



# CITY OF POMONA COUNCIL REPORT

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June 19, 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 – Appeal of the Planning Commission’s Denial of Conditional Use Permit (CUP 4607-2016) and Tentative Tract Map (TTM 4947-2016) for a residential development which proposes to subdivide two lots totaling approximately 46,550 square feet for residential condominium purposes, for a proposed fourteen-unit residential development at 1198-1236 S. San Antonio Ave. in the R-2-S (Low Density Multiple Family with Supplemental Overlay) zone.**

## OVERVIEW

**Recommendation** – That the City Council consider two options of either approving or denying Conditional Use Permit (CUP 4607-2016) and Tentative Tract Map (TTM 4947-2016) to allow for the construction of an attached fourteen unit residential condominium development located at 1198-1236 S. San Antonio Avenue in the R-2-S (Low Density Multiple Family with Supplemental Overlay) zone.

**Fiscal Impact** – None.

**Public Noticing Requirements** – Pursuant to Section .580.D of the Pomona Zoning Ordinance (PZO), notice of a public hearing is required to be published in a newspaper of local circulation and sent to property owners and occupants of properties within a 400-foot radius of the subject property. Said notice was mailed to property owners on Wednesday, June 7, 2017, and published in the Inland Valley Daily Bulletin on Thursday, June 8, 2017.

**Previous Related Action** – On January 11, 2017 and April 12, 2017, the Planning Commission held public hearings to consider Conditional Use Permit (CUP 4607-2016) and Tentative Tract Map (TTM 4947-2016). On May 15, 2017, the City Council approved the request for appeal and set the item for a public hearing before the Council.

**Environmental Impact** – Pursuant to the provisions of the California Environmental Quality Act (CEQA), the proposed project meets the criteria for Class 32, Section 15332 Categorical Exemption in that the project involves development of a project less than five acres in an urbanized area that can be served by all required utilities and public services

and that would not result in any significant effects relating to traffic, noise, air quality or water quality.

## **EXECUTIVE SUMMARY**

The project appellant, Shahram Tork is appealing the April 12, 2017 non-decision of the Planning Commission on Conditional Use Permit (CUP 4607-2016) and Tentative Tract Map (TTM 4947-2016). The Planning Commission was unable to garner four affirmative votes on several different motions to pass a resolution on the requested development proposal.

The development application was also heard earlier in January 2017 and continued to April 12, 2017 to allow the developer additional time to respond to the opposition being brought forth by the two adjacent property representatives whom have urban gardens both to the immediate north and east of the subject parcel. The applicant returned in April with a shade and shadow analysis that was contradicted by a second shade and shadow analysis that was presented by the property owner adjacent to the north of the subject site.

## **DISCUSSION**

### **Project Description & Background**

The applicant is proposing to construct a total of 14 condominium residential dwelling units. The size of the units will vary from 1,622 square feet to 1,700 square feet. Each unit will have an attached two-car garage. All 14 units will be two stories in height, and each unit will have private open space, ranging from 270 to 360 square feet. As originally proposed, each unit was to have four bedrooms. However, the applicant is now proposing nine three-bedroom units and five four-bedroom units.

The applicant is proposing to provide common open space areas throughout the project, one of which will consist of a BBQ and permanent seating area at 3,050 square feet. The remaining open space areas are spread throughout the site and consist of landscaped open areas. The project meets the common open space requirements.

### **Planning Commission Hearing**

During the Commission's deliberations, commissioners had varying opinions on the potential impacts of the project to the existing neighborhood. The Planning Commission vote for approval of the project failed on a 3-2-1-1 vote. Subsequent motions on the application also failed due to the lack of four affirmative votes (see attached minutes, dated April 12, 2017).

## **ANALYSIS**

### **Issue 1: General Plan Conformity**

The project is consistent with the City's General Plan in that the proposed residential use is consistent with the "Residential Neighborhood" place type site shown on the General Plan Land Use Map. The project furthers the following goal of the General Plan in that the project, as

designed, with its amenities, contributes to ensuring a *safe, family-oriented, human-scaled, walkable, and livable residential neighborhoods* (Goal 6G.P3).

### **Issue 2: Zoning Ordinance Compliance**

Staff has evaluated the proposal in terms of conformance to the development standards of the R-2 zone. As provided in the Zoning Compliance Analysis section of the attached Planning Commission staff report, the project conforms with or exceeds the development standards of the R-2 zone. Therefore, the granting of the Conditional Use Permit will not adversely affect the intent and purpose of the Pomona Zoning Ordinance.

### **Issue 3: Land Use Compatibility**

The subject site is located in an area with properties used, zoned, and planned for residential uses. The proposed total of 14 units on the subject site, equal to a density of approximately 14 units per acre, is consistent with the densities allowed on surrounding properties also zoned R-2 zone. Based on these factors, staff finds that the residential project is compatible in the context of the surrounding neighborhood and will be a positive addition to the area.

### **Issue 4: Architectural Elevations**

The proposed architectural theme of the proposed project is Spanish. The proposed elevations have various architectural treatments that have been used to enhance the aesthetic appeal of this project. The use of arched openings, smooth stucco and barrel tile roofing support the proposed architectural style. Additionally, stone veneer around the base of dwellings, recessed windows, and pop-out trim are proposed to enhance the architectural design.

### **Issue 5: Project Circulation & Access**

The entrance to the project site will be located on San Antonio Avenue. The garages for the units and the guest parking spaces will be accessed from the proposed 26 foot wide driveway. The driveway will “T” off at the end of the driveway in order to provide an adequate Fire Department turnaround. Pedestrian access through the site to the units and common open spaces will be provided along paths throughout the setbacks along the sides and rear of the property.

### **Issue 6: Shade Analysis**

At the previous public hearing, the Planning Commission heard testimony from the adjacent property owner, Rishi Kumar, regarding a shadow that may be cast on their property by the proposed two-story buildings. Mr. Kumar asserted that the proposed two-story buildings would cast a large shadow on his property, threatening the urban farming agricultural use at the rear of his property. Prior to the public hearing, Mr. Kumar provided the Planning Division with a letter and shade and shadow analysis that he prepared.

The applicant’s analysis shows that the proposed project will cast a shadow along the southern property line of Mr. Kumar’s property during parts of the day in November, December, January

and February. However a competing shade and shadow analysis was provided by the property owner to the north that was believed by the Planning Commission to be a more accurate assessment based on the footprint locations of each of the proposed buildings. If the City Council needs additional information to make a decision on the shade and shadow analysis it would be appropriate for the City staff to contract with a planning consultant firm at the expense of the project developer to obtain an independent third party analysis. Planning staff did not pursue this option based on the fact that it appeared that only during a few hours of the year in the winter months this impact may occur and would not prohibit urban gardening to continue to occur in the neighborhood.

## **CONCLUSION**

The project can be found to be compatible with the City's General Plan designation and current zoning of R2, Low Density Multiple Family with a Supplemental Overlay or the City Council could find that the development does not meet the findings required to approve a CUP or that the "S" Supplemental use overlay district's intent to encourage orderly and harmonious development in areas where special attention is needed and therefore deny the project.

## **CITY COUNCIL OPTIONS**

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

- 1) Based upon the facts and public testimony presented at the public hearing, the City Council may adopt the attached resolution (Attachment A) approving Conditional Use Permit (CUP 4607-2016) and Tentative Tract Map (TTM 4947-2016); or
- 2) Alternatively the City Council may deny the applicant's appeal request by adopting the attached resolution (Attachment B) denying Conditional Use Permit (CUP 4607-2016) and Tentative Tract Map (TTM 4947-2016)

## **Attachments:**

- A. Draft City Council Resolution approving Conditional Use Permit Conditional Use Permit (CUP 4607-2016)
- B. Draft City Council Resolution approving Tentative Tract Map (TTM 4947-2016), with conditions
- C. Draft City Council Resolution denying Conditional Use Permit Conditional Use Permit (CUP 4607-2016)
- D. Draft City Council Resolution denying Tentative Tract Map (TTM 4947-2016)
- E. City Council Staff Report, Dated May 15, 2017, with Attachments
- F. Letter provided from Abundant Housing LA, dated June 7, 2017

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