facilities; however, they do not preclude the rights of existing facilities to operate. The Conditional Use Permit was submitted by the applicant prior to the effective date of Ordinance No. 4234 (July 19, 2017) prohibiting expansion of hazardous waste facilities. The Commissioners failed to make a determination whether the proposed project was an expansion or enhancement and the CUP was effectively denied.

DISCUSSION

On June 27, 2018 the Planning Commission considered an entitlement request for a project located at 2490 Pomona Boulevard. (Planning Commission Staff Report included as **Attachment A.**) The CUP called for the addition of a 1,392 square foot employee lounge and legalization of 6 engineered shade canopies. The employee lounge was proposed to accommodate current employees and represented as not an expansion or intensification of the current operation of the business. The canopies were to correct a cited code violation. The conditions as set forth by the Planning Department staff Planning Commission Resolution were reviewed and were fully acceptable to the owner.

The Commission had questions about whether or not this proposal constituted an intensification of the existing use. The applicant stated that the project is not an expansion, but an enhancement for employees to have a place to clean up, take shower, and rest between shifts. Staff indicated that the legalization of existing shade canopies was precipitated by an Administrative Correction Notice issued by Code Enforcement, and that industrial sites larger than one acre in size require Conditional Use Permits for significant additions.

The applicant indicated Stericycle does not consider itself to be a recycling company, but a trucking company moving material in and out from one truck to another. Staff indicated that the facility is considered an exempt transfer facility by the Department of Transportation, that a portion of their transfer operation involves hazardous waste, and that there are specific requirements that have to be complied with at the federal and state level for Stericycle to continue being classified as an exempt transfer facility, including the length of time waste can be held, as well as keeping waste closed in containers they arrive in. Ms. Nora Garcia, representing Clean and Green, expressed concerns that the project was an intensification of the previous approved CUP which is in violation of the new Waste and Recycling ban. (Unofficial minutes of the Planning Commission hearing are attached as **Attachment C.**)

The Planning Commission voted on a motion to approve Conditional Use Permit (7049-2017). (Draft Planning Commission Resolution approving CUP 7049-2017 included as **Attachment A.**) The motion needed at least four (4) aye votes to approve CUP 7049-2017. The Commission,

however, voted 3-1-1-1 (three Commissioners approving, one denying, one abstaining, and one absent). With only three (3) affirmative votes, the motion-to-approve failed due to insufficient votes, amounting to the Planning Commission's non-action.

On July 12, 2018, the Applicant, Ai Buangsuwon, submitted a request to appeal the June 27, 2018 decision of the Planning Commission on Conditional Use Permit (CUP 7049-2017) based on the following reasons (See Appeal Application - **Attachment B**):

“The CUP is specifically for the addition of a 1,392 square foot employee lounge and legalization of 6 engineered shade canopies. The employee lounge is needed to accommodate current employees and does not represent an expansion or intensification of the current operation of the business. The canopies are to correct for code violation. The conditions as set forth by the Planning Department staff PC Resolution have been reviewed and are fully acceptable by the owner.”

Attachments:

- A. Planning Commission Staff Report Dated June 27, 2018 w/ Attachments
- B. Appeal Application, Dated July 12, 2018
- C. Unofficial Meeting Minutes of June 27, 2018 Planning Commission