

RESOLUTION NO. 2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA DENYING CONDITIONAL USE PERMIT (CUP 9509-2018) TO ALLOW FOR A TYPE 20 OFF-SALE BEER AND WINE LICENSE IN CONJUNCTION WITH A CONVENIENCE STORE LOCATED AT 888 W. MISSION BOULEVARD IN THE NEIGHBORHOOD CENTER SEGMENT OF THE POMONA CORRIDOR SPECIFIC PLAN AND THE MIXED-USE ARTERIAL RETAIL ZONE IN THE DOWNTOWN POMONA SPECIFIC PLAN (APN 8342-013-020).

WHEREAS, the applicant, Fielder Group and 7-Eleven, Inc, has filed an application for a Conditional Use Permit (CUP 9509-2018) to permit a Type 20 Off-Sale Beer and Wine license in conjunction with convenience store located at 888 West Mission Boulevard; Assessor's Parcel Number 8342-013-020;

WHEREAS, the subject site is currently located within the Midtown Segment of the Pomona Corridor Specific Plan and the Mixed-Use Arterial zone of the Downtown Pomona Specific Plan;

WHEREAS, the subject site is currently designated "Neighborhood Edge" by the City's General Plan;

WHEREAS, pursuant to the Pomona Corridor Specific Plan (PCSP), the approval of a Conditional Use Permit is required for the sale of alcohol for off-site consumption;

WHEREAS, the approval of a conditional use permit by the Planning Commission is required for the on-sale of alcoholic beverages, pursuant to Section .580 of the Pomona Zoning Ordinance;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on October 10, 2018, concerning the requested Conditional Use Permit (CUP 9509-2018) and voted (0-6-0-1) to deny the project;

WHEREAS, an application for appeal was submitted by City Councilmember Rubio Gonzalez on October 30, 2018;

WHEREAS, the City Council of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on January 7, 2019, concerning the requested appeal of the Planning Commission's denial of the project application;

WHEREAS, the City Council 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 City Council of the City of Pomona, California:

SECTION 1. The City Council exercising their independent judgement has determined that pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), that the project is Categorically Exempt under Section 15332, Class 32 (Existing Facilities) in that the action involves the licensing and minor alteration of an existing building for the proposed use.

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 City Council must make findings in order to approve Conditional Use Permit (CUP 9509-2018). 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 City Council 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 will not contribute to the general well being of the neighborhood and community. The proposed use will not provide an improvement to a physical structure and larger site that has been unoccupied and vacant for multiple years.

2. *That such use will, under the circumstances of the particular use, 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.*

The proposed use will be detrimental to the health, safety, peace, or general welfare or persons residing or working in the immediate vicinity. The project will be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the subject site is located near sensitive uses that are incompatible with the proposed use.

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 proposed use will occupy a 3,500 square foot convenience market that is part of a larger commercial shopping center, which has been designed for adequate parking, grading, drainage, and site improvements, such as landscaping and lighting.

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

The site is located at the intersection of White Avenue and Mission Boulevard, which are two major thoroughfares in the City of Pomona. A Traffic Impact Study conducted for the

convenience market and shopping center found that the proposed uses can accommodate additional traffic generated by the proposed use. The proposed project will not generate significant amounts of traffic warranting further departmental review.

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.*

Approval of the CUP to allow for alcohol will adversely affect the General Plan of the City and will not be consistent with the site place type designation (Neighborhood Edge). In addition, the project will not be consistent with General Plan Goal GD.61 which is to “improve the physical character, economic vitality, and mobility function of the City’s most visible and well-traveled corridors.” It is unclear how the proposed alcohol use in conjunction with a convenience market, as part of a larger commercial shopping center, will contribute towards strengthening economic vitality of the Mission and White corridor in the City of Pomona.

SECTION 4. Based upon the above findings, the City Council hereby denies Conditional Use Permit (CUP 9509-2018).

SECTION 5. The City Clerk shall attest and certify to the passage and adoption of this Resolution and it shall become effective immediately upon its approval.

APPROVED AND PASSED THIS 7TH DAY OF JANUARY, 2019.

ATTEST:

CITY OF POMONA:

Rosalia Butler, City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

Christi Hogin, Interim City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, ROSALIA BUTLER, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 7th day of January, 2019 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Rosalia Butler, City Clerk

“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.”