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# CITY OF POMONA COUNCIL REPORT

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June 5, 2017

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted by: Mark Lazzaretto, Development Services Director

Subject: **Public Hearing for an appeal of the Planning Commission's denial of Conditional Use Permit (CUP 11-002) to legalize the conversion of a group care facility to an eleven unit roominghouse on a 16,600 square foot property located at 804 William Street in the R-2 (Low Density Multiple Family Residential) zoning district (Council District 1); Applicant/Appellant, Dr. Michael Agron/Russell Morse.**

## OVERVIEW:

**Recommendation** - That the City Council conduct a public hearing, and upon receiving public input on the topic, uphold the Planning Commission decision to deny Conditional Use Permit (CUP 11-002).

**Fiscal Impact** - None.

**Public Noticing Requirements** – Pursuant to Section .580(D) of the Zoning Ordinance, notice of a public hearing is required to be published in a newspaper of local circulation and sent to property owners within a 400-foot radius at least ten days prior to the date of the hearing. Said notice was mailed to property owners on Thursday, May 11, 2017 and published in the Inland Valley Daily Bulletin on Friday, May 5, 2017.

**Previous Council Action** – On April 3, 2017, the City Council voted to schedule a public hearing to review the appeal of the Planning Commission's denial of a request to legalize the conversion of a group care facility to an eleven unit roominghouse on a 16,600 square foot property.

**Previous Related Action** – On January 25, 2017, the Planning Commission held a public hearing and voted on a motion to deny Conditional Use Permit (CUP 11-002) to legalize the conversion of a group care facility to an eleven unit roominghouse on a 16,600 square foot property located at 804 William Street in the R-2 (Low Density Multiple Family Residential) zoning district. The Planning Commission denied CUP 11-002 on vote of 7-0-0-0. A resolution to deny Conditional Use Permit (CUP 11-002) was adopted by the Planning Commission on March 8, 2017.

**Environmental Impact** – Upon submittal of the project, staff reviewed the proposed project in accordance with the California Environmental Quality Act (CEQA) guidelines. After examining the proposed project, staff determined that the project is Categorically Exempt under Section 15301, Class 1 (Existing Facilities) of CEQA, in that the proposed project involves the permitting and minor alteration of an existing private structure involving negligible or no expansion of use.

## **EXECUTIVE SUMMARY**

Russell Morse of Truman and Elliot LLP, on behalf of the Applicant, Dr. Michael Agron is appealing the January 25, 2017 decision of the Planning Commission to deny Conditional Use Permit (CUP 11-002). The applicant asserts that findings for approval of the Conditional Use Permit can be made, the use conforms to the Zoning Ordinance and General Plan, the proposed project helps satisfy the City's Regional housing needs allocation, and denial of the project violates the Housing Accountability Act (Attachment C).

## **DISCUSSION**

### **Project Description**

The subject site is an approximately 16,600 square foot lot, developed with a 4,837 square foot residential building. The western portion of the lot is developed with a surface parking lot that takes access from the alley at the southern portion of the property, via Hamilton Boulevard. There are a total of 10 off-street parking spaces provided on the subject site. There is a small, detached laundry room located in the parking area. There is a one bedroom apartment and a studio, each unit with a restroom included. The remaining nine rooms are single bedrooms with shared restrooms. There are common areas, such as a kitchen, dining area, and community room. A roominghouse is defined as a dwelling where housing is provided to three or more individuals, pursuant to an arrangement for compensation by month or greater term, and in which rooms are not occupied by, nor meals served, to transients.

The current property owner purchased the property in 2007 and utilized the property as a roominghouse. The property owner was been cited by the Code Enforcement Division for operating a roominghouse without City approval. Recent records show that calls for service to the subject site have significantly dropped under the current property management.

The subject site has historically housed group living facilities. The front portion of the structure was originally constructed as a single-family residence in 1890 and subsequently remodeled in 1926. Building permit records indicate that an addition was constructed in 1948 to allow five additional patient rooms for a rest home. In 1972, a Certificate of Occupancy was issued to convert the property from a "sanitarium" to a "residence" in conjunction with a permit to demolish an existing single family residence and install a surface parking lot of the western portion of the property. In 1989, a Certificate of Occupancy was issued for the structure to be converted from "Communal living and convalescent care" to a "Temporary Shelter for Women and Children". At the time of the applicant's purchase of the property, it was staff's assessment that the operation of group living facility, now roominghouse had continuously operated on the subject site without an active business license. Therefore, the unpermitted current operation of the roominghouse is not recognized as a legal non-conforming use and is subject to a Conditional Use Permit in order to legalize the current roominghouse operations on the subject site.

## **Planning Commission Hearing**

During the Planning Commission's deliberations, commissioners expressed concerns about the applicant listing the property for sale upon obtaining the Conditional Use Permit (CUP 11-002). The Planning Commission also heard from adjacent residents about their concerns for safety. The Planning Commission discussed concerns regarding the CUP running with the land and future owners not being responsible operators, not providing background checks or having an age requirements for residents, and the property not meeting the off-street parking requirements for a roominghouse use. Ultimately, the Commission voted 7-0-0-0 to deny the request on January 25, 2017. A resolution to deny Conditional Use Permit (CUP 11-002) was adopted by the Planning Commission on March 8, 2017.

## **APPEAL**

On February 13, 2017, Russell E. Morse on behalf of the applicant, appealed the Planning Commission's denial of Conditional Use Permit (CUP 11-002) based on the following reasons (Attachment C):

1. Findings required to approve a Conditional Use Permit can be made;
2. Proposed project is consistent with the Zoning Ordinance and General Plan;
3. Proposed project helps satisfy the City's regional housing needs allocation; and
4. Denial of the project violates the Housing Accountability Act.

## **CITY COUNCIL OPTIONS**

In accordance with Section .580.F. of the Pomona Zoning Ordinance, the City Council, at its discretion, has the following options:

- 1) Based upon the facts and public testimony presented at the Planning Commission and City Council public hearings, uphold the decision of the Planning Commission denying Conditional Use Permit (CUP 11-002); or
- 2) Alternatively, the City Council may adopt a resolution overturning the decision of the Planning Commission approving the Conditional Use Permit (CUP 11-002).

## **ATTACHMENTS**

- A. Draft City Council Resolution approving Conditional Use Permit (CUP 11-002), with conditions;
- B. Draft City Council Resolution denying Conditional Use Permit (CUP 11-002);
- C. Applicant's Appeal Application (Dated February 13, 2017), Planning Commission Staff Report with attachments (Dated January 25, 2017 and March 8, 2017); and
- D. Excerpt from Unofficial Minutes from Planning Commission Hearing of January 25, 2017 and April 8, 2017.