



Los Angeles County Department of Regional Planning

Planning for the Challenges Ahead



Amy J. Bodek, AICP
Director

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Chief Deputy Director

November 27, 2018

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**PROJECT NO. R2008-01463-(2)
CONDITIONAL USE PERMIT NO. 200800125
APPLICANT: STEVEN AND MICHELLE LEWIS AND THE LEWIS TRUST
FIRESTONE PARK ZONED DISTRICT
(SECOND SUPERVISORIAL DISTRICT) (3-VOTES)**

SUBJECT

The applicant, Steven and Michelle Lewis and the Lewis Trust, which is also the property owner (Property Owner), was granted Conditional Use Permit No. 200800125 (CUP) by the Regional Planning Commission (Commission) on June 16, 2010, and by the Board of Supervisors (Board) on April 5, 2011, on appeal. The CUP authorized the operation and maintenance of a scrap metal and recyclable materials processing yard (Project) at 2241 East 89th Street (Property) in the unincorporated community of Florence-Firestone.

On August 22, 2018, the Commission revoked the CUP. The Commission's decision was based on an abundance of evidence that the property owner was in substantial violation of their CUP conditions of approval. The decision was further based on the Property's substantial history of documented zoning violations and safety issues.

The Property Owner did not appeal the Commission's decision. The Project was appealed by a customer of one of the businesses on the Property, who states that shutting down the facility will affect her financial life, and that the company operating the facility is accessible, reliable and responsible.

IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING,

1. Affirm that the Project is statutorily exempt pursuant to State and local California Environmental Quality Act (CEQA) Guidelines;
2. Indicate its intent to deny the appeal, and instruct the County Counsel to prepare the necessary findings to uphold the Commission's denial of CUP No. 200800125.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Pursuant to Section 22.32.190 of Title 22 of the County Code (County Code), scrap metal and recycling facilities require a CUP in the M-2 Zone. The applicant was granted a CUP by the Commission on June 16, 2010, and because the Project was appealed, the Board gave a final approval of the Project on April 5, 2011. Pursuant to County Code Section 22.56.1780 et al., a permit can be revoked on the following grounds:

- That the person using the permit is violating or has violated any conditions of the permit;
- That the use for which the permit is granted is being exercised contrary to the terms or conditions of approval, or is in violation of any statute, ordinance, law, or regulation, and/or;
- That the use of the approval granted by the CUP is being exercised in a way as to be a detriment to the public health and safety and is a nuisance.

On August 22, 2018, the Commission revoked the CUP based on the following findings:

1. The Property Owner was in violation of 19 conditions of approval for the CUP. The Department of Regional Planning staff (Department) provided documented evidence that the Property Owner was in violation of 19 conditions of approval. A summary of the 19 violations is as follows:
 - a) Violation of the approved Exhibit "A" and County Code Development Standards: The Property was not developed in accordance to the approved CUP Exhibit "A" (site plan). The Property is non-compliant with approved circulation patterns and ingress and egress requirements. All recycling, processing, and storage areas had expanded well beyond their approved boundaries. Replacement fences and walls were never built, and approved parking areas were not implemented and were used for storage. Finally, approved landscaping was never planted because the Property was not developed in accordance with the approved site plan, the Property remains in violation of several County Code development standards including

parking requirements, signage, fence/wall standards, required landscaping, and requirements for the stacking and storage of materials.

- b) Violation of the requirements of the Departments of Public Works (Public Works) and Fire Department (Fire): The Property Owner did not abide by any of the requirements or conditions that were placed on the Project. Public Works required multiple street, curb, and driveway improvements, and no improvements were completed. Public Works required changes to driveways for ADA improvements as well as a street improvement plan, none of which were completed. Finally, Public Works required street light improvements and compliance with all necessary permits for the National Pollutant Discharge Elimination System, Stormwater Management Program, Standard Urban Stormwater Mitigation Plan, Low Impact Development requirements, and all necessary permits from the Regional Water Quality Control Board, and none of these conditions were met. On multiple staff inspections, neither the Property Owner nor any of the business operators on the Property could provide evidence for permits related to electrical requirements, the handling of hazardous materials, or any other Fire related requirements. Furthermore, Fire has no records of contact from the Property owner or operators.
- c) Violation from additional unpermitted uses on the Property: The Property owner was cited for operating unpermitted heavy industrial activities without the required land use permits from the County of Los Angeles (County) or other applicable regulatory agencies. For example, on multiple site inspections, the Department's staff noticed automobile dismantling activities, and the recycling and processing of major appliances, such as refrigerators and stoves. Automobile dismantling activities were strictly prohibited in the conditions of approval, and no operators could provide verification that they are permitted to handle dismantled vehicles, such as the Vehicle Dismantlers License that is required by the State Department of Motor Vehicles. Similarly, the permittee was only allowed to process major appliances pursuant to compliance with all California Health and Safety Code requirements. On multiple site inspections, however, the Department's staff observed the recycling and processing of major appliances, but none of the operators could provide evidence of the appropriate permits for these activities.
- d) Violation of other applicable laws and regulations, such as the United States Occupational and Safety Health Administration (OSHA), the United States and California Environmental Protection Agencies, and the California

Department of Toxic Substances Control: The operators and Property Owner have not provided verification that they have obtained the appropriate licenses and permits for many of the activities on the Property. This includes the handling of hazardous materials, OSHA requirements, stormwater permits, low impact development requirements, Fire electrical permits, and Public Works, Building and Safety Division building permits.

2. The Property Owner was using the permit and managing the Property as to be a detriment to the public health and safety and a nuisance to the community. There are enforcement records for the Property dating back to 1997. The Property Owner has been issued multiple notices of violations, has failed numerous inspections, and the Property has been the subject of Nuisance Abatement Team inspections. The Property has a substantial list of zoning violations, and there has been no investment to the Property by the Property Owner, nor has there been any attempt to abate zoning violations. The Enforcement History of the property is as follows:

- May 7, 1997: Notice of Violation (NOV) issued for unpermitted and excessive commercial signage and banners.
- August 26, 1997: Final Zoning Enforcement Order (FZEO) issued for unpermitted and excessive commercial signage and banners.
- June 22, 2004: NOV issued for the operation of an unpermitted automobile dismantling yard, unpermitted automobile repair being conducted outside of an enclosed building, unpermitted outside storage, and violations for parking and sign standards.
- April 1, 2009: Nuisance Abatement Team case initiated due to the presence of violations of multiple County Codes.
- December 3, 2012: Nuisance Abatement Team case initiated due to the presence of violations of multiple County Codes including unpermitted structures, unpermitted outside storage, absence of restroom facilities, and illegal electrical wiring.
- November 23, 2015: NOV No. 15-0006400 issued for violations of CUP No. 200800125 including noncompliance with the Exhibit "A", occupied truck camper, absence of required landscaping, unpermitted signage, inadequate parking, operating outside of approved hours, and failure to comply with Public Works conditions of approval.
- April 24, 2018: FZEO No. 15-0006400 issued for the violation of all violations identified in the November 23, 2015 NOV, in addition to the unpermitted presence of junk, salvage, and hazardous materials on the property.

- June 5, 2018: Second Notice of Noncompliance Fee No. 15-0006400 issued as the violations noted in the November 23, 2015, and April 24, 2018, FZEO had not been corrected.
3. In addition to the extensive enforcement history outlined above, the Property is in a severe state of disrepair. The Property and the area around the Property is often littered with trash and debris, and the interior of the Property contains junk and salvage materials that are outside of the scope of the CUP, such as electronics and hazardous waste. The asphalt paving is in severe disrepair, and in several areas, there is no surface covering, or the asphalt covering is severely deteriorated. Due to the presence of hazardous materials on the Property, and because the Applicant and Property Owner did not obtain required stormwater permits or comply with the County's Low Impact Development standards, there is the potential threat that untreated stormwater runoff has entered the groundwater and the public sewer system.

The overall lack of investment and oversight of the Property presents potential health risks to the neighborhood. The scrap metal processing area is not adequately enclosed to prevent the escape of crushed metallic dust or other small particle items. The crushing and processing activities occurring in this area expanded significantly beyond scrap metal and include appliances and many other materials. The Department's staff has observed metallic dust and other small items escaping from the property on a windy day. Furthermore, there is evidence that there were people illegally residing on the property as recently as 2017, which was subsequently addressed through staff enforcement efforts.

The Commission found that based on the substantial evidence presented at the hearing, the Property owner was in substantial violation of the CUP, and that the scrap metal and recyclable materials processing yard were operating so as to be a detriment to the public and health and safety, and is a nuisance to the community, and therefore revoked the CUP.

Since the August 22, 2018, Commission hearing, the Department has had no contact from the Property Owner. The Department's staff spoke with the property owner's son-in-law one time, but only to discuss the Board appeal process.

Staff continues to conduct site inspections and has verified that all the businesses on the property are still operating.

Implementation of Strategic Plan Goals

Action on the Project is supported by the County Strategic Plan Goal 1, Make Investments That Transform Lives, Goal 2, Foster Vibrant and Resilient Communities, and Strategy II.2, Support the Wellness of Our Communities. The Commission's decision to revoke the CUP was in part based on evidence that the Project presented a health and safety concern to neighboring businesses and residents in the community because the Applicant was operating heavy industrial uses without the required land use permits or operational measures to conduct the operation safely and in accordance with County Code standards. The Board action on the Project addresses the overall wellness of the surrounding community, which suffers from environmental justice issues related to the proximity of heavy industrial uses to residential neighborhoods. Finally, acting on businesses that operate heavy industrial uses without the required County permits supports the goal of fostering a vibrant community that supports County residents' wellness and health.

FISCAL IMPACT/FINANCING

Action on the Project will not result in significant costs to the County. On August 22, 2018, the Commission revoked the CUP, which had previously authorized the operation and maintenance of a scrap metal and recyclable materials yard. The Board's decision to uphold the Commission's decision means that the CUP is revoked, the decision by the Board is final, and no other administrative action can be taken on the project. The Board's decision to grant the appeal would send the project back to the Department for further review, and the review cost is built into the CUP application fee.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to County Code Section 22.56.040, the Applicant must meet the required Burden of Proof for the CUP:

- A. That the requested use at the location will not:
 - 1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area;
 - 2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and
 - 3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

- B. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.
- C. That the proposed site is adequately served:
 - 1. By highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of pedestrian, bicycle, and vehicle traffic such use would generate; and
 - 2. By other public or private service facilities as are required.

The Property Owner is in violation of the CUP conditions of approval, the approved Exhibit "A", and several development standards in the M-2 Zone including signage, fence/wall standards, required landscaping, and requirements for the stacking and storage of materials. The Department's staff observed automobile dismantling activities on the Property when these activities are strictly prohibited in the conditions of approval. Required street, curb, and driveway improvements have not been made, including changes to driveways for ADA compliance. The Property Owner has not shown compliance with LID requirements for storm water management. The Property Owner has not provided verification that they have obtained the appropriate licenses and permits for many of the activities on the Property, including for the handling of hazardous materials, OSHA requirements, Fire electrical permits, and Building and Safety building permits. Because of these reasons, the Applicant does not meet the Burden of Proof.

ENVIRONMENTAL DOCUMENTATION

On August 22, 2018, the Commission found that the project was exempt through Class 21, Enforcement Actions by Regulatory Agencies, pursuant to CEQA Guidelines Section 15321, because the exemption includes actions taken by regulatory agencies to revoke permits and/or entitlements and is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Action on the Project is not anticipated to have a negative impact on current services. The Board's decision to uphold the Commission's decision means that the CUP is revoked, and the decision by the Board is final and no other administrative action can be taken on the Project. The Board's decision to grant the appeal would send the Project

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back to the Department for further review, and the review cost is built into the CUP application fee.

For further information, please contact Shaun Temple at (213) 974-6462 or at stemple@planning.lacounty.gov.

Respectfully submitted,



Amy J. Bodek, AICP
Director

AJB:MG:TSS:lm

Attachments: Findings and Conditions
Commission Staff Reports and Correspondence

c: Executive Office, Board of Supervisors
Assessor
Chief Executive Office
County Counsel
Public Works

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