

Agenda Report

February 10, 2014

TO: Honorable Mayor and City Council
FROM: Planning & Community Development Department
SUBJECT: **AN EXTENSION OF AN INTERIM URGENCY ORDINANCE OF THE CITY OF PASADENA TEMPORARILY PROHIBITING THE APPROVAL OF NEW RECYCLING FACILITIES, THE EXPANSION OR MODIFICATION OF EXISTING FACILITIES, AND THE RESUMPTION OF DISCONTINUED LEGAL NONCONFORMING STATUS FOR RECYCLING CENTERS**

RECOMMENDATION:

It is recommended that the City Council after a public hearing:

1. Find that the extension of the interim urgency ordinance is categorically exempt from the California Environmental Quality Act (CEQA Guidelines Sections 15060 (C)(2) and 15262 because the interim ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment and because the project involves only feasibility or planning studies for possible future actions which the City has not approved, adopted, or funded, and does not involve adoption of a plan that will have a legally binding effect on later activities;
2. Find that the proposed extension of the moratorium that is the subject of the ordinance is consistent with the objectives and policies of the General Plan;
3. Find that: (a) there continues to be a current and immediate threat to public health, safety and welfare because continued approval of new, the expansion or modification of existing, and the resumption of discontinued legal nonconforming status recycling facilities would have adverse impacts on the public health, safety, or welfare pursuant to the standards and policies set forth in the General Plan, and (b) the proposed extension of the interim ordinance is necessary to avoid these adverse impacts; and
4. Adopt a second extension of the interim urgency ordinance temporarily prohibiting the approval of new recycling facilities, the expansion or modification of existing facilities, and the resumption of discontinued legal nonconforming recycling facilities.

EXECUTIVE SUMMARY:

The current moratorium temporarily prohibiting the establishment of new, the expansion or modification of existing, and the resumption of discontinued legal nonconforming recycling facilities is set to expire on March 11, 2014. A second extension of the moratorium is proposed while staff is drafting permanent revisions to the existing ordinance and conducting additional research. This second, and final, extension would expire on March 11, 2015. Staff expects to return to Council with zoning code amendment recommendations in the spring of 2014. Once the amendments are codified, the moratorium will expire.

Recycling facilities have the potential to create adverse effects on surrounding neighborhoods. There continues to be a current and immediate threat to the public health, safety and welfare because existing regulations would permit new recycling facilities to be established and existing facilities to be expanded or replaced without consideration of their potential adverse effects.

BACKGROUND:

In response to issues raised regarding the operation of existing recycling centers in the City, on December 5, 2012, the Economic Development and Technology Committee of the City Council discussed the matter at a properly noticed public meeting. At the meeting, the public expressed concerns regarding the secondary impacts of these facilities, including the accumulation of trash in and around the facilities, excessive noise, loitering, transient activity, traffic congestion, public drunkenness and general property upkeep and maintenance issues. These impacts have the potential to negatively affect both residential and commercial uses in the vicinity of a recycling center. The Committee directed staff to bring forward to the City Council proposed amendments to the City's recycling ordinance in an effort to eliminate or mitigate negative impacts associated with these uses.

On February 25, 2013, the Council adopted Ordinance No. 7229 to address the immediate concerns of new, expanded or replaced 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 in amending existing regulations.

On March 11, 2013, the City Council extended Ordinance No. 7229 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. The moratorium was extended through March 11, 2014.

On October 15, 2013, City staff held a community meeting to hear the concerns residents had with the operation of recycling facilities.

On December 17, 2013, the Environmental Advisory Commission (EAC) held a community meeting to hear the concerns the residents had with the operation of recycling facilities and review the staff recommendation. The EAC recommended adopting recommended zoning code amendments as presented by staff to address the impacts of recycling facilities.

On January 8, 2014, the Planning Commission held a public hearing on the proposed zoning code amendments and received public testimony. The Commission adopted the staff recommendation as submitted with instruction to conduct additional research into landscaping and screening standards for the recycling facilities and how recycling is being conducted in Alhambra in light of that City's new regulations for similar recycling facilities. An additional topic of considerable discussion was how recycling is conducted at inside locations of markets in colder regions of the country and if/how that might work in Pasadena. Subsequent to the hearing, staff determined that additional time is needed to explore landscaping standards and the topic of inside store recycling before returning to Council.

If the current ordinance is allowed to lapse on March 11, 2014, new recycling facilities may be established in the City, and existing facilities may be expanded or replaced, which may result in additional negative impacts to surrounding uses.

The second extension of the moratorium provides an opportunity to determine what regulations are necessary to eliminate or mitigate potential secondary impacts associated with recycling facilities and also to understand how further regulation or a prohibition on recycling centers may impact businesses governed by the California Beverage Container Recycling and Litter Reduction Act (Public Resources Code §§ 14500 et seq.). In particular, the second extension is necessary to conduct the research and analysis requested by the Planning Commission regarding whether recycling centers can be established inside a store, as opposed to either outside the store or at the cash register. This second, and final, extension would expire on March 11, 2015.

Applicability: During the extended period of the moratorium, no new recycling facilities may be established, and no existing recycling centers may be expanded, modified or resume if discontinued.

Exceptions: Due to the negative impacts associated with such uses, no exceptions to this moratorium are proposed.

Processing: During the period of the extended moratorium, no applications for recycling centers of any kind (except those related to immediate life safety concerns), including but not limited to, business license, planning, building or any other applications will be accepted by any City department.

GENERAL PLAN OBJECTIVES AND POLICIES

The Land Use Element of the City's adopted General Plan provides principles, policies and objectives to improve the physical environment in the City and protect neighborhoods from incompatible uses.

Guiding Principle No. 2 of the Land Use Element of the General Plan states in part that, "...development must be accomplished in a fashion that enhances and blends with Pasadena's existing qualities, both physical and social," and that, "Development should respect existing social fabric as well as the natural and built environment."

Policy 5.7 - Enhanced Environment: Development should be shaped to improve the environment for the public; it should support the distinctiveness of the locality and region as well as the special characteristics of the existing fabric of the site's immediate surroundings.

OBJECTIVE 18 - IMPROVED ENVIRONMENT: Improve the quality of the environment for Pasadena and the region.

Guiding Principle No. 3 of the Land Use Element states in part that, "Pasadena's quality of life depends in part on services provided by the city. The city addresses not only the need for health and safety but also the *desire for well-kept neighborhoods.*" [emphasis added].

STATE LAW REQUIREMENTS

California Government Code Section 65858 states that, without otherwise required notice and public hearings, "[t]he legislative body of a...city..., to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time." With legislative findings that there is a current and immediate threat to the public health, safety, and welfare and a four-fifths vote of the body, the interim ordinance may be in effect for 45 days. The specific findings are related to specific, adverse impacts on health and safety, the necessity of the moratorium, and the absence of a feasible alternative. The legislative body may, after proper notice and public hearing, extend an interim ordinance for a 10 month and 15 day period, and extend it again after proper notice and a public hearing for another one year period, with a four-fifths vote, for a total period of two years, if certain additional findings are made. This urgency ordinance would be the second, and final, extension allowed by state law. State law also requires that, at least ten days prior to the expiration or extension of the interim urgency moratorium, the legislative body shall issue a written report describing the measures taken to alleviate the conditions which led to the adoption of the ordinance. This staff

report shall serve as the required report for purposes of the second extension requested herein.

ENVIRONMENTAL ANALYSIS:

The second extension of the interim ordinance is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA). CEQA Guidelines Section 15060 (C)(2) states that projects which will not result in a direct or reasonably foreseeable indirect physical change in the environment are not subject to CEQA. The exemption from CEQA pursuant to Section 15262 applies to projects that involve only feasibility or planning studies for possible future actions which the City has not approved, adopted, or funded, and does not involve adoption of a plan that will have a legally binding effect on later activities. Any proposed changes to the Zoning Code will require separate environmental review at the time they are presented to Council.

FISCAL IMPACT:

There is no significant effect to the City's General Fund associated with the adoption of the second extension to the interim urgency ordinance.

Respectfully submitted,



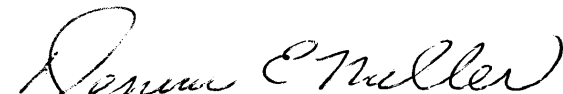
VINCENT P. BERTONI, AICP
Director of Planning & Community
Development Department

Prepared by:



Robert Avila
Planner

Reviewed by:



Denver Miller
Principal Planner

Approved by:



MICHAEL J. BECK
City Manager