

PC RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA RECOMMENDING PLANNING COMMISSION APPROVAL OF A REQUEST FOR A CONDITIONAL USE PERMIT (CUP 11666-2019) TO PLACE A CONVENIENCE RECYCLING FACILITY IN THE PARKING LOT OF COMMERCIAL SHOPPING CENTER LOCATED AT 1645 W. HOLT AVENUE (APN 8357-018-024) IN THE NEIGHBORHOOD CENTER SEGMENT OF THE POMONA CORRIDOR'S SPECIFIC PLAN.

WHEREAS, the applicant, Jose Ponce, has submitted an application for Conditional Use Permit (CUP 11666-2019) to allow for the placement of a 522 square foot convenience recycling facility in parking lot of an existing 3.3 acre lot located at 1645 W. Holt Avenue, Assessor's Parcel Number 8357-018-024;

WHEREAS, the subject property is in the Neighborhood Center Segment of the Pomona Corridor's Specific Plan;

WHEREAS, the subject property has a General Plan Place Type designation of Neighborhood Edge as well as a Transect Zone designation of T3 and T-4;

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, 2019, concerning the requested Conditional Use Permit (CUP 11666-2019); 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:

SECTION 1. Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), this action as defined is Categorically Exempt, under Section 15303, Class 3 exemption for construction of small facilities, in that the project is located in an urbanized area and consists of the construction of one structure. Therefore, no further environmental review is required.

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 findings in order to approve Conditional Use Permit (CUP 11666-2019). 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 wellbeing 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 as recycling centers are prohibited in the City.

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 recycling facility is only 522 square feet in size and will be located at the rear portion of the super market parking lot, adjacent to the existing loading area. The recycling facility will only collect material eligible for refund value, such as empty beverage containers made of aluminum, glass and plastic which will be weighed and directly stored in two containers with a lock. It will also be screened from the public right-of-way behind a six-foot high decorative masonry wall and landscaping with two security wrought iron gates to ensure security during non-hours of operation. Although the site is adjacent to residential land uses, the convenience recycling facility is a compatible use and it will be 43 feet away from the apartments to the north, 122 feet away from the apartments to the east, and at least 150 feet away from the apartments to the west. Therefore, 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.

3. *That the site for 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 subject site is rectangular in shape and relatively flat with an area of approximately 3.3 acres. Therefore, the site has the adequate topography, size and shape to accommodate the proposed convenience recycling.

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

The subject site has street access directly to Holt Avenue, a Principal Arterial and Erie Street, a local street, which are of adequate width and improved to carry the traffic generations that are typical for commercial development projects.

5. *That the granting of such conditional use permit will not adversely affect the General Plan of the city, or any other adopted plan of the city and conforms to the provisions of the Zoning Ordinance.*

The granting of the conditional use permit will not adversely affect the General Plan and conforms to the provisions of the Pomona Zoning Ordinance. The proposed use is consistent with the “Neighborhood Edge” place type as designated on the General Plan Land Use Map. The project would also promote the following General Plan goals:

Goal 7A.G2: Promote a balanced mixed of uses throughout the city that can be a part of an integrated and sustainable local economy that supports harmonious diversity and economic prosperity.

SECTION 4. Based upon the above findings, the Planning Commission hereby recommends the City Council approve Conditional Use Permit (CUP 11666-2019) 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

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and recommended for approval by the Planning Commission on July 24, 2019. 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 Development Services Manager.
2. This approval shall lapse and become void if the privilege authorized is not utilized within one year from the date of this approval (July 24, 2020), 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. The project is subject to a twenty day appeal period. Written appeals may be filed with the City Clerk within twenty 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 days from the date of action by the Planning Commission.

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 property shall be maintained free of trash, weeds and debris at all times.
6. The hours of operation shall be limited to Monday through Sunday from 9:00 a.m. to 5:00 p.m.
7. The convenience recycling facility's storage containers and kiosk area shall be secured with lock boxes after hours of operation.
8. The access gates shall be locked after hours of operation.

9. There shall be two employees present during hours of operation.
10. The collection facility shall only collect recyclable material eligible for refund value, such as empty beverage containers made of aluminum, glass and plastic.
11. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti must 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 recycling facility to minimize the disparity, subject to the approval of the Development Services Manager. Original surface materials installed and designed to not accept paint material such as stone, metal, brick, faux stone, veneers, etc. shall be restored to original finish with methods accepted and agreed to by the Development Services Manager.
12. Any proposed wall or fencing on the subject site shall be in compliance with the Pomona Corridor Specific Plan and Section .503-I of the Pomona Zoning Ordinance and shall be subject to review and approval of a Fence and Wall Permit by the Planning Division prior to receiving a final sign-off on building permits.

Building and Safety

13. Provide designated ADA parking spaces as required per code.
14. Electrical branch circuits for lighting and/or equipment will require permits.

Public Works

15. Property Owner shall submit a Certificate of Compliance application, in accordance with the Subdivision Map Act Section 66412.6(b). The Certificate of Compliance shall be approved and recorded prior to the issuance of the building permits.
16. Prior to the issuance of the building permits, Applicant/Developer shall submit for review and approval a Revised Site Plan to include the following items and shall be responsible for the construction thereof:
 - a. Reconstruct the northerly Erie Street driveway approach, to comply with the City standards and ADA requirements.
 - b. 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 public street improvement plan.

- c. The parkway landscaped area shall be maintained by the property owner, as required by the City's Municipal Code Section 46-496 and a note to this effect shall be added to the public street improvement plan.
 - d. Undergrounding of the proposed overhead utility lines shall conform with the City of Pomona Municipal Code Section 62-31(b) and a note to this effect shall be added to the public street improvement plan.
 - e. 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 public street improvement plan.
- 17. Applicant/Developer shall implement storm water 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.
 - 18. The plans shall be submitted on 24" x 36" sheet size, and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities (water, sewer, and storm drain), utility easements, and the public right-of-way areas with dimensions.
 - 19. All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.
 - 20. Prior to the issuance of the building permits, Applicant/Developer shall post surety bonds for the proposed public improvements, including but not limited to: driveway approach and street repaving.
 - 21. 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.
 - 22. Permittee shall pay fees associated with and possess the City of Pomona Business License.

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23. 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.

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, 2019.

DR. KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

ANITA D. GUTIÉRREZ, AICP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

MARCO A. MARTINEZ
INTERIM ASSISTANT CITY ATTORNEY

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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.