

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT (CUP-9774-2018) TO ALLOW FOR THE CONSTRUCTION OF TWO DETACHED SINGLE-FAMILY STRUCTURES, CONSTRUCTION OF A SIX CAR GARAGE AS WELL AS ASSOCIATED SITE IMPROVEMENTS ON A PROPERTY LOCATED AT 1538 SOUTH TOWNE AVENUE.

WHEREAS, the applicant, Hung Kwan Ku, has submitted an application for Conditional Use Permit (CUP-9774-2018) to allow for the construction of two detached single-family structures, construction of a six car garage as well as associated site improvements on a property located at 1538 South Towne Avenue, Assessor's Parcel Number 8328-007-006;

WHEREAS, the applicant has concurrently submitted an application for Change of Zone (ZONE-6154-2016) to rezone the subject parcel from an existing zoning designation of R-1-6,000 (Single-family residential district) to a proposed zoning designation of R-1-E Overlay (Single-family residential overlay district) on property located at 1538 South Towne Avenue, Assessor's Parcel Number 8328-007-006;

WHEREAS, the subject property has a General Plan, Place Type designation of Residential Neighborhood as well as a Transect Zone designation of T3 Typical;

WHEREAS, Section .270 of the Pomona Zoning Ordinance requires development of land in the R-1-E Single family, residential overlay district to be reviewed by the Planning Commission prior to the issuance of building permits. The purpose of such review shall be to determine whether the characteristics of any such use are compatible with the types of uses generally permitted in the surrounding area, and further, to stipulate such reasonable conditions as may be deemed necessary to assure that the basic purposes of this ordinance are being served;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on May 9, 2018, concerning the requested Change of Zone (CUP-9774-2018) and carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing;

WHEREAS, the City Council of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on September 10, 2018, concerning the requested Conditional Use Permit (CUP-9774-2018);

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Pomona, California:

SECTION 1. Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), this action as defined is Categorical Exempt, under Section 15303, Class 3 exemption for construction of small facilities, is exempt from further environmental review.

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 Zoning Ordinance, the City Council must make five findings in order to approve Conditional Use Permit (CUP-9774-2018). 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 use of the subject site for residential development, specifically, the development of two new residential units at this particular location will contribute to the general well-being of the neighborhood and the community by expanding housing opportunities for residents by enhancing the appearance of the general area.

2. *That 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 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 full conformance with the development standards and use requirements of both the R-1-E Overlay district and the R-1-6,000 district. The project will not be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the subject site is consistent with the surrounding properties which are zoned and planned for residential uses by the General Plan. The project, as designed, will enhance the neighborhood.

3. *That the site of the proposed use is of adequate topography, size and shaped 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 subject site is rectangular in shape and relatively flat with an area of approximately 19,694 square feet. Therefore, the site has the adequate topography, size and shape to accommodate the proposed residential development project.

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

The subject site has street access directly to Towne Avenue, which is of adequate width and improvement to carry traffic generations typical of residential development projects.

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 granting of the conditional use permit will not adversely affect the General Plan and conforms to the provisions of the Pomona Zoning Ordinance. The proposed residential use is consistent with the “Residential Neighborhood” place type as designated on the General Plan Land Use Map. The project furthers the goals and objectives of the General Plan by allowing a development that would ensure safe, family-oriented, human-scaled, walkable and livable residential neighborhoods (Goal 6G.G8). The project will develop a site that is currently underutilized into an aesthetically pleasing development that contributes to the City’s housing stock which the General Plan identifies as being under supplied.

SECTION 4. Based upon the above findings, the City Council approves Conditional Use Permit (CUP-9774-2018) 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

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 September 10, 2018, and as illustrated in the stamped approved plans dated September 10, 2018. 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, shall be reviewed and approved by the Development Services Manager.
2. This approval shall lapse and become void if the privilege authorized is not utilized within one year from the date of this approval (September 10, 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. The project is subject to a twenty 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.

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. In case of a violation of any of the conditions of approval and/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 (90) 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.
5. Any future substantial changes in the approved plans, except as allowed for by the following conditions, shall require a modification to the Conditional Use Permit.
6. The property shall be maintained free of weeds and debris prior, during and after the construction period.
7. Landscaping is to include a variation of trees, shrubs, vines and ground covers, shall be installed and permanently maintained in all common areas of the project site. All landscape areas shall be provided with an automated underground irrigation system. Prior to receiving building permit

final, the applicant shall obtain the approval from the Planning Division of a precise landscape and irrigation plan prepared by a licensed Landscape Architect, which meets the most current State of California Drought Executive Order Model Water Efficiency Landscape Ordinance (MWELo) and any modification as adopted by the City of Pomona.

8. 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.
9. All plumbing fixtures shall utilize low flow or low water usage appliances (toilets, sinks, water hose, etc.).
10. Any proposed fencing on the subject site shall be in compliance with Section .503-I of the Pomona Zoning Ordinance and subject to review and approval of a Fence and Wall Permit by the Planning Division prior to receiving a final sign-off on building permits.
11. Conversion of the dwelling units to either a boardinghouse and/or rooming house shall be prohibited.

Building and Safety

12. The undergrounding of utility facilities is required. (PMC 62-31)
13. 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)
14. 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.
15. All grading shall conform to the 2016 California Building Code, and all other relevant laws, ordinances and resolutions governing grading as adopted by the City of Pomona. The applicant shall obtain a grading permit from the Building & Safety Division prior to commencing any grading or site excavation.
16. Geotechnical and/or soils reports required in order to obtain a grading permit shall be submitted to the Building Official for review and approval prior to issuance of a grading

permit. All grading shall be in conformance with the recommendations of the geotechnical/soils reports as approved by the City of Pomona.

17. 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.
18. 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.
19. Proposed project shall be sprinklered and comply with all other relevant laws, ordinances and resolutions governing residential sprinklers as adopted by the City of Pomona.
20. Park and Recreation Improvement Fee shall be \$675 per dwelling unit for new construction. (Ordinance 3506)
21. Building Department comments and conditions are subject to plan check. Comments are based on information provided.
22. Fence and wall plan and permit is required, subject to review and approval of the Development Services Department.

Water & Wastewater Operations Department

Water & Sewer

23. Currently there exists a six-inch (6") CIP water main and an eight-inch (8") DIP water main within Towne Avenue. The existing localized static pressure of the project area is 60-70 psi. There is currently an existing 1" meter serving the existing home at 1538 S. Towne Avenue. Due to the new single family homes having fire sprinklers, two additional one-inch (1") meters with 1" dual check backflow devices shall be installed.
24. The applicant/developer shall calculate the new water demand (based on fixture units) and sewer discharge rates for the proposed development. These hydraulic analyses reports shall verify if the existing infrastructure can accommodate the proposed demands. These calculations shall include fire, domestic and wastewater demands. This hydraulic analysis report shall be submitted to the WRD for review and acceptance.
25. There currently is an existing eight-inch (8") VCP sewer main within Towne Avenue. Identify how the proposed development will be served. The existing sewer infrastructure shall be shown on the site plan.

Public Works Department

Land Development Requirements

26. Property Owner shall submit a Certificate of Compliance application to the Public Works Engineering Department, in accordance with the Subdivision Map Act Section 66412.6(b). The Certificate of Compliance shall be recorded prior to the issuance of the building permits.

Improvement Plans Requirements

27. Applicant/Developer shall submit the grading, drainage and erosion control plans for review and approval by the Public Works, Planning and Building and Safety Departments.
- The plans shall be a minimum of 1" = 10' scale to clearly show all the details; the plans shall be submitted on 24" x 36" sheet size with a standard City title block.
 - One-foot topographic contours of the site must extend a minimum of 15 feet beyond the boundary lines.
 - The plans shall include sufficient cross sections to show all block wall locations, parkway width and all permanent facilities that might require maintenance and access easements.
 - Drainage configurations on the existing adjacent properties shall not be altered, redirected or modified in any way.
28. Prior to issuance of the grading permit the Applicant/Developer shall submit written notifications of adjacent property owners regarding the direct and indirect impact associated with the proposed construction. The notification shall include a statement confirming that the existing public services (sewer, water, storm drain) to adjacent property owners will not be affected by the proposed development. The proposed development shall accept the conveyance of the existing offsite drainage.
29. Prior to issuance of the grading permit the Applicant/Developer shall submit a soils and geologic report to address the soil's stability and geological conditions of the site.
30. Prior to the issuance of the Public Works improvements permit Applicant/Developer shall prepare and submit for review and approval public street improvement plans to include and is responsible for the construction thereof the following:
- New driveway approach per City standards and ADA requirements; unobstructed visibility shall be insured at said driveway approach location.
 - Relocation of the existing front fencing, currently encroaching in the public right-of-way, to the property line, which is located 16 feet from the face of curb.
 - New sidewalk, curb and gutter to replace all damaged cracked and uplifted sections.

- d. Asphalt Rubber Hot Mix (ARHM) overlay paving of Towne Avenue along the lot frontage, in compliance with the City standards and based on the project related wet and /or dry utility cuts.
 - e. Parkway drain(s) per City standards.
 - f. Existing and proposed sewer, water and storm drain infrastructure, including laterals.
 - g. Parkway landscaping; the parkway landscaped area shall be maintained by the property owner, as required by the City's Municipal Code Section 46-496.
 - h. Undergrounding of all existing (along the Towne Avenue lot frontage) and proposed overhead utility lines to conform with the City of Pomona Municipal Code Section 62-31(b).
 - i. Add the following note: "It is the owner's and the contractor's responsibility to repair all damage to the existing public improvements due to the proposed construction activities and to address all repairs requested by the Public Works Inspector based on the inspector's review of the current condition of the said public improvements".
31. The demolition or relocation of any public improvements (street lights, signs, trees, vaults, catch basins, hydrants, etc.) due to the proposed project construction must be coordinated and agreed upon by the appropriate City departments, shall be designed per City standards and applicable ADA requirements, and must be reviewed and approved by Public Works Engineering Department.
32. Applicant/Developer shall identify the existence of all City utilities that may be in conflict with the development and submit protection measures to the City Engineer for those City utilities.
33. If future placement of permanent structures conflicts with location of existing public utilities (water, sewer and storm drain), then improvement plans proposing the relocation or abandonment of identified utilities must be submitted, reviewed and accepted by the Public Works Department. No public utility infrastructure shall be removed or modified as part of the onsite demolition plan approved by the Building and Safety Department.
34. Applicant/Developer shall implement stormwater 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.
35. Prior to issuance of the building permits Applicant/Developer is responsible for paying the project's impact fees for traffic signals and control devices, road and highway improvements, public safety improvements and parks and the project's water and sewer connection fees.

36. Prior to issuance of the building permits applicant/developer is responsible for paying the development tax associated with the proposed project.
37. Owner is responsible for the compliance with the special annual levy assessment derived from the current inclusion of the project site into the City's Street Lighting District 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.
38. The final improvement plans, as shown on the Mylar, shall be provided to the City in both hard copy and electronic in AutoCAD v. 2010. Following construction and prior to acceptance of the improvements by the City, the project engineer shall provide hand drafted "AS BUILT" corrections on the original approved Mylars of the final constructed improvements to the satisfaction of the City Engineer. A corrected "AS BUILT" plan shall also be provided to the City on disk in AutoCAD v. 2010 and .pdf formats.
39. The plans shall be submitted on 24" x 36" sheet size with a standard City title block, and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities (water, sewer, and storm drain), utility easements, and the public right-of-way areas with dimensions.

Public Works Improvements Permit

40. All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.
41. Prior to the issuance of the building permits, Applicant/Developer shall post surety bonds for all public improvements, including but not limited to: driveway approaches, sidewalk, curb and gutter, street paving, parkway landscaping, existing and proposed overhead lines undergrounding, water, sewer, and storm drain improvements.
42. 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;
 - d. Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured.
43. Permittee shall pay fees associated with and possess the City of Pomona Business License.

44. Changes and additions to the proposed work, including but not limited to detail plans for street improvement work, water plans 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.

SECTION 5. The City Clerk shall attest and certify to the passage and adoption of this Resolution and shall cause same to be posted as required by law, and this Resolution shall take immediately.

APPROVED AND PASSED THIS 10th DAY OF SEPTEMBER, 2018

ATTEST:

CITY OF POMONA:

Marie Michel Macias, Interim City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

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

I, MARIE MICHEL MACIAS, INTERIM CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was approved at a regular meeting of the City Council of the City of Pomona held on the 10th day of September, 2018, and adopted on the _____ day of _____, 2018 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:

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ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Marie Michel Macias, Interim City Clerk