

PLANNING COMMISSION AGENDA REPORT

SUBJECT: 280 CALIFORNIA BLVD. (USE-0625-2024) RE-REVIEW OF AN EXISTING CONDITIONAL USE PERMIT FOR A FRATERNITY

PROJECT ADDRESS: 280 California Blvd.

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FILE NUMBER: USE-0625-2024

APPLICANT: Alpha Epsilon Pi

FROM: Tyler Corey, Deputy Director

REPRESENTATIVE: Adam Wechsler, Fraternity President

RECOMMENDATION

Adopt the Draft Resolution to modify the Conditional Use Permit, based on updated required findings and subject to revised conditions of approval. The project is categorically exempt from environmental review under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines.

SITE DATA

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| Applicant | Alpha Epsilon Pi |
| General Plan Land Use Designation | High Density Residential (HDR) |
| Zone | High-Density Residential (R-4) |
| Site Area | Approximately 0.3 acre |
| Environmental Determination | Categorically exempt from environmental review under CEQA Guidelines Section 15301 (Existing Facilities) |

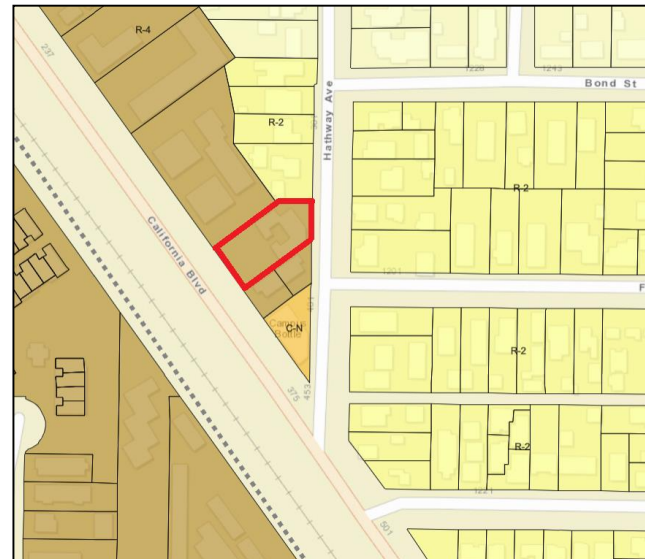


Figure 1 – Project Site

SUMMARY

On August 2, 1983, Alpha Epsilon Pi (Applicant) obtained approval of a Use Permit to allow their fraternity at 280 California Boulevard. Since the approval of this Use Permit, the Applicant has resided at and utilized the property for fraternity activities. Due to recent noise violations, the Community Development Director (Director) is referring the existing Conditional Use Permit to the Planning Commission for re-review. Re-review of the Conditional Use Permit may result in (a) added, modified, and/or removed conditions of approval to allow continuation of the fraternity in a manner compatible with existing and proposed uses in the vicinity; or (b) revocation if the required findings cannot be made.

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1.0 PROJECT BACKGROUND

1.1 Prior Conditional Use Permit Review and Approval

On August 2, 1983, the City Council denied an appeal and upheld the Planning Commission's approval of a Use Permit, U1099, to establish the fraternity for Alpha Epsilon Pi at 280 California Boulevard (Attachment B – Resolution No. 5189 [1983 Series]). Approval of the Use Permit included a residential addition/remodel and various site improvements to facilitate a 10-bedroom, approximate 3,680 square foot residence and 19 parking spaces to allow up to 19 residents. Since the approval of this Use Permit, the Applicant has improved and used the project site as their residence and for their fraternity activities.

1.2 History of Recent Violations and Code Enforcement Actions

On March 13, 2024, a Notice to Correct Code Violation(s) / Notice of Violation (i.e., courtesy warning) was issued due to multiple, confirmed code violations (Attachment C – Notice to Correct Code Violation(s), dated March 13, 2024). Records from the Police Department indicate that six (6) citations were issued for noise violations in 2023. After issuing this Notice, staff made contact with the property manager to discuss these issues.

On June 19, 2024, a subsequent Notice of Violation was issued due to multiple, confirmed Use Permit and code violations (Attachment D – Notice of Violation, dated June 19, 2024). Records from the Police Department indicate that three (3) citations were issued for noise violations after 10:00 p.m. in May 2024. After issuing this Notice, staff engaged in follow-up conversations with the property owner, property manager, and fraternity over the next several months to discuss these issues, including the referral for re-review by the Planning Commission.

1.3 Planning Commission's Purview / Changes to the Municipal Code

Due to repeat noise violations by the fraternity, the Director is referring the Use Permit to the Planning Commission for re-review in accordance with Condition No. 5 of Use Permit, U1099 (Resolution No. 5189). Condition No.

5 states the following:

“Use Permit shall be reviewed by the Planning Commission at any time, if any reasonable written citizen or Police Department complaint is received by the city. In review of the use permit, the Planning Commission may add, delete, or modify conditions of approval or may revoke the use permit.”

Municipal Code Changes

Since the approval of the original Use Permit, U1099, in 1983, it should be noted that there have been codified changes to the Municipal Code. These changes include updated findings and criteria for approval for fraternities as well as code requirements that directly address concerns regarding noise, public disturbances, and other disorderly conduct, as summarized below.

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Requirements for Approval

Per [Table 2-1](#) (Uses Allowed by Zone), the establishment of a fraternity in the R-4 zone requires approval of a Conditional Use Permit. Approval of a Conditional Use Permit for a fraternity is subject to the requirements, listed below, to ensure its consistency with the [General Plan](#) and [Zoning Regulations](#) and its compatibility with existing and future land uses in the vicinity:

- [Section 17.110.060](#) (Minor Use Permits and Conditional Use Permits – Criteria for Approval)
- [Section 17.110.070](#) (Minor Use Permits and Conditional Use Permits – Required Findings)
- [Section 17.86.130\(B\)](#) (Fraternities and Sororities – Required Findings)

Any changes (i.e., additions, modifications, and/or removals) to the conditions of approval for this Use Permit by the Planning Commission would consider the nature of the violations and the ability to make these required findings for allowing a fraternity.

Standard Conditions for Fraternities

Standard conditions for fraternities and sororities, outlined in [Section 17.86.130\(A\)](#) (Fraternities and Sororities – Applicability), were established as part of the comprehensive update to Title 17 (Zoning Regulations) in 2018. These standard conditions limit the number of permitted residents, regulate the number of attendees for meetings and gatherings, require affiliation and good standing with the university, and establish a responsible contact for the fraternity.

Title 9 (Public Peace, Morals, and Welfare) Updates

Since 1983, there have been incremental improvements as codified changes to [Title 9](#) (Public Peace, Morals, and Welfare) that directly address concerns regarding noise, public disturbances, and other disorderly conduct, regardless of a Use Permit approval. These code requirements apply to all uses in the City, and the key chapters that apply to fraternity activities are identified below:

- [Chapter 9.12](#) (Noise Control)
 - Ordinance adopted in 1985, latest revision in 2010
- [Chapter 9.13](#) (Unruly Gatherings)
 - Ordinance adopted in 2010, revised in 2015
- [Chapter 9.22](#) (Safety Enhancement Zones)
 - Ordinance adopted in 2004, latest revision in 2024

Improvements to Language in Conditions of Approval

In addition, should there be any imprecise language in the conditions of older Use Permit approvals that can, and should be, improved in a manner consistent with both Municipal Code limitations and constitutional requirements, staff recommends more precise language to reflect legally compliant conditions and to enhance clarity in enforcement for more recent fraternity applications and re-reviews.

2.0 PROJECT ANALYSIS

Staff has evaluated the fraternity and its noise violations against current standards and regulations, including the updated findings and criteria for approval as well as code requirements. At this time, staff recommends the Planning Commission allow continuation of the fraternity subject to a modified Use Permit, instead of revocation of the Use Permit. Updated findings and revised conditions are recommended based on the following analysis. The re-review, and any subsequent changes to the conditions of approval, are documented as part of an updated Conditional Use Permit, USE-0625-2024, application.

2.1 Consistency with the General Plan / Zoning Regulations

The project is consistent with the intent of both the High-Density Residential land use designation and zone, which allow dense housing in proximity to concentrations of employment and college enrollment. In addition, the project would advance [Land Use Element](#) Policy 2.6.5 (Fraternities & Sororities) and [Housing Element](#) Policy 8.5 (Special Housing Needs) by locating a fraternity in a High-Density residential area within 0.3-mile of Cal Poly SLO campus.

Fraternity Use – Standard Conditions

As outlined in [Section 17.86.130\(A\)](#) (Fraternities and Sororities – Applicability), standard conditions shall apply to the fraternity, as follows:

- Number of Residents – Occupancy shall be limited to not more than one (1) resident per 60 square feet of building area. The landlord shall allow the City to verify occupancy by allowing an inspection of the records or a visual inspection of the premises. Any inspection shall be at a reasonable time and shall be preceded by a 24-hour notice to the residents.

The project site contains an approximate 3,680 square foot residence with 10 bedrooms. The fraternity shall be limited to a maximum of 19 residents (approximately 194 square feet per resident), consistent with the prior Use Permit approval, because it is anticipated that all bedrooms, except for one (1), would provide for two (2) residents (Condition No. 3). The property owner shall also allow the City to verify occupancy by allowing an inspection of records or visual inspection of the premises at a reasonable time with at least 24-hour notice to the residents (Condition No. 3).

- Routine Gatherings – The maximum number of persons allowed on site for routine meetings and gatherings shall not exceed the limit established by the applicable Conditional Use Permit.

Prior approvals of Conditional Use Permits to establish fraternities/sororities have limited the number of people onsite for routine meetings and gatherings to 1.5 times the number of average population density. This calculation takes into consideration the number of residents, areas inside buildings, and number of parking spaces available in the vicinity.

Per Table 4 (Residential Population Assumptions) of the Land Use Element, the High Density Residential (HDR) land use designation, which corresponds to the R-4 zone where fraternities may be permitted, has an average population density of 55 people per acre. The project site at 280 California Blvd. is approximately 0.3-acre in size, which results in an average of 16.5 people for the property. Based on past practice, the maximum number of people for routine meetings and gatherings for this fraternity shall be limited to 25 people (rounded up from $24.75 = 16.5 \text{ people} \times 1.5$) (Condition No. 4).

- University Affiliation – The fraternity or sorority shall remain affiliated and in good standing with the Interfraternity Council of Student Life and Leadership at California Polytechnic University, San Luis Obispo. If the fraternity or sorority becomes unaffiliated or no longer held in good standing with California Polytechnic University, the Conditional Use Permit shall be revoked.

For the life of the organization, the fraternity shall remain affiliated and in good standing with the Interfraternity Council of Student Life and Leadership at California Polytechnic University, San Luis Obispo. If the fraternity becomes unaffiliated or is no longer in good standing, the Conditional Use Permit shall be revoked (Condition No. 5).

- Contact Information – The landlord shall provide names and telephone numbers of responsible persons to the Community Development Department and Neighborhood Services Manager of the Police Department on an annual basis. Responsible persons shall be available during all events and at reasonable hours to receive and handle complaints.

For the life of the organization, the fraternity shall provide the name and contact information (i.e., phone number and email address) of all responsible parties to the Community Development Department and Neighborhood Services Manager of the Police Department on an annual basis. If there is a change to the name and/or contact information of any responsible parties, the Community Development Department and Neighborhood Services Manager shall be notified immediately (Condition No. 6).

Parking Requirements

Per [Table 3-4](#) (Parking Requirements by Use), a fraternity is required to provide one (1) space per 1.5 occupants or 1.5 spaces per bedroom, whichever is greater. While the fraternity is required to provide 15 onsite spaces, based on 19 residents and a 10-bedroom residence, the original Use Permit approval required a greater number of 19 parking spaces to address concerns related to anticipated parking demand. As such, the fraternity shall continue to provide 19 spaces onsite (Condition No. 8).

Instead of only providing a maximum of six (6) bicycle spaces per the original Use Permit (Condition No. 2 of Resolution No. 5189), this requirement has been removed because the fraternity would be required to provide a higher number of bicycle spaces to comply with current bicycle requirements in [Table 3-6](#) (Parking Requirements by Use). Based on a maximum of 19 residents, the fraternity would be required to provide a minimum of 19 bicycle spaces (one per bed for each resident) (Condition No. 13).

2.2 Conditions to Address Noise and Large Gatherings

Based on recent noise violations, staff recommends the following new conditions, which are consistent with language in conditions of more recent approvals, to address concerns related to noise and large gatherings:

- Condition No. 2 establishes clear thresholds for re-reviews should future violations occur.
 - Note – This condition would replace procedures for handling complaints and re-reviews identified in Conditions No. 5 and 13 of the original Use Permit, U1099.
- Condition No. 4 limits routine meetings and gatherings to 25 people. Any event that includes more than 25 people is considered a special event and will require a separate, follow-up application for more detailed review.
 - Note – This condition would address concerns related to large gatherings and replace Conditions No. 12 and 14 of the original Use Permit, U1099.
- Condition No. 9 includes an extended range of hours between 10:00 p.m. and 9:00 a.m. (instead of only between 10:00 p.m. and 7:00 a.m. as required by the Municipal Code) for regular compliance with a lower exterior noise limit.
 - Note – This condition would directly address noise concerns and replace Condition No. 12 of the original Use Permit, U1099. It should be noted that people in private residences (e.g., residents of the fraternity) are legally allowed to gather and meet with guests without government interference into their private residences, relationships, and associations, provided that the number and conduct of those residents and guests conform to applicable regulations. Due to constitutional concerns with placing a condition that limits the type of people in private residences (i.e., residents vs. non-residents), Condition No. 9 was written to directly address noise concerns by identifying an extended range of hours between 10:00 p.m. and 9:00 a.m. for regular compliance with a lower exterior noise limit.
- Condition No. 10 requires that the fraternity establish and maintain ongoing communication with its neighbors in the vicinity.
- Condition No. 11 states that amplified noise-generating activities are prohibited.
- Conditions No. 4, 10, and 11 clarify that any requested exceptions from the Noise Ordinance will not be approved by the Director.

2.3 Other Changes to the Conditions

As part of the re-review, staff recommends revising the conditions to reflect updated language and for consistency with more recent approvals.

Other Conditions with Updated Language

Limitations and/or requirements detailed in Conditions No. 1, 2, 3, 8, 10, 11, and 14 of the original Use Permit, U1099, regulate the number of residents and parking spaces, and large gatherings. Most of these requirements are addressed as updated, standard conditions for fraternities and have been incorporated as recommended Conditions No. 1, 3, 4, 7, and 8 in the re-review.

Removed Conditions

Conditions No. 4, 6, 7, 9, 15, 16, 17, and 18 of the original Use Permit, U1099, required immediate improvements that have been satisfied (e.g., installation of replacement trees, smoke detectors, fire extinguishers, retaining walls, street frontage improvements, etc.) or are no longer relevant (i.e., street yard reduction along Hathway Avenue now meets the current street yard setback requirement). Therefore, these conditions are removed from the recommended conditions of this re-review.

3.0 ENVIRONMENTAL REVIEW

The project is exempt from environmental review under Section 15301 (Existing Facilities) of the CEQA Guidelines because it includes the continued operation and permitting of an existing residential use (i.e., fraternity) with revised findings and conditions of approval. The project does not include construction of a new building or additional building square footage. Therefore, the project involves no expansion of the existing residential use.

4.0 ALTERNATIVES

1. Continue review of the Conditional Use Permit. An action to continue review of the Conditional Use Permit should include a detailed list of additional information or analysis required to make a decision regarding added, modified, and/or removed conditions.
2. Revoke the Conditional Use Permit. An action to revoke the Conditional Use Permit should include findings that cite the basis for revocation and reference inconsistency with the General Plan, Zoning Regulations, and other policy documents.

5.0 ATTACHMENTS

A - Draft PC Resolution (USE-0625-2024)

B - Resolution No. 5189 (1983 Series) (Approval of the original Use Permit, U1099)

C - Notice to Correct Code Violation(s), dated March 13, 2024

D - Notice of Violation, dated June 19, 2024