

RESOLUTION NO. PC 09-03[DRAFT]

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MARTINEZ,
DENYING THE RE-ESTABLISHMENT OF A NONCONFORMING USE (THE
STORING, DISPATCHING AND MAINTENANCE OF SCHOOL BUSES) ON
PROPERTY NOW WITHIN THE R-1.5 ZONING DISTRICT (MULTI-FAMILY
RESIDENTIAL; 1,500 SQ. FT. MINIMUM SITE AREA PER DWELLING UNIT),
LOCATED ON A 7½ ACRE PARCEL LOCATED AT 1000 HOWE ROAD @
PARKWAY DRIVE (APN: 376-081-012)**

WHEREAS, on May 5, 2009, the City of Martinez received an application from David Harris/Kingdom Financial LLC for Planning Commission approval to reestablish a nonconforming use (storage, dispatching and maintenance of up to 45 school buses) on an approximate 1½ acre portion of a 7½ site, pursuant to Martinez Municipal Code Section 22.38.060: *Abandonment of Nonconforming Use*; and

WHEREAS, in June 2005, the property owner, Kingdom Financial LLC, entered into an agreement with a residential development company (Trumark) to purchase the property upon its securing of necessary City approvals for a 70 single-family (“The Paseos”) subdivision; and

WHEREAS, the school bus use was made nonconforming upon the rezoning of the property from M-R&D/LI (Mixed Use District – Research and Development/Light Industrial) to R-1.5/PD (Multi -Family Residential: 1,500 sq. ft. minimum site area per dwelling unit; with approved Planned Development) in September 2006; and

WHEREAS, the lease with the school bus company, Laidlaw Transit was discontinued in anticipation of the reuse of the property by Trumark; and

WHEREAS, upon the departure of Laidlaw transit, the site’s other tenant, R. H. Harris construction expanded its use of the site as a heavy construction contractors’ storage yard to include the 1½ acre area formally used by Laidlaw Transit; and

WHEREAS, due to the subsequent decline in the housing market, Trumark terminated its sales agreement to purchase the now entitled property from Kingdom Financial LLC in October 2008; and

WHEREAS, the property owner, Kingdom Financial, approached the City in April 2009 regarding the potential reestablishment of the school bus use, due to the fact that the sales agreement with the developer had been terminated; and

WHEREAS, the Planning Commission of the City of Martinez held a duly noticed public hearing on May 26, 2009; and

WHEREAS, the California Environmental Quality Act (CEQA) does not apply to the proposed project pursuant to California Public Resources Code Section 21080 (b) (5) – Projects which a public agency rejects or disapproves.

.NOW, THEREFORE, the Planning Commission of the City of Martinez hereby denies the application to reestablish a nonconforming use as set forth in accordance with Martinez Municipal Code Section 22.38.060 for the storage, dispatching and maintenance of school buses at 1000 Howe Road and finds that the vehicle emissions , dust and noise from the proposed bus use would result in negative impacts to adjacent residential properties in excess of those created by the existing nonconforming storage yard use, and thus would be incompatible with and a burden to the neighborhood.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the Planning Commission of the City of Martinez at a regular meeting of said Commission held on the 26th day of May by the following vote:

AYES: Commissioners Burt, Allen Marchiano and Hughes

NOES:

ABSENT: Commissioner Farias, Chair Kluber

ABSTAINED:

RECUSED: Commissioner Busby

BY: _____

Mark Hughes
Acting Planning Commission Chair

Corey M. Simon
Senior Planner