

PC RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, RECOMMENDING CITY COUNCIL APPROVAL OF ZONING CODE AMENDMENT (CODE 12173-2019) TO MODIFY POMONA ZONING ORDINANCE SECTIONS .554.B. “NONCONFORMING USE OF A CONFORMING BUILDING” AND .554.C. “NONCONFORMING USE OF THE LAND,” TO MODIFY THE LENGTH OF TIME IN WHICH LAND USES MADE NONCONFORMING BY WASTE & RECYCLING ORDINANCE NO. 4234 CAN BE DISCONTINUED FROM TWO YEARS TO 180 DAYS.

THE PLANNING COMMISSION OF THE CITY OF POMONA DOES RESOLVE AS FOLLOWS:

WHEREAS, there has heretofore been initiated by the City of Pomona a proposed Code Amendment to amend Sections .554.B. “Nonconforming Use of a Conforming Building” and .554.C. “Nonconforming Use of the Land” pertaining to the time period as presently specified for discontinuance of nonconforming uses to reduce said time period specifically related to land uses made nonconforming by Waste & Recycling Ordinance No. 4234 in all zones from two years to 180 days;

WHEREAS, the Planning Commission of the City of Pomona, after giving notice thereof as required by law, held a public hearing on July 24, 2019, concerning Code Amendment (CODE 12173-2019) and carefully considered all pertinent testimony and the staff report offered in the case as presented; and

WHEREAS, the Planning Commission has duly considered the proposed changes to the Pomona Zoning Ordinance as well as finding consistency with the General Plan of the City.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

SECTION 1. The Planning Commission exercising independent judgment finds that Code Amendment (CODE 12173-2019) is exempt from further review under the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15060(c)(2) and 15060(c)(3). These sections pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a *project* under Section 15378. Therefore, Code Amendment (CODE 12173-2019) is not subject to CEQA in that the proposed code amendment is not defined as a project.

SECTION 2. The Planning Commission recommends City Council approval of Code Amendment (CODE 12173-2019) amending Zoning Ordinance Sections .554.B. and .554.C. as follows:

Sec. .554. - Nonconforming use of buildings and/or land.

A. NONCONFORMING USE OF A NONCONFORMING BUILDING

Nonconforming uses in a nonconforming building may be expanded or extended throughout said building; provided, however, that no structural alterations, except those required by law or ordinance shall be made therein; and provided, further, that the uses of said building are not incompatible with the use of other property in the district. Further, if no structural alterations are made a nonconforming use of a nonconforming building may be changed to permit a similar or more restricted type of nonconforming use; provided, however, that said new use be determined by the commission to be more compatible with the uses permitted in the district.

B. NONCONFORMING USE OF A CONFORMING BUILDING

*The nonconforming use of a conforming building shall not be expanded or extended into any other portion of the conforming building, and if such nonconforming use is discontinued for a period of two years any future use of said building shall be in conformity with the provisions of this ordinance; **except for land uses made nonconforming by Waste & Recycling Ordinance No. 4234 as defined in Section .062., in which case if such nonconforming use is discontinued for a period for 180 days or more, any future use of said building shall be in conformity with the provisions of this ordinance or in the case of destruction due to acts of god, if an application for a building permit for the repair or replacement of the nonconforming structure has not been submitted to the Planning Department within 180 days after the structure's damage, the right to continue the nonconforming use and/or nonconforming structure shall terminate and the property and facilities accommodating or serving such activity or structure shall thereafter be utilized only for uses and with structures permitted or conditionally permitted by the regulations of the applicable zone** and further, that within five years after the notification by the city that an existing use is nonconforming, and not compatible, said use shall be terminated. Conforming uses in said buildings may be expanded.*
(Ord. No. 3699, § 3 (part).)

C. NONCONFORMING USE OF THE LAND

1. The nonconforming use of land, where no main buildings are involved, may be continued for a period not to exceed three years after the effective date of this ordinance, subject to the following conditions:

- a) No such nonconforming use of land shall be expanded or extended in any way either on the same or adjoining property.*
- b) Where such nonconforming use of the land is discontinued for a period of two years any future use of the land shall be in conformity with this ordinance, **except for land uses made nonconforming by Waste & Recycling Ordinance No. 4234 as defined in Section .062., in which case if such nonconforming use is discontinued for a period for 180 days or more, any***

future use of said building shall be in conformity with the provisions of this ordinance (Ord. No. 3699, § 3 (part).)
c) *These provisions do not apply to land used for agricultural purposes.*

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

APPROVED AND PASSED THIS 24TH DAY OF JULY 2019.

DR. KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

ANITA D. GUTIERREZ, AICP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

MARCO A. MARTINEZ
INTERIM ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
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."