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# CITY OF POMONA COUNCIL REPORT

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July 15, 2024

To: Honorable Mayor and Members of the City Council

From: Anita D. Gutierrez, City Manager

Submitted By: Ata Khan, Deputy Director of Development Services

**SUBJECT: APPEAL OF PLANNING COMMISSION DECISION FOR PROPOSED HOUSING DEVELOPMENT PROJECT TO DEVELOP A 5.5 ACRE SITE WITH 289 DWELLING UNITS WITHIN TWO, FOUR-STORY BUILDINGS WITH PRIVATE AND COMMON OPEN SPACES, SUBTERRANEAN PARKING, GARAGE PARKING, SURFACE PARKING, COVERED PARKING, LANDSCAPING, TRASH FACILITIES, AND A PRIVATELY OWNED PUBLIC LINEAR PARK ON A PROPERTY LOCATED AT 3101-3191 NORTH GAREY AVENUE (Case File: DPR 72-2024)**

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## RECOMMENDATION:

Staff recommends that the City Council uphold the decision of the Planning Commission.

## EXECUTIVE SUMMARY:

On June 12, 2024, at its regularly scheduled meeting, the Planning Commission held a public hearing and approved a request for a housing development project (*Case File: DPR 72-2024*) to develop a 5.5 acre site with 289 dwelling units within two, four-story buildings with private and common open spaces, subterranean parking, garage parking, surface parking, covered parking, landscaping, trash facilities, and a privately owned public linear park at 3101-3191 North Garey Avenue (5-0-1-1). Councilmember Torres has appealed the decision. The City Council may either uphold the Planning Commission's decision or schedule the matter for a public hearing. The decision approved a "housing development project," subject to the Housing Accountability Act, also known as Senate Bill 330 (SB 330). One key provision of this State law is that a housing development project may not be denied unless there's a specific adverse impact.

## SB1439/GOVERNMENT CODE §84308 APPLICABILITY:

When this box is checked, it indicates the agenda item is subject to the Levine Act SB1439 requirements. Councilmembers are reminded to check their campaign contributions and determine whether they have received a campaign contribution of \$250 or more that would require disclosure and/or recusal from discussing or acting on this agenda item. Campaign contributions of \$250 or

more made 1) by any person or entity who is identified in the agenda report as the applicant or proposer or 2) on behalf of the applicant or participant, including a parent, subsidiary or otherwise related business entity, or 3) by any person who has a financial interest in the agenda item requires a councilmember to comply with SB1439.

**FISCAL IMPACT:**

There is no fiscal impact to this action.

**DISCUSSION:**

On May 16, 2024, at a scheduled meeting, the Approving Authority of the Development Plan Review Hearing remanded the matter to the Planning Commission.

On June 12, 2024, at its regularly scheduled meeting, the Planning Commission held a public hearing and approved a request for housing development project (*Case File: DPR 72-024*) at 3101 North Garey Avenue (5-0-1-1).

On June 27, 2024, Councilmember Torres file an appeal of the decision.

The City Council may either uphold the Planning Commission decision or schedule the matter for a public hearing.

**LEGAL CONSIDERATION UNDER SB 330:**

The decision approved a “housing development project,” subject to the Housing Accountability Act, also known as Senate Bill 330 (SB 330). SB330 establishes specific written findings that must be made in order to disapprove a housing development project:

A local agency shall not disapprove a housing development project ... unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

1. The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

2. The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.
3. The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.
4. The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.
5. The housing development project or emergency shelter is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

Prepared by:



Ata Khan  
Deputy Director  
Development Services

**ATTACHMENT(S):**

- Attachment No. 1 – Draft Minutes of 6-12-2024 Planning Commission
- Attachment No. 2 – Staff Report of Planning Commission
- Attachment No. 3—Draft Approved Planning Commission Resolution 24-009
- Attachment No. 4—DPR Staff Report
- Attachment No. 5—PC Proof of Publication and Mailing

Attachment No. 6—DPR Draft Resolution 24-002

Attachment No. 7—Site Photographs

Attachment No.8—Proposed Plans

Attachment No. 9—PCSP Compliance Summary Table

Attachment No. 10—Density Bonus Request Letter by the Applicant

Attachment No. 11—DPR Proof of Publication and Mailing

Attachment No. 12 –Previous Public Comments by Email

Attachment No. 13 – Appeal form