

## Submittal from Durham re Zoning Conformity

### USE ALREADY FITS

-----Durham's use fits well into "transportation equipment yard and storage space for transit". Durham's use is defined as either of those related items:

Durham stores transportation equipment (buses and related equipment for the buses such as seats, lights, safety equipment, etc).

Durham business is transit and the site will be used as storage space for their transit use.

This is Durham's use and we meet this based on City of Pomona's 4 methods of determination:

### DETERMINATION FACTORS:

(Sec. .421 C): Where any doubt or uncertainty exists as to the proper zoning district classification of an industrial use, the planning commission shall **determine** such, based on the following conditions:

1. ***That field investigations have disclosed that the subject use and its operation are compatible with the uses permitted in the area wherein it is proposed to be located; and***
  - a. All surrounding uses are industrial with a mix of buildings and yard uses.
  - b. Most surrounding uses have large equipment, large materials or large vehicles/trucks stored outside.
  - c. Fleet uses (for example verizon) storing and maintaining varying sizes of vehicles and trucks, trucking companies storing and maintaining their trucks, manufacturing companies storing materials and trucks outside.
  - d. Durham's use is **less intense** than majority of uses in entire industrial area
2. ***That the subject use is similar to one or more uses permitted in the district within which it is proposed to be located; and***
  - a. "transportation equipment yard and storage space for transit". (B.4.i)
    - i. Buses and related equipment for their buses are transportation equipment stored in yard and building
    - ii. Transit involves carrying people in vehicles. Yard and building will be used as storage space for this transit.
  - b. Although Durham's use is not automotive repair, the light maintenance they will be doing is much less intense than the already permitted use in this zone, which is Automotive work/repair (B.1)... (that allows for higher intensity uses such as truck repair, body work, painting, etc ....which Durham will not be doing on this site).

**3. *That the subject use will not cause substantial injury to the values of property in the neighborhood within which it is proposed to be located; and***

- a. Durham's use will be less intense and better appearance than most in the area.
  - i. OPPOSITE, SHOULD INCREASE VALUE: Improvement to prior uses and nearby uses. Improvement over existing CUP that allows for recycling.
    - 1. Cleaned up and renovated property with screening – better appearance than rest of neighborhood.
    - 2. Not trash storage, smells or trash trucks – less nuisance of sound & smell in area.
    - 3. Only employees coming in and leaving with buses and personal vehicles in morning and afternoons – less intense use coming in and out of area.
    - 4. Quiet/stagnant operation majority of the day and night. – no manufacturing of materials, no assembly, nothing visible besides parking and nicely improved buildings visible.
    - 5. No passenger boarding will occur on or adjacent to the property.
    - 6. Staggered routes/times allow for light traffic (for example during peak period of 7am-9am, only 14 buses leave the site).

**4. *That the subject use will be so designed, located and operated that the public health, safety and general welfare will be protected.***

- a. Similar to #3 above, this use is more beneficial to the City residents than the previous use, currently allowed recycling use and surrounding uses.
- b. Only vehicles coming in and out of the site are from employees of Durham, versus nearby trucking and industrial uses that constantly have trucking vendors/deliveries by third parties not accustomed to the area and not under Durham's safety protocols.
- c. All drivers have undergone stringent safety training.
- d. All buses are clean energy (CNG, unleaded or propane). Durham plans to utilize the planned CNG station across 9<sup>th</sup> street to increase it's CNG platform.
- e. The entire site is fully fenced, walled and screened with proper landscaping.
- f. Periodic bus washing is done by a third party who visits the site and washes the buses in a controlled basin, who then vacuums up all wastewater and removes it via it's own truck.

## REGARDING PRIOR C.U.P.:

-----Last precedent of zoning for Durham in Pomona (CUP for 3869 Valley Blvd) was wrongfully based due to reasons listed below (TRUCKING & CHARTER). Per April 13, 2016 letter to Durham, staff determined that the Durham use was "similar to a trucking facility or a private bus charter company", both of which are incorrect based on City of Pomona's own code:

*CITY OF POMONA CODE DEFINITION: **TRUCKING** facilities.* Any property and improvements used for freight transfer truck terminals or for the operations of a "common carrier trucking company," including the parking, or servicing, or repairing, or storage of trucks, truck tractors, and/or truck trailers, except where such activities are not part of a "common carrier trucking company" operation, and are incidental and accessory to a primary use, permitted in the zone district, serving only said use, and located on the same property or on property adjacent to that occupied by said primary use.

*Common Carrier Trucking Company.* A freight transporting or transfer company serving the general public and/or business community, and regulated by the State Public Utilities Commission and/or the Federal Interstate Commerce Commission. Such businesses pay transportation taxes to the state. The city receives a portion of this tax in lieu of city business license fees, which are not required of such businesses.

**Durham's use has nothing to do with freight or common carrier trucking. Pomona's definition of trucking is based on companies that carry and transfer freight. This definition has no mention of other vehicles, buses or transportation of people/transit.**

**NO mention of private bus charter company in zoning code definitions. Durham is not a charter company anyway.**

RELATING TO CHARTER: Charter is a one-off order to transport people for a single route or event. Durham is operating over 100 established/set routes daily, based on the School Districts and where the Pomona student population resides.