

PC RESOLUTION NO. 19-XXX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT (CUP 12424-2019) FOR DEVELOPMENT OF A SINGLE-FAMILY RESIDENCE ON A 0.5-ACRE LOT WITH THREE EXISTING SINGLE-FAMILY RESIDENTIAL UNITS LOCATED AT 892 E. NINTH STREET IN THE R-2-S (LOW DENSITY MULTIPLE FAMILY WITH SUPPLEMENTAL OVERLAY) ZONE.

WHEREAS, the applicant, Jaime Murillo, has submitted an application for Conditional Use Permit (12424-2019) to allow construction of single-family unit, on an existing lot. The subject site is zoned R-2-S, Low Density Multiple-Family Residential with Supplemental Use Overlay.

WHEREAS, a Conditional Use Permit is required for certain development on property with an “S” overlay projects, pursuant to Section .440 of the Pomona Zoning Ordinance;

WHEREAS, the subject site has three existing residential units;

WHEREAS, the subject property is on a parcel designated as “Residential Neighborhood” on General Plan Land Use Map;

WHEREAS, the proposed development meets all the development standards of the R-2-S (Low Density Multiple Family with Supplemental Overlay) which permits single-family residences;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on November 13, 2019, concerning the requested Conditional Use Permit (CUP 12424-2019); 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 the proposed project meets the criteria for a Class 32 Categorical Exemption (In-fill development) pursuant to Section 15332 of the Guidelines for Implementation of the Environmental Quality Act (CEQA). Therefore, the project is 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. In accordance with Section .580.B of the Zoning Ordinance, the Planning Commission must make five (5) findings in order to approve Conditional Use Permit (CUP 12424-2019). 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 wellbeing of the neighborhood or community;*

The proposed use of the subject site for residential development, specifically, the development of a single residence, at this location will contribute to the general well-being of the neighborhood and the community by expanding housing opportunities for residents and by enhancing the appearance of the general area.

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;*

The project will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity since the project is in full conformance with the development standards and use requirements of the R-2-S Zone. The project will not be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the subject site is consistent with the surrounding properties, which are zoned and planned for residential uses by the General Plan. The new project will also enhance the neighborhood.

3. *That the site for the proposed use is of adequate topography, size and shaped 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 subject site has adequate topography, size and shape to accommodate the proposed residential development project. Furthermore, the site's characteristics enable the project to conform fully to the development standards of the R-2-S Zone while compatible with other uses in the vicinity.

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

The subject site has street access directly to Ninth Street, a minor arterial street with access to both S. Towne Ave. and S. San Antonio Ave. All available access to the subject site are

adequate in width to carry traffic generations typical of single-family residential development projects.

5. *That the granting of such conditional use permit will not adversely affect the General Plan of the city or any other adopted plan of the city and conforms to the provisions of the zoning ordinance.*

The granting of the Conditional Use Permit will not adversely affect the General Plan and conforms to the provisions of the Pomona Zoning Ordinance. The proposed residential use is consistent with the “Residential Neighborhood” place type as designated on the General Plan Land Use Map. The project furthers the goals and objectives of the General Plan by allowing a development that would ensure safe, family-oriented, human-scaled, walkable and livable residential neighborhoods (Goals 6G.G8). The project will develop a site that is currently under-utilized and will contribute to the City’s housing stock in which the General Plan identifies as being under supplied.

SECTION 4. Based on the above finding, the Planning Commission hereby approves Conditional Use Permit (CUP 12424-2019), 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 13, 2019, and as illustrated in the stamped approved plans dated October 28, 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 (November 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 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.
5. In case of a violation of any of the conditions of approval and/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 (90) 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.

Plan Check:

6. The applicant shall include all conditions of approval from Conditional Use Permit (CUP 12424-2019) on the title sheet of construction plans prior to plan check submittal.
7. The installation of fences and walls that were not contemplated as part of this permit will require the submittal of a "Fence and Wall Permit" for review and approval by the Planning Division. Block wall/fencing plans (including a site plan, section drawings, and elevations

depicting the height and material of all retaining walls, walls, and fences) consistent with the grading plan shall be submitted to and approved by the Planning Division. Double walls shall be avoided to the greatest extent feasible. The applicant shall coordinate with the adjacent property owner(s) and make reasonable attempts to construct one common property line wall. If coordination with the adjacent property owner(s) cannot be accomplished, the applicant shall construct up to a six (6) foot high decorative wall located entirely within the subject property. Prior to construction of any new walls, a plan must be submitted identifying the removal of any existing walls located on the subject property. Any removal of walls on private property and construction of a new common wall shall include approval by the adjacent property owner(s). The plans shall identify materials, seep holes, and drainage.

Site Development & Maintenance:

8. 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.
9. 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.*, and City Council Ordinance No. 3939 at any time, or such other ordinance enacted related to noise and vibration.
10. The construction area shall be kept clean at all times prior to, during, and after construction.
11. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint 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.
12. Any future substantial changes in the approved plans, except as allowed for by the following conditions, shall require a modification to the Conditional Use Permit.
13. The property shall be maintained free of weeds and debris prior, during and after the construction period.

14. Landscaping is to include a variation of trees, shrubs, vines and ground covers, shall be installed and permanently maintained on the subject site. All landscape areas shall be provided with an automated underground irrigation system. Prior to receiving building permit final, the applicant shall obtain the approval from the Planning Division of a precise landscape and irrigation plan prepared by a licensed Landscape Architect, which meets the most current State of California Drought Executive Order Model Water Efficiency Landscape Ordinance (MWELo) and any modification as adopted by the City of Pomona.
15. The precise landscape and irrigation plans shall include landscape area in the rear and side yards of the proposed development, subject to the review and approval of the Planning Division.
16. All plumbing fixtures shall utilize low flow or low water usage appliances (toilets, sinks, water hose, etc.)
17. Any proposed fencing on the subject site shall be in compliance with Section .503-I of the Pomona Zoning Ordinance and subject to review and approval of a Fence and Wall Permit by the Planning Division prior to receiving a final sign-off on building permits.

BUILDING AND SAFETY DIVISION

18. Submittals after January 1, 2020 will be required to be designed under the 2019 California Codes.
19. The undergrounding of utility facilities is required. (PMC 62-31)
20. The design must 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)
21. 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.
22. 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.
23. 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.

24. 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.
25. 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.
26. 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.
27. Park and Recreation Improvement Fee shall be \$675 per dwelling unit for new construction. (Ordinance 3506)
28. Building Department comments and conditions are subject to plan check. Comments are based on information provided.
29. Fence and wall plan required.

Land Development Requirements:

1. Property Owner shall submit a **Certificate of Compliance** application, in accordance with the Subdivision Map Act Section 66412.6(b). The Certificate of Compliance shall be approved and recorded prior to the issuance of the building permits.

Improvement plans requirements

2. Applicant/Developer shall submit a **drainage and erosion control plans** for review and approval by the Public Works, Planning and Building and Safety Departments.
 - a. The plans shall be a minimum of 1" = 10' scale to clearly show all the details; the plans shall be submitted on 24" x 36" sheet size.
 - b. Drainage configurations on the existing adjacent properties shall not be altered, redirected or modified in any way.
3. Prior to issuance of the grading permit the Applicant/Developer shall submit a **soils and geologic report** to address the soil's stability and geological conditions of the site.
4. Prior to the approval of the building permits, Applicant/Developer shall submit a **revised site plan** to include the following items and are responsible for the construction thereof:
 - a. New driveway approach along Ninth Street to comply with the City standards and ADA requirements.

- b. New sidewalk, curb and gutter to replace (i) the westerly driveway approach proposed for removal and (ii) all damaged, cracked and uplifted sidewalk, curb and gutter sections.
 - c. In the event that project related hardscape, wet and/or dry utility pavement cuts are needed along the Ninth Street property frontage, grind and overlay street repaving 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 the street lights: refurbish one (1) street light luminaire with an LED luminaire.
 - e. Existing and proposed sewer, water and storm drain infrastructure, including laterals.
 - f. Unobstructed visibility shall be ensured at the intersection of the property driveway and Ninth Street, and a note to this effect shall be added to the revised site plan.
 - g. The parkway landscaped area shall be maintained by the property owner, as required by the City's Municipal Code Section 46-496 and a note to this effect shall be added to the revised site plan.
 - h. The property abutting sidewalk, parkway and alley, as applicable, shall be maintained free of weeds, rubbish and refuse by the property owner, as required by the City's Municipal Code Section 18-261 and a note to this effect shall be added to the revised site plan.
 - i. Undergrounding of the existing (along Ninth Street) 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 revised site plan.
 - j. 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 revised site plan.
5. The demolition or relocation of any 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 Public Works Engineering Department.
6. 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.
7. 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.

8. Applicant/Developer shall implement **storm water** Good Housekeeping BMPs for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.
9. Owner is responsible for the compliance with the special annual levy assessment derived from the current inclusion of the project site into the **City's Street Lighting District and Landscaping Maintenance District**. The Developer shall disclose to any future buyers that the property is within the City of Pomona Lighting and Landscaping District and is subject to annual special taxes. This requirement applies to Assessor Parcel Number 8333-004-034.
10. 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 public safety and parks improvements.
11. 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.
12. Prior to issuance of the building permits Applicant/Developer is responsible for paying the **development tax** associated with the proposed project.

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.

13. **Prior to the issuance of the offsite improvements permit, Applicant/Developer shall post surety bonds for all public improvements, including but not limited to: driveway approach, sidewalk, curb and gutter, street paving, street lights, parkway landscaping, water, sewer, storm drain improvements, existing and proposed overhead lines undergrounding.**
14. 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.

15. Permittee shall pay fees associated with and possess the City of Pomona Business License.
16. 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.

WATER

1. There are two existing sixteen-inch (16") water mains within Ninth Street. The localized approximate static pressure for the proposed project area is 60-70 psi.
2. If verification of static pressure is desired, it may be obtained by requesting a fire hydrant flow test from the Public Works Department.

Domestic and Fire Service Line

3. There is an existing 5/8" water meter associated with 890 E. Ninth Street per the City's billing records.
4. Contact the Los Angeles County Fire Department to determine if additional fire hydrants are required for this site. If new fire hydrants are required they shall be placed at least five feet (5') from proposed driveways and parking spaces.
5. **The applicant/developer shall calculate the proposed water demand based on fixture units. The proposed service(s) shall provide the water demand given the size, pressure, and distance of these services from the proposed buildings. These calculations shall include fire and domestic water demands.**
6. **If sprinklers are required for the new building, then a 1" meter with 1" dual check is to be installed for the site. This would replace the existing domestic meter.**
7. Approved low-lead (0.25%) backflow devices (list the brand and model) are required for the following service lines to the site:
 - Reduced pressure principle assembly (RPPA) devices are required for dedicated irrigation service lines to the proposed site, and
 - Reduced pressure principle assembly (RPPA) devices are required for all domestic services; and
 - Double check detector assembly (DCDA) devices for all fire sprinkler service lines.

8. **Submit water development plans to the City for review and building approval showing water meters, service lines, approved backflow devices, and proposed/existing water mains.**

SEWER

1. **An existing eight-inch (8") VCP sewer main is within Ninth Street. The existing sewer infrastructure shall be shown on the site plan.**
2. **The applicant/developer shall calculate the expected wastewater generated by the buildings to properly size the sewer lateral(s) to serve the new site.**
3. **Submit sewer development plans to the City for review and approval prior to the building permit approval showing all existing and proposed sewer mains, laterals, and manholes.**

FIRE

1. An approved automatic fire sprinkler system is required for the proposed building within this development. Submit design plans to the Fire Department Sprinkler Plan Check Unit for review and approval prior to installation. Please contact the Sprinkler Unit at 323 890-4125 for submittal requirements.

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 NOVEMBER, 2019.

DR. KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

GUSTAVO N. GONZALEZ, AICP
PLANNING COMMISSION SECRETARY

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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."