

RESOLUTION NO. 2017-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, DENYING CONDITIONAL USE PERMIT (CUP 5063-2016) TO ALLOW THE CONSTRUCTION OF A NEW GASOLINE SERVICE STATION WITH CONVENIENCE STORE IN THE C-1 (NEIGHBORHOOD STORES) ZONE LOCATED AT 2085 SOUTH TOWNE AVENUE

WHEREAS, the applicant, Farhad Sayari, Inc., has filed an application for Conditional Use Permit (CUP 5063-2016) to allow the construction of a gasoline service station and convenience store located at 2085 S. Towne Avenue:

WHEREAS, the subject site is currently located within the C-1 (Neighborhood Stores) zone;

WHEREAS, the subject site is currently designated “Neighborhood Edge” by the City’s General Plan;

WHEREAS, the approval of a conditional use permit by the Planning Commission is required for gasoline service stations, pursuant to Section .580 of the Pomona Zoning Ordinance;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law held a public hearing on January 11, 2017, concerning the requested Conditional Use Permit (CUP 5063-2016) and voted 7-0-0-0 to approve the project;

WHEREAS, an application for appeal was submitted by City Councilmember Cristina Carrizosa on January 30, 2017 outlining concerns with traffic conflicts and environmental concerns;

WHEREAS, the City Council considered the setting of this application for appeal at a public hearing on February 27, 2017 and voted 7-0-0-0 to approve setting the appeal public hearing on the project;

WHEREAS, the City Council of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on April 3, 2017, concerning the requested appeal of the Planning Commission’s approval of the project application;

WHEREAS, the City Council has carefully considered all pertinent testimony, the recommendation of the Planning Division staff and the staff report offered in the case as presented at said noticed public hearing.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Pomona, California:

SECTION 1. The City Council exercising their independent judgment has determined that pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), that the project is Statutorily Exempt under Section 15270, (Projects Which Are Rejected or Disapproved) in that the action involves the denial of the proposed use.

SECTION 2. If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

SECTION 3. In accordance with Section .580.B of the Zoning Ordinance, the City Council must make findings in order to approve Conditional Use Permit (CUP 5063-2016). Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the City Council hereby finds as follows:

1. *That the proposed use at the particular location will not contribute to the general well being of the neighborhood or community.*

Based on the fact that the proposed retail store and gasoline service station is proposed to be located near to a public school and has the potential to create traffic conditions that are not conducive with school children with potential pedestrian and vehicular conflicts. In addition the site is surrounded by single family residential neighborhoods that would be impacted by a high level of commercial activity during late night hours of operation.

2. *That such use will, under the circumstances of the particular case, be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity or detrimental to the use, valuation or enjoyment of property or improvements in the vicinity.*

The project will be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity and detrimental to the use, valuation or enjoyment of property and improvements in the vicinity. The nearby public school, park and single family neighborhoods would be impacted negatively by a highly commercial land use with continual short term shopping and fueling functions that are not conducive to schools, parks and single family neighborhoods.

3. *That the site for the proposed use is of adequate topography, size, and shape to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to allow said use in the neighborhood.*

The subject site (approximately .6 acre) (approximately 26,518 square-foot parcel) is not sufficient enough in size to accommodate all of the development standards of the C-1 (Neighborhood Stores) zone, such as setbacks, parking, walls/fences, landscaping, and signage to a degree that would buffer and protect the adjacent lower density residential uses.

4. *The site abuts streets and highways adequate in width and improvements to carry traffic generations by the proposed use.*

The subject site takes access from Towne Avenue and Philadelphia Street, both major arterial streets with two lanes for each direction going east and westbound (Philadelphia) and north and southbound (Towne Avenue), which are capable of handling any additional vehicle trips generated by the proposed use.

5. *That granting of such conditional use permit will not adversely affect the General Plan of the City and conforms to the provisions of the zoning ordinance.*

Approving the permit would adversely affect the General Plan of the City. The proposed gasoline service station does not meet the shift of Towne Avenue to a new role as “Edges” to adjacent City neighborhoods. Neighborhood Edges will accommodate larger scale development that is more suitable for wider, more heavily trafficked roads and will function as buffers for residential neighborhoods. Gasoline service stations do not create buffering and compatibility to adjacent single family neighborhoods.

SECTION 4. Based upon the above findings, the City Council hereby denies Conditional Use Permit (CUP 5063-2016).

SECTION 5. The City Clerk shall attest and certify to the passage and adoption of this Resolution and it shall become effective immediately upon its approval.

APPROVED AND ADOPTED THIS 20TH DAY OF MARCH 2017.

ATTEST:

CITY OF POMONA:

Eva M. Buice, MMC, City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

Arnold Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, EVA M. BUICE, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 20th day of March 2017 by the following vote:

AYES: Gonzalez, Robledo, Carrizosa, Ontiveros-Cole, Escobar, Torres, and Mayor Sandoval

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Pomona, California, this 21st day of March 2017.

Eva M. Buice, MMC, City Clerk