

**ATTACHMENT 6
MINUTE EXCERPTS**

4. Application No.: ZA-89-25 and ZA-92-10

Site Address: 739 W. 19th Street

Applicant: Jesse Garcia

Zone: C1

Environmental

Determination: Exempt

Description:

Review, modification, and/or revocation of Minor Conditional Use

Permit ZA-92-10 for a recycling center with a maximum of two containers in a commercial shopping center.

The Chair announced that the public could speak on this item tonight or at the continued meeting date of August 9, but not at both meetings. He asked Senior Planner Mel Lee to review the item.

Mr. Lee briefly reviewed the information in the staff report and noted receipt of a request for continuance to the meeting of August 9. The Chair opened the public hearing.

Edward Carmona, Center Street, Costa Mesa, opposed the recycling center stating that the containers with cans and trash destroy the City and this recycling center does not belong there.

The Chair explained that the Planning Commissioners received calls on this item and Commissioner Mensinger brought this item up for review.

Patricia Chen, attorney for applicant, said she requested a continuance to allow time for her to speak with Cal Recycle and poll the customers. She said the applicant is willing to do whatever is necessary to keep this recycling center in business.

MOTION: Continue to the Planning Commission meeting of August 9, 2010. Moved by Commissioner Colin McCarthy, seconded by Commissioner Jim Fitzpatrick.

Commissioner Mensinger supported the motion and Commissioner McCarthy suggested that the applicant talk with their neighbors. Commissioner Fitzpatrick also suggested that the applicant focus on neighbors' concerns and be site specific.

Commissioner Mensinger reiterated that he brought this item up for review and asked the applicant to focus on best practices for this use.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair Sam Clark, Commissioner Jim

Fitzpatrick, Commissioner Colin McCarthy, and Commissioner Stephen
Mensingher

Noes: None.

Absent: None.

**08-09-10 PC Minute Excerpt for ZA-89-25 and ZA-92-10
Unofficial Until Approved**

3. Application No.: ZA-89-25 and ZA-92-10

Site Address: 739 W. 19th Street

Applicant: Jesse Garcia

Zone: C1

Proj. Planner: Mel Lee

Environmental

Determination: Exempt

Description:

From the meeting of July 12, 2010, review, modification, and/or revocation of Minor Conditional Use Permit ZA-92-10 for a recycling center with a maximum of two containers in a commercial shopping center.

The Chair confirmed with Senior Planner Mel Lee for the record that the applicant received a copy of Costa Mesa Sanitary District's letter dated August 9, 2010.

Regarding ex parte communications, Commissioner McCarthy said he spoke to neighbors in the area and the Chair, Commissioner Fitzpatrick, and Commissioner Mensinger said they received e-mails.

Steven Miles and Patricia Chen from Miles + Chen Law Group, representing Garcia Recycling, gave presentations.

Mr. Miles stated for the record that the photographs provided during staff's review of the agenda report were outdated and do not reflect what is current.

Jesse Garcia, property owner, provided some additional information.

Franca Carmona, Center Street resident, noted her only objection was the location of the recycling center.

Claudette Mekalian, Newport Beach, supported the recycling center and the jobs it provides.

Vince Panico, Huntington Beach, spoke in support of the recycling center and said he has been a customer of this business for over 10 years.

Chuck Perry, Costa Mesa, expressed concerns regarding the growth of this business and spilled liquids.

Eric Larsen, Costa Mesa, supported the recycling center.

LaVonn Larsen, Costa Mesa, spoke in favor of the recycling center and its employees and said this business provides her income.

MOTION: Revoke Zoning Applications ZA-89-25 and ZA-92-10, by adoption of Planning Commission Resolution PC-10-25, based on the evidence in the record and the findings contained in Exhibit "A" of the supplemental memo dated August 4, 2010, with modifications to Findings "A", "A.7", and the addition of a new finding "A.8", adopted as follows:

FINDINGS

A. Revocation of ZA-89-25 and ZA-92-10 was initiated because the operation of the use (a recycling facility) was determined to constitute a public nuisance pursuant to Municipal Code Section 13-29(o) (Enforcement Authority). Based on the evidence submitted into the public record, the use is not being operated in compliance with the conditions of approval for ZA-89-25 and ZA-92-10, specifically:

7. If the minor conditional use permits are revoked, the City will remain in compliance with all applicable provisions of State Law as it pertains to recycling and waste management. Specifically, revocation would not result in an unserved "convenience zone" as defined by State Law because the area would continue to be served by the existing recycling facility at Von's Market. Additionally, per the letter submitted into the public record by the Costa Mesa Sanitary District dated August 9, 2010, revocation of the minor conditional use permits would not compromise the Integrated Waste Management Plan because the City's Sanitary District separates recyclables from regular trash to comply with the applicable beverage container diversion goals.

8. The use is not being operated in compliance with the conditions of approval for ZA-89-25 and ZA-92-10 in that the original approval was for a neighborhood recycling facility approved to operate within the parking area for the 739 W. 19th Street property.

Based on the evidence submitted into the record, the original operation has expanded to the scale and intensity of a regional recycling facility, processing approximately 4.2 million pounds of recyclable materials annually. This expansion has resulted in a scale and intensity of use beyond the boundaries of the subject property, requiring the use of the parking area for the adjacent 709 W. 19th Street property for the unloading of recyclable materials by customers.

Moved by Commissioner Stephen Mensinger, seconded by Commissioner Jim Fitzpatrick.

SUBSTITUTE MOTION: Receive and file.

Moved by Vice Chair Sam Clark, seconded by Commissioner Colin McCarthy.

During discussion on the substitute motion, Commissioner McCarthy withdrew his second and the motion died.

The Chair called a recess at 8:23 p.m. and resumed the meeting at 8:32 p.m.

The Chair asked that an additional finding be included regarding the scale and intensity of use and Mr. Lee agreed to incorporate the finding. The maker and seconder of the original motion also agreed.

SUBSTITUTE MOTION: Revoke Zoning Application ZA-89-25 and modify Zoning Application ZA-92-10, by adoption of Planning Commission resolution, based on the evidence in the record and the findings contained in Exhibit "A" on handwritten Page 8, subject to modified conditions in Exhibit "B" on handwritten Pages 9 and 10.

Moved by Vice Chair Clark. The motion died for lack of a second.

The Chair called for a vote on the original motion.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Commissioner Jim Fitzpatrick, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

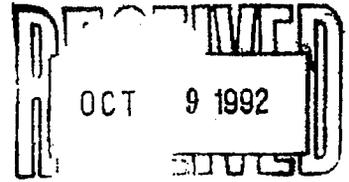
Noes: Vice Chair Sam Clark

Absent: None.

The Chair explained the appeal process.

**ATTACHMENT 7
CORRESPONDENCE IN
CHRONOLOGICAL ORDER
TO PRESENT**

L'Abri



October 5, 1992

Costa Mesa Zoning Administration
P.O. Box 1200
Costa Mesa, CA 92628-1200

Dear Sirs:

This letter is in response to your notice sent to the Wallace Woods Apartments located at 759 W. 19th Street, Costa Mesa, regarding the zoning ZA-92-10 for Russell E. Pang "for a minor conditional permit for the relocation and expansion of an existing recycling center...located at 739 W. 19th Street in a C1 zone."

As a representative of the owners of the Wallace Woods Apartments and their residents, I would like to voice my complaint and urge you NOT to allow this expansion.

I am as much an environmentalist as the next person and believe that recycling is a must, and we should do all we can to promote this in our society. Unfortunately, without proper planning, the good we try to do can sometimes be more damaging to the environment. This area, as you know, is already plagued with crime, graffiti, loitering, etc. As the property owner's representative, I do all I can for the beautification of my property and its surroundings. We have just recently painted the building. We pick up trash in front on Wallace and on 19th Street...three times daily! The expansion of this recycling center will create an uneasy appearance in our neighborhood, in addition to a terrible odor. It is directly across the street and is currently an eye sore. The bar across the street next to the recycling center is also a huge problem. The clientele of the recycling center often frequent this bar with their new found wealth and thus create a nuisance in the neighborhood (i.e., shoot-outs weekly). The last thing we need is more of the same. If you allow this expansion, not only will it affect the appearance, but it could possible raise the crime rate in this area.

L'ABRI MANAGEMENT INC.

8141 EAST 2ND STREET • SUITE 500 • DOWNEY, CALIFORNIA 90241 • (310) 861-9294 • (714) 739-1742

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Costa Mesa Zoning Administration
October 5, 1992
Page Two

I urge you to relocate this on an area with less traffic. A grossly populated residential area is NOT the place for a recycling center!

Sincerely,



Kenneth B. Treiger
Property Supervisor

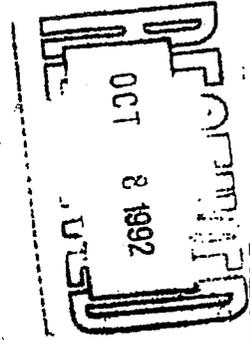
KBT:ds

cc: R. Kolar
J. Harris

752 CENTER ST
COSTA MESA, 92627

OCTOBER 7, 1992

COSTA MESA ZONING ADMINISTRATOR
CITY OF COSTA MESA
PO BOX 1200
COSTA MESA, CA 92628-1200



GENTLEMEN:

AS HOMEOWNERS AT 752 CENTER STREET,
WE OBJECT STRENUOUSLY TO ANY ATTEMPT TO
ENLARGE THE PRESENT RECYCLING CENTER OR
EVEN THAT IT BE THERE AT ALL.

IT HAS CREATED INCREASE IN TRAFFIC, DIRT,
NOISE, GARBAGE AND HAZARDOUS INGRESS & EGRESS
INTO THE AREA. WE HAVE PERSONALLY SEEN
MALES URINATING IN PUBLIC IMMEDIATELY ADJACENT
TO THE RECYCLING CENTER CREATING INDECENCY AND
FOUL ODORS AT THE SITE THAT WE ATTRIBUTE DIRECT-
LY TO THE EXISTING RECYCLING CENTER.

WE REITERATE THAT THE REAR OF EL TORO
BRAVO IS A PARKING LOT ESTABLISHED AS SUCH
AND THAT ZONE VARIANCE SHOULD NOT BE ALLOWED.
OUR PROPERTY IS CONTINUOUSLY BEING INUNDATED
WITH GARBAGE BLOWN OVER FROM THAT AREA.

AS TAXPAYERS AND PROPERTY OWNERS,
WE DO NOT WANT IT.

VERY TRULY YOURS,
F. Zoni Camuona
F. Zoni Camuona

RECEIVED
NOV 23 1992
REGISTERED

NOVEMBER 17, 1992

COSTA MESA ZONING ADMINISTRATOR
CITY OF COSTA MESA
P.O. BOX 1200
COSTA MESA, CA 92628-1200

RE: ZONING ACTION ZA-92-10 FOR JESUS GARCIA

TO WHOM IT MAY CONCERN:

WE ARE SUBMITTING WRITTEN COMMENTS REGARDING THE ABOVE APPLICATION:

*IT WILL FURTHER DEPRECIATE OUR HOME AND THE EXISTING HOMES IN THE AREA. THIS AREA IS ALREADY STRUGGLING WITH A NUMBER OF PROBLEMS. THIS WILL CAUSE US TO RECONSIDER HOME IMPROVEMENTS!

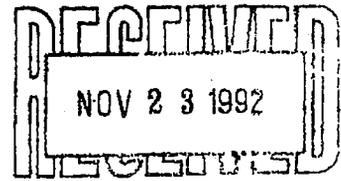
*IT WILL BRING IN TRANSIENTS BRINGING THEIR COLLECTED GOODS FOR MONEY. (DRUNKARDS SLEEP, URINATE, AND LEAVE TRASH HIDING BESIDE THE TRASH CENTERS.)

*THERE ARE A NUMBER OF ALREADY ESTABLISHED RECYCLING CENTERS IN THE CITY. (EX: ORANGE COAST COLLEGE, STATER BROS. MARKET)

*WITH RECYCLED TRASH COMES ODORS, UNKEPT AREAS, AND UNNECESSARY NOISE AND TRASH. (WITH THE PRESENT PLACEMENT OF THE RECYCLING CENTER NOISE OF THE RECYCLING CENTER CAN BE HEARD ON BOTH SIDES OF THE 700 CENTER ST. WHAT WOULD THE MOVING THE CENTER 100 YRDS. DO?)

WE ARE ANGRY! THIS WILL NOT BE TOLLERATED IN OUR NEIGHBORHOOD.

735 Center	Jennifer H. Webster	Jennifer H. Webster
" "	ERNEST WEBSTER	Ernest Webster
735 Center	Chris Frembling	Chris Frembling
734 Center	Patsy Lutschka	min 2 cont. 1 front 1 back
739 CENTER	JOSE MORALES	Jose Morales
738 Center	Carlos Hernandez	CARLOS MORALES
729 Center	Carole Wynn	Carole Wynn



NOVEMBER 17, 1992

COSTA MESA ZONING ADMINISTRATOR
CITY OF COSTA MESA
P.O. BOX 1200
COSTA MESA, CA 92628-1200

RE: ZONING ACTION ZA-92-10 FOR JESUS GARCIA

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WE ARE ANGRY! THIS WILL NOT BE TOLLERATED IN OUR NEIGHBORHOOD.

owner

720 center st EPIC Holt

717 Center St BoTheis

725 Center St R. Stedman

owner's daughter

716 Center St Linda FERGUSON Linda Ferguson

717 Center St MAX Yrigoyen Mark Yrigoyen

739 center st Pedro w. Martinez / Maria Martinez



CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. BOX 1200

DEVELOPMENT SERVICES DEPARTMENT

May 22, 2000

CERTIFIED MAIL

Mr. Jesus Garcia
1306 S. Shawnee Drive
Santa Ana, CA 92704

RE: MINOR CONDITIONAL USE ZA-92-10
739 WEST 19TH STREET, COSTA MESA

Dear Mr. Garcia:

The City has received many complaints regarding your recycling business at the subject property. Complaints include generation of trash and debris around the facility, the attraction and congregation of transients, and the harassment of customers going into Smart and Final, all of which are detrimental to other businesses in the area. Your business is operating under a minor conditional use permit (MCUP), which you obtained in 1989 and modified in 1992. However, the findings used to justify the MCUP can no longer be made, and the conditions of approval are not being consistently complied with; therefore, the recycling use needs to be discontinued.

A MCUP is approved when it can be shown that the proposed use is compatible with other uses in the area and that it is not detrimental to the health, safety and general welfare of the public. However, recent complaints indicate that the recycling use is not compatible with the area and is detrimental to the public. Additionally, one of the conditions of approval required that the area surrounding the containers be kept free of debris; many complaints have been received regarding the amount of debris in the area of the recycling center.

These matters have been pending for some time now. I understand that Code Enforcement has made repeated attempts to gain compliance with the conditions of both MCUPs without success, therefore, the recycling center needs to be removed as soon as possible. By June 2, 2000, I will need written verification of the date you will be removing the recycling center, and you will have until June 16, 2000 to vacate the premises. Failure to do so may result in legal action.

77 FAIR DRIVE

Building Division (714) 754-5273 • Code Enforcement (714) 754-8623 • Planning Division (714) 754-5245
FAX (714) 754-4856 • TDD (714) 754-5244

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I am sorry these issues were not settled, but a resolution to this matter is essential. If you have any questions or concerns, please call me at (714) 754-5153; the best time to reach me is between 8 a.m. and 12 noon, Monday through Friday.

Sincerely,

W Bouwens-Killeen
~~WILLA BOUWENS-KILLEEN~~
Senior Planner

Cc: Sandra Benson, Chief of Code Enforcement
Ron Johnson, Code Enforcement Officer

Dr. Russell Pange
1831 Orange Avenue, Unit E
Costa Mesa, CA 92627

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CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

August 3, 2009

GARCIA RECYCLING CENTER & METALS INC
c/o Jesus Garcia
1115 S Elliott Place
Santa Ana, CA 92704

RE: CONDITIONAL USE PERMIT ZA-92-10
739 WEST 19th STREET

Dear Mr. Garcia:

In November 1992, the Zoning Administrator approved ZA-92-10, which allowed a recycling center at the above property; approval was subject to several conditions of approval and code requirements. Occasionally, Planning staff visits the property to ensure the use is operated in compliance with the conditions and requirements. Recently, it was noticed that a truck has been staged at the property throughout the day, business was being conducted outside the containers, and a cashiers unit was placed at the site.

To allow for compliance with your minor conditional use permit, the truck and cashiers unit must be removed from the site and all activities for the recycling center must be located inside the container(s). To allow for a timely resolution to this matter, I would like to establish a deadline of August 17, 2009 for complying with the conditions of approval and code requirements.

Additionally, the minor conditional use permit was approved for a maximum of two containers to be located on the property. Should you wish to add a second container to the property, a site plan must be submitted and approved by the Planning Division prior to installation.

I look forward to your cooperation. If you have any questions or concerns, please call me at 714.754.5609 or email me at rrobbins@ci.costa-mesa.ca.us.

Sincerely,

REBECCA ROBBINS
Assistant Planner

cc: Tim Sun, Code Enforcement Officer

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MILES • CHEN LAW GROUP

9911 Irvine Center Drive, Suite 150 • Irvine, CA 92618
Phone: 949.788.1425 • Fax (949) 788-1991

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LAND USE • ENVIRONMENT

Received
City of Costa Mesa
Development Services Department

AUG 21 2009

August 19, 2009

VIA FACSIMILE ((714)754-4856) AND U.S. MAIL

Rebecca Robbins
City of Costa Mesa
Development Services Department
P.O. Box 1200
77 Fair Drive
California, CA 92626-1200

Re: Conditional use Permit ZA-92-10, 739 West 19th Street, Costa Mesa, California

Dear Ms. Robbins:

We write on behalf of Garcia Recycling Center & Metals, Inc. ("Garcia Recycling") in response to your letter dated August 3, 2009 regarding Garcia Recycling's facility located at 739 West 19th Street. We understand from your letter and a conversation between Fred Canlas, CPA, Garcia Recycling's representative, and Timothy Sun, Code Enforcement Officer, on August 4, 2009, that the City has requested that Garcia Recycling take the following actions:

1. Remove the truck staged at the facility and install a container that is the same size and same color as the existing trailer to be in harmony with the surrounding buildings' color.
2. Install new signs on the containers with Planning Department's approval.
3. Remove the cashier area from the landscape.
4. Ensure that all staging and materials, trash cans, etc. is contained inside the containers.

While Garcia Recycling does not believe that it is in violation of its Minor Conditional Use Permit, it is willing to comply with Items #2-4. As for Item #1, due to the large volume of materials that the facility receives (the facility serves approximately 300 people per day) the facility cannot retain the amount of recyclables it receives in the container and must load the truck throughout the day. A second container would not be sufficient to hold all the recyclables

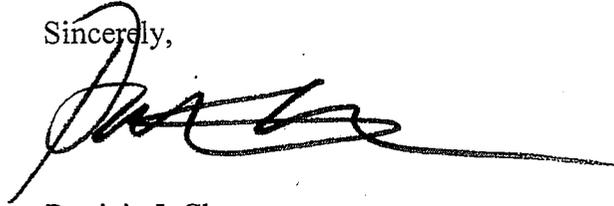
Ms. Rebecca Robbins
August 19, 2009
Page 2 of 2

received daily at the facility. As you may know, Garcia Recycling is the only recycling facility within a half mile radius and this is likely the reason for the high volume of recyclables at the facility. We would be happy to meet with the City to discuss potential solutions.

By way of background, Garcia Recycling has been in business for over 20 years and it operates four recycling collection centers (including the subject facility) in the cities of Garden Grove, Santa Ana, and Costa Mesa. All facilities are California Collection Centers Certified by the State of California Conservation Department. *Garcia Recycling has never been cited for any violations whatsoever in its 20 years of operation.* It puts a premium on safety and cleanliness at its facilities and is more than willing to work with the City and the community to alleviate any potential issues caused by its operations.

I will be contacting you to set up a meeting shortly. Should you have any questions in the meantime, please feel free to contact me.

Sincerely,



Patricia J. Chen

cc: Fred N. Canlas, CPA

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CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

March 18, 2010

GARCIA RECYCLING CENTER & METALS INC
c/o Jesus Garcia
1115 S Elliott Place
Santa Ana, CA 92704

RE: **CONDITIONAL USE PERMIT ZA-92-10**
739 WEST 19th STREET

Dear Mr. Garcia:

In November 1992, the Zoning Administrator approved Minor Conditional Use Permit ZA-92-10 (MCUP), which allows a recycling center at the above property; approval was subject to several conditions of approval and code requirements. It was observed in mid 2009 that the business was being conducted outside the containers, a cashiers unit was placed next to the containers, and a landscaped island was paved. In several meetings with you since, we have discussed these issues as well as different locations on the property for your business, given the high traffic volume, to minimize noise impacts to the abutting residential properties. I haven't heard from you in a while and we need to resolve this matter.

To allow a timely resolution to this matter, I would like to establish a deadline of April 15, 2010 for complying with the conditions of approval and code requirements (by conducting all business inside the containers, removing the cashiers unit, and replacing the landscaping) or applying for an amendment to the previously approved MCUP.

If the deadline above is not met, the matter will be forwarded to Code Enforcement for further action. I look forward to your cooperation. If you have any questions or concerns, please call me at 714.754.5609 or email me at robbins@ci.costa-mesa.ca.us.

Sincerely,

REBECCA ROBBINS
Assistant Planner

cc: Tim Sun, Code Enforcement Officer

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VI.4
ZA-89-254 ZA-9a-10

Attachments: Letter to Planning Commission re Garcia Recycling 071210.pdf; Attachment 1.pdf; Attachment 2.pdf; Attachment 3.pdf; Attachment 4.pdf; ATTACHMENT 5 v2.doc

From: Patricia J. Chen [mailto:pchen@miles-chen.com]
Sent: Monday, July 12, 2010 1:55 PM
To: LEE, MEL
Cc: ROBBINS, REBECCA; david.rodriguez@conservation.ca.gov; 'Garcia Recycling'; fredcanlas@aol.com
Subject: FW: Garcia Recycling - Item 4 - Planning Commission Meeting tonight

I apologize for the repeat email. I reduced the size of Attachment 5 (it kept getting bounced) and I wanted to resend with all the documents. Thanks for your patience. Pat

From: Patricia J. Chen [mailto:pchen@miles-chen.com]
Sent: Monday, July 12, 2010 1:19 PM
To: 'mlee@ci.costa-mesa.ca.us'
Cc: 'rrobbins@ci.costa-mesa.ca.us'; 'david.rodrguez@conservation.ca.gov'; 'Garcia Recycling'; 'fredcanlas@aol.com'
Subject: Garcia Recycling - Item 4 - Planning Commission Meeting tonight

Mel,

Please find the attached correspondence for the Planning Commission. Please let me know if you have any difficulty opening any of the documents. I understand that you will provide a copy of our correspondence to each of the commissioners for the meeting tonight.

Thank you for your assistance and cooperation.

Pat

Patricia J. Chen, Esq., LEED AP
9911 Irvine Center Drive, Suite 150 | Irvine, CA 92618 | (213) 804-8000

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07/12/2010

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9911 Irvine Center Drive, Suite 150 • Irvine, CA 92618
Phone: 949.788.1425 • Fax (949) 788-1991

A PROFESSIONAL CORPORATION
LAND USE • ENVIRONMENT • ENTITLEMENT

July 12, 2010

VIA EMAIL (mlee@ci.costa-mesa.ca.us)

Planning Commission
City of Costa Mesa
c/o Mr. Mel Lee
Senior Planner
P.O. Box 1200
77 Fair Drive
California, CA 92626-1200

Re: Conditional Use Permit ZA-92-10, 739 West 19th Street, Costa Mesa, California

Dear Gentilepersons:

We understand from Mr. Lee that the Planning Commission cannot continue the hearing without a hearing on our request for a continuance. As such, in the interest of providing the Planning Commission with as information concerning the operation of Garcia Recycling Center & Metals, Inc. ("Garcia Recycling") prior to the hearing, we hereby submit our preliminary response to the issues raised in the staff report. Given the short time frame, we respectfully reserve the right to supplement our response both at the hearing and following the hearing. We would reiterate that in order to preserve Garcia Recycling's due process rights, particularly where a vested right may be extinguished, a continuance of the hearing to allow Garcia Recycling to make a proper presentation to the Commission is merited.

As a threshold matter, we believe it is important for the Commission to contextualize the operations of Garcia Recycling. Garcia Recycling has been in business for over 20 years and it operates four recycling collection centers (including the subject facility) in the cities of Garden Grove, Santa Ana, and Costa Mesa. All facilities are California Collection Centers Certified by the State of California Conservation Department.

In 1986, the Legislature passed the California Beverage Container Recycling and Litter Reduction Act aka "The Bottle Bill" (AB 2020). The intent of the bill was to encourage increased, and more convenient, beverage container redemption opportunities for all consumers to meet the goal of recycling 80 percent of all beverage containers. See Pub. Res. Code § 14501.

"It is the intent of the Legislature to make redemption and recycling convenient to consumers, and the Legislature hereby urges cities and counties, when exercising their zoning authority, to act favorably on the siting of multimaterial recycling centers, reverse vending machines, mobile recycling units, or other types of

recycling opportunities, as necessary for consumer convenience, and the overall success of litter abatement and beverage container recycling in the state.”

Pub. Res. Code § 14501(e).

Furthermore, in 1989, Legislature passed the California Integrated Waste Management Act of 1989 (“AB 939”). This bill created the California Integrated Waste Management Board (“CIWMB”) and set up a new mandate for local jurisdictions to meet diversion goals. AB 939 mandated local jurisdictions to meet solid waste diversion goals of 25 percent by 1995 and 50 percent by 2000. The CIWMB would determine this diversion by looking at the base-year solid waste generation (waste normally disposed of into landfills) to determine the amount of solid waste diverted. To help in the increase of diversion rates, each jurisdiction was required to create an Integrated Waste Management Plan that looked at recycling programs, purchasing of recycled products and waste minimization.¹

The Bottle Bill helps local jurisdictions meet the diversion goals set forth in AB 939 by assisting consumers in diverting beverage containers from landfills to recycling facilities. The Bottle Bill requires that

“there shall be at least one certified recycling center or location within every convenience zone that accepts and pays the refund value, if any, at one location for all types of empty beverage containers and is open for business during 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.”

Pub. Res. Code § 14571(a).

The City of Costa Mesa has been quite successful in meeting its diversion rate targets in part because of the recycling facilities that serve the City. In 2008, the City exceeded its diversion target by 2.4 lbs/person/day. See Attachment 1. In 2008, Garcia Recycling contributed to this diversion by purchasing a total of 4,158,721 pounds of beverage containers at its facility in Costa Mesa. See Attachment 2. At this facility, Garcia Recycling believes it handles *more than twice* the volume of any other recycling facility in the City. This is because Garcia Recycling serves *three* convenience zones, 1372, 1373, and 5314, and for convenience zones 1372 and 1373, it is the *only* recycling facility in those zones. See Attachment 3. Thus, if the Commission revokes Garcia Recycling’s permit, two convenience zones will be in violation of the Bottle Bill. It is also located in the center of the Hispanic community in Costa Mesa and because this community has been hit especially hard by the economy, more residents are recycling.

¹ We have not had the opportunity to examine the City’s Integrated Waste Management Plan. However, to the extent Garcia Recycling is included in the non-disposal element (or any other element) of the Plan, if Garcia Recycling is forced to cease operations, the loss of beverage container diversion may compromise the Plan.

Garcia Recycling has been working with the City staff to address the issues resulting from this high volume traffic at the facility since August 2009. As recognized by staff, Garcia Recycling (1) removed the cashiers unit; (2) installed landscaping; (3) painted the containers and cleaned up the signage; and (4) attempted to replace the staged truck with a second container. With respect to the staged truck, Garcia Recycling believes that the original minor use permit (ZA-89-25) was approved with a staged truck. See Staff Report at 20 ("My plan is to park at the location above 1 tone (sic) truck to buy aluminum cans, plastic [bottles] and glass bottles."); Letter from City of Costa Mesa to Dr. Russell Pang dated December 3, 1991 ("It is my understanding that the business owner has expanded from the *one truck originally approved* (that would cover one parking space) to two truck trailers as well as the original truck.") attached as Attachment 4. Notwithstanding this, Garcia Recycling has been working with the City to address its concerns about the staged truck. It tried using another container, but since the containers must be loaded onto a truck a minimum of twice a day, it believes that the loading and unloading of containers is actually more disruptive than simply staging a truck which departs when the container is full.

In sum, staff has identified two remaining issues: (1) business being conducted outside containers and (2) truck is still staging at the site. Garcia Recycling acknowledges that some business is conducted outside the containers, but we believe it is the only way it can operate since the containers are extremely hot inside, especially during the summer. In fact, all recycling facilities in the vicinity operate in this manner. See Attachment 5 (pictures of other recycling facilities in the area demonstrating that bags and bins of beverage containers are inevitably staged outside of the containers). As such, Garcia Recycling believes it is being unfairly treated by the City on this issue. With respect to the truck being staged at the site, Garcia Recycling is willing to use the second container once again if this is what the City desires, despite the impacts of the loading and unloading of the containers.

We understand that staff has given you two options with respect to the zoning applications and we strongly urge you modify Garcia Recycling's minor conditional use permit rather than revoke it. The record simply does not contain enough evidence to justify revoking the permit. Moreover, we have reviewed the proposed modifications and Garcia Recycling is willing to agree to all the conditions set forth in the staff report (pp. 5-6), including constructing a iron fence along the easterly property line if the owner of the adjacent properties agree to it and the City approves it. In our opinion, Smart and Final benefits from Garcia Recycling customers many of who visit Smart and Final after selling their beverage containers. However, Garcia Recycling's foremost priority is to maintain its good relationship with the community and the City.

It is clear that the issue here is one of NIMBY – while the facility is indisputably necessary and benefits the environment; no one wants it in his/her backyard. Garcia Recycling's high volume of customers is both a blessing and a curse. While recycling so many beverage containers is certainly good for the environment as a whole, it inevitably impacts the neighboring

Planning Commission
July 12, 2010
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surroundings. Garcia Recycling has made every effort (and will continue to make every effort) to minimize these impacts by operating a clean, efficient recycling facility. Furthermore, Garcia Recycling is more than willing to work with the City and the Division of Recycling in the Department of Resources Recycling and Recovery (the "Department") to determine whether moving the facility to another site or adding another facility would be in the best interest of the community and the City. With the support of the City and the Department, Garcia Recycling is willing to move and/or add an additional facility.

We appreciate your consideration on this matter and look forward to answering any questions at the hearing.

Sincerely,



Patricia J. Chen

cc: Fred N. Canlas, CPA (via email)
Jesus Garcia (via email)
Rebecca Robins (via email)
David Rodriguez (via email)

ATTACHMENT 1

Patricia J. Chen

From: Knapp, Christine [OCWR] [Christine.Knapp@ocwr.ocgov.com]
Sent: Friday, July 09, 2010 12:21 PM
To: pchen@miles-chen.com
Subject: Attachment B - Diversion Rates by Jurisdiction 2007-08 January 6 2010 REVISED.xls
Attachments: Attachment B - Diversion Rates by Jurisdiction 2007-08 January 6 2010 REVISED.xls

Attachment - B

Orange County Diversion Rates by Jurisdiction from 2007 through 2008

Jurisdiction	Year 2007 Target (50% equivalent expressed in pounds per person per day)	Year 2007 Annual Disposal pounds divided by population	Year 2007 Pounds target exceeded	Year 2008 Target (50% equivalent expressed in pounds per person per day)	Year 2008 Annual Disposal pounds divided by population	Year 2008 Pounds target exceeded
1 Aliso Viejo	3.3	2.5	0.8	3.3	2.2	1.1
2 Anaheim	8.2	7.6	0.6	8.2	7.6	0.6
3 Brea	11.5	10.1	1.4	11.5	9.1	2.4
4 Buena Park	6.3	5.7	0.6	6.3	5.4	0.9
5 Costa Mesa	8.5	6.8	1.7	8.5	6.2	2.3
6 Cypress	9	7.1	1.9	9	6.9	2.1
7 Dana Point	7.3	6.2	1.1	7.3	5.4	1.9
8 Fountain Valley	6.9	5.2	1.7	6.9	4.3	2.6
9 Fullerton	7.9	6.4	1.5	7.9	5.6	2.3
10 Garden Grove	6.6	5.8	0.8	6.6	5.3	1.3
11 Huntington Beach	10.4	5.5	4.9	10.4	5.3	5.1
12 Irvine	10.1	8.8	1.3	10.1	6.8	3.3
13 La Habra	6.5	5.2	1.3	6.5	5.3	1.2
14 La Palma	5.1	3.9	1.2	5.1	3.1	2
15 Laguna Beach	12.7	10.5	2.2	12.7	8.8	3.9
16 Laguna Hills	5.8	5.2	0.6	5.8	4.2	1.6
17 Laguna Niguel	6.6	4.9	1.7	6.6	4.2	2.4
18 Laguna Woods	3.9	3.7	0.2	3.9	4.6	-0.7
19 Lake Forest	10.6	6.8	3.8	10.6	5.8	4.8
20 Los Alamitos	10.8	8.6	2.2	10.8	8.1	2.7
21 Mission Viejo	5.7	4.8	0.9	5.7	4.1	1.6
22 Newport Beach	9.6	7.8	1.8	9.6	6.9	2.7
23 Orange	10.1	7.7	2.4	10.1	7	3.1
24 Orange-Unincorporated	5.9	5.7	0.2	5.9	5.6	0.3
25 Placentia	7.3	5.8	1.5	7.3	5.4	1.9
26 Rancho Santa Margarita	4.8	4.3	0.5	4.8	3.6	1.2
27 San Clemente	7.1	5.5	1.6	7.1	4.6	2.5
28 San Juan Capistrano	11.8	8.5	3.3	11.8	6.6	5.2
29 Santa Ana	7.5	5.5	2	7.5	5.2	2.3
30 Seal Beach	8.4	6.1	2.3	8.4	4.4	4
31 Stanton	6.7	5.8	0.9	6.7	5.6	1.1
32 Tustin	6.5	4.7	1.8	6.5	6.1	0.4
33 Villa Park	9.2	5.4	3.8	9.2	4.7	4.5
34 Westminster	6.3	4.7	1.6	6.3	3.7	2.6
35 Yorba Linda	7.8	5.7	2.1	7.8	5.4	2.4
Countywide	7.9428571	6.1351429	1.8077143	7.9428571	5.5171429	2.4257143

*Diversion Results in pounds per person per day

*Note: A negative Number means that the tons per person per day was higher than the target.

ATTACHMENT 2

GARCIA RECYCLING CENTER & METALS, INC.
SCHEDULE OF RECYCLING PURCHASES
YEAR 2008

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	YEAR
	LBS.	TOTAL											
ALUM CANS	25624	26991	30001	32618	36296	53340	41730	40171	34217	34110	29484	33876	418458
PLASTIC	35057	36959	43954	47742	52612	56001	61931	59896	53351	54556	48833	44764	595656
HDPE #2	6870	7435	7583	8405	8917	10003	9960	9889	9516	9324	8628	10806	107336
GLASS	211524	206276	241913	264864	279105	292584	295633	277618	262617	237651	223837	243649	3037271
													4158721

ATTACHMENT 3

CalRecycle/Division of Recycling

Status of Convenience Zones and Recycling Centers in Zones In Order by County, City and Convenience Zone Number

Report dated 6/28/2010

CO	City	Zone	Stat	Market Name	Market Address	Zip	Cert #	Facility Name	Facility Address	Operatnl Date	Decert Date
ALA	Alameda	8 UZ	UZ	Encinal Market	3211 Encinal Ave	94501					#####
ALA	Alameda	9 UZ	UZ	Safeway Store	867 Island Dr	94502				6/10/2003	8/15/2007
ALA	Alameda	3127 SZ	SZ	Lucky Store	815 Marina Village Pkwy	94501	RC11545	TOMRA Pacific Inc	815 Marina Village	11/30/2007	
ALA	Alameda	5641 SZ	SZ	Trader Joes Market	2217 S Shore Ctr	94501	RC13548	TOMRA Pacific Inc	2217 S Shore Cent	11/30/2007	
ALA	Alameda	6004 SZ	SZ	Safeway Store	2227 S Shore Ctr	94501	RC13548	TOMRA Pacific Inc	2217 S Shore Cent		3/9/2010
ALA	Alameda	6112 UZ	UZ	Nob Hill Foods	2531 Blanding Ave	94501					
ALA	Albany	115 EZ	EZ	Safeway Store	1500 Solano Ave	94706					
ALA	Berkeley	111 EZ	EZ	Andronicos Market	1414 University Ave	94702					
ALA	Berkeley	113 UZ	UZ	Berkeley Bowl	2020 Oregon St	94703					8/14/2008
ALA	Berkeley	114 UZ	UZ	Whole Foods Market	3000 Telegraph Ave	94705					8/14/2008
ALA	Berkeley	116 EZ	EZ	Andronicos Market	1850 Solano Ave	94707					
ALA	Berkeley	117 UZ	UZ	Andronicos Market	2655 Telegraph Ave	94704					
ALA	Berkeley	118 EZ	EZ	Safeway Store	1444 Shattuck Ave	94709					
ALA	Berkeley	119 EZ	EZ	Andronicos Market	1550 Shattuck Ave	94709					
ALA	Berkeley	5216 EZ	EZ	Grocery Outlet	2001 4th St	94710					
ALA	Berkeley	5691 UZ	UZ	Star Grocery	3068 Claremont Ave	94705					
ALA	Castro Valle	44 SZ	SZ	Safeway Store	20629 Redwood Rd	94546	RC13876	NexCycle	3443 Castro Valley	8/29/2008	8/13/2008
ALA	Castro Valle	45 SZ	SZ	Lucky Store	3443 Castro Valley Blvd	94546	RC13876	NexCycle	3443 Castro Valley	8/29/2008	
ALA	Castro Valle	3913 EZ	EZ	PW Markets	4015 E Castro Valley Blvd	94552					
ALA	Castro Valle	5643 EZ	EZ	Trader Joes Market	22224 Redwood Rd	94546					
ALA	Dublin	64 SZ	SZ	99 Ranch Market	7333 Regional St	94568	RC10374	TOMRA Pacific Inc	7333 Regional St	6/1/2000	
ALA	Dublin	5140 SZ	SZ	Safeway Store	7499 Dublin Blvd	94568	RC10374	TOMRA Pacific Inc	7333 Regional St	6/1/2000	
ALA	Dublin	5158 UZ	UZ	Safeway Store	4440 Tassajata Rd	94568					
ALA	Emeryville	4446 SZ	SZ	Pak N Save Market	3889 San Pablo Ave	94608	RC9431	Alliance Metals	3426 Peralta St	11/18/1998	5/14/2003
ALA	Emeryville	5306 EZ	EZ	Trader Joes Market	5700 Christie Ave	94608					
ALA	Fremont	10 SZ	SZ	99 Ranch Market	34444 Fremont Blvd	94555	RC13824	TOMRA Pacific Inc	34101 Fremont Blv	6/28/2008	
ALA	Fremont	11 UZ	UZ	Lucky Store	35820 Fremont Blvd	94536					2/16/2007
ALA	Fremont	12 SZ	SZ	Safeway Store	39100 Argonaut Wway	94538	RC13682	NexCycle	39100 Argonaut W;	7/1/2008	
ALA	Fremont	15 SZ	SZ	Smart & Final	3171 Walnut Ave	94538	RC13369	TOMRA Pacific Inc	39200 Paseo Padre	6/22/2007	
ALA	Fremont	16 SZ	SZ	Safeway Store	3902 Washington Blvd	94538	RC0471	NexCycle	3902 Washington E	12/10/1987	
ALA	Fremont	18 SZ	SZ	Food Maxx Store	39441 Fremont Blvd	94538	RC13682	NexCycle	39100 Argonaut W;	7/1/2008	
ALA	Fremont	19 SZ	SZ	Lucky Store	40055 Mission Blvd	94538	RC13907	NexCycle	40055 Mission Blvd	8/6/2008	
ALA	Fremont	20 SZ	SZ	Des Pardes Grocers	841081 Fremont Blvd	94538	RC0471	NexCycle	3902 Washington E	12/10/1987	
ALA	Fremont	2903 SZ	SZ	Lucky Store	34101 Fremont Blvd	94555	RC13824	TOMRA Pacific Inc	34101 Fremont Blv	6/28/2008	
ALA	Fremont	3935 SZ	SZ	Raleys Supermarket	39200 Paseo Padre Pkwy	94538	RC13369	TOMRA Pacific Inc	39200 Paseo Padre	6/22/2007	
ALA	Fremont	4844 UZ	UZ	Lion Food Center	46881 Warm Springs Blvd	94538					8/20/2009

ORA	Costa Mesa	1362	SZ	Stater Bros Mkt	1175 Baker St_Ste C	92626	RC1009	ASOCC Recycling Ce 2701 Fairview Rd	1/1/1970
ORA	Costa Mesa	1363	EZ	Vons Market	2701B Harbor Blvd	92626			
ORA	Costa Mesa	1364	EZ	Marukai Market	2975 Harbor Blvd	92626			
ORA	Costa Mesa	1365	EZ	Henrys Marketplace	3030 Harbor Blvd_Ste D	92626	RC5957	NexCycle	12/17/1994
ORA	Costa Mesa	1366	SZ	Vons Market	185 E 17th St	92627	RC11667	EarthWize Recycling	7/12/2003
ORA	Costa Mesa	1367	SZ	Stater Bros Mkt	2180 Newport Blvd	92627	RC5957	NexCycle	12/17/1994
ORA	Costa Mesa	1371	SZ	Ralphs Grocery	380 E 17th St	92627	RC11925	Garcia Recycling Cer	11/1/2003
ORA	Costa Mesa	1372	SZ	Smart & Final	707 W 19th St	92627	RC11925	Garcia Recycling Cer	11/1/2003
ORA	Costa Mesa	1373	SZ	El Metate Market	817 W 19th St	92627			
ORA	Costa Mesa	4574	EZ	Irvine Ranch Market	2651 Irvine Ave	92626			
ORA	Costa Mesa	4953	EZ	Albertsons Store	2300 Harbor Blvd	92626			
ORA	Costa Mesa	5114	EZ	Mitsuwa Marketplace	665 Paularino Ave	92627	RC5957	NexCycle	12/17/1994
ORA	Costa Mesa	5314	SZ	Trader Joes Market	640 W 17th St	92627	RC11925	Garcia Recycling Cer	11/1/2003
ORA	Costa Mesa	5314	SZ	Trader Joes Market	640 W 17th St	92627	RC5957	NexCycle	12/17/1994
ORA	Costa Mesa	5981	SZ	Mothers Market & Kiti	225 E 17th St	92627			

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