



# *PLANNING COMMISSION AGENDA REPORT*

MEETING DATE: MARCH 12, 2012

ITEM NUMBER:

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

**DATE: MARCH 1, 2012**

**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](mailto:mel.lee@costamesaca.gov)**

---

## **PROJECT DESCRIPTION**

Review of a two-year extension of Planning Application PA-87-154 for a neighborhood recycling facility for Earth Wize Recycling within the existing Stater Bros. Market parking lot.

## **APPLICANT**

The owner of the recycling facility is Don Opperman of Earth Wize Recycling. The owner of the property is SB Newport Boulevard Investors, LLC.

## **RECOMMENDATIONS**

Adopt Planning Commission resolution for a two-year extension to September 14, 2014 for the continued operation of the facility, subject to updated conditions of approval.

## BACKGROUND

### ***Project Site/Environs***

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

### ***History***

On September 14, 1987, Planning Commission approved a conditional use permit allowing the establishment of a neighborhood recycling facility within the parking lot of the Stater Bros. Market. The original conditions are listed below and are also contained in the staff report attached to this report (Attachment 3).

#### Original Conditions of Approval for PA-87-154:

1. The recycling center shall be staffed during all business hours, Tuesday through Saturday, from 10:00 am through 7:00 pm.
2. The trailer shall be kept neat and clean (not dented or rusty) and the area surrounding the trailer shall be maintained in a clean condition, free of debris.
3. The signage on the trailer shall be limited to that indicated on the plan (circular arrows plus "Reynolds Aluminum Recycling Pays"). A 22 ft. x 44 ft. identification sign, as mandated by the State, shall be allowed. A convenience sign (maximum of 6 sq. ft.) indicating the hours shall also be allowed.
4. All containers shall be stored inside the trailer at all times.
5. Approval shall be for a period of six (6) months. Prior to expiration, applicant may request renewal, subject to reevaluation at that time. The Development Services Director may extend the Planning Action for a period not to exceed two (2) years 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 may extend the permit for successive two (2) year periods under the same terms.
6. The trailer shall be located a minimum of 45 feet from the easterly property line and a minimum of 50 feet from the northerly property line. Applicant shall submit site plans which indicate a location, meeting this condition to the Planning Division for review and approval.
7. During a test period of six-months, the unit shall be alternated from a location at the perimeter of the property, to a location closer to the market on the property, in order to analyze and determine the differential of the locations. The applicant shall provide records of volume at each location at the end of the six-month period.

The original 6-month review per condition of approval number 5 was extended due to the amount of time it took Reynolds Aluminum, the original operator of the facility, to compile

the volume records per condition of approval number 7 above.<sup>1</sup> On September 12, 1988, Planning Commission approved the “six-month” renewal subject to the subsequent periodic (two-year) reviews by the Department Director to ensure compliance with the remaining conditions of approval.

The current operator is Earth Wize Recycling. Their day-to-day operations consist of the following:

- Current hours of operation are 9:00 am to 5:00 pm, Tuesday through Saturday (closed Sunday and Monday).
- The facility accepts the following materials for recycling: aluminum cans and CRV (California Redemption Value) plastic and glass bottles.
- The collection of recyclable materials is done within a cordoned off area at the front of the structure (Attachment 2). For liability reasons, customers are not allowed to enter the structure. The crushing of containers is done inside the structure.
- The procedures in place for cleaning spilled liquids on the site are described in the next section.

### ***Recent Activity***

Below is a summary of the recent activity involving the facility:

- Planning staff inspected the site and reviewed the conditions of approval for PA-87-154 in May 2005, September 2007, and September 2009, and found the use to be in compliance with conditions and no complaints received.
- A complaint regarding possible water quality (NPDES) standards violations from spilled liquids on the site was received by Public Services staff on September 9, 2010, and compliance gained the following day on September 10, 2010. The operator put in place the following procedures for spilled liquids on the site, which remains in effect:
  - Containers with liquids are not accepted at the facility, and the facility is posted with signs stating this (Attachment 2). Customers are required to empty liquids into an on-site container before they can be accepted by the facility. The container is picked up by truck, emptied at an offsite location in a sanitary manner, and returned on a regular basis.
  - A liquid absorbing roll is placed around the perimeter of the customer area to prevent spilled liquids from entering the street or storm drains. The area is also mopped down regularly (water hoses are not used) to also prevent spilled liquids from entering the street or storm drains.
- A complaint regarding a CUP violation and no business license was received on April 29, 2011. Staff inspected the site and confirmed the structure had been

---

<sup>1</sup> Condition of approval number 7 also references a separate CUP (PA-87-155) approved for a neighborhood recycling facility within the parking lot at 1175 Baker Street (Stater Bros. Market), which is no longer in operation.

moved closer to the northerly property line (22<sup>nd</sup> Street). Compliance was gained on June 16, 2011.

Since the resolution of the above violations, no additional Code Enforcement complaints have been filed. In response to the public notice for the CUP review, staff received two emails from the public expressing opposition to the recycling facility related to noise and traffic (Attachment 4).

## **ANALYSIS**

### ***Review of Planning Application PA-87-154***

The regular two-year (2011) review for the extension of PA-87-154 has been brought forward to the Planning Commission for consideration to obtain Commission input and direction on the continued operations of this recycling facility.

Conditional use permits typically run with the land. In this case, however, Condition No. 5 indicates that the use permit is subject to reevaluation every two years by the Department Director; as a result, the past reevaluations have been done at staff level. 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.

### ***Justifications for Approval of Two-Year Extension***

- *The facility will be required to operate in accordance with the recommended updated conditions of approval.* Planning Commission adopted standard conditions for recycling facilities in November 2010. Staff has worked with the applicant to incorporate a number of these conditions, as applicable, to the Earth Wize facility. Thus, Planning Commission may update the conditions of approval as part of the reevaluation process.

The main objectives for the development of standard conditions of approval for bulk recycling and collection facilities included:

- Better regulation of the operational aspects of recycling facilities on a day-to-day basis.
- Emphasis on new technologies to address day-to-day operations, aesthetics & cleanliness, noise, and volume limitations.
- Requirement that the location/site area of the recycling facility be clearly delineated and not changed without prior City approval.

- *Additional Conditions of Approval are Proposed to be Implemented.*

Below are some of the more significant new conditions related to day-to-day operations:

- The facility shall be limited to one recycling structure with a covered vestibule area in which collection/drop-off/gathering of recyclables shall occur. Customers may line-up outside the vestibule.
- No compacting, flattening, grinding, crushing, and/or glass breaking activities shall occur outside the structure.

Below are some of the more significant conditions related to water quality:

- Business operator shall design the area to prevent runoff of spilled liquids.
- 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.
- Business operator shall ensure that there are no residual liquids from CRV containers prior to placing them in transferring and weighing areas.

The complete conditions are attached to the draft resolution in this report. With regard to conditions of approval related to water quality, these conditions will ensure recycling centers operating within the City of Costa Mesa remain in compliance with Costa Mesa Municipal Code, Ordinance No. 97-20. Additionally, these conditions will ensure the City's compliance with California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030 NPDES Permit.

The operator has reviewed the updated conditions of approval and has no objections to complying with them. Therefore, staff recommends approval of the continued operations of the recycling facility, subject to compliance with the updated conditions of approval, for the following reasons.

- *The applicant is proposing the following site landscaping and aesthetics improvements:*

1. Install a new, modern-looking structure in the current location of the existing structure. This structure will feature a semi-enclosed vestibule in which the recyclable materials are collected from the customer (Attachment 5).
2. Install a landscape planter at the corner of 22<sup>nd</sup> Street and Newport Blvd.

According to the applicant, the above improvements will be in place by January 1, 2013.

- The facility will continue to comply with State Assembly Bill AB 2020 (aka “The Bottle Bill”) with regard to convenience zones. A convenience zone is a half-mile radius circle with the center point originating at a supermarket, in this case, Stater Bros. Market. A convenience zone is required by law to have within the zone’s boundaries a recycling center that redeems all CRV containers (i.e., a “served zone”). Approval of the extension will allow the convenience zone to be continued to be served in accordance with The Bottle Bill.

## **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 being 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 may take no action to modify the use permit. If the Commission takes no action to modify the permit, it may continue to operate without the site upgrades for another two years and under the current conditions of approval for PA-87-154.

## **CONCLUSION**

Earth Wize has concurred with the recommended updates to the conditions of approval to address site aesthetics, day-to-day operations, and water quality. Compliance with these conditions ensure that the facility will be upgraded and continue to serve the convenience zone for recycling.

---

MEL LEE, AICP  
Senior Planner

---

CLAIRE FLYNN, AICP  
Acting Asst. Development Services Director

Attachments: 1. Draft Planning Commission Resolution  
2. Location Map and Photos  
3. Staff Report for PA-87-154 and Exhibits  
4. Correspondence Received From Public  
5. Plans

cc: Assistant Chief Executive Officer  
Interim Development Services Director  
Deputy City Attorney  
City Engineer  
Transportation Services Manager

Fire Protection Analyst  
Staff (4)  
File (2)

Earth Wize Recycling  
Attn: Don Opperman  
4315 E. Lowell Street, Suite F  
Ontario, CA 91761

SB Newport Boulevard Investors, LLC  
11456 Olive Boulevard, Suite 210  
Saint Louis, MO 63141

**RESOLUTION NO. PC-12-\_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA APPROVING A TWO-YEAR  
EXTENSION FOR PLANNING APPLICATION PA-87-154  
FOR A NEIGHBORHOOD RECYCLING CENTER**

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 6 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, in September 2011, the two-year review of Planning Application PA-87-154 was referred to the Planning Commission for review;

WHEREAS, on December 12, 2011, a duly noticed public hearing was held by the Planning Commission, and continued to March 12, 2012;

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** a two-year extension of Planning Application PA-87-154 to September 14, 2014, for an existing neighborhood recycling center for Earth Wize Recycling 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 March, 2012.**

---

Colin McCarthy, Chair  
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:
    - Install a new, modern-looking structure in the current location of the existing structure, which will be removed.
    - Install a landscape planter at the corner of 22<sup>nd</sup> Street and Newport Boulevard.
    - Add updated conditions of approval applicable to recycling facilities in the City as adopted by the Planning Commission in November 2010.
  - 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 Development Services Director or his/her designee may extend the Planning Application for a period not to exceed two (2) years to September 14, 2014 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.
  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 a minimum of 45 feet from the easterly property line and a minimum of 50 feet from the northerly property line.
  7. The structure shall be manned during business hours.
  8. The structure shall be limited to the following hours of operation: 9:00 am to 5:00 pm, seven days a week. Changes to the hours of operation that extend the opening and closing times past the above hours shall be submitted to the Planning Commission for review.
  9. The operator shall contact the Planning Division to arrange a Planning inspection of the new recycling structure prior to occupancy. This inspection is to confirm that the Planning Division conditions of approval and code requirements have been satisfied.
  10. The landscape planter at the corner of 22<sup>nd</sup> Street and Newport Boulevard shall be constructed and landscaped per the conceptually approved plans. The final dimensioned landscape and irrigation plans shall be approved prior to installation.
  11. The facility shall be limited to one recycling structure with a covered vestibule area in which collection/drop-off/gathering of recyclables shall occur. Customers may line-up outside the vestibule.
  12. 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.

13. No compacting, flattening, grinding, crushing, and/or glass breaking activities shall occur outside the structure.
14. In conjunction with the conditional use permit approval, the business operator shall submit detailed, dimensioned plans showing the location and boundary limits of the structure recycling trailer and vestibule on the property, the customer waiting area, and truck pick-up and drop-off area of the trailer. Any change in the approved area of business operations shall require City approval of an amendment to the conditional use permit.
15. 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.
16. 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.
17. 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.
18. 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.
19. The business operator shall maintain free of litter and graffiti all areas of the premises under his/her has control.
20. 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.
21. Business operator shall design the area to prevent runoff of spilled liquids.
22. 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.
23. 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.
24. Business operator shall ensure that there are no residual liquids from CRV containers prior to placing them in transferring and weighing areas.
25. 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.
26. 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 nor debris shall be allowed in the area at the end of each operating day.