



CITY OF POMONA

PLANNING COMMISSION REPORT

DATE: February 13, 2019

TO: Chairman and Members of the Planning Commission

FROM: Planning Division

SUBJECT: **REVOCATION OF ENTITLEMENTS PERTAINING TO FORMER RECYCLING FACILITY:**

A request for revocation of a Conditional Use Permit to develop a scrap metal processing plant and related equipment (PC Resolution No. 2830); revocation of a Conditional Use Permit Modification to allow recycling of glass and paper as well as metal (PC Resolution No. 2830-A); 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 (CUP 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; 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; on a property in the M-2 (General Industrial) zoning district.

STAFF RECOMMENDATION

The Planning Division recommends that the Planning Commission adopt the attached PC Resolutions (Attachments 1-6) approving revocation of entitlements pertaining to a former recycling facility at 1326-1352 East Ninth Street.

PROJECT/APPLICANT INFORMATION

Project Location: 1326-1352 East Ninth Street
APN Information: 8327-016-015, 8327-016-003
Project Applicant: City of Pomona
Property Owner: Circle Bar Ranch, Inc.
CC District: District # 3

Historic/CBD: Not Applicable
Specific Plan: Not Applicable

PROJECT DESCRIPTION & BACKGROUND

The City of Pomona proposes to revoke multiple entitlements pertaining to a former recycling facility located across two adjacent parcels at 1326 and 1352 East Ninth Street totaling 4.37 acres (Attachment 7-8). Between 1969 and 2015, the site operated as a recycling facility, with various expansions and modifications approved throughout its 46-year history. The recycling facility use ceased in approximately 2015 and then in 2018, the site was entitled with a Conditional Use Permit (CUP) for a charter bus company. As the site operations have principally changed from a recycling facility to a charter bus company, it is unlikely that the former recycling facility will re-establish operations at this location. Furthermore, 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, revocation of entitlements pertaining to the former recycling facility at this location will meet the intent and standards of the Pomona Zoning Ordinance (Site photos and aerial, attachments 7 & 8).

SURROUNDING LAND USES

The properties surrounding the site in all directions are zoned M-2 (General Industrial). The following table summarizes the surrounding land uses, zoning and General Plan designations for Planning Commission consideration.

Table 1. Land Use Summary Table

	Existing Land Use	Zoning Designation	General Plan Designation
Subject Site	Durham School Services	M-2	Workplace District
North	Pomona Valley Transfer Station	M-2	Workplace District
South	General Industrial	M-2	Workplace District
East	General Industrial	M-2	Workplace District
West	Non-Conforming Residential	M-2	Workplace District

ENTITLEMENT HISTORY

A portion of the subject site (1352 E. Ninth St.) was first entitled with a CUP on January 8, 1969, for a “*scrap metal processing facility and related equipment*” (Attachment 9). On April 9, 1980, this CUP was modified “*to allow recycling of glass and paper as well as metal*” (Attachment 10). On January 11, 1995, a modification was granted “to allow an expansion of the recycling facility to include the adjacent property at 1326 E. Ninth St. (Attachment 11). On November 8, 1995, a

modification was granted “to allow a 2,350 square foot office addition and to renovate an existing 2,000 square foot building within an existing collection/recycling center” (Attachment 12). On July 16, 2001, a modification was granted “allowing the collection and recycling of plastic, the construction of a new building, and an extension to the hours of operation” (Attachment 13). On May 9, 2007, a final modification was granted “to modify two existing conditions of approval relating to on-site storage of materials and hours of operation” (Attachment 14).

Business License records indicated that the recycling facility was last operated in 2015 by Mission Recycling. On March 14, 2018, the Planning Commission approved a CUP for Durham School Services to operate a charter bus company at the subject site (Attachment 15). A business license was issued to Durham School Services in 2018.

WASTE & RECYCLING ORDINANCE

On June 19, 2017, the City Council approved and passed *Ordinance No. 4234* (Attachment 16), which added definitions to the Pomona Zoning Ordinance pertaining to waste and recycling facilities, including the following:

*“**Recycling Facility**” means a business that accepts by donation or purchase, recyclable materials from the general public, other Recycling Facilities, government agencies, and other business enterprises in order to recycle such materials. The facility is used for the collection, sorting, and short-term storage of recyclable materials that would otherwise become Solid Waste. A Recycling Facility is not a Greenwaste, Solid Waste, Hazardous Waste, or Automobile Dismantling Facility. A Recycling Facility does not include the cleansing, grinding, treating or reconstituting of recyclable materials.*

Furthermore, the following defined uses now are now prohibited in the M-2 General Industrial zone, among other zoning districts (emphasis added):

*“Waste and Recycling facilities including hazardous waste facility, automobile dismantling facility, electronic waste facility, food waste facility, green waste facility, **recycling facility** (excluding convenience recycling facilities), solid waste facility, construction and demolition waste facility, waste transfer stations, medical waste facility, and pallet yards.”*

REVOCATION PROCEEDINGS

Pursuant to City of Pomona Zoning Ordinance, Section .580-H, *Revocation or Suspension of Conditional Use Permit*, “revocation proceedings may be initiated by a majority vote of the granting body, or majority vote of city council or the community development director.” In granting a revocation, the Planning Commission must determine if any of the following findings of fact are present:

1. That the permit was obtained by fraud;

2. That the permit granted is being, or has been, exercised contrary to any conditions imposed upon such permit, or in violation of any law; or
3. That the use for which the approval was granted is being exercised so as to be detrimental to the public health or safety, or as to constitute a nuisance; or
4. That the neighborhood has changed substantially since the permit was granted so that the use is no longer compatible with the surrounding neighborhood.

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. Therefore, the following finding of fact is applicable to these entitlements:

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

ENVIRONMENTAL REVIEW

Pursuant to the provisions of the California Environmental Quality Act (CEQA-Public Resources Code, Section 21084 et. seq.), the guidelines include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In compliance with Section 15061(b)(3), the proposed project is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

PUBLIC COMMUNICATIONS

A copy of the public hearing notice was published in the Inland Valley Daily Bulletin on February 2, 2019, and was sent to all property owners and occupants of surrounding properties within a 400-foot radius of the subject site on January 31, 2018 (Attachment 17). As of the date of this staff report, staff has not received any correspondence either for or against the proposed project.

CONCLUSION

Revocation of entitlements pertaining to the former recycling facility at this location will meet the intent and standards of the Pomona Zoning Ordinance. The proposed revocations meet the definition of multiple facts as required by the Pomona Zoning Ordinance for revocation

proceedings and will eliminate the ability for a prohibited use to re-establish a presence at this location.

Respectfully Submitted:

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ATTACHMENTS:

- 1) Draft PC Resolution (Revocation of PC Reso No. 2830)
- 2) Draft PC Resolution (Revocation of PC Reso No. 2830-A)
- 3) Draft PC Resolution (Revocation of CUP 94-044)
- 4) Draft PC Resolution (Revocation of CUP 95-026)
- 5) Draft PC Resolution (Revocation of CUP 00-032)
- 6) Draft PC Resolution (Revocation of CUP 07-009)
- 7) Location & Aerial Photograph
- 8) Site Photographs
- 9) PC Resolution No 2830
- 10) PC Resolution No 2830-A
- 11) CUP 94-044
- 12) CUP 95-026
- 13) CUP 00-032
- 14) CUP 07-009
- 15) CUP 9239-2018 (Durham School Services)
- 16) Ordinance No. 4234 ("Waste & Recycling")
- 17) Radius Map & Public Hearing Notice