

PC RESOLUTION NO. 21-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE DEVELOPMENT OF A 2,000 SQUARE-FOOT STRUCTURE ON AN UNDEVELOPED 0.16 ACRE LOT LOCATED AT 1194 W. FIRST STREET IN THE M-1 (LIGHT INDUSTRIAL) ZONE AND S-OVERLAY (SUPPLEMENTAL OVERLAY) DISTRICT.

WHEREAS, the applicant, Antonio Monreal, has filed an application for Conditional Use Permit (CUP 14326-2020) to allow for the development of a 2,000 square-foot structure on an undeveloped 0.16 acre lot located at 1194 W. First Street (APN: 8348-014-004);

WHEREAS, the subject site is currently located within the M-1 (Light Industrial) Zone and S-Overlay (Supplemental Overlay) District;

WHEREAS, the subject site is currently designated “Urban Neighborhood” by the City’s General Plan;

WHEREAS, pursuant to Section .440 of the Pomona Zoning Ordinance, the approval of a Conditional Use Permit is required for any new development projects within the Supplemental Use Overlay District, other than a single-story single dwelling;

WHEREAS, the Planning Commission, after giving notice thereof as required by law, held a public hearing on February 24, 2021, concerning the requested Conditional Use Permit (CUP 14326-2020); and

WHEREAS, the Planning Commission has carefully considered 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:

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 Section 15303, (Class 3 – New Construction or Conversion of Small Structures), in that the proposed project includes the construction of a 2,000 square-foot structure and will not involve the use of significant amounts of hazardous substances.

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 Sections .580.B, of the Pomona Zoning Ordinance (PZO), the Planning Commission must make five (5) findings in order to approve Conditional Use Permit (CUP 14326-2020). 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 project will contribute to the general well being of the neighborhood and surrounding community. The proposed development will enhance the surrounding neighborhood's character by developing a lot which has historically remained vacant. It will contribute to the general well being of the community, as the business is an existing established business within the City.

2. *That such use will, under the circumstances of the particular case, not 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.*

As conditioned, the project will not be detrimental to the health, safety, peace, or general welfare or persons residing or working in the immediate vicinity. The proposed use is a permitted use within the M-1 (Light Industrial) Zone, however the S-Overlay (Supplemental Overlay) District requires any new development, other than a single-story single family dwelling to obtain a Conditional Use Permit. Conditions will be applied to the project, which will add increased lighting in the immediate vicinity, thus increasing the safety of the immediate surrounding area.

3. *That the site for the proposed use is of adequate topography, size, and shape to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to allow said use in the neighborhood.*

The project site is an undeveloped 7,400 square-foot parcel proposing a 2,000 square-foot single-story manufacturing shop. The site is of adequate size, topography and shape for the proposed use, and the project includes on-site improvements like new paving, parking, lighting, fencing and landscaping to comply with the City's Water Efficient Landscaping Ordinance, and a trash enclosure.

4. *The site abuts streets and highways adequate in width and improvements to carry traffic generations by the proposed use.*

The project site is a corner lot, located on the southeast corner of W. First Street and S.

Myrtle Avenue. Two access points are proposed for the development, one along S. Myrtle Avenue and the second along the rear alley. The access point along S. Myrtle Avenue is designated a local street, and is appropriately sized to meet the traffic generation for the project, as the proposed use is a permitted use within the M-1 (Light Industrial) Zone.

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 proposed project is in the “Urban Neighborhood” land use designation under the Pomona General Plan. The General Plan defines the Urban Neighborhood place type as, moderately intense clusters of development that contain a mix of uses. Additionally, for Southern Railroad track neighborhoods, the Urban Neighborhood place type further defines the areas as a compatible mix of clean light industrial and manufacturing uses with small offices, live/work spaces, artist lofts, multi-family housing, and townhomes. The project will not adversely affect the General Plan as it conforms to the goals found in the Plan, specifically to “transition areas along railroad tracks to a series of pedestrian-oriented, mixed-use neighborhoods that build upon the character of existing adjacent development, (Goal 6E.G2)” and to “establish active, pedestrian-oriented neighborhoods with a mix of housing and workplace development, including clean light industrial, manufacturing, flex and incubator spaces, and live/work units.(Goal 6E.G4)”

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 14326-2020) 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:

DEVELOPMENT SERVICES DEPARTMENT - PLANNING DIVISION

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 24, 2021 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 modification that do not affect the overall intent of the approved project, may be reviewed and approved by the Development Services Director.
2. This approval shall lapse and become void if the privilege authorized is not utilized within one (1) year from the date of this approval (February, 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.
5. In case of 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 violation 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.
6. 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.
7. The property shall be maintained free of weeds and debris prior, during and after the construction period.
8. Prior to, during, and until construction is completed, the subject property shall be maintained clean and free of debris, trash and clutter at all times, and monitored on a regular basis to

ensure compliance with this condition and report any unauthorized trespassing onto the property to the property owner and Police Department. Failure to comply with this condition shall be grounds for revocation of this Conditional Use Permit (CUP 13195-2019).

9. Within thirty (30) days of approval of this Conditional Use Permit, the property owner shall execute a trespass authorization letter with the City to allow the Police Department to enforce trespassing on the subject property.
10. 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 a.m. and 8:00 p.m., 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.
11. Landscaping is to include a variation of trees, shrubs, vines, ground covers, and screening for the parking area. 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.
12. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti must substantially match the existing structure. In the event that the paint finish of the abated areas is noticeable distinguishable from the rest of the structure, the property owner shall paint portion of the building to minimize the disparity, subject to the approval of the Development Services Director. Original surface materials installed and designed to not accept paint material such as stone, metal, brick, faux stone, veneers, etc. shall be restored to original finish with methods accepted and agreed to by the Development Services Director.
13. Any proposed signage on the subject site shall be in compliance with Pomona Zoning Ordinance Section .503-K and subject to review and approval of a Sign Permit by the Planning Division prior to receiving a final sign-off on building permits.
14. No temporary signs related to any activity on the premise shall be placed or allowed to remain within landscape areas, public right-of-way areas adjacent to the subject site (e.g. telephone poles, traffic signs, and city trees) or other portion on the exterior of the building. The only temporary signs allowed shall be properly permitted banners signs by permit per the City's sign ordinance. Signs placed in any window of the premises shall comply with the City's sign ordinance, and all other conditions under this Conditional Use Permit.

15. The property owner shall provide regular maintenance and cleaning of all exterior walkways, patios, sidewalks, and landscaped parkways in compliance with Pomona City Code 62-351 et seq.
16. There shall be adequate lighting around the property at all times (minimum of 1-foot candle). This shall be done in such a fashion that persons standing outdoors at night are easily identifiable by law enforcement personnel. Lighting shall be screened so that no spillover occurs on the adjacent properties.
17. Any proposed wall or fencing on the subject site shall be in compliance with Pomona Zoning Ordinance Section .503-I 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.
18. Before issuance of a zoning clearance and business license, the applicant and any successor in interest shall sign a certificate of compliance stating that:
 - a. They have read and understand all the conditions of approval applicable to their project;
 - b. That they are familiar with the daily operations of the use; and
 - c. That the use will operate in compliance with the conditions of approval.
19. The applicant shall apply and obtain a Minor Deviation Variance for a decrease of not more than twenty percent of the required front yard prior to issuance of building permits.

DEVELOPMENT SERVICES DEPARTMENT – BUILDING & SAFETY DIVISION

20. This project must comply with 2019 California codes
21. The undergrounding of utility facilities is required. (PMC 62-31)
22. 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)
23. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2019 California Building Codes.
24. All grading shall conform to the 2019 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.
25. 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.

26. All proposed work shall comply with the 2019 California Energy Code and all other relevant laws, ordinances and resolutions governing Energy conservation as adopted by the City of Pomona.
27. Proposed project shall comply with the 2019 California Green Building Standards Code and all other relevant laws, ordinances and resolutions governing sustainable design as adopted by the City of Pomona.
28. 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.
29. Building Department comments and conditions are subject to plan check. Comments are based on information provided.
30. Fence and wall plan required.

WATER RESOURCES DEPARTMENT

WATER

31. There currently exists the following infrastructure adjacent to the proposed project site:
 - a) First Street – Ten-inch (10”) steel water main.
 - b) Myrtle Avenue – Eight-inch (8”) ACP water main.
32. Identify the construction of the new water service and meter per City of Pomona standards.
33. The existing localized static water pressure for the project area is 55-60 psi. **Additional discussion regarding water service connection shall be included as part of the water development plan review process.**
34. Please contact the Los Angeles County Fire Department regarding the required fire flow demand and associated backflow devices.
35. Low lead (0.25%) double check detector (DCDA) and reduced pressure principle (RPPA) backflow assemblies are required for this development
36. Within the City’s billing system, there is no record of an existing water service for the proposed project site. Identify the proposed water service connection that will be used for the proposed development. WRD will provide additional comments regarding any proposed service/meter to be used for the project.

SEWER

37. There currently exists the following infrastructure adjacent to the proposed project site:
 - a) First Street – Eighteen-inch (18”) RCP sewer main. This main shall not be connected to for this project.
 - b) Myrtle Avenue – Eight-inch (8”) VCP sewer main.
38. There may be an existing wastewater service lateral buried in place.
39. Identify the proposed service lateral connection that will be used for the proposed development. WRD will provide additional comments regarding any proposed or existing service lateral to be used for the project. Identify the construction of the new sewer lateral per City of Pomona standards.

PUBLIC WORKS DEPARTMENT

Land Development Requirements

40. Property Owner shall dedicate to the City of Pomona a strip of land at the southeast corner of Myrtle Avenue and First Street, for public street and related purposes. The dedicated area shall accommodate the construction of a corner ADA ramp. The Grant of Easement application shall be submitted to the Public Works Engineering Division for review and approval and shall be recorded prior to the approval of the building plans.
41. Property Owner shall dedicate to the City of Pomona a 3 foot wide strip of land along the alley lot frontage, for ultimate 10 foot half of alley right-of way. The Grant of Easement application shall be submitted to the Public Works Engineering Division for review and approval and shall be recorded prior to the approval of the building plans.

Improvement Plans Requirements

42. Applicant/Developer shall submit a Revised Site Plan/Drainage Plan/Erosion and Sediment Control Plan for review and approval.
 - 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. 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.
 - c. The drainage configurations on the existing adjacent properties shall not be altered, redirected or modified in any way.

- d. No sheet flow over the driveway approach is allowed.
43. Prior the issuance of the building permits, 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 Myrtle Avenue driveway approach per City standards and ADA mandates.
 - b. New curb and gutter along First Street property frontage.
 - c. New sidewalk along Myrtle Avenue and First Street lot frontages.
 - i. The sidewalk along First Street shall be located adjacent to curb.
 - d. Corner ramp at the southeast corner of Myrtle Avenue and First Street.
 - e. Alley improvements consisting of new approach, concrete V-gutter and full AC pavement, per City standard A-5-06.
 - f. Based on the project related hardscape, wet and/or dry utility pavement cuts along Myrtle Avenue and First Street lot frontages, Asphalt Rubberized Hot Mix (ARHM) overlay paving shall occur in accordance with the City standard A-26-02.
 - g. Parkway drains per City standards.
 - h. The parkway landscaped area:
 - i. Shall be designed to comply with the City standard A-34-11 (Intersection Sight Distance) and a note to this effect shall be added to the site plan.
 - ii. Shall be sprinklered and 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 site plan.
 - i. To address site access safety and required City standard upgrades, a lighting analysis must be prepared and submitted to the PW Department for review and approval. The study area will be along the project frontage, to ensure the roadway illumination design meets the IES RP-8 requirements; the owner is responsible for the compliance (design & installation) with all mitigation measures.
 - j. Existing and proposed sewer, water and storm drain infrastructure, including laterals.
 - k. Unobstructed visibility shall be ensured at the intersection of Myrtle Avenue with First Street and at all property driveways, and a note to this effect shall be added to the site plan. The proposed boundary fencing shall comply with the City standard A-34-11.
 - l. 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 site plan.

- m. Undergrounding of all existing and proposed overhead utility lines located along all lot frontages, as applicable, shall conform with the City of Pomona Municipal Code Section 62-31(b) and a note to this effect shall be added to the site plan.
 - n. 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 site plan.
- 44. 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.
 - 45. 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.
 - 46. The proposed access gate along Myrtle Avenue shall be maintained open during the operation hours.
 - 47. 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.
 - 48. 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 8348-014-004.
 - 49. Prior to the issuance of the building permits Applicant/Developer is responsible for the payment of any/all applicable 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.
 - 50. 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, and public safety improvements.

51. Prior to issuance of the building permits Applicant/Developer is responsible for paying the project's development tax fee.
52. 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 and City easements is subject to review, approval, and permitting requirements of Public Works Department.

53. Prior to the issuance of the building permits, Applicant/Developer shall post surety bonds for all public improvements, including but not limited to: water, sewer, storm drains, street and alley pavement, driveway and alley approach, corner ramp, sidewalk, curb, gutter, street lights and overhead lines undergrounding.
54. 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.
55. Permittee shall pay fees associated with and possess the City of Pomona Business License.
56. 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.

PUBLIC WORKS DEPARTMENT – SOLID WASTE DIVISION

57. Solid waste and recycling services are to be provided by the City's approved commercial solid waste non-exclusive franchise hauler.

LOS ANGELES COUNTY FIRE DEPARTMENT

58. Review and approval by the County of Los Angeles Fire Department, Fire Prevention Engineering Section Building Plan Check Unit may be required for this project prior to

building permit issuance. Contact the County of Los Angeles Fire Department for EPICLA submittal requirements.

59.

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

PASSED AND APPROVED THIS 24th DAY OF FEBRUARY, 2021.

ALFREDO CAMACHO
PLANNING COMMISSION CHAIRPERSON

ATTEST:

ANITA D. GUTIERREZ, AICP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

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."