

RESOLUTION NO. 7895

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SOUTH GATE, CALIFORNIA, AFFIRMING THE
PLANNING COMMISSION'S NOVEMBER 5, 2019 DENIAL
OF AMENDMENT NO. 2 TO CONDITIONAL USE PERMIT
NO. 334, WHICH WOULD HAVE LEGALIZED AN
EXISTING UNPERMITTED SPRAY PAINT BOOTH AT THE
BUSINESS KNOWN AS ESPINOZA'S BODY SHOP
LOCATED AT 8602 LONG BEACH BOULEVARD**

WHEREAS, on June 3, 2019, Karla Espinoza ("Applicant"), a representative of Espinoza's Body Shop, which is an automobile body and fender repair business located at 8602 Long Beach Boulevard, South Gate, California 90280 (APN: 6204-017-032) ("Property"), filed with the City an application for an amendment ("Amendment No. 2") to Conditional Use Permit No. 334 ("CUP"); and

WHEREAS, that Amendment No. 2, if granted by the City, would have legalized an existing unpermitted spray paint booth at the Property; and

WHEREAS, the original CUP allowing the use of the Property as an automobile body and fender repair business was approved by the South Gate Planning Commission ("Planning Commission") on January 3, 1984; and

WHEREAS, the Planning Commission Meeting Minutes at which the CUP was approved indicated that the CUP was issued on the Planning Commission's express understanding that "there would not be any spray painting" at the Property; and

WHEREAS, Amendment No. 1 to the CUP was approved on April 29, 1996 by the Planning Commission authorizing a transfer of the permit to Arnulfo Espinoza, and modification of the CUP to allow spray painting on the Property was neither requested by the Applicant nor granted by the Planning Commission; and

WHEREAS, the 14,638 square foot parcel on which the Applicant's business is located is separated with an iron fence creating areas for two (2) individual businesses. The site to which the CUP applies, Espinoza's Body Shop, is located on the east end of the lot, within a building totaling 2,302 square feet; a second building is located on the northwest corner of the lot, totaling 1,750 square feet, and is occupied by a business named Linares Tires; and

WHEREAS, the surrounding use to the north is the railroad right-of-way along Ardmore Avenue and Independence Avenue; to the west is the Linares Tire business, and beyond that, Long Beach Boulevard; to the south a 5th-8th grade charter school is currently under construction; and to the east are single-family residential homes; and

WHEREAS, according to the Applicant, the unpermitted spray paint booth which is the subject of this Resolution was installed at least seventeen (17) years ago in 2002 and has been used regularly by the Applicant since that time; and

WHEREAS, although the South Coast Air Quality Management District (“AQMD”) was aware of the existence of the unpermitted spray paint booth and issued air quality permits for it in 2002 and 2008, those air quality permits do not constitute City of South Gate Conditional Use Permits, and AQMD never advised the City of the existence of the spray paint booth so that the City could ensure compliance of the unpermitted spray paint booth with the City’s own permit requirements; and

WHEREAS, the City did not become aware of the existence of the unpermitted spray paint booth until June 12, 2018, when the City’s Code Enforcement Division conducted a site inspection in response to a complaint which stated the site was emitting paint odor and fumes. As a result of that site inspection, the Code Enforcement Division identified various sub-standard conditions and the following violations of South Gate City Ordinances:

- No Planning Division or Building & Safety Permits were issued for the spray paint booth located within the building.
- Site had junk and debris.
- Exterior of building was deteriorating with chipped and peeling paint.
- Inoperable vehicles were located on the site.
- Signage was altered without obtaining a Sign Permit from the Planning Division or Building & Safety Division; and

WHEREAS, to date all of those violations have been addressed with the exemption of the unpermitted spray paint booth located within the building; and

WHEREAS, to the City’s knowledge AQMD has no current complaints on file with respect to the unpermitted spray paint booth, but AQMD did issue a Notice to Comply on September 19, 2017 to provide Volatile Organic Compounds (VOCs) usage records for the facility from January 2017 to September 2017, and to maintain equipment in good operating order at all times, including having all filters installed at all times on the spray paint booth. A re-inspection was completed by AQMD on May 18, 2018 in regard to the Notice to Comply and status has since been noted by AQMD as in compliance with AQMD air quality regulations; and

WHEREAS, soon after the City discovered the unpermitted spray paint booth in June of 2018, the City directed the Applicant to immediately cease operation of the unpermitted spray paint booth; and

WHEREAS, Applicant has continued to operate the unpermitted spray paint booth despite the City’s repeated demands that Applicant cease doing so; and

WHEREAS, as noted above, Applicant applied on June 3, 2019 for an amendment to the CUP which would specifically allow the use of the spray paint booth at the Property; and

WHEREAS, due notice of a hearing relative to that application was published in the “Los Angeles Wave” newspaper on October 3, 2019 and mailed to surrounding properties and property owners within 1,000 feet of the subject site on October 1, 2019; and

WHEREAS, a Notice of Cancellation and Rescheduling was issued on October 9, 2019, stating that the hearing was rescheduled to the November 5, 2019 Planning Commission meeting. In addition, notices were mailed to property owners and addresses located within 1,000 feet of the property. A Notice of hearing for the November 5, 2019 was posted and published in the “Los Angeles Wave” newspaper on October 24, 2019; and

WHEREAS, a full and fair public hearing was held before the Planning Commission on November 5, 2019 to determine whether to approve or deny the application to amend the CUP to allow operation of the spray paint booth. At that hearing, the Planning Commission heard testimony from the Applicant in support of the application, and heard testimony from a neighboring resident in opposition to the application. At that hearing, the Planning Commission also received a report from the City’s Community Development Department recommending denial of the application based on conflicts between operation of the spray paint booth and the goals, objectives and policies of the City’s General Plan; and

WHEREAS, after considering the facts and testimony, the Planning Commission of the City of South Gate made the following **FINDINGS OF FACT**:

FINDING NO. 1: Denying the application would promote the South Gate General Plan’s goals, objectives and policies regarding the general health and well-being of South Gate residents. The Healthy Community Element of the General Plan establishes goals, objectives and policies regarding public health. Goal HC 1 of that Element is “high levels of health and well-being for all residents.” The General Plan’s Policy P 1 for achieving that goal is “improving the overall health conditions in South Gate will be a priority for the City.” Policy P.2 relative to that goal states in part that “the City should promote and maintain the health and safety of the public through its direct actions.” By granting the application and allowing the continued operation of a spray paint booth which has proven to be ineffective in preventing paint odors from escaping the subject property, such that occupants of the adjacent residential neighborhood are subjected to health concerns, this Planning Commission would be violating those goals, objectives and policies.

FINDING NO. 2: Denying the application would promote the General Plan’s policy of encouraging local employers to adopt healthy programs and practices. Policy P.5 of Objective HC 1.4 of the General Plan’s Healthy Community Element states “the City will encourage local employers to adopt health living/healthy employee programs and practices.” By granting the application and condoning the use of a spray paint booth which has been operated for the past 17 years without regard to City ordinances and which has a history of AQMD violations, City Code violations, and public complaints, the Planning Commission would not encourage healthy practices by the Applicant, a local employer, and would therefore be violating this policy of the General Plan.

FINDING NO. 3: Granting the application would conflict with the General Plan's policy of promoting school safety. Policy P.5 of Objective HC 4.2 of the General Plan's Healthy Community Element provides in part that "to the extent possible, the City will prioritize safety . . . around schools . . .". Because the proximity of the currently unpermitted spray paint operations to the adjacent charter school will expose students, teachers, school administrators and school employees to paint odors emanating from the subject property, the Planning Commission's approval of the application would not prioritize school safety and would therefore conflict with this policy.

FINDING NO. 4: Granting the application would conflict with the General Plan's objectives and policies regarding air pollution. Goal HC 7 of the General Plan's Healthy Community Element is "high levels of air quality and improved respiratory health throughout the City." Objective HC 7.3 is to "reduce air pollution from stationary sources." Policy P.4 under that objective states that "the City shall minimize stationary source pollution through the following: ensure that industrialized commercial land uses are meeting existing South Coast Air Quality Management District air quality thresholds by adhering to established rules and regulations" and "reduce exposure of the City's sensitive receptors to poor air quality nodes through smart land use decisions." Because of the air-quality problems and AQMD violations associated with the spray paint booth as noted above, the Planning Commission's approval of the application would violate that goal, objective and policy.

FINDING NO. 5: Denying the application would promote the General Plan's goals, objectives and policies regarding preservation and enhancement of existing neighborhoods' quality and character. The Community Development Element of the General Plan establishes goals, objectives and policies regarding development, redevelopment and intensification of uses within the City. Policy P2 of Objective CD 4.1 of Goal CD 4 of the Community Development Element states in part that "existing neighborhoods should be preserved and protected against potential impacts related to . . . air quality and encroachment of incompatible commercial and industrial activities." The Planning Commission finds that the spray paint booth and its related problems discussed above are incompatible with the surrounding neighborhood uses, and that denying the application would promote those goals, objectives and policies.

FINDING NO. 6: Denying the application would promote the General Plan's objective of reducing the impact of industrial business on adjoining land uses. Objective CD 8.4 of the Community Development Element is to "reduce the impact of manufacturing/distribution and light industrial/flex businesses on adjoining land uses." Policy P.1 to achieve that objective states in part that "neighborhoods should be protected from incompatible non-residential uses . . . to the greatest extent feasible." Policy P.2 requires the City to consider mitigation of impacts on residential properties whenever light industrial uses are proposed. Policy P.3 states that "existing, non-conforming industrial uses should be phased out during the course of the General Plan." Policy P.5 states that industrial uses should be regulated to minimize adverse impacts

on adjoining uses and areas. Policy P.9 requires the City to limit uses that, among other things, generate unacceptable levels of air pollution. Denial of the application would promote that objective and all of those policies.

WHEREAS, based on those findings of fact, the Planning Commission did on November 5, 2019, DENY the Applicant's request that the CUP be amended to allow the continued operation of the spray paint booth; and

WHEREAS, on November 20, 2019, the Applicant appealed that Planning Commission denial to this City Council; and

WHEREAS, due notice of a hearing relative to that appeal was published in the "Los Angeles Wave" newspaper on November 27, 2019 and mailed to surrounding properties and property owners within 1,000 feet of the subject site on November 27, 2019; and

WHEREAS, a full and fair public hearing was held before this City Council on December 10, 2019 to determine whether to affirm or reverse the Planning Commission's denial of the Applicant's request to amend the CUP to allow operation of the spray paint booth. At that hearing, this City Council heard testimony from the Applicant and all other members of the public appearing at the hearing to testify on the issue. At that hearing, this City Council also received a report from the City's Community Development Department recommending that the Planning Commission's denial of the application – which denial was based on conflicts between operation of the spray paint booth and the goals, objectives and policies of the City's General Plan – be affirmed by this City Council; and

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

SECTION 1. The foregoing recitals are true and correct and constitute a substantive part of this Resolution.

SECTION 2. The City Council does hereby **AFFIRM** the findings of fact noted above.

SECTION 3. The City Council does hereby **AFFIRM** the Planning Commission's November 5, 2019 **DENIAL** of Amendment No. 2 to Conditional Use Permit No. 334, which would have legalized an existing unpermitted a spray paint booth at the business known as Espinoza's Body Shop located at 8602 Long Beach Boulevard.

SECTION 4. The Applicant and all other operators of the business at that Property are hereby ordered and directed to immediately and permanently cease the use and operation of any spray paint booth and all other spray-painting activities at that Property.

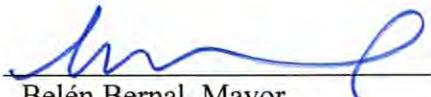
SECTION 5. The Applicant and all other operators of the business at that Property are hereby ordered and directed to immediately and permanently remove said spray paint booth.

SECTION 6. The City Manager, the City's Director of Community Development, and their respective designees are authorized to take such actions as may be necessary or appropriate to enforce and carry out the foregoing resolutions.

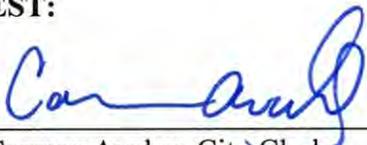
SECTION 7. The City Clerk shall certify to the adoption of this Resolution, which shall be effective upon its adoption.

PASSED, APPROVED and ADOPTED this 10th day of **December, 2019.**

CITY OF SOUTH GATE:

By: 
Belén Bernal, Mayor

ATTEST:

By: 
Carmen Avalos, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: 
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. 7895 was adopted by the City Council at their Regular Meeting held on December 10, 2019, by the following vote:

Ayes: Council Members: Bernal, Davila, De Witt and Rios

Noes: Council Members: Diaz

Absent: Council Members: None

Abstain: Council Members: None

Witness my hand and the seal of said City on December 12, 2019.



Carmen Avalos, City Clerk
City of South Gate, California