

PC RESOLUTION NO. 07-035

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING CONDITIONAL USE PERMIT (CUP 07-009) TO MODIFY TWO (2) EXISTING CONDITIONS OF APPROVAL RELATING TO ON-SITE STORAGE OF MATERIALS AND HOURS OF OPERATION FOR CONDITIONAL USE PERMIT (CUP 00-032) FOR AN EXISTING RECYCLING CENTER IN THE M-2 (GENERAL INDUSTRIAL) ZONE ON PROPERTY LOCATED AT 1326 EAST 9th STREET

WHEREAS, the applicant, Mr. Al Solis, has submitted an application for Conditional Use Permit (CUP 07-009) to modify two (2) existing conditions of approval relating to on-site storage of materials and hours of operation for Conditional Use Permit (CUP 00-032), for an existing recycling center, on property located at 1326 East 9th Street;

WHEREAS, the subject property is located within the M-2 (General Industrial) zone;

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

WHEREAS, the subject property, on January 8, 1969, was issued a conditional use permit to allow scrap metal processing for the eastern portion of the property, 1326 E. Ninth Street (PC Resolution No. 2830);

WHEREAS, the subject property, on April 9, 1980, modified its previous entitlements to include the recycling of glass and paper (PC Resolution No. 2830-A);

WHEREAS, the subject property, on January 11, 1995, modified its previous entitlements to allow expansion of the recycling facility to include the adjacent property at 1352 E. Ninth Street (PC Resolution No. 8312 for CUP 94-044);

WHEREAS, the subject property, on November 8, 1995, modified its previous entitlements allowing the expansion of an existing building and construction of a new building (PC Resolution No. 8398 for CUP 95-026);

WHEREAS, the subject property, on July 16, 2001, modified its previous entitlements allowing the collection and recycling of plastic, the construction of a new building and an extension to the hours of operation (CC Resolution No. 2001-154 for CUP 00-032);

WHEREAS, a Conditional Use Permit is required for the modification of a granted Conditional Use Permit;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on May 9, 2007 concerning Conditional Use Permit (CUP 07-009); and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

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

SECTION 1. The Planning Commission exercising their independent judgment has determined that pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), that the project is Categorically Exempt under Section 15301, Class 1 (Existing Facilities), in that the proposed project is a modification to the operational conditions of approval of an existing recycling facility.

SECTION 2. Pursuant to Section .580.B of the Zoning Ordinance, the Planning Commission must make the five findings listed below in order to grant Conditional Use Permit (CUP 07-009). Based upon a 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. *The proposed use at the particular location will contribute to the general well-being of the neighborhood or community.*

The proposed modifications to the Conditions of Approval of Conditional Use Permit (CUP 00-032) will still allow the recycling facility to contribute to the general well-being of the neighborhood and community.

2. *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 modifications to the Conditions of Approval of Conditional Use Permit (CUP 00-032) will result in a recycling facility that will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity since the project is in full conformance with the development standards and use requirements of the M-2 zone. The project will not be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the subject site is located within an industrial district with other industrial uses.

3. *The site of the proposed use is of adequate topography, size and shape 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 proposed modifications to the Conditions of Approval of Conditional Use Permit (CUP 00-032) will not alter the topography, size and shape of the lot. Furthermore, the site's characteristics enable the recycling facility, with the modifications to the Conditions of Approval, to conform fully to the development standards of the M-2 zone while compatible with other uses in the vicinity.

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

The proposed modifications to the Conditions of Approval of Conditional Use Permit (CUP 00-032) will not exceed the capacity of the existing streets from which the subject site will take ingress/egress. All employees and customers will continue to take access to the recycling facility from Ninth Street. Ninth Street, which is a Collector Street, is capable of handling 12,000 trips per day and, according to the Environmental Evaluation Report for Sunrise Industries prepared by Environmental Site Assessment Professionals, and is operating at an "A" Level of Service. In addition, the modified hours of operation will create additional vehicle trips in the evening during "non-peak" hours, thus, not negatively affecting vehicular traffic volumes on local streets.

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 proposed modifications to the Conditions of Approval of Conditional Use Permit (CUP 00-032) will comply with all of the provisions of the Zoning Ordinance and the General Plan designation of Industrial.

SECTION 3. This PC Resolution hereby supersedes all previous Conditions of Approval contained in prior Resolutions approved by the Planning Commission and City Council and has incorporated the Mitigation Measures that were approved by the City Council with CC Resolution No. 2001-154 for this facility at 1326 East 9th Street. Based on the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 07-009) subject to the following conditions:

PLANNING DIVISION

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 May 9, 2007, and as illustrated in the stamped approved plans dated May 9, 2007. 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 Planning Manager.
2. The applicant shall make reductions of all approved resolutions related to the project, which shall be placed on the title sheet of construction plans prior to the Plan Check submittal.
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 violation of any of the conditions of approval, mitigation monitoring program 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 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 approved Conditional Use Permit shall lapse and become void if the privilege authorized is not utilized by May 9, 2008. The Planning Commission may extend this period for one year upon receipt of a written request by the applicant at least thirty days before the expiration date of this approval.
6. Written appeals may be filed with the City Clerk within 20 days by one or more City Council members, the applicant, or any person owning property within four hundred (400) feet of the exterior boundary of the applicant's property. Four copies of an appeal shall be filed with the City Clerk within twenty days from the date of action by the Planning Commission.
7. The hours of operation shall follow the following schedule:

Office Hours	8:00 A.M.-5:30 P.M. (Monday-Saturday)
Buy-Back Center	8:00 A.M.-5:00 P.M. (Monday-Friday) 8:00 A.M.-4:00 P.M. (Saturday)
Delivery of Recyclables (in-bound)	6:30 A.M.-6:30 P.M. (Monday-Saturday)
Indoor Processing	6:30 A.M.-1:00 A.M. (Monday-Saturday)
Harbor Deliveries (out-bound)	6:30 A.M.-1:00 A.M. (Monday-Saturday)

8. All recyclable materials on the tipping floor must be sorted and baled inside of the existing structure at all times. Paper, cardboard and glass shall not be stored on-site for more than 2 weeks. Plastic and metal shall not be stored on-site for more than 4 weeks.
9. Applicant shall remove any graffiti on the project site within 24 hours of discovery
10. The property at all times shall be maintained free of weeds and debris.
11. The locations for outdoor storage of materials shall be within the defined parameters identified in the site plan, consistent with Conditional Use Permit (CUP 00-032).
12. In order to ensure future owners are made aware of conditions of approval, the applicant shall within 30 days of the date of this Resolution ensure that it is recorded with Los Angeles County Recorder's office and recorded copies forwarded to the City of Pomona Planning Division.
13. All repairs to the sorting equipment shall be completed within 48 hours.

14. The applicant shall be allowed to operate the recycling operation for an additional 4 hours during or after the seven-(7) major holidays, Christmas, New Years, Presidents Day, Memorial Day, 4th of July, Labor Day and Thanksgiving.
15. Outdoor storage shall be allowed for presorted clean recycled paper and cardboard materials that have been baled. The applicant shall only be allowed to stack clean baled paper and cardboard material to a maximum height of eight (8) feet.
16. All materials that have been sorted and are not baled shall be stored within a fully enclosed metal container. The openings to the containers shall be closed at all times except when materials are being loaded or unloaded.
17. No activities associated with the operations shall exceed the City's 70 dBA threshold at the property boundary.
18. Public collection bins for glass, paper and metal shall be closed at all times, except when materials are being dropped off. The enclosed containers shall be emptied daily.
19. The applicant shall provide directional signage, either painted on the pavement or otherwise, indicating circulation on the subject property.
20. The solid entry gates shall be kept closed, except during business hours.
21. An 8' solid masonry wall shall be maintained on all perimeter property lines behind the front yard setback.
22. A 3' solid masonry wall shall be maintained on the side property lines within the front yard setback.
23. Security cameras shall be positioned and angled so that they do not surveill any adjacent residential property.

Previously Approved Mitigation Measures from CC Resolution 2001-154

24. The applicant shall enclose the entire structure used for the processing of the recyclable materials in order to contain odors of the materials.
25. The applicant shall prepare an odor analysis three (3) months after installation of the new equipment to ensure that the facility is operating in compliance with the performance threshold. The odor analysis shall establish a performance standard for odors not to exceed 10 D/T. At anytime in response to verified complaints regarding odors, the City may require the applicant to prepare a new odor analysis.

- If the analysis demonstrates that the performance standards are not being met, additional mitigation measures must be implemented to reduce odors to below the established threshold.
26. Complaints on odors shall be registered on the complaint hot line and included in the applicant's quarterly report to the City.
 27. The applicant shall be required to enclose portions of the exterior walls of the existing structures, reducing the level of noise onto adjacent properties. The north, south and west side of the building shall be enclosed to reduce the noise level onto adjacent properties.
 28. No high pile storage of recyclable materials shall be permitted at anytime.
 29. The applicant shall immediately implement a program to monitor and maintain the subject site and adjacent properties free from trash and debris on a daily basis. Within three months of installation of the new equipment, the applicant shall demonstrate to Planning Division staff that problems with off-site trash have been eliminated. If the problem have not been eliminated, additional mitigation measures will be required.
 30. Complaints on trash shall be registered on the complaint hot line and included in the applicant's quarterly report to the City.
 31. The buildings used for the processing of the recyclable materials shall be painted to match the existing structures.
 32. A geotechnical and soils study will be submitted to and approved by the Public Works Director prior to the issuance of a grading (if needed) or building permit for the project. The report will identify appropriate foundation and other design criteria to assure improvements will withstand anticipated geologic and seismic conditions.
 33. The proposed enclosed facilities will be required to install a sprinkler system and construct the exterior walls of a two-hour fire wall rated material.
 34. The applicant has made arrangements with the adjacent property owners for the use of an existing private fire hydrant located on the eastside of the subject site. The location of the existing fire hydrant satisfied the requirement of the Fire Department, which is adequate in providing water to the rear of the property. The applicant shall provide an access gate between the two properties to provide easy access to the private fire hydrant.
 35. Three (3) months after the installation of the new equipment a certified professional shall conduct a vector/pest study on the subject site and adjacent properties.

36. With the adjacent property owners' approval, the applicant must, beginning immediately, provide pest control services on all adjacent properties.
37. Three (3) months after installation of the new equipment, the applicant must submit to the City a report prepared by a licensed pest control professional evaluating the effectiveness of the pest control measures. If the study demonstrates that the pest control measures in place have not eliminated the problem, the City will immediately institute revocation proceedings.
38. The applicant shall implement an on-going program to address the vermin/pest control problem. A problem shall exist when a vector or pest population on the property relative to a minimal intrusive population that does not affect neighboring properties. The applicant shall be required to complete or submit the following:
 - A monthly inspection by a certified pest control operator. If during the monthly inspection the pest control operator identifies a problem, the operator shall inform the city Planning Division immediately and take corrective actions.
 - Quarterly reports submitted to the City Planning Division verifying successful control of the vector/pest population.
 - Establish and maintain a compliant hot line during all operating hours.
 - All complaints and actions taken to resolve the complaints shall be presented in the quarterly report submitted to the City. The applicant shall maintain a daily log of complaints and corrective actions.
39. As a condition of approval, the applicant shall meet all requirements for Section 402(p) of the Federal Clean Water Act of 1987 and Section 35 of the City of Pomona Stormwater requirements. The applicant shall meet and implement all requirements for Storm water Pollution Plan such as:
 - Implementation of best management practices outlined in the SWPPP prior to Certificate of Occupancy. No grading plans will be issued for this project. The applicant as already submitted a draft SWPPP.
 - City of Pomona is part of Los Angeles County and typically complies with the Los Angeles County storm water drainage requirements and the San Gabriel River Water Quality Control Plan. However, this project is within the Santa Ana water basin. Review of this project will be in conformance with both Los Angeles County standards and the requirement of the Santa Ana River Water Quality Control Plan of 1995. Where the two differ, the most conservative approach will be implemented.
 - Requirements for grab samples are defined by the NPDES regulations and described in the SWPPP and BMP.

Fire Department

40. The applicant shall provide on-site fire access twenty-six (26) feet wide clear to the sky within 150 feet of all portions of the exterior walls of the building.
41. The minimum required fire flow is 2,000 g.p.m. for the subject site.
42. The enclosed structures used for the storage and processing of recyclable materials shall be equipped with a fire sprinkler system.
43. A two (2) hour firewall area separation shall be required along the south, west and portions of the north and east sides of the enclosed structure.
44. All hazardous materials located on the subject such as truck oil, and solvents used on the subject site shall be store in the proper containers and disposed of after use.

SECTION 4. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

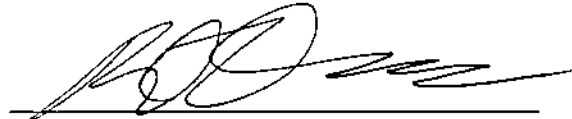
APPROVED AND PASSED THIS 9TH DAY OF MAY, 2007


FRANK DELGADO
PLANNING COMMISSION CHAIRPERSON

ATTEST:


MATTHEW C. BASSI
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:



RICHARD L. ADAMS II
ASSISTANT CITY ATTORNEY

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

AYES: Vander Molen, Rosales, Scharf, Saunders and Delgado.
NOES: Jimenez.
ABSTAIN: None.
ABSENT: Urey.

"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 Sec. 1094.6 C.C.P."