

**Application #:** ZA-57-12-Y (Continued from April 5, 2012) - **DECISION DETERMINED**

**Existing Zoning:** Citywide Determination

**Location:** Citywide Determination

**Proposal:** Formal Determination: Can a solid waste transfer station that was allowed to accept only Construction and Demolition (C & D) waste at the adoption of Ordinance G-4686 change uses to now accept Municipal Solid Waste (MSW), either in addition to or in lieu of Construction and Demolition of waste, as a matter of right or do they have to meet the requirements of Ordinance G-4686 in order to switch waste stream uses.

**Ordinance Sections:** 647.A.2.hh.

**Applicant:** Planning and Development Department

**Representative:** Doug Jorden / Jorden Bischoff & Hiser, PLC

**Owner:** Planning and Development Department

**ZONING ADJUSTMENT HEARING OFFICER WAS: RAY JACOBS, AICP**  
**PLANNER WAS: EDWARD KEYSER**

Speaking in favor was Doug Jorden.

**DECISION:** Special Permit required to change from one waste stream to another.

**FINDINGS OF FACT:** The request asks whether a solid waste transfer station that was allowed to accept only construction and demolition (C& D) waste as of the effective date of the 2005 text amendment start accepting what is generally referred to as municipal solid waste (MSW) as a matter of right, or whether it is necessary to obtain a Special Permit prior to accepting (MSW) in addition to or in lieu of (C& D) waste.

1. The City has considered solid waste transfer stations on a variety of occasions prior to and after the 2005 text amendment. The number of pre-existing solid waste transfer stations further confused the considerations. Granting legal nonconforming status and requiring new development standards is not a preferred means to address this type of land use.
2. The intent of the 2005 text amendment was to clearly establish solid waste transfer stations as land uses requiring a special permit. No attempt was included to establish categories of solid waste transfer stations. The solid waste transfer facilities tendency to shift or mix waste streams was also recognized.
3. Many of the solid waste transfer stations were established under prior ordinances when the overall impact of the facilities on surrounding properties was not considered. The use is not a typical A-1 land use and its impact can be more significant than many A-2 uses.

4. The impact of a solid waste transfer stations can be significant. Many original older (C&D) transfer stations are outdoor operations. The potential introduction of (MSW) to older facilities poses a significant impact to surrounding properties. The diverse offensive nature of (MSW) on a large scale requires the need for the Special Permit process to implement site specific improvements and operational control measures.
5. It is necessary to obtain a Special Permit to establish a solid waste transfer station in the A-1 or A-2 zoning districts. It is also necessary to obtain a Special Permit in the A-1 or A-2 zoning district for a solid waste transfer facility to change the waste stream from Construction and Demolition (C&D) to Municipal Solid Waste (MSW).

**SUMMARY:** Mr. Jorden referred to his letter of 2/14/2012 and said he was representing Waste Management that owned three transfer stations within the City of Phoenix. He noted that municipal solid waste was defined as trash associated with solid waste pickup from residential. He noted that two of the sites already were permitted to received MSW as well as C&D and that they were accepting this waste as allowed by Special Ordinance. Mr. Jorden noted that in 2005 transfer stations were allowed in A-1 and A-2 zoning districts. A text amendment change in 2005 required a special permit for these types of activities.

He added that the current sites controlled by his client were conducted in enclosed structures and they were willing to abide by whatever decision the hearing officer made. He was seeking clarification regarding changing the waste streams on site requiring a Special Permit or if the change would be allowed by right. Mr. Jacobs asked about the creation of the transfer stations by date. Mr. Jorden noted that two of the sites he represented had begun operating in the 1990s and 2005, which would make them legal non-conforming uses. Mr. Jacobs noted that during his review of the submitted documents, he said he saw some documents that refreshed his memory regarding these uses.

Mr. Jacobs commended Mr. Jorden on the quality and brevity of his submittal. Mr. Jorden spoke about the land use impacts of these kinds of uses and the desire by municipalities to be more restrictive of these uses.

Mr. Jacobs agreed that solid waste transfer stations that accepted C&D would be required to obtain a Special Permit to be able to accept MSW.

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