

PC RESOLUTION NO. 18-040

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING CONDITIONAL USE PERMIT (CUP 5344-2016) FOR TWO ATTACHED RESIDENTIAL CONDOMINIUM UNITS ON A PROPERTY LOCATED WITHIN THE MU-AR (MIXED-USE ARTERIAL RETAIL) ZONING DISTRICT OF THE DOWNTOWN POMONA SPECIFIC PLAN ON PROPERTY LOCATED AT 665 EAST SIXTH STREET (APN: 8335-022-008)

WHEREAS, the applicant, Tim Law, has submitted an application for Conditional Use Permit (CUP 5344-2016) to allow two attached residential condominium units on a property measuring 7,800 square feet located at 665 East Sixth Street (APN 8335-022-008);

WHEREAS, the subject property is currently located within the MU-AR (Mixed-Use Arterial Retail) zoning district of the Downtown Pomona Specific Plan;

WHEREAS, the development of attached single-family residential units in the MU-AR zoning district is subject to a Conditional Use Permit;

WHEREAS, the subject property is on a parcel designated as "Neighborhood Edge" on the General Plan Land Use Map;

WHEREAS, a Tentative Parcel Map (TPM 07-002 PM No. 68887, Resolution 07-44) for a two-unit condominium subdivision was approved by the Planning Commission on June 13, 2007;

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 5344-2016); and

WHEREAS, the Planning Commission 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:

SECTION 1. The Planning Commission exercising independent judgment finds that the proposed project will not have a significant effect on the environment. Pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is categorically exempt under Section 15332 of the California Public Resources Code, which exempts in-fill developments located in urbanized settings. The Planning Commission finds that the project meets the following criteria listed in the exemption: 1) the proposed project is consistent with the General Plan and Zoning Ordinance of the City; 2) the parcel is smaller than five acres; 3) the project site has no value as habitat for endangered, rare or threatened species; 4) the project will not have significant effects upon the environment; and 5) the site can adequately be served by utilities and public services.

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 5344-2016). 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 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 use of the subject site for residential development, specifically, the development of seven new residential condominium units at this particular location will contribute to the general well-being of the neighborhood and the community by expanding housing opportunities for residents 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 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 project, as designed, will enhance the neighborhood.

3. *That the site of 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 is large and relatively flat with approximately 30,189 square feet of area. Therefore, the site has the adequate topography, size and shape to accommodate the proposed residential development project.

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

The subject site has street access directly to Grand Avenue, which is of adequate width and improvement to carry traffic generations typical of residential development projects.

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 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. Specifically, the proposed project addresses Goal 6G.G8, to “ensure safe, family-oriented, human-scaled, walkable and livable residential neighborhoods.” The project will develop a site that is currently underutilized into an aesthetically pleasing development that contributes to the City’s housing stock which the General Plan identifies as being under supplied.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 5344-2016) 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

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 October 10, 2018, and as illustrated in the stamped approved plans. 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.
2. This approval shall lapse and become void if the privilege authorized is not utilized within two years from the date of this approval (October 10, 2020), in accordance with Pomona Zoning Ordinance section .580.I. The Planning Commission may extend this period for one 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 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.

4. 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.
5. The project is subject to a twenty 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.

Plan Check:

6. The applicant shall include all conditions of approval from Conditional Use Permit (CUP 5344-2016) on the title sheet of construction plans prior to plan check submittal.
7. The site plan shall include all utility apparatus, such as but not limited to, backflow devices and Edison transformers. Utility meters shall be screened from view from public right-of-ways. Backflow prevention devices shall not be located in the front yard setback and shall be screened from public view. The site plan and elevations shall include the location of all gas meters, water meters, electrical panels, air conditioning units, mailboxes (as approved by the United States Postal Service), and similar items. If located on a building, they shall be

architecturally integrated with the design of the building, non-obtrusive, not interfere with sidewalk areas, and comply with required setbacks.

8. 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. Blockwall/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.
9. The majority of the hardscape within the interior community courtyard, shall be provided with decorative elements to include, but not limited to, patterned stained/colored concrete, stamped concrete, stone, concrete overlays or other similar treatment.
10. Prior to the issuance of any building permits, the following must be completed:
 - a) A *Landscape Plan Check* in substantial conformance to the conceptual landscaping plan submitted as part of the Conditional Use Permit process. Plan should further conform to the State Model Water Efficient Landscape Ordinance, and applicable portions of Section .503-J of the Pomona Zoning Ordinance. Cut-sheets for common open space amenities shall be incorporated into the submittal. A landscaping maintenance bond shall be required and held for a period of one year to ensure the project's compliance with the approved landscaping, at an amount to be determined by the Development Services Manager.
 - b) A *Photometric* plan demonstrating a minimum one foot-candle of illumination of parking, driveway, walkways, and common areas. Plan shall identify locations of ground-mounted and building-mounted light fixtures, design and photometric information on fixtures, and shielding to orient light away from adjacent properties and buildings.
 - c) *Conditions, Covenants, and Restrictions (CC&Rs)* shall be submitted to the Planning Division for review. Prior to the issuance of certificate of occupancy, Conditions, Covenants, and Restrictions (CC&Rs) shall be recorded for the dwellings and prior to the sale of any lot or dwelling. At a minimum, the CC&R's shall include provisions that 1) establish a Homeowner's Association (HOA), 2) incorporate conditions 1, 4, and 5 of this CUP and 3) provide reciprocal access easements and facilitate the use and maintenance of the common areas.

11. Applicant shall consult City Arborist and Development Services Director or Designee on an evaluation of the street tree immediately in front of the property. If the tree is determined to be in good health, future maintenance and trimming shall be conducted by a certified arborist; if the tree is determined to be in poor health, it shall be replaced by a tree chosen by the City Arborist.
12. Applicant shall consult Development Services Director on providing a sufficient screening material for landscaping along the eastern property line.

Site Development & Maintenance:

13. Within 30 days of approval of this Conditional Use Permit, applicant shall remove any trash, debris, or other unpermitted materials on the property.
14. 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.
15. The construction area shall be kept clean at all times prior to, during, and after construction.
16. 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.
17. All landscaping shall be maintained in a neat and clean manner, and in conformance with the approval of Conditional Use Permit 5344-2016. Prior to removing or replacing any landscaped areas, check with the Planning Division. Substantial changes may require approval by the Development Services Director.
18. Garage areas shall not be used for storage to the exclusion of parking of vehicles.

BUILDING AND SAFETY

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 sprinkered 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.

WATER RESOURCES

30. There are currently existing water and sewer services associated with this site for domestic use.

PUBLIC WORKS DEPARTMENT

Land development requirements

31. Tentative Parcel Map TPM 07-002, PM No. 68887, has been approved by the Planning Commission on June 13, 2007. Parcel Map No. 68887 has been prepared in conformity with the Subdivision Map Act and with the City Ordinance No. 2779 and will be submitted to the City Council for approval subject to the Planning Commission approval of Conditional Use Permit CUP 5344-2016.

Improvement plans requirements

32. 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 15 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.
33. 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.
34. Prior to the issuance of the grading permit the applicant/developer shall provide **non-interference letters** from all applicable utility agencies for all utility easements located within the areas subject to grading activities. All such documents shall be subject to review and approval by the City Engineer.
35. 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.
36. Prior to approval of the parcel map or the issuance of Public Works improvements permit, whichever occurs first, Applicant/Developer shall submit for review and approval **public street improvement plans** to include the following items and are responsible for the

construction thereof:

- a) New sidewalk and curb to replace all damaged, cracked and uplifted sections.
 - b) In the event that project related hardscape, wet and/or dry utility pavement cuts are needed along the Sixth Street and the public alley property frontages, overlay paving shall occur in accordance with the City standard A-26-02.
 - c) Parkway drains per City standards.
 - d) Existing and proposed sewer, water and storm drain infrastructure.
 - e) Undergrounding of the existing (along the public alley) 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 public street improvement plan.
 - f) 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 public street improvement plan.
 - g) 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 public street improvement plan.
37. The demolition or relocation of all 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 the Engineering Division of the Public Works Department.
38. 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.
39. 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.
40. Applicant/Developer shall implement **Stormwater** Good Housekeeping Best Management Practices (BMPs) for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.
41. 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.

42. 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.
43. Prior to issuance of the building permits Applicant/Developer is responsible for paying the **development tax** associated with the proposed project.
44. 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.
45. 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.

Public Works Improvements Permit

All work in the public right-of-way is subject to review, approval, and permitting requirements of Public Works Department.

46. **Prior to the recordation of the parcel map or the issuance of the grading permit, whichever occurs first, Applicant/Developer shall post surety bonds for the proposed public improvements, including but not limited to: sidewalk, curb, street paving, parkway landscaping, water, sewer, and storm drain improvements.**
47. 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.
48. Permittee shall pay fees associated with and possess the City of Pomona Business License.
49. 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.

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

APPROVED AND ADOPTED THIS 10TH DAY OF OCTOBER, 2018.

KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

MARIO SUAREZ, AICP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

ANDREW JARED
ASSISTANT CITY ATTORNEY

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

AYES: Arias, Brown, Grajeda, Hemming, Juarez, Kercheval,
NOES:
ABSTAIN:
ABSENT: Ursua

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.

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