

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA APPROVING A CONDITIONAL USE PERMIT (CUP 011186-2018) TO ALLOW CONDOMINIUM CONVERSION OF TWELVE UNIT RESIDENTIAL DEVELOPMENT IN THE R-2 ZONE LOCATED AT 1452 S. WHITE AVENUE

WHEREAS, the applicant, Jim Moran, submitted an application for a Conditional Use Permit (CUP 011186-2018) and Tentative Tract Map (TRACTMAP 9725-2018) to allow condominium conversion of 12 unit development in the R-2 zone located at 1452 S. White Avenue;

WHEREAS, the subject property is located within the R-2-S (Low Density Multiple-Family, S Overlay) Zoning District;

WHEREAS, the subject property is designated “Residential Neighborhood” by the City’s General Plan;

WHEREAS, an application for Tentative Tract Map (TRACTMAP 9725-2018) was also filed;

WHEREAS, pursuant to Section .580 of the Pomona Zoning Ordinance, a Conditional Use Permit is required to convert to condominiums;

WHEREAS, a conversion to condominiums is subject to provisions Section .58012 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 June 12, 2019 concerning the requested Conditional Use Permit (CUP 011186-2018) and Tentative Tract Map (TRACTMAP 9725-2018) 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 15301 (Class 1 – Existing Facilities) of the CEQA Guidelines in that the proposed project is in a division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt; and a General Rule Exemption pursuant to Article 5, 15061(b)(3) which

exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

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 011186-2018). In addition, conversion to condominiums is subject to provisions Section .58012, which states that a conditional use permit may not be granted unless the following general conditions are found to exist.

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 enhance the property by increasing homeownership opportunities. This will further enhance the neighborhood by providing additional for-sale housing choices in the neighborhood.

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.*

Condominium conversion of the existing multifamily residential development will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity, or be detrimental to the use, valuation or enjoyment of property or improvements in the vicinity. The property has been developed according to the development and use standards of the R-2 Multiple-Family Zoning District.

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.*

The site currently accommodates 12-unit development that meets yard, walls, fencing, parking, loading, and landscaping requirements of the Pomona Zoning Ordinance. The existing development is compatible with other developments along White Avenue.

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

White Avenue is of adequate width and improvement to carry traffic generations typical of residential development projects. Condominium conversion will not adversely affect traffic generation.

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 6G.G8 of the General Plan:

“Pomona’s neighborhoods are diverse and each neighborhood’s character should be preserved and enhanced.”

The proposed subdivision does not include new construction or modifications to the existing structure and the proposed subdivision will maintain the diverse neighborhood. Subdividing the properties will increase opportunities for ownership which will enhance property maintenance of these homes.

“Ensure safe, family-oriented, human-scaled, walkable and livable residential neighborhoods.”

The project will provide needed for-sale housing for the City and upgrade the site, enhancing the character of the neighborhood.

6. *Establishment and maintenance of the co-operative multiple dwelling applied for conforms with the comprehensive planning and land use regulations and the General Plan;*

The development of the 12 residential units was approved through a Conditional Use Permit on August 9, 2017. The development meets the development standards of the Pomona Zoning Ordinance, and meets the comprehensive planning and the General Plan by remaining consistent with the “Residential Neighborhood” place type as designated on the General Plan. The conversion of existing multiple dwellings to condominiums allows development to ensure safe, family-oriented, human-scaled, walkable and livable residential neighborhoods. Subdividing this development will allow more homeownership for the neighborhood.

7. *Adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided;*

Adequate utilities, access roads, drainage, and other necessary facilities have been provided through the construction of the development. Conversion of this development to condominiums will not impact the existing infrastructure.

8. *The proposed co-operative multiple dwelling will not under the circumstances of the particular case, be a nuisance or be detrimental to the health, safety, peace, morals, comfort and general welfare of person residing in the neighborhood;*

The proposed multiple dwellings will not be nuisance or detrimental to the health, safety, peace, morals, comfort and general welfare of person residing in the neighborhood because the development is in full conformance with the development standard and use required in the R-2 zone. The project is consistent with the surrounding properties which are zoned and planned for residential uses by the General Plan.

9. *The proposed co-operative multiple dwelling is not detrimental or injurious to property and improvements in the neighborhood and is appropriate to the location, the lot and the neighborhood; and*

The proposed multiple dwelling is not detrimental or injurious to property and improvements in the neighborhood and is appropriate to the location, the lot and the neighborhood. The development and use of multifamily units are appropriate to R-2 zone. Allowing ownership to these properties will increase the property maintenance and value of these homes.

10. *The co-operative multiple dwelling project meets or exceeds all building and zoning standards currently applicable to new construction of such project.*

The development of the 12 residential units were approved through a prior Conditional Use Permit on August 9, 2017. The development meets all building and zoning standards.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 011186-2018) and Tentative Tract Map (TRACTMAP 9725-2018) 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

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 March 13, 2019, and as illustrated in the stamped approved plans dated March 13, 2019. 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 Manager. To the extent any condition in this resolution is not in conformity with the stamped approved plans, the conditions herein shall prevail.
2. This approval shall lapse and become void if construction has not commenced under a valid building permit within one (1) year from the date of this approval (March 13, 2020), in accordance with Pomona Zoning Ordinance section .580.I. The Planning Commission may extend this period for one (1) year upon receipt of an application for a Time Extension request submitted by the applicant at least thirty days before the expiration date of this approval.
3. The project is subject to a twenty (20) day appeal period. Written appeals may be filed with the City Clerk within twenty days 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. The appeal shall be filed with the City Clerk within twenty days from the date of action by the Planning Commission.
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

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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.

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

APPROVED AND PASSED THIS 12TH DAY OF JUNE, 2019

DR. KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

ANITA GUTIERREZ
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

CHRISTI HOGAN
INTERIM CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

AYES:
NOES:

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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."