

PC RESOLUTION NO. 18-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING THE REVOCATION OF VARIANCE 07-005 (PC RESOLUTION NO. 07-060) THAT HAS NOT BEEN EXERCISED TO ALLOW A REDUCTION OF THE NORTH BUILDING SETBACK TO FOUR FEET AT AN EXISTING AUTOMOBILE SERVICE STATION IN THE M-2 (GENERAL INDUSTRIAL) ZONE ON PROPERTY LOCATED AT 2488 SOUTH RESERVOIR STREET.

WHEREAS, the City has initiated revocation of Variance 07-005 to allow a reduction of the north building setback to four feet at an existing automobile service station because the Variance was not exercised;

WHEREAS, on July 11, 2007, the applicant, Western States Engineering, was issued a Variance (VAR 07-005, Resolution No. 07-060) to allow a reduction of the north building setback to four feet to an existing automobile service station in the the M-2 (General Industrial) zone on property located at 2488 South Reservoir Street which was not initiated or submitted for building permits;

WHEREAS, pursuant to the Pomona Zoning Ordinance, the approval of a Variance is required for major deviations from building setbacks;

WHEREAS, Section .560-H of the Zoning Ordinance provides for revocation of a Variance if the granting body makes one or more of the required findings;

WHEREAS, the revocation of Variance 07-005 (Planning Commission Resolution No. 07-060), has been initiated by the City of Pomona's Development Services Director due to Variance 07-005 having never been exercised, and the inability of such being able to be exercised in the future due to a new property owner seeking to construct a new project;

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 Revocation of Variance 07-005 (Planning Commission Resolution No. 07-060); 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, as follows:

SECTION 1. The Planning Commission, exercising their independent judgment, has determined that this action of revocation has no possibility of having a significant effect on the environment, and is therefore not a project as defined under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines and, therefore, not subject to 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. 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:

The permit or variance granted is being, or has been, exercised contrary to any conditions imposed upon such permit, or in the violation of a law.

The conditional use permit was never acted upon and is therefore in violation of the conditions contained in the original resolution that granted entitlement (Planning Commission Resolution No. 07-060). Specifically, Condition of Approval No. 6 states “The approved Variance (VAR 07-005) 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, which deals with the construction of the proposed car wash tunnel, has not commenced by July 11, 2008.”

SECTION 4. Based on the above finding, the Planning Commission hereby approves the revocation of Variance 07-005 (Planning Commission Resolution No. 07-060), in its entirety.

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

APPROVED AND ADOPTED THIS 28TH DAY OF NOVEMBER, 2018.

DR. KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

MARIO SUAREZ, AICP, CNU-A
PLANNING COMMISSION SECRETARY

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APPROVED AS TO FORM:

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."