

RESOLUTION NO. 7520

**CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA**

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SOUTH GATE DENYING CONDITIONAL
USE PERMIT NO. 796 FOR A SMALL RECYCLING
COLLECTION FACILITY AT 3223 FIRESTONE
BOULEVARD**

WHEREAS, on June 28, 2011, the Department of Community Development received an application from Jerry Koulouvaris for Conditional Use Permit No. 796 which proposes to allow the installation and operation of a Small Recycling Collection Facility. The subject property is located at 3323 Firestone Boulevard. The zoning is C-R (Commercial Residential) Zone; and

WHEREAS, studies and investigations of the subject property and the proposed use were made by City staff and a staff report with recommendations was submitted; and

WHEREAS, the City Council determined that the facts of this matter are as follows:

1. The subject property is located at 3223 Firestone Boulevard. The General Plan designation for this property is District (Firestone) and the Zoning designation is C-R (Commercial-Residential) Zone.
2. On June 28, 2011, the Department of Community Development received an application for Conditional Use Permit No. 796, which proposes to allow the installation and operation of a small recycling collection facility on the subject property.
3. The Planning Commission, on September 20, 2011, held a public hearing on the application for Conditional Use Permit No. 796 and after listening to public testimony and consideration of the facts, denied the Conditional Use Permit. The Planning Commission's decision was final unless appealed in a timely manner as prescribed by Code.
4. The Applicant submitted an Appeal on February 29, 2012. This date was five months beyond the date prescribed by Code for appealing a decision of the Planning Commission. As such, the original appeal application was denied by City staff due to an untimely filing. However, the Applicant appealed to the Director of Community Development who granted the Applicant's request to be allowed to continue with the appeal process.
5. The appeal hearing was scheduled before the City Council on March 13, 2012, at which time, after taking testimony, where the Applicant complained that they felt the Planning Commission did not honor their request for continuance to allow their primary spokesperson to attend the meeting, the City Council remanded the matter back to the Planning Commission for rehearing of the application for Conditional Use Permit No. 796 to provide the Applicant's primary spokesperson an opportunity to attend the Planning Commission meeting.
6. The Planning Commission on May 15, 2012 conducted a second public hearing on this matter at

which time after taking testimony reversed their earlier decision and approved Conditional Use Permit No. 796.

7. The Planning Commission's decision was subsequently referred back to the City Council for final deliberation and action on the Appeal.
8. On July 10, 2012, the City Council heard testimony from representatives of the Applicant, area residents and adjacent business owners and employees. At this hearing, the Applicants again requested a 30-day continuance in order to allow their primary spokesperson to be present to address the City Council. The representatives of the Applicant present at the July 10, 2012 hearing stated to the City Council that the primary spokesperson was on vacation and unavailable. As a courtesy to the applicant the City Council continued the item to the City Council meeting of September 11, 2012.

As part of the testimony at the July 10, 2012 hearing, the City Council heard complaints regarding parking and circulation concerns, trash and property maintenance issues, vermin infestation, loitering and other related matters.

Representatives from El Super Markets, located at 3211 Firestone, attended the July 10, 2012 hearing and submitted a letter dated July 9, 2012 from the property owner of their site that per the property owner's letter governs the use of the adjacent parcel on which the Recycling Center is proposed to be located. This was the first time this document was presented or disclosed to the City.

The letter submitted to the City Council at the July 10, 2012 hearing from Pacific Properties Group, Inc. provides as an attachment a Declaration of Restrictions and Grants of Easements, dated January 19, 1969. The letter states that agreement is between the owners of Parcel A (Pacific Properties Group - El Super) and Parcel B (site of the Recycling Center).

The letter submitted to the City Council at the July 10, 2012 hearing from Pacific Properties Group, Inc. further provides that the Declaration of Restrictions and Grant of Easement states in Section 3 (e) page 3 that the portion of the property described in the Exhibits, which are outside the building lines "shall be reserved as common area of the shopping center, shall be used for passage and parking of automobiles and passage of pedestrians, as well as for the maintenance of a free standing pylon sign" . . . "No change shall be made in the location of parking areas, vehicular driveways, and pedestrian walkways without the consent of all of the owners of the property".

Pacific Properties Group, Inc. in their letter dated July 9, 2012, stated that pursuant to the conditions in the Restrictions and Grant Easement Agreement, they do not consent or authorize the placement of the recycling center on Parcel B within the shopping center and therefore request denial of the proposed Conditional Use Permit Application.

9. On September 11, 2012, the City Council again heard testimony from the Applicant, area residents, and adjacent business owners and employees. Opponents to the project described the negative fallout from a small recycling facility on an otherwise revitalized shopping center. Many argued these facilities attract vagrants, increase littering and overwhelmingly become eyesores in the community. The applicant argued the benefits and convenience of a recycler sharing the same

site as a super market and in close proximity to the residential community. The City Council discussed the matter at length and unanimously agreed that the subject property was ill suited for a small recycling facility.

10. The City Council unanimously denied the application based on comments and direction provided by Council and consistent with the testimony offered by the presenters and the finding of fact.

WHEREAS, the City Council made the following findings:

1. The subject application will be detrimental to the public health, safety, and welfare or adversely affect property values or the present and future development of the surroundings.
2. The proposed use is inconsistent with the goals and objectives of the South Gate General Plan.
3. The subject use will have a detrimental impact on adjacent properties.

NOW, THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF SOUTH GATE HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of South Gate, pursuant to the facts, noted above, does hereby deny Conditional Use Permit No. 796, the operation of a Small Recycling Collection Facility at 3223 Firestone Boulevard.

SECTION 2. The City Clerk shall certify to the adoption of this Resolution, which shall be effective upon its adoption.

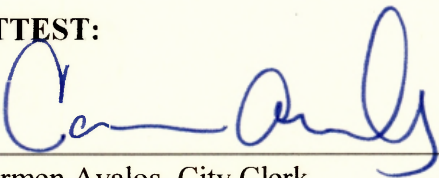
PASSED, APPROVED AND ADOPTED this 9th day of October, 2012.

CITY OF SOUTH GATE:



W.H. (Bill) DeWitt, Mayor

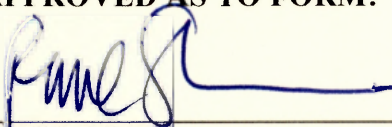
ATTEST:



Carmen Avalos, City Clerk

(Seal)

APPROVED AS TO FORM:



Raul F. Salinas, City Attorney

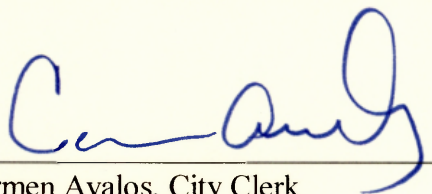
RESOLUTION CERTIFICATION PAGE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) **SS**
CITY OF SOUTH GATE)

I, Carmen Avalos, City Clerk of the City of South Gate, California, hereby certify that the whole number of Members of the City Council of said City is five; that Resolution No. 7520 was adopted by the City Council at their Regular Meeting held on October 9, 2012, by the following vote:

Ayes: Council Members: De Witt, Hurtado, Gonzalez, Morales and Davila
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Witness my hand and the seal of said City on November 5, 2012.



Carmen Avalos, City Clerk
City of South Gate, California