



CITY OF SUNNYVALE REPORT ADMINISTRATIVE HEARING

April 28, 2010

File Number: 2010-7053 **Permit Type:** Special Development Permit

Location: 484 N. Mathilda Ave. (near W. Maude Ave.) (APN: 204-32-004)

Applicant/Owner: Nexcycle / Lucky (del) Nocal Lease Investor LLC

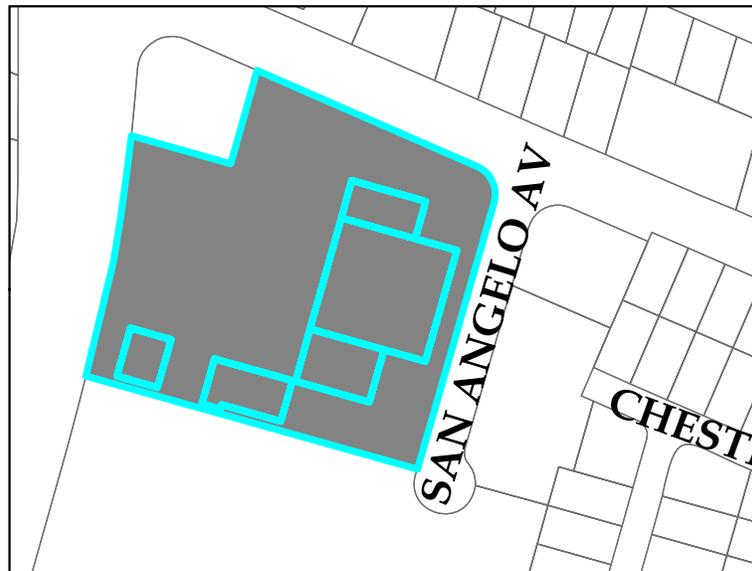
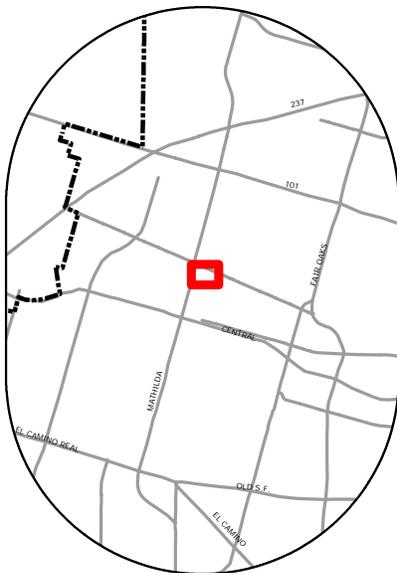
Staff Contact: Noren Caliva, Assistant Planner, (408) 730-7637

Project Description: To allow modification to a previously approved permit for a recycling center.

Reason for Permit: A Special Development Permit is required for modifications to existing Special Development Permits.

Issues: Parking and public safety.

Recommendation: Approve with Conditions



500

Feet

PROJECT DESCRIPTION

	Existing	Proposed
General Plan:	Commercial Neighborhood Shopping	Same
Zoning District:	C-1/PD	Same
Sq. Ft. Occupied by Nexcycle:	300 sq. ft. (as approved through previous permit)	450 sq. ft. (includes 198 sq. ft. container)
Parking:	235	234

Previous Planning Projects related to Subject Application: The original shopping center was built in 1968 (1966-0038), with subsequent building additions constructed in the 1970's. The current recycling center operator, Nexcycle (formerly 20/20 Recycle Centers), obtained their original permit in 1989 (1989-0105) with the installation of five igloo containers of the parking lot area facing Maude Avenue.	Yes
Neighborhood Preservation Complaints: The Department of Public Safety (DPS) has received several complaints from neighboring residents regarding shopping carts littered throughout the parking lot and transients loitering in the area (see discussion below).	Yes
Deviations from Standard Zoning Requirements:	No

Background: This Nexcycle recycling center is one of three certified recycling facilities in Sunnyvale that accepts California Redemption Value (CRV) aluminum cans, glass and plastic bottles. The State's Beverage Container Recycling Program requires that a certified recycling center be established within a "convenience zone", defined as the area within one-half mile radius of a supermarket. The subject site is occupied by Lucky's, which triggers the designation of this convenience zone based on its "full-line" of products sold and annual sales (Attachment E, CalRecycle Fact Sheet – Convenience Zones).

The current application originated as a Neighborhood Preservation case, in which staff found that Nexcycle had not obtained proper permits to replace the obsolete igloo containers with the larger container installed in the early 1990's.

Use Description: Nexcycle requests to continue operating at its present location in the shopping center parking lot facing Maude Avenue. Modifications to the previously approved permit are limited to the area that Nexcycle occupies. Nexcycle currently operates within 450 square feet of the parking lot area (four parking spaces), instead of 300 square feet (three parking spaces) as originally approved. The area occupied by Nexcycle includes an 8-foot tall, 198

square foot container used to store recyclable materials until they are hauled away from the site. No additional exterior modifications are proposed.

The current use of the site is consistent with the original use approved. During the operating hours, two Nexcycle employees assist customers with separating recyclables into separate 20-gallon plastic garbage cans. The recyclables are then weighed and the customers are reimbursed accordingly. The garbage cans are then emptied into designated compartments inside the larger container. In order to allow for efficient storage of recyclables, employees operate a manual compactor inside the container that crushes aluminum cans. Glass is also crushed manually inside the container up to three times a week for a duration of 10 to 15 minutes. Both materials are crushed during business hours.

The noisiest part of the operation occurs when the entire container is hauled away and replaced by a similarly-sized empty container. This generally occurs two or three times a month, or up to six times a month during the busiest summer months, between the daytime hours of 9:00 a.m. and 6:00 p.m.

Hours of Operation: The hours of operation are as follows:

- Monday – Tuesday, Friday – Sunday, from 9:30 a.m. to 4:30 p.m. (closed from 1:00 p.m. to 2:00 p.m.)
- Wednesday – Thursday, closed.

Parking: Based on the size of the shopping center, a minimum of 230 off-street parking spaces are required to meet parking requirements. The proposed project will result in 234 spaces. Therefore, the shopping center exceeds the minimum parking requirements by providing an excess of four spaces, while allowing adequate parking for two Nexcycle employees.

Public Safety Issues: The following are public safety issues associated with Nexcycle's operation at this site:

Loitering: The primary concern expressed by neighboring residents has been the loitering of transients in the area. Neighbors claim that transients coming from the Armory homeless shelter about a mile away on Maude and Fair Oaks redeem recyclables at this site, and then buy alcohol at the adjacent liquor store. This issue sparked a project by the DPS task force in 2008 to review loitering in the area, in which DPS worked with Nexcycle employees on safety training and ways to discourage loitering at this site. According to DPS, loitering has since decreased in the area; although, this issue is larger than the scope of Nexcycle's operation and continues to be a concern.

Shopping Carts: Neighbors have expressed concerns that shopping carts used by Nexcycle customers to bring recyclables to this site are littered throughout the parking lot. As a result, DPS worked with Nexcycle employees in 2008 to

develop a program to collect shopping carts in one area for pick up by the City. Nexcycle employees have also been trained to clean the site daily. DPS states that this issue has been resolved and there have been no additional complaints since implementation of this program.

Noise: Unlike the Nexcycle operation at Safeway on Hollenbeck, no noise complaints associated with Nexcycle's operation have been received. Several site inspections conducted by DPS have concluded that the current operation does not produce excessive noise levels. The closest residential properties are located more than 100 feet away across Maude Avenue. The project is subject to the City's noise requirements contained in Sunnyvale Municipal Code Chapter 19.42.

Project Alternatives: If the Administrative Hearing Officer is not able to approve the project as proposed, the following project alternatives exist:

On-site relocation: Staff may work with Nexcycle and the property owner to relocate the recycling facility to another part of the shopping center, such as along the Mathilda Avenue frontage. Although this site is located further away from residential properties, staff does not anticipate that relocation will address the neighbor's primary concern regarding loitering in the shopping center. In addition, relocating the facility to this area may disrupt parking and circulation patterns in the most heavily used area of the parking lot.

Deny the project: The project currently proposed is limited to the modification of the previously approved permit to allow Nexcycle to operate within a larger area of the parking lot. If the proposed project is denied, Nexcycle could continue operation at this site under the scope of the previously approved permit. This would involve replacing the larger storage container with a smaller container and limit the use of the parking lot to no more than 300 square feet. Staff finds that this alternative would not address neighborhood concerns, and may in fact, produce additional noise associated with more frequent truck pick-ups of the storage container.

CalRecycle: Planning staff contacted the California Department of Resources Recycling and Recovery (CalRecycle), the State agency in charge of managing and implementing the State's Beverage Container Recycling Program. According to CalRecycle, Nexcycle's operation at this site is the most feasible way to meet the State's requirements for convenient zones.

If Nexcycle were to completely abandon the site, Lucky's and all other supermarkets within the underserved areas, would be required to create their own recycling program to buy-back recyclables at their stores. This would be difficult to implement, due to cost and health issues associated with storage of recyclables inside the stores. Staff anticipates that removal of Nexcycle entirely

from this shopping center would minimally address neighborhood concerns, as a buy-back center would still be located within Lucky's. Loitering would likely remain a neighborhood concern due to opportunities to buy liquor in this neighborhood (Lucky's and 7-Eleven), and its proximity to the Armory.

Another option would be to for Lucky's to file for a convenience zone exemption with the State. According to the State, this site would not likely be granted an exemption because (1) the center collects well above 60,000 containers within a 12-month period, and (2) there are no other certified recycling centers within the vicinity. The two other Nexcycle centers are located at Dick's Lakewood shopping center on Lawrence Expressway and Loehmann's Plaza on Hollenbeck. Both sites are located three to four miles away from the subject site.

Public Contact: 73 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. No letters were received; however, staff did receive several phone calls from neighboring residents who expressed continued concerns with the loitering issues in the shopping center. One neighbor also indicated that the operation at this site has improved within the past year, and provides an essential serve to the area.

Environmental Determination: A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

FINDINGS

In order to approve the Special Development Permit the following findings must be made:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

The Nexcycle facility provides a much needed opportunity for residents to redeem CRV recyclables for cash. There are no other similar facilities within a half mile radius of this shopping center. The facility is a conveniently located service in a prime commercial area that can be used by residents and customers to redeem their beverage containers.

Staff was able to make the findings as the projects meets the guideline described above.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties.

The project currently proposed is limited to the modification of the previously approved permit to allow Nexcycle to operate within a larger area of the parking lot. The project meets all development standards for the zoning district, including parking, and does not disrupt parking and circulation at the site. No noise complaints associated with Nexcycle's operation at this site have been received. The neighbors' primary concerns with loitering at the shopping center are beyond the scope Nexcycle's operation, and project alternatives explored would have minimal benefits.

The project as currently proposed is expected to have minimal impacts on surrounding properties.

ALTERNATIVES:

1. Approve the Special Development Permit with recommended Conditions in Attachment A.
2. Approve the Special Development Permit with modifications.
3. Deny the Special Development Permit.

RECOMMENDATION

Alternative 1. Approve the Special Development Permit with recommended Conditions in Attachment A.

Reviewed by:

Shaunn Mendrin

Senior Planner

Prepared By: Noren Caliva, Assistant Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Architectural Plans
- C. Letter from the Applicant/SDP Justifications
- D. Site Photos
- E. CalRecycle Fact Sheet – Convenience Zones

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
Planning Application 2010-7053
Special Development Permit
Recycling Center (Nexcycle)**

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

- 1. CONFORMANCE WITH APPROVED PLANNING APPLICATION** – All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]
- 2. USE EXPIRATION (Ordinance 2895-09):** The approved Special Development Permit for the use shall expire if the use is discontinued for a period of two years or more. [SDR] (PLANNING)
- 3. PERMIT EXPIRATION (Ordinance 2895-09):** The Special Development Permit shall be valid for three (3) years from the date of approval by the final review authority (as adopted by City Council on April 21, 2009, RTC 09-094). Extensions of time may be considered, for a maximum of two one year extensions, if applied for and approved prior to the expiration of

the permit approval. If the approval is not exercised within this time frame, the permit is null and void. [SDR] (PLANNING)

- 4. CONFORMANCE WITH PREVIOUS PLANNING PERMIT** – The subject site shall comply with all conditions of approval and requirements of planning application 1989-0105. [PLANNING] [COA]

THE FOLLOWING SHALL BE COMPLETED PRIOR TO THE COMMENCEMENT (OR AS DESIGNATED) OF THE APPROVED USE.

- 5. NOTICE OF PROJECT RESTRICTIONS** – A Notice of Project Restrictions shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Project Restrictions shall prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document number, if any, and be signed and notarized by each property owner of record and shall state the following:

“This Notice of Project Restrictions is for the purpose of informing interested persons of the fact that development approvals have been given by the City of Sunnyvale regarding the herein described property and that such approvals are conditioned upon compliance with certain restrictions that run with the land and are binding upon subsequent owners of the property. For more information about the restrictions applicable to this property see the attached conditions of approval or contact the Planning Division of the City of Sunnyvale regarding Planning Application 2010-7053.

For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are the person(s) who have signed the Notice of Project Restrictions. This Condition shall be satisfied within 60 days of this approval. [COA] [PLANNING]

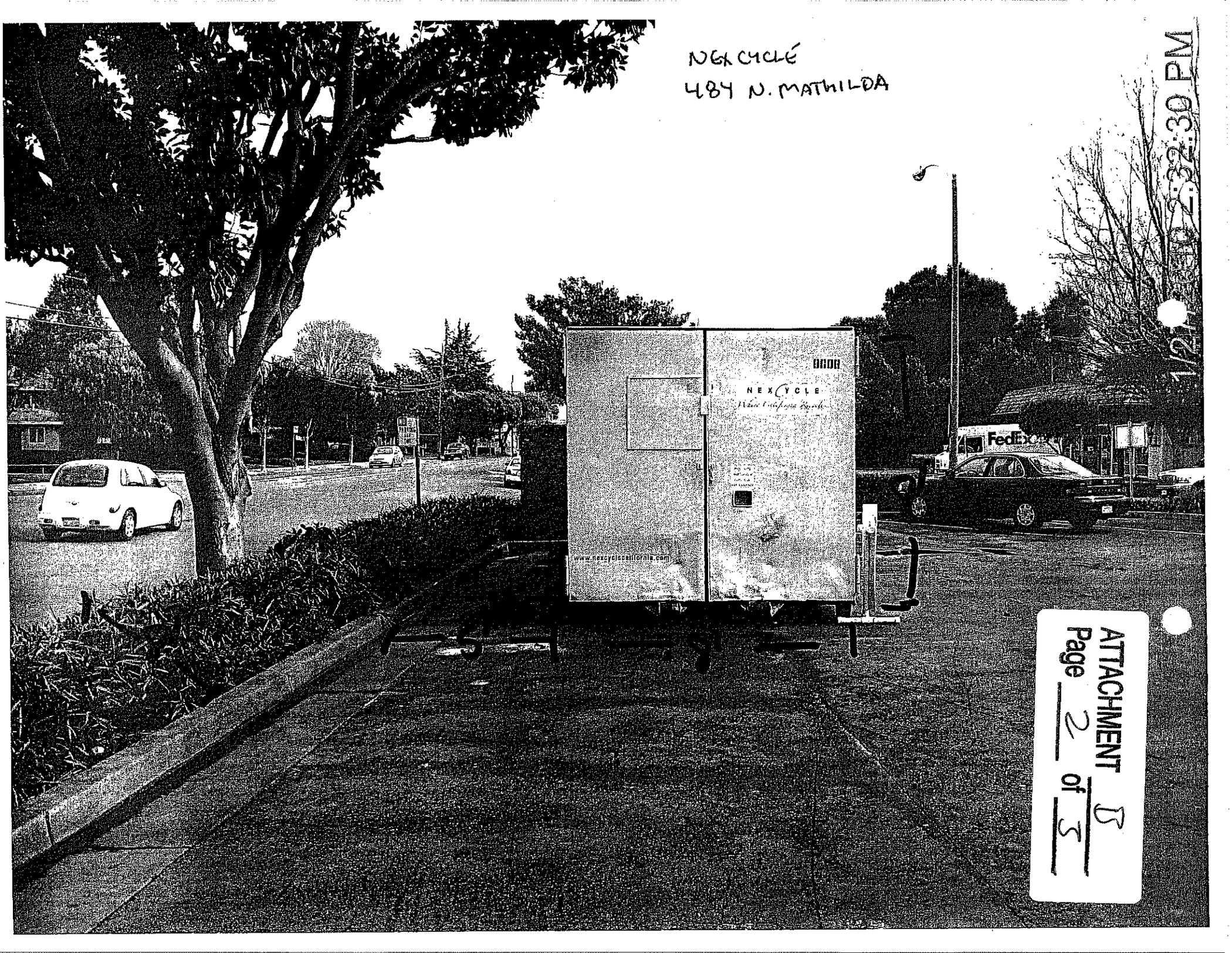
THE FOLLOWING CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

- 6. HOURS OF OPERATION** – The use permitted as part of this application shall comply with the following hours of operation at all times:
- a) Monday – Tuesday, Friday – Sunday, from 9:30 a.m. to 4:30 p.m.
 - b) Wednesday – Thursday, closed.

7. **STORAGE** – Storage on-site shall comply with the following:
 - a) All unenclosed materials, equipment and/or supplies of any kind shall be maintained within the approved area of 450 square feet and four parking spaces. Any stacked or stored items shall not exceed the height of the bulk storage container.
 - b) All exterior trash shall be confined to approved receptacles and enclosures.
8. **NOISE** – The project is subject to the City’s noise requirements contained in Sunnyvale Municipal Code Chapter 19.42, and shall comply with the following:
 - a) Manual crushing of glass and aluminum shall not occur outside of the bulk storage container, and is limited to the hours of operation.
 - b) The hauling away and replacement of the bulk storage container shall be done within the hours of 9:00 a.m. and 6:00 p.m. only.
9. **CONTACT SIGN** – The recycling center shall be clearly marked to identify the name and telephone number of the facility operator, subject to CalRecycle sign requirements.
10. **HAZARDOUS MATERIALS** – Hazardous materials are prohibited on-site.
11. **MAINTAIN CLEAN SITE** – The operator shall ensure that the site is maintained free of debris.

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484 N. MATHILDA

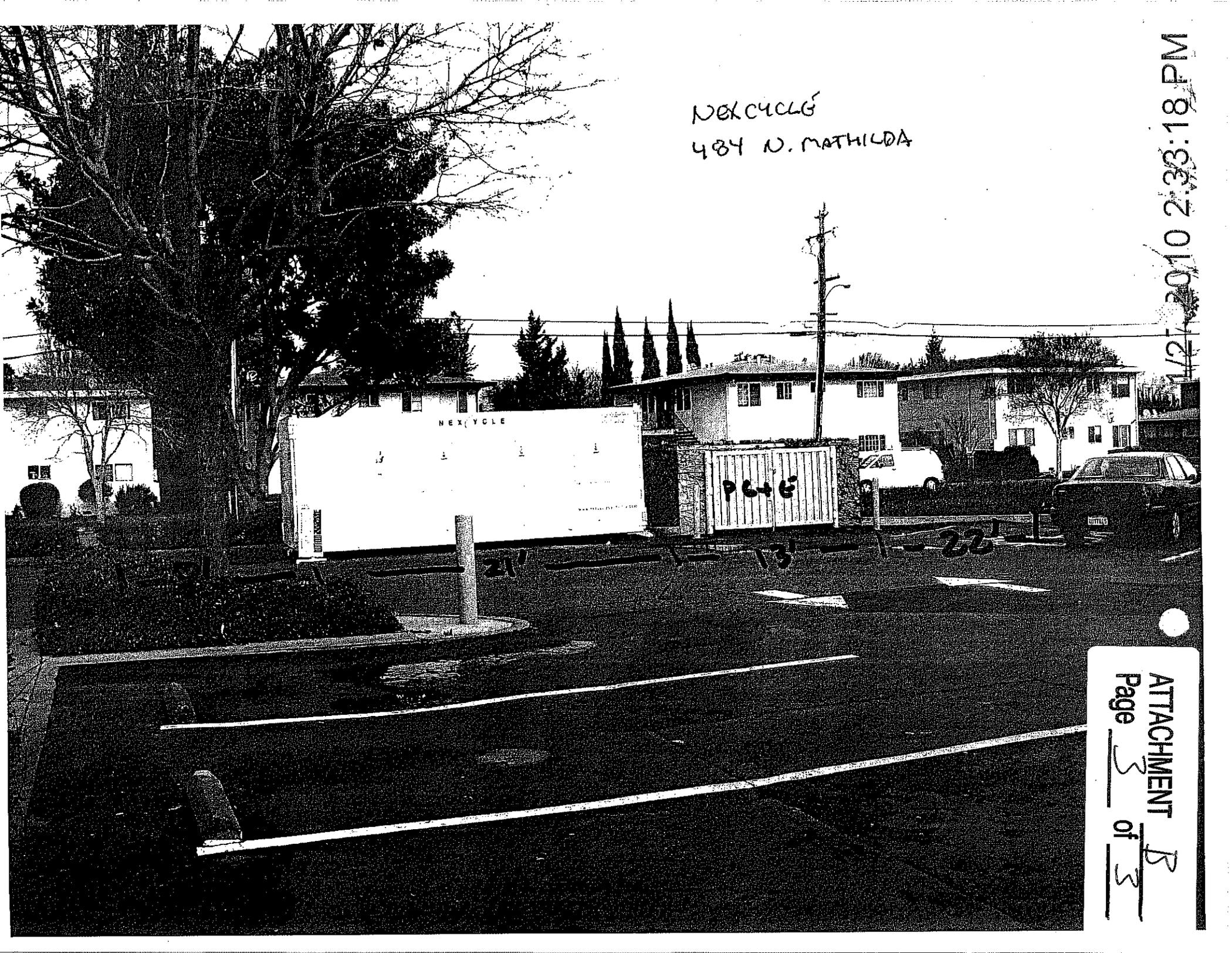
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ATTACHMENT B
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ATTACHMENT B
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Nexcycle has operated at this location since 1988 under an existing permit #1989-0105 (File #6509). We are requesting a modification of the permit to use 3 1/2 parking spaces rather than the two identified on the existing permit. The square footage identified on that permit is for an operating space of 300 square feet. This should not change as our equipment requires only 198 square feet and work space can be confined within the 300 square feet authorized by the existing permit.

In 1987 California passed Assembly Bill AB 2020, commonly known as the Beverage Container Recycling and Litter Reduction Act. This legislation requires all grocery stores and retailers selling beverage containers to provide recycling. The bill also established a refund value (California Redemption Value) for each beverage container sold by these businesses. The consumer pays the crv to the stores when they purchased the beverage containers. At this location, we are contracted by Lucky's (owned by Save Mart) to provide the State mandated service.

The purpose of the legislation was to provide a convenient location where the consumer could take the containers and be paid back the crv deposit. Convenience zone recycle centers paid back to the California consumer almost \$832,000,000.00 in 2008 (2009 statistics not yet available). During 2009 this one center handled over 18,000 customers and paid back to them over \$300,000.00 in refunded crv to people living in the surrounding neighborhood. We recycled over 6.3 million containers at this location in 2009 helping Sunnyvale's landfill diversion goals. We accept only aluminum, glass and plastic used beverage containers.

Nexcycle recycle centers, located at the local supermarket, is an integral part of the system that returns the crv deposit back to the consumer when they bring their recyclable material to our centers. Other than old line scrap dealers, generally located outside the population centers of the city, the convenience zone recycler is the easiest choice for the consumer to obtain the refund they are entitled to, especially those who have limited or no transportation and would otherwise be denied the opportunity to receive the monies they are entitled to.

A Nexcycle recycle center operates in the following manner:

When a supermarket is served notice that they must provide recycling services required by State Law, Nexcycle is contacted and we place our equipment at the shopping center. The largest bin we use at this location is 9 ft. wide x 22 ft. long. Our equipment has a compactor inside that employs simple densification that facilitates the type of equipment we use. The densification ratio is limited and does not meet State cancellation requirement for containers (therefore, not a form of processing). Also, electrical power is not involved.

The compactor is extremely quiet and operates well below community noise standards. This location is open for business 9:30 am to 4:30 am with an hour for lunch. The days of operation are Friday through Tuesday with the site closed Wednesday and Thursday. Our staffed location is a two man operation that provides service for the customers. We do not encourage people to leave material at the center when our recycle centers are closed. No chemicals are used nor are any hazmat materials are stored at the site.

When a customer brings in their material our employee helps to separate the material. The material is weighed on a State certified scale and the customer receives the equivalent of crv that was paid when they purchased the beverage containers. The payment method that is used at this particular center is cash.

When the equipment fills up, a truck comes to the location and picks up the bin. An empty bin is left in its place. This bin exchange can occur two or three times a month. It will be more often if business so demands but at this location it would not generally be more than six times during any given month during the summer. Our equipment (scale and barrels) are stored in the bin when we are not open. The timing of the bin exchange can be altered to limit the disruption to the businesses in the shopping center or to limit the noise if the recycle center is located near housing. Generally speaking, a truck pick up will be made during the off hours of the commute, whenever possible. We do not usually pick up a site during operating hours as there are people waiting to recycle and cars moving around the parking lot making the exchange difficult. To offset this issue we can put a reasonable curfew limiting exchanges to hours just after closing or just before the site opens.

We utilize staffed operations so our employee(s) can keep the area around the recycle center clean and free of debris. We ask our site attendant to look beyond our operational area so that they can observe any other form of debris left by individuals even if they are not recycling customers. We quickly remove any abandoned shopping carts. We have various methods to control the use of carts that people use to bring in their recyclables. If necessary we can refuse to take material in carts or if we identify people who refuse to abide by our rules for recycling we can eliminate their ability to use our facility.

The site attendant is an import part of preventing loitering. Our policy is to discourage such events. If people loiter, even after our request for them to leave, we notify the authorities. We will stop accepting their material if these individuals are specifically identified as individual who continue to loiter after they have been requested to leave. We will also refuse to help people who are identified as panhandlers.

Our recycle centers also allow community charities, schools and youth sports organizations to raise funds using our facilities. We are active with various community organizations in order to help them achieve their fundraising goals.



USE PERMIT/SPECIAL DEVELOPMENT PERMIT JUSTIFICATIONS

One of the two following findings must be made in order to approve a Use Permit or Special Development Permit application.

The Sunnyvale Municipal code states that at least one of the following two justifications must be met before granting the Use Permit or Special Development Permit. Please provide us information on how your project meets at least one of the following criteria.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project ...

*CONVENIENCE ZONE RECYCLING PROVIDED BY THIS LOCATION
CONTRIBUTES TO LANDFILL DIVERSION,*

OR

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as ...

If you need assistance in answering either of these justifications, contact the Planning Division staff at the One-Stop Permit Center.

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NEXCYCLE

ALUMINUM CANS

1-499

CRV Comingle

1.57

HOURS PRICES/ LB.

GLASS

#1 PET



0.105

\$0.93

#2 HDPE



.51

#3 PVC



.56

#4 LDPE



1.97

#5 PP



\$0.31

#6 PS



6.01

#7 OTHER



.36

Bimetal

.25

LUNCH

1:00-2:00

MONDAY

9:30-4:30

TUESDAY

9:30-4:30

WEDNESDAY

Closed

THURSDAY

Closed

FRIDAY

9:30-4:30

SATURDAY

9:30-4:30

SUNDAY

9:30-4:30

Refund is not paid for packaging. Contamination such as dirt or moisture, not beverage containers. Refund properly labeled with message "CA redemption value." California Redemption Value, "California Cash Refund." "CA Cash Refund." "CA 5c if the container is less than 24 ounces, or "CA 10c if the container is 24 ounces or more. This recycler will discount the refund value and may discount scrap value for loads of containers which included nonredemption material. The consumer has right to: (a) accept a discount refund and/or scrap price (NEXCYCLE does not offer a scrap price) (b) separate and return nonrefund material, (c) take materials back.

NEXCYCLE
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ATTACHMENT
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ATTACHMENT E
Page 1 of 3**Beverage Container Retailers/Dealers
Convenience Zones****What Is a Convenience Zone?**

A convenience zone is typically a half-mile radius circle with the center point originating at a supermarket that meets the following definitions based on PRC 14509.4 and PRC 14562.5:

Supermarket is identified in the Progressive Grocer Marketing Guidebook.

Supermarket gross annual sales are \$2 million or more.

Supermarket is considered a "full-line" store that sells a line of dry groceries, canned goods, or non-food items and perishable items.

Can a Convenience Zone Be Larger Than a Half Mile?

Senate Bill 607 provides that as of January 1, 2004, an interested person may petition the Department to request that a convenience zone, which is both (1) located in a rural region, and (2) would include within its expanded radius, only one recycling center that is not within any other zone.

In addition, Assembly Bill 3056 provides that as of January 1, 2007, an interested person may petition the Department that a three-mile convenience zone be created in a rural region when there are at least two dealers within three miles of a singular recycling center, and where the dealers are a mile or less apart and have an aggregate sales volume of at least \$2 million gross annual sales. The dealer located closest to the recycling center defines the center point of the zone.

A "rural region" is identified pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 14571 of the Act.

How Do Three-Mile Expanded Zones in Rural Regions Work?

Three-mile expanded convenience zones are uncommon since there are only a few instances where all of the necessary criteria exist. There are two ways by which three-mile expanded convenience zones in rural regions can be created:

1. Supermarket-Based Expanded Zone

An interested person must petition the Division to have the zone expanded

There can be only one recycling center located in the expanded zone

If there are multiple zones, only one zone needs to be expanded to encompass the singular recycling center

The expanded zone shall not overlap with a non-rural region that may be located in close proximity to a recycling center in a rural region.

The expansion of the zone is not permanent. If another recycling center opens up within the three-mile radius, or if map updates indicate that the area is no longer rural, the zone shall be returned to the original half-mile radius.

2. Dealer Aggregate Expanded Zone

An interested person must petition the Division to have the zone expanded

There can be only one recycling center located in the expanded zone

There must be at least two dealers within three miles of the rural region recycling center, and these dealers must be within a mile of each other. The aggregate sales volume of the qualifying dealers must be at least \$2 million gross annual sales.

The dealer closest to the recycling center will be designated as the center point of the expanded zone

The expanded zone shall not overlap with a non-rural area or another convenience zone

The expansion of the zone is not permanent. If another recycling center opens up within the three-mile radius, or if a new convenience zone opens up within the expanded zone, or if map updates indicate that the area is no longer rural, the zone shall be returned to the original half-mile radius.

What Do Convenience Zones Provide?

Convenience zones increase the geographic dispersal of locations where beverage containers can be redeemed. A convenience zone is required by law to have within the zone's boundaries, a recycling center that redeems all California Redemption Value (CRV) containers. A convenience zone with a recycler inside its boundaries is considered a served zone. Convenience zone recyclers provide opportunities to redeem containers near where beverages were purchased.

How Are Convenience Zones Identified, and When Are They Activated?

The Department of Resources Recycling and Recovery (CalRecycle) receives data from the Progressive Grocer Marketing Guide each month during a calendar year. As potential supermarkets are identified, staff performs surveys to determine the physical location for public maps, and to determine if the business meets the mandated definition of a supermarket.

New convenience zones are activated on the first business day of each calendar year. The Department sends a certified letter to each supermarket identified as a convenience zone as follows:

That the supermarket was identified in the Progressive Grocer Marketing Guide as a supermarket, and is scheduled for activation as a convenience zone in January.

That the convenience zone will be required to have a recycling center within its boundaries.

Why Do Some Supermarkets Not Create Convenience Zones?

While most major supermarkets do create convenience zones, the Department may for one or more of the following reasons, not recognize some supermarkets as convenience zones based on PRC 14526.5.

The supermarket was not identified in Progressive Grocer Marketing Guidebook.

CalRecycle furnishes a form "Declaration of Less than Two-Million Gross Annual Sales" to an owner, manager or corporate entity. If the owner, manager, or corporate entity can demonstrate an annual gross sales average of less than \$2 million, that convenience zone may be deactivated.

Supermarket missed cut-off date in the fall of a given year for activation in January. Typically, such supermarkets are activated as convenience zones the following January.

What Happens if the Supermarket That Creates a Convenience Zone Closes, and Can a Deactivated Convenience Zone Become Reactivated?

CalRecycle will deactivate a convenience zone if the supermarket creating the convenience zone closes. CalRecycle may reactivate a convenience zone at that same address and physical location, if it reopens as another supermarket and is identified in the Progressive Grocer Marketing Guide. For additional information about the establishment and maintenance of convenience zones, contact Nancy Manfred at (916) 322-4166 or Nancy.Manfred@calrecycle.ca.gov

Are Convenience Zones Required to Be Served by a Recycling Center?

According to PRC 14571.(a), convenience zones are intended to have a recycling center within one-half mile radius of the supermarket that creates the zone. Approximately 60 percent of the total number of zones are served by recycling centers. Recycling centers are privately owned and operated by individuals, profit and nonprofit organizations. They are certified by the Department and must adhere to standards to help provide the public the service they need, i.e. operating at least 30 hours per week, signs depicting prices paid for beverage containers, etc. However, the site of where a recycling center locates for business is a decision between the operator of the center and the landlord of the property. According to PRC 14571.2, the department shall assist dealers and recyclers to establish recycling centers within convenience zones. The Department will continually consults with local governments and beverage dealers within zones not served by a recycling center to expedite the establishment of one for the convenience of the public.

Can Multiple Overlapping Convenience Zones Be Served by a Single Recycler?

Yes. Overlapping convenience zones are common in commercial zoning areas throughout California. If a recycler is on-site at one convenience zone where one or more convenience zones overlap, each of these zones are served by this recycler. Accordingly, it is not necessary in such cases for each convenience zone to support its own recycling center.

Can Convenience Zones With No Recycler Within Be Consistent With the Law?

Under certain conditions, a convenience zone may not have a recycling center within its boundaries while consistent with the mandate. There are three conditions where this situation may exist:

The convenience zone is unserved. In this case, the supermarket that creates the convenience zone and other beverage dealers inside zone boundaries are affected in the following manners: they are either undergoing a 60-day grace period before they are required to redeem CRV containers in-store, they are currently redeeming CRV containers in-store, or an affected dealer may pay \$100 per day to the Department in lieu of accepting the responsibility of redeeming containers in-store.

The convenience zone is in a holding pattern (hold zone) awaiting review in the Exemption Process. This situation occurs statutorily when a recycling center in the zone decertifies in accordance with PRC 14571.7.

The convenience zone is exempt.

What Are the Exemption and Revocation Processes?

A convenience zone may be exempt from the requirement to have a recycling center within its boundaries if one or more mandated conditions are met in accordance with PRC 14571.8. These conditions include: Ease of access to redemption center by consumers, reasonable distance to next closest recycling center, consumers in area predominantly use curbside program for recycling, and recycling centers in the area fail to meet a sufficient volume for economic viability. Convenience Zones granted exempt status by the Department may find their exemption revoked if circumstances have changed since the exemption was granted. For a more in depth description of the exemption and revocation process, please read the following information: [Convenience Zone Exemption/Revocation Requirements](#). In addition to applications for exemption by program participants, convenience zones are also processed statutorily when the sole recycling center within the zone closes, or for newly activated convenience zones after the first of a calendar year according to PRC 14571.7. Exemption and Exemption Revocation reviews are conducted on a quarterly basis in the months of March, June, September, and December, and specifics are available in [Exemption & Revocation Timeline](#). Newly activated convenience zones are reviewed for exemption in the March Exemption Review Cycle. Further information on the exemption and revocation processes can be obtained by contacting Walt Simmons at (916) 445-5916 or walt.simmons@calrecycle.ca.gov.

Are Recycling Centers in Convenience Zones Always Located at the Supermarket That Creates the Convenience Zone?

No. A recycling center can serve a convenience zone by being located anywhere within the half-mile radius. Supermarket parking lots are the most common site for establishment of recycling centers as these lots often offer the most available space. Additionally, a subsidy from the Department called handling fees can be paid to the recycler if that recycler is located on-site at the supermarket or immediately adjacent to, any beverage dealer within the convenience zone. If a recycling center is a non-profit business within a convenience zone or in a rural location within a convenience zone, it is not necessary for the recycling center to be located at a beverage dealer site.