
MEMORANDUM

TO: BOARD OF ZONING APPEALS

FROM: DAVID M. REYES, DIRECTOR OF THE PLANNING AND
COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: ADDENDUM TO REPORT – 1811 NORTH RAYMOND AVENUE

DATE: MAY 20, 2021

LOSS OF NONCONFORMING USE

As indicated in the staff report, the Code specifies several ways in which a nonconforming use may lose its status. The most common path is through discontinuance for more than 12 months. However, the Code also specifies that a use may be discontinued if it is in violation of applicable law.

CHANGE IN CODE TO ADDRESS SUSPENSION AND REVOCATIONS

Since the suspension and revocation of a state license may not in and of itself necessarily evidence a violation of an applicable law, the City Council recently adopted a text amendment regarding the nonconforming use section to provide for another means by which a use could lose its nonconforming status. The new regulations that just went into effect (PMC Section 17.17.060 A 2) state in pertinent part that nonconforming uses and structures shall be subject to termination if the following has occurred: **“The revocation or termination or suspension of any license or permit that is required in order to operate the nonconforming use;”**. This regulation was recently adopted and does not apply to this case.

TIMELINE RELATIVE TO USES AT 1811 NORTH RAYMOND AVENUE

Since we, nor the Planning Commission are the regulatory/prosecuting agency in this arena and therefore do not have the authority to independently conclude there was a violation of applicable law, we sought to better clarify the timing of the establishment of the sober living home and the revocation:

- “Beginning 2017, the Pasadena Recovery Center operated solely as a sober living home, which involved people residing there days and nights on-site. This change simplified its operations and made it exempt from state licensing, even though its state medical facility license continued for some time.” (C. Sutton Letter (Jan. 14, 2021), p. 2, ¶ 5, attached as Exhibit 3 to January 14, 2021, Latham Letter.)

- Prior Pasadena Recovery Center employees executed declarations dated May 17, 2019, in which they testified that “[f]or the past several years the Pasadena Recovery Center has operated as a Sober Living Facility.” (Lytle & Ruffin Declarations, attached as Attachment C to the May 2021 Staff Report.)
- On June 19, 2018, DHCS received an accusation alleging prior violations at Pasadena Recovery Center. (Stipulated Settlement, attached as Attachment D to the December 2020 Staff Report.)
 - In June 2018, the State suspended Pasadena Recovery Center’s license. (C. Sutton Letter)
- On August 1, 2018, following a conversation with Pasadena Recovery Center, City staff confirmed that the Center was “no longer operat[ing] as an inpatient treatment facility but as a sober living [home].” (See City Email, attached as Exhibit 4 to January 14, 2021, Latham Letter.)
- On October 31, 2018, Pasadena Recovery Center’s license expired. (Stipulated Settlement, ¶ 23.)
- On November 13, 2018, DHCS and Pasadena Recovery Center entered into a Stipulated Settlement resolving claims arising from the accusation, including an agreement that Pasadena Recovery Center would give up its license that it no longer needed. (Stipulated Settlement, Decision & Order.)
- On December 14, 2018, the Stipulated Settlement became effective. (Stipulated Settlement, Decision & Order.)
- Neither DHCS, any other governmental agency, nor any court ever held a hearing or made findings that Pasadena Recovery Center violated any applicable law.

Even if there was a violation, there was a change to a sober living home prior to the suspension and subsequent revocation of the state license. Therefore, the reports provided to the BZA have focused on the discontinuance of the use.