ATTACHMENT 5
PLANNING COMMISSION STAFF REPORT

PLANNING COMMISSION AGENDA REPORT

MEETING DATE: SEPTEMBER 22, 2014 **ITEM NUMBER: PH-2**

SUBJECT: PLANNING APPLICATION PA-87-154; REVIEW OF PREVIOUSLY APPROVED CONDITIONAL USE PERMIT ALLOWING REPLANET RECYCLING FACILITY TO OPERATE AT 2180 NEWPORT BOULEVARD

DATE: SEPTEMBER 11, 2014

FROM: PLANNING DEPARTMENT/DEVELOPMENT SERVICES DIVISION

PRESENTATION BY: MEL LEE, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611
mel.lee@costamesaca.gov

DESCRIPTION

Review Conditional Use Permit PA-87-154 to determine the following:

- Determine whether the neighborhood recycling facility currently operated by RePlanet has operated in violation of Conditional Use Permit PA-87-154 and/or as a public nuisance such that revocation of the Conditional Use Permit is appropriate; or, in lieu of revocation, impose additional conditions.

RECOMMENDATION

Recommend that the Planning Commission direct staff to prepare a resolution consistent with its findings as follows:

- Make findings that RePlanet recycling facility has been operated in violation of the conditions of approval in Conditional Use Permit PA-87-154 and/or as a public nuisance, such that revocation of the CUP is justified; and revoke, or in lieu of revocation, amend the conditions of the CUP; or

- Conclude that there are insufficient findings that RePlanet recycling facility has been operated in violation of the conditions of approval of Conditional Use Permit PA-87-154 or as a public nuisance. The existing conditions of approval regulating the use would remain as originally approved.

BACKGROUND

On September 14, 1987, the Costa Mesa Planning Commission approved Planning Application PA-87-154 that authorized the establishment of a neighborhood recycling facility in the parking lot of Stater Bros. Market located at 2180 Newport Blvd for a period of six months, with an approved subsequent extension on September 12, 1988, subject to two-year reviews for the purpose of ensuring continued compliance with applicable conditions of approval.

On July 9, 2012, the two-year review of PA-87-154 was referred to the Planning Commission for review to address concerns raised by abutting neighbors related to noise, litter and loitering problems. The Planning Commission granted an extension to September, 2013. RePlanet, which took over operation of the facility in early 2013, requested a continuance at the September 9, 2013 Planning Commission meeting until November 12, 2013 to allow for additional time to work with the neighboring residents, Stater Bros., City staff, and Planning Commissioners to address concerns regarding the operation of the facility.

At the November 12, 2013 Planning Commission meeting, the Commission granted a six-month extension to March 10, 2014 to give RePlanet time to implement the conditions of approval, including moving the recycling vestibule further away from residential properties, the installation of a new vestibule with reverse vending capabilities, to continue to work with Stater Bros. on the installation of permanent landscaping, and to allow for additional time to work with the neighboring residents, Stater Bros., City staff, and Planning Commissioners to address concerns regarding the operation of the facility. The applicant also proposed interim landscaping in the form of planter boxes to screen the facility from Newport Boulevard. A copy of the updated conditions of approval adopted by the Commission at the November 12, 2013 meeting is provided in the evidence packet under Tab 7.

At the March 10, 2014 Planning Commission meeting, staff was directed to: (1) investigate and prepare evidence supporting revocation of RePlanet's conditional use permit; and (2) discuss with RePlanet options to relocate the facility from their current location. On July 15, 2014, City staff held a meeting with RePlanet to discuss potential relocation sites for its business, however, as of September 8, 2014, RePlanet has neither submitted a new conditional use permit application to relocate their facility to another property nor has fully complied with the conditions of PA-87-154, which include a number of operational requirements.

ANALYSIS

Staff contends that several grounds exist to revoke or amend the CUP:

1. RePlanet has operated in violation of condition of operation 5, to wit, RePlanet has not conducted its operations in a manner that will allow the

quiet enjoyment of the surrounding neighborhood by replacing its recycle bins late at night and during the early morning hours; and

2. RePlanet has operated in violation of condition of operation 8(a), to wit, by not preventing loitering at its recycling facility; and

3. RePlanet has operated in violation of condition of operation 8(g), to wit, by not preventing bagged trash from being kept outside the facility; and

4. RePlanet has operated in violation of condition of operation 10, to wit, by picking up and dropping off recycling trailers before 9:00 am and after 5:00 pm; and

5. RePlanet has operated in violation of condition of operation 18, to wit, by not adequately patrolling the area to prevent loitering; and

6. RePlanet has operated in violation of condition of operation 19, to wit, by not preventing securing the premises with appropriate security lighting and employee scrutiny of adjacent areas to prevent trash, graffiti and littering; and

7. RePlanet has operated in violation of condition of operation 20, to wit, by not maintaining its facility and all areas under its control free of litter and graffiti; and

8. RePlanet has operated in violation of condition of operation 29, to wit, by not installing a modern vestibule as shown on the conceptually approved plans; and

9. RePlanet has operated in violation of condition of operation 30, to wit, by not working with staff to the fullest extent possible to incorporate new landscaping in the parking lot.

A more detailed description of the above items follows.

RePlanet routinely replaces its recycling bins late and night and during early morning hours, preventing neighboring residents from the quiet enjoyment of their neighborhood.

Condition of approval number 5 stipulates that:

"The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute whatever security and operational measures are necessary to comply with this requirement."

Condition of approval number 10 stipulates that:

"Hours for the pick-up and drop-off of the recycling trailers shall not occur before 9:00 am or after 5:00 pm, Tuesday through Saturday only."

Neighboring residents regularly report that RePlanet's recycling bins are replaced late at night and during early morning hours:

- On December 10, 2013 at 6:00 a.m., RePlanet's recycling bins were exchanged by a large, loud truck. This violation was witnessed by Christy Turley, resident at 2183 Rural Lane, Costa Mesa and Deanne Hemmens, resident at 2177 Rural Lane, Costa Mesa.
- On February 26, 2014 at 4:50 a.m., RePlanet's recycling bins were again exchanged by a large, loud truck. This violation was witnessed by Deanne Hemmens.
- On March 30, 2014 at 2:30 a.m., RePlanet's recycling bins were again exchanged by a large, loud truck. This violation was witnessed by Deanne Hemmens.
- On May 24, 2014 at 7:15 a.m., RePlanet's recycling bins were again exchanged by a large, loud truck. This violation was witnessed by Christy and Tyler Turley, residents at 2183 Rural Lane, Costa Mesa.
- On May 31, 2014 at 10:25 p.m., RePlanet's recycling bins were again exchanged by a large, loud truck. This violation was witnessed by Deanne Hemmens.

RePlanet consistently fails to prevent loitering around its facility.

Condition of approval number 8(a) stipulates that:

"Attendants shall enforce no shopping carts, no loitering, and ensure all customers follow the rules. Attendants shall refuse service to anyone who disobeys."

Condition of approval number 18 stipulates that:

"The business operator shall adequately patrol the area over which he/she has control in an effort to prevent the loitering of persons about the premises during business hours."

Neighboring residents regularly report that RePlanet fails to prevent loitering at its facility:

- On December 10, 2013, RePlanet failed to prevent three individuals from loitering around its facility. One of these individuals approached neighboring resident Tyler Turley and asked if he had any drugs for sale. This violation was observed by Tyler Turley, resident at 2183 Rural Lane, Costa Mesa.

- On January 29, 2014, RePlanet again failed to prevent loitering around its facility, as at least two individuals (transients) were observed loitering at the facility and interacting with RePlanet employees. This violation was observed by Deanne Hemmens, 2177 Rural Lane, Costa Mesa.
- On February 5, 2014, RePlanet again failed to prevent loitering around its facility, as transients were observed loitering at the facility. This violation was observed by Deanne Hemmens.
- On February 20, 2014, RePlanet again failed to prevent loitering around its facility as transients were observed loitering at the facility. This violation was observed by Deanne Hemmens.

RePlanet has allowed trash to remain outside its facility.

Condition of approval number 8(g) stipulates:

"Any bagged product or trash shall not be kept outside of the facility."

Condition of approval number 19 stipulates:

"The business operator shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which he/she has control, to prevent trash, graffiti and littering."

Condition of approval number 20 stipulates:

"The business operator shall maintain free of litter and graffiti all areas of the premises under his/her has control."

On February 8, 2014, RePlanet allowed stacks of cans to remain outside its facility as witnessed by Deanne Hemmens.

RePlanet has failed to install a modern vestibule and required landscaping.

Condition of approval number 29 stipulates:

"The operator shall install the modern vestibule as shown on the conceptually approved plans."

Condition of approval number 30 stipulates:

"To the fullest extent possible, the applicant shall continue to work with staff to incorporate new landscaping in the parking lot. A landscape planter consisting of ground cover, irrigation, and a minimum of two trees shall be installed to the satisfaction of the Development Services Director. Alternatives to the landscape planter that would achieve a similar effect to beautify or screen the recycling facility may be approved by the Development Services Director."

As of September 5, 2014, neither the vestibule nor parking lot landscaping has been installed at RePlanet's recycling facility.

Condition of approval number 31 stipulates:

"The applicant shall provide planter boxes with appropriate landscape materials as shown on the approved plans."

As of September 5, 2014, no planter boxes with appropriate landscape materials were observed in violation of condition of approval number 31.

Public nuisance.

Additionally, Section 13-29(o)(1)(a) provides that the Planning Commission may require the modification or revocation of a conditional use permit when the use is being operated as a public nuisance, as defined in Civil Code Section 3479 and 3480.

A nuisance is "[a]nything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property . . . ." A public nuisance "is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal." Civ. Code §§ 3479, 3480.

Conditions such as loud, late night recycle-bin replacement, excessive loitering and trash storage constitute public nuisances, as they are the type of conditions that are likely to affect a considerable number of persons.

In addition, RePlanet's operation in violation of the conditions of approval listed above also violate CMMC 20-12(ii) that declares any use in violation of conditions of approval a public nuisance.

PUBLIC NOTICE

Code-required public notice was provided via the following methods:

1. Publication of a display ad in the local newspaper (Daily Pilot).
2. Notice of the public hearing was mailed to the property owner and was posted at the site.

ENVIRONMENTAL DETERMINATION

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been

found to be exempt from CEQA under Section 15321 for Enforcement Actions by Regulatory Agencies.

LEGAL REVIEW

The City Attorney has reviewed this report and its attachments and has been approved as to the form by the City Attorney's Office.

ALTERNATIVES

The Planning Commission may take the following actions:

- Make findings that RePlanet has been operated in violation of the conditions of approval in Conditional Use Permit PA-87-154 and/or as a public nuisance, such that revocation of the CUP is justified; and revoke, or in lieu of revocation, amend the conditions of the CUP; or

- Conclude that there are insufficient findings that RePlanet has been operated in violation of the conditions of approval of Conditional Use Permit PA-87-154 or as a public nuisance. The existing conditions of approval regulating RePlanet would remain as originally approved.

CONCLUSION

In sum, the following grounds for revocation are being presented to the Planning Commission:

- RePlanet has consistently operated in violation of condition of operation numbers 5 and 10 by replacing its recycle bins late at night and during the early morning hours on at least 5 separate occasions.

- RePlanet has consistently operated in violation of condition of operation numbers 8(a) and 18 by allowing loitering at its facility on at least 4 separate occasions.

- RePlanet stored trash outside its facility in violation of condition of operation numbers 8(g), 19 and 20, and failed to install the required vestibule and landscaping in violation of condition of operation numbers 29 and 30.

- RePlanet failed to provide planter boxes with appropriate landscape materials in violation of condition of operation number 31.

MEL LEE, AICP
Senior Planner

CLAIRE FLYNN, AICP
Assistant Director of Development Services

Attachments:
1. Draft resolutions revoking or amending PA-87-154
2. Evidence Packet (Under Separate Cover)

Distribution:
Director of Economic & Development Services/Deputy CEO
Assistant Development Services Director
Senior Deputy City Attorney
Public Services Director
City Engineer
Transportation Services Manager
Fire Protection Analyst
Staff (6)
File (2)

RePlanet, LLC
c/o Brian Jackson
491 Kettering Drive,
Ontario, CA 91761

RePlanet, LLC
c/o Doug Sanchez
491 Kettering Drive,
Ontario, CA 91761

Costa Mesa Grocery Investors. LLC
11456 Olive Boulevard, Suite 210
Saint Louis, MO 63141

Stater Bros. Markets
c/o Mark Avalos, Grocery Supervisor - Retail
301 S. Tippecanoe Avenue
San Bernardino, CA 92408

Stater Bros. Markets
c/o Karen Molina-Stahl, Property Manager
301 S. Tippecanoe Avenue
San Bernardino, CA 92408

Stater Bros. Markets
c/o Bill Wall, Store Manager
2180 Newport Boulevard

Costa Mesa, CA 92627

DeAnne Hemmens
2177 Rural Lane
Costa Mesa, CA 92627

Christy Turley
2183 Rural Lane
Costa Mesa, CA 92627

ATTACHMENT 1
DRAFT RESOLUTIONS

RESOLUTION NO. PC-14-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA REVOKING CONDITIONAL USE PERMIT PA-87-154 FOR REPLANET RECYCLING FACILITY TO OPERATE AT 2180 NEWPORT BLVD

WHEREAS, on September 14, 1987, the Costa Mesa Planning Commission approved Planning Application PA-87-154 that authorized the establishment of a neighborhood recycling facility in the parking lot of Stater Bros. Market located at 2180 Newport Blvd; and

WHEREAS, the approval of Planning Application PA-87-154 authorized the operation of a neighborhood recycling facility in the parking lot of Stater Bros. Market located at 2180 Newport Blvd for a period of six months, with an approved subsequent extension on September 12, 1988, subject to two-year reviews for the purpose of ensuring continued compliance with applicable conditions of approval; and

WHEREAS, on July 9, 2012, the two-year review of PA-87-154 was referred to the Planning Commission for review to address concerns raised by abutting neighbors related to noise, litter and loitering problems. The Planning Commission granted an extension to September, 2013; and

WHEREAS, RePlanet took over operation of the facility in early 2013. At the September 9, 2013 Planning Commission meeting, RePlanet requested a continuance to November 12, 2013 to allow for additional time to work with the neighboring residents, Stater Bros., city staff, and the Planning Commissioners to address concerns regarding the operation of the facility; and

WHEREAS, at the November 12, 2013 Planning Commission Meeting, the Commission granted a six-month extension to March 10, 2014 to give RePlanet time to implement the conditions of approval, including relocation of the recycling vestibule, the installation of a new vestibule with reverse vending capabilities, and to continue to work with Stater Bros. on the installation of permanent landscaping; and to allow for additional time to work with the neighboring residents, Stater Bros., City staff, and the Planning Commissioners to address concerns regarding the operation of the facility; and

WHEREAS, at the March 10, 2014 Planning Commission meeting, staff was directed to (1) investigate and prepare evidence supporting revocation of RePlanet's conditional use permit, and (2) discuss with RePlanet other options for their business location; and

WHEREAS, on July 15, 2014, City staff held a meeting with RePlanet to discuss potential relocation sites for its business; and

WHEREAS, on September 22, 2014, a duly noticed public hearing on the revocation of PA-87-154 was held before the Planning Commission, which included a staff report, presentation of evidence by staff wherein the applicant and applicant's counsel were allowed to cross-examine members of the City staff and provide oral arguments to the Planning Commission. In addition, public comments both in favor of and opposed to revocation were received by the Planning Commission; and

WHEREAS, based upon its review and due consideration of all materials presented to it, the Planning Commission makes the following findings regarding the revocation of PA-87-154.

NOW THEREFORE, the Planning Commission of the City of Costa Mesa finds and resolves as follows:

A. The Costa Mesa Development Services Department has identified the following Conditions of Approval that have been violated by RePlanet during the period from December 2013 through September 2014, inclusive:

- Condition of approval number 5 provides that "The business shall be conducted at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute whatever security and operational measures are necessary to comply with this requirement."

- Condition of approval number 8(a) provides that the "attendants shall enforce no shopping carts, no loitering, and ensure all customers follow the rules. Attendants shall refuse service to anyone who disobeys."

- Condition of approval number 8(g) provides that "any bagged product or trash shall not be kept outside of the facility."

- Condition of approval number 10 provides that "Hours for the pick-up and drop-off of the recycling trailers shall not occur before 9:00 am or after 5:00 pm, Tuesday through Saturday only."

- Condition of approval number 18 provides that "the business operator shall adequately patrol the area over which he/she has control in an effort to prevent the loitering of persons about the premises during business hours."

- Condition of approval number 19 provides that "the business operator shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which he/she has control to prevent trash, graffiti and littering.

- Condition of approval number 20 provides that "the business operator shall maintain free of litter and graffiti all areas of the premises under his/her control."

- Condition of approval number 29 provides that "the operator shall install the modern vestibule as shown on the conceptually approved plans."

- Condition of approval number 30 provides that "to the fullest extent possible, the applicant shall continue to work with staff to incorporate new landscaping in the parking lot. A landscape planter consisting of ground cover, irrigation, and a minimum of two trees shall be installed to the satisfaction of the Development Services Director. Alternatives to the landscape planter that would achieve a similar effect to beautify or screen the recycling facility may be approved by the Development Services Director."

- Condition of approval number 31 provides that "the applicant shall provide planter boxes with appropriate landscape materials as shown on the approved plans."

B. RePlanet has operated in violation of these conditions, to wit:

1. On December 10, 2013, RePlanet removed its recycling bins and replaced them with empty ones at 6:00 a.m. using a large truck, in violation of conditions of approval number 5 and number 10. These violations were observed by Christy Turley, 2183 Rural Lane, Costa Mesa and Deanne Hemmens, 2177 Rural Lane, Costa Mesa.

2. Also on December 10, 2013, RePlanet failed to prevent three individuals from loitering around its facility in violation of conditions of approval number 8(a) and number 18. One of them approached neighboring resident Tyler Turley and asked if he had any drugs for sale. These violations were observed by Tyler Turley, 2183 Rural Lane, Costa Mesa.

3. On January 29, 2014, RePlanet again failed to prevent loitering around its facility in violation of conditions of approval number 8(a) and number 18. These violations were observed by Deanne Hemmens.

4. On February 5, 2014, RePlanet again failed to prevent loitering around its facility in violation of conditions of approval number 8(a) and number 18. These violations were observed by Deanne Hemmens.

5. On February 8, 2014, RePlanet allowed stacks of cans outside its facility in violation of conditions of approval number 8(b), number 19 and number 20. These violations were observed by Deanne Hemmens.

6. On February 20, 2014, RePlanet again failed to prevent loitering around its facility in violation of conditions of approval number 8(a) and number 18. These violations were observed by Deanne Hemmens.

7. On February 26, 2014, RePlanet again removed and replaced its recycling bins at 4:50 a.m. using a large truck, in violation of conditions of approval number 5 and number 10. These violations were observed by Deanne Hemmens.

8. On March 30, 2014, RePlanet again removed and replaced its recycling bins at 2:30 a.m. using a large truck, in violation of conditions of approval number 5 and number 10. These violations were observed by Deanne Hemmens.

9. On May 24, 2014, RePlanet again removed and replaced its recycling bins at 7:15 a.m. using a large truck, in violation of conditions of approval number 5 and number 10. These violations were observed by Christy and Tyler Turley.

10. On May 31, 2014, RePlanet again removed and replaced its recycling bins at 10:25 p.m. using a large truck, in violation of conditions of approval number 5 and number 10. These violations were observed by Deanne Hemmens.

11. As of September 5, 2014, no vestibule or landscaping has been installed at RePlanet's facility in violation of conditions of approval number 29 and number 30.

12. As of September 5, 2014, no planter boxes with appropriate landscape materials were installed in violation of condition of approval number 31.

C. The property has been operated as a public nuisance, pursuant to Section 13-29 of the Costa Mesa Municipal Code and Sections 3479 and 3480 of the Civil Code. Namely, the following conditions are found to be injurious to health, indecent or offensive to the senses, or constitute obstructions to the free use of property, so as to interfere with the comfortable enjoyment of life or property:

   a. Consistent late night and early morning trailer removal and replacement adjacent to a residential neighborhood.

   b. Storage of trash in plain sight.

   c. Enabling the site to become a popular loitering spot for the homeless and drug users.

D. Under the totality of the circumstances above, there is substantial evidence that RePlanet has been operated by its management in disregard for the health, safety and general welfare of the neighborhood, its patrons and the people of the City of Costa Mesa, as well as in violation of law.

E. The current and past operation of RePlanet constitutes a public nuisance and is detrimental to the public health or safety so as to constitute a public nuisance.

F. This revocation hearing of Conditional Use Permit PA-87-154 is deemed Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321 (Class 21), Enforcement Actions of Regulatory Agencies.

G. Chapter IX, Article 12, Transportation Demand Management, of Title 13 of the Costa Mesa Municipal Code does not apply to this revocation hearing.

The Secretary of the Commission shall attest to the adoption of this resolution and shall forward a copy to the applicant, and any person requesting the same.

BE IT RESOLVED, therefore, that based on the evidence in the record and the findings contained in this resolution, the Planning Commission hereby revokes Conditional Use Permit PA-87-154 with respect to the property described above.

REVOCATION OF CONDITIONAL USE PERMIT PA-87-154 PASSED AND APPROVED at the Planning Commission meeting of September 22, 2014, by the following vote:

PASSED AND ADOPTED this 22nd day of September, 2014.

_____

JIM FITZPATRICK, Chair,
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on September 22, 2014, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

RESOLUTION NO. PC-14-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA IMPOSING ADDITIONAL CONDITIONS ON, IN LIEU OF REVOKING, CONDITIONAL USE PERMIT PA-87-154 FOR REPLANET RECYCLING FACILITY TO OPERATE AT 2180 NEWPORT BLVD

WHEREAS, on September 14, 1987, the Costa Mesa Planning Commission approved Planning Application PA-87-154 that authorized the establishment of a neighborhood recycling facility in the parking lot of Stater Bros. Market located at 2180 Newport Blvd; and

WHEREAS, the approval of Planning Application PA-87-154 authorized the operation of a neighborhood recycling facility in the parking lot of Stater Bros. Market located at 2180 Newport Blvd for a period of six months, with an approved subsequent extension on September 12, 1988, subject to two-year reviews for the purpose of ensuring continued compliance with applicable conditions of approval; and

WHEREAS, on July 9, 2012, the two-year review of PA-87-154 was referred to the Planning Commission for review to address concerns raised by abutting neighbors related to noise, litter and loitering problems. The Planning Commission granted an extension to September, 2013; and

WHEREAS, RePlanet took over operation of the facility in early 2013. At the September 9, 2013 Planning Commission meeting, RePlanet requested a continuance to November 12, 2013 to allow for additional time to work with the neighboring residents, Stater Bros., City staff, and the Planning Commissioners to address concerns regarding the operation of the facility; and

WHEREAS, at the November 12, 2013 Planning Commission Meeting, the Commission granted a six-month extension to March 10, 2014 to give RePlanet time to implement the conditions of approval, including relocation of the recycling vestibule, the installation of a new vestibule with reverse vending capabilities, and to continue to work with Stater Bros. on the installation of permanent landscaping; and to allow for additional time to work with the neighboring residents, Stater Bros., City staff, and the Planning Commissioners to address concerns regarding the operation of the facility; and

WHEREAS, at the March 10, 2014 Planning Commission meeting, staff was directed to (1) investigate and prepare evidence supporting revocation of RePlanet's conditional use permit, and (2) discuss with RePlanet other options for their business location; and

WHEREAS, on July 15, 2014, City staff held a meeting with RePlanet to discuss potential relocation sites for its business; and

WHEREAS, on September 22, 2014, a duly noticed public hearing on the revocation of CUP PA-87-154 was held before the Planning Commission, which included a staff report, presentation of evidence by staff wherein the applicant and applicant's counsel were allowed to cross-examine members of the City staff and provide oral arguments to the Planning Commission. In addition, public comments both in favor of and opposed to revocation were received by the Planning Commission; and

WHEREAS, based upon its review and due consideration of all materials presented to it, the Planning Commission makes the following findings regarding the revocation of PA-87-154.

NOW THEREFORE, the Planning Commission of the City of Costa Mesa finds and resolves as follows:

C. The Costa Mesa Development Services Department has identified the following Conditions of Approval that have been violated by RePlanet during the period from December 2013 through September 2014, inclusive:

- Condition of approval number 5 provides that "The business shall be conducted at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute whatever security and operational measures are necessary to comply with this requirement."

- Condition of approval number 8(a) provides that the "attendants shall enforce no shopping carts, no loitering, and ensure all customers follow the rules. Attendants shall refuse service to anyone who disobeys."

- Condition of approval number 8(g) provides that "any bagged product or trash shall not be kept outside of the facility."

- Condition of approval number 10 provides that "Hours for the pick-up and drop-off of the recycling trailers shall not occur before 9:00 am or after 5:00 pm, Tuesday through Saturday only."

- Condition of approval number 18 provides that "the business operator shall adequately patrol the area over which he/she has control in an effort to prevent the loitering of persons about the premises during business hours."

- Condition of approval number 19 provides that "the business operator shall secure the premises with appropriate security lighting and employee

scrutiny of adjacent areas under which he/she has control to prevent trash, graffiti and littering.

- Condition of approval number 20 provides that "the business operator shall maintain free of litter and graffiti all areas of the premises under his/her control."

- Condition of approval number 29 provides that "the operator shall install the modern vestibule as shown on the conceptually approved plans."

- Condition of approval number 30 provides that "to the fullest extent possible, the applicant shall continue to work with staff to incorporate new landscaping in the parking lot. A landscape planter consisting of ground cover, irrigation, and a minimum of two trees shall be installed to the satisfaction of the Development Services Director. Alternatives to the landscape planter that would achieve a similar effect to beautify or screen the recycling facility may be approved by the Development Services Director."

- Condition of approval number 31 provides that "the applicant shall provide planter boxes with appropriate landscape materials as shown on the approved plans."

D. RePlanet has operated in violation of these conditions, to wit:

1. On December 10, 2013, RePlanet removed its recycling bins and replaced them with empty ones at 6:00 a.m using a large truck, in violation of conditions of approval number 5 and number 10. This violation was observed by Christy Turley, 2183 Rural Lane, Costa Mesa and Deanne Hemmens, 2177 Rural Lane, Costa Mesa.

2. Also on December 10, 2013, RePlanet failed to prevent three individuals from loitering around its facility in violation of conditions of approval number 8(a) and number 18. One of them approached neighboring resident Tyler Turley and asked if he had any drugs for sale. This violation was observed by Tyler Turley, 2183 Rural Lane, Costa Mesa.

3. On January 29, 2014, RePlanet again failed to prevent loitering around its facility in violation of conditions of approval number 8(a) and number 18. This violation was observed by Deanne Hemmens.

4. On February 5, 2014, RePlanet again failed to prevent loitering around its facility in violation of conditions of approval number 8(a) and number 18. These violations were observed by Deanne Hemmens.

5. On February 8, 2014, RePlanet allowed stacks of cans outside its facility in violation of conditions of approval number 8(b), number 19 and number 20. These violations were observed by Deanne Hemmens.

6. On February 20, 2014, RePlanet again failed to prevent loitering around its facility in violation of conditions of approval number 8(a) and number 18. These violations were observed by Deanne Hemmens.

7. On February 26, 2014, RePlanet again removed and replaced its recycling bins at 4:50 a.m. using a large truck, in violation of conditions of approval number 5 and number 10. These violations were observed by Deanne Hemmens.

8. On March 30, 2014, RePlanet again removed and replaced its recycling bins at 2:30 a.m. using a large truck, in violation of conditions of approval number 5 and number 10. This violation was observed by Deanne Hemmens.

9. On May 24, 2014, RePlanet again removed and replaced its recycling bins at 7:15 a.m. using a large truck, in violation of conditions of approval number 5 and number 10. This violation was observed by Christy and Tyler Turley.

10. On May 31, 2014, RePlanet again removed and replaced its recycling bins at 10:25 p.m. using a large truck, in violation of conditions of approval number 5 and number 10. This violation was observed by Deanne Hemmens.

11. As of September 5, 2014, no vestibule or landscaping has been installed at RePlanet's facility in violation of conditions of approval number 29 and number 30.

12. As of September 5, 2014, no planter boxes with appropriate landscape materials were installed in violation of condition of approval number 31.

C. The property has been operated as a public nuisance, pursuant to Section 13-29 of the Costa Mesa Municipal Code and Sections 3479 and 3480 of the Civil Code. Namely, the following conditions are found to be injurious to health, indecent or offensive to the senses, or constitute obstructions to the free use of property, so as to interfere with the comfortable enjoyment of life or property:

a. Consistent late night and early morning trailer removal and replacement adjacent to a residential neighborhood.

b. Storage of trash in plain sight.

c. Enabling the site to become a popular loitering spot for the homeless and drug users.

H. Under the totality of the circumstances above, there is substantial evidence that RePlanet has been operated by its management in disregard for the health, safety and general welfare of the neighborhood, its patrons and the people of the City of Costa Mesa, as well as in violation of law.

I. The current and past operation of RePlanet constitutes a public nuisance and is detrimental to the public health or safety so as to constitute a public nuisance.

J. This revocation hearing of Conditional Use Permit PA-87-154 is deemed Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321 (Class 21), Enforcement Actions of Regulatory Agencies.

K. Chapter IX, Article 12, Transportation Demand Management, of Title 13 of the Costa Mesa Municipal Code does not apply to this revocation hearing.

The Secretary of the Commission shall attest to the adoption of this resolution and shall forward a copy to the applicant, and any person requesting the same.

BE IT RESOLVED, therefore, that based on the evidence in the record and the findings contained in this resolution, the Planning Commission also hereby finds that revocation of CUP PA-87-154 for the operation of the RePlanet Recycling Center is justified and hereby resolves to impose additional conditions on PA-87-154 as follows, in lieu of revocation at this time:

[List desired additional conditions]

PASSED AND ADOPTED this 22nd day of September, 2014.

JIM FITZPATRICK, Chair,
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on September 22, 2014, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

_____
Secretary, Costa Mesa
Planning Commission

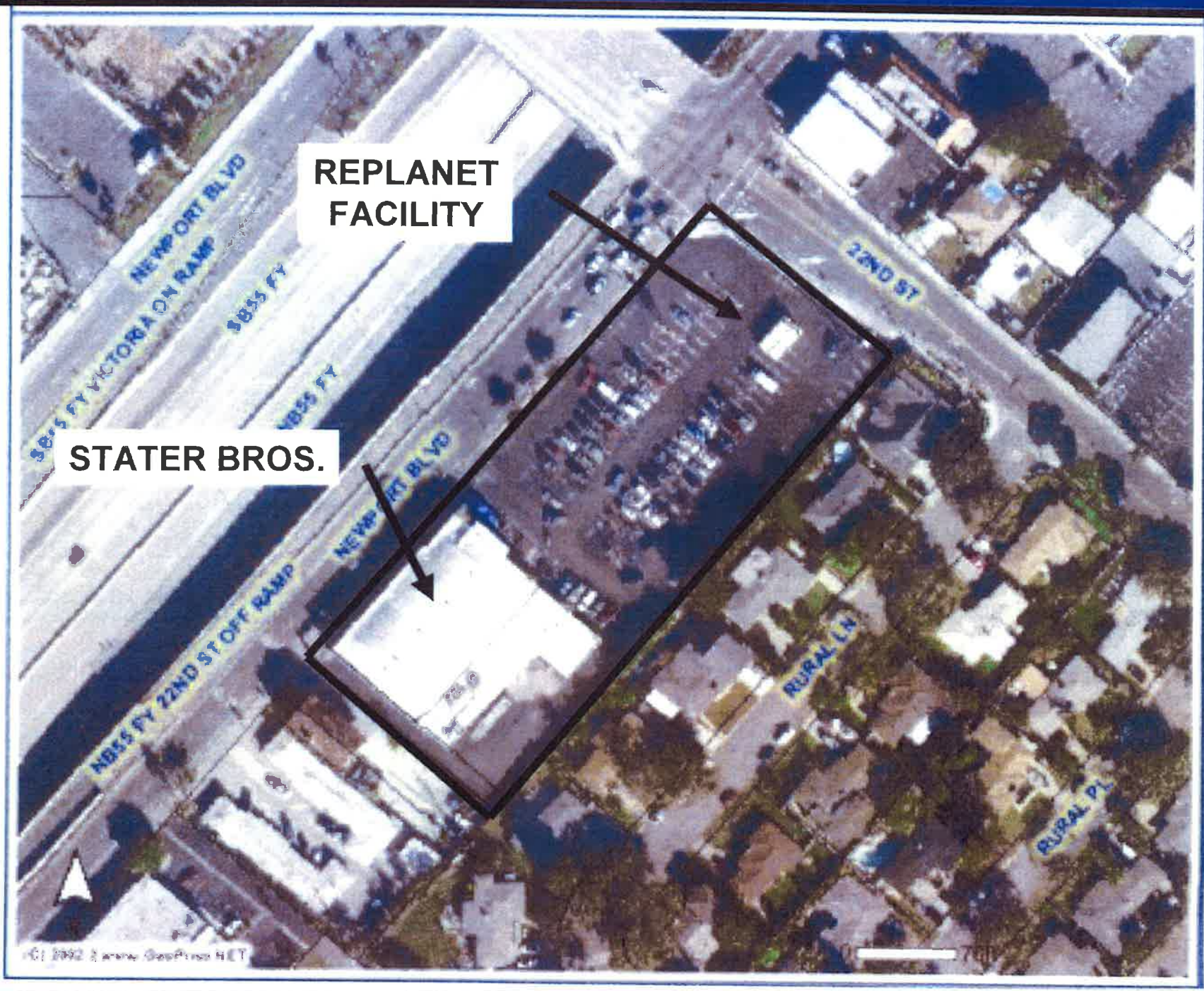
ATTACHMENT 2
EVIDENCE PACKET
(UNDER SEPARATE COVER)

REPLANET RECYCLING
EVIDENCE PACKET
PLANNING APPLICATION PA-87-154
JANUARY 20, 2015
CITY COUNCIL MEETING

TABLE OF CONTENTS

1. Aerial Photograph
2. Planning Commission Agenda Report Dated October 31, 2013
3. Correspondence from RePlanet dated October 29, 2013
4. Photographs and landscaping plans submitted by RePlanet
5. Photographs of RePlanet taken by Senior Planner Mel Lee
6. D. Hemmens Notes submitted at the November 12, 2013 Planning Commission Meeting
7. CUP Renewal – PA-87-154
8. Planning commission Agenda Report dated February 27, 2014
9. Email from Brian Jackson at RePlanet dated March 6, 2014
10. Photographs taken by neighbors
11. Photographs taken by City Officials
12. Notice of Decision – Planning Commission action dated March 13, 2014
13. Planning Commission Agenda Report dated September 9, 2014
14. Email complaints from neighbors
15. Photograph taken by Senior Planner Mel Lee on July 14, 2014
16. Photographs taken by neighbors
17. Photograph taken by Senior Planner Mel Lee on December 31, 2014

Tab 1


REPLANET
FACILITY
STATER BROS.
NEWPORT BLVD
SB55 FY VICTORIA ON RAMP
SB55 FY
NB55 FY
NEWPORT BLVD
NB55 FY 22ND ST OFF RAMP
22ND ST
RURAL LN
RURAL PL

Tab 2

PLANNING COMMISSION AGENDA REPORT

MEETING DATE: NOVEMBER 12, 2013 **ITEM NUMBER: PH-2**

SUBJECT: **REVIEW OF TWO-YEAR EXTENSION FOR PLANNING APPLICATION PA-87-154 CONDITIONAL USE PERMIT FOR A NEIGHBORHOOD RECYCLING FACILITY (REPLANET, FORMERLY EARTHWIZE RECYCLING) 2180 NEWPORT BOULEVARD**

DATE: **OCTOBER 31, 2013**

FROM: **PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT**

PRESENTATION BY: **MEL LEE, SENIOR PLANNER**

FOR FURTHER INFORMATION CONTACT: **MEL LEE, AICP (714) 754-5611**
mel.lee@costamesaca.gov

PROJECT DESCRIPTION

Review of conditional use permit for an existing recycling center (RePlanet, formerly EarthWize Recycling) within the Stater Bros. Market parking lot for possible modifications to the recycling facility including, but not limited to, the following:

1. Modification to the location of the recycling facility within the Stater Bros. parking lot;
2. Changes to the conditions of approval for the operation of the recycling facility; or
3. Possible revocation of the conditional use permit for the recycling facility.

APPLICANT

The applicant is Permit Advisors, representing RePlanet, LLC, the operator of the recycling facility. The owner of the property is Costa Mesa Grocery Investors, LLC.

RECOMMENDATION

Approve two-year extension by adoption of Planning Commission resolution, subject to updated conditions of approval.

BACKGROUND

Project Site/Environs

The site is located on the southeast corner of Newport Boulevard and 22nd Street, is zoned C1 (Neighborhood Commercial), and has a General Plan Designation of Commercial Residential. The property contains Stater Bros. Market, the neighborhood recycling facility structure, and surface parking.

History

On September 14, 1987, Planning Commission approved Conditional Use Permit PA-87-154 allowing the establishment of a neighborhood recycling facility (originally Reynolds Aluminum) within the parking lot of the Stater Bros. Market. On September 12, 1988, Planning Commission approved a renewal of the permit subject to subsequent two-year reviews by the Department Director to ensure compliance with the conditions of approval.

Conditional use permits typically run with the land. As noted earlier, however, a condition of approval required reevaluation of PA-87-154 every two years by the Department Director; as a result, the past reevaluations have been done at staff level. The use permit was allowed to be extended if all conditions of approval have been satisfied, no complaints have been received, and the site inspection reveals compliance with applicable ordinance requirements.

The regular two-year review for the extension of PA-87-154 was brought forward to the Planning Commission on July 9, 2012 for consideration by the Planning Commission of the continued operations of this recycling facility and to address the concerns raised by abutting neighbors of the facility related to noise, litter, and loitering problems. At the time of the review, the facility was being operated by EarthWize Recycling.

During the meeting, the representative for EarthWize indicated a willingness to modify the day-to-day operations to minimize disruptions to the abutting residential neighbors, to provide site upgrades in terms of a new vestibule structure and landscape planters within the existing parking lot, and provide a state-of-the-art "grey water" collection system. However, because the majority of the requested site upgrades require input and/or approval from the property owner, i.e., Stater Bros. Market, the Commission directed staff to work with EarthWize, Stater Bros. Market, and the residents to address these issues.

RePlanet took over operation of the facility in early 2013. Staff met with RePlanet representatives on February 14, 2013 and provided them with the conditions of approval for PA-87-154, and advised them that the CUP would be coming up for review by the Planning Commission in September of this year.

The review of the CUP was noticed for the September 9, 2013 Planning Commission meeting; however, the applicant requested a continuance to the November 12, 2013 meeting to allow additional time to work with the neighbors, Stater Bros., staff, and

Commissioners to address the operation of the facility. Public hearing notices were re-sent for this meeting.

ANALYSIS

Exhibit B contains updated conditions of approval for the minor conditional use permit. The new conditions are intended to address the issues that have been raised by the community, staff, and the Commissioners:

Relocation of Vestibule/Trailer

The applicant proposes to relocate the existing structure closer to Newport Boulevard to further minimize impacts to the residential neighbors. Additionally, after meeting with the neighbors, the applicant implemented the following operational changes outlined in the applicant's letter dated October 29, 2013 (attached) which have also been incorporated as conditions of approval:

a. Attendants shall enforce no shopping carts, no loitering, and ensure all customers follow the rules. Attendants shall refuse service to anyone who disobeys.
b. Attendants shall communicate with Costa Mesa Police to help with the homeless that may loiter around the area when the facility is closed.
c. Attendants shall use a "Refuse Service Tracking Log" to track all misbehaving customers that are refused service.
d. Hours of operation shall be 9:00 am to 4:30 pm, Monday, Wednesday, Thursday, Friday, and Saturday only. Employees shall work 8:30 am to 5:00 pm; 8:30 am to 9:00 am; and 4:30 pm to 5:00 pm exclusively for cleaning the site, parking lot and sidewalk areas.
e. The facility shall be double staffed during all hours of operation.
f. Glass shall not be crushed at the facility.
g. Any bagged product or trash shall not be kept outside of the facility.
h. Attendants shall place 8 spill buckets at the site. Attendants shall ensure all customers are pouring their liquids into the spill buckets and not on the parking lot.
i. Attendants shall pressure wash the site weekly (Tuesdays).
j. Zone supervisor and Area Manager shall visit the site twice weekly. They shall check in with the Stater Bros. Store Director and other tenants in the center and review all happenings. Zone Supervisor and Area Manager shall send an email report to Brian Jackson and Doug Sanchez after these visits.

Additionally, staff has incorporated a condition (number 9) requiring customers to queue on the westerly (Newport Blvd.) side of the structure only.

The remaining conditions of approval remain unchanged from the conditions approved for the prior EarthWize operation.

New Landscape Planter along Newport Boulevard

The applicant continues to try to work with Stater Bros. to address the long-term site improvements that involve the installation of site landscaping. However, the prior operator (EarthWize) was not able to obtain concurrence from Stater Bros. Market regarding any modifications to increasing the block wall height.

A condition of approval requiring permanent landscaping along Newport Boulevard to the satisfaction of the Development Services Director remains with this extension. Box planters will also be placed around the structure to soften its appearance from the street.

ENVIRONMENTAL DETERMINATION

The review is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

GENERAL PLAN CONFORMITY

Because the use is required to be operated in compliance with the conditions of approval for PA-87-154, the use is compatible with surrounding properties as specified in Objective LU-1F.2 of the General Plan Land Use Element.

ALTERNATIVES

The Commission has the following alternatives:

1. Approve the modifications, subject to the recommended conditions of approval.
2. Revoke the use permit. Staff is not recommending this option based on the willingness of the operator to work with staff and the neighbors to address the issues with this location; as a result, a resolution to revoke is not attached to this report (the resolution would need to be reviewed by the City Attorney's Office and brought back to the next Planning Commission meeting).

CONCLUSION

RePlanet has concurred with the recommended updates to the conditions of approval to address day-to-day operations and the proposed vestibule structure. The approval period would be valid through September 12, 2015.

MEL LEE, AICP
Senior Planner

GARY ARMSTRONG, AICP
Economic and Development Services Director

Attachments:
1. Draft Planning Commission Resolution
2. Description Letter
3. Location Map and Photos
4. Plans

cc: Director of Economic & Development / Deputy CEO
Sr. Deputy City Attorney

Public Services Director
City Engineer
Transportation Services Manager
Fire Protection Analyst
Staff (6)
File (2)

Permit Advisors
Attn: Roy Hasson
8913 W. Olympic Boulevard, Suite 102
Beverly Hills, CA 90211

RePlanet, LLC
Attn: Brian Jackson
2611 E. Lindsay Privado Road
Ontario, CA 91761

Costa Mesa Grocery Investors. LLC
11456 Olive Boulevard, Suite 210
Saint Louis, MO 63141

Stater Bros. Markets
301 S. Tippecanoe Avenue
San Bernardino, CA 92408

DeAnne Hemmens
2177 Rural Lane
Costa Mesa, CA 92627

Christy Turley
2183 Rural Lane
Costa Mesa, CA 92627

Tab 3

It Pays to Recycle.

Received
City of Costa Mesa
Development Services Department

OCT 2 9 2013

Mel Lee, AICP
Senior Planner
City of Costa Mesa
77 Fair Drive, Costa Mesa, 92628
Ph. (714) 754-5611 Fax. (714) 754-4856
mel.lee@costamesaca.gov

Re: Operational changes implemented by rePlanet recycling located at Stater Bros #25, 2180 Newport Blvd, Costa Mesa, CA 92627 as of 9/5/13

The following operations changes were been put into effect immediately following a reach out meeting with representatives of rePlanet LLC and residents of Rural Lane Costa Mesa on Wednesday 4th September 2013. Present at the meeting which took place at 11 am at the home of the Hemmens family were:

Deanne Hemmens, 2177 Rural Lane, Costa Mesa, CA 92627
Christy Turley, 2183 Rural Lane, Costa Mesa, CA 92627
Brian Jackson, Business Development Manager, rePlanet LLC
Doug Sanchez, Operations Manager, rePlanet LLC
Joe Perez, Vice President of Business, rePlanet LLC

The objective of the meeting was to listen to the concerns of the residents and examine how changes in rePlanet's operations schedule could reduce or eradicate problems which residents perceived to be being caused by the recycling facility.

Recycling Specialists (attendants)

- Attendants are to enforce no shopping carts and no loitering policies and ensure all customers follow the rules. We will refuse service to anyone who disobeys.
- Communicate with Costa Mesa PD (contact info below) to help with the homeless that may loiter around the area when we are closed.
- Are to use the attached "Refuse Service Tracking Log" to track all misbehaving customers we refuse service too.

Hours of Operation

- Will change to 9:00am - 4:30pm - Mon, Weds, Thurs, Fri, Sat.
- Employees will work 8:30am - 5:00pm. 8:30am-9:00am
- 4:30pm-5:00pm is exclusively for cleaning the site area, parking lot and sidewalk area.

Additional Changes

- Double staff the site all Hours of Operation.
- DO NOT crush glass.
- DO NOT place any bagged product or trash outside of housing unit.
- Place 8 spill buckets at site - ensure ALL customers are pouring their liquids into the spill buckets and not on the parking lot.
  Site is pressure washed weekly (Tuesdays).

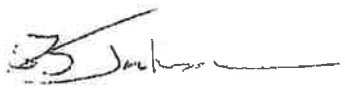
Site monitoring

- Zone Supervisor and Area Manager Will visit the site twice weekly...they will check in with Stater Bros store director, other tenants in the center and review all happenings.
- Zone Supervisor and Area Manger will send email report to Brian Jackson, Doug Sanchez after these visits.

Relocation

- rePlanet has asked the city relocate the facility to the parking bays under the Stater Bros sign nearer to Newport Blvd which allow the noise to be absorbed by Newport Blvd. traffic
- rePlanet has proposed screening the recycling center from Newport Blvd with planters.

Yours Sincerely,



Brian Jackson
Business Development Manager
rePlanet LLC
Tel: (851)515-2705
Email:brian.jackson@replanet.com

Tab 4

PHOTO OF MISSION VIEJO FACILITY

6 x 15"x14"x48" redwood planters

PLANTER BOX DETAILS – REFER TO SITE PLAN FOR LOCATION

AERIAL

CLIENT

Replanet
150 KLUG CIRCLE
CORONA CA 91788
951.518.2705

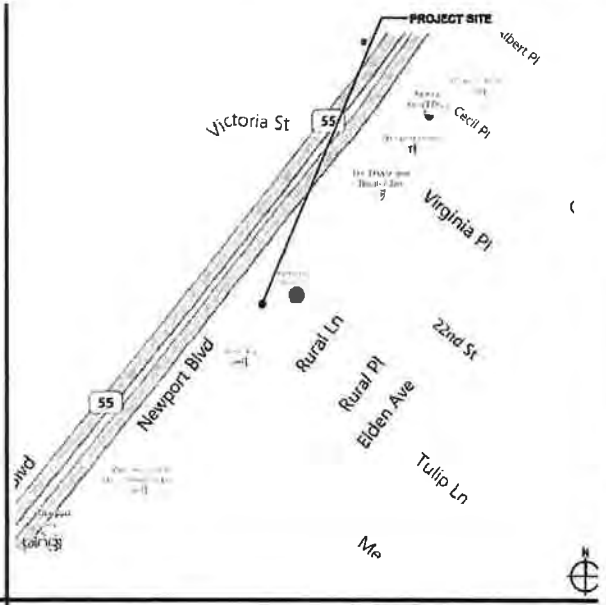
CONSULTANT

Permit Advisors
269 S. BEVERLY DR. #264
BEVERLY HILLS, CA 90212
ROY HASSON
PROJECT MANAGER
Roy@PermitAdvisors.com
310.276.7774 O
310.863.2365 C

PROJECT

STATER BROTHERS
2180 NEWPORT BLVD
COSTA MESA, CA 92627

PROJECT DIRECTORY



VICINITY MAP

SCOPE OF WORK

RECYCLING CENTER IN CONJUNCTION WITH SUPERMARKET.

PROJECT SUMMARY

APN: 428-121-42
ZONING: C2
GENERAL PLAN: NEIGHBORHOOD COMMERCIAL

PROJECT SUMMARY/ SCOPE OF WORK

- INTERIOR ELEVATION SYMBOL
- EXTERIOR ELEVATION SYMBOL
- WALL/BUILDING SECTION SYMBOL
- NOTE TAG
- PLAN ORIENTATION
- 3DVR PHOTO KEY LINK
- STILL PHOTO KEY LINK
- STAIR DIRECTION
- BREAK LINE
- ROOM NAME
- CEILING HEIGHT ABOVE FINISHED FLOOR
- DOOR TAG
- WINDOW TAG
- MATCH LINE
- EL. +0.00
- DETAIL REFERENCE
- LEVEL CHANGE

SYMBOL LEGEND

SHEET	DESCRIPTION	REVISION
T1.1	COVER SHEET	
SP1.1	SITE PLAN	
A1.1	PLAN ELEVATIONS	

SHEET INDEX

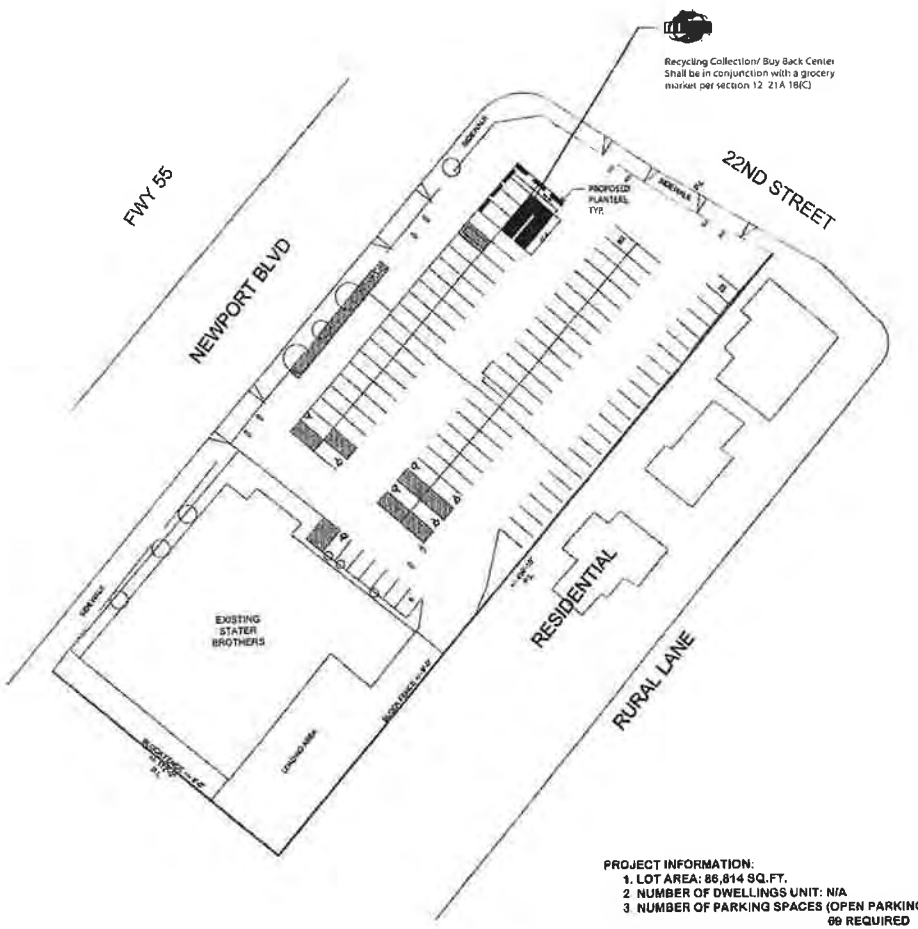
Permit Advisors

ATTACHMENT 4

2180 NEWPORT BLVD
COSTA MESA, CA 92627

PROJECT INFO.

T1-1



PROJECT INFORMATION:

1. LOT AREA: 86,814 SQ.FT.
2. NUMBER OF DWELLINGS UNIT: N/A
3. NUMBER OF PARKING SPACES (OPEN PARKING):
   99 REQUIRED 127 PROPOSED
4. AREA & PERCENTAGE OF LOT DEVOTED TO OPEN SPACE: 2,295 SQ.FT. / 38 %
5. AREA OF EACH BUILDING AND TOTAL BUILDING AREA: 16,730 SQ. FT.
6. AREA & PERCENTAGE OF LOT DEVOTED TO DRIVEWAY AND OPEN PARKING: 70,084 SQ.FT / 81 %

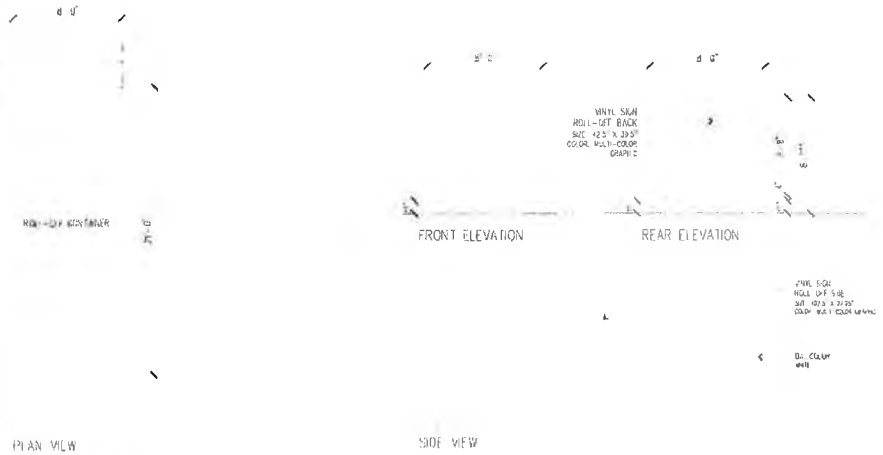
Permit Advisors
289 South Beverly Drive #284
Beverly Hills, CA 90212

2180 NEWPORT BLVD
COSTA MESA, CA 92627

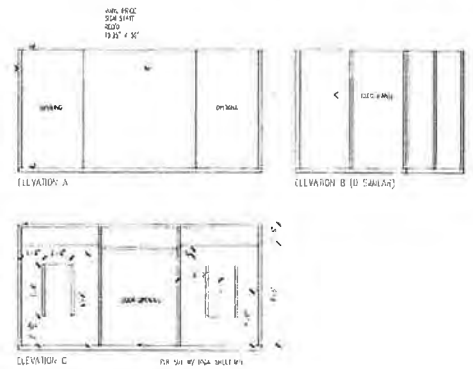
1/32" = 1'-0"

SITE PLAN

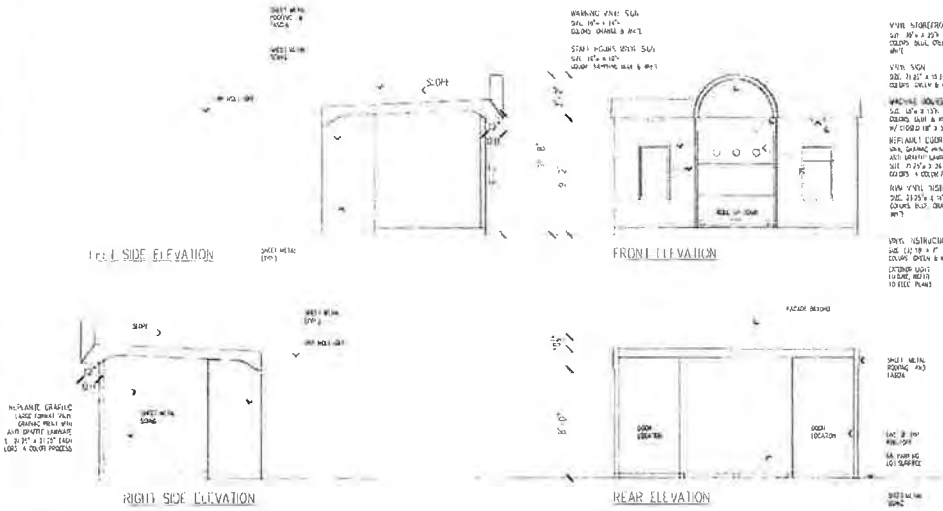
SP1-1



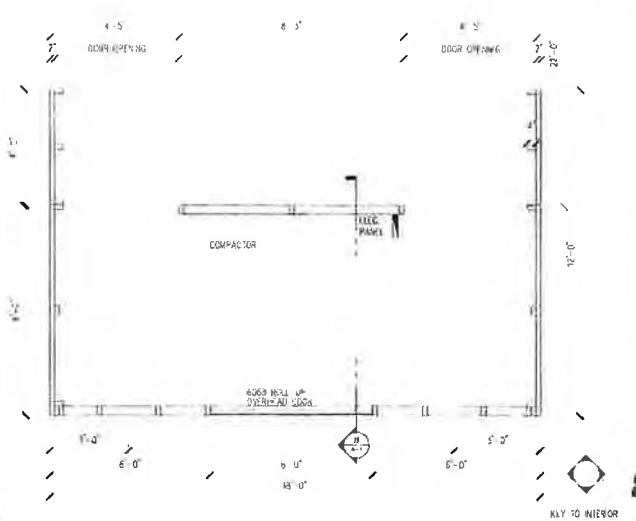
D TYPICAL ROLL-OFF DETAILS
1/4" = 1'-0"



C INTERIOR ELEVATIONS
1/4" = 1'-0"



B EXTERIOR ELEVATIONS
1/4" = 1'-0"

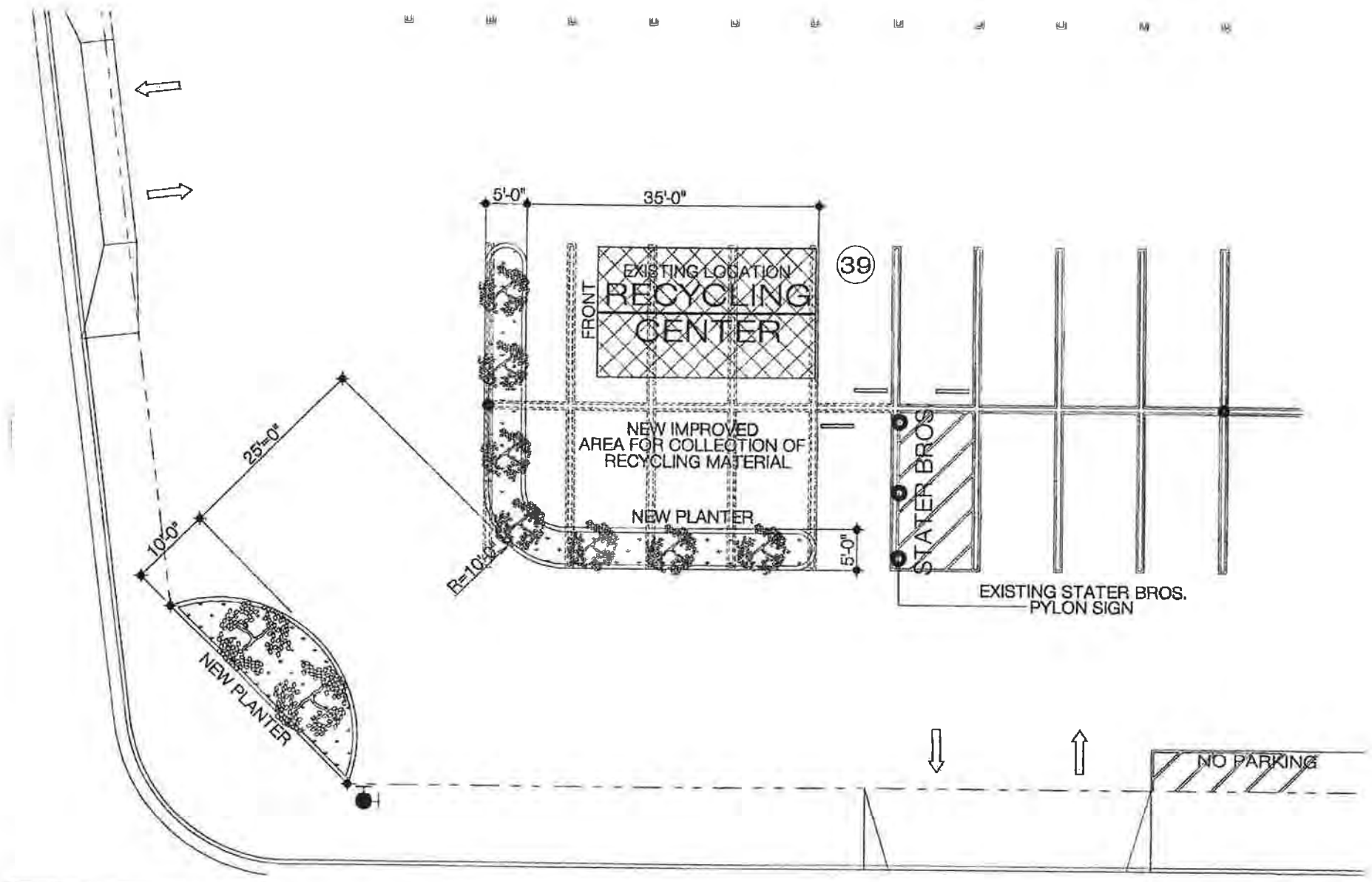


A FLOOR PLAN
1/8" = 1'-0"

Permit Advisors
2180 NEWPORT BLVD
COSTA MESA, CA 92627

FLOOR PLANS
ELEVATIONS

A1-1


5'-0"
35'-0"
39
EXISTING LOCATION
RECYCLING CENTER
FRONT
NEW IMPROVED AREA FOR COLLECTION OF RECYCLING MATERIAL
NEW PLANTER
5'-0"
STATER BROS.
EXISTING STATER BROS. PYLON SIGN
25'-0"
10'-0"
R=10'-0"
NEW PLANTER
NO PARKING

Tab 5

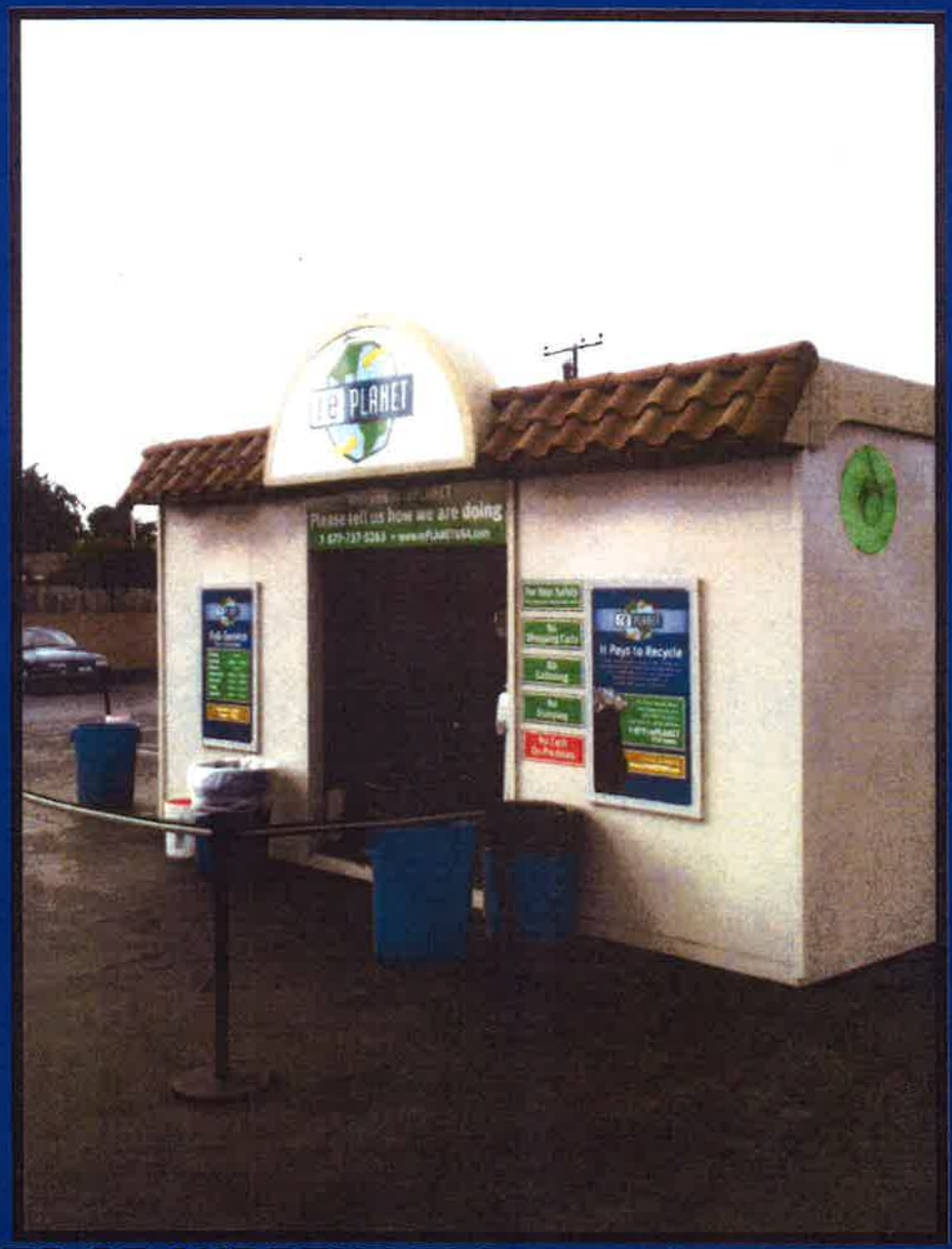


PHOTO OF CURRENT FACILITY - 2180 NEWPORT BLVD.

Tab 6

District Mgrs.
Gold Mine
they can afford.

FOUR OPTIONS for STATER Brothers.....

1. CLOSE it!!!! SB pays fine $100 day like Trader joes, Mothers, Walmart etc.

2. CLOSE IT SB takes recycle in store. - Ralphs.

3. MOVE it within the conviencene zone....and yes that is allowed..Church parking, Dollar store ETC..away from homes and still compliant...see attachement. The Crossing or - 3 or less

4. SB files for an Excepition in accordance with PRC 14571.8.....EASE OF ACCESS IS no LOnger here for Customers. see attachment.

Double Dbl Yellow

Thank you to replant for trying to fix things and work with neighbors...TRASH, Hours of OPeration, ETC.

Problem bigger than the noise and the trash....

1. TRAFFIC

People, cars, bikes, parking with bags and boxes and bins full of cans and bottles.

Trucks from REplantet blocking 22nd street a merging busy street. see pictures...

Trucks from SB in and out that same exit and trash truck in and out there..

Too Many people lined up and walking around and just waking up its VERY UNSAFE!

Customers of replanet, customers of SB, cars trying to get by on 22nd street..its a BIG MESS!!!!!

People drag their recycles across the parking lot in front of trucks and cars..and how ugly does it look with lots of bright bins and orange cones and bags of trash..its ~~3rd world getto....and mentioning getto,~~ SB ~~does a huge remodel inside and store front without permits, overnight with jackhammers and leaves~~ the 5' ~~falling over getto wall with different paint colors...How do they get away with that??????? If they built a big to code sound proff wall, maybe the noise and traffic and smell of the replant wouldn't bother us so much!!!~~

2. HOMELESS meeting place...they meet at 3 am and line up along our wall waiting and drinking and sleeping untill 9 when center opens..see pictures.

3. smell of defecation...

no longer a nice neighborhood store...I am afraid to walk over to the store with all the undesirables hanging around...its smells and its dirty.

NO longer a good location..anything less than moving it is not acceptable..it has outgrown this location near residences and in such a small and very congested parking lot...putting planters will encourage camping out there and provide a perfect place to urine...its not the solution to "beautify" an ugly TUMOR!!!

MUST move away to commercial site!!!!

Tab 7

RESOLUTION NO. PC-13-30

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING THE RENEWAL OF PLANNING APPLICATION PA-87-154 FOR A NEIGHBORHOOD RECYCLING CENTER VALID THROUGH MARCH 10, 2014

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, Planning Application PA-87-154 was approved by the Planning Commission on September 14, 1987 for a neighborhood recycling center on real property located at 2180 Newport Boulevard for a period of six months, with an approved subsequent extension on September 12, 1988, subject to periodic (two-year) reviews to ensure continued compliance with applicable conditions of approval and code requirements and if no complaints are received during that time;

WHEREAS, on July 9, 2012, the two-year review of Planning Application PA-87-154 was referred to the Planning Commission for review, which granted an extension to September of 2013;

WHEREAS, on September 12, 2013, a duly noticed public hearing was held by the Planning Commission, and continued to November 12, 2013;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, and subject to updated conditions of approval contained in Exhibit B, the Planning Commission hereby **APPROVES** Planning Application PA-87-154 valid to March 10, 2014 for an existing neighborhood recycling center for within the existing Stater Bros. Market parking lot. The conditions of approval (Exhibit B) shall supersede and replace the original conditions of approval for PA-87-154 dated September 14, 1987.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff reports for Planning Application PA-87-154 and upon applicant's compliance with each and all of the conditions contained in Exhibit B as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a

material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 12th day of November, 2013.

Jim Fitzpatrick, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution (No. 13-30) was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on November 12, 2013, by the following votes:

AYES: Fitzpatrick, Dickson, Mathews, Sesler

NOES: McCarthy

ABSENT: None

ABSTAIN: None

Gary Armstrong for

Claire Flynn, Secretary
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS

A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:

1. The use, as modified and conditioned, is compatible and harmonious with uses on surrounding properties.
2. Safety and compatibility of the design of the parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
3. The use, as modified and conditioned, is consistent with the General Plan.
4. The planning application is for a project-specific case and does not establish a precedent for future development.

B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) because:

a. The use, as modified and conditioned, is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area. Specifically, conditional use permits typically run with the land. In this case however, a condition of approval indicates that the use permit is subject to reevaluation every two years, and that the use permit may be extended for another two years if all conditions of approval have been satisfied, no complaints have been received, and the site inspection reveals compliance with applicable ordinance requirements. In this case, staff has worked with the applicant to update the facility with the following proposed improvements:

- The applicant proposes to relocate the existing structure closer to Newport Boulevard to further minimize impacts to the residential neighbors.
- Additionally, after meeting with the neighbors, the applicant implemented operational changes outlined in the applicant's letter dated October 29, 2013 which have also been incorporated as conditions of approval.

b. Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

c. Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.

C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.

D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT B

CONDITIONS OF APPROVAL

Plng.

1. The below conditions of approval shall supersede and replace the original conditions of approval for PA-87-154 dated September 14, 1987.
2. The use shall be limited to the type of operation as described in the staff report. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
3. The application shall be brought back to the Planning Commission no later than March 10, 2014 for review, modification, and/or revocation. The Development Services Director or his/her designee may extend the Planning Application for subsequent one year periods if all conditions of approval have been satisfied, no complaints have been received, and the site inspection reveals compliance with applicable ordinance requirements.
4. A copy of the conditions of approval shall be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
5. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute whatever security and operational measures are necessary to comply with this requirement.
6. The structure shall be located as shown on the plans submitted with the staff report. The structure shall be relocated no later than 60 days from the effective date of this resolution.
7. The structure shall be manned during business hours.
8. The facility shall be operated per the applicant's letter dated October 29, 2013, including, but not limited to, the following:
    a. Attendants shall enforce no shopping carts, no loitering, and ensure all customers follow the rules. Attendants shall refuse service to anyone who disobeys.
    b. Attendants shall communicate with Costa Mesa Police to help with the homeless that may loiter around the area when the facility is closed.
    c. Attendants shall use a "Refuse Service Tracking Log" to track all mis-behaving customers that are refused service.
    d. Hours of operation shall be 9:00 am to 4:30 pm, Monday, Wednesday, Thursday, Friday, and Saturday only. Employees shall work 8:30 am to 5:00 pm; 8:30 am to 9:00 am; and 4:30 pm to 5:00 pm is exclusively for cleaning the site area, parking lot and sidewalk area.
    e. The facility shall be double staffed during all hours of operation.
    f. Glass shall not be crushed at the facility.
    g. Any bagged product or trash shall not be kept outside of the facility.
    h. Attendants shall place 8 spill buckets at site. Attendants shall ensure all customers are pouring their liquids into the spill buckets and not on the

parking lot.

i. Attendants shall pressure wash the site weekly (Tuesdays).
j. Zone supervisor and Area Manager shall visit the site twice weekly. They shall check in with the Stater Bros. Store Director and other tenants in the center and review all happenings. Zone supervisor and Area Manager shall send an email report to Brian Jackson, Doug Sanchez after these visits.

9. Customers shall queue on the westerly (Newport Blvd.) side of the structure only. Transfer of recyclable materials to containers shall also occur in this area only.
10. Hours for the pick-up and drop-off of the recycling trailers shall not occur before 9:00 am or after 5:00 pm, Tuesday through Saturday only.
11. The operator shall contact the Planning Division to arrange a Planning inspection of the facility prior to occupancy. This inspection is to confirm that the Planning Division conditions of approval and code requirements have been satisfied.
12. The facility shall be limited to one structure recycling structure with a covered vestibule area in which the weighing of recyclables shall occur. Customers may line-up outside the west side of the vestibule only.
13. The use shall be limited to the type of operation described in this staff report. i.e., a recycling and collection center for aluminum cans, plastic and glass bottles in a single recycling structure. Any change in the operational characteristics including, but not limited to, hours or days of operation or an additional trailer, etc., shall require City approval of an amendment to the conditional use permit.
14. No compacting, flattening, grinding, crushing, and/or glass breaking activities shall occur outside the structure.
15. Any change in the approved area of business operations shall require City approval of an amendment to the conditional use permit.
16. The structure trailer shall be neutral in color. It shall be maintained so that it is free of dents, peeling and scratched paint, and a deteriorated appearance.
17. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance, subject to approval by the Planning Division. Signs shall be limited to the structure recycling vestibule and shall be non-illuminated. Painted signs shall be prohibited.
18. The business operator shall adequately patrol the area over which he/she has control in an effort to prevent the loitering of persons about the premises during business hours.
19. The business operator shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which he/she has control, to prevent trash, graffiti and littering.
20. The business operator shall maintain free of litter and graffiti all areas of the premises under his/her has control.
21. The recycling trailer shall be properly maintained and shall be housed within the recycling vestibule except when being removed from the property. It shall be maintained so that it does not overflow, and it shall be placed inside the vestibule or trailer when the facility is closed.
22. Business operator shall design the area to prevent runoff of spilled liquids.
23. Business operator shall clean loading, unloading and storage areas regularly to remove potential sources of pollutants. All cleaning water shall be captured and

disposed into a sanitary sewer.

24. New employees shall be trained on discharge prohibitions and wastewater discharge requirements prior to start of employment and annually thereafter. Written record of training must be available upon request.
25. Business operator shall ensure that there are no residual liquids from CRV containers prior to placing them in transferring and weighing areas.
26. Business operator shall regularly inspect equipment used on site to ensure there are no leaks from vehicles or compaction equipment. Any vehicles or equipment leaking fluids shall be repaired or removed from the location immediately upon noticing the leak.
27. Regular sweeping of the work area shall be conducted to continuously remove solid trash and debris from the transferring, collection and weighing area. No caps, labels, bottles, tabs, containers, bags, boxes or other general trash and debris shall be allowed in the area at the end of each operating day.
28. Business operator shall provide facilities and containers with no perforations/mesh/holes that allow customers to place any residual liquids from CRV containers prior to placing in transferring and weighing area.
29. The operator shall install the modern vestibule as shown on the conceptually approved plans.
30. To the fullest extent possible, the applicant shall continue to work with staff to incorporate new landscaping in the parking lot. A landscape planter consisting of ground cover, irrigation, and a minimum of two trees shall be installed to the satisfaction of the Development Services Director. Alternatives to the landscape planter that would achieve a similar effect to beautify or screen the recycling facility may be approved by the Development Services Director.

Plng. Comm.

31. The applicant shall provide planter boxes with appropriate landscape materials as shown on the approved plans.

Tab 8

PLANNING COMMISSION AGENDA REPORT

MEETING DATE: MARCH 10, 2014 **ITEM NUMBER: PH-2**

SUBJECT: SIX-MONTH REVIEW OF PLANNING APPLICATION PA-87-154 CONDITIONAL USE PERMIT FOR A NEIGHBORHOOD RECYCLING FACILITY (REPLANET, FORMERLY EARTHWIZE RECYCLING) 2180 NEWPORT BOULEVARD

DATE: FEBRUARY 27, 2014

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MEL LEE, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611
mel.lee@costamesaca.gov

PROJECT DESCRIPTION

Six-month review of conditional use permit for an existing neighborhood recycling facility (RePlanet, formerly EarthWize) within the Stater Bros. Market parking lot for possible modification or revocation of the conditional use permit for the neighborhood recycling facility.

APPLICANT

The applicant is RePlanet, LLC, the operator of the recycling facility. The owner of the property is Costa Mesa Grocery Investors, LLC.

RECOMMENDATION

Provide direction to staff.

BACKGROUND

Project Site/Environs

The site is located on the southeast corner of Newport Boulevard and 22nd Street and is zoned C1 (Neighborhood Commercial) and has a General Plan Designation of Commercial Residential. The property contains Stater Bros. Market, the neighborhood recycling facility structure, and surface parking.

History

On September 14, 1987, Planning Commission approved Conditional Use Permit PA-87-154 allowing the establishment of a neighborhood recycling facility (originally Reynolds Aluminum) within the parking lot of the Stater Bros. Market. On September 12, 1988, Planning Commission approved a renewal of the permit subject to subsequent two-year reviews by the Department Director to ensure compliance with the conditions of approval.

Conditional use permits typically run with the land. As noted earlier, however, a condition of approval required reevaluation of PA-87-154 every two years by the Department Director; as a result, the past reevaluations have been done at staff level. The use permit was allowed to be extended if all conditions of approval have been satisfied, no complaints have been received, and the site inspection reveals compliance with applicable ordinance requirements.

The regular two-year review for the extension of PA-87-154 was brought forward to the Planning Commission on July 9, 2012 for consideration by the Planning Commission of the continued operations of this recycling facility and to address the concerns raised by abutting neighbors of the facility related to noise, litter, and loitering problems. At the time of the review, the facility was being operated by EarthWize Recycling.

During the meeting, the representative for EarthWize indicated a willingness to modify the day-to-day operations to minimize disruptions to the abutting residential neighbors, to provide site upgrades in terms of a new vestibule structure and landscape planters within the existing parking lot, and provide a state-of-the-art "grey water" collection system. However, because the majority of the requested site upgrades require input and/or approval from the property owner, i.e., Stater Bros. Market, the Commission directed staff to work with EarthWize, Stater Bros. Market, and the residents to address these issues.

RePlanet took over operation of the facility in early 2013. Staff met with RePlanet representatives on February 14, 2013 and provided them with the conditions of approval for PA-87-154, and advised them that the CUP would be coming up for review by the Planning Commission in September of that year.

The review of the CUP was noticed for the September 9, 2013 Planning Commission meeting; however, the applicant requested a continuance to the November 12, 2013 meeting to allow additional time to work with the neighbors, Stater Bros., staff, and Commissioners to address the operation of the facility. At the November 12, 2013

Planning Commission meeting, the Commission granted a six-month extension of the project to March 10, 2014 to give the applicant time to implement the conditions of approval, including the relocation of the recycling vestibule, the installation of a new vestibule with reverse vending capabilities, and to continue to work with Stater Bros. on the installation of permanent landscaping within the parking area.

ANALYSIS

Below is a table summarizing the status of the conditions of approval adopted by the Planning Commission during their review of the project on November 12, 2013. It should be noted that because the use was given a six-month review period, and based on the applicant's assurances that they would work with the neighbors to quickly resolve any operational impacts, complaints received to the City (via email) were not logged as Code Enforcement complaints, but instead were forwarded to the applicant the date they were received, and saved to be included in the staff report for the six-month review as part of the evidence for the public record.

Status of Conditions of Approval for PA-87-154 as of 2/26/14

Condition of Approval	Complaints or Violations Noted From 11/12/13 PC Review Date to the Date of This Report
1. The below conditions of approval shall supersede and replace the original conditions of approval for PA-87-154 dated September 14, 1987	No complaints or violations.
2. The use shall be limited to the type of operation as described in the staff report. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].	Current 6-month review.
3. The Development Services Director or his/her designee may extend the Planning Application for subsequent two (2) year periods if all conditions of approval have been satisfied, no complaints have been received, and the site inspection reveals compliance with applicable ordinance requirements. Thereafter, the Development Services Director or his/her designee may extend the permit for successive two (2) year periods under the same terms.	Current 6-month review.
4. A copy of the conditions of approval shall be kept on	No complaints or violations.

premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.	
5. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute whatever security and operational measures are necessary to comply with this requirement.	***Two noise complaints received via email on 12/10/13 and one noise complaint received via email on 2/26/14. Refer to attached correspondence.***
6. The structure shall be located as shown on the plans submitted with the staff report. The structure shall be relocated no later than 60 days from the effective date of this resolution.	Structure relocated 1/27/14.
7. The structure shall be manned during business hours.	No complaints or violations.
8. The facility shall be operated per the applicant's letter dated October 29, 2013, including, but not limited to, the following: ***a. Attendants shall enforce no shopping carts, no loitering, and ensure all customers follow the rules. Attendants shall refuse service to anyone who disobeys.*** b. Attendants shall communicate with Costa Mesa Police to help with the homeless that may loiter around the area when the facility is closed. c. Attendants shall use a "Refuse Service Tracking Log" to track all mis-behaving customers that are refused service. d. Hours of operation shall be 9:00 am to 4:30 pm, Monday, Wednesday, Thursday, Friday, and Saturday only. Employees shall work 8:30 am to 5:00 pm; 8:30 am to 9:00 am; and 4:30 pm to 5:00 pm is exclusively for cleaning the site area, parking lot and sidewalk area. e. The facility shall be double staffed during all hours of operation. f. Glass shall not be crushed at the facility. ***g. Any bagged product or trash shall not be kept outside of the facility.*** h. Attendants shall place 8 spill buckets at site. Attendants shall ensure all customers are pouring their liquids into the spill buckets and not on the parking lot. i. Attendants shall pressure wash the site weekly (Tuesdays). j. Zone supervisor and Area Manager shall visit the site twice weekly. They shall check in with the Stater Bros. Store Director and other tenants in the center and review all happenings. Zone supervisor and Area Manager shall send an email report to Brian Jackson, Doug Sanchez after these visits.	***Loitering complaints received via email 12/10/13; 1/29/14; 2/5/14; and 2/20/14*** ***Complaint received via email of stacked products/trash 2/8/14***

9. Customers shall queue on the westerly (Newport Blvd.) side of the structure only.	No complaints or violations.
10. Hours for the pick-up and drop-off of the recycling trailers shall not occur before 9:00 am or after 5:00 pm, Tuesday through Saturday only.	No complaints or violations.
11. The operator shall contact the Planning Division to arrange a Planning inspection of the facility prior to occupancy. This inspection is to confirm that the Planning Division conditions of approval and code requirements have been satisfied.	Permit for new vestibule not obtained as of 2/26/14.
12. The facility shall be limited to one structure recycling structure with a covered vestibule area in which the weighing of recyclables shall occur. Customers may line-up outside the west side of the vestibule only.	No complaints or violations.
13. The use shall be limited to the type of operation described in this staff report. i.e., a recycling and collection center for aluminum cans, plastic and glass bottles in a single recycling structure. Any change in the operational characteristics including, but not limited to, hours or days of operation or an additional trailer, etc., shall require City approval of an amendment to the conditional use permit.	No change in operations.
14. No compacting, flattening, grinding, crushing, and/or glass breaking activities shall occur outside the structure.	No complaints or violations.
15. Any change in the approved area of business operations shall require City approval of an amendment to the conditional use permit.	No change in operations.
16. The structure trailer shall be neutral in color. It shall be maintained so that it is free of dents, peeling and scratched paint, and a deteriorated appearance.	No complaints or violations.
17. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance, subject to approval by the Planning Division. Signs shall be limited to the structure recycling vestibule and shall be non-illuminated. Painted signs shall be prohibited.	Permit for new vestibule or signs not obtained as of 2/26/14
18. The business operator shall adequately patrol the area over which he/she has control in an effort to prevent the loitering of persons about the premises during business hours.	***Loitering complaints received via email 12/10/13; 1/29/14; 2/5/14; and 2/20/14***
19. The business operator shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which he/she has control, to prevent trash, graffiti and littering.	***Complaint received via email of stacked products/trash 2/8/14***
20. The business operator shall maintain free of litter and graffiti all areas of the premises under his/her has control.	***Complaint received via email of stacked products/trash 2/8/14***
21. The recycling trailer shall be properly maintained and shall be housed within the recycling vestibule except when being removed from the property. It shall be maintained so that it does not overflow, and it shall	No complaints or violations.

be placed inside the vestibule or trailer when the facility is closed.	
22. Business operator shall design the area to prevent runoff of spilled liquids.	No complaints or violations.
23. Business operator shall clean loading, unloading and storage areas regularly to remove potential sources of pollutants. All cleaning water shall be captured and disposed into a sanitary sewer.	No complaints or violations.
24. New employees shall be trained on discharge prohibitions and wastewater discharge requirements prior to start of employment and annually thereafter. Written record of training must be available upon request.	No complaints or violations.
25. Business operator shall ensure that there are no residual liquids from CRV containers prior to placing them in transferring and weighing areas.	No complaints or violations.
26. Business operator shall regularly inspect equipment used on site to ensure there are no leaks from vehicles or compaction equipment. Any vehicles or equipment leaking fluids shall be repaired or removed from the location immediately upon noticing the leak.	No complaints or violations.
27. Regular sweeping of the work area shall be conducted to continuously remove solid trash and debris from the transferring, collection and weighing area. No caps, labels, bottles, tabs, containers, bags, boxes or other general trash and debris shall be allowed in the area at the end of each operating day.	No complaints or violations.
28. Business operator shall provide facilities and containers with no perforations/mesh/holes that allow customers to place any residual liquids from CRV containers prior to placing in transferring and weighing area.	No violations observed or complaints received
29. The operator shall install the modern vestibule as shown on the conceptually approved plans.	***Permit for new vestibule not obtained as of 2/26/14***
30. To the fullest extent possible, the applicant shall continue to work with staff to incorporate new landscaping in the parking lot. A landscape planter consisting of ground cover, irrigation, and a minimum of two trees shall be installed to the satisfaction of the Development Services Director. Alternatives to the landscape planter that would achieve a similar effect to beautify or screen the recycling facility may be approved by the Development Services Director.	***Staff met with RePlanet and Stater Bros. management on 2/27/14. Stater Bros. expressed a desire to work with staff and RePlanet to provide landscape upgrades as described in the condition, however, a specific timetable still needs to be determined.***

ENVIRONMENTAL DETERMINATION

The review is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

REQUEST FOR DIRECTION

Staff is requesting that the Planning Commission provide direction with regard to the following:

1. Direct staff to prepare a resolution extending the approval for an additional period of time (as determined by the Commission) to allow the applicant to continue to work with staff to address the issues related to the use. The resolution would need to be brought back to a future Planning Commission meeting.

2. Direct staff to prepare a resolution revoking the use permit. The resolution would need to be reviewed by the City Attorney's Office and brought back to a future Planning Commission meeting.

MEL LEE, AICP
Senior Planner

JERRY GUARRACINO, AICP
Interim Assistant Director of Development Services

Attachments:
1. Planning Commission Resolution No. PC-13-30
2. Current Site Photos
3. Correspondence From Public From November 12, 2013 to the Date of This Report
4. November 12, 2013 Staff Report and Attachments

cc:
Director of Economic & Development / Deputy CEO
Sr. Deputy City Attorney
Public Services Director
City Engineer
Transportation Services Manager
Fire Protection Analyst
Staff (6)
File (2)

RePlanet, LLC
c/o Brian Jackson
2611 E. Lindsay Privado Road
Ontario, CA 91761

RePlanet, LLC
c/o Doug Sanchez
2611 E. Lindsay Privado Road
Ontario, CA 91761

Costa Mesa Grocery Investors. LLC
11456 Olive Boulevard, Suite 210
Saint Louis, MO 63141

Stater Bros. Markets
c/o Mark Avalos, Grocery Supervisor - Retail
301 S. Tippecanoe Avenue
San Bernardino, CA 92408

Stater Bros. Markets
c/o Karen Molina-Stahl, Property Manager
301 S. Tippecanoe Avenue
San Bernardino, CA 92408

Stater Bros. Markets
c/o Bill Wall, Store Manager
2180 Newport Boulevard
Costa Mesa, CA 92627

DeAnne Hemmens
2177 Rural Lane
Costa Mesa, CA 92627

Christy Turley
2183 Rural Lane
Costa Mesa, CA 92627

Tab 9

PH-2

LEE, MEL

From: Brian Jackson <brian.jackson@replanet.com>
Sent: Thursday, March 06, 2014 9:09 PM
To: LEE, MEL
Cc: Joe Perez
Subject: rePlanet and Stater Bros

Mel,

As per your request at our last meeting please the see operational changes made by rePlanet and Stater Bros. These changes have been put into effect to address the concerns expressed by residents and to comply with the conditions of approval of the CUP.

Recycling Specialists (attendants)

- Are to enforce no shopping carts and no loitering policies and ensure all customers follow the rules. We will refuse service to anyone who disobeys. - **Ongoing**
- Communicate with Costa Mesa PD (contact info below) to help with the homeless that may loiter around the area when we are closed. - **Ongoing**
- Are to use "Refuse Service Tracking Log" to track all misbehaving customers we refuse service too. - **Ongoing**

Hours of Operation

- **In Dec 2013, we changed the hours of operation to 9:00am - 3:30pm - Mon, Weds, Thurs, Fri, Sat.**
- Employee's work 8:30am - **4:30pm.**
- 8:30am-9:00am, **4:00pm-4:30pm** times are exclusively for cleaning the site area, parking lot and sidewalk area.

Additional Changes

- Double staff the site all Hours of Operation.- **Ongoing**
- DO NOT crush glass.- **Ongoing**
- DO NOT place any bagged product or trash outside of housing unit.- **Ongoing**
- **Installed stanchions to direct/stage our customers on the north - Newport Blvd side of our site.**
- Place 8 spill buckets at site - ensure ALL customers are pouring their liquids into the spill buckets and not on the parking lot.- **Ongoing**
- Site is pressure washed/extracted weekly (Tuesdays).- **Ongoing**

Site monitoring

- Zone Supervisor and Area Manager will visit the site twice weekly...they will check in with Stater Bros store director, other tenants in the center and review all happenings. - **Ongoing**
- Zone Supervisor and Area Manger will send email report to Brian Jackson, Doug Sanchez after these visits.- **Ongoing**

Relocation

- rePlanet has asked the city relocate the facility to the parking bays under the Stater Bros sign nearer to Newport Blvd which allow the noise to be absorbed by Newport Blvd. traffic.- **Site was relocated 01/06/2014.**

- rePlanet has proposed screening the recycling center from Newport Blvd with planters. - **Installed 02/06/2014.**
- **Installation of Reverse Vending Machines - waiting on final approval from city.**

Building and Safety and Installation of RVM's

- 12/26/2013: Plans submitted to Building, Engineering, and Transportation
- 1/13/2014: Plans approved by Transportation and Engineering and first set of comments and corrections received from Building
- 1/27/2014: Plans resubmitted to Building
- 2/10/2014: Second set of comments and corrections received from Building
- 3/3/2014: Corrected Plans will be submitted to Building. We anticipate that plans will be approved and will schedule install of the RVM's accordingly.
- 3/5/2014: Permit approved and rePlanet will call for inspection asap.

Operation Improvements from Stater Bros. Markets #25 since our 2013 meeting

1. Moved employee parking to the block wall which eliminated all trucks (vendor and customer) from parking along the wall.
2. Communicated and enforced all delivery trucks that unload in the parking lot to keep their delivery doors facing Newport Blvd. and away from the residential along the block wall.
3. Increased regular policing of the lot throughout the day primarily to stop the loitering.
4. Refused service and no longer allow on the property certain individuals that have continued to loiter, panhandle, or any other activity other than shopping or recycling.
5. Communicated to the rePlanet employees what individuals have been refused service and no longer allowed on the lot because of their loitering.
6. Daily clean up and emptying of the trash can and bench that belongs to OCTA.
7. Keeping trash and donations picked up around the site during non-business hours.
8. Have asked Costa Mesa Police for assistance in controlling and dispersing the homeless that loiter at the bus stop on Newport Blvd. as well as the sidewalk that leads from our corner to Elden.
9. Received proposal to clean up the street side of the market.

Hopefully the Planning Commission will view these measure in a positive light and we will be able to address any questions they may have at the public hearing on Monday 10th March.

Please note the change in my mailing address and send all documents to:

rePlanet LLC, 491 Kettering Drive, Ontario, CA 91761

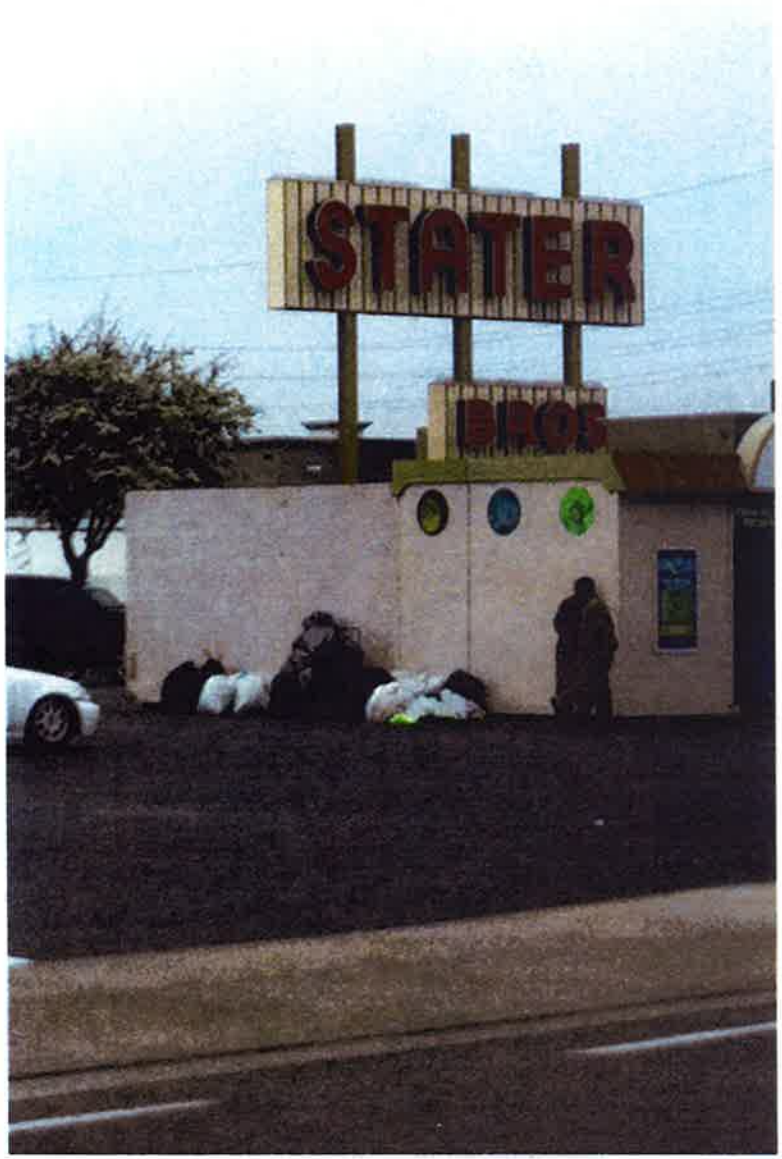
Thank you,

Brian Jackson

Brian Jackson | Business Development Manager | 2611 E. Lindsay Privado Road, Ontario, CA 91761|
tel: 951.515.2705 (direct) |

Tab 10

(1) Homeless lined up and waiting



Replenets Wheelchair Guy

Recent visit of trancient

See trees

Homeless transient wheelchair guy

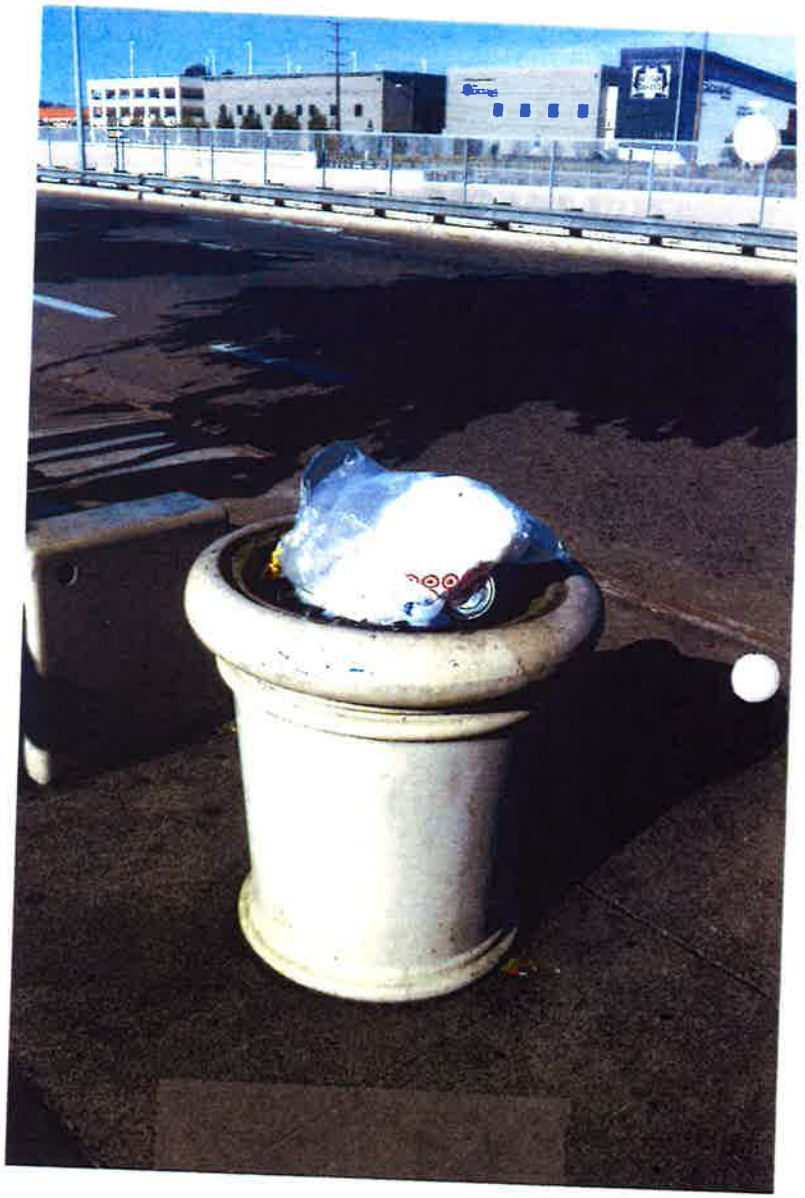
His friends

TRASH + cart

9

SB empties this?
6:45 am - Monday

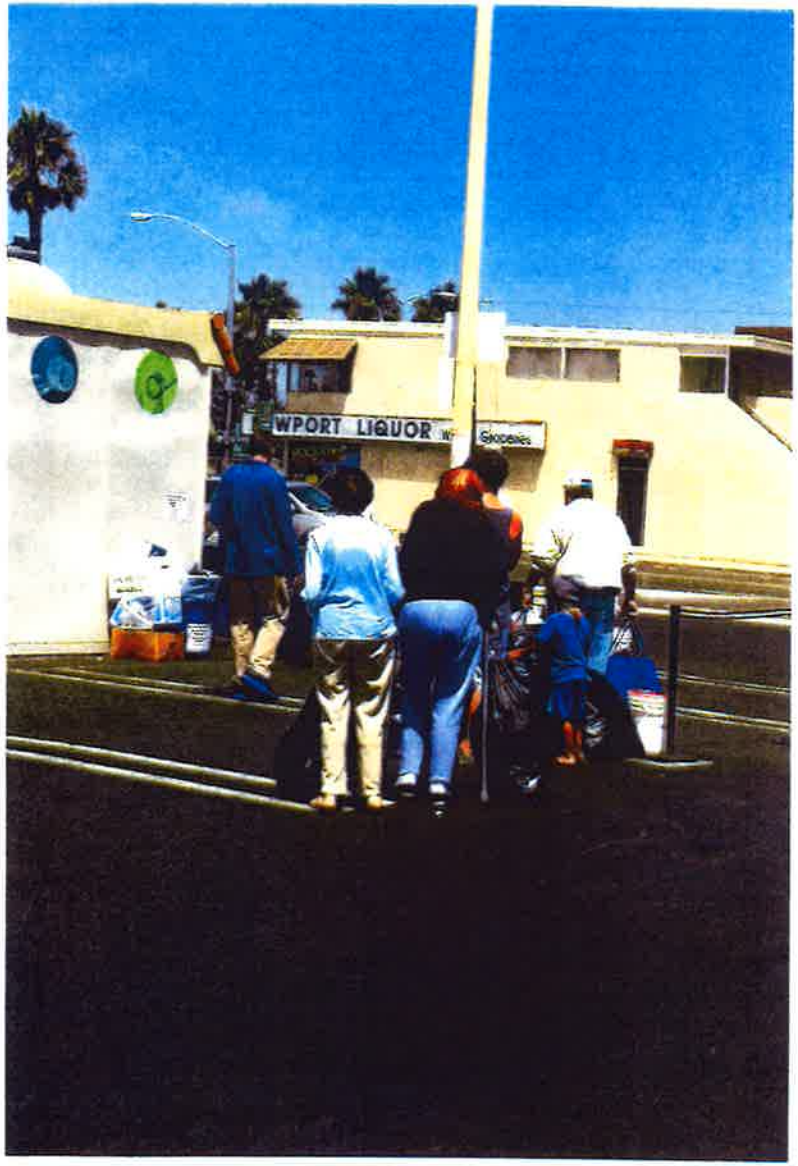
Carts + Trash



4)

Lines of people blocking parking lot

re PLANET
Please tell us how we are doing
STATER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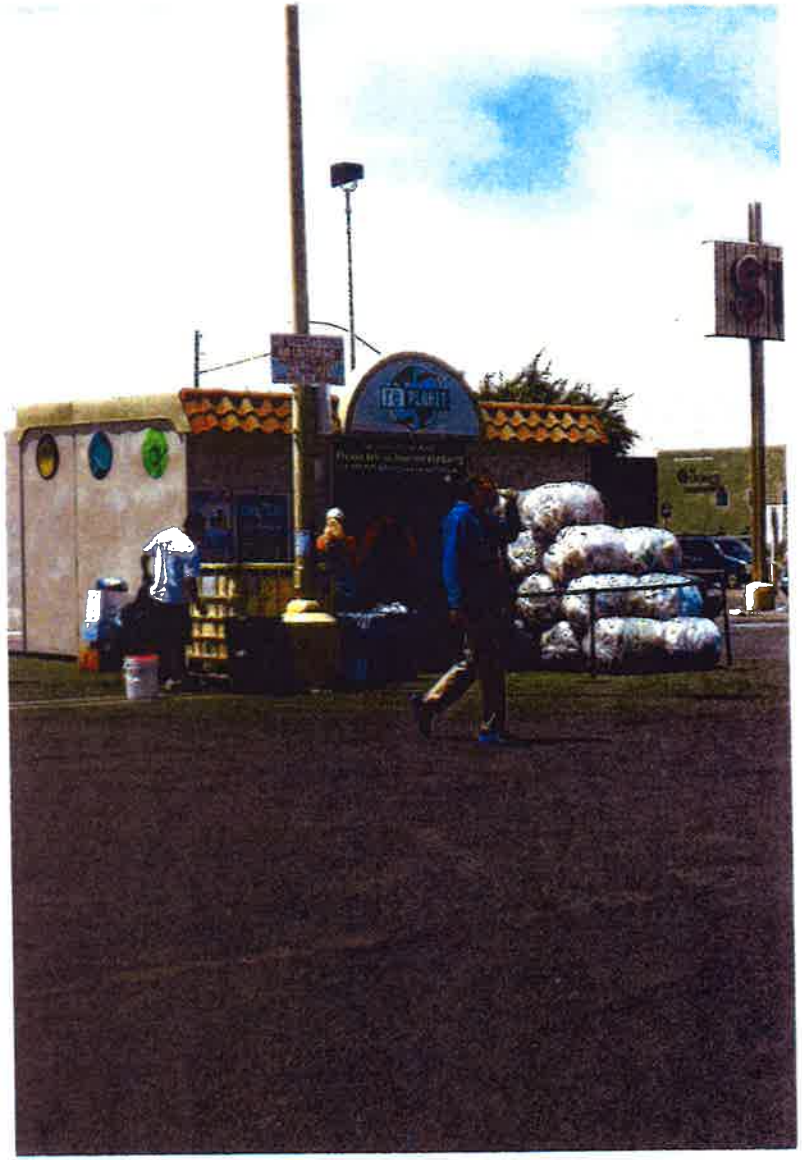
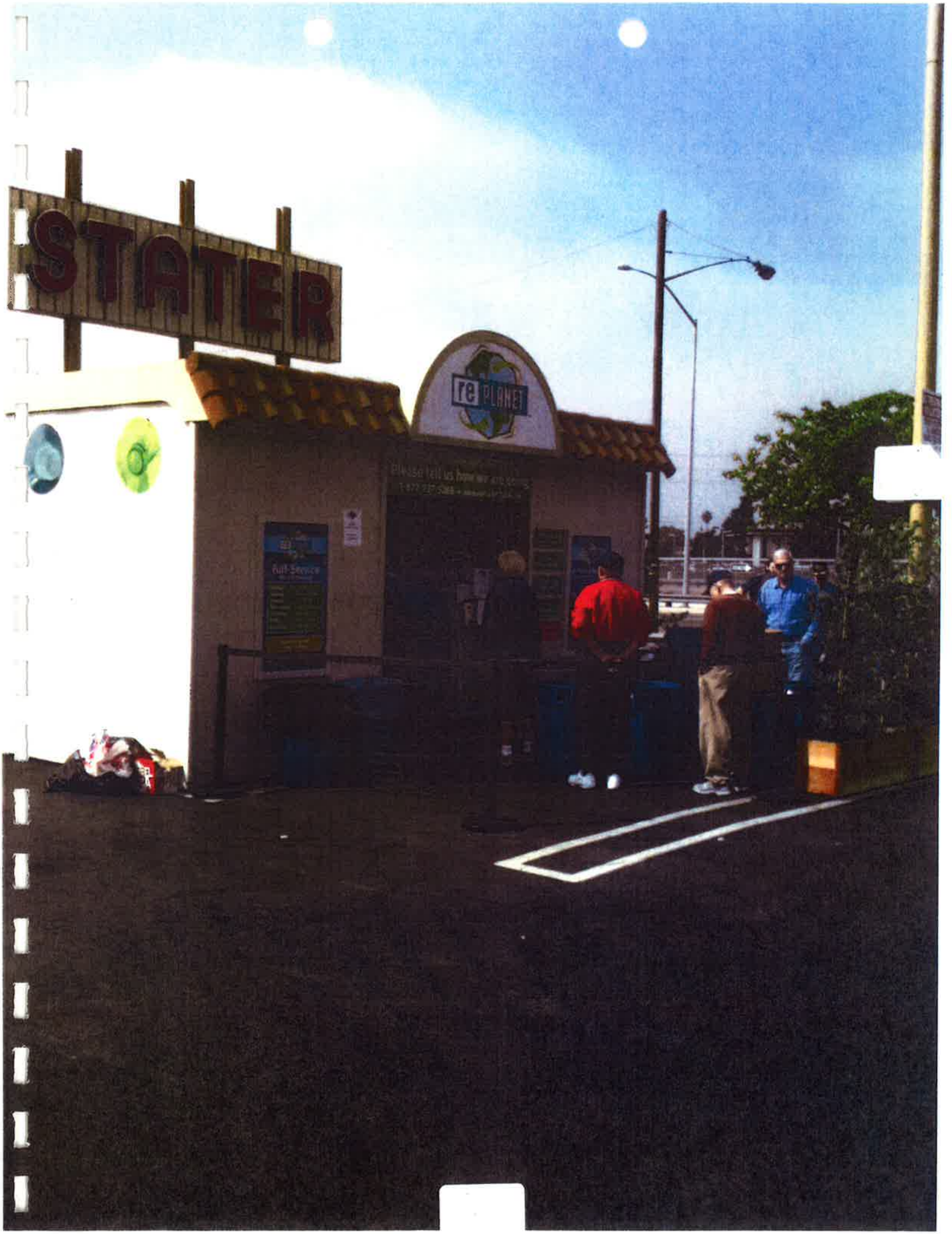
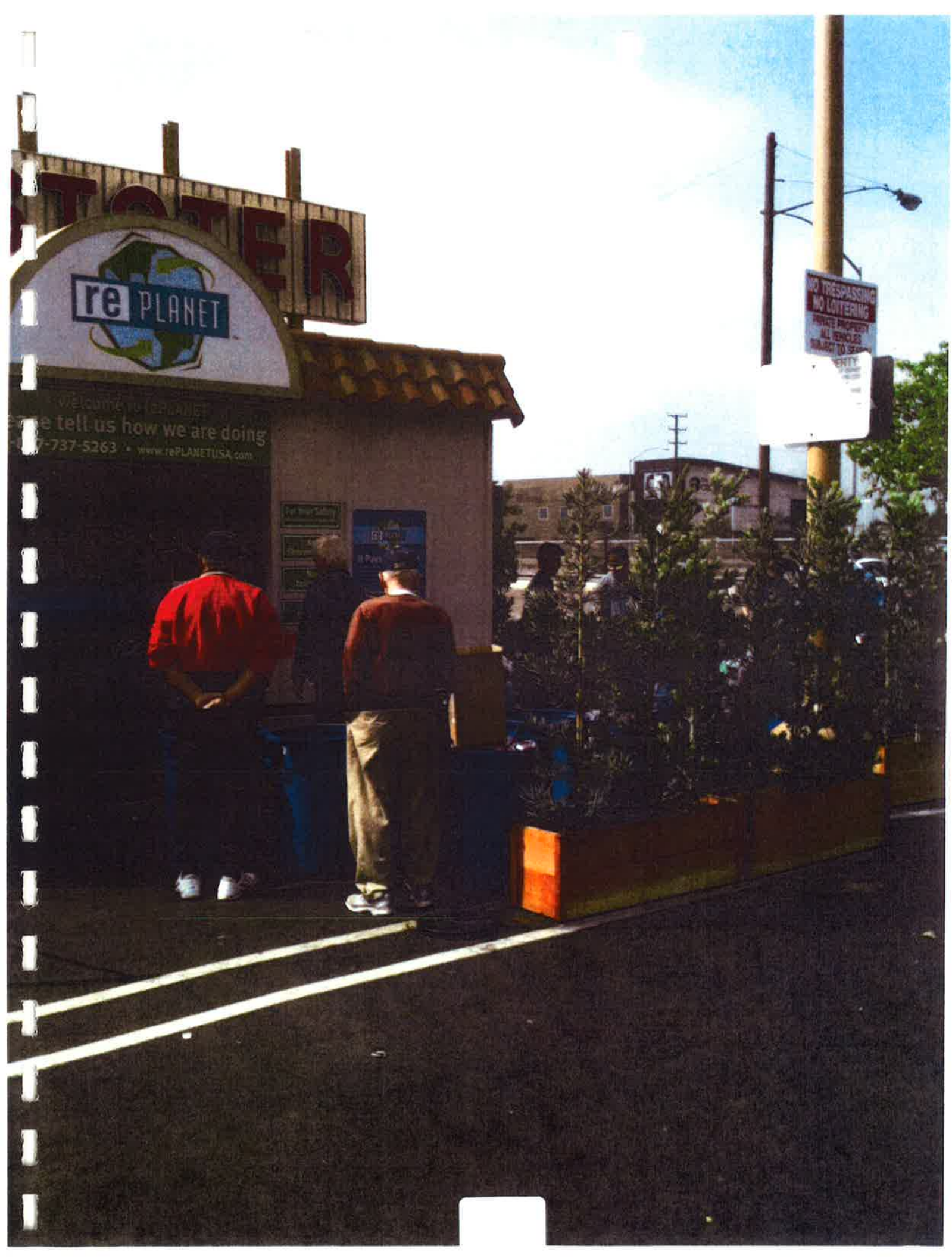


re PLANET
CA 0429980

ATER

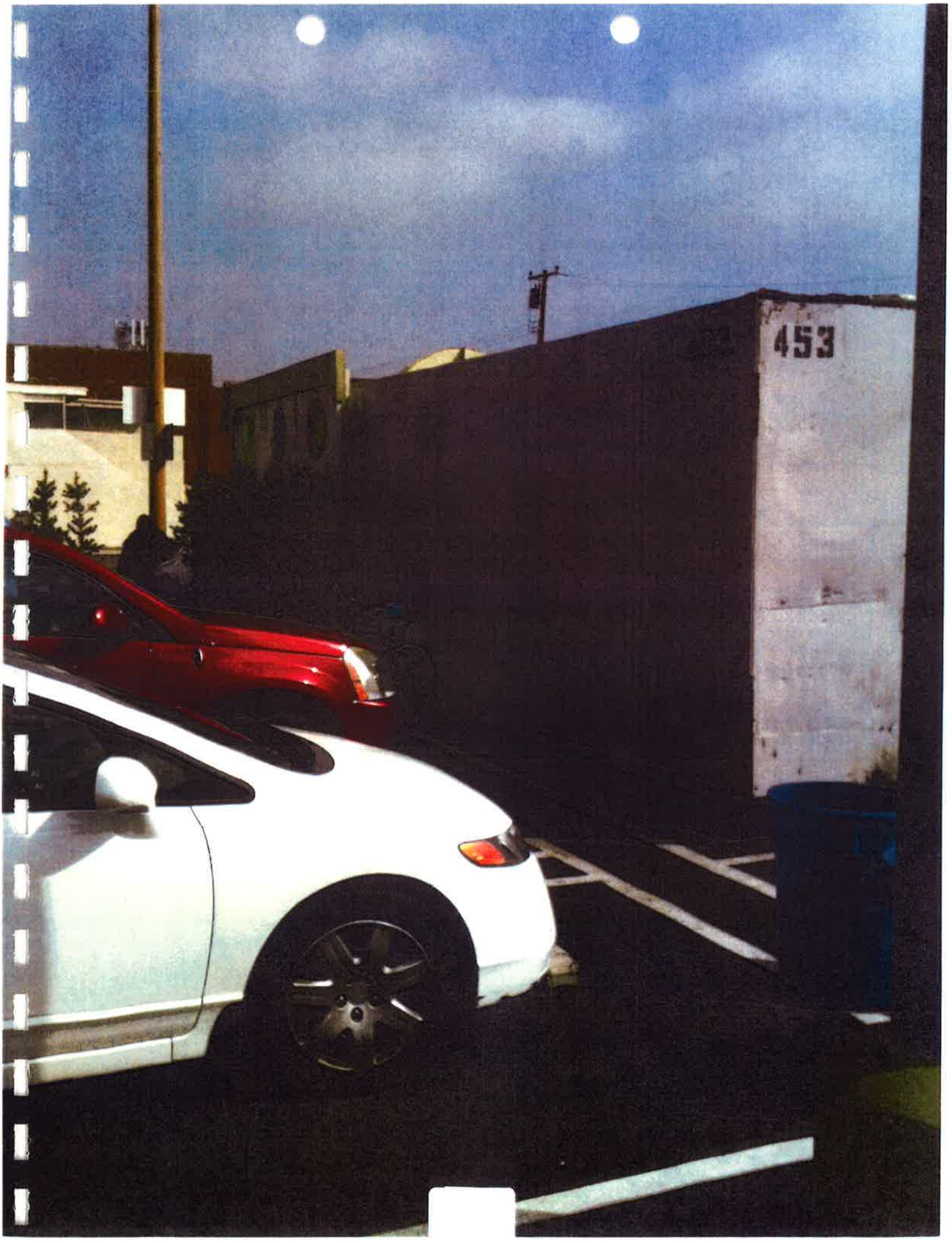
Tab 11


STATER
re PLANET


re PLANET
NO TRESPASSING
NO LOITERING
PRIVATE PROPERTY

NO TRESPASSING
NO LOITERING
PRIVATE PROPERTY
ALL VEHICLES
SUBJECT TO SEARCH
IVATE PROPERTY

NAPLES
RIB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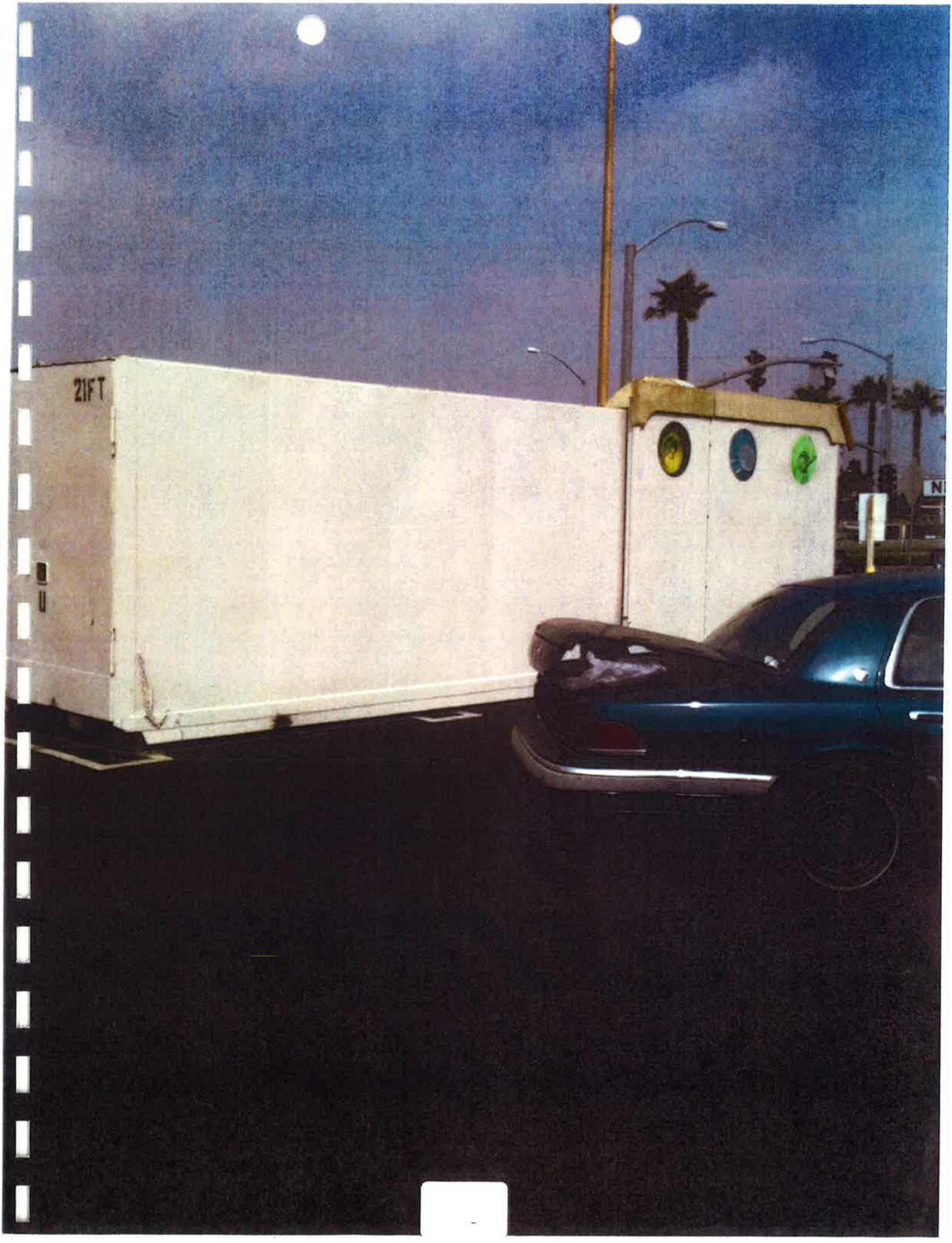
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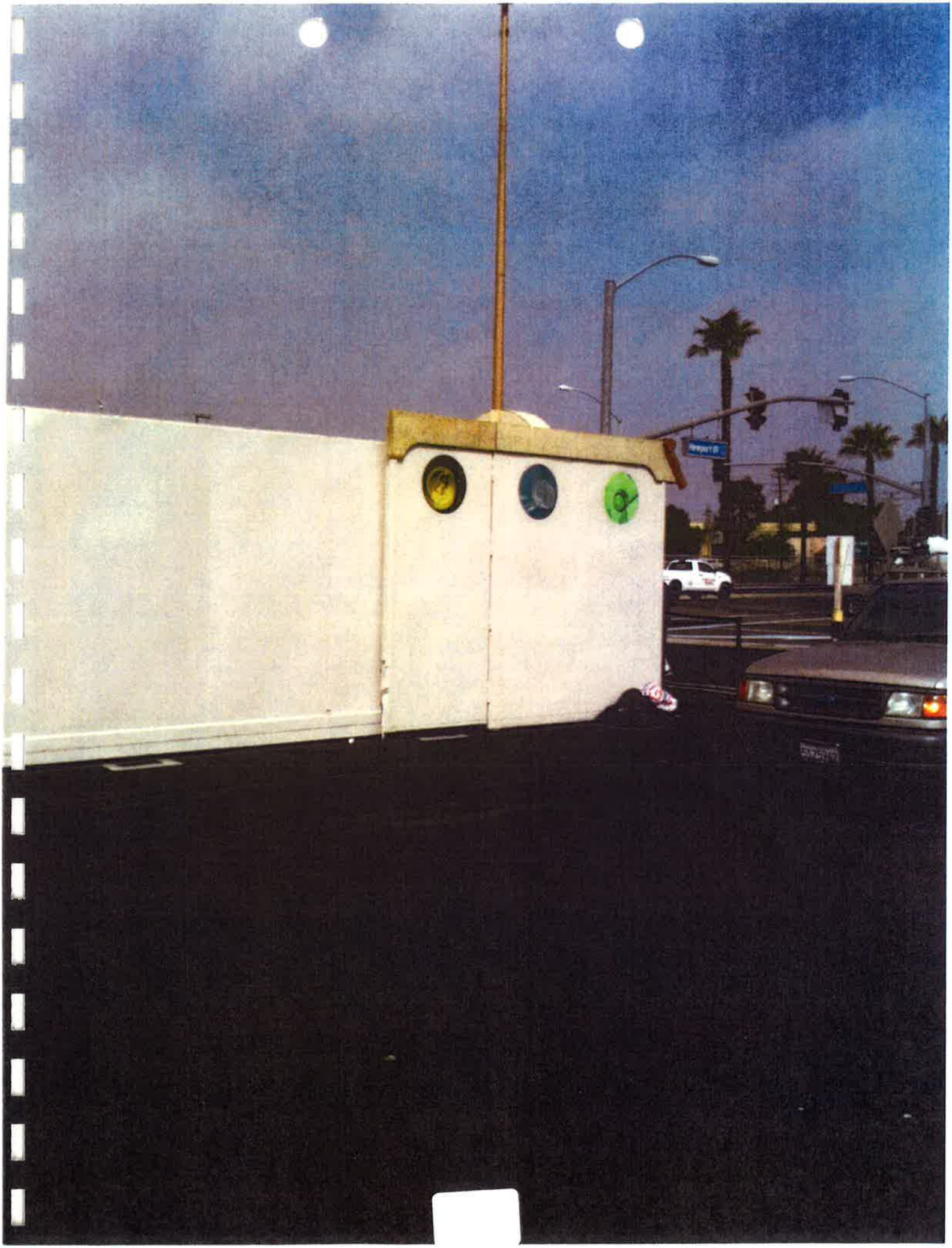


Tab 12

CITY OF COSTA MESA

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

DEVELOPMENT SERVICES DEPARTMENT

NOTICE OF DECISION
PLANNING COMMISSION ACTION

DATE: March 13, 2014

PROJECT NO: PA-87-154 (6-Month Review)

SITE ADDRESS: 2180 Newport Boulevard

FINAL ACTION: At a noticed public hearing on March 10, 2014, the Planning Commission approved moving forward with a resolution to modify or revoke the conditional use permit for PA-87-154 and return to the Planning Commission at a future meeting date that has not yet been determined.

PLANNING CONTACT: Mel Lee, Senior Planner, (714) 754-5611
mel.lee@costamesaca.gov

If you have any questions or comments regarding this notice of decision, please contact the project planner (above) or me at 714-754-5270.

Sincerely,

Gary Armstrong, AICP, Deputy CEO
Economic and Development Services Director

DISTRIBUTION:

RePlanet, LLC
c/o Brian Jackson
2611 E. Lindsay Privado Road
Ontario, CA 91761

RePlanet, LLC
c/o Doug Sanchez
2611 E. Lindsay Privado Road
Ontario, CA 91761

Costa Mesa Grocery Investors. LLC
11456 Olive Boulevard, Suite 210
Saint Louis, MO 63141

Stater Bros. Markets
c/o Mark Avalos, Grocery Supervisor - Retail
301 S. Tippecanoe Avenue
San Bernardino, CA 92408

Stater Bros. Markets
c/o Karen Molina-Stahl, Property Manager
301 S. Tippecanoe Avenue
San Bernardino, CA 92408

Stater Bros. Markets
c/o Bill Wall, Store Manager
2180 Newport Boulevard
Costa Mesa, CA 92627

DeAnne Hemmens
2177 Rural Lane
Costa Mesa, CA 92627

Christy Turley
2183 Rural Lane
Costa Mesa, CA 92627

Tab 13

PLANNING COMMISSION AGENDA REPORT

MEETING DATE: SEPTEMBER 22, 2014 **ITEM NUMBER:**

SUBJECT: PLANNING APPLICATION PA-87-154; REVIEW OF PREVIOUSLY APPROVED CONDITIONAL USE PERMIT ALLOWING REPLANET RECYCLING FACILITY TO OPERATE AT 2180 NEWPORT BOULEVARD

DATE: SEPTEMBER 11, 2014

FROM: PLANNING DEPARTMENT/DEVELOPMENT SERVICES DIVISION

PRESENTATION BY: MEL LEE, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611
mel.lee@costamesaca.gov

DESCRIPTION

Review Conditional Use Permit PA-87-154 to determine the following:

- Determine whether the neighborhood recycling facility currently operated by RePlanet has operated in violation of Conditional Use Permit PA-87-154 and/or as a public nuisance such that revocation of the Conditional Use Permit is appropriate; or, in lieu of revocation, impose additional conditions.

RECOMMENDATION

Recommend that the Planning Commission direct staff to prepare a resolution consistent with its findings as follows:

- Make findings that RePlanet recycling facility has been operated in violation of the conditions of approval in Conditional Use Permit PA-87-154 and/or as a public nuisance, such that revocation of the CUP is justified; and revoke, or in lieu of revocation, amend the conditions of the CUP; or

- Conclude that there are insufficient findings that RePlanet recycling facility has been operated in violation of the conditions of approval of Conditional Use Permit PA-87-154 or as a public nuisance. The existing conditions of approval regulating the use would remain as originally approved.

BACKGROUND

On September 14, 1987, the Costa Mesa Planning Commission approved Planning Application PA-87-154 that authorized the establishment of a neighborhood recycling facility in the parking lot of Stater Bros. Market located at 2180 Newport Blvd for a period of six months, with an approved subsequent extension on September 12, 1988, subject to two-year reviews for the purpose of ensuring continued compliance with applicable conditions of approval.

On July 9, 2012, the two-year review of PA-87-154 was referred to the Planning Commission for review to address concerns raised by abutting neighbors related to noise, litter and loitering problems. The Planning Commission granted an extension to September, 2013. RePlanet, which took over operation of the facility in early 2013, requested a continuance at the September 9, 2013 Planning Commission meeting until November 12, 2013 to allow for additional time to work with the neighboring residents, Stater Bros., City staff, and Planning Commissioners to address concerns regarding the operation of the facility.

At the November 12, 2013 Planning Commission meeting, the Commission granted a six-month extension to March 10, 2014 to give RePlanet time to implement the conditions of approval, including moving the recycling vestibule further away from residential properties, the installation of a new vestibule with reverse vending capabilities, to continue to work with Stater Bros. on the installation of permanent landscaping, and to allow for additional time to work with the neighboring residents, Stater Bros., City staff, and Planning Commissioners to address concerns regarding the operation of the facility. The applicant also proposed interim landscaping in the form of planter boxes to screen the facility from Newport Boulevard. A copy of the updated conditions of approval adopted by the Commission at the November 12, 2013 meeting is provided in the evidence packet under Tab 7.

At the March 10, 2014 Planning Commission meeting, staff was directed to: (1) investigate and prepare evidence supporting revocation of RePlanet's conditional use permit; and (2) discuss with RePlanet options to relocate the facility from their current location. On July 15, 2014, City staff held a meeting with RePlanet to discuss potential relocation sites for its business, however, as of September 8, 2014, RePlanet has neither submitted a new conditional use permit application to relocate their facility to another property nor has fully complied with the conditions of PA-87-154, which include a number of operational requirements.

ANALYSIS

Staff contends that several grounds exist to revoke or amend the CUP:

1. RePlanet has operated in violation of condition of operation 5, to wit, RePlanet has not conducted its operations in a manner that will allow the

quiet enjoyment of the surrounding neighborhood by replacing its recycle bins late at night and during the early morning hours; and

2. RePlanet has operated in violation of condition of operation 8(a), to wit, by not preventing loitering at its recycling facility; and

3. RePlanet has operated in violation of condition of operation 8(g), to wit, by not preventing bagged trash from being kept outside the facility; and

4. RePlanet has operated in violation of condition of operation 10, to wit, by picking up and dropping off recycling trailers before 9:00 am and after 5:00 pm; and

5. RePlanet has operated in violation of condition of operation 18, to wit, by not adequately patrolling the area to prevent loitering; and

6. RePlanet has operated in violation of condition of operation 19, to wit, by not preventing securing the premises with appropriate security lighting and employee scrutiny of adjacent areas to prevent trash, graffiti and littering; and

7. RePlanet has operated in violation of condition of operation 20, to wit, by not maintaining its facility and all areas under its control free of litter and graffiti; and

8. RePlanet has operated in violation of condition of operation 29, to wit, by not installing a modern vestibule as shown on the conceptually approved plans; and

9. RePlanet has operated in violation of condition of operation 30, to wit, by not working with staff to the fullest extent possible to incorporate new landscaping in the parking lot.

A more detailed description of the above items follows.

RePlanet routinely replaces its recycling bins late and night and during early morning hours, preventing neighboring residents from the quiet enjoyment of their neighborhood.

Condition of approval number 5 stipulates that:

"The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute whatever security and operational measures are necessary to comply with this requirement."

Condition of approval number 10 stipulates that:

"Hours for the pick-up and drop-off of the recycling trailers shall not occur before 9:00 am or after 5:00 pm, Tuesday through Saturday only."

Neighboring residents regularly report that RePlanet's recycling bins are replaced late at night and during early morning hours:

- On December 10, 2013 at 6:00 a.m., RePlanet's recycling bins were exchanged by a large, loud truck. This violation was witnessed by Christy Turley, resident at 2183 Rural Lane, Costa Mesa and Deanne Hemmens, resident at 2177 Rural Lane, Costa Mesa.
- On February 26, 2014 at 4:50 a.m., RePlanet's recycling bins were again exchanged by a large, loud truck. This violation was witnessed by Deanne Hemmens.
- On March 30, 2014 at 2:30 a.m., RePlanet's recycling bins were again exchanged by a large, loud truck. This violation was witnessed by Deanne Hemmens.
- On May 24, 2014 at 7:15 a.m., RePlanet's recycling bins were again exchanged by a large, loud truck. This violation was witnessed by Christy and Tyler Turley, residents at 2183 Rural Lane, Costa Mesa.
- On May 31, 2014 at 10:25 p.m., RePlanet's recycling bins were again exchanged by a large, loud truck. This violation was witnessed by Deanne Hemmens.

RePlanet consistently fails to prevent loitering around its facility.

Condition of approval number 8(a) stipulates that:

"Attendants shall enforce no shopping carts, no loitering, and ensure all customers follow the rules. Attendants shall refuse service to anyone who disobeys."

Condition of approval number 18 stipulates that:

"The business operator shall adequately patrol the area over which he/she has control in an effort to prevent the loitering of persons about the premises during business hours."

Neighboring residents regularly report that RePlanet fails to prevent loitering at its facility:

- On December 10, 2013, RePlanet failed to prevent three individuals from loitering around its facility. One of these individuals approached neighboring resident Tyler Turley and asked if he had any drugs for sale. This violation was observed by Tyler Turley, resident at 2183 Rural Lane, Costa Mesa.

As of September 5, 2014, neither the vestibule nor parking lot landscaping has been installed at RePlanet's recycling facility.

Condition of approval number 31 stipulates:

"The applicant shall provide planter boxes with appropriate landscape materials as shown on the approved plans."

As of September 5, 2014, no planter boxes with appropriate landscape materials were observed in violation of condition of approval number 31.

Public nuisance.

Additionally, Section 13-29(o)(1)(a) provides that the Planning Commission may require the modification or revocation of a conditional use permit when the use is being operated as a public nuisance, as defined in Civil Code Section 3479 and 3480.

A nuisance is "[a]nything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property . . . ." A public nuisance "is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal." Civ. Code §§ 3479, 3480.

Conditions such as loud, late night recycle-bin replacement, excessive loitering and trash storage constitute public nuisances, as they are the type of conditions that are likely to affect a considerable number of persons.

In addition, RePlanet's operation in violation of the conditions of approval listed above also violate CMMC 20-12(ii) that declares any use in violation of conditions of approval a public nuisance.

PUBLIC NOTICE

Code-required public notice was provided via the following methods:

1. Publication of a display ad in the local newspaper (Daily Pilot).
2. Notice of the public hearing was mailed to the property owner and was posted at the site.

ENVIRONMENTAL DETERMINATION

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been

- On January 29, 2014, RePlanet again failed to prevent loitering around its facility, as at least two individuals (transients) were observed loitering at the facility and interacting with RePlanet employees. This violation was observed by Deanne Hemmens, 2177 Rural Lane, Costa Mesa.
- On February 5, 2014, RePlanet again failed to prevent loitering around its facility, as transients were observed loitering at the facility. This violation was observed by Deanne Hemmens.
- On February 20, 2014, RePlanet again failed to prevent loitering around its facility as transients were observed loitering at the facility. This violation was observed by Deanne Hemmens.

RePlanet has allowed trash to remain outside its facility.

Condition of approval number 8(g) stipulates:

"Any bagged product or trash shall not be kept outside of the facility."

Condition of approval number 19 stipulates:

"The business operator shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which he/she has control, to prevent trash, graffiti and littering."

Condition of approval number 20 stipulates:

"The business operator shall maintain free of litter and graffiti all areas of the premises under his/her has control."

On February 8, 2014, RePlanet allowed stacks of cans to remain outside its facility as witnessed by Deanne Hemmens.

RePlanet has failed to install a modern vestibule and required landscaping.

Condition of approval number 29 stipulates:

"The operator shall install the modern vestibule as shown on the conceptually approved plans."

Condition of approval number 30 stipulates:

"To the fullest extent possible, the applicant shall continue to work with staff to incorporate new landscaping in the parking lot. A landscape planter consisting of ground cover, irrigation, and a minimum of two trees shall be installed to the satisfaction of the Development Services Director. Alternatives to the landscape planter that would achieve a similar effect to beautify or screen the recycling facility may be approved by the Development Services Director."

found to be exempt from CEQA under Section 15321 for Enforcement Actions by Regulatory Agencies.

LEGAL REVIEW

The City Attorney has reviewed this report and its attachments and has been approved as to the form by the City Attorney's Office.

ALTERNATIVES

The Planning Commission may take the following actions:

- Make findings that RePlanet has been operated in violation of the conditions of approval in Conditional Use Permit PA-87-154 and/or as a public nuisance, such that revocation of the CUP is justified; and revoke, or in lieu of revocation, amend the conditions of the CUP; or

- Conclude that there are insufficient findings that RePlanet has been operated in violation of the conditions of approval of Conditional Use Permit PA-87-154 or as a public nuisance. The existing conditions of approval regulating RePlanet would remain as originally approved.

CONCLUSION

In sum, the following grounds for revocation are being presented to the Planning Commission:

- RePlanet has consistently operated in violation of condition of operation numbers 5 and 10 by replacing its recycle bins late at night and during the early morning hours on at least 5 separate occasions.

- RePlanet has consistently operated in violation of condition of operation numbers 8(a) and 18 by allowing loitering at its facility on at least 4 separate occasions.

- RePlanet stored trash outside its facility in violation of condition of operation numbers 8(g), 19 and 20, and failed to install the required vestibule and landscaping in violation of condition of operation numbers 29 and 30.

- RePlanet failed to provide planter boxes with appropriate landscape materials in violation of condition of operation number 31.

MEL LEE, AICP
Senior Planner

CLAIRE FLYNN, AICP
Assistant Director of Development Services

Attachments:
1. Draft resolutions revoking or amending PA-87-154
2. Evidence Packet (Under Separate Cover)

Distribution:
Director of Economic & Development Services/Deputy CEO
Assistant Development Services Director
Senior Deputy City Attorney
Public Services Director
City Engineer
Transportation Services Manager
Fire Protection Analyst
Staff (6)
File (2)

RePlanet, LLC
c/o Brian Jackson
491 Kettering Drive,
Ontario, CA 91761

RePlanet, LLC
c/o Doug Sanchez
491 Kettering Drive,
Ontario, CA 91761

Costa Mesa Grocery Investors. LLC
11456 Olive Boulevard, Suite 210
Saint Louis, MO 63141

Stater Bros. Markets
c/o Mark Avalos, Grocery Supervisor - Retail
301 S. Tippecanoe Avenue
San Bernardino, CA 92408

Stater Bros. Markets
c/o Karen Molina-Stahl, Property Manager
301 S. Tippecanoe Avenue
San Bernardino, CA 92408

Stater Bros. Markets
c/o Bill Wall, Store Manager
2180 Newport Boulevard

Costa Mesa, CA 92627

DeAnne Hemmens
2177 Rural Lane
Costa Mesa, CA 92627

Christy Turley
2183 Rural Lane
Costa Mesa, CA 92627

Tab 14

Complaints in Chronological Order

LEE, MEL

From: Christy Turley <laughingsurfer@yahoo.com>
Sent: Tuesday, December 10, 2013 10:31 AM
To: LEE, MEL
Cc: deanne
Subject: re: RePlanet

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Hi Mel,

Just wanted to let you know that RePlanet had a truck out at Stater Bros at 6:00 am 12/10/13 removing bins and replacing them with empty ones.
They are NOT allowed to be making this kind of noise until 7:00 am....**the former Earthwise was super kind and didn't do this until well after 8:00 am**
so it DIDN'T DISTURB those who are still sleeping.

Deanne and Patrick Hemmens also noticed the noise this am. I told her I would send the email to you this time.

We chose not to involve the Costa Mesa Police.

I did call Doug Sanchez the Regional Manager of RePlanet last week to let him know that the employees are working well past the closing time. There have
been numerous occasions where the employees are STILL there until 7:30 pm cleaning up. Sometimes we HEAR him working this late...that is the only reason we know he is there.

I totally UNDERSTAND that they have people waiting in line and the employee will have to accommodate those people of course. Doug Sanchez seemed more irritated by my call. I was not there to argue with him, but just wanted to let him know (which he told me and Deanne to do if there were any problems)
He basically told me that RePlanet has bent over backwards to accommodate us. My call wasn't to upset him but to let him know what was going on.
I live here...I know what is happening more than he does. Deanne sent him an email the next day and Doug Sanchez seemed much nicer in his email to Deanne.

Just an FYI while my husband was standing over there just observing the recycling center. He noticed 3 "guys" just hanging around. One came up to him and asked him if he had any "drugs" he could buy?

I am sure you will copy this email to Doug Sanchez et all.

Thank you,
Christy Turley

LEE, MEL

From: Ocean Paddlesports <oceanpaddlesports@att.net>
Sent: Tuesday, December 10, 2013 10:54 AM
To: doug.sanchez@replanet.com
Cc: LEE, MEL; laughingsurfer@yahoo.com
Subject: Bin exchange

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Hi Doug
Thought you should know that the bin exchange happened at 5:50 this AM, December 10.
I woke up to the noise and I watched from my upstairs window.
Definitely not cool,
DeAnne

Ocean Paddlesports
949-642-0755
Sent from my IPad

LEE, MEL

From:	Ocean Paddlesports <oceanpaddlesports@att.net>
Sent:	Wednesday, January 29, 2014 2:59 PM
To:	LEE, MEL
Cc:	christy turley
Subject:	replanet
Follow Up Flag:	Follow up
Flag Status:	Flagged
Categories:	Red Category

Hi Mel:
Happy New Year.
just wanted to let you know that Replanet has moved their bins over a little.

And to date, there has been **no** beatification done either by them or Stater Bros.

Additionally, the noise and traffic is the same as before. In fact please note that this is the recycle centers slow season. They told me when we meet,
that summer is by far their high season because its hot and people drink more out of recyclables. So there won't be any space for the increase in business, except into parking spaces and drive ways...Just look at the lines and stacks of bins now..I have pictures if you want.

Also, the loitering man in a wheel chair and his buddy on the bike, stick real close to the employees there at RePlanet.
Tyler Turley saw the wheelchair man defecated on the sidewalk in the bushes. By the time the police arrived, he was gone..Until a few days later, chatting it up with Replanet.

Stater Bros calls the police to have them removed and the next day, they are back in line at the recycle place and hanging out there. I thought one of the conditions for the use permit is that they would discourage loitering and not allow them at the facility. The Manager,Bill at Stater Brothers calls the police on these fellows at least 2-3 times a week. But still they are back at Replanet....got a good picture of them there today.

I have more than one picture on different weeks of the wheelchair guy in line at the center and also hanging around talking to Replanet.

Please share this with the commission as I think it speaks directly to the fact that this business draws in these characters and they are unable or unwilling to do anything about it.

Best regards,
DeAnne Hemmens

Ocean Paddlesports,LLC
2177 Rural Lane

LEE, MEL

From: Ops <oceanpaddlesports@att.net>
Sent: Wednesday, February 05, 2014 2:59 PM
To: LEE, MEL
Subject: Loitering
Attachments: photo.JPG; ATT00001.txt

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Here's a pic from right now of the loitering transients at replanet.

LEE, MEL

Subject: FW: Look at that mess
Attachments: photo.PNG; ATT00001.txt

From: Ops [mailto:oceanpaddlesports@att.net]
Sent: Saturday, February 08, 2014 1:59 PM
To: LEE, MEL
Subject: Look at that mess

Hi Mel
Check out the line into where cars go and the plastic stacks of cans outside the center. They are not supposed to stack that ugly stuff out side!!!!! Please show the commission this, it's out grown this parking lot!!!

LEE, MEL

From: Ops <oceanpaddlesports@att.net>
Sent: Thursday, February 20, 2014 12:56 PM
To: LEE, MEL
Subject: Loitering homeless man at explainer
Attachments: photo.JPG; ATT00001.txt

Hi Mel
Another photo if the crowds and the loitering man in wheel chair at replant. Today feb 20. Looks like replant spent $50 at Home Depot for some silly little trees.

LEE, MEL

From: Ops <oceanpaddlesports@att.net>
Sent: Wednesday, February 26, 2014 5:00 AM
To: LEE, MEL
Cc: doug.sanchez@replanet.com
Subject: Bin exchange

Replant is breaking the law right now at 4:50 am, wednesday, feb 26 by exchanging bins and waking up the entire neighborhood.
Why don't they respect the cities noise ordinance that says they must do it after 7 am?

DeAnne Hemmens
Sent from my iPhone

LEE, MEL

From: Ops <oceanpaddlesports@att.net>
Sent: Sunday, March 30, 2014 9:01 AM
To: LEE, MEL
Subject: Bun exchange 2 am

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Mel,
How can we make this stop?
2 am Sunday morning!

DeAnne Hemmens
Sent from my iPhone

LEE, MEL

From: Ops <oceanpaddlesports@att.net>
Sent: Saturday, May 24, 2014 7:51 AM
To: LEE, MEL
Cc: Christy
Subject: Changing bins

So the stupid replant is changing the dam bins at 7:30 on Saturday morning may 24. Why? When will they move this is unacceptable!!

DeAnne Hemmens
Sent from my iPhone

Keith F. Collins

From: LEE, MEL <MEL.LEE@costamesaca.gov>
Sent: Monday, July 14, 2014 10:27 AM
To: Keith F. Collins
Subject: FW: Bin exchange

-----Original Message-----
From: Ops [mailto:oceanpaddlesports@att.net]
Sent: Wednesday, February 26, 2014 5:00 AM
To: LEE, MEL
Cc: doug.sanchez@replanet.com
Subject: Bin exchange

Replant is breaking the law right now at 4:50 am, wednesday, feb 26 by exchanging bins and waking up the entire neighborhood.
Why don't they respect the cities noise ordinance that says they must do it after 7 am?

DeAnne Hemmens
Sent from my iPhone

Keith F. Collins

From: LEE, MEL <MEL.LEE@costamesaca.gov>
Sent: Monday, July 14, 2014 10:26 AM
To: Keith F. Collins
Subject: FW: replanet

From: Ocean Paddlesports [mailto:oceanpaddlesports@att.net]
Sent: Thursday, March 27, 2014 9:31 AM
To: LEE, MEL
Subject: replanet

HI Mel:
How are you? Hope all is well over there at City Planning.
When do you expect the Replanet to be moving?

I don't expect them to be very considerate to the neighbors now that they have to relocate, so I hope they leave soon.
Thank you for compiling all my pictures and emails.
Best regards,
DeAnne Hemmens
PS, Bill the manager at Stater Brothers is trying to be a good neighbor with regards to the noise he can control. IE: trucks idling, etc.

Ocean Paddlesports,LLC
2177 Rural Lane
Costa Mesa, CA 92627
949-642-0755
www.oceanpaddlesports.com
info@oceanpaddlesports.com

Keith F. Collins

From: LEE, MEL <MEL.LEE@costamesaca.gov>
Sent: Monday, July 14, 2014 10:25 AM
To: Keith F. Collins
Subject: FW: RePlanet strikes again

-----Original Message-----
From: Christy Turley [mailto:laughingsurfer@yahoo.com]
Sent: Monday, March 31, 2014 8:48 PM
To: LEE, MEL
Subject: re: RePlanet strikes again

Hello Mel,

I know that Deanne Hemmons wrote to you but I thought that I should also comment.
RePlanet bin exchanged happened at approximately 2:30am early Sunday March 30, 2014.

If this is what we have to look forward to until they are moved...then they better be moved sooner than later.

I would like it if you could pass on this email to the planning commission. I think they should know what they are doing. I know they will just blame it on their trucking pick up crew...but really there is no excuse!

2:30 in the MORNING!! UGH!

Thank you for your time.

Christy Turley
resident

Keith F. Collins

From: LEE, MEL <MEL.LEE@costamesaca.gov>
Sent: Monday, July 14, 2014 10:25 AM
To: Keith F. Collins
Subject: FW: RePlanet

From: Christy Turley [mailto:laughingsurfer@yahoo.com]
Sent: Tuesday, May 27, 2014 12:11 PM
To: LEE, MEL; deanne
Cc: tyler
Subject: re: RePlanet

Hello Mel,

Not sure if we should STIlL be directing our complaints to you or not.
But last Saturday May 24th Replanet exchanged bins at about 7:15 am!!

We (me, husband and 2 children) were exhausted from a VERY busy week and we were hoping to sleep in until about 8:00 ish but instead we were ABRUPTLY WOKEN UP by another EARLY BIN EXCHANGE!!

PLEASE let us know what is happening with their supposed relocation.

We already have enough from living next to a grocery store…to have added these people who OBVIOUSLY could care less. What will there excuse be this time…New Driver? We have heard that many times before! The bin exchange is **EXTREMELY LOUD** and it happens 2x a week!

PLEASE MOVE THEM!!

Christy and Tyler Turley

Keith F. Collins

From: LEE, MEL <MEL.LEE@costamesaca.gov>
Sent: Monday, July 14, 2014 10:24 AM
To: Keith F. Collins
Subject: FW: Bin exchange

Keith -

I am forwarding the complaints since February to you.

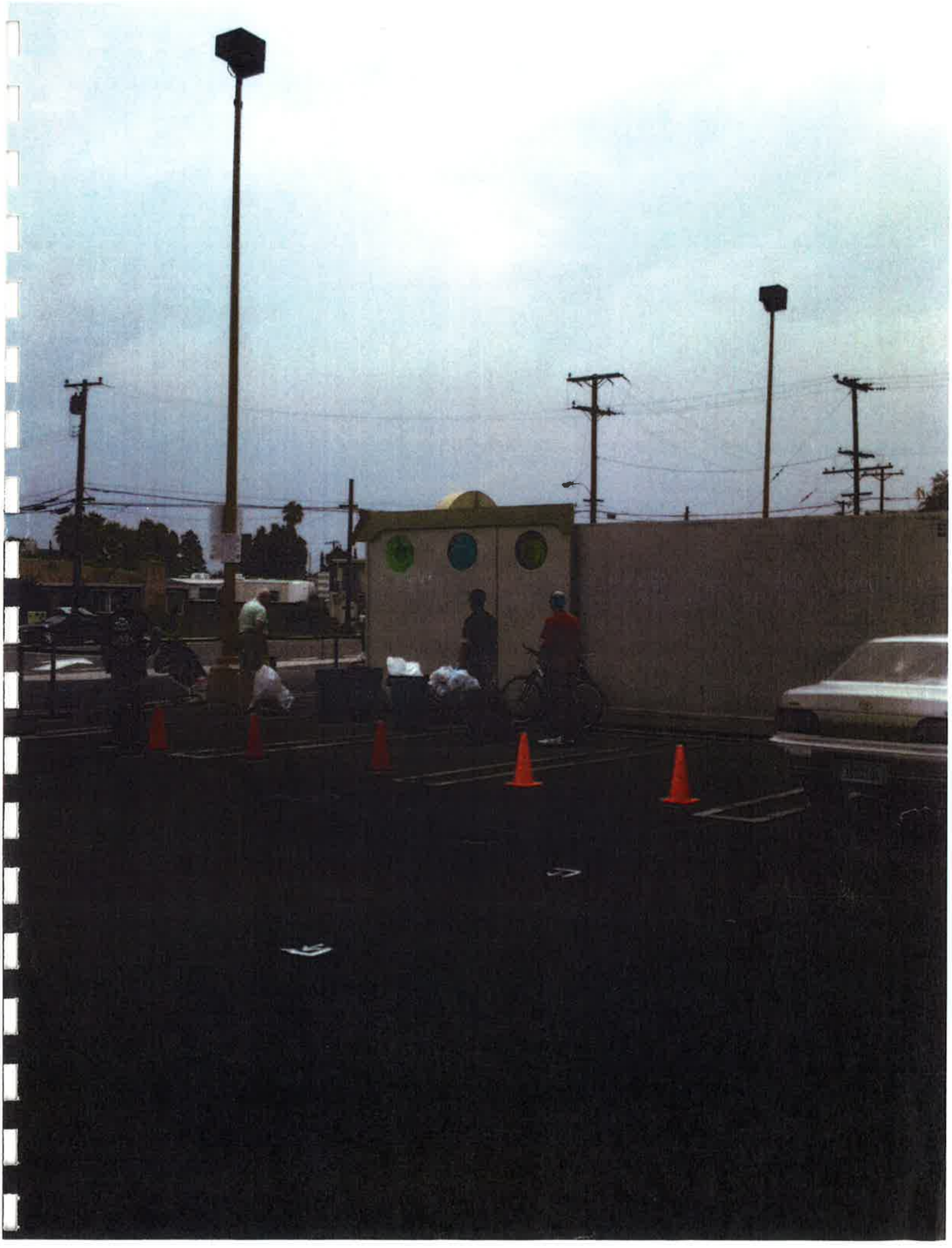
Mel

-----Original Message-----
From: Ops [mailto:oceanpaddlesports@att.net]
Sent: Saturday, May 31, 2014 10:26 PM
To: doug.sanchez@replanet.com
Cc: LEE, MEL
Subject: Bin exchange

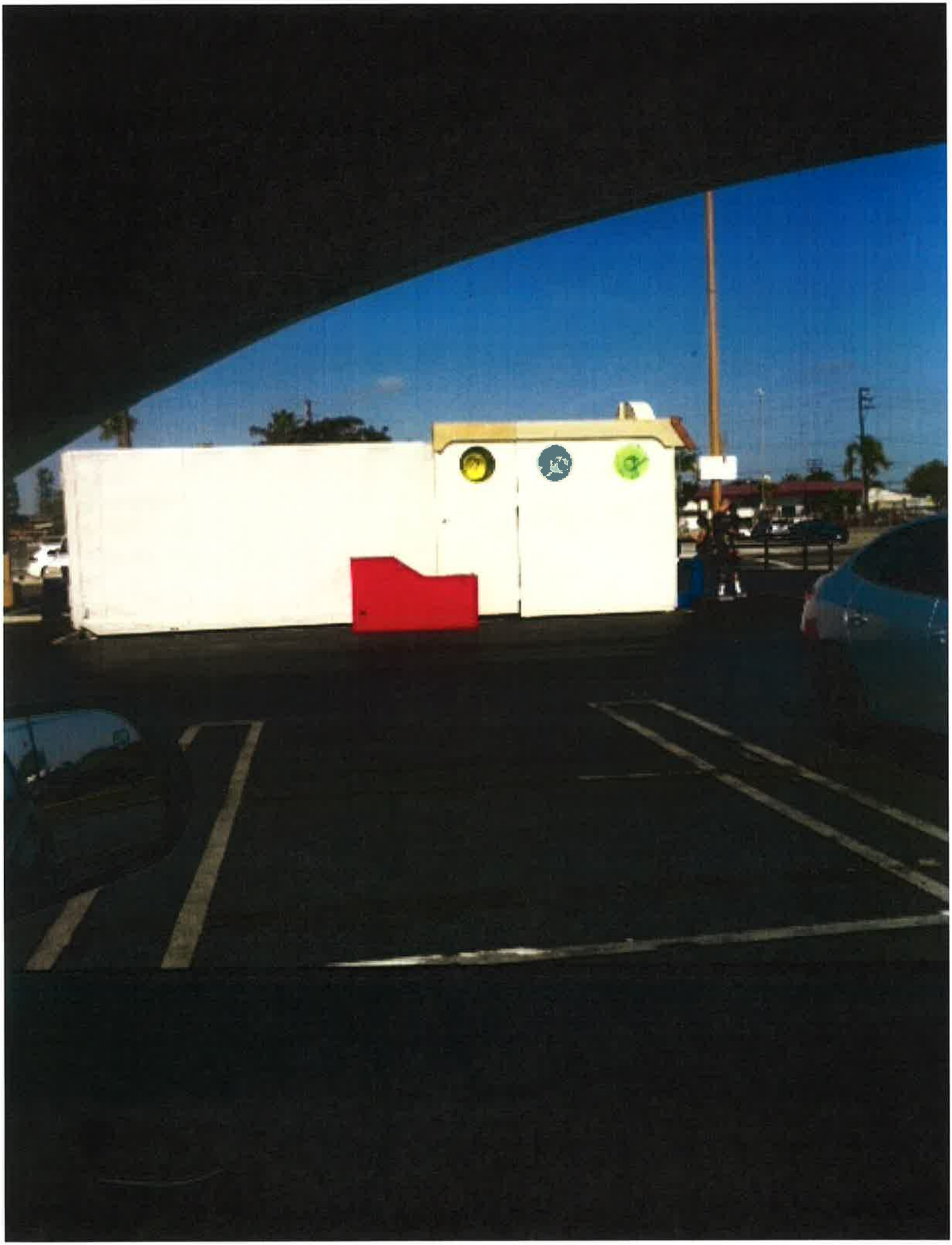
Breaking the rules again now Saturday night at 10:25 pm doing your container exchange.
Stop it! It's not very respectful of the neighborhood.

DeAnne Hemmens
Sent from my iPhone

Tab 15



Tab 16



Thursday
Friday
Saturday
Closed For Lunch:
1:00pm - 1:30pm

Tab 17

STATER
re PLANET
Welcome to rePLANET
Please tell us how we are doing
1-877-737-5383
Full-Service
NO TRESPASSING
NO LOITERING