

**PC RESOLUTION NO. 20 - XXX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA APPROVING A CONDITIONAL USE PERMIT (CUP 013040-2019) TO ALLOW FOR THE CONSTRUCTION OF A POOL AND SPA ON A RESIDENTIAL PROPERTY IN THE SINGLE FAMILY RESIDENTIAL DISTRICT AND OPEN SPACE DISTRICT WITHIN THE PHILLIPS RANCH SPECIFIC PLAN (PR-SP) LOCATED AT 9 RANCHO JURUPA PLACE.**

**WHEREAS**, the applicant, Timothy Pfutzenreuter, submitted an application for a Conditional Use Permit (CUP 013040-2019) to allow for the construction of a pool and spa on a residential property in the Single Family Residential District and Open Space District within the PR-SP located at 9 Rancho Jurupa Place.;

**WHEREAS**, the subject property is located within the Single Family Residential District and Open Space District within the PR-SP;

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

**WHEREAS**, pursuant to Section .220-G of the Pomona Zoning Ordinance, a Conditional Use Permit is required for the following uses within the Open Space District: archery ranges, bridle trails, camp grounds, diving ranges, fishing ponds, accessory food and beverage uses, and any other use the city planner determines to be similar to the above;

**WHEREAS**, Planning Division staff has determined the proposed use to be similar to the uses listed in Section .220-G of the Pomona Zoning Ordinance which require a Conditional Use Permit;

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on February 12, 2020 concerning the requested Conditional Use Permit (CUP 013040-2019) 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 15303 (Class 3 – New Construction or Conversion of Small Structures) in that the proposed project consists of the construction of a new small accessory structure listed in Section 15303(e) of the CEQA Guidelines.

**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 13040-2019). 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 well-being of the neighborhood or community.*

The proposed project will enhance the property by allowing the property to enjoy their property similar to adjacent property owners. The proposed use will also develop the rear yard of the property that currently remains undeveloped due to the terrain and is visible from the hillside and to the neighborhood and community.

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 proposed swimming pool and spa 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.

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 existing development is compatible with other developments along Rancho Jurupa Place and the rear yard will be developed similarly to adjacent properties.

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

Rancho Jurupa Place is of adequate width and improvement to carry traffic generations typical of residential development projects. The proposed project 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.G10 of the General Plan:

*“Ensure that hillside development is sensitive to existing terrain, views, and significant natural landforms or features.”*

The proposed use will allow the development the rear yard of the property that currently remains undeveloped due to the terrain and is visible from the hillside and to the neighborhood and community. The proposed project will develop the property consistent with the adjacent properties and include a matching retaining wall.

**SECTION 4.** Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 013040-2019) 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 February 12, 2020 and as illustrated in the stamped approved plans dated February 12, 2020. 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 two (2) years from the date of this approval (February 12, 2022), 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.

#### **BUILDING & SAFETY DIVISION**

5. 2019 California Codes will be required for plans submitted to the Building Department for plan check after January 1, 2020.
6. The undergrounding of utility facilities is required. (PMC 62-31) An application for an exemption may be submitted as specified on PMC 62-31, section (c).
7. 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)
8. 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.
9. 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.

10. 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.
11. 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.
12. Building Department comments and conditions are subject to plan check. Comments are based on information provided.

#### **PUBLIC WORKS DEPARTMENT**

The following conditions and public improvements, as well as all applicable plan check fees, permit fees and bond deposits shall be complied with, completed and paid for by the Developer in accordance with the City standards, fee schedules and applicable laws<sup>1</sup>.

13. All the required plans, studies and calculations shall be performed by a registered civil engineer or other registered/licensed professional as required, and submitted for review and approval of the City Engineer.

#### **Improvement plans requirements**

14. Applicant/Developer shall submit the **grading, 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 with a standard City title block.
  - b) One-foot topographic contours of the site must extend a minimum of 50 feet beyond the boundary lines.
  - c) The plans shall include sufficient cross sections to show all block wall locations, parkway width and all permanent facilities that might require maintenance and access easements.
  - d) Drainage configurations on the existing adjacent properties shall not be altered, redirected or modified in any way.
  - e) 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 grading plan.

- f) 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 grading plan.
  - g) 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 grading plan.
- 15. Prior to the approval of the grading and erosion, sediment control plans Applicant/Developer shall provide a plan that depicts the implementation of the following **storm water** mitigation measures, as applicable:
  - a) Conserve natural areas.
  - b) Protect slopes and channels.
  - c) Provide storm drain system stenciling and signage.
  - d) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability.
  - e) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability.

This plan must be submitted to the City and approved prior to any grading taking place.
- 16. Applicant/Developer shall implement storm water Good Housekeeping Best Management Practices for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.
- 17. 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.
- 18. Prior to issuance of the grading permit the Applicant/Developer shall submit **written notifications to the next adjacent (non-City) property owners** as indicated on the Planning Commission meeting notification list regarding the direct and indirect impact associated with the proposed construction. The notification shall include a statement confirming that the existing public services (sewer, water, storm drain) to adjacent property owners will not be affected by the proposed development and outline the City approval

process (City review, public notification, Planning Commission approval, plans on record, etc.). The proposed development shall accept the conveyance of the existing offsite drainage.

19. 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.
20. All City owned irrigation lines crossing the portion of the lot that has been recently acquired from the City of Pomona following the recordation of the Lot Line Adjustment LLA1-2012 shall be relocated at the property owners' expense.
21. 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.
22. The final improvement plans, as shown on the Mylar, shall be provided to the City in both hard copy and electronic in AutoCAD v. 2010. Following construction and prior to acceptance of the improvements by the City, the project engineer shall provide hand drafted "AS BUILT" corrections on the original approved Mylars of the final constructed improvements to the satisfaction of the City Engineer. A corrected "**AS BUILT**" plan shall also be provided to the City on disk in AutoCAD v. 2010 and .pdf formats.
23. The plans shall be submitted on 24" x 36" sheet size with a standard City title block, and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities (water, sewer, and storm drain), utility easements, and the public right-of-way areas with dimensions.

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

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CUP 013040-2019  
9 Rancho Jurupa Pl.  
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**APPROVED AND PASSED THIS 12<sup>TH</sup> DAY OF FEBRUARY, 2020**

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DR. KYLE BROWN  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

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GUSTAVO N. GONZALEZ, AICP  
PLANNING COMMISSION SECRETARY

**APPROVED AS TO FORM:**

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MARCO A. MARTINEZ  
DEPUTY 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."