



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

August 10, 2011

APPLICATION: **CONDITIONAL USE PERMIT NO. UP11-0018**

APPLICATION
SUMMARY:

A request to operate a 20' x 8' mobile recycling unit located on the rear half of the property within the parking lot of an existing commercial building.

LOCATION:

81 Dixon Road (APN: 026-05-021)

APPLICANT:

Juan J. Ortega, 7110 Flumingway, Sacramento, CA 95828

OWNER:

Ngan T. Le, 81 Dixon Road, Milpitas, CA 95035

RECOMMENDATION:

Staff recommends that the Planning Commission: Adopt the Resolution No. 11-036 approving the project subject to the conditions of approval.

PROJECT DATA:

General Plan/

Zoning Designation:

Retail Subcenter / Neighborhood Commercial with Site and Architectural Review Overlay District (C1-S)

CEQA Determination:

Categorically exempt from further environmental Review pursuant to Section 15304 for Minor Alterations to Land

PLANNER:

Tiffany Brown, Assistant Planner

PJ:

2730

ATTACHMENTS:

- A. Resolution No. 11-036
- B. Site Plans
- C. Letter from the applicant

LOCATION MAP



Project Site

2605021



No scale

BACKGROUND

On June 10, 2011, Juan Ortega with Ortega Recycling submitted an application to operate a new mobile recycling unit at 81 Dixon Road. This application is submitted pursuant to Section 10-57.04 C. 2. for “Other uses” that require a conditional use permit. The Planning Commission may, after a public hearing, permit the following uses listed under “Other uses” in districts from which they are prohibited by the zoning code where such uses are deemed essential or desirable to the public convenience or welfare and are in harmony with the various elements or objectives of the General Plan.

PROJECT DESCRIPTION

The project site is a 0.32 acre parcel with commercial uses to the east, south, and west and abuts residential to the north. There is a 1,754 sq.ft. commercial building built in the 1970’s located on the west side of the property. There is a rot iron fence that runs across the width of the property starting at the commercial building and ending at the east property line. This closes off the rear half of the property after operation hours. A vicinity map of the subject site location is included on the previous page.

The new mobile recycling facility will be placed on the rear half of the property near the neighboring commercial center to the east. The mobile recycling facility is a converted small standard shipping container that is 8’ wide by 20’ long and stands 8’ tall (see Attachment B for photographs of the unit). The container will be painted to match the existing commercial building. The recycling unit will be staffed while open and the hours of operation will be Monday through Saturday from 9:00am to 5:00pm and closed on Sundays. This facility will be collecting can and plastic beverage containers only.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 2
General Plan Consistency

Policy	Consistency Finding
<i>2.a-1-6: Endeavor to maintain a balanced economic base that can resist downturns in any one economic sector.</i>	Consistent

The project is consistent with the General Plan in that the recycling center can resist downturns in any on economic sector and promotes cleanliness and beautification for the City.

Zoning Ordinance

The primary consideration for Conditional Use Permits is its compatibility with surrounding uses, ensuring that the proposed operation does not negatively affect neighboring properties. The proposed mobile recycling unit is consistent with the Zoning Ordinance in that the use is a conditionally permitted use and will not be detrimental or injurious to the property or the public

health, safety, and general welfare. Standard conditions of approval regarding mobile recycling units have been applied to this project such as acceptable materials, distance from residential property, noise, cleanliness, and hours so to be consistent with other mobile recycling units throughout the city. These conditions may vary from the applicant's proposal, but since the permit will run with the land, if there is a subsequent operator of the facility, there are standard performance measures to be followed.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt from further environmental review pursuant to Section 15304 for Minor Alterations to Land in that the mobile unit is a minor temporary use having negligible or no permanent effect on the environment.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

The mobile recycling unit is a conditionally permitted use and is consistent with both the General Plan and Zoning Ordinance. The unit promotes cleanliness and beautification by giving compensation to those that recycle.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. approving Conditional Use Permit NO. UP11-0018, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 11-036
- B. Site Plans
- C. Letter from the applicant

RESOLUTION NO. 11-036

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS,
CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP11-0018, TO
ALLOW FOR THE OPERATION OF A STAFFED MOBILE RECYCLING UNIT,
LOCATED AT 81 DIXON ROAD**

WHEREAS, on June 10, 2011, an application was submitted by Juan J. Ortega, 7110 Flumingway, Sacramento, CA 95828, to operate a 20' x 8' mobile recycling unit located on the rear half of the property within the parking lot of an existing commercial building at 81 Dixon Road. The property is located within the Neighborhood Commercial zoning district. (APN 026-05-021); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project categorically exempt; and

WHEREAS, on August 10, 2011, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: the project is categorically exempt from further environmental review pursuant to Section 15304 for Minor Alterations to Land in that the mobile unit is a minor temporary use in an existing, developed parking lot area which will have negligible or no permanent effect on the environment.

Section 3: The project is consistent with the General Plan Policy 2.a-I-6 in that the recycling center can resist downturns in any on economic sector and promotes cleanliness and beautification for the City.

Section 4: The proposed mobile recycling unit is consistent with the Zoning Ordinance in that the use is a conditionally permitted use pursuant to Section 10-57.04 C. 2 of the Municipal Code and will not be detrimental or injurious to the property or the public health, safety, and general welfare.

Section 5: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP11-0018 subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on August 10, 2011.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on August 10, 2011, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Mark Tiernan				
John Luk				

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UA11-0018**

A request to operate a 20' x 8' mobile recycling unit located on the rear half of the property within the parking lot of an existing commercial building.
81 Dixon Road (APN: 026-05-021)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on **August 10, 2011**, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**

2. **UA11-0018** shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:
 - a) Completes a foundation associated with the project; or
 - b) Dedicates any land or easement as required from the zoning action; or
 - c) Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
3. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of **UA11-0018** if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
4. The mobile recycling unit shall be painted an earth tone color that complements the existing commercial building. **(P)**
5. The operator shall maintain the area in front of and behind the mobile recycling unit free and clear of debris and litter on a daily basis. **(P)**
6. The operator shall accept only glass, metals, and plastic containers. **(P)**

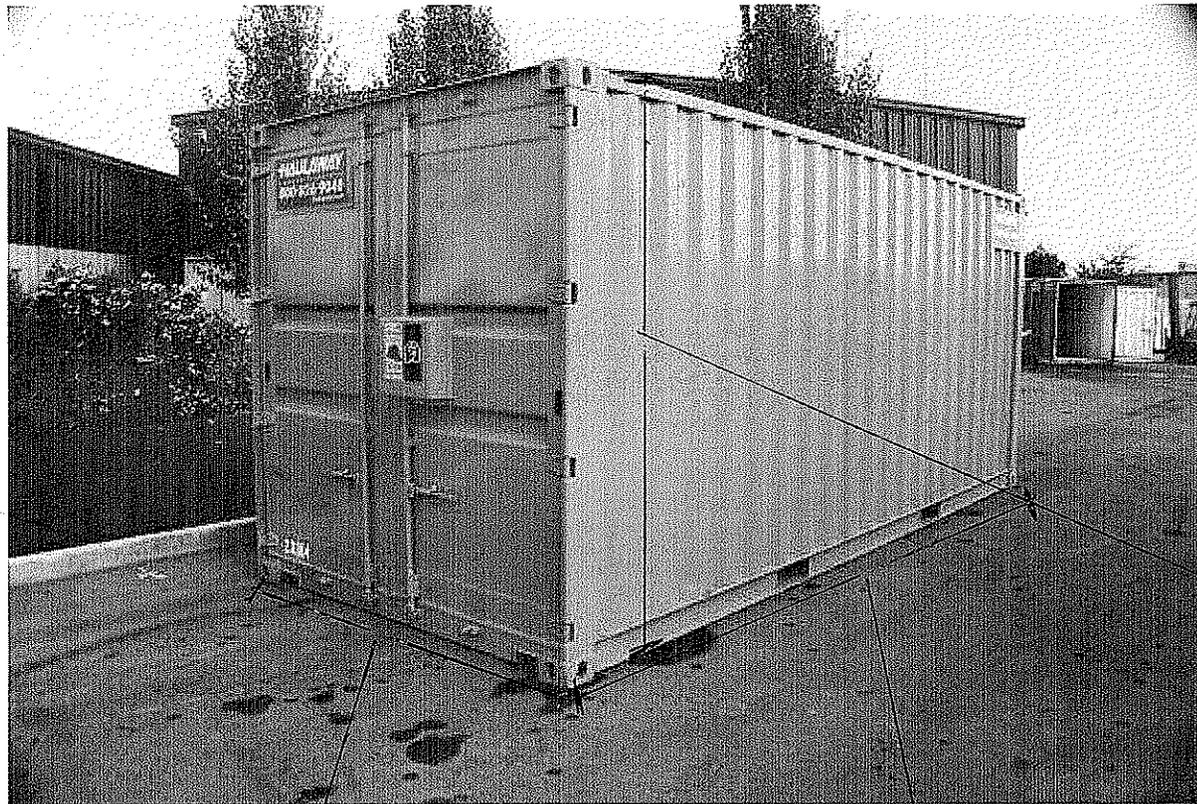
7. The mobile recycling unit container shall be constructed and maintained with durable waterproof and rust-proof material, secured from unauthorized entry or removal of material, and shall be of a capacity sufficient to accommodate materials collected and the collection schedule. **(P)**
8. Materials shall not be stored or dumped outside the mobile recycling unit. Any litter, abandoned items and other material left at the property site shall constitute a public nuisance and may be abated at operator or owner expense, as allowed by law. **(P)**
9. Shall not exceed noise levels of 60 dBA as measured at the property line of residentially zoned or occupied property adjacent to the site. **(P)**
10. The mobile recycling unit shall be staffed during all hours of operation. **(P)**
11. The staffed mobile recycling unit is located within 100 feet of a property zoned or occupied for residential use and therefore shall operate only during the hours between 9:00am and 7:00pm. **(P)**
12. The recycling unit container shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers. **(P)**

(P) = Planning

RECEIVED

JUN 27 2011

CITY OF MILPITAS
PLANNING DIVISION



8' w.

20' long

8' tall

ATTACHMENT B.



RECEIVED

JUN 27 2011

**CITY OF MILPITAS
PLANNING DIVISION**

This door will be
Open all the way
(Flush with the container) - Wood Floor -
To improve visibility
and minimize space
Please See Plans

ATTACHMENT B.

PROPOSED RECYCLING CENTER

81 Dixon Rd, Milpitas CA 95035

Description:

Place a storage unit 20' long, 8' width, and 8' tall to be used as a small recycling facility. Provided are site plans with the proposed location of the unit however we are open to suggestions on size and location of the mentioned.

We collect from public, beverage containers (sodas, water, beer, juice) and only those with California Refund Value (CRV).

We do not accept any scrap metal, cardboard or anything other than the above mentioned.

.If approved our recycling center will be open Monday thru Saturday 9:00 am to 5:00 pm

It will be attended while open and in conjunction with the host business we will keep the area clean of any spill trash or any other nuisance.

We keep all the materials inside the bin and empty it in a regular basis

We understand your concerns like:

appearance, traffic flow, minimal parking space requirement, and safe environment.

We strive to exceed your standards by:

- Using low profile non electrical equipment,
- Clean well maintained storage containers,
- Keep our activities within the container to maximize customer parking, and
- Well trained employees at site during operating hours.

Additionally we provide :

- State mandated recycling service for the nearby supermarket and dealers in the shopping center,
- Reduce the cost of garbage collection for residences and businesses,
- Avenue for citizens to reclaim California redemption value (CRV) they have paid when purchasing beverages without having to travel long distances at their own cost
- Our presence creates awareness of energy and resources conservation

WE LOOK FORWARD TO BEING ABLE TO BETTER SERVE THE COMMUNITY
THROUGH OUR JOINT EFFORTS IN RECYCLING

State of California



Beverage Container
Certification & Registration
Branch

Certification is Non-Transferable

Certified Recycling Center

Certificate issued to:

Contact Person: **Juan Jose Ortega-Diaz**
Organization: **Ortega Recycling**
Facility/DBA: **Ortega Recycling**
81 Dixon Rd
Milpitas CA 95035

For Collection Of:
Aluminum
Glass
Plastic
Bimetal

Issued by:

A handwritten signature in black ink that reads "Kent Harris".

Branch Chief

Beverage Container Certification & Registration Branch

Certification Number: **RC141536.001**

Expiration Date: **4/30/2013**