



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Planning Commission Staff Report
April 14, 2025

Topic: Appeal Application No. 2025-01 to Appeal Revocation of Land Use Certificate No. 2003-03 for Money for Cans at 2610 W. Edinger Avenue

RECOMMENDED ACTION

Adopt a resolution denying Appeal Application No. 2025-01, thereby revoking Land Use Certificate No. 2003-03 for a small collection facility, Money for Cans, located at 2610 W. Edinger Avenue.

EXECUTIVE SUMMARY

On December 23, 2024, the Executive Director of the Planning and Building Agency (PBA Director) revoked a Land Use Certificate (LUC) issued for a small recycling facility, termed small collection facility in the Santa Ana Municipal Code (SAMC), doing business as Money for Cans, pursuant to SAMC Section 41-676. On January 14, 2025, Bertilio Henriquez of Money for Cans (Appellant/Business Owner), filed a timely appeal of the PBA Director's decision, pursuant to SAMC Section 41-677. Moreover, pursuant to SAMC Section 41-677, the PBA Director's decision is vacated and the Planning Commission shall hear the appeal and act upon the LUC application, either approving or revoking the LUC. The decision of the Planning Commission shall be final with no further right of appeal.

DISCUSSION

Table 1: Project and Location Information

Item	Information	
Project Address and Council Ward	2610 W. Edinger Avenue – Ward 4	
Neighborhood	Centennial Park	
Accessor Parcel Number(s)	408-041-04	
Nearest Intersection	Fairview Street & Edinger Avenue	
General Plan Designation	General Commercial (GC-0.5)	
Zoning Designation	Community Commercial (C1)	
Surrounding Land Uses	North	Commercial (Restaurant, Retail, Service, Office)
	East	Single-Family Residential
	South	Single-Family Residential
	West	Commercial (Supermarket)
Property Size	0.63 acre (approx. 27,300 square feet) in a 5.17 acre integrated commercial center	
Zoning Code Sections Affected	LUC Revocation	Sections 41-676 and 41-677

Property Description and Context

The subject property is approximately 27,300 square feet in size, is located on the south side of Edinger Avenue near its intersection with Fairview Street, and is within the Community Commercial (C1) zoning district. The site is developed with a commercial building constructed circa 1968 with five retail spaces currently occupied by restaurant and retail uses. A standalone 20-foot shipping container utilized by a small collection facility, Money for Cans, is placed along the southerly property line near where W. Stanford and S. King streets meet.

The site abuts a mix of commercial uses to its north and west and is adjacent to residential uses to the east and south. As part of a larger, integrated commercial center, the property houses a variety of businesses and services. While the main frontage is along Edinger Avenue, the site's layout also has open frontage and direct pedestrian access to the residential neighborhood via King and Stanford streets. This configuration positions the commercial activities, including the small collection facility, in clear view and audible range of the nearby single-family residences. The layout highlights the close proximity to family homes and direct impacts of its commercial activities on the adjacent residential area.

Permit and License Background

The current owner of the property is Santa Ana Stater Shops, LLC. Bertilio Henriquez was issued Business License No. 1791 for the recycling business, Money for Cans, on November 1, 2002. The business license remains active today. An LUC for a small collection facility was issued by the Planning Division on April 10, 2003 (Exhibit 4).

Code Enforcement Investigation

The subject property has faced repeated Code Enforcement citations concerning the small collection facility since 2017 regarding its size and operations. According to recent Compliance Inspection reports from 2024 (Exhibit 5), the Code Enforcement Division identified numerous issues that include:

1. Noncompliant facility placement and dimensions;
2. Inadequate container management when unattended;
3. Operational hours violation; and
4. Deficient property maintenance.

Director of Planning and Building Review and Action

On November 7, 2024, following seven years of ongoing citations and community complaints, a Notice of Proposed Revocation (Exhibit 6) was issued, setting a hearing date with the PBA Director for December 12, 2024, to address alleged violations regarding the facility's failure to comply with standards for small collection facilities. On December 12, 2024, the PBA Director conducted the hearing pursuant to SAMC 41-676. As part of the review for the hearing and the determination to revoke, the PBA Director evaluated the Code

Enforcement Division's Compliance Inspection reports, concluding that the small collection facility was operating in violation of applicable SAMC regulations and was inconsistent with the terms under which the LUC was originally granted. Consequently, on December 23, 2024, the PBA Director issued a letter revoking the LUC (Exhibit 7), reflecting the conclusion that:

- The facility's operations fail to meet the required standards;
- The facility's operations are in breach of the conditions set forth in the original LUC;
- The facility poses significant risks to public safety and environmental health due to hazardous electrical installations, unsanitary conditions, and operational non-compliance.

On January 14, 2025, the Business Owner filed a timely appeal of the PBA Director's decision. This filing occurred within the required 10 business days for appeals, as stipulated by relevant procedures, excluding City closures due to holidays and off Fridays.

APPELLANT ISSUES AND PLANNING DIVISION RESPONSES

The concerns raised in the appeal application are cited below and are followed by the Planning Division's response:

Issue 1: The Appellant argues that "...the [PBA] Director erroneously applied current Santa Ana Municipal Code to Money for Cans, not Santa Ana Municipal Code as it existed as of the time of the relevant Land Use Certificate's issuance. This is contrary to California law." He supports this claim by citing *Jones v. Los Angeles* (1930), 211 Cal. 304 and *Trans-Oceanic Oil Corp. v. City of Santa Barbara* (1948), 85 Cal.App.2d 776, which protect existing lawful uses and vested rights by emphasizing that existing uses should be evaluated based on the regulations in place when the permit was granted, not current regulations.

Response 1: The Appellant's argument lacks merit. The relevant municipal code sections governing recycling facilities were adopted under Ordinance No. NS-1946 on January 19, 1988, and Ordinance No. NS-2333 on October 6, 1997, which predate the LUC application and issuance in 2003. The City has not changed its zoning ordinance regarding small collection facilities since 1997. Additionally, Ordinance No. NS-2340, which outlines parking lot maintenance requirements and was adopted on December 15, 1997. Finally, the facility is subject to the International Property Maintenance Code (IPMC), which the City first incorporated by reference under Ordinance No. NS-2522 on February 3, 2003, amending SAMC Section 8-2000 to automatically adopt and incorporate each new official IPMC publication into the SAMC. These ordinances (Exhibit 8) were all in effect at the time of the LUC application and issuance in April 2003.

- **1988 Ordinance (NS-1946):** Established Article XIV, Recycling Facilities, including definitions, permit requirements, and standards (SAMC Section 41-1250 through 41-1253). Key provisions included defining "Collection Facility," distinguishing between Small and Large Collection Facilities, and setting standards for Small Collection Facilities.

- **1997 Ordinance (NS-2333):** Amended SAMC 41-1253, introducing several key changes for small collection facilities. The amendments required that these facilities be located within a Convenience Zone, limited to one facility per zone, increased the minimum setback from street lines from 10 to 50 feet, eliminated the reverse vending machine exception for power-driven equipment, removed the 24-hour donation container allowance, and prohibited recycling facilities within 100 feet of residentially zoned or occupied property.
- **1997 Ordinance (NS-2340):** Modified and updated off-street parking regulations in the Santa Ana Municipal Code (SAMC) included amending Section 41-1304, which governs parking lot maintenance and operation standards. This amendment added subsections (g), (h), and (i), with subsection (i) requiring that all parking areas be maintained in a safe, clean, and well-repaired condition. A subsequent amendment in 2000 did not alter the provisions of subsection (i).
- **2003 Ordinance (NS-2522):** Incorporated the IPMC into SAMC Section 8-2000, ensuring ongoing updates with each new official publication date. This ordinance mandates compliance with evolving property maintenance standards to address safety concerns and technological advancements, requiring businesses to adhere to current regulations.

Issue 2: The Appellant expresses the opinion that the PBA Director erroneously determined that Money for Cans constituted a nuisance, arguing that "only a paramount and compelling public necessity" could justify declaring a useful, nonconforming business a nuisance, citing *Jones v. Los Angeles* (1930), 211 Cal. 304. The Appellant also cites *New Way Recycling Ctr., Inc. v. City of Pasadena* (2003), 2003 Cal.App.Unpub. LEXIS 10094 (Not Officially Published), arguing that "allegations of littering, loitering, and odor are simply not enough to render a small collection facility a nuisance."

Response 2: Please see City Attorney's Memo, attached as Exhibit 9. Further, the PBA Director's determination of nuisance goes beyond mere allegations of littering, loitering, and odor. Money for Cans' operations pose significant and ongoing threats to public health and safety, as evidenced by repeated violations of the SAMC and the IPMC:

1. **Electrical Hazards:** As documented in the May 16, October 1, and October 9, 2024, Compliance Inspection reports, the facility violated IPMC Section 605.1 & 605.4 (adopted by reference in SAMC Section 8-2000) due to the use of an unapproved electrical wire draped from a neighboring residential property to power equipment within the facility. The improper use of extension cords for electrical power is a violation of these sections and presents a clear and present danger of electrical shock and fire on the site and to the adjacent single-family residences.
2. **Property Maintenance Deficiencies:** Repeated inspections confirmed that the facility fails to meet the requirements of IPMC Section 302.1 & 302.3 (adopted by reference in SAMC Section 8-2000) and SAMC Section 41-1304(i). The

asphalt/parking lot surface is unmaintained, covered with "sticky stains, markings, cracks, and splatter," creating an unsanitary and hazardous condition. These conditions can harbor bacteria and pathogens, contributing to unsanitary conditions and potential environmental contamination through soil and groundwater. These deficiencies demonstrate a disregard for public safety and community well-being, necessitating urgent action to protect public health and maintain community integrity.

3. **Operational Non-Compliance:** The facility repeatedly violated SAMC Section 41-1253, exceeding the allowable 500 square feet of operation by using the east side yard for uncovered and unattended trash bins. The latter standard is to prevent breeding grounds for disease-carrying pests, foul odors, and increased risk of environmental contamination. The facility's close proximity to residential properties (within 5 feet) amplifies these issues, exposing residents to health risks and endangering their safety. These violations demonstrate the business's failure to adhere to basic operational standards for small collection facilities, significantly impacting the surrounding area. Addressing these issues is a public necessity to protect nearby residents' health and safety.

The PBA Director's LUC revocation was based on substantial evidence of non-compliance with specific violations of the standards outlined in SAMC Section 41-1253, which are designed to prevent nuisances and protect the public health, safety, and welfare. The facility poses potential for noise disturbance, significant hazards, including improper waste storage and electrical risks, and fails to maintain a clean and safe environment. Its proximity to residential areas, within five feet, violates regulations designed to minimize impacts on nearby communities. Operational non-compliance, such as exceeding size limits and violating setback requirements, further supports the revocation. The cumulative effect of these violations creates a situation detrimental to the surrounding community, effectively constituting a nuisance as defined by the operational standards for small collection facilities. The Appellant has not provided sufficient evidence to refute these findings or demonstrate permanent correction of the violations. Therefore, revocation is necessary to protect the community.

Issue 3: The Appellant expresses the opinion that "...even if Money for Cans is to be held by the current Santa Ana Municipal Code, such violations have been cured, as will be presented at the appeal hearing."

Response 3: The Appellant's claim that violations have been cured is not supported by the evidence. The facility's location violates SAMC with respect to operational non-compliance, property maintenance deficiencies, and potential electrical hazards. During the December 12, 2024, hearing, the Appellant failed to provide sufficient evidence to refute these findings or demonstrate permanent correction of the violations.

During a recent site visit in late March 2025, staff did not see any exterior bins outside the facility at closing time, which suggests some improvement in how recycling material is handled. However, since the visit was at closing time, staff could not definitively confirm if uncovered and unattended trash bins might be present at other times. While the immediate

area showed signs of recent cleaning, with no visible garbage debris, the presence of noticeable stains suggested that cleaning efforts were superficial.

Revocation Analysis

The facility consistently failed to adhere to the standards for small collection facilities outlined in SAMC Section 41-1253. The violations contradict the terms under which the LUC was originally granted, demonstrating a disregard for applicable regulations. Following the December 12, 2024, hearing regarding the Notice of Revocation, the PBA Director made the following findings upon reviewing Code Enforcement Division's Compliance Inspection reports:

1. **SAMC Section 41-1253 (1) – Commercial Compliance:** The facility was not "established in conjunction with an existing commercial use which is in compliance with all applicable zoning, building and fire code requirements."
2. **SAMC Section 41-1253 (2) - Size Limitation:** The facility exceeds the allowable 500 square feet by using the east side yard for trash bin storage and relying on an electrical wire crossing from a neighboring residence.
3. **SAMC Section 41-1253 (3) - Setback:** The facility is located within 50 feet of the terminus of Stanford and King Streets, violating setback standards.
4. **SAMC Section 41-1253 (6) - Container Standards:** Trash bins on the east side of the property are not covered when the attendant is absent, failing to meet container standards.
5. **SAMC Section 41-1253 (7) - Storage of Recyclable Material:** Trash bins used for recyclable material storage are left uncovered when unattended, violating storage standards.
6. **SAMC Section 41-1253 (8) – Maintenance Standards:** The exterior property, parking areas, and premises are not maintained in a clean, safe, and sanitary condition, requiring pressure washing and cleaning.
7. **SAMC Section 41-1253 (11) – Proximity to Residential:** The facility abuts residential property within five feet and is also located within 100 feet of residentially zoned or occupied property. The PBA Director dismissed the citation for operating beyond allowed hours, as the Business Owner provided evidence of updated, compliant business hours.
8. **SAMC Section 41-1253 (12) - Signage:** Signs are located inside container doors and are not visible when closed. The facility lacks signage stating that materials cannot be left outside the recycling enclosure or containers.

The basis for revocation stems from the facility's documented violations of municipal codes and operational standards, including non-compliance with size limitations, setback requirements, and proximity to residential areas. Additionally, observed violations related to waste storage, property maintenance, and electrical hazards pose significant risks to public health and safety. The evidence clearly demonstrates that the business operation violates the terms outlined for small collection facilities, justifying revocation. These violations show a persistent failure to adhere to regulations essential for maintaining community well-being and orderly development. The facility's continued operation in its current state poses

ongoing risks to public health, welfare, and safety, and necessitates immediate action to protect the community's well-being.

A review of the original application and the SAMC regulations in place at the time indicate likelihood that Planning staff issued the LUC for the facility in 2003 in error, failing to account for its close proximity to residential areas and its non-compliance with SAMC Section 41-1253 subsections 3 and 11, which requires a minimum setback of 50 feet from the street and 100 feet from property zoned or occupied for residential use. As such, the permit is invalid. This error further underscores the need for revocation as a cure to the ongoing issues resulting from the issuance of this LUC, as the facility should not have been approved at this location in the first place. California courts have found that permits issued in violation of zoning laws are void from inception and cannot confer vested rights. (See City Attorney's Memo, attached as Exhibit 9). The need to correct zoning mistakes, particularly in land use cases involving public health, safety, and welfare, outweighs any argument that the facility should be allowed to continue operating based on the permit being issued in error. Moreover, the lack of substantial investments by the Appellant, limited to a shipping container and commercial trash cans, further undermines a claim of a vested right to continue operations. As valid permits are essential for vested rights claims, and the minimal investments here do not demonstrate significant reliance on the invalid permit. These factors collectively reinforce the justification for revocation, aligning with California courts' consistent stance that protecting public welfare through proper zoning enforcement takes precedence over maintaining erroneously issued permits.

Revocation of the LUC is more appropriate than suspension pursuant to SAMC Section 41-650.5 due to the property's ongoing non-compliance with city regulations, operations functioning outside of and in violation of the permitted use and conditions, and the significant risks posed to public well-being. The persistence of these violations, combined with the need to protect public health and safety, necessitates a more definitive action than temporary suspension. Revocation will ensure a complete cessation of non-compliant activities and effectively address the ongoing issues. Where temporary measures may fall short, revocation will decisively uphold community standards and regulations and address persistent violations.

Limitations on Establishing Small Collection Facility Use

The business is not eligible for a small collection facility LUC because it exceeds the maximum size limit of 500 square feet. Even if the facility were reduced in size, obtaining a new LUC is not be possible, as SAMC Section 41-1253 permits only one small collection facility per convenience zone—a one-mile radius centered around a supermarket—and multiple facilities already exist within this zone.

General Plan Consistency

Revocation of LUC No. 2003-03 is consistent with and upholds multiple goals and policies outlined in the General Plan. These include:

- Goal LU-1: Growing Responsibly. Provide a land use plan that improves quality of life and respects our existing community
 - Policy LU-1.1 Compatible Uses. Foster compatibility between land uses to enhance livability and promote healthy lifestyles.
- Goal LU-3: Compatibility of Uses. Preserve and improve the character and integrity of existing neighborhoods and districts.
 - Policy LU-3.3 Enforcement of Standards. Maintain a robust and proactive code enforcement program that partners with community stakeholders and is responsive to community needs.

Revoking the LUC supports responsible growth and preserves neighborhood character by fostering compatible land uses. This action reinforces the City's expectation for responsible business operations and strengthens neighborhood livability. It also demonstrates Santa Ana's commitment to a responsive Code Enforcement Division that addresses community needs.

- Goal CM-3: Active Living and Well-being. Promote the health and wellness of all Santa Ana residents.
 - Policy CM-3.2 Healthy Neighborhoods. Continue to support the creation of healthy neighborhoods by addressing public safety, land use conflicts, hazardous soil contamination, incompatible uses, and maintaining building code standards.

The revocation is consistent with this General Plan Community Element goal and policy, as it addresses land use conflicts and public safety concerns that impact community well-being. This action will promote a healthy neighborhood by addressing Money for Cans' noncompliant recycling facility operations, which has created nuisance conditions and numerous health and safety violations.

- Goal N-2: Noise Generators. Reduce the impact of known sources of noise and vibration.
 - Policy N-2.2 Stationary Related Noise. Minimize noise impacts from commercial and industrial facilities adjacent to residential uses or zones where residential uses are permitted.

The revocation is consistent with this General Plan Noise Element goal and policy as the property, currently used as an small collection facility, poses a noise risk to the nearest residential development, which is approximately five feet away. The continued operation of the collection facility, conflicts with the General Plan's goals and policies. The revocation will reduce noise impacts adjacent to the residential area, thereby ensuring that commercial operations respect the needs of existing neighborhoods and minimizes negative impacts on residents.

Public Notification and Community Outreach

Project notifications were posted, published, and mailed in accordance with SAMC Section 41-677 regulations. A ten-day notice was provided prior to the public hearing, exceeding the

five-day requirement under SAMC Section 41-677. This notice was sent via certified mail to ensure compliance with the requirement. Copies of the public notice, including a 1,000-foot notification radius map and the site posting, are included in the staff report packet (Exhibit 10). The site is located within the boundaries of the Centennial Park Neighborhood Association, near the shared border with New Horizons and Windsor Village neighborhoods. Copies of the public notice were mailed to the listed neighborhood association leaders, and they were also contacted to identify any areas of concern. At the time this report was printed, no issues of concern were raised regarding the proposed LUC revocation.

ENVIRONMENTAL IMPACT

In accordance with the California Environmental Quality Act (CEQA), the project is categorically exempt from further review per Section 15321(a), (Class 21 – Enforcement Actions by Regulatory Agencies) of the CEQA Guidelines. The Class 21 exemption applies to actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency. Such actions include, but are not limited to, the following:

- (1) The direct referral of a violation of lease, permit, license, certificate, or entitlement for use or of a general rule, standard, or objective to the Attorney General, District Attorney, or City Attorney as appropriate, for judicial enforcement;
- (2) The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.

Planning Commission revocation of the Land Use Certificate is consistent with Section 15321. As such, a Notice of Exemption, Environmental Review No. 2025-22, will be filed for this project.

FISCAL IMPACT

There is no fiscal impact associated with this action.

EXHIBITS

1. Resolution Upholding Revocation of LUC No. 2003-03 (APPL-2025-01)
2. Vicinity Zoning and Aerial View
3. Site Photo
4. Issued LUC-2003-3
5. Compliance Inspection Reports
 - a. May 16, 2024
 - b. October 1, 2024
 - c. October 9, 2024
6. Notice of Proposed of Revocation of Land Use Certificate dated November 7, 2024
7. Notice of Revocation of Land Use Certificate dated December 23, 2024
8. Santa Ana Municipal Code Ordinances
 - a. NS-1946 adopted January 19, 1988
 - b. NS-2333 adopted October 6, 1997
 - c. NS-2522 adopted February 3, 2003
 - d. NS-2446 adopted September 18, 2000
9. City Attorney Memorandum in Support of Revocation of Land Use Certificate No. 2003-03-RCY dated April 9, 2025
10. Copy of Public Notices

Prepared By:
Nancy Tran, AICP, Senior Planner

Approved By:
Ali Pezeshkpour, AICP, Acting Executive Director, Planning and Building Agency