



CITY OF POMONA

PLANNING COMMISSION REPORT

DATE: March 8, 2017

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department - Planning Division

SUBJECT: **CODE AMENDMENT (CODE 6899-2017) WASTE AND RECYCLNG FACILITIES**

A request to amend Section .062 ("Definitions"), Section .580 J ("Uses requiring CUP"), Section .342 (C-1 Zone uses expressly prohibited), Section .352 (C-2 Zone uses expressly prohibited), Section .362 (C-3 Zone uses expressly prohibited), Section .367 (C-C zone uses expressly prohibited), Section .372 (C-4 Zone uses expressly prohibited), Section .392 (C-IND Zone uses expressly prohibited), Section .398 (M Zone uses expressly prohibited), Section .412 (M-1 Zone uses expressly prohibited), and Section .422 (M-2 Zone uses expressly prohibited) of the Pomona Zoning Code to prohibit waste and recycling uses as allowed uses throughout the City, with the exception of convenience recyclers, and rescind Determination of Similarity (DOS 99-008) allowing Trash Transfer Facilities with a CUP.

STAFF RECOMMENDATION

The Planning Division recommends that the Planning Commission adopt the attached Resolution recommending to the City Council the following:

1. Approval of Code 6899-2017 to amend Section .062 ("Definitions"), Section .580 J ("Uses requiring CUP"), Section .342 (C-1 Zone uses expressly prohibited), Section .352 (C-2 Zone uses expressly prohibited), Section .362 (C-3 Zone uses expressly prohibited), Section .367 (C-C zone uses expressly prohibited), Section .372 (C-4 Zone uses expressly prohibited), Section .392 (C-IND Zone uses expressly prohibited), Section .398 (M Zone uses expressly prohibited), Section .412 (M-1 Zone uses expressly prohibited), and Section .422 (M-2 Zone uses expressly prohibited) of the Pomona Zoning Code to prohibit waste and recycling uses as allowed uses throughout the City, with the exception of convenience recyclers, as defined.
2. Rescind Determination of Similarity (DOS 99-008) allowing Trash Transfer Facilities with a CUP.

PROJECT/APPLICANT INFORMATION

Project Location:	Citywide
APN Information:	Not applicable
Project Applicant:	City of Pomona, Development Services Department, Planning Division
Property Owner:	Not applicable
City Council Districts:	Citywide

BACKGROUND

On June 16, 2014, the City Council enacted a moratorium on waste and recycling facilities in the City of Pomona. That moratorium was extended twice, as allowed by law, in order for the City to evaluate the issues and possible regulations available to address the effects of these land uses. The Council created a Waste & Recycling Task Force which presented a proposed zoning code amendment to the Planning Commission on March 23, 2016. The Planning Commission did not approve the proposed ordinance, but recommended that the City Council review the findings and proposal of the Task Force. On April 18, 2016, the City Council heard testimony from the public and reviewed the proposed ordinance of the Task Force. The Council then appointed an Ad Hoc committee comprised of former Mayor Rothman, and former Councilmembers Paula Lantz and John Nolte to evaluate the proposed ordinance and legal issues raised at prior meetings.

The Waste and Recycling Ad Hoc Committee discussed various options of moving forward with a new Ordinance to address both new and existing waste and recycling businesses. To understand the magnitude of the current conditions in Pomona, the City Council requested that staff from the Development Services Department inspect existing waste and recycling operators, and provide a report on the status of the conditions and identify any noticeable violations of CUPs or violations of the Pomona Zoning Ordinance.

After the City Council received the report from Development Services Department staff on the status of the conditions of waste and recycling Facilities within the City on October 3, 2016, the City Council directed staff to enforce code enforcement actions against those waste and recycling businesses not in compliance with development and operational standards defined in the City's Zoning Code, or are in violation of CUPs. Further, the City Council directed staff to introduce amendments to the Pomona Zoning Code banning any new waste and recycling facilities throughout the City, with the exception of convenience recyclers.

ISSUES ANALYSIS

All proposed code amendments included in CODE 6899-2017 are presented in Attachment 1 to this staff report. The major area issues are outlined below.

CREATION OF NEW DEFINITIONS

The Waste & Recycling Task Force presented a proposed code amendment to the Planning Commission and to the City Council on March 23, 2016, and April 18, 2016, respectively. Although not adopted by the City Council, the code language presented by the Task Force contains a number of new definitions that is necessary to be included in the Pomona Zoning Code in order to effectively capture the wide array of different waste and recycling facilities in the industry. Therefore, staff has included the pertinent new definitions in the proposed amendment to Section .062 of the Pomona Zoning Code.

The new definitions to be added are the following:

- Pallet yards
- Automobile dismantling facility
- Construction & demolition waste
- Electronic waste
- Electronic waste facility
- Food waste
- Food waste facility
- Greenwaste
- Greenwaste facility
- Hazardous waste
- Hazardous waste facility
- Medical waste facility
- Mixed waste
- Recyclable materials or recyclables
- Recycle, recycling
- Recycling facility
- Recycling facility - Convenience
- Recycling manufacturer
- Solid waste
- Solid waste facility

The definitions proposed are designed to be broad enough in description that they are capable of capturing the complexities of the various evolving types and systems of processing waste and recycled materials that occurs in a worldwide logistical environment.

USES REQUIRING A CUP

Section .580 J of the Pomona Zoning Code governs the uses that are allowed in the City with an approval of a Conditional Use Permit (CUP). Currently, recycling centers are allowed with a CUP approval in M, M-1, and M-2 zones. It was the City Council's direction to ban new waste and recycling uses citywide. To do so, such uses (i.e. Recycling centers) must be removed from the list of uses allowed with a CUP approval.

The City Council also directed that convenience recycling facilities be allowed in all commercial zones, as well as commercial and mixed-use districts in Specific Plan areas. Therefore, convenience recycling facilities shall be added to the list of uses allowed with a CUP.

Proposed revisions to Section .580 J of the Pomona Zoning Code is outlined below.

USE	ZONE IN WHICH ALLOWED
Recycling centers	M, M-1, M-2
<u>Recycling Facility - Convenience</u>	<u>C-1, C-2, C-3, C-4, C-IND, M-1, M-2, as well as commercial and mixed-use districts in Specific Plan areas</u>

USES EXPRESSILY PROHIBITED

In the Pomona Zoning Code, a list of expressly prohibited uses is identified in each zone. On October 3, 2016, the City Council directed to ban all new waste and recycling facilities including hazardous waste, automobile dismantling, electronic waste facility, food waste facility, green waste facility, recycling facility, solid waste facility, construction and demolition waste facility, and pallet yards throughout the City. Currently, these uses are not on the list of uses expressly prohibited for all commercial and industrial zones.

In order to accomplish the City Council's direction, the aforementioned uses shall be added to the list of uses expressly prohibited for the all commercial and industrial zones. This lead to the proposed amendments to Section .342 (C-1 zone uses expressly prohibited), Section .352 (C-2 zone uses expressly prohibited), Section .362 (C-3 zone uses expressly prohibited), Section .372 (C-4 zone uses expressly prohibited), Section .392 (C-IND zone uses expressly prohibited), Section .395 (M zone uses expressly prohibited), Section .412 (M-1 zone uses expressly prohibited), Section .422 (M-2 zone uses expressly prohibited), as presented in Attachment 1 to this staff report.

RECIND DETERMINATION OF SIMILARITY (DOS 99-008)

It is recognized that in the development of a comprehensive zoning ordinance, not all uses of land can be listed, nor can all future uses be anticipated. Therefore, Section .501-A of the Pomona Zoning Code authorized the city planner to approve a Determination of Similarity (DOS) application to grant allowance for uses that are similar to another permitted use, but are not listed. Once a DOS is approved to allow for an unlisted use in a particular zoning district, it allows for all other applications of the same use or the same category of uses to be permitted in that zoning district.

On March 3, 1999, the Planning Division approved DOS 99-008 to allow a waste and recycling use in the M-1 zone with a Conditional Use Permit. The decision made with the approval of DOS 99-008 now conflicts with the City Council's direction to ban any new waste and recycling uses throughout the City, including in the M-1 zone. Therefore, the recommendation is for the Planning Commission to also rescind the approval of DOS 99-008. Staff has included language in the attached Planning Commission resolution to implement this recommendation.

CONCLUSION

Over the past several years, the City Council and the Planning Commission have received numerous

testimonies from residents voicing concerns regarding the nuisance generated by existing waste and recycling uses located adjacent to existing homes within industrial areas mostly in the southeast quadrant of the City. As a result, the City Council created a Waste & Recycling Task Force and established an Ad Hoc Committee to study the issues, and to work with the residents and owners of waste and recycling facilities. The City Council recognized the negative health and safety impacts that these facilities could impose on the surrounding residents; therefore, on October 3, 2016, the City Council has directed to ban any new waste and recycling uses citywide.

CODE 6899-2017 incorporates all necessary code amendments to implement the City Council's direction. Once adopted, these code amendments are anticipated to contribute to the improvement of overall health and safety of citizens of Pomona by better separating land uses that have been known to be incompatible with each other. Staff notes that Specific Plan areas were not included due to the fact that the Specific Plans are already very specific in describing allowed uses and waste and recycling uses are not allowed.

RECOMMENDATION

The Planning Division recommends that the Planning Commission adopt the attached Resolution recommending to the City Council the following:

1. Approval of Code 6899-2017 to amend Section .062 ("Definitions"), Section .580 J ("Uses requiring CUP"), Section .342 (C-1 Zone uses expressly prohibited), Section .352 (C-2 Zone uses expressly prohibited), Section .362 (C-3 Zone uses expressly prohibited), Section .367 (C-C zone uses expressly prohibited), Section .372 (C-4 Zone uses expressly prohibited), Section .392 (C-IND Zone uses expressly prohibited), Section .398 (M Zone uses expressly prohibited), Section .412 (M-1 Zone uses expressly prohibited), and Section .422 (M-2 Zone uses expressly prohibited) of the Pomona Zoning Code to prohibit waste and recycling uses as allowed uses throughout the City, with the exception of convenience recyclers, as defined.
2. Rescind Determination of Similarity (DOS 99-008) allowing Trash Transfer Facilities with a CUP.

Respectfully Submitted:



Brad Johnson
Development Services Manager

Prepared By:



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Senior Planner

PC ATTACHMENTS:

1. Proposed Code Amendments
2. Planning Commission Resolution approving CODE 6899-2017
3. City Council staff report dated October 3, 2016
4. City Council Meeting minutes from October 3, 2016

