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# CITY OF POMONA

## PLANNING COMMISSION REPORT

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**DATE:** September 23, 2020

**TO:** Chairman and Members of the Planning Commission

**FROM:** Planning Division

**SUBJECT:** REVOCATION OF CONDITIONAL USE PERMIT (PLANNING COMMISSION RESOLUTION NO. 5446) PERTAINING TO FORMER BOARD AND CARE FACILITY: A City-initiated request for revocation of Conditional Use Permit (PC Reso No. 5446) for the expansion of a board and care facility to 46 beds on an existing property located in the R-1- E – Single-Family Residential Overlay.

### STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt the attached Resolution (Attachment 1) approving revocation of Conditional Use Permit (PC Reso No. 5446) (Attachment 2) pertaining to a former board and care facility 692 located at East Phillips Boulevard.

### PROJECT/APPLICANT INFORMATION

Address	692 E. Phillips Boulevard
Assessor's Parcel Number (APN)	8328-005-027
Lot Size	33,793
General Plan Land Use Designation	Residential Neighborhood
Zoning District	R-1-E, Single-Family Residential Overlay
Historic District	N/A
Specific Plan	N/A
City Council District	3
Applicant	City of Pomona
Property Owner	Ybanag Realty and Development Corp.

### PROJECT DESCRIPTION & BACKGROUND

The City of Pomona requests the revocation of a Conditional Use Permit (CUP) related to a former board and care facility located at 692 E. Phillips Boulevard, west of Towne Avenue and east of

Palomares Street (Attachment 3). The subject site is approximately 0.77 acres in area and currently developed with five residential structures (Attachment 4). Originally entitled as an expansion to an existing board and care facility in 1982, the property was zoned Multiple-Family Residential District (R-3) and operated by Casa Pomona during this time. The earliest business license on record identifies Casa Pomona operating the facility from 1986 to 2003. State licensing records indicate that the property has not been used per the CUP as a certified board and care facility since 2003. The City has no recorded activity on the property between 2003 and 2008. Subsequent to 2008, various business licenses were issued for residential rental dwellings listed as “operating dwellings other than apartment buildings” with time gaps in operations at the site.

Since 2008, the City has opened more than ten code enforcement cases. The site has continuously operated to the detriment of the public health and safety, receiving multiple code violations over several years. In 2016, a demolition permit was issued for the existing structures, but has since expired due to inaction. In May 2017, the Planning Division received an application for a modification to the existing CUP for improvements to the site to re-establish the board and care facility use; however, the applicant did not pursue the CUP.

## **SURROUNDING LAND USES**

The following table summarizes the surrounding land uses, zoning and General Plan designations for Planning Commission consideration.

**Table 1.** Land Use Summary Table

	<b>Existing Land Use</b>	<b>Zoning Designation</b>	<b>General Plan Designation</b>
<b>Subject Site</b>	Residential	R-1-E	Residential Neighborhood
<b>North</b>	Residential	R-2	Residential Neighborhood Neighborhood Edge
<b>South</b>	Residential	R-1 6,000	Residential Neighborhood
<b>East</b>	Residential	R-1-E	Residential Neighborhood
<b>West</b>	Residential	R-1-E	Residential Neighborhood

## **REVOCATION PROCEEDINGS**

Pursuant to City of Pomona Zoning Ordinance, Section .580-H, *Revocation or Suspension of Conditional Use Permit*, “revocation proceedings may be initiated by a majority vote of the granting body, or majority vote of City Council or the Community Development Director.” In granting a revocation, the Planning Commission must determine if any of the following findings of fact are present:

1. That the permit was obtained by fraud;
2. That the permit granted is being, or has been, exercised contrary to any conditions imposed upon such permit, or in violation of any law; or
3. That the use for which the approval was granted is being exercised so as to be detrimental to the public health or safety, or as to constitute a nuisance; or
4. That the neighborhood has changed substantially since the permit was granted so that the use is no longer compatible with the surrounding neighborhood.

The revocation of the CUP pertaining to the former board and care facility at the subject site was initiated by the Development Services Director because the property has ceased to operate as a certified board and care facility since 2003 and the current zoning of the subject site prohibits board and care facilities. In addition, the conditions of approval of the CUP can no longer be satisfied, including a condition that the emergency alleyway east of the property remain a part of subject site as this alleyway has been sold. As established by the Pomona Zoning Ordinance, Section .580-H, the following findings of fact are applicable:

1. *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 subject board and care facility ceased operations since 2003, thus it is no longer operating according to the following procedures set forth in the conditions of approval outlined in PC Resolution No. 5446:

- a. All requirements of all City, County, and State departments and their respective codes and regulations shall be met.
  - b. The “L” shaped emergency alleyway, east of the subject facility shall remain as a portion of the subject property. The deed of the subject facility shall be subject to review and approval by the Department of Public Works prior to the issuance of City permits.
  - c. The facility shall be manned by two qualified staff members on a 24 hour basis.
  - d. Two additional qualified staff members shall be provided in the mornings and three in the evenings to provide care and therapy for the clients. Additional personnel shall be provided for cooking and domestic duties.
2. *The use for which the approval was granted is being exercised so as to be detrimental to the public health or safety, or as to constitute a nuisance; or*

While the use for which the CUP was granted has ceased, the site has continuously operated to the detriment of the public health and safety, receiving multiple code violations over several years that would constitute a nuisance. The documented code enforcement cases from 2008 to 2020 include the following activities:

- a. Illegal construction, including faulty electrical wiring and doors.
- b. Complaints of black mold and sewage.
- c. Complaints of overcrowding of persons living in an apartment.

- d. Complaints of a person fixing vehicles in public view.
  - e. Exterior washing machine operating with faulty wiring and improper drainage.
  - f. Complaints of substandard living conditions, abandoned vehicles, expired licensing, and building code violations.
  - g. Illegal wiring, trash and debris, and possible illegal construction of living quarters on the roof.
  - h. Inspections identifying a license for four rental units, but up to 20 units operating, conversion of community kitchen and recreation room into living quarters, improper venting of water heaters, unpermitted storage shed, abandoned meter panels, open sewage connection, unprotected and exposed electrical boxes, lack of egress, and lack of unit heating.
  - i. Illegal construction and illegal red tag removal.
3. *That the neighborhood has changed substantially since the permit was granted so that the use is no longer compatible with the surrounding neighborhood.*

The subject property is currently surrounded by single-family residential and low-density multiple-family uses. Further, the subject site's zoning is R-1-E (Single-Family Residential Overlay). Section .270 of the Pomona Zoning Ordinance outlines the intent and purpose of this zone as follows:

*"This district is intended to provide for the development on deep lots where the opening interior streets is physically impossible. The development of the land, however, is intended not to exceed the density of the base district upon which the overly district is applied with not more than three dwelling units being determined on a site plan which shall be review the Planning Commission prior to issuance of a building permit."*

The property was zoned Multiple-Family Residential District (R-3) when it was originally entitled as an expansion to an existing board and care facility in 1982. The area has since been re-zoned to R-1-E (Single-Family Residential Overlay) which expressly prohibits multiple-family residential and commercial uses. Board and Care facilities are currently only permitted in the High Density Multiple-Family Residential Zone (R-4) and varying locations of specific plan areas. As such, a board and care facility at this location would no longer be compatible with the surrounding neighborhood.

## **ENVIRONMENTAL REVIEW**

Pursuant to the provisions of the California Environmental Quality Act (CEQA-Public Resources Code, Section 21084 et. seq.), the guidelines include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In compliance with Section 15061(b)(3), the proposed project is covered by the general rule exemption which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

## **PUBLIC NOTICING**

A copy of the public hearing notice was published in the Inland Valley Daily Bulletin on September 11, 2020, and was sent to all property owners and occupants of surrounding properties within a 400-foot radius of the subject site on September 10, 2020 (Attachment 5). As of the date of this staff report, staff has not received any correspondence either for or against the proposed revocation.

## **CONCLUSION**

Revocation of the CUP pertaining to the former board and care facility at this location meets the intent and standards of the Pomona Zoning Ordinance. Multiple findings of facts can be made to support the revocation, as required by the Pomona Zoning Ordinance for revocation proceedings. The property has ceased to operate as a certified board and care facility since 2003 and the use is no longer compatible with the surrounding neighborhood as the current zoning of the subject site prohibits board and care facilities. In addition, the conditions of approval of the CUP can no longer be satisfied. Revocation of the CUP will eliminate the ability for a prohibited use to re-establish a presence at this location.

Respectfully Submitted:

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## **ATTACHMENTS:**

- 1) Draft PC Resolution
- 2) PC Resolution No. 5446
- 3) Location Map & Aerial Photograph
- 4) Site Photographs
- 5) Public Hearing Notice & Radius Map