

PC RESOLUTION NO. XX-XXX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING THE REVOCATION OF CONDITIONAL USE PERMIT 05-054 (PC RESOLUTION NO. 06-031) THAT HAS NOT BEEN EXERCISED TO CONSTRUCT A ONE-STORY 5,745 SQUARE FOOT GAS STATION WITH A CAR WASH, FOOD MART, AND LUBE BAY IN THE ACTIVITY CENTER OF THE PHILLIPS RANCH SPECIFIC PLAN ON PROPERTY LOCATED AT 46 RIO RANCHO ROAD

WHEREAS, the City has initiated revocation of previously approved Conditional Use Permit No. 05-054 to construct a one-story 5,745 square foot gas station with a car wash, food mart, and lube bay because the Conditional Use Permit was not exercised;

WHEREAS, on April 26, 2006, the applicant, Phillips Ranch Development LLC, was issued a Conditional Use Permit to construct a one-story 5,745 square foot gas station with a car wash, food mart, and lube bay in the Activity Center of the Phillips Ranch Specific Plan on property located at 46 Rio Rancho Road which was not initiated;

WHEREAS, pursuant to the Pomona Zoning Ordinance, the approval of a Conditional Use Permit is required for automobile service stations;

WHEREAS, Section .580-H of the Zoning Ordinance provides for revocation of a Conditional Use Permit if the granting body makes one or more of the required findings;

WHEREAS, the revocation of Conditional Use Permit 05-054 (Planning Commission Resolution No. 06-031), has been initiated by the City of Pomona's Development Services Director due to Conditional Use Permit 05-054 having never been exercised, and the inability of such being able to be exercised in the future due to a new property owner developing a project on the site;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law held a public hearing on March 13, 2019, concerning the Revocation of Conditional Use Permit 05-054 (Planning Commission Resolution No. 06-031); 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 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. 06-031). Specifically, Condition of Approval No. 2 states “This approval shall lapse and become void on April 26, 2007, if the privilege authorized is not utilized, where some form of construction pursuant to issuance of a building permit has not commenced.”

SECTION 4. Based on the above finding, the Planning Commission hereby approves the revocation of the Conditional Use Permit 05-054 (Planning Commission Resolution No. 06-031), 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 13TH DAY OF MARCH, 2019.

DR. KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

ANITA D. GUTIERREZ, AICP
PLANNING COMMISSION SECRETARY

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46 Rio Rancho Road
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APPROVED AS TO FORM:

MARCO A. MARTINEZ
INTERIM 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."