

Agenda Report

January 12, 2015

TO: Honorable Mayor and City Council
FROM: Planning & Community Development
SUBJECT: ZONING CODE AMENDMENT TO PMC 17.50.220 (RECYCLING FACILITIES)

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed amendments to the Zoning Code are categorically exempt from the California Environmental Quality Act under §15308 - Actions by Regulatory Agencies for Protection of the Environment;
2. Adopt the Findings of Consistency with the General Plan (Attachment A);
3. Approve the proposed Zoning Code Amendments as contained in this report; and
4. Conduct first reading of "AN ORDINANCE OF THE CITY OF PASADENA AMENDING VARIOUS PROVISIONS OF TITLE 17 (THE ZONING CODE) TO RECYCLING FACILITIES."

ECONOMIC DEVELOPMENT AND TECHNOLOGY COMMITTEE:

On November 3, 2014, the Economic Development and Technology Committee recommended additional development standards to include enclosure of recycling facilities and waste disposal plan for liquid waste. These are included in the staff recommendation.

PLANNING COMMISSION RECOMMENDATION:

On January 8, 2014, the Planning Commission recommended that the City Council adopt the staff's recommendations regarding amending the Zoning Code to add additional development standards and permit review for recycling facilities with the additional requirement that landscaping and screening requirements be applied to recycling facilities.

ENVIRONMENTAL ADVISORY COMMISSION RECOMMENDATION:

On December 17, 2013, the Environmental Advisory Commission (EAC) recommended that the City Council approve the proposed code amendments.

EXECUTIVE SUMMARY:

In response to issues raised with regard to the operation and maintenance of recycling facilities in Pasadena, in 2013, the City Council adopted a moratorium prohibiting the expansion and replacement of recycling facilities in the City. Some of the issues included noise, litter/debris, aesthetics and water quality. Additionally, staff was directed to conduct community outreach and explore options for amendments to the existing zoning regulations governing these facilities. There are four recycling facilities currently operating in the City; all are located within existing parking lots of shopping centers and all were developed prior existing zoning regulations.

In 1986, the State passed the California Beverage Container and Litter Reduction Act. The Act was recently amended in 2012. Through the Act, the State has established convenience zones for recycling beverage containers throughout the state. A convenience zone is defined as an area within a half mile radius of a supermarket with gross annual sales of at least \$2 million. A recycling center must be located within every convenience zone. If this requirement is not met, then all dealers (e.g. grocers, drug stores, liquor stores, etc.) that sell California Redemption Value (CRV) products within that zone must redeem the containers on their premises or be subject to a State fine of \$100 per day.

In 1989, Pasadena adopted standards for recycling facilities in the City. However, at this time, the impact of the recycling operations is greater than anticipated. As proposed, the amendments would:

1. Add new development standards applicable to recycling facilities;
2. Add new operational standards applicable to recycling facilities;
3. Require all existing and new facilities to obtain a Conditional Use Permit and comply with new operational standards.

BACKGROUND:

Moratorium

On March 11, 2013, the City Council adopted an ordinance which imposed a temporary moratorium on the establishment of new, the expansion or modification of existing, and the resumption of discontinued legal non-conforming recycling facilities. In addition, the City Council: 1) asked staff to determine whether or not State law requires that recycling facilities be permitted in the City, and; 2) provided specific guidance to staff to amending existing regulations. The moratorium is effective until March 11, 2015.

PUBLIC PARTICIPATION:

As directed by the City Council, staff has conducted numerous public meetings regarding this issue to solicit input from the community and City Commissions.

Community Meeting

On October 15, 2013, planning staff hosted a community meeting to hear community concerns regarding the operation of recycling facilities. Issues raised included:

- Noise (trucks, dumping of cans and bottles, etc.)
- Odors
- Trash, litter
- Environmental concerns (dumping/cleaning of bins into gutter and storm drains)
- Criminal activity/public safety issues
- Public urination/defecation and other such activity
- Blight (visual, i.e., rusted, unattractive bins; abandoned shopping carts; etc.)
- Increased traffic/parking challenges
- Hours of operation

Environmental Advisory Commission

On November 18, 2013, staff presented the initial staff recommendation to the EAC. The discussion at the meeting centered on how staff addressed resident concerns raised at the October 2015 meeting. The commission voted to approve the staff recommendation.

Planning Commission

On January 8, 2014, staff presented the staff recommendation to the Planning Commission. After much discussion, the commission asked staff to investigate enclosure of the facilities and screening techniques. The commission voted to approve the staff recommendation.

Economic Development and Technology Committee

Staff presented the issue to EdTech at its meetings of June 11, 2014, September 10, 2014 and November 3, 2014. Staff updated the Committee on the status of the zoning code amendment. Additionally, staff was requested to continue its dialogue with the State in order to answer the following two questions (See Attachment D, letter from State):

- Question 1: “Does a recycling facility moved inside a market satisfy the convenience zone requirements set forth by State Law?”

Answer 1: In-store reverse vending machines (RVMs) or in-store staff operated recycling centers do satisfy the requirement to a recycling center within a convenience zone.

- Question 2: “Does a curbside recycling program meet the requirements for serving convenience zones?”

Answer 2: Curbside recycling programs are not certified recycling centers and do not redeem empty CRV containers, therefore they do not meet the requirements of serving a convenience zone.

Based on these answers, in addition to the regulatory changes proposed by the Planning Commission, the EdTech Committee recommended: 1) enclosure of the recycling facilities; 2) a requirement for a liquid waste management plan; and 3) increased distance separation from sensitive uses and property lines.

California Grocers Association and RePlanet

On December 17, 2014, staff met with representatives of the California Grocers Associate (CGA) and the recycling center operator RePlanet. In addition, a letter from the CGA was received by staff (Attachment E). Issues raised by the CGA include:

1. The potential creation of unserved convenience zones resulting in a penalty of \$36,500 to retailers in said convenience zone;
2. Operational challenges of handling and processing recycling materials within a supermarket – materials that may have been contaminated with any number of communicable germs from contact with humans, house pets, rodents, and/or insects.
3. Locating a recycling facility inside a grocery store would simply bring all of the community’s concerns regarding recycling facilities inside the store.
4. The inconvenience to consumers resulting from in-check stand redemption.

Issues raised by the recycling center operator include:

1. Potential loss of additional parking at the shopping centers to accommodate the expanded footprint of the recycling facility;
2. Cost of building and permitting an enclosure;
3. The enclosures would be non air-conditioned spaces, potentially intolerable spaces for customers during warm days.
4. Concerns for a reduced level of customer service due compliance with structural enclosure requirements;
5. The enclosures would be an attractive nuisance for graffiti and vandalism;
6. The new standards may result in financial penalties to the supermarkets if land use restrictions prevent the siting or operation of a recycling center.

EXISTING ZONING REQUIREMENTS:

The Zoning Code defines recycling facilities as follows:

1. **Small Collection Recycling Facilities.** A recycling center of 500 square feet or less for the deposit or drop-off of recyclable materials. These uses include mobile recycling units and reverse vending machines.
2. **Large Collection Recycling Facilities.** A recycling center over 500 square feet for the drop-off or deposit of recyclable materials. These uses include mobile recycling units and reverse vending machines collectively over 500 square feet.

Small collection recycling facilities are allowed by Minor Conditional Use Permit in most general commercial and industrial districts within the City and all the specific plan areas with the exception of the North Lake and Fair Oaks/Orange Grove and the Lincoln Avenue Specific Plans.

Large collection recycling facilities are allowed by Conditional Use Permit within the EPSP D1-CG and IG, and EPSP d2 CG and IG Zones of the East Pasadena Specific Plan. No large facilities currently exist in the City.

There are currently specific development standards in the Zoning Code for recycling facilities. The existing recycling facility chapter of the Zoning Code is attached to this report as Attachment B. This proposed Zoning Code Amendments would add additional standards that would be applied to both small and large recycling facilities.

Convenience Zones

Under State law regarding recycling, a "convenience zone" is the area within a one-half mile radius of a supermarket in which a recycling facility must be located. A "Supermarket" is defined as a full-line, self-service retail store with gross annual sales of two million dollars, or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

There are four convenience zones in Pasadena. There are five additional markets that are located on parcels over two acres but do not have gross sales over two million dollars. If their sales gross over the established benchmark, they could potentially be defined as convenience zones by the State. Additionally, it is possible to have multiple supermarkets in one convenience zone.

Currently, there are four recycling facilities operating within the City, one in each of the convenience zones. All four operating recycling facilities were established prior to the City's current requirement to obtain a Minor Conditional Use permit and are considered to be legal non-conforming uses. The Zoning Code allows a non-conforming use to be continued and maintained, provided that there is no addition, alteration, or enlargement

of the use. A fifth facility located at the Food 4 Less at 1329 N. Lake Avenue was closed in 2013.

Existing Facilities

The four existing facilities are classified as small facilities because they are less than 500 square feet in area and are not located within an enclosed structure because of their “small” size. Currently there are no large facilities operating in the City. These small recycling facilities are established in supermarket parking lots in the convenience zone they serve. The existing recycling facilities are listed below.

TABLE 1 Recycling Facilities Located in the City of Pasadena			
Council District	Operator	Host Supermarket	Address
†3	NexCycle	Vons	665 N. Fair Oaks Avenue
*5	rePlanet	Food 4 Less	1329 N. Lake Avenue
5	rePlanet	Ralphs	160 N. Lake Avenue
†2	NexCycle	Vons	1390 N. Allen Avenue
4	rePlanet	Ralphs	3601 E. Foothill Boulevard

† RePlanet and NexCycle merged in 2014. NexCycle facilities are in the process of being rebranded and refurbished as RePlanet facilities.
 * Closed in 2013.

PROPOSED AMENDMENTS:

The Council directed staff to determine whether or not recycling facilities must be permitted to operate within the City or if the curbside recycling program met the need for recycling. The curbside recycling program does not satisfy convenience zone requirements because the City does not pay consumers the CRV value of the materials they are recycling. Under State law, if a convenience zone is not served with a recycling facility, it would result in the requirement to allow consumers to redeem recyclable materials in line at an open check stand at any supermarket in the underserved convenience zone. Alternatively, supermarkets would be subject to a daily fine of \$100/day.

The proposed amendments to existing rules would augment the applicable regulations for both large and small collection facilities. The proposed development standards address separation requirements, circulation, collection of materials, water quality, permit requirements, and nonconforming status. These amendments would not change the underlying zoning of the location of the recycling facility, nor would they change which zones recycling facilities may be established. In addition, all new and existing recycling facilities would be required to apply for and obtain a Conditional Use Permit (CUP).

CUP Required for All Recycling Facilities

Currently, none of the four recycling facilities in the City are operating under a CUP and therefore do not have any operational conditions of approval that must be followed. The proposed amendment would require all existing and proposed facilities (small and large) to be established through a CUP and to become compliant with the new standards within six months of their effective date or be subject to abatement.

New Regulations

In addition to the proposal of requiring a CUP for all recycling facilities (existing and any new), the following new regulations are proposed:

- **Enclosure** – Recycling facilities could either be relocated within the footprint of the host supermarket or build an enclosure to contain the sorting area and weighing area. *This standard would reduce noise associated with these uses and also result in a more aesthetically compatible use.*
- **Separation from Public Right-of-Way** - Recycling facilities shall be no closer than 30 feet to the public right-of-way. *This standard would reduce the prominence of recycling facilities in their respective parking lots when viewed from the public right of way and reduce the perception of blight. As proposed, on a case by case basis, this requirement could be reduced to address existing improvements or other unusual circumstances of proximity proved that the recycling facility is not less than 20 feet from the right-of-way.*
- **Separation from Sensitive Uses** – Each facility would be required to be a minimum of 200 feet from residential zoned property. Based on exceptional circumstances related to the size and/or shape of an individual parcel or the existing improvements on the property, this distance could be reduced to no less than 150 feet as part of the CUP process. *This standard would protect sensitive uses against noise impacts.*
- **Obstructions to Vehicular or Pedestrian Circulation** - Recycling facilities shall not be allowed to obstruct pedestrian or vehicular circulation. *It is critical that drive aisles be kept clear of trash bins, customer queuing, and trash receptacles for safety for pedestrians walking to, from, and by the facility and cars passing through the respective parking lots.*
- **Owner/Operator Identification** - The recycling facility shall be clearly marked with the name and telephone number of the operator during business hours and when closed. *Pasadena's facilities are currently marked during operating hours, but contact information is not clear or visible when the facilities are closed.*
- **Materials of Collection Bins** - The recycling facility shall use receptacles that are constructed and maintained with durable waterproof and rust proof material, covered

when not attended, and secure from unauthorized entry. *Secure and well maintained facilities may potentially deter graffiti, vandalism, and the perception of blight.*

- **No Outside Storage** - All recyclable materials shall be stored in receptacles or in the mobile recycling unit vehicles, and shall not be left outside of receptacles when the attendant is not present. *This standard will ensure that the facilities are run in an orderly fashion taking steps to prevent accumulation of debris and materials outside of collection receptacles.*
- **Refuse Bins Available** - There shall be a minimum of one trash container (separate from the trash container required for the principal use) located near the facility. *Staff observed that none of the facilities had containers to contain unrecyclable materials and other refuse generated by the recycling facilities. Having a trash bin for use of the facility and customer's refused materials would facilitate maintaining a cleanly appearance around the facility and reduce the perception of blight.*
- **Identification of Allowed Materials** - Recycling facilities shall accept only CRV materials including glass, aluminum and plastic. Items shall be presorted and shall include non-hazardous materials. The operator shall post a notice to alert patrons of accepted materials and the presorting requirement. *To avoid confusion regarding what materials are recyclable and to reduce the incidence of abandonment of unrecyclable materials at the site, operators will be required to post a sign indicating what materials are accepted by said facility. Also, presorting recyclables by patrons will ensure that they do not linger at the site for long periods of time.*
- **Water Quality** - Recycling facilities shall provide containers with no perforations, mesh, or holes to allow customers to place any residual liquids from CRV containers prior to placing in transferring and weighing area. *This standard is intended to address dumping of waste fluids in the storm drains and gutters.*
- **Waste Management Plan** – In consultation with the Department of Public Works, all application will require a waste management plan describing how the facilities will reduce, collect and dispose of all liquid waste generated from the use. *This standard is intended to address dumping of waste fluids in the storm drains and gutters. The plan will be reviewed and approved by the Department of Public Works as part of the CUP process.*
- **Litter/Debris Removal Plan** – A litter/debris removal plan is required to be submitted in conjunction with all CUP applications and shall be incorporated into conditions of approval.
- **Nonconforming Facilities** - Small and large collection recycling facilities which are lawfully in existence at the time of adoption of these regulations and which are not in compliance are considered nonconforming and shall be removed or brought into compliance with said regulations within six months. *This standard would bring*

existing facilities under the control of a conditional use permit and conditions of approval.

In addition to the above *new* standards, the following *existing* standard is proposed to be revised:

- **Hours of Operation** – The hours of operation for all facilities are proposed to be revised from 7:00 a.m. to 6:00 p.m. seven days a week to 8:00 a.m. to 5:00 p.m. from Monday through Saturday. *The California Beverage Container Recycling and Litter Reduction Act requires that certified recycling facilities operate at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9:00 a.m. to 5:00 p.m. The proposed changes to the hours of operation would reduce the early morning/evening hours of operation while still complying with state law.*

CONCLUSION:

The proposed Zoning Code amendment addressing recycling facilities is a two-pronged approach based on significant public input. The first prong is the requirement that all facilities obtain a CUP through a formal public hearing. The second prong of the amendment includes revised operational and development standards that are intended to address issues associated with noise, odor, aesthetics and the environmental safety of the facility. During the CUP process, each facility would be required to adhere to the new regulations and also address site specific concerns that could be identified through the public hearing process.

To address the water quality concerns for all facilities, conditions of approval would be site specific based on consultation with the Department of Public Works. In some cases, an application may be conditioned to use the sanitary sewer system of the host supermarket or build permanent drainage infrastructure for residual fluid collection and disposal.

ENVIRONMENTAL ANALYSIS:

The adoption of the Zoning Code Amendments have been determined to be exempt from the California Environmental Quality Act under Class 8 §15308 - Actions by Regulatory Agencies for Protection of the Environment. Class 8 consists of action taken by regulatory agencies, as authorized by state and local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The adoption of the Zoning Code Amendments is an action designed to protect the environment.

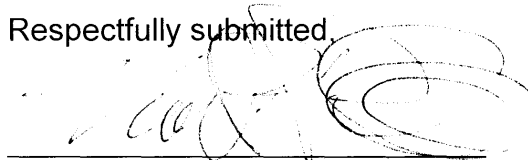
COUNCIL POLICY CONSIDERATION:

State law requires supermarkets to establish convenience zones for the recycling of certain materials. Local jurisdictions may draft development standards and establish a review process for each facility within its municipal boundaries. The recommended zoning code amendments are within the regulatory powers of cities within the State of California. The zoning code amendments will address operational and environment impacts around recycling facilities and ensure they operate in a safe and sanitary manner with minimal disruption to the public and adjacent uses.

FISCAL IMPACT:

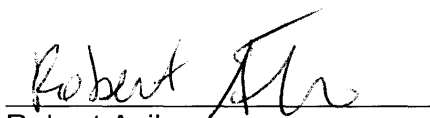
The proposed amendment is not anticipated to result in a significant impact to the City's General Fund. Existing and new recycling facilities will be subject to the review and approval of a Conditional Use Permit. Permitting and application fees collected will recover a portion of the costs incurred from staff for the required project review.

Respectfully submitted,



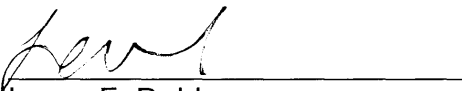
VINCENT P. BERTONI, AICP
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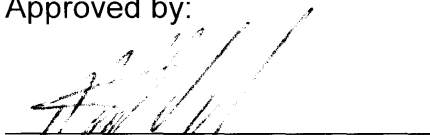
Robert Avila
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Approved by:



MICHAEL J. BECK
City Manager

Attachments: (5)

- Attachment A - Findings
- Attachment B - PMC 17.50.220 (existing regulations)
- Attachment C – Proposed Ordinance
- Attachment D – Letter from the State
- Attachment E – Correspondence from the California Grocers Association