



Agenda Report

Fullerton City Council

MEETING DATE: FEBRUARY 5, 2019

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: KENNETH A. DOMER, CITY MANAGER

PREPARED BY: TED WHITE, COMMUNITY DEVELOPMENT DIRECTOR
CHRISTINE HERNANDEZ, ASSOCIATE PLANNER

SUBJECT: APPEAL OF PLANNING COMMISSION DENIAL OF A
CONDITIONAL USE PERMIT TO OPERATE A STUDENT
HOUSING DORMITORY AFFILIATED WITH CALIFORNIA
STATE UNIVERSITY, FULLERTON, FOR A MAXIMUM OF
TEN STUDENTS - 1155 WEST ORANGETHORPE AVENUE

SUMMARY

An appeal of the Planning Commission determination on December 12, 2018, denying a request for a Conditional Use Permit (CUP) to operate a student housing dormitory affiliated with California State University, Fullerton, for a maximum of ten students. A dormitory use is permitted at this location subject to the approval of a CUP pursuant to Fullerton Municipal Code (FMC) Table Section 15.17.020.A.

RECOMMENDATION

Adopt Resolution No. 2019-XX.

RESOLUTION NO. 2019-XX - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION DECISION DENYING A CONDITIONAL USE PERMIT TO OPERATE A STUDENT HOUSING DORMITORY AFFILIATED WITH CALIFORNIA STATE UNIVERSITY, FULLERTON, FOR A MAXIMUM OF TEN STUDENTS ON PROPERTY LOCATED AT 1155 WEST ORANGETHORPE AVENUE (NORTH SIDE OF ORANGETHORPE AVENUE, EAST OF ORCHARD AVENUE)

PRIORITY POLICY STATEMENT

Not applicable.

FISCAL IMPACT

None.

DISCUSSION

Background

Larry Rovira, Managing Partner of Sigma Property Investments, LLC, requested approval of a Conditional Use Permit to operate a student dormitory in an R-1 (Single-Family) zone with a maximum of ten students in September 2018. The dormitory would provide housing for California State University, Fullerton students through an agreement between the property owner and the university. The property is developed with a single-family residence built in 1923. The property has been leased to college students since it was purchased by the applicant in February 2018.

There are no open Code Enforcement cases on the property at this time; however, there have been two allegations of code violations since the property was acquired by the applicant. The first complaint, received in February 2018, alleged that the property was being used as a fraternity house without the required Conditional Use Permit. This complaint was based on social media photos indicating that this was to become the new home of the Sigma Pi fraternity. This complaint was closed in April 2018 after online references to the Sigma Pi fraternity were removed and a staff inspection verified that no fraternity activities were occurring on-site.

The second complaint, received in December 2018 alleged that the property owner was renting rooms to more individual tenants than permitted by the Municipal Code. Section 15.17.030.O of the Municipal Code limits the renting of rooms to a total of three bedrooms and a total of three persons per dwelling unit on property within the R-1 zone. The applicant provided documentation indicating a single lease agreement with six tenants, in compliance with the Municipal Code. A staff inspection verified that no more than three rooms were occupied and the Code Enforcement case was closed.

The property is designated as a Local Historical Landmark (HL-61- Gardiner House). The 2-story, 5-bedroom residence and outbuildings, including a water tower, are well maintained and the house retains its distinguishable Colonial Revival architectural features. No physical changes to any of the structures on-site are proposed as part of this request. For a more complete description and analysis of the project, please refer to the Planning Commission Staff Report dated December 12, 2018 (Attachment 2 to this report).

Planning Commission Action

This request was considered by the Planning Commission at its meeting on December 12, 2018, with a recommendation for approval by staff. Staff's recommendation for approval of the Conditional Use Permit was subject to compliance with numerous conditions of approval related to property maintenance, parking, a maximum number of ten occupants and six guests based on available on-site parking spaces, noise restrictions, compliance with house rules and annual reviews of the Conditional Use Permit. The applicant agreed to most of the recommended conditions, but requested that

the condition related to the maximum number of guests permitted on the property be removed or expanded.

Following testimony from the applicant and members of the public, the Planning Commission voted (6-0-1) to deny the Conditional Use Permit request based on its determination that the required findings contained in FMC Section 15.70.040 could not be made in support of the project. A summary of the comments provided by the applicant, members of the public and Planning Commissioners is provided as Attachment 3. Specifically, the Commission found that they could not make the findings that the proposed use “will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity” and that the proposed use “is consistent with the goals and policies of the general plan of the City.” In support of their findings, the Commission expressed specific concerns regarding the following:

- Reports of excessive noise generated from the existing student residents of the property and the potential for the proposed dormitory to result in on-going noise complaints resulting from parties or other extracurricular activities that are not consistent with the surrounding single-family homes.
- The commercial operation of the proposed dormitory use would not be compatible with the predominantly single-family homes in the neighborhood.
- Concerns about property maintenance and management of the property.

The applicant submitted the attached letter of appeal of the Planning Commission decision (Attachment 6), dated December 18, 2018, citing their right to rent the property to a group of students and their belief that, as recommended by City staff, the use would not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity.

Attachments:

- Attachment 1 – PowerPoint Presentation
- Attachment 2 – Draft Resolution No. 2019-XX – Conditional Use Permit
- Attachment 3 – Planning Commission Staff Report, Attachments and Exhibits
- Attachment 4 – Planning Commission Minutes (December 12, 2018)
- Attachment 5 – City Council Public Hearing Notice
- Attachment 6 – Letter of Appeal