

## **RESOLUTION NO.**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA APPROVING OF A CONDITIONAL USE PERMIT (CUP 10271-2018) TO ALLOW THE ADDITION OF 37,651 SQUARE FEET OF FLOOR AREA TO AN INDUSTRIAL BUILDING ON THE 1.8 ACRE PROPERTY LOCATED AT 1485 E. THIRD STREET**

**WHEREAS**, the applicant, Domenico Mimmo Bruno, submitted an application for a Conditional Use Permit (CUP 10271-2018) to allow the addition of 37,651 square feet of floor area to an existing industrial building on the 1.8 acre property located at 1485 E. Third Street;

**WHEREAS**, the subject property is located within the M-2 (General Industrial) Zoning District;

**WHEREAS**, the subject property is designated “Workplace District” by the City’s General Plan;

**WHEREAS**, Section .580.B of the Pomona Zoning Ordinance, a Conditional Use Permit is required to add more than 20,000 square feet to an industrial building in the M-2 zone;

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on November 28, 2018 concerning the requested Conditional Use Permit (CUP 10271-2018) for the project;

**WHEREAS**, the Planning Commission of the City of Pomona 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 their independent judgment has determined that pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is Categorically Exempt under 15332 (Class 32 – In-fill development projects in urbanized areas) of the CEQA Guidelines in that the proposed project is in an urbanized area and involves the addition to an existing building on a site of less than 5 acres; the site has no value as habitat for endangered, rare or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site is adequately served by all required utilities and public services. The proposed project is consistent with the categorical exemption; therefore, no further environmental review is required.

**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 servable.

**SECTION 3.** Pursuant to Section .580.B of the Zoning Ordinance, the Planning Commission must make findings listed below in order to grant the Conditional Use Permit (CUP 10271-2018). 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 the proposed use at the particular location will contribute to the general well-being of the neighborhood or community.*

The project will promote the continued viability of the business, providing needed local jobs. It will also enhance the property by removing many older structures with a modern facility and much-needed landscaping.

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 meet all City Codes and standards, other than total landscaping in Phase 2. Even then, the project will only be approximately 300 feet short of the standard, with nearly 3,000 square feet of new landscaping provided along with a substantial number of new trees. Given the constraints on the site, the applicant has been diligent at meeting the intent of the landscaping standards. The project will have appropriate conditions of approval that will ensure that the project will not be detrimental to the health, safety or general welfare of the community. As discussed in the Project Summary Table, the Zoning Ordinance Consistency section and Land Use Compatibility section, the project will have development characteristics that are compatible with and not detrimental to either existing or proposed surrounding development.

3. *That the site of the proposed use is of adequate topography, size and shape to accommodate said use as well as all yard 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.*

As discussed in the Project Summary Table, the Zoning Ordinance Consistency section and Land Use Compatibility section, the project will have development characteristics that are compatible with and not detrimental to either existing or proposed surrounding development.

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

Vehicular access will be via both Third and First Streets. Adequate parking to meet Zoning requirements, as reduced by the approved Minor Deviation Variance, will be provided on the property.

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 project supports Goal 6F.G1 of the General Plan:

*“Maintain adequate land in the City for workplace uses that contribute to the City’s diverse economy and provide jobs for the City’s residents.”*

The project will support the continued viability of the business, providing needed jobs in the city.

The project supports Goal 6F.G4 of the General Plan:

*“Improve the physical character of workplace districts to complement the transition of the area to lighter industrial/higher technology uses.”*

Removing the many small, old buildings on the north side of the site, and replacing them with a modern addition to the building, will enhance the physical character of the property. The landscaping improvements to be implemented will improve the aesthetics of the site and benefit both the neighborhood and the employees on the property.

The proposed project is consistent with the following objective from the Economic Development Element of the General Plan:

*“It is the policy of the City of Pomona to encourage, with all means possible, the economic development and redevelopment of the private sector.”*

Approving the proposed Conditional Use Permit will allow the owner to redevelop older portions of the property, enhance the viability of the business and support the City’s economy.

**SECTION 3.** Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 10271-2018) 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 DIVISION**

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and recommended for approval by the Planning Commission on November 28, 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, may be reviewed and approved by the Development Services Director or designee .
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 submit Landscape and Irrigation Plans for plan check review that demonstrates water-efficient plantings and an irrigation system that is in compliance with the City of Pomona's Landscape Ordinance, subject to review and approval by the Development Services Director or designee, prior to issuance of any building permits for the subject site.
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. The approved Conditional Use Permit (CUP 10271-2018) 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 for Phase 1 of the proposed project as indicated in the stamped and

approved plans dated November 28, 2018 has not commenced by November 28, 2019. The Planning Commission may extend this period for one (1) year upon receipt of a written request by the applicant at least thirty (30) days before the expiration date of this approval.

6. 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.
7. 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.

#### **BUILDING DEPARTMENT**

8. The undergrounding of utility facilities is required. (PMC 62-31)
9. 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)
10. The design of the building shall comply with the 2016 California Building Codes.
11. A building permit shall be obtained for the proposed construction and site development.
12. 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.
13. 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.
14. 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.
15. 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.

16. Building Department comments and conditions are subject to plan check. Comments are based on information provided.
17. AQMD notification and Demolition permit required for demolition part of this project.

### **PUBLIC WORKS—TRANSPORTATION AND DEVELOPMENT DIVISION**

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<sup>1</sup>.

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.

#### **Land development requirements**

18. Property Owner shall dedicate the necessary real property associated with the construction of the proposed First Street driveway approach, in compliance with the City standards and the ADA continuous path of travel requirements.

#### **Improvement plans requirements**

19. 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.
  - a. 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.
  - b. One-foot topographic contours of the site must extend a minimum of 15 feet beyond the boundary lines.
  - c. 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.
  - d. Drainage configurations on the existing adjacent properties shall not be altered, redirected or modified in any way.
20. Prior to issuance of the grading permit the Applicant/Developer shall submit **written notifications to the next adjacent (non-City) property owners** as indicated on the Planning Commission meeting notification list 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 and outline the City approval process (City review, public notification, Planning Commission approval, plans on record, etc.). The proposed development shall accept the conveyance of the existing offsite drainage.

21. Prior to the issuance of the grading permit the applicant/developer shall provide **non-interference letters** from all applicable utility agencies for all utility easements located within the areas subject to grading activities. All such documents shall be subject to review and approval by the City Engineer.
22. 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.
23. Prior to the issuance of Public Works improvements permit, Applicant/Developer shall submit for review and approval **public street improvement plans** to include the following items and are responsible for the construction thereof:
  - a. Removal and reconstruction of the Third Street driveway approach, removal of all existing First Street driveway approaches, total of three (3) and construction of a new First Street driveway apron in conformity with City standards and ADA mandates. Unobstructed visibility shall be ensured at all intersections and driveways along the project boundaries.
  - b. New sidewalk, curb and gutter to replace (i) all existing aprons proposed for removal and (ii) all damaged cracked and uplifted sections.
  - c. In the event that project related hardscape, wet and/or dry utility pavement cuts are needed along the Third Street and First Street property frontages, overlay paving shall occur in accordance with the City standard A-26-02.
  - d. To address required City standard upgrades and site access safety the following modification shall be made to the public street lights: refurbish one (1) existing street light luminaire along the project's Third Street boundary with LED luminaire.
  - e. Parkway drains per City standards.
  - f. Existing and proposed sewer, water and storm drain infrastructure.
  - g. Undergrounding of the existing (along Third and First Streets) and proposed overhead utility lines to conform with the City of Pomona Municipal Code Section 62-31(b) and a note to this effect shall be added to the public street improvement plan.
  - h. The parkway landscaped area shall be maintained by the property owner, as required by the City's Municipal Code Section 46-496 and a note to this effect shall be added to the public street improvement plan.
  - i. 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 and a note to this effect shall be added to the public street improvement plan.

24. The demolition or relocation of all 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 the Engineering Division of the Public Works Department.
25. 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.
26. 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.
27. Prior to approval of any improvement plans and/or grading permit issuance Applicant/Developer shall prepare a detailed **hydrology study based on a 50-year** storm event and a hydraulic analysis of the existing and proposed drainage conveyance capacity. These reports shall be submitted to the Public Works and Building and Safety Departments for review and approval. The Developer is responsible to comply with the approved hydrology study recommendations necessary to meet minimum Federal, State, County and City requirements.
28. Prior to issuance of the grading permit Applicant/Developer shall develop and obtain the City approval of the final **Standard Urban Stormwater Mitigation Plan (SUSMP)** for the proposed project. The SUSMP shall be prepared in accordance with the City of Pomona's Low Impact Development (LID) Ordinance, the City of Pomona's Green Streets Policy and the Los Angeles Region NPDES MS4 Permit No. CAS004001, Order No. R4-2012-0175 which includes:
  - a. Site Design BMPs;
  - b. Source Control BMPs; and
  - c. Treatment Control BMPs.

Applicant/Developer shall utilize the County of Los Angeles Department of Public Works Low Impact Development Standards Manual (Published February 2014) as a guidance document for the design of applicable Best Management Practices (BMPs) proposed for the project.

Post-construction Structural and/or Treatment Control BMPs, shall be designed to mitigate (infiltrate or harvest and use) storm water run-off from the 85th percentile 24-hour rain event or 0.75-inch, 24-hour rain event, whichever is greater. The comparison must be provided in the SUSMP.

Applicant/Developer shall utilize the County of Los Angeles Department of Public Works' HydroCalc program described in the LID Manual to calculate these design flows and volumes. The program download can be found at <http://dpw.lacounty.gov/wrd/publication/>.



Applicant/Developer shall implement 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.

29. 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 and public safety improvements.
30. Prior to the issuance of the building permits Applicant/Developer is responsible for the payment of all City **water and sewer connection fees** and shall make proof of payment of the Los Angeles County Sanitation District fees associated with the proposed development.
31. Prior to issuance of the building permits Applicant/Developer is responsible for paying the **development tax** associated with the proposed project.
32. 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.
33. 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**

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

34. **Prior to the issuance of the offsite improvements permits, Applicant/Developer shall post surety bonds for the proposed public improvements, including but not limited to: driveway approaches, sidewalk, curb and gutter, street paving, street light, water, sewer and storm drain improvements.**
35. 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.

36. Permittee shall pay fees associated with and possess the City of Pomona Business License.
37. 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.

**LOS ANGELES COUNTY FIRE DEPARTMENT**

38. Submit two complete sets of architectural drawings. Indicate type of construction, occupancy classification, and area justification.
39. Provide 28 feet clear to sky Fire Department Vehicular Access to within 150 feet of all exterior portions of the building.
40. Show all existing public fire hydrants (6"x4"x2-1/2") within 300 feet of all property lines. Include size of barrel and outlets.
41. Provide a completed fire flow availability form (Form 196).
42. Additional requirements may be necessary pending information provided.

**SECTION 4.** The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

**APPROVED AND PASSED THIS 28<sup>TH</sup> DAY OF NOVEMBER, 2018**

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DR. KYLE BROWN  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

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MARIO SUAREZ, AICP  
PLANNING COMMISSION SECRETARY

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**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 Sec. 1094.6 C.C.P."