

**City of Pomona**  
**505 S. Garey Avenue**  
**Pomona, CA 91769**  
**City Clerk's Office – (909) 620-2341**

**Appeal of Planning Commission Action**

**City's Project Identification Number(s):** CUP-00286-2024

**Name of Project Applicant:** 2000 Pomona Blvd Owner, LLC

**Project Address (Location):** 2000 Pomona Blvd.

**Date of Planning Commission Action:** May 22, 2024

**I, the undersigned, hereby appeal the identified action of the City of Pomona Planning Commission:**

- Denial of Project.**
- Conditions of Approval (specify):** \_\_\_\_\_
- Other (explain):** \_\_\_\_\_

**I, the undersigned, hereby appeal the action of the Planning Commission for the following reason(s) (please be specific, add additional pages if necessary):**

Please see attached.

Section.560F of the Pomona Zoning Ordinance specifies that decisions of the Planning Commission are final unless appealed in writing by the applicant or any other interested person (as defined in the Code) within 20 calendar days from the date of the action. In accordance with Chapter 29 (Subdivisions), Section 29-51. Appeals, the appeal of the Planning Commission decision to the City Council with respect to tentative maps and parcel maps shall be filed within fifteen (15) days from the date of action. The appeal shall be accompanied by a filing fee as adopted by the City Council by resolution. The appeal form shall be filed with the Pomona City Clerk's Office, 505 S. Garey Ave., Pomona, CA 91769.

DocuSigned by:  
*Brian Wong*  
55F81ADA72AD469...  
**Signature**

Brian Wong  
**Print Name**

1330 Factory Place #105  
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**City State Zip Code**

310-242-1612  
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**Appeal of Planning Commission Action  
Conditional Use Permit (CUP-000286-2024)  
2000 Pomona Blvd Owner, LLC**

**I, the undersigned, hereby appeal the action of the Planning Commission for the following reason(s) (please be specific, add additional pages if necessary):**

We firmly support the conclusions outlined in the Resolution, affirming the appropriateness of the analysis and recommended findings made by Staff. Staff's recommended findings for the proposed permitted uses under the proposed Conditional Use Permit (CUP) are consistent with the City's zoning and professional evaluation.

The Planning Commission's decision not to adhere to said findings disregarded the thorough evaluation and recommendations provided by Staff. In addition, the Planning Commission's decision to deny was not based on permissible reasons and proper due process considerations were not afforded.

Planning Commission hearings are subject to the fair process requirements of California Code of Civil Procedure section 1094.5(b) and, when a vested property or liberty interest is implicated, to the due process requirements of both the federal and state constitutions." *The California Municipal Law Handbook* (Cal. CEB 2023) § 2.56 citing *Today's Fresh Start, Inc. v Los Angeles County Office of Education* (2013) 57 Cal.4th 197, 212. "The decision-maker must be fair and impartial." *Id.* citing, *Woody's Group, Inc. v. City of Newport Beach* (2015) 233 Cal.App.4th 1012,1027 (invalidated city council decision on appeal of land use application when council member appealing planning commission decision showed bias and violated local procedures).

We respectfully disagree with the Planning Commission's Denial Findings provided in Attachment A. Additional commentary is provided below:

**1. City Council Priorities and Goals (dated June 21, 2021) and the General Plan.**

The City Council outlined five (5) Priorities and Goals, three (3) of which are positively impacted by the proposed Conditional Use Permit. These are also outlined in the General Plan.

**a. Priority #1, Fiscal and Operational Responsibility**

- i. Priority #1 states that the City should "Take actions to ensure the fiscal sustainability of the City and make operational decisions that align with the City's core values and priorities."

- ii. General Plan, Section 7 – Plan Components, 7-B Economic Development, Bullet 8 titled Ensure Fiscal Stability/ Revenue states that “Property taxes continue to be the City’s major source of revenue, accounting for 30% of revenue ...”
- iii. **Consistency:** The project results in an incremental increase in property taxes of approximately \$430,000 totaling \$521,000 on an annual basis when compared to the prior use/ ownership.

**b. Priority #2, Economic Development**

- i. Priority #2 states that the City should “Foster economic prosperity through strategic and thoughtful commercial and residential development and support for businesses that aligns with the long-term vision of the City, encourages investment by other public and private entities, and creates jobs.”
- ii. General Plan, Section 7 – Plan Components, 7-B Economic Development, Bullet 6 titled Strengthen the Jobs Base and Support the 21<sup>st</sup> Century Workplace Environment describes the City as a “net exporter of labor ...”
- iii. **Consistency:** The proposed use is anticipated to create 20 to 60 jobs. Currently, the property is vacant with full-time security 24/7.

**c. Priority #4, Safe and Clean Community**

- i. Priority #4 states that the City should “Invest in public safety, community programming, and maintenance of properties and infrastructure to ensure residents, businesses, visitors, and employees feel safe, neighborhoods reflect the beauty of Pomona, and the community feels a sense of pride and ownership of the City.”
- ii. Since the building tenant vacated the property in February 2022, the property has been the victim of trespassing, illegal dumping, vandalism on a weekly, if not daily basis, all issues not present when the site was occupied. Please see Figures 1, 2 and 3 on the following pages.
- iii. **Consistency:** The proposed use would ensure the site is “reactivated,” providing for a well-maintained, well-secured productive asset to the City of Pomona.



**Figure 1**  
**February 22, 2024**  
**Pomona Blvd Right-of-Way with the 71 FWY Above**



**Figure 2**  
**May 2, 2024**  
**Pomona Blvd Right-of-Way Cul de Sac**



**Figure 3**  
**May 22, 2024**  
**Pomona Blvd Right-of-Way**

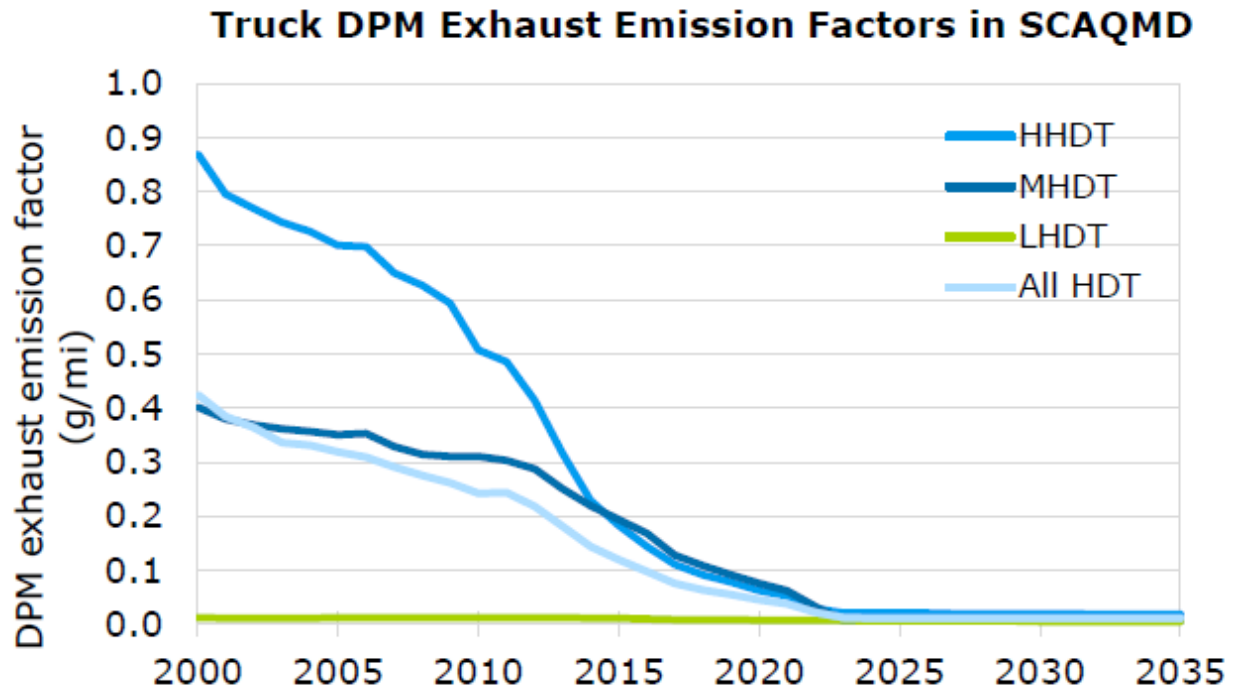
## 2. Unsubstantiated Environmental Impacts

The Denial Findings are generic in nature, unsubstantiated and lacking. Over two decades ago, the South Coast Air Quality Management District (SCAQMD) recommended a 1,000 foot buffer from Sensitive Receptors. Ramboll, an air quality consultant regularly used by California Air Resources Board (CARB) and SCAQMD, updated the CARB 2005 Land Use Handbook recommendation of 1,000 foot buffer with current information in 2021 which found that Diesel Particulate Matter (DPM) emissions from heavy-duty trucks (HDTs or "trucks") and Transport Refrigeration Units (TRUs) have reduced significantly over the last 15 years with the implementation of federal and state regulations such as United States Environmental Protection Agency's (USEPA) Emission Standards for Heavy-Duty Highway Engines and Vehicles, CARB's Truck and Bus Regulation, and CARB's Airborne Toxic Control Measure for TRUs. Additionally, the California Office of Environmental Health Hazard Assessment (OEHHA) updated their guidance for estimating health risk in 2015.

The updated analysis, using CARB's own methodology, and simply replacing the inputs with updated data shows that that federal and state regulations have led to significantly lower-emitting trucks and TRUs such that, even with the latest risk assessment methodology, CARB's 2005 Land Use Handbook minimum siting guidance of 1,000 feet for sensitive receptors located in the vicinity of warehouses is now overly conservative. The analysis demonstrates that CARB's recommended minimum siting distance of 1,000 feet could be significantly reduced or eliminated in the land use guidance. In fact, a 100 foot buffer would be sufficient. "Potential cancer risk estimates in 2023 are below the 100 in a million level used by CARB to establish the original minimal siting guidance of 1,000 feet except at distances very close to the site boundary (<79 feet for HDTs with TRUs)." (Ramboll report at ES-3).

Nonetheless, the subject property is more than 1,000 feet from a sensitive receptor.

"...[D]iesel PM is the largest contributor to overall air toxics cancer risk. However, the average levels of diesel PM in MATES V are 53% lower at the 10 monitoring sites compared to MATES IV and 86% lower since MATES II based on monitored data. Based on other South Coast AQMD analyses of projected diesel PM emissions in future years, significant decreases in diesel PM health impacts are expected within the next 5-10 years. These reductions reflect recent and continued efforts by the District, CARB and US EPA that reduce diesel PM emissions, especially from mobile sources." (MATES Report at ES-6).



In addition, SCAQMD has also adopted a Warehouse Indirect Source Rule (ISR). The Warehouse ISR is designed to reduce emissions from day-to-day warehouse operations, including trucks transporting goods to and from warehouses. Examples of actions and investments that can generate Warehouse Actions and Investments to Reduce Emissions (WAIRE) points under this rule include acquisition and use of near-zero-emission (NZE) and zero-emission (ZE) trucks, acquisition and use of ZE yard tractors, acquisition and use of ZE fueling infrastructure for on-road vehicles, and acquisition and use of solar panels for on-site electricity generation. South Coast AQMD estimates that this rule will result in nitric oxide (NO<sub>x</sub>) and DPM reductions of 0 to 5.1 tons per day (tpd) and 0 to 0.012 tpd, respectively, in 2023. By 2031 the NO<sub>x</sub> and DPM reductions are expected to increase to 0 to 20.3 tpd and 0 to 0.025 tpd, respectively.

Figure 4 provides a visual representation of proximity to Sensitive Receptors.

**Consistency:** The nearest sensitive receptor is over 1,500 feet away from the Property, 1.5X SCAQMD's two decade old recommended buffer. In other cases, sensitive receptors are over 2,900 feet away.

Further, the property is generally accessed off the 71 Freeway off of Holt Avenue/ Valley Boulevard heading south or Mission Boulevard, heading north or south. No sensitive receptors, including housing or schools are encountered to access the property from these



access points. Again, the nearest residential is more than 1,500 feet from the property, not blocks away.

Further, given the property is surrounded by industrial uses and the 71 Freeway, those working in the vicinity would benefit from a local storage yard from a business-to-business perspective, reducing the need to travel further to secure these services.

Regarding dust, the proposed Conditions of Approval require users under the CUP to store materials in a manner consistent with best practices, specifically stating that *“All material shall be stored in a manner that does not expose it to the elements or increase the likelihood of generation of dust, debris, or spread of material across site to other sites or towards public right of way.”*

The assumption being made is that a user would not comply with the condition which is in direct conflict with the applicant’s current tenant base for similar uses.



**Figure 4**  
**Proximity to Sensitive Receptors Far Exceeds South Coast Air Quality Management District's 1000 Ft Buffer from Two Decades Ago**

### 3. Environmental History

The subject property is part of the former 160-acre Naval Weapons Industrial Reserve Plant (NWIRP) owned by the Navy and leased to General Dynamics. General Dynamics manufactured ballistic missiles at NWIRP whose activities included a mixture of metal machining, metal finishing, plating, painting, chemical storage, and wastewater treatment.

Following General Dynamics departure from the NWIRP, significant environmental remediation was completed under the oversight of the Department of Toxic Substances Control to meet remediation action goals including the removal of various soils in metals including copper, chromium, hexavalent chromium, nickel, lead and cadmium, as well as volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOCs) including ethylbenzene, styrene, toluene, xylene, methylene chloride and phenol.

Given the environmental history at the NWIRP, land use restrictions were put into place limiting permitted uses.

Figures 5 and 6 provide additional context of the former 160-acre NWIRP property.

**Consistency:** The proposed uses under the Conditional Use Permit do not conflict with the Department of Toxic Substances Control's land use restrictions and are therefore consistent.




**Figure 5**  
**Former Naval Weapons Industrial Reserve Plant**



#### 4. Containment of Equipment Rental Uses Under the CUP

The CUP provides certain *Outdoor Storage Conditions* related to Equipment Rental to ensure items are stored in a manner consistent with best practices, specifically that “All equipment rental shall ensure any discharge liquids, hazardous waste, acids, refuse, and noxious materials are contained.”

This condition is common for any industrial use as well as many commercial/ retail uses, however, the assumption being made through the Denial Findings is that a user would not comply with the condition which is in direct conflict with the applicant’s current tenant base for similar uses.

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## ATTACHMENT A

### Denial Findings – PC Hearing 5/22/2024

#### **Commissioner Miranda-Meza**

*Finding #2: I don't believe that um this um, this CUP would, um, I believe it does affect the healthy and um, safety and peace and general welfare of persons residing or working on the vicinity as myself that I live a few blocks from there. Um, and the outdoor storage items identified. I just, I don't think #2 is a finding for us to approve it. I think it's a finding, it needs to be removed from there. It shouldn't be there.*

#### **Commissioner Dr. Urey**

*I think Findings # 1 and #2, cannot be made.*

*Finding #1 would be that it would contribute to the general wellbeing of the neighborhood or community and um whereas there is an argument that it would provide jobs and tax revenue, uh, those are not specific to the neighborhood or community and the other effects of this use including traffic and noise and potentially uh dust would um be harmful to the general wellbeing of the neighborhood or community.*

*And with Finding #2, uh, the uses I think could be detrimental to safety, peace or general welfare of the people living or working nearby because uh this use would allow bringing hazardous waste as well as other noxious or toxic liquids onto the site so there would always be the potential that these could be released in a way that would be hazardous to the neighborhood and the fact that there would be up to 138 containers um on trailers, but still lined up there I think would be undesirable for the safety and peace of the general welfare of people living nearby.*