

PC RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA APPROVING VARIANCE (VAR 8097-2017) TO ALLOW DEVIATION FROM SETBACK REQUIREMENTS IN CONJUNCTION WITH THE CONSTRUCTION OF A CONVENIENCE STORE, GAS STATION CANOPY, AND CAR WASH AT 2207 VALLEY BOULEVARD.

WHEREAS, the applicant, Ahmad Ghaderi, has submitted an application for a Variance (VAR 8097-2017) to allow deviation from setback requirements on a property located at 2207 Valley Blvd.;

WHEREAS, the subject property is currently located within the C-3 (General Commercial) zoning district;

WHEREAS, the subject site is designated as an Workplace District Edge place type in the City's General Plan;

WHEREAS, the applicant has concurrently submitted Conditional Use Permit (CUP 5708-2016) to allow an automobile service station; and Conditional Use Permit (CUP 8121-2017) to permit the sale of beer and wine for off-site consumption;

WHEREAS, Section .560 of the Pomona Zoning Ordinance establishes criteria for approval of a Variance;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on August 9, 2017 concerning Variance (VAR 8097-2017); and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Pomona, California, as follows:

SECTION 1. The Planning Commission exercising independent judgment finds that the proposed project will not have a significant effect on the environment. Pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is categorically exempt under Section 15332 of the California Public Resources Code, which exempts in-fill developments located in urbanized settings. The Planning Commission finds that the project meets the following criteria listed in the exemption: 1) the proposed project is consistent with the General Plan and Zoning Ordinance of the City; 2) the parcel is smaller than five acres; 3) the project site has no value as habitat for endangered, rare or threatened species; 4) the project will not have significant effects upon the environment; and 5) the site can adequately be served by utilities and public services.

SECTION 2. In 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 .560 of the Zoning Ordinance, the Planning Commission must make the four findings listed below in order to grant a variance. 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 Planning Commission hereby finds as follows:

1. *That there are special circumstances applicable to the property including but not limited to size, shape, location, topography or surroundings that deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.*

The property in question is irregularly shaped and adjacent to a freeway off-ramp, which creates a hardship in developing proposed uses to existing development standards.

2. *That the granting of the variance will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.*

The granting of the variance would not afford a special privilege to the property in question. The proposed uses are consistent with the C-3 (General Commercial) zone.

3. *That the granting of the variance will be consistent with the provisions of any Specific Plan, or the adopted General Plan.*

The proposed Variance is consistent with the General Plan place type of Workplace District Edge.

4. *That the granting of the variance will not be materially detrimental or injurious to the surrounding properties nor to the general development pattern of the neighborhood.*

The granting of the Variance will not be materially detrimental or injurious to the surrounding properties nor to the general development pattern of the neighborhood; first, the neighboring multi-family residential units are setback at least 70 feet from the property line; second, the place type of this neighborhood acknowledges the development of residential, industrial, and commercial uses.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Variance (VAR 8097-2017) subject to the following conditions:

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1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Planning Commission on August 9, 2017, and as illustrated in the stamped approved plans dated August 9, 2017. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission 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 make reductions of all approved resolutions related to the project, which shall be placed on the title sheet of construction plans prior to the Plan Check submittal.
3. 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.
4. This approval shall lapse and become void if construction under a valid building permit has not commenced within two years from the date of this approval (August 9, 2019), in accordance with Pomona Zoning Ordinance section .580.I. The Planning Commission may extend this period for one year upon receipt of an application for a Time Extension request submitted by the applicant at least thirty days before the expiration date of this approval.
5. The project shall be subject to an appeal period of twenty (20) days. Written appeals may be filed with the City Clerk by one or more City Council members, the applicant, or any

person owning property within four hundred feet of the exterior boundary of the applicant's property.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND ADOPTED THIS 9TH DAY OF AUGUST, 2017.

LUIS JUAREZ
PLANNING COMMISSION CHAIRPERSON

ATTEST:

BRAD JOHNSON
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

ANDREW JARED
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

AYES: Grajeda, Arias, Hemming, and Ursua.
NOES: Brown.
ABSTAIN: None.

ABSENT: Juarez and Ramos.

"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 Sec. 1094.6 C.C.P."