

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT (CUP 11-002), FOR THE LEGALIZATION OF 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

WHEREAS, the applicant, Michael Agron, has submitted an application for 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;

WHEREAS, the subject property is currently located within the R-2 (Low Density Multiple-Family Residential) zoning district;

WHEREAS, the subject site is currently designated "Activity Center" by the City's General Plan;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on July 11, 2012 concerning Conditional Use Permit (CUP 11-002) and continued to a date uncertain;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on January 25, 2017 concerning Conditional Use Permit (CUP 11-002) and voted 7-0-0-0 to deny the proposed project;

WHEREAS, an application for appeal was submitted by Russell Morse on behalf of the applicant on February 13, 2017 citing that the proposed project is consistent with the General Plan and Pomona Zoning Ordinance and should be approved;

WHEREAS, on March 8, 2017, the Planning Commission of the City of Pomona adopted a resolution denying Conditional Use Permit (CUP 11-002);

WHEREAS, the City Council considered the setting of this application for appeal on April 3, 2017 and voted 7-0 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 June 5, 2017, concerning the requested appeal of the Planning Commission's denial 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, as follows:

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), this action as defined is Categorically Exempt under Section 15301, Class 1 (Existing Facilities) from further environmental review in that the proposed project involves the permitting and minor alteration of an existing private structure involving negligible or no expansion of 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. Pursuant to Section .580.B of the Zoning Ordinance, the City Council must make the five findings listed below in order to grant Conditional Use Permit (11-002). Based upon a 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. *The proposed use at the particular location will contribute to the general well-being of the neighborhood or community.*

The proposal will contribute to the general well-being of the neighborhood and community, in that the proposal to legalize the roominghouse will provide additional housing opportunities to the community and rehabilitate a property. The aesthetic improvements to this site will contribute to the general well-being of the neighborhood in that it will preserve the scale and character of the established neighborhood with aesthetic improvements.

2. *Such use will not, 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, as conditioned, will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity; instead, it will have a positive affect on the existing uses by increasing the aesthetics and the preserving the scale and character of the established neighborhood in the vicinity. The proposed legalization of a roominghouse is permitted in the R-2 (Low Density Multiple Family) zone, subject to approval of a Conditional Use Permit and is compatible with the adjacent commercial uses.

3. *The site of 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 with the land and uses in the neighborhood and make it compatible thereto;*

The site is of adequate topography, size and shape to accommodate the use. The project meets the applicable development standards and conditions required by the R-2 zoning district.

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

The traffic generated by the project will not exceed the capacity of the existing street and alley from which the subject site will take ingress/egress. Hamilton Street and William Street are of appropriate width and have improvements to handle any additional traffic generated by the 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.*

The General Plan designation of the subject site is Activity Center. With the conditions of approval, the proposal to legalize the roominghouse use will provide aesthetic improvements to the property and to the preservation of the existing neighborhood. The granting of such Conditional Use Permit will not adversely affect the General Plan and meets the following General Plan goal:

***Goal 6G.G2:** Preserve the scale and character of established neighborhoods. The proposed project will preserve in place a site that has a history of being utilized as a group living facility. Approval of the Conditional Use Permit application to legalize a roominghouse because an active business license was not obtained by previous operators will not affect the scale and character of the established neighborhood. There is no new construction proposed, therefore the scale and character of the established neighborhood will remain the same.*

SECTION 4. Based on the above findings, the City Council hereby approves Conditional Use Permit (CUP 11-002) subject to the following conditions:

PLANNING DIVISION

General Conditions

1. The subject property shall be developed and/or used in a manner consistent with the

project plans reviewed and approved by the City Council on June 5, 2017 and as illustrated in the stamped approved plans dated June 5, 2017. Any major modifications to the approved project plans shall be reviewed and approved by the City Council as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Development Services Manager.

2. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
3. In case of violation of any of the conditions of approval or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein conditional use permit.
4. Conditional Use Permit (CUP 11-002) shall lapse and become void if the use authorized is not utilized or where some form of construction pursuant to issuance of a building permit has not commenced by June 5, 2018. The City Council may extend this period upon receipt of a written request by the applicant at least thirty (30) days before the expiration date of this approval.

5. The applicant or property owner shall retain a copy of this resolution on the premises at all times and be prepared to produce it immediately upon the request of any City representative.
6. Landscaping to include trees, shrubs, vines and ground covers, shall be permanently maintained in all common areas of the project site.
7. The property owner shall remove any graffiti on the project site within 48 hours of discovery. The paint utilized to cover the graffiti must substantially match the existing structure. In the event that the paint finish of the abated area is noticeably distinguishable from the rest of the structure, the property owner shall paint additional portions of the building to minimize the disparity, subject to the approval of the Development Services Manager.
8. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit "House Rules" to address resident conduct, care and use of units and care and use of common areas, subject to Development Services Manager review and approval. Changes to the "House Rules" shall be submitted to the Development Services Manager for review. Any minor modifications that do not affect the overall intent of the approved "House Rules", may be reviewed and approved by the Development Services Manager. House rules shall also address how neighbor complaints are dealt with to resolve any neighbor complaint issues.
9. The roominghouse shall be limited to 11 individually-rented rooms. Any increase in individually-rented rooms shall require a modification of the Conditional Use Permit.
10. The applicant shall be required to obtain a Certificate of Occupancy for a roominghouse at this location.

PUBLIC WORKS DEPARTMENT

11. Prior to approval of improvement plans the applicant/developer shall meet all requirements of the Los Angeles County Fire Department (LACFD). Proof of LACFD approval is required for Site Plan and Floor Plan sign-off submittal to the Public Works Department. Contact the LACFD for information at (909) 620-2402.

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 PASSED THIS 5th DAY OF JUNE, 2017.

ATTEST:

CITY OF POMONA:

Eva Buice, 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 BUICE, 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 5th day of June, 2017 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Eva Buice, City Clerk

“Pursuant to Resolution No. 76-258 of the City of Pomona the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.”