

**PC RESOLUTION NO. XXX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING MODIFICATION OF CONDITIONAL USE PERMIT (MODCUP 6924-2017) TO ADD AN AUTOMATIC CARWASH TUNNEL TO AN EXISTING AUTOMOBILE SERVICE STATION AND CONVENIENCE STORE ON A 39,909 SQUARE FOOT LOT IN THE M-2 (GENERAL INDUSTRIAL) ZONE ON PROPERTY LOCATED AT 2488 S. RESERVOIR STREET (APNS: 833-001-2010, 833-001-2025).**

**WHEREAS**, the applicant, Thomas Kim, has submitted an application for Modification of Conditional Use Permit (MODCUP 6924-2017) to add an automatic carwash tunnel to the premises of a 39,909 square foot lot in the M-2 (General Industrial) zone on property located at 2488 S. Reservoir Street;

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

**WHEREAS**, the subject property is on parcels designated as "Workplace District Edge" on the General Plan Land Use Map;

**WHEREAS**, a Conditional Use Permit for an automobile service station and mini-mart was issued on May 25, 1988;

**WHEREAS**, the applicant seeks to modify the existing Conditional Use Permit to add an automatic car wash tunnel along the northern property line;

**WHEREAS**, the applicant has concurrently submitted a request for a Variance (VAR 6925-2017) for a reduced property setback and a Modification of Conditional Use Permit (MODCUP 10990-2018) for an existing off-sale beer and wine license;

**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 Modification of Conditional Use Permit (MODCUP ); 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 their independent judgment has determined that pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), that the project is Categorical Exempt under Section 15303, Class 3 (New Construction or Conversion of Small Structures) of CEQA, in that the proposed project is in an urbanized area, the carwash does not involve the use of hazardous substances and is less than

10,000 square feet in floor area.

**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 .580.B of the Zoning Ordinance, the Planning Commission must make the five findings listed below in order to grant Modification of Conditional Use Permit (MODCUP 6924-2017). 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. *The proposed use at the particular location will contribute to the general well-being of the neighborhood or community.*

The proposed addition of the carwash will contribute to the general well-being of the area, in that the applicant is proposing to increase the amount of services provided and to improve the aesthetics of an already existing service station that is located on a major street.

2. *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 proposed use is permitted in the M-2 (General Industrial) zone, and is compatible with the adjacent uses. The proposed project will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity; instead, it will have a positive effect on the existing uses by increasing the aesthetics and the improvements in the vicinity.

3. *The site of 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 with the land and uses in the neighborhood and make it compatible thereto;*

The site is of adequate topography, size and shape to accommodate the proposed addition of the carwash tunnel. The project meets the development standards of the M-2 zone, except for the north building setback in which the applicant is requesting a variance.

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

The traffic generated by the existing service station and proposed carwash will not exceed the capacity of the existing streets from which the subject site will take ingress/egress. Reservoir Street and County Road are of appropriate width and have improvements to handle any additional traffic generated by the proposed use.

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 General Plan designation of the subject site is Workplace District Edge. With the conditions of approval, the proposed addition to an existing service station will positively affect the general welfare of the community by improving the aesthetics and the services provided on this site.

**SECTION 4.** Based on the above findings, the Planning Commission hereby approves Modification of Conditional Use Permit (MODCUP 6924-2017), subject to the following conditions:

## **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 November 28, 2018, and as illustrated in the stamped approved plans dated 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 Planning 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. 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.
5. The approved Conditional Use Permit 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 has not commenced by November 28, 2019. The Planning Commission may extend this period for one year upon receipt of a written request by the applicant at least thirty (30) days before the expiration date of this approval.
6. Written appeals may be filed with the City Clerk within 20 days of approval of Conditional Use Permit (MODCUP 6924-2017) by the applicant or any person owning property within four hundred (400) feet of the exterior boundary of the applicant's property.

*Site Development & Maintenance:*

10. During demolition, grading, site development, and/or construction, all requirements of the Pomona Zoning Ordinance and Municipal Code, including the noise provisions, shall be adhered to. All activities including truck deliveries associated with construction and grading will be limited to Monday through Saturday, between 7:00 AM and 8:00 PM, and provided the noise level created by such activities do not exceed the noise standard of 65 dB(A) plus the limits specified in section 18-311(b) as measured on residential property and any vibration created does not endanger the public health, welfare, and safety.
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.*, or such other ordinance enacted related to noise and vibration.

12. The construction area shall be kept clean at all times prior to, during, and after construction.
13. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint and film utilized to cover the graffiti shall 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.
14. 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.
15. All landscaping shall be maintained in a neat and clean manner, and in conformance with the approval of Development Plan Review 5181-2016. Prior to removing or replacing any landscaped areas, check with the Planning Division. Substantial changes may require approval by the Development Services Director.
16. Lighting of the premises shall be maintained so that a minimum of one foot-candle of illumination for all exterior portions of the site is maintained during all hours of operation. Said lights shall be property directed and shielded to prevent any stray light on adjacent properties.

#### **BUILDING & SAFETY**

7. The undergrounding of utility facilities is required. (PMC 62-31)
8. The design shall 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)
9. 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.
10. 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.
11. 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.

12. 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.
13. The 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.
14. The 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.
15. Accessible upgrades will be required in the existing convenience store.
16. Building Department comments and conditions are subject to plan check. Comments are based on information provided.

## **WATER RESOURCES**

17. Per City billing records there is currently a 1-1/2" water meter serving the site at 2488 S. Reservoir Street. This existing meter shall be retrofitted with a low-lead reduced pressure principle assembly backflow device.
18. Approved low-lead (0.25%) backflow devices (list brand and model) are required for the following service lines to the site:
  - Reduced pressure principle devices are required for dedicated irrigation service lines to the proposed site, and
  - Reduced pressure principle devices are required for all domestic services; and
  - Double check detector assembly devices for all fire sprinkler service lines.
19. The applicant/developer shall calculate the new water demand (based on fixture units) to verify that the existing water infrastructure can accommodate the proposed water demand, given the size, pressure, and age of the existing system. This calculation shall include fire and domestic water demands. These calculations shall be submitted to Water Resources.
20. Per City of Pomona Municipal Code Sections 62-354(g) and 62-359, all commercial conveyor car wash systems must have installed operational recirculating water systems, or must have secured a waiver of this requirement from the City.

## **PUBLIC WORKS**

### **Land development requirements**

21. Property Owner shall submit a Lot Merger application for the consolidation of portions of Lot 2, Block "T" of the Map No. 1 of a Portion of Phillips Addition to Pomona, recorded in Book 17, Page 94 of Miscellaneous Records, County of Los Angeles, associated with Assessor Parcel Numbers 8330-012-010 and -025, into one lot; the application shall be submitted to the Public Works Department for review and approval and shall be recorded prior to the issuance of the building permits.
22. Property Owner shall dedicate a 5-foot strip of land along County Road property frontage to ensure the compliance with the ultimate right-of-way width of 80 feet.

**Improvement plans requirements**

23. Prior to the issuance of the building permits, Applicant/Developer shall submit for review and approval an Erosion and Sediment Control Plan and a Revised Site Plan to include the following items and shall be responsible for the construction thereof:
  - a) Removal of the Reservoir Street and County Road driveway approaches, total of two (2), and construction of two (2) new driveway aprons in compliance with the City standards and ADA mandates. Unobstructed visibility shall be ensured at all intersections and driveways along the project boundaries.

Property Owner shall dedicate the necessary real property associated with the required reconstruction of the aforementioned driveway approaches, in compliance with the City standards and the ADA continuous path of travel mandates.
  - b) New sidewalk, curb and gutter to replace 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 Reservoir Street and County Road frontages, pavement resurfacing shall occur in accordance with the City standard A-26-02.
  - d) To address site access safety and required City standard upgrades, the following modification shall be made to street lights: refurbish one (1) Reservoir Street street light luminaire with an LED luminaire.
  - e) Existing and proposed sewer, water and storm drain infrastructure.
  - f) Undergrounding of the existing (along Reservoir Street and County Road) 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.
  - g) 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. 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.
  28. 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.
  29. 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.
  30. Prior to issuance of the building permits Applicant/Developer is responsible for paying the development tax associated with the proposed project.
  31. 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.
  32. 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.



33. Prior to the issuance of the public 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 and sewer improvements. All public improvements shall be completed prior to the issuance of the Certificate of Occupancy or to the building permits being finalized.
34. 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.
35. Permittee shall pay fees associated with and possess the City of Pomona Business License.
36. 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 4.** The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

**APPROVED AND PASSED THIS 28TH DAY OF NOVEMBER, 2018**

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DR. KYLE BROWN  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

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MARIO SUAREZ, AICP, CNU-A  
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 Sec. 1094.6 C.C.P."