



PLANNING COMMISSION

AGENDA REPORT

MEETING DATE: AUGUST 25, 2014

ITEM NUMBER: CC-2

SUBJECT:

REVOCATION OF CONDITIONAL USE PERMITS PA-99-39 (MARTIAL ARTS STUDIO)
AND PA-86-174 (AUTOMOBILE SALES)
1609 POMONA AVENUE

DATE: AUGUST 15, 2014

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: ANTONIO GARDEA, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: ANTONIO GARDEA (714) 754-5692
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PROJECT DESCRIPTION

The property owner's authorized agent requested the revocation of Conditional Use Permit PA-99-39 that allowed operation of a martial arts studio and Conditional Use Permit PA-86-174 that allowed automobile sales (without outdoor display) in an existing industrial building.

APPLICANT

Joel Burnstine is the authorized agent for the property owner, 1609 Pomona Avenue, LLC.

RECOMMENDATION

Revoke Conditional Use Permits PA-99-39 and PA-87-174 by adoption of Planning Commission resolution.

BACKGROUND/ANALYSIS

Project Site/Environs

The property is located on the west side of Pomona Avenue north of W. 16th Street near the Y-intersection with Superior Avenue. An alley from Ohms Way to W. 16th Street abuts the west side of the site. The property is zoned MG (General Industrial District) with a General Plan land use designation of Light Industry and is surrounded by industrially-zoned properties.

The site is approximately 15,120 square feet and developed with an industrial building approximately 3,200 square feet in area. At the street level, the building has an approximately 2,000 square foot office space that has been previously used as manufacturing space with incidental retail sales, a martial arts studio, and for automobile sales. The lower level is approximately 1,200 square feet with four repair bays used for automotive repair. Areas on the lower level are also used for boat repair and storage, as approved under Conditional Use Permit ZE-79-38.

PA-99-39

On September 27, 1999, the Planning Commission approved the Conditional Use Permit to allow a martial arts studio in a portion of the upper level of the building (1,350-square foot tenant space). A condition of approval indicates that the application expire upon discontinuance of use for a period of 180 days or more.

PA-86-174

On October 6, 1987, the Planning Commission approved the Conditional Use Permit to allow automobile sales in the existing industrial building. The application included a Variance request to allow outdoor display of vehicles in the front setback that was denied. According to City records, Beverly Hills Motor Sport has an active business license for automobile sales without any outdoor display. The conditions of approval allows the application to remain valid for successive two year periods as long as there are no complaints and the use remains in compliance with the conditions of approval and municipal code requirements.

Basis for Revocation

The applicant is requesting voluntary revocation of both the conditional use permit that permitted the martial arts studio and automobile sales. Conditional use permits run with the land, but as a standard condition of approval, expire upon discontinuance of the activity authorized by the permit or upon revocation. Municipal Code Section 13-29 (o) grants the Planning Commission authority for revocations of planning applications, subject to the public notice and hearing requirements. The conditional use permit for the martial arts studio is not in compliance with the conditions of approval because the use has been discontinued for a period far in excess of 180 days. Therefore, the permit has expired and the conditional use permit may be revoked, absent any evidence presented to the contrary.

With revisions to the Land Use Matrix of the Zoning Code, a conditional use permit is no longer necessary for automobile sales without vehicle display. In addition, the use has operated in compliance with the conditions of approval and no complaints have been filed regarding the operation of auto sales business. The conditional use permit for the automobile sales is no longer necessary, as the use is allowed by right. Therefore, the permit is no longer necessary.

LEGAL REVIEW

The draft resolution and the findings for revoking the conditional use permits have been reviewed and approved as to form by the City Attorney's Office.

ENVIRONMENTAL DETERMINATION

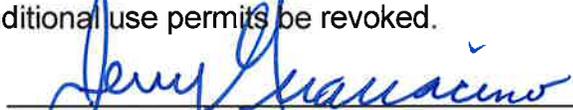
The revocation is exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15321 for Enforcement Actions by Regulatory Agencies.

CONCLUSION

Revocation is warranted due to the cessation of the use at this location and resulting expiration of the conditional use permit and the changes in the Municipal Code that no longer require a Conditional Use Permit for automobile sales without outdoor display. If a similar studio use is proposed in the future, a new conditional use permit would be required. Therefore, staff recommends that the conditional use permits be revoked.



ANTONIO GARDEA
Senior Planner



JERRY GUARRACINO, AICP
Interim Asst. Development Services Director

Attachments: 1. Draft Planning Commission Resolution
 2. Voluntary Revocation Request

cc: Director of Economic & Development / Deputy CEO
 Sr. Deputy City Attorney
 Public Services Director
 City Engineer
 Transportation Services Manager
 Fire Protection Analyst
 Staff (6)
 File (2)

1609 Pomona Avenue, LLC
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Livonia, MI 48153-0951

Joel M. Burnstine
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Newport Beach, CA 92660

RESOLUTION NO. PC-14-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA REVOKING CONDITIONAL USE PERMITS PA-99-39 AND PA-87-174 LOCATED AT 1609 POMONA AVENUE

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, on September 27, 1999, the Planning Commission approved Conditional Use Permit PA-99-39 allowing the martial arts studio in a portion of the industrial building.

WHEREAS, Condition of Approval #1 for Planning Application PA-99-39 provided that the conditional use permit shall expire upon the discontinuance of the authorized activity for a period of 180 days or more.

WHEREAS, on October 6, 1987, the Planning Commission approved Conditional Use Permit PA-86-174 allowing automobile sales in the industrial building.

WHEREAS, on May 5, 1997, the Zoning Code was replaced entirely by Ordinance 97-11 and the Land Use Matrix was changed and now allows automobile sales without outdoor display in the industrial zone as a use allowed by right.

WHEREAS, based upon the cessation of the use and expiration of the subject conditional use permit authorizing the martial arts studio and the change in the Zoning Code allowing automobile sales without outdoor display as a use allowed by right, the City has initiated revocation of Conditional Use Permits PA-99-39 and PA-87-174 upon the request of the property owner's agent.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 25, 2014.

WHEREAS, the property owner does not object to the revocation of the conditional use permits and there is sufficient evidence to establish the authorized use was discontinued for a period of 180 days or more.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **REVOKES** Conditional Use Permits PA-99-39 and PA-87-174 with respect to the property described above.

PASSED AND ADOPTED this 25th day of August, 2014.

Jim Fitzpatrick, Chair,
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on August 25, 2014, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT A

A. Code Section 13-29(o) allows the Planning Commission to modify or revoke any planning application if the following is found:

1. If the use is found to be a public nuisance or;
2. If the use is found to not be in compliance with the conditions of approval.

Response: The property owner's authorized agent requested the revocation of Conditional Use Permits PA-99-39 that allowed operation of a martial arts studio and PA-86-174 that allowed automobile sales within an existing industrial building. The martial arts studio has ceased to operate for a period longer than 180 days and is found to not be in compliance with the conditions of approval. The automobile sales use without outdoor display is a use that is allowed by right and the conditional use permit is no longer necessary.

B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15321 for Enforcement Actions by Regulatory Agencies.

C. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

GARDEA, ANTONIO

From: Joel Burnstine <jmburnstine@roadrunner.com>
Sent: Friday, August 08, 2014 12:36 PM
To: GUARRACINO, JERRY; GARDEA, ANTONIO; richardcushman@aol.com; Jerauld Clarke; ARMSTRONG, GARY; BOUWENS-KILLEEN, WILLA
Subject: 1609 Pomona Ave

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COMMERCIAL | RESIDENTIAL

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June 9, 2014

Mr. Guarracino:

Please accept this email (which will be followed in hard copy via US Mail as you have requested) as both instruction and consent to have the following Conditional Use Permit(s) removed from the subject property. As a result of our discussions, I understand that The City will be taking this matter to public hearing at the Planning Commission level and that there will be no cost to the property owner:

- ZA-98-18-MCUP for two-story garage for RV storage.
- PA-99-39-CUP for a martial arts studio (expired/discontinued for more than 180 days) required 16 striped parking in place of the outdoor storage.
- PA-87-68-Variance to exceed building height for a 64 unit mini-storage warehouse & delete manager's unit (expired).
- PA-87-174-CUP for automobile sales (approved and Variance for outdoor display of vehicles (denied)).

Please confirm that the contents herein are adequate for the purpose intended. Thereafter I will have a hard copy created, have it executed by the property owner and submit to you.

Regards,
Joel Burnstine

LIFE IS A DEAL! MAKE GREAT ONES!

Joel Burnstine

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LIFE IS LUXURIOUS! LIVE THAT WAY!

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