

## **PC RESOLUTION NO.**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING CONDITIONAL USE PERMIT (CUP 7304-2017) TO ALLOW THE ESTABLISHMENT OF AN ADULT DAY CARE FACILITY SERVING DEVELOPMENTALLY DISABLED CLIENTS AT 3240 N. GAREY AVENUE.**

**WHEREAS**, the applicant, Health Alliance ADHC, has filed an application for Conditional Use Permit (CUP 7304-2017) to allow the establishment of an Adult Day Care Program Facility serving developmentally disabled clients located at 3240 N. Garey Avenue;

**WHEREAS**, the subject site is located within the Pomona Corridors Specific Plan, T5 Neighborhood Center district;

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

**WHEREAS**, the approval of a Conditional Use Permit by the Planning Commission is required for the establishment of an adult day care facility serving developmentally disabled adults;

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law held a public hearing on October 25, 2017, concerning the requested Conditional Use Permit (CUP 7304-2017); and

**WHEREAS**, the Planning Commission 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 Planning Commission of the City of Pomona, California:

**SECTION 1.** The Planning Commission 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 Article 19, Section 15301 (Existing Facilities), because the proposed project will utilize existing structures where all public services and facilities are available to serve the project.

**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 Pomona Zoning Ordinance (PZO), the Planning Commission must make findings in order to approve Conditional Use Permit (CUP 7304-2017). 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 Planning Commission hereby finds as follows:

1. That the proposed use at the particular location will contribute to the general well being of the neighborhood or community.

The proposed project will contribute to the general well being of the neighborhood and the community by providing social services for persons with developmental disabilities. This service is necessary and it is desirable for the community to serve and provide such services to the developmentally disabled. The subject site is currently a 7,465.5 square foot vacant tenant space within an existing shopping center that will be transformed on the interior into an adult day care with aesthetic improvements, while providing the need for specialized services and jobs within the community.

2. That such use will, under the circumstances of the particular case, not 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.

As conditioned, the applicant's request will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity since the project is in conformance with the development standards and use requirements of the Pomona Zoning Ordinance (PZO). Additionally, the applicant will be licensed by the State of California Department of Social Services. Based on the proposed project, it is not anticipated that the configuration of the site or activities associated with the use will generate noise or other impacts that will be detrimental since all of the proposed activities of the program are indoors. The project will not be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the subject site is located within an established commercial shopping center that contains a variety of uses serving the community.

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 10.16 acres in size) is sufficient enough in size to accommodate all of the development standards required of Day Care Facilities as outlined in Section .5809-14 of the Pomona Zoning Ordinance (PZO). The subject site is an existing multi-tenant shopping center in the Pomona Corridors Specific Plan. The applicant has provided a parking analysis to demonstrate sufficient parking in the center to accommodate

the proposed use. As an adult day care, the applicant is justified in not providing the number of off-street parking spaces required by the PZO because their clients are not capable of driving to the facility. Therefore, the number of spaces provided includes one space per employee, one loading space and one van space, and does not include the parking of one space per five students as generally required by the PZO, as students will not be driving and utilizing parking spaces.

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 Foothill Boulevard and N. Garey Avenue, two major arterial streets that are capable of handling the vehicle trips generated by the proposed use. The proposed use would generate traffic from the pickup and drop off of a maximum of 120 clients and a maximum of 25 employees on-site.

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.

Granting of the permit will not adversely affect the General Plan of the City in that the proposed tenant improvements of a tenant space within an existing commercial center is consistent with the intent of the General Plan's Urban Neighborhood place type. Furthermore, the proposed use is consistent with the following General Plan policy (7B.P19):

"Utilize professional development and vocational training programs to enhance the quality of the area's labor force to attract and take advantage of new employment opportunities."

**SECTION 4.** Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 7304-2017) subject to compliance with all applicable laws and ordinances of the City as well as the addition of the following conditions, violations of which (or failure to complete any of which) shall constitute grounds for revocation of the conditional use permit or any portion thereof:

## **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 Planning Commission on October 25, 2017, and as illustrated in the stamped approved plans dated October 25, 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. To the extent any condition in this resolution is not in conformity with the stamped approved plans, the conditions herein shall prevail.

2. This approval shall lapse and become void if construction has not commenced under a valid building permit within one (1) year from the date of this approval (October 25, 2018), in accordance with Pomona Zoning Ordinance section .580.I. The Planning Commission may extend this period for one (1) 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.
3. The project is subject to a twenty (20) day appeal period. Written appeals may be filed with the City Clerk within twenty days 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. The appeal shall be filed with the City Clerk within twenty days from the date of action by the Planning Commission.
4. 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.
5. 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.

6. The property owner shall remove any graffiti on the project site within 24 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. Original surface materials installed and designed to not accept paint material such as stone, metal, brick, faux stone, veneers, etc. shall be restored to original finish with methods accepted and agreed to by the Development Services Manager.
7. Anti-graffiti film shall be installed onto the exterior windows of the proposed project. Any graffiti on the windows by scratching or acid sketching shall be removed within thirty (30) days.
8. No temporary signs relating to any activity on the premise shall be placed or allowed to remain within landscape areas, public right-of-way areas adjacent to the subject site (e.g. telephone poles, traffic signs, and city trees) or other portions on the exterior of the building. The only temporary signs allowed shall be properly permitted banner signs by permit per the City's sign ordinance. Signs placed in any window of the premises shall comply with the City's sign ordinance, and all other conditions under this Conditional use Permit.
9. The property owner shall provide regular maintenance and cleaning of all exterior walkways, patios, canopies, sidewalks, and landscaped parkways in compliance with Pomona City Code 62-351 et seq.
10. Before issuance of zoning clearance and a business license, the applicant and any successor in interest shall sign a certificate of compliance stating that:
  - a) They have read and understand all the conditions of approval applicable to their project;
  - b) That they are familiar with the daily operations of the use; and
  - c) That the use will operate in compliance with the conditions of approval.
11. There shall be no activity conducted on the subject site that exceeds the noise and vibration parameters of Pomona City Code Section 18-301, et seq., and City Council Ordinance No. 3939 at any time, or such other ordinance enacted related to noise and vibration.

12. The property shall be maintained free of weeds and debris prior, during and after the construction period.
13. The applicant shall adhere to the parking analysis provided and be limited to a maximum number of employees for the proposed facility to be 25.
14. Applicable licensing from the State of California Department of Social Services shall remain active and valid at all times.
15. All activities conducted in association with the Adult Day Care facility shall be conducted indoors at all times.
16. No alcohol or drug treatment services shall be provided at the facility.
17. Clients of the adult day care facility shall not stay in the facility overnight.
18. The proposed adult day care facility shall provide fire extinguisher and smoke detector devices, and shall meet all standards established by the Los Angeles County fire marshal.
19. The proposed adult day care facility shall be operated according to all applicable state and local health and safety regulations.
20. No indoor furniture shall be allowed outdoors. All exterior walkways shall be kept clear for handicapped accessibility, and no furniture shall be permitted outdoors.
21. The proposed group care facility shall be in conformance with the Uniform Building Code. A certificate of occupancy shall be obtained from the Building Division prior to occupancy.
22. There shall be adequate lighting around the property at all times (minimum of 1 foot-candle). This shall be done in such a fashion that persons standing outdoors at night are easily identifiable by law enforcement personnel. Lighting shall be screened so that no spillover occurs onto the adjacent properties.
23. The installation of signage will require the submittal of a “Sign Permit” for review and approval by the Planning Division.
24. Prior to issuance of a Certificate of Occupancy, permanent commercial rated bike racks shall be provided near the main entrance, or in a convenient area, of the service station, the quantity, quality and location of the commercial rated bike racks shall be subject to the review and approval of the Development Services Manager during the Plan Check Process.

25. No overnight vehicle or van parking shall be permitted at any time, except for vehicles used by employees in the normal course of business.
26. No overnight parking of recreational vehicles (RV's) shall be permitted.
27. No vending machines of any kind shall be installed outdoors within the Project Site.
28. There shall be no public pay phones installed within or upon any portion of the premises.
29. The placement of outdoor storage bins (including containers, trailers, or enclosures) on the Project Site shall be prohibited, except during the construction process pursuant to an active building permit.
30. Loitering and panhandling on the premises shall be prohibited. Signs stating such prohibition shall be posted on the property.

#### **BUILDING AND SAFETY DIVISION**

31. The design must be reviewed and stamped by an architect licensed in the State of California – (Business and Professions code Sections 5537, 5538 and 6737.1).
32. The design must be reviewed and stamped by an architect or engineer licensed in the State of California – (Business and Professions code Sections 5537, 5538 and 6737.1)
33. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2016 California Building Codes.
34. Fire Department approval required. Fire sprinklers may be required.
35. All proposed work shall comply with the 2016 California Energy Code and all other relevant laws, ordinances and resolutions governing Energy conservation as adopted by the City of Pomona.
36. Proposed project shall comply with the 2016 California Green Building Standards Code and all other relevant laws, ordinances and resolutions governing sustainable design as adopted by the City of Pomona.
37. Building Department comments and conditions are subject to plan check. Comments are based on information provided.

## **PUBLIC WORKS DEPARTMENT**

The following conditions and public improvements, as well as all applicable plan check fees, permit fees and bond deposits shall be complied with, completed and paid for by the Developer in accordance with the City standards, fee schedules and applicable laws.

All the required plans, studies and calculations shall be performed by a registered civil engineer or other registered/licensed professional as required, and submitted for review and approval of the City Engineer.

### **Public Works Project Requirements**

38. Applicant/Developer shall implement **Storm Water** Good Housekeeping Best Management Practices (BMPs) for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.
39. Property Owner is responsible for the compliance with any special annual levy assessment derived from the current inclusion of the project site (Assessor Parcel Number 8367-001-086) into the **City's Street Lighting and Landscaping Maintenance District**. The Developer shall disclose to any future buyers that the property is within the City of Pomona Lighting and Landscaping District and is subject to annual special taxes.

### **Public Works Improvements Permit**

All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.

40. Prior to the issuance of the public improvements permits, Applicant/Developer shall post surety bonds for the proposed public improvements.
41. Permittee shall procure and maintain throughout the period of the Permit the following policies of insurance:
  - a. Commercial General Liability;
  - b. Automobile Liability;
  - c. Worker's Compensation as required by the State of California;

Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured.
42. Permittee shall pay fees associated with and possess the City of Pomona Business License.

Changes and additions to the proposed work, including but not limited to detail plans for offsite improvement work (public street, water, etc.) and/or other work associated with this project and due to developer's or City's request shall require additional conditions to be completed by the applicant.

**WATER RESOURCES DEPARTMENT**

The proposed request will have an impact upon water demand and wastewater discharge. Please submit updated hydraulic calculations for the proposed site. Currently a 5/8" meter provides water to the existing building. There may be a need to increase the size of the meter. A low-lead (0.25%) reduced pressure principle assembly (RPPA) is required for this site. Submit the calculations and proof of adequate RPPA installation to WRD.

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

**APPROVED AND PASSED THIS 25TH DAY OF OCTOBER, 2017.**

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LUIS M. JUAREZ  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

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MARK LAZZARETTO  
PLANNING COMMISSION SECRETARY

**APPROVED AS TO FORM:**

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ANDREW JARED  
ASSISTANT CITY ATTORNEY  
STATE OF CALIFORNIA    )  
COUNTY OF LOS ANGELES   ) ss.  
CITY OF POMONA            )

AYES:

NOES:

ABSTAIN:

ABSENT:

"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."