

**PC RESOLUTION NO. 21-**

**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 15924-2021) TO PLACE A CONVENIENCE RECYCLING FACILITY IN THE PARKING LOT OF COMMERCIAL SHOPPING CENTER LOCATED AT 3180 N. GAREY AVENUE (APN: 8367-001-085) IN THE NEIGHBORHOOD CENTER SEGMENT OF THE POMONA CORRIDOR'S SPECIFIC PLAN.**

**WHEREAS**, the applicant, Celso Omar Gonzalez, has submitted an application for Conditional Use Permit (CUP 15924-2021) to allow for the placement of a 495 square foot convenience recycling facility in parking lot of an existing 5.3 acre lot located at 3180 N. Garey Avenue, Assessor's Parcel Number 8367-001-085;

**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 Urban Neighborhood as well as a Transect Zone designation of T4-A;

**WHEREAS**, a Recycling Facility-Convenience is subject to a Conditional Use Permit in mixed-use districts in Specific Plan Areas;

**WHEREAS**, Public Resources Code 14571 (a) requires that a certified recycling center be located within every convenience zone in California, with convenience zone being defined as within a half-mile radius around every supermarket that grosses 2 million dollars or more in annual sales;

**WHEREAS**, the subject convenience zone was previously exempted from PRC 14571 (a) due to several recycling centers operating within reasonable distance;

**WHEREAS**, the subject convenience zone no longer benefits from an exemption and is subject to PRC 14571 (a) as recycling centers within the reasonable distance have closed;

**WHEREAS**, in an effort to comply with CalRecycle notification of noncompliance, the applicable grocery store, Superior Grocers, established a state licensed recycling operation without city licensing and was subsequently issued an administrative correction notice by Code Enforcement of the City of Pomona;

**WHEREAS**, the applicant subsequently submitted a Conditional Use Permit application to legalize the recycling center-convenience 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 September 22, 2021, concerning the requested Conditional Use Permit (CUP 15924-2021); 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 15924-2021). 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 of Pomona, which has been eliminated in the City by the Waste and Recycling Ordinance.

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 area is approximately 495 square feet in size and will be located in the rear portion of the commercial shopping center parking lot, adjacent to the existing loading area and not visible from the public right-of-way. 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. Although the site is adjacent to residential land uses, the existing shopping center has maintained its abundant landscaping and a six-foot block wall separating the commercial shopping center loading dock from the adjacent residential area. In addition, the proposed recycling facility is located within the Neighborhood Center Segment of Pomona Corridors Specific Plan, which is intended to provide convenience services to serve nearby residential neighborhoods. 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.*

Though the subject parcel is a polygon shape, the subject site is part of a rectangular shaped commercial shopping center and is relatively flat with an area of approximately 8.8 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 Garey Avenue, a Minor Arterial and Foothill Boulevard, a Major Arterial, 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 "Urban Neighborhood" place type as designated on the General Plan Land Use Map. The project would also promote the following General Plan goals:

*Goal 6E.G1: Preserve stable neighborhoods by focusing new intensity and activity in clusters at major crossroads and areas of existing intensity throughout the City.*

*Goal 7E.G18: Meet the City's solid waste disposal needs, while maximizing opportunities for waste reduction and recycling.*

**SECTION 4.** Based upon the above findings, the Planning Commission hereby recommends the City Council approve Conditional Use Permit (CUP 15924-2021) 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 September 22, 2021. 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 Director.
2. This approval shall lapse and become void if the privilege authorized is not utilized within one year from the date of this approval (September 22, 2022), 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 8:00 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.

13. A yearly inspection shall be performed by the City of Pomona's Code Enforcement Division to verify compliance with conditions of approval.
14. The applicant shall perform monthly pest control maintenance on the recycling facility.
15. The applicant shall provide a trash container(s) dedicated solely for the purpose of operation. The bin(s) shall be placed in a secured location.
16. The roll off container bins for recyclable materials shall be picked up at a minimum of twice per week or as frequently needed as to avoid a pile up of materials.

#### **Building and Safety**

17. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2019 California Building Codes.
18. A permit for the proposed storage container(s) must be obtain. Please provide manufacture's specifications.
19. Permit for all underground electrical, plumbing and mechanical are required.
20. Provide ADA parking stalls as required by 2019 C.B.C. Chapter 11B.

#### **Solid Waste Services**

21. Solid Waste and Recycling services for this project are to be provided by the City's approved Commercial Solid Waste Franchise Non-Exclusive Franchise Hauler.

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

**APPROVED AND ADOPTED THIS 22ND DAY OF SEPTEMBER 2021.**

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Conditional Use Permit (CUP 15924-2021)  
3180 N. Garey Avenue  
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ALFREDO CAMACHO  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

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ATA KHAN  
PLANNING COMMISSION SECRETARY

**APPROVED AS TO FORM:**

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MARCO A. 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.