

ITEM 9-C

PLANNING BOARD STAFF REPORT

DATE: July 13, 2009

TO: Honorable President and Members of the
Planning Board

FROM: Andrew Thomas, Planning Services Manager
510.747.6881
athomas@ci.alameda.ca.us

PROPERTY

ADDRESS: 1523 Entrance Road/Buena Vista Avenue (Encinal Terminals)

APPLICATIONS: **Use Permit – PLN09-0199 – Applicant - CONGLOBAL Industries at Encinal Terminals** – A request to approve an amendment of the existing use permit UP-94-06 to allow ConGlobal to continue existing operations from September 26, 2009 through August 3, 2010. The existing use includes outdoor storage, refurbishing, and sale and lease of shipping containers.

Use Permit – PLN09-0184 – Applicant - Chengben “Peter” Wang for Encinal Terminals – A request to approve an amendment of the existing use permit UP-94-06 to allow for the outdoor storage, refurbishing, and sale and lease of shipping containers, outdoor storage of boats, watercraft, automobiles, RV’s, chassis, trailers, automotive equipment, vehicles, buses, trucks, mobile homes, construction equipment and materials for business, homes, commercial and/or household goods and ancillary uses including office or retail functions from September 26, 2009 through August 31, 2015.

Rezoning – PLN09-0222- Applicant - City of Alameda. A rezoning of property currently occupied by ConGlobal Industries from M-2, General Industrial (Manufacturing) District, to M-X Mixed Use Planned Development District to conform to the General Plan Mixed Use Designation.

ZONING DISTRICT: M-2 General Industrial

GENERAL PLAN: Specified Mixed Use

EXECUTIVE SUMMARY

On September 26, 1994, the City of Alameda Planning Board held a public hearing and approved a 15-year use permit to allow the storage and repair of shipping containers at the property commonly referred to as “Encinal Terminals” located at the end of Entrance Road. The 1994 Use Permit (UP-94-11) established specific conditions under which the operations must be conducted and findings that must be made by the Planning Board to extend the use permit beyond September 26, 2009. (Attachment 1) In January 2009, staff sent a letter to the property owner and the current occupants notifying them of the expiration of the use permit. In response to the letter, the current occupant – ConGlobal Industries - submitted a request for a 10-month extension to allow time for the business to transition its operations to a site in Oakland. (Attachment 2) Staff is recommending approval of this request with certain conditions to minimize the impact of the extension on nearby neighborhoods. In addition, the primary property owner - Mr. Chengben “Peter” Wang - submitted a request for an extension of the permit until 2015 to allow for similar but less intensive uses. (Attachment 3) Staff does not support extending the permit until 2015. Staff is recommending that the site be rezoned from M-2 to M-X mixed use, which would bring the zoning for the site into conformance with the General Plan policies for the property. The recommended MX zoning requires that a master plan be prepared for the site, which establishes the appropriate uses and development program for the site consistent with the General Plan.

BACKGROUND

Encinal Terminals is a unique 24-acre property surrounded by water on three sides. The site is bordered to the west by Alaska Basin and the Wind River office campus, to the south by the Del Monte Building and Chipman warehouse, and to the east by the Fortmann Marina. The site is currently occupied by ConGlobal Industries, which uses the site for the repair and storage of shipping containers.

On September 26, 1994, the Planning Board approved a 15-year use permit to allow container repair and storage on the site. At the time, the General Plan designated the site and surrounding area for manufacturing and marine related uses. The Use Permit’s 15-year term recognized that the use would be temporary and that the site and larger area were undergoing changes that might render the use inappropriate for the site in the future.



The use permit from 1994 (condition #4) states that if a renewal or extension is requested, the Planning Board should consider:

- a. If the Use Permit is consistent with the land use designations in the Alameda General Plan and the Business and Waterfront Improvement Project Community Improvement Plan.
- b. If the Use Permit extension is consistent with the land uses in the vicinity of the project site.
- c. If there are new conditions that should be imposed to promote land uses compatibility between the subject site and land uses in the vicinity?

After approval of the use in 1994, and as anticipated, the area began to experience change. In 1999, the City approved the Wind River development plan, which allowed for the development of a five building office campus directly across the Alaska Basin from the Encinal Terminals property. In 2000, the City approved the Marina Cove residential development that allowed up to 157 residential units on former industrial sites including the Chipman Warehouse site adjacent to the Encinal Terminals property.

The Wind River and Marina Cove projects highlighted the need for a comprehensive evaluation of the plan for the entire area, and in 2002 the City embarked on a

comprehensive evaluation of the land use patterns, trends, and policies in the area. The Council appointed Northern Waterfront Advisory Committee completed their work and presented their proposed General Plan policies for public review in 2005.

Shortly thereafter, in 2006, the City approved an MX rezoning and Grand Marina Master Plan that allowed up to 40 residential units adjacent to the Grand Marina boat slips and boat launch. The MX zoning and Master Plan ensure that the new residential component is designed and managed in a manner that is compatible with the adjacent marina, public open spaces, and the non-residential uses in the historic Alaska Packers building. The MX zoning and Grand Marina Master Plan were prepared to be consistent with the Northern Waterfront committee's draft goals and policies for the site.

On March 17, 2008, the City Council approved the draft Northern Waterfront General Plan Amendment, which established a vision and policy framework for managing change in the area.

As amended, the General Plan includes the following statements and policies that articulate a plan for Encinal Terminals:

Policy 10.3 a Allow the development and reuse of existing sites consistent with the land use designations shown on the Land Use Plan, site specific development policies, and the land use goals for each of the following sites described below:

Encinal Terminal Site. Replace the container care uses at Encinal Terminal with a mix of new uses including residential, commercial, senior housing, and public open space.

Policy 10.3 e. Rezone the Encinal Terminals, Grand Marina, and Pennzoil sites for mixed-use residential development.

The General Plan also includes a series of policies specific to Encinal Terminal. As introduction to these policies, the General Plan states:

The intent of the site specific development policies for the Encinal Terminal Site is to facilitate redevelopment of the site with new land uses that will take advantage of the unique site configuration and waterfront location, increase opportunities for public access and enjoyment of the waterfront and eliminate the existing uses which contribute a large volume of truck traffic in the vicinity. The Mixed Use designation will allow for the development of a wide range of land uses to capitalize on the site's unique location adjacent to the Alaska Basin, Oakland/Alameda Estuary, Fortman Marina, and Del Monte Warehouse site. Anticipated land uses in this district include a range of housing types, including senior housing, commercial, office, and public parks and open space. Public waterfront access around the perimeter of the site is envisioned, as well as a new marina on the Alaska Basin. Pursuant to the area wide policies, any plan to redevelop this site should be consistent with the following Site Specific Policies:

E-T 1. Require that the master plan for the development of the Encinal Terminals site illustrate how the various parcels can be developed as a unified development. The master plan must address all phases of the development of the site.

- E-T 2. Require that the master plan include adequate open space and a clear public access around the perimeter of the site.
- E-T 3. The Master Plan should consider relocating the tidelands trust lands to the perimeter of the site to allow residential mixed-use development in the core of the site with publicly accessible open space around the perimeter of the site.
- E-T 4. Cluster development to maximize open space and view corridors to the estuary.
- E-T 5. Given that Encinal Terminals is surrounded by water on three sides, taller buildings should be located at the southern end of the site.
- E-T 6. If a parking structure is proposed, require ground floor uses and/or a pedestrian friendly facade.
- E-T 7. If a parking structure is proposed, locate the structure to serve public access to the waterfront and future development at the Del Monte site.
- E-T 8. The Master Plan for the Encinal Terminal site shall replace the existing container storage and cleaning operation with a mix of uses to create a lively waterfront development. The plan should include at least the following four land uses: residential, retail, commercial, and public open space.
- E-T 9. Residential uses may include senior housing or assisted living facilities.
- E-T 10. Commercial uses may include restaurants, marine related uses, office uses, and/or additional berths in the Alaska Basin. Additional berths should not be allowed on the northern edge of the site facing the Estuary and Coast Guard Island to preserve views of the water and Oakland.
- E-T 11. Require that the master plan include inviting, well-designed public entrances from Clement Street. Primary vehicular access into the site should occur at a four-way intersection at Clement/Entrance, if feasible.
- E-T 12. Consider opportunities for a public human powered/non-motorized boat launch facility at Alaska Basin.
- E-T 13. Require public art installations adjacent to the Alaska Basin shoreline consistent with the Public Art Ordinance.
- E-T 14. The Encinal Terminal development should fund a fair share of the costs of the Clement Street extension from Sherman to Grand.
- E-T 15. The Encinal Terminal development should fund a fair share of the costs to upgrade storm sewer and wastewater facilities necessary to serve all future development within the Northern Waterfront area.
- E-T 16. The site plan should allow for a shoreline public promenade around the perimeter of the site and adjacent to the Alaska Basin and Fortman Marinas.

ANALYSIS

ConGlobal Use Permit (PLN09-0199)

ConGlobal Industries is the current occupant at the Encinal Terminals site. ConGlobal took over the site and the current lease from Container Care International, Inc, which was the original user and tenant under the 1994 Use Permit. The original 1994 use permit was approved in September 1994. Ten months later, once certain improvements were completed on the site, Container Care occupied the site under a 15-year lease with the property owner. That lease, which was later acquired by ConGlobal, expires 10 months after the expiration of the use permit.

A year ago, ConGlobal was notified by Mr. Wang that the lease which expires in August 2010 would not be renewed because Mr. Wang planned to redevelop the site pursuant to a draft master plan and consistent with the 2008 General Plan. Upon notification, ConGlobal immediately began the process of locating and preparing a new location in Oakland. ConGlobal has a signed lease for at an Oakland location, and has begun making the necessary improvements to the site to allow for relocation in August 2010.

In January 2009, ConGlobal received a letter from the City of Alameda Planning and Building Department notifying them of the expiration of the Use Permit for their use. Unfortunately, ConGlobal was not aware of the difference in the time limits between the lease and the use permit, until they were notified by the Planning and Building Department in January. ConGlobal immediately contacted the Planning Department to indicate their desire to modify the use permit and extend the term as necessary to allow ConGlobal to complete their relocation in a timely and cost-effective manner.

In response to initial inquiries, staff indicated to ConGlobal that an extension would not be supported due to the impacts of truck traffic associated with the use on the adjacent neighborhood. In response to staff's concerns about the impact of the use on the neighborhood and the findings for extension in the 1994 use permit, ConGlobal proposed a 10-month extension with the following additional conditions:

- As of September 1, 2009, ConGlobal will stop receiving any new containers at the site. All container receipts will occur at the new Oakland site. This will reduce truck traffic by approximately 50%.
- As of August 3, 2010, all containers will be removed from the site, and ConGlobal will cease all operations at the site. To minimize trucking impacts on the neighborhood, containers will be removed gradually over the course of the next 10 months. Specifically, at least 30% of the containers will be removed by January 1, 2010; 50% removed by April 1, 2010; 90% by July 1, 2010 and 100% by August 3, 2010.
- The hours of operation for the structural division will be reduced from 6:00 a.m. to midnight to 6:00 a.m. to 7:00 p.m Monday through Saturday. Sunday operations

for the structural division shall be reduced from 10 per year under the current use permit to two Sundays for the balance of 2009 and two Sundays in 2010.

- The hours of operation for the refrigeration division will be reduced from 24-hours seven days per week to 24 hours five days per week Monday through Friday, and 6:00 am to 7:00 pm on Saturday and Sunday.
- The maximum number of employees per shift shall be reduced from 75 to 50, 6:00 a.m. to 6:00 p.m., Monday through Saturday. Shifts running from 6:00 p.m. to 6 a.m. shall be reduced from 30 to ten in the structural division, and from ten to five for the refrigeration division.
- The use of top loader vehicles Monday through Saturday will be reduced from 6:00 a.m. to 10:00 p.m., to 6:00 a.m. to 7:00 p.m. with no use on Sundays.

Staff supports the extension of the use permit with these conditions for the following reasons:

- The terms allow for a cost effective and reasonable process for the termination of the business at the site.
- The 10 months will allow for a gradual reduction in containers from the site. If the City chose to deny the extension, then ConGlobal would be obligated to remove approximately 6,000 containers that are currently on the site by September 29th. If this were to occur, the truck traffic in the neighborhood could be unacceptable during this period. With the 10-month extension and the gradual removal of containers from the site, the impact of the transition may be spread and lessened.
- The 10-month extension provides time for the property owner to develop a Master Plan for the site.

Encinal Terminals Use Permit (PLN09-0184)

Mr. Chengben "Peter" Wang is the primary owner of the Encinal Terminals property. Mr. Wang also holds a lease for an additional 6 acres of tidelands property located within the center of the Encinal Terminal. The City owns a narrow strip of land along the edge of the property that leads to a small public parking area at the northeast corner of the site. Mr. Wang has been working with a variety of architects and planners over the years to develop a redevelopment and reuse plan for his properties within the Northern Waterfront area. Mr. Wang sold the property that is now the Wind River campus; he worked with Kaufman and Broad to develop the Marina Cove residential community and public park, and he sold the property that will be the Grand Marina residential project to Warmington Homes. In recent years, Mr. Wang has been working with the firm of Skidmore, Owens, and Merrill to develop a master plan for the Del Monte Building, Chipman Warehouse, and Encinal Terminals site. In 2008, Mr. Wang held a community meeting and presented his preliminary concepts to the Planning Board at a study session.

Given the economic downturn in recent years, Mr. Wang is requesting that the City extend the use permit on the Encinal Terminal site for an additional five years. His letters (Attachment 3) explain that the additional five years will allow time for the economy to recover and the lease revenues from the Encinal Terminal use permit will provide funds essential to continue the ongoing work on the Del Monte building. Mr. Wang is requesting that the City extend and modify the use permit with the following terms:

- The permitted use of the site would include outdoor storage, warehousing, handling and repair of boats, watercraft, automobiles, RV's, chassis, trailers, automotive equipment, vehicles, buses, trucks, mobile homes, containers, construction equipment and materials for businesses, homes, commercial and/or household goods, as well as container storage activities similar to the current use.
- The term of the permit would extend until August 31, 2015.
- Container storage would be reduced from stacks of five (5) to stacks of three (3).

Staff does not support the proposed extension of the use permit until 2015 with the range of uses for the site for the following reasons:

- The General plan policies call for a phasing out of the existing uses and the preparation of a master plan for the redevelopment of the site.
- Extending the use permit until 2015 would not support or advance the goals and policies of the General Plan. The extension represents a six-year delay on implementing many of the community's policies and objectives for the area.
- The 10-month extension for the orderly termination and relocation of the ConGlobal operations is an extension to the existing Use Permit and lease revenues from that lease that should be used to develop and adopt a Master Plan for the site. The master plan can include a plan for interim uses and facilities that are consistent with the long-term plan, short-term economic conditions, and General Plan policies and objectives. Once the Master Plan is completed, uses consistent with that plan could be considered and approved by the City.
- Staff appreciates and supports Mr. Wang's efforts to redevelop the historic Del Monte Building and his efforts to minimize greenhouse gases and energy consumption by establishing the Del Monte Building as the first major commercial building with solar panels in Alameda. Staff understands the significant financial undertaking that these efforts entail, but staff does not recommend, and the applicant has not requested, a condition whereby the City monitors and confirms that lease revenues from Encinal Terminals are directed toward the redevelopment of the Del Monte Building improvements.

Rezoning

As described above, the 2008 General Plan amendment includes policies directing that the site be rezoned to require a “mix of new uses including residential, commercial, senior housing, and public open space”. The General Plan polices call for a master plan that would address how the mix of uses, open space, parking, state lands, and other issues would all be addressed.

To conform with and implement the General Plan polices for the Encinal Terminals site, staff is recommending that the site be rezoned from its current designation of M-2 General Industrial to M-X Mixed Use Planned Development. As stated in the Alameda Municipal Code Section 30-4.20:

“The purpose of the Mixed-Use District is to encourage the development of a compatible mixture of land uses which may include residential, retail, offices, recreational, entertainment, research oriented light industrial, water oriented or other related uses. The compatibility and interaction between mixed uses is to be insured through adoption of Master Plan (defined in subsection 30-4.20f) and development plan site plan (defined in subsection 30-4.20h), which indicate proper orientation, desirable design character and compatible land uses to provide for:

1. A more pedestrian-oriented nonautomotive environment and flexibility in the design of land uses and structures than are provided by single purpose zoning districts, including but not limited to shared parking;
2. The enhancement and preservation of property and structures with historical or architectural merit, unique topographic, landscape or water areas, or other features requiring special treatment or protection;
3. Recreation areas that are most accessible to both the MX district’s inhabitants and other City residents;
4. Environments that are more conducive to mutual interdependence in terms of living, working, shopping, entertainment and recreation; and
5. Flexibility in the design, lay-out and timing of build-out of large-scale mixed use projects in order to respond to market demands while ensuring that development is in conformance with adopted standards, procedures and guidelines. “

Under the M-X zoning designation, a master plan for the site would be required as a condition of development and/or future use of the property. The master plan must be reviewed by the planning Board and approved by the City Council at publicly noticed hearings. The master plan would describe a land use program and development plan for the site, identify permitted and conditionally permitted uses, and discuss the phases of development. Staff is recommending the MX zoning of the site for the following reasons:

- The current M-2 General Industrial zoning is not in conformance with the General Plan designation and policies for the site.
- The MX zoning designation will allow for the mix of uses envisioned on the site in the General Plan and will ensure that a master plan is prepared for the site explaining how the uses will be developed and maintained.

- The MX master plan requirement provides a process whereby Mr. Wang may identify and the City may approve interim or short-term uses that may be appropriate given short-term economic conditions and long-term development objectives.

Conclusions and Findings

In conclusion, the staff recommendations are designed to balance the economic needs of the existing business and property owner with the community's long-term goals for the area and the site as articulated in the General Plan. In summary, this balance requires:

- Conditional Approval of Use Permit -- PLN09-0199 to extend the existing use permit UP-94-6 with certain new conditions to allow for the orderly relocation of the ConGlobal operations to their new Oakland facility. The draft findings are included below and in the draft resolution (Attachment 4)
- Denial of Use Permit -- PLN09-0184 to extend and modify UP-94-6 to allow continued operations until 2015. The draft findings for denial are included below and in the draft resolution (Attachment 5)
- Rezoning the site from M-2 General Industrial to M-X Mixed Use to support and facilitate the implementation of the General Plan goals for the site. The draft findings for denial are included below and in the draft resolution (Attachment 6)

Use Permit PLN09-0199 (10 month extension) - Findings for Approval.

1. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project is architecturally, aesthetically and operationally harmonious with the community and surrounding development. The extension of the existing container storage and maintenance use for ten months and as conditioned will minimize the impacts of the relocation of the use out of Alameda. At the beginning of the ten-month extension, truck traffic from the existing use will be reduced by 50% and by the end of the 10-month term; the use will have vacated the site.
2. The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities. As conditioned, the impacts of the use and trucks on the local roadway system will be reduced and eventually eliminated from the area.
3. The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy. Eliminating deliveries and transitioning the operations to an off-island location will improve conditions in the area. The loss of the use will have little to no adverse impacts on business districts or the local economy.

4. The proposed use relates favorably to the General Plan. The phase out of the container care business is consistent with the General Plan policies for the site.

Use Permit PLN09-0184 (6 year extension) - Findings for Denial.

1. The location of the proposed use is not compatible with other land uses in the general neighborhood area, and the project design and size is not architecturally, aesthetically, and operationally harmonious with the community and surrounding development. The proposed extension of the use permit for 6 years to allow for container storage, vehicle storage and repair, contractor yards and other similar uses is not compatible with the office, residential and open spaces uses in the general neighborhood area.
2. The proposed use, will adversely affect other property in the vicinity. The proposed extension of the existing use and similar uses at the site will result in potential trucking, noise, and aesthetic impacts on the nearby office, residential, and open spaces uses in the general neighborhood area.
3. The proposed use does not relate favorably to the General Plan. The continuation of the container care business or other similar type businesses on the site is not consistent with the General Plan policies for the site.

Rezoning PLN09-0222 - Findings for Approval.

1. The proposed amendment maintains the integrity of the General Plan. The proposed rezoning is necessary to ensure consistency between the General Plan designation and policies for the site and the zoning designation for the site. The existing zoning is not consistent with the General Plan designation and policies.
2. The proposed amendments will benefit the general welfare of the community.” The proposed rezoning will facilitate the future development of the site with the community’s recently adopted General Plan goals and policies for the Northern Waterfront and the site.
3. The proposal is equitable. The proposal to rezone this site is equitable in that zoning will facilitate redevelopment and reuse of the site consistent with approved General Plan designations and policies.

ENVIRONMENTAL REVIEW

Use Permit PLN09-0199 (10-month extension)

Pursuant to CEQA Guidelines, Section 15301 the ten-month extension is categorically exempt from CEQA. Continuation of the existing use for an additional ten months will not result in any new impacts to the environment.

Rezoning PLN09-0222:

Pursuant to the CEQA Guidelines, Section 15162 - Subsequent Environmental Impact Reports, the proposed project was considered in the Environmental Impact Report for the General Plan Amendment for Northern Waterfront certified in 2008. Accordingly, the Planning Board hereby finds and determines on the basis of substantial evidence in the record that the previous EIR fully analyzes the potential environmental effects of the project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3).

PUBLIC NOTICE

A notice for this hearing was mailed to property owners and residents within 300 feet of this site and interested parties who have previously requested notification, published in the Alameda Journal and posted at the subject property. Staff has received several letters and phone calls from adjacent property owners and residents. In general, the comments have been in opposition to the 2015 extension and generally in support of some form of limited, conditioned extension for the phase out of ConGlobal. (See Attachment 7.)

RECOMMENDATION

Approve Use Permit PLN09-0199, deny Use Permit PLN09-0184 and recommend City Council approval of PLN09-0222, Rezoning of the property to MX, Mixed Use.

RESPECTFULLY SUBMITTED BY:

REVIEWED BY:

Andrew Thomas
Planning Services Manager

David Brandt
Assistant City Manager

Attachments:

1. 1994 Use Permit
2. ConGlobal Request Letter
3. Mr. Wang Request Letter
4. Conglobal Resolution
5. Wang Resolution
6. Rezoning Resolution
7. Letters from interested parties.