

**PC RESOLUTION NO. 20-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING THE REVOCATION OF A CONDITIONAL USE PERMIT (PC RESOLUTION NO. 5446) FOR THE EXPANSION OF A BOARD AND CARE FACILITY TO 46 BEDS ON AN EXISTING PROPERTY LOCATED IN THE SINGLE-FAMILY RESIDENTIAL OVERLAY (R-1-E) ON A PROPERTY LOCATED AT 692 EAST PHILLIPS BOULEVARD.**

**WHEREAS**, the City has initiated revocation of Conditional Use Permit (PC Resolution No. 5446) for the expansion of a board and care facility to 46 beds on an existing property located in the Single-Family Residential Overlay (R-1-E) on a property located at 692 E. Phillips Blvd. (Assessor's Parcel Number: 8328-005-027);

**WHEREAS**, on January 27, 1982, the applicant, C. David Benfield, was issued a Conditional Use Permit to expand an operating board and care facility to 46 beds on an existing property previously zoned R-3 – Multiple-Family Residential Zone on a property located at 692 E. Phillips Blvd.;

**WHEREAS**, Licensing records indicate that the property has not been used per the Conditional Use Permit as a certified board and care facility since 2003;

**WHEREAS**, pursuant to the Pomona Zoning Ordinance, the approval of a Conditional Use Permit is required for board and care facilities including rest homes, fraternities and sororities, pursuant to Section .062;

**WHEREAS**, Section .580-H of the Pomona Zoning Ordinance provides for revocation of a Conditional Use Permit if the granting body makes one or more of the required findings;

**WHEREAS**, the revocation of the Conditional Use Permit (Planning Commission Resolution No. 5446), has been initiated by the City of Pomona's Development Services Director because the board and care facility expansion permitted by the Conditional Use Permit ceased in 2003 and the current zoning of the subject site prohibits board and care facilities;

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law held a public hearing on September 23, 2020, concerning the Revocation of the Conditional Use Permit (Planning Commission Resolution No. 5446); 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 this action of revocation of Conditional Use Permit (Planning Commission Resolution No. 5446) has no possibility of having a significant effect on the environment, and is therefore not a project as defined under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines and, therefore, 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.** 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. *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 board and care facility has 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 conditional use permit 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."*

Though zoned R-3 – Multiple-Family Residential District when entitled, 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.

**SECTION 4.** Based on the above finding, the Planning Commission hereby approves the revocation of the Conditional Use Permit (Planning Commission Resolution No. 5446), in its entirety.

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

**APPROVED AND ADOPTED THIS 23<sup>RD</sup> DAY OF SEPTEMBER, 2020.**

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ALFREDO CAMACHO  
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            )

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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."