

## **PC RESOLUTION NO. 18-XXX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING THE REVOCATION OF MODIFICATION OF CONDITIONAL USE PERMIT (CUP 07-009) TO MODIFY TWO EXISTING CONDITIONS OF APPROVAL RELATING TO ON-SITE STORAGE OF MATERIALS AND HOURS OF OPERATION FOR AN EXISTING RECYCLING CENTER IN THE M-2 (GENERAL INDUSTRIAL) ZONE ON PROPERTY LOCATED AT 1326-1352 EAST NINTH STREET.**

**WHEREAS**, the City has initiated revocation of Conditional Use Permit (CUP 07-009) to modify two existing conditions of approval relating to on-site storage of materials and hours of operation for an existing recycling center in the M-2 General Industrial zoning district on property located at 1326-1352 East Ninth Street;

**WHEREAS**, the City has also initiated concurrent revocations of Modification of Conditional Use Permit develop a scrap metal processing plant and related equipment (PC Resolution No. 2830); revocation of Modification of Conditional Use Permit (PC Resolution No. 2830-A) to allow recycling of glass and paper as well as metal; revocation of Modification of Conditional Use Permit (CUP 94-044) to allow expansion of the recycling facility to include the adjacent property at 1326 East Ninth Street; revocation of Modification of Conditional Use Permit (95-026) to allow the expansion of an existing building and construction of a new building; revocation of Modification of Conditional Use Permit (CUP 00-032) to allow the collection and recycling of plastic, the construction of a new building, and an extension to the hours of operation;

**WHEREAS**, on May 9, 2007, a Modification of Conditional Use Permit (CUP 07-009) was issued to allow the collection and recycling of plastic, the construction of a new building, and an extension to the hours of operation in the M-2 General Industrial zone on property located at 1326-1352 East Ninth Street;

**WHEREAS**, on June 19, 2017, the City Council approved and passed Ordinance No. 4234, which added definitions to the Pomona Zoning Ordinance pertaining to waste and recycling facilities, and added “recycling” facility as a prohibited use in the M-2 General Industrial Zoning District;

**WHEREAS**, Section .580-H of the Zoning Ordinance provides for revocation of a Conditional Use Permit if the granting body makes one or more of the required findings;

**WHEREAS**, the revocation of Modification of Conditional Use Permit (07-009), has been initiated by the City of Pomona’s Development Services Director due to a “recycling facility” being a prohibited use in the M-2 General Industrial zoning District, and the unlikelihood of such use being able to be exercised in the future due to a new charter bus company use entitled and currently operating at the site;

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law held a public hearing on February 13, 2019, concerning the Revocation of Modification of Conditional Use Permit (CUP 07-009); and

**WHEREAS**, the Planning Commission has carefully considered all pertinent testimony, the recommendation of the Planning Division staff and the staff report offered in the case as presented at said noticed public hearing.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the Planning Commission of the City of Pomona, California, as follows:

**SECTION 1.** The Planning Commission, exercising their independent judgment, has determined that this action of revocation has no possibility of having a significant effect on the environment, and is therefore not a project as defined under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines and, therefore, not subject to environmental review.

**SECTION 2.** If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

**SECTION 3.** Based upon a consideration of the whole record before it including, but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds as follows:

*The permit granted is being, or has been, exercised contrary to any conditions imposed upon such permit, or in the violation of a law.*

The revocation of entitlements pertaining to the former recycling facility at the subject site was initiated by the Development Services Director. As established by City Council Ordinance No. 4234 in 2017, a “recycling facility” is a prohibited use in the M-2 General Industrial Zoning District. Therefore, the use associated with these entitlements does not comply with the Pomona Zoning Ordinance. While an active recycling facility at this site may continue exercising the privileges of these entitlements as a legally non-conforming use, the facility ceased operations in 2015, and is now currently operating as a charter bus company. It is unlikely that the former recycling facility will re-establish its use at this location.

**SECTION 4.** Based on the above finding, the Planning Commission hereby approves the revocation of the Modification of Conditional Use Permit (CUP 07-009), in its entirety.

**SECTION 5.** The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

**APPROVED AND ADOPTED THIS 13TH DAY OF FEBRUARY, 2019.**

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DR. KYLE BROWN  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

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ANITA D. GUTIERREZ, AICP  
PLANNING COMMISSION SECRETARY

**APPROVED AS TO FORM:**

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MARCO A. MARTINEZ  
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA    )  
COUNTY OF LOS ANGELES   ) ss.  
CITY OF POMONA         )

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

"Pursuant to Resolution No. 76-258 of the City of Pomona the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6."