

**RESOLUTION NO. 24 – \_\_\_\_\_**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA, MAKING THE REQUIRED FINDINGS AND APPROVING CONDITIONAL USE PERMIT 24-0005 TO INSTALL AND OPERATE A TEMPORARY SOIL VAPOR REMEDIATION SYSTEM LOCATED AT 650 NORTH HARBOR BOULEVARD, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS, AND MAKING THE DETERMINATION THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15330(B)(4), CLASS 30: "MINOR ACTIONS TO PREVENT, MINIMIZE, STABILIZE, MITIGATE, OR ELIMINATE THE RELEASE OF HAZARDOUS WASTE OR HAZARDOUS SUBSTANCES" OF THE CEQA GUIDELINES

THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA HEREBY FINDS AND DECLARES AS FOLLOWS:

- A. The Applicant, Amir Pakshir, on behalf of the property owner, Yong Ho Choe, filed an application requesting the approval of Conditional Use Permit 24-0005 to install and operate a temporary soil vapor remediation system located at 650 North Harbor Boulevard (the "Project").
- B. On July 8, 2024, the Planning Commission held a duly noticed public hearing to consider the Applicant's request for Conditional Use Permit 24-0005.
- C. In making the various findings set forth in this Resolution, the Planning Commission has considered all of the evidence presented by staff, the Applicant, and the public, whether written or oral, and has considered the procedures and standards required by the La Habra Municipal Code.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA HEREBY RESOLVES AS FOLLOWS:

**SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT.** The Planning Commission finds and determines that the Project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15330(b)(4), Class 30: "Minor Actions to Prevent, Minimize, Stabilize, Mitigate, or Eliminate the Release of Hazardous Waste or Hazardous Substances" of the CEQA Guidelines as the proposed soil vapor remediation system will be used for a temporary period and for the sole purpose of eliminating soil vapors to achieve safer conditions for the site and surrounding properties. The proposed remediation system meets the requirements of Title 22 of the California Code of Regulations and local air district requirements.

The Project is not subject to any of the exceptions for exemption under Section 15300.2 of the CEQA Guidelines. The cumulative impact of this Project, and the approval of other projects like it in the vicinity, is not expected to have any significant environmental impact. The Project is not located along any state designated scenic highway nor within any designated hazardous waste site. Staff does not expect any significant impacts or unusual circumstances related to the approval and construction of this Project. Therefore, the Project is categorically exempt from CEQA.

**SECTION 2. CONDITIONAL USE PERMIT.** The Planning Commission finds and determines that the Applicant has succeeded in meeting its burden of providing evidence to support the approval of Conditional Use Permit 24-0005 for the installation and operation of the temporary soil vapor remediation system based on the following findings required by Section 18.66.070 of the La Habra Municipal Code (LHMC) and subject to the conditions of approval attached hereto as **Exhibit A**.

- A. The granting of the Conditional Use Permit will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties and will not impair the character of the zone in which it is to be located.**

The installation of the soil vapor remediation system will require building permits from the City to verify its installation and construction in accordance with Building Code standards. The equipment will be located in a temporary trailer along the northern boundary and toward the rear of the site, away from the public's view, and will operate within the limits of the City's Noise Control Ordinance. The property will be continually monitored by a qualified technician to ensure the system is operating in the expected manner. Further, a condition of approval has been included that permits the soil vapor remediation system to remain on the property only for such period of time as directed by the Department of Toxic Substances Control (DTSC) and requires immediate removal of the equipment once authorized and/or directed by the DTSC. This ensures that the proposed remediation equipment will not unreasonably interfere with the use and will not impair the character of the C-2 Zone in which it is to be located. Therefore, the granting of the CUP will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties and will not impair the character of the C-2 Zone.

- B. The subject site is physically suitable for the type of land use being proposed.**

Minimal operational changes are proposed to the subject site. In fact, the existing business operations will be able to continue while the temporary soil remediation is occurring. The proposed temporary soil vapor remediation system will be located along the north side of the existing

building in an area that will not impede access to the existing business or reduce the availability of on-site parking. Therefore, the subject site is physically suitable for the remediation system proposed.

**C. The use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions of Title 18.**

Per Section 18.06.040.A of the LHMC, remediation systems within the C-2 Zone require the approval of a CUP. The proposed temporary soil vapor remediation system will be located along the northern property boundary and toward the rear of the site, away from the public's view, and will operate within the limits of the City's Noise Control Ordinance. The proposed size and location of the soil vapor remediation system meets the development standards of the C-2 Zone with respect to setbacks, and does not affect onsite parking, landscaping, or the usable floor area of the property. Therefore, the use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions of Title 18.

**D. The granting of the Conditional Use Permit is consistent with the General Plan.**

The subject site has a General Plan Land Use designation of Neighborhood Commercial (0.3 FAR) and is located within the C-2 (Commercial) Zone. As outlined above, the soil vapor remediation system is permitted in the C-2 (Commercial) Zone, subject to the approval of a CUP. The operation of the system is for a fixed time period and fully enclosed within the trailer so as to not substantially affect the adjacent commercial uses and residences. Additionally, the Project implements General Plan Policy HW 1.5 Remediation of Known Sites of the La Habra General Plan 2035. Therefore, the granting of the CUP is consistent with the General Plan.

**SECTION 3. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.**

The Applicant's proposal has been reviewed pursuant to the requirements of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, the Local Implementation Plan (LIP) and the Model Water Quality Management Plan (WQMP), Section 7.2. Since this is merely a soil sampling Project and no disturbance of soil pertaining to new construction will occur, the Project is exempt from the Water Quality Ordinance and preparation of a WQMP.

**SECTION 4. APPEAL.** The approvals granted by this Resolution may be appealed within 10 working days from adoption of this Resolution. All appeals must be in writing and filed with the City Clerk within this time period with the appropriate fee. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

**SECTION 5. RECORD.** Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and

written, contained in the entire record relating to the Project. All summaries of information in the findings which precede this section are based on the entire record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

**SECTION 6. EFFECTIVE DATE.** This Resolution shall take effect immediately.

**SECTION 7. CERTIFICATION.** The Secretary shall certify the passage of this Resolution.

PASSED, APPROVED, and ADOPTED this 8th day of July, 2024.

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Jason Manley, Chair

I, Veronica Lopez, Secretary to the Planning Commission of the City of La Habra, do hereby certify that the foregoing Resolution No. 24 – \_\_\_\_\_ was adopted at a regular meeting of the City of La Habra Planning Commission held on July 8, 2024 by the following vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

\_\_\_\_\_  
Veronica Lopez, Secretary

## **EXHIBIT A**

### **CONDITIONS OF APPROVAL**

#### **General Conditions:**

##### **Standard Condition 1.1 CODE COMPLIANCE**

The property owner/business operator shall comply with the City of La Habra Municipal Code and all applicable ordinances.

##### **Standard Condition 1.2 BUILDING PERMITS**

The property owner/business operator shall comply with all the applicable California/La Habra Building Code requirements and obtain all required permits from the Chief Building Official. Construction shall comply with the California/La Habra Building Code (or Residential Code), California/La Habra Plumbing Code, California/La Habra Mechanical Code, California/La Habra Electrical Code, California/La Habra Energy Code, and California/La Habra Green Building Standards Code, as applicable.

##### **Standard Condition 1.3 GRAFFITI ABATEMENT**

The property owner/business operator shall maintain the remediation equipment and property in a clean and orderly condition at all times and remove any graffiti from the site within forty-eight (48) hours of its discovery in matching colors to the existing improvements.

##### **Standard Condition 1.4 LA COUNTY FIRE DEPARTMENT**

The property owner/business operator shall comply with the Los Angeles County/La Habra Fire Code and Fire Department requirements, as applicable.

##### **Standard Condition 1.5 MINOR MODIFICATIONS**

The Director of Community and Economic Development or designee may approve minor modifications through the Administrative Adjustment process to the conditions of approval so long as the intent of the Planning Commission or City Council is maintained.

##### **Standard Condition 1.6 PLANS**

This approval is for the plans date reviewed and approved by the City of La Habra Planning Commission at its meeting on July 8, 2024. A copy of said plans shall be maintained in the files of the City of La Habra Planning Division. The project shall be developed and maintained in substantial conformance with said plans, except as otherwise specified in these conditions of approval.

#### Standard Condition 1.7 COMPLIANCE

The failure to comply with any of these conditions of approval by the property owner/business operator shall be grounds for rehearing and consideration by the Planning Commission for possible revocation of Conditional Use Permit 24-0005.

#### Standard Condition 1.8 VIOLATION

In the event that the property owner/business operator violates or fails to comply with any of the conditions of approval of this permit, the City may take measures to cure such violations, including but not limited to, administrative citation and full reimbursement of the City for its costs and expenses, including but not limited to, attorney's fees, in undertaking such corrective action. Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means permitted by law. In the event that violations of this permit occur, the City shall refrain from issuing further permits, licenses or other approvals until such violations have been fully remedied.

#### Standard Condition 1.9 LANDSCAPE MAINTENANCE

The property owner/business operator shall maintain landscaping surrounding the remediation equipment in a healthy and well-kept manner at all times.

#### Standard Condition 1.18 LITTER

The property owner/business operator shall maintain the area surrounding the remediation equipment in a clean and orderly condition at all times and remove all litter from the exterior areas around the premises, no less frequently than once each day prior to the close of business.

#### Standard Condition 1.41 INDEMNIFICATION

To the maximum extent permitted by law, the applicant and any successor in interest shall defend, indemnify and hold harmless the City of La Habra and its elected and appointed officials, officers, agents and employees from and against any and all actions, claims, damages, liabilities and/or proceedings (collectively referred to as "action") arising out of or in any way relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, any action to attack, challenge, set aside, void, or otherwise modify or annul the approval of any entitlement or permit relating to the project or the environmental review of any entitlement relating to the project. The indemnification and hold harmless shall include, but not be limited to, any and all costs incurred by the City in defense of any action arising out of or relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, payment of all court costs and attorneys' fees, costs of any judgements or awards against the City (including any award of attorneys' fees), damages, and/or settlement costs. The City shall have the right to choose its own legal counsel to

represent the City's interests, and applicant shall indemnify City for such costs incurred by the City.

#### Standard Condition 4.1      CONDITIONS ON CONSTRUCTION PLANS

The applicant/developer shall include the conditions of approval of this resolution on the construction plans.

#### **Project Specific Conditions:**

1. The property owner/business operator shall, prior to the operation of the remediation system or permit final, conduct a post installation noise analysis by a licensed professional, to verify that the noise output does not exceed the limits described in Chapter 9.32 (Noise Control) of the LHMC and provide a copy to the Planning Division. The property owner/business operator shall implement any necessary mitigation measures in order to comply with the City's noise control regulations, to the satisfaction of the Planning Division, prior to commencing remediation activities.
2. The property owner/business operator shall obtain all necessary permits from the Orange County (OC) Health Care Agency and the South Coast Air Quality Management District (SCAQMD) for the operation of the equipment and provide copies of said permits to the Planning Division.
3. The property owner/business operator shall comply with all applicable local, state, and federal laws and regulations.
4. The property owner/business operator shall, prior to the operation of the remediation system, post a permanent sign at the site listing the name and telephone number of the person to contact in case of an emergency. The size and location of the sign shall be approved by the Director of Community and Economic Development or designee.
5. The applicant shall provide the Planning Division with copies of any progress reports on the remediation efforts on a quarterly basis.
6. The soil vapor remediation system may remain on the property only for such time period as directed by the Department of Toxic Substances Control (DTSC). Once DTSC directs and/or authorizes removal of the soil vapor remediation system, the property owner/business operator shall immediately remove all soil vapor remediation system related equipment from the property. Conditional Use Permit 24-0005 shall expire upon such removal.