

**RESOLUTION NO. 2024-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA ADOPTING A MITIGATED NEGATIVE DECLARATION (MND), APPROVING A MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), AND APPROVING GENERAL PLAN AMENDMENT NO. 20-015 (PART NO. 1 OF GENERAL PLAN AMENDMENT CYCLE NO. 1 OF 2024) AMENDING EXHIBIT NO. 15.8 OF GENERAL PLAN CHAPTER 15 (LAND USE, ZONING, AND URGAN DESIGN) TO CHANGE THE LAND USE DESIGNATION FROM SINGLE-FAMILY RESIDENTIAL (R-SF) TO MEDIUM DENSITY RESIDENTIAL (R-M) FOR APNS: 0233-122-28, -29, -60, -63 TOTALING APPROXIMATELY 8.8 ACRES LOCATED BETWEEN POPLAR AVENUE AND CATAWBA AVENUE, SOUTH OF ORCHID AVENUE, AND APPROVING A CONDITIONAL USE PERMIT TO ESTABLISH A PUD DEVELOPMENT, A TENTATIVE TRACT MAP TO SUBDIVIDE FOUR (4) PARCELS (APPROXIMATELY 8.8 ACRES) FOR THE DEVELOPMENT OF A 53-LOT SUBDIVISION, AND A DESIGN REVIEW FOR THE CONSTRUCTION OF A 53-LOT SINGLE FAMILY RESIDENTIAL DETACHED DWELLINGS ON FOUR PARCELS, APNS 0233-122-28, -29, -60, -63, TOTALING APPROXIMATELY 8.8 ACRES.**

**WHEREAS**, APNs: 0233-122-28, -29, -60, and -63 (“Project Site”) were incorporated into the City of Fontana on September 19, 2006; and

**WHEREAS**, on November 13, 2018, the most recent edition of the City of Fontana General Plan (“General Plan”) was adopted by the Fontana City Council (“City Council”); and

**WHEREAS**, on August 26, 2020, the City of Fontana (“the City”) received an application from Monte Vista Assets, Inc. (“Applicant”), for four (4) existing lots on the southeast corner of Orchid Avenue and Poplar Avenue and continues to the west side of Catawba Avenue, approximately 8.8 adjusted gross acres, APNs: 0233-122-28; -29, -60, -63 (“Project Site”), for a General Plan Amendment (“GPA No. 20-015”) to amend the land use designation as illustrated on Exhibit 15.8 in Chapter 15 of the General Plan from Single-Family Residential (R-SF) to the Medium Density Residential (R-M) district for the Project Site, a Zoning District Map Amendment (“ZCA No. 20-015), a Conditional Use permit to establish a Planned Unit Development for the project, subdivide four parcels via a Tentative Tract Map, and adopt a Design Review for the site and architectural review to construct 53-lot single-family residential detached dwellings; and,

**WHEREAS**, an amendment to the General Plan will assist the City in meeting its Regional Housing Needs Assessment (RHNA) number and will increase the unit count from the existing maximum of 44 residential units to a maximum of 66 residential units; and

**WHEREAS**, the amendment to the General Plan Land Use Designation will contribute to a balanced and diverse neighborhood and associated amenities and

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services, as well as contribute to an infrastructure that will support a qualified workforce; and

**WHEREAS**, GPA20-015 is considered a “Project” as defined by the California Environmental Quality Act (CEQA); and

**WHEREAS**, pursuant to the California Environmental Act (CEQA), an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program was published on August 9, 2023, and determined that, with mitigation, no significant impacts would be result from the project, therefore, a Mitigated Negative Declaration has been recommended for adoption; and

**WHEREAS**, the project site is comprised of four (4) parcels (APNs: 0233-122-28; -29, -60, -63) located on the Southeast corner of Orchid Avenue and Poplar Avenue and continues to the east side of Catawba Avenue, approximately 8.8 adjusted gross acres; and,

**WHEREAS**, General Plan Amendment (GPA) No. 20-015 (General Plan land use map), Zoning District Map Amendment (ZCA) No. 20-015, Conditional Use Permit (CUP) No. 22-013, Tentative Tract Map (TTM) No. 20-006 (TTM No. 20358), and a Design Review Project (DRP) 20-028 are supported by the goals and policies of the General Plan; and

**WHEREAS**, all the notices required by statute or the Fontana Municipal Code have been given as required; and

**WHEREAS**, on January 16, 2024, the Fontana Planning Commission (“Planning Commission”) conducted a publicly noticed hearing and received public testimony and evidence presented by the Applicant, City staff, and other interested parties, at the Public Hearing held on the project MND, MMRP and MCN No. 20-073, and recommended approval with a vote of 3-0 to the City Council by Resolution PC No. 2024-003; and

**WHEREAS**, on April 9, 2024, the City Council conducted a noticed public hearing on the project, MND, MMRP and, MCN No. 20-073, and received testimony from all parties and documentation from the Planning Commission’s public hearing on January 16, 2024; and

**WHEREAS**, based on the information presented to and evidence received by the City Council at the public hearing held on April 9, 2024, for the project, MND, MMRP, and MCN No. 20-073, the City Council found that the amendments and project are in conformance with the goals and policies of the General Plan; and

**WHEREAS**, the proposed amendments to the General Plan and Zoning District Map will contribute to additional residential dwelling units that will provide a sustainable community where future occupants of the project site could live and utilize the services in the area as anticipated in the General Plan, also, this amendment will assist the City of Fontana in meeting its Regional Housing Needs Assessment (RHNA) numbers. This change will increase the unit count from the existing maximum of 44 residential units to 66 residential units; and

**WHEREAS**, the City of Fontana wishes to protect and preserve the quality of the life through effective land use and planning; and

**WHEREAS**, pursuant to Government Code Section 65358 on April 9, 2024, the City Council adopted one General Plan Amendment in the following three parts: Part No. 1 – GPA No. 20-015, Monte Vista Residential Project, Part No. 2 – GPA No. 23-001 Fontana Business Center, and Part No. 3 – GPA No. 22-009 Citrus/Slover Industrial Commerce Center; and

**NOW, THEREFORE**, the City Council **RESOLVES** as follows:

**SECTION 1. Recitals.** The recitals are true and correct and incorporated herein by this reference.

**SECTION 2. CEQA.** The City Council has reviewed and considered the Initial Study (“IS”), MND, and MMRP, any oral or written comments received, and the administrative record prior to making any decision on the proposed project. The City Council finds that the IS/MND and MMRP contain a complete and accurate reporting of all the environmental impacts associated with the project. The City Council further finds that the MND and MMRP has been completed in compliance with the State CEQA Guidelines and Section 6.21 of the City of Fontana’s 2019 Local Guidelines for Implementing CEQA.

a. The City Council has reviewed and considered the information contained in the Final MND and the administrative record, including all written and oral evidence presented to it, and finds, based on its independent review and analysis: (i) that the Final MND was prepared in compliance with CEQA; and (ii) that, based on the imposition of mitigation measures, there is no substantial evidence in the administrative record supporting a fair argument that the Project may have a significant effect on the environment. The City Council finds that the Final MND contains a complete, objective, and accurate reporting of the environmental impacts associated with the project and reflects the independent judgment and analysis of the city. As well the City Council finds that no new significant environmental impacts have been identified in the Final MND and any changes to the Final MND in response to comments or otherwise do not constitute substantial revisions requiring recirculation under State CEQA Guidelines section 15073.5.

b. The City Council has also reviewed and considered the MMRP for the project that has been prepared pursuant to the requirements of Public Resources Code Section 21081.6 and recommends that the City Council find that such MMRP is designed to ensure compliance with the mitigation measures during project implementation.

c. **Adoption of MND.** Pursuant to Public Resources Code section 21080, subdivision (c)(2), the City Council adopts the Final IS/MND prepared for the project.

d. **Approval of MMRP.** Pursuant to Public Resources Code section 21081.6, the City Council approves the MMRP which was prepared for the project and makes it a condition of project approval as attached hereto.

e. **Notice of Determination.** The City Council directs staff to file a Notice of Determination with the San Bernardino County Clerk and the Office of Planning and Research within five (5) working days of approval of the project.

**SECTION 3. General Plan Amendment Findings.** The City Council hereby makes the following findings for GPA No. 20-015 in accordance with Section 30-31 “Purpose” of the Fontana Zoning and Development Code:

**Finding:**                    **The purpose and intent is to keep an updated General Plan to reflect the current desires and needs of the citizens for the long -term growth of the City.**

**Findings of Fact:**        An amendment to the General Plan land use designation (GPA No. 20-015) to change General Plan land use map, Exhibit No. 15.8, from Single-Family Residential (R-SF) to Medium Density Residential (R-M) would allow for the future construction of 22 additional residential units in total. The amendment provides the opportunity for the City to gain additional residential units to provide more housing; this project will further bring a variety of residential units to the City. The additional residential units will help the long-term growth of the City and help to attain the RHNA numbers allocated to the City. Furthermore, the amendment is consistent with the long-term goals and policies of the General Plan and reflects the current needs and desires of the City’s residents.

**SECTION 4. Conditional Use Permit Findings.** Based on the information herein, the City of Fontana’s City Council hereby approves the following findings for Conditional Use Permit No. 22-013 in accordance with Section No. 30-150 “Findings for Approval” of the Fontana Zoning and Development Code:

**Finding No. 1.**            **The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning and Development Code, Municipal Code, General Plan, any applicable Specific Plan or Area Plan, and City regulations/standards.**

**Finding of Fact:**        The project is a 53-lot single-family residential development on 8.8 acres. The approval of the associated General Plan and Zoning Amendments will allow for development of the project within the criteria set forth in the Planned Unit Development standards, which will comply with the applicable building codes, zoning codes, and fire codes and appropriate standards and will make for a safe, attractive, and well-designed project, meeting all development standards.

**Finding No. 2:**            **The site is physically suited for the type, density, and intensity of the proposed use including access, utilities, and**

**the absence of physical constraints and can be conditioned to meet all related performance criteria and development standards.**

Findings of Fact: The project site is adequate in size, shape, and accessibility to meet the Zoning and Development Code requirements. With the approval of the General Plan Amendment, the proposed density will comply with the General Plan. The site will have two access points for entry into the subdivision, thus providing suitable access to the project. There are no physical constraints that would preclude the project from meeting relevant performance criteria or development standards.

**Finding No. 3: Granting the permit would not be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property, or improvements in the vicinity in which the project is located.**

Finding of Fact: There will be no adverse effect to the persons, property, or improvements in the vicinity or their permitted uses with the granting of the Conditional Use Permit. The project has been reviewed by the Planning Department, Engineering Department, the Building and Safety Department, and County Fire Prevention for site circulation, access, and safety and deemed compliant with applicable requirements. Any possible adverse effects shall be mitigated by the Conditions of Approval drafted by the Planning Department, set forth in the Conditional Use Permit and as referenced herein. The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood.

**SECTION 5. Tentative Tract Map Findings.** Based on the information herein, the City of Fontana's City Council hereby approves the following findings for Tentative Tract Map No. 20-006 (TTM No. 20358) in accordance with Section 26-55:

**Finding No. 1 That the proposed map is consistent with the city's general plan and any applicable specific plan.**

Finding of Fact: With the approval of General Plan Amendment No. 20-015, the proposed tentative tract map meets the specifications of the General Plan. The project specifically meets General Plan Goal 2, which encourages development patterns that support high quality of life by promoting "interconnected neighborhoods with appropriate transitions between lower intensity and higher intensity land uses".

**Finding No. 2. That the design or improvements of the proposed**

**subdivision are consistent with the general plan and any applicable specific plan**

Finding of Fact: The project has been designed to be consistent with the General Plan, including any on-site and off-site improvements. The project has been designed with private streets for vehicle and pedestrian access which include off-site improvement on Orchid Avenue, Poplar Avenue, and Catawba Avenue. The project plans have been reviewed by the Planning Department, the Engineering Department, Building and Safety, and Fire Prevention Department and the conditions of approval will ensure compliance with the City code and regulations.

**Finding No. 3. The site is physically suitable for the type and density of the development.**

Finding of Fact: The project size, shape, and topography is suitable for this type and density of development. The subdivision is approximately 8.8 gross acres and accommodates the 53 single-family lots, amenities, guest parking, and circulation improvements. The project site is currently vacant with existing single-family homes on all sides. The lot sizes are consistent with surrounding single-family developments. All street improvements will be constructed pursuant to applicable building, zoning, and fire code standards.

**Finding No. 4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or will not substantially and avoidably injure fish or wildlife or their habitat.**

Finding of Fact: The design of Tentative Tract Map No. 20-006 (TTM No. 20358) is not likely to cause substantial environmental damage nor substantially and unavoidably injure fish or wildlife or their habitat. The project will not have a significant effect on the environment with mitigation as a result of project implementation per CEQA. Technical studies were prepared for this project, which were incorporated into the Initial Study/Mitigated Negative Declaration, which was circulated to the public. A Mitigation Monitoring and Reporting Program has adequately identified any potential impacts associated with the project.

**Finding No 5. The design of the subdivision or type of improvement will not cause serious public health problems.**

Finding of Fact: The design of Tentative Tract Map No. 20-006 (TTM No. 20358) will not cause public health problems. The project was evaluated to ensure there would be no impacts or mitigation measures required beyond those anticipated in the Initial Study/Mitigated Negative Declaration prepared for the project. Improvements for the project include connection to the public sewer, connection to

the public storm drain, sidewalks, drainage, and under grounding of utilities and site grading to provide a safe and well-designed project for the area.

**Finding No. 6. That the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.**

Finding of Fact: The design of Tentative Tract Map No. 20-006 (TTM No. 20358), and associated public improvements, will not conflict with access easements acquired by the public. The Property will be accessed from either Orchid Avenue or Catawba Avenue. All internal streets will be private. Currently there are no other public access easements through or within the project site.

**SECTION 6. Design Review Findings.** The City of Fontana City Council hereby makes the following findings for Design Review No. 22-028 in accordance with Section No. 30-120 "Findings for Approval" for Design Review of the Zoning and Development Code:

**Finding No. 1 The proposal is consistent with the General Plan, Zoning and Development Code, and any applicable Specific Plan.**

Findings of Fact: The project is to develop a PUD for a 53-lot single-family detached residential community, with private internal streets, landscaping, open space, and perimeter walls. The General Plan and Zoning Amendments will allow for this development. The site and building design comply with the criteria contained in the design review section of the City of Fontana's Zoning and Development Code. As required, the project has high quality architecture, appropriate screening comprised of walls, and landscaping that will make for an aesthetically and desirable development for the area. With the requested associated general plan amendment that changes the land use designation from R-SF to R-M, the project will meet or exceed the criteria contained in the Design Review section of the City of Fontana's Zoning and Development Code.

**Finding No. 2: The proposal meets or exceeds the criteria contained in this chapter and will result in an appropriate, safe, and desirable development promoting the public health, safety, and welfare of the community.**

Findings of Fact: The project will result in the construction of a PUD of 53 single-family detached residential lots. The residential buildings will be built pursuant to all applicable building, zoning, and fire codes, in addition to the Conditions of Approval attached hereto and referenced herein. The conditions imposed on the project will promote the public health, safety, and welfare of the occupants and, therefore, the community, resulting in a desirable

development.

The project includes street improvements: sidewalks, drainage, grading, and perimeter walls to provide a safe and well-designed complex. The project has been reviewed by the Planning, Engineering, Building and Safety, and Fire Prevention Departments (“Departments”) for site circulation, access, and safety. The Departments have determined that the project meets or exceeds the standards of the Zoning and Development Code and will provide a safe design for normal public access provided the project complies with the Conditions of Approval.

**Finding No. 3:      The proposal, in its design and appearance, is aesthetically and architecturally pleasing resulting in a safe, well-designed facility while enhancing the character of the surrounding neighborhood.**

Findings of Fact:      The development is aesthetically and architecturally pleasing and compatible with the surrounding area. The project includes three floor plans for the two-story single-family detached dwellings with three architectural styles of homes, Spanish, Tuscan, and Craftsman. Individual two-car garages will be provided for each dwelling. The dwelling units are arranged around a shared private alley ending in a private alley. Several landscaped open spaces areas are included within the development to include a variety of trees, shrubs, perennials, and ground cover and well landscaped pathways for residents. All landscaped areas shall adhere to the city design guidelines. The site includes a park with a shade structure and picnic tables, and a tot lot area. There will be street landscape treatments along Orchid Avenue and Catawba Avenue. The project site is 8.8 gross acres and is physically suitable in size and shape to support the proposed project. Applicable building, zoning, and fire codes will make for a safe, attractive, and well-designed project.

**Finding No. 4      The site improvements are appropriate and will result in a safe, well designed facility**

Finding of Fact:      The project site improvements are appropriate and will result in a safe, well-designed development not only to the project site but to the surrounding neighborhood. The subdivision is designed with appropriate pavement, curbs, gutters, sidewalks, and driveways. Project features include undergrounding of utilities and perimeter walls for safety and privacy. The project has been reviewed by Planning, Engineering, Building and Safety and Fire Departments. The Departments have determined that the project meets or exceeds the standards of the Zoning and Development Code and will result in a safe, well-designed facility provided the project complies with the Conditions of Approval. The character of the



surrounding neighborhood reflects residential uses consisting primarily of detached single-family homes.

**SECTION 7. General Plan Amendment Approval.** Based on the findings in Section 3, the City Council hereby approves (GPA) No. 20-015 to change General Plan land use designation for the Project Site as illustrated in Exhibit No. 15.8 (General Plan land use map) from Single-Family Residential (R-SF) to Medium Density Residential (R-2), which is comprised of four (4) parcels as shown as **Exhibit “A”** attached hereto and incorporated herein by reference as fully set forth herein.

**SECTION 8. Conditional Use Permit Approval.** Based on the findings in Section 4 the City Council of the City of Fontana hereby approves Conditional Use Permit No. 22-013 subject to the Conditions of Approval, which are attached hereto as Exhibit “C” and incorporated herein by reference as though fully set forth herein.

**SECTION 9. Tentative Tract Map Approval.** Based on the findings in Section 5 the City Council of the City of Fontana hereby approves Tentative Tract Map No. 20-006 (TTM No. 20385) subject to the Conditions of Approval, which are attached hereto as Exhibit “B” and incorporated herein by reference as though fully set forth herein.

**SECTION 10. Design Review Approval.** Based on the findings in Section 6 the City Council of the City of Fontana hereby approves Design Review No. 20-028 subject to the Conditions of Approval, which are attached hereto as Exhibit “C” and incorporated herein by reference as though fully set forth herein.

**SECTION 12. Resolution Regarding Custodian of Record.** The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at the Planning Department, 8353 Sierra Avenue, Fontana, CA 92335. This information is provided in compliance with Public Resources Code, Section No. 21081.6.

**SECTION 13. Certification.** The City Clerk of the City Council shall certify to the adoption of this Resolution.

**SECTION 11. Effective Dates.** This Resolution becomes effective immediately upon its adoption.

**SECTION 14. Severability.** If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application.

**PASSED, APPROVED AND ADOPTED** this 9<sup>th</sup> day of April 2024.

**READ AND APPROVED AS TO LEGAL FORM:**

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City Attorney

Resolution No. 2024-\_\_\_\_\_

**ATTEST:**

I, Germaine Key, City Clerk of the City of Fontana and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City of Fontana at a regular meeting thereof, held on the 9<sup>th</sup> day of April 2024, by the following vote to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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City Clerk of the City of Fontana

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Mayor of the City of Fontana

**ATTEST:**

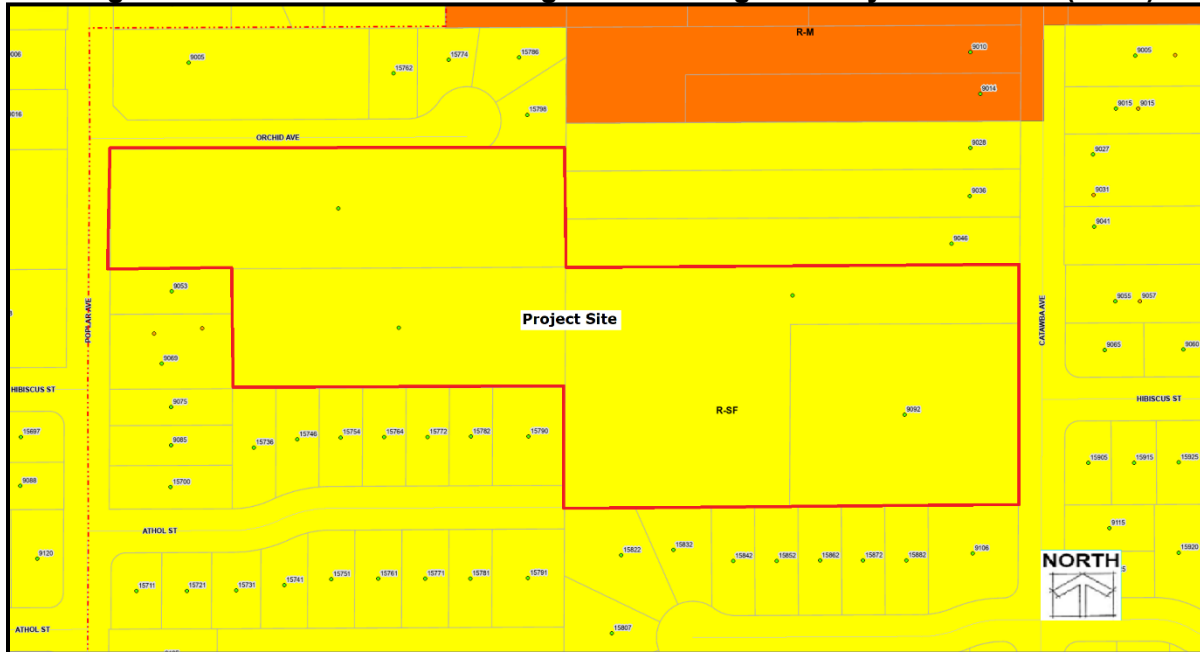
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City Clerk

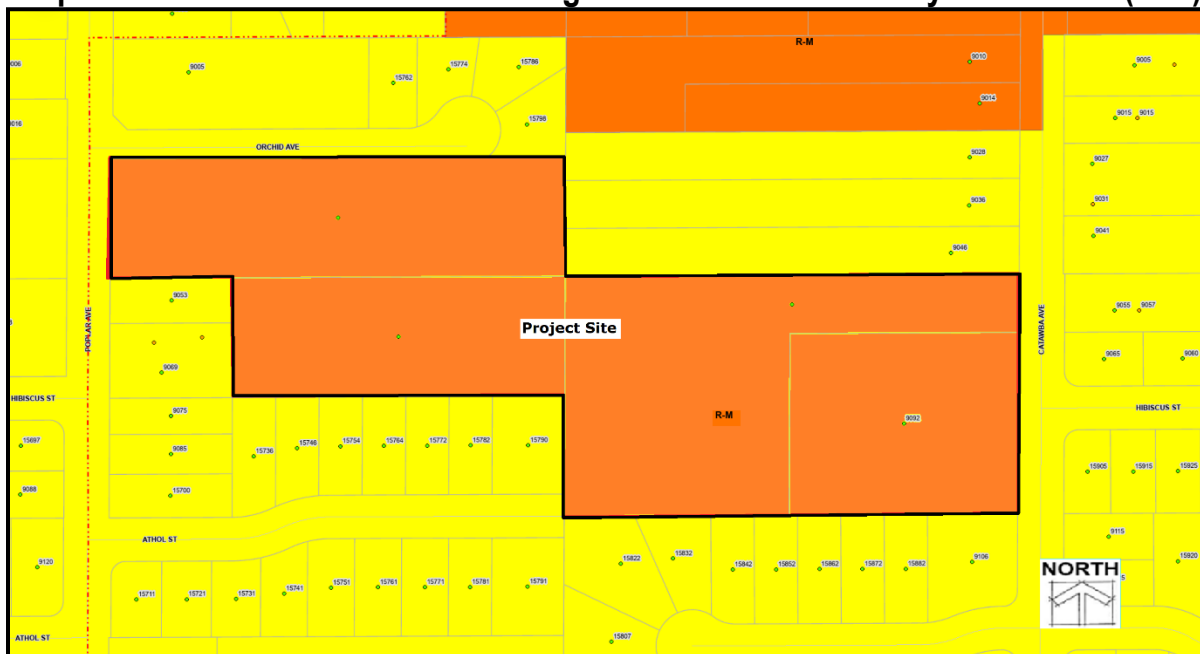
## EXHIBIT "A"

EXISTING AND PROPOSED GENERAL PLAN LAND USE DESIGNATION - FOR FOUR (4) PARCELS, (APNS: 0233-122-28; -29, -60, -63) ACRES, FROM SINGLE-FAMILY RESIDENTIAL (R-SF) TO MEDIUM-DENSITY RESIDENTIAL (R-M) TOTALING APPROXIMATELY 8.8 ACRES.

### Existing General Plan Land Use Designation – Single-Family Residential (R-SF)



### Proposed General Plan Land Use Designation – Medium-Density Residential (R-M)



**“EXHIBIT B”**



**CITY OF FONTANA  
CONDITIONS OF APPROVAL**

**PROJECT:** Master Case No. 20-073  
Tentative Tract Map No. 20-006 (TTM No. 20358)

**DATE:** April 9, 2024

**LOCATION:** The project site is an undeveloped site located on the southeast corner of Orchid Avenue and Poplar Avenue and continues to the west side of Catawba Avenue, approximately 8.8 adjusted gross acres, APNs: 0233-122-28; -29, -60, -63.

**PLANNING DEPARTMENT:**

1. The applicant/developer/property owner shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicants proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

In the event of any such third-party action or proceeding the city shall have the right to retain legal counsel. The applicant shall be responsible for and reimburse the city for such legal fees and costs, in their entirety, including actual attorney fees, which may be incurred by the city in defense of such action or proceeding. This indemnification shall also include but not be limited to, damages, fees and or costs awarded against the city, if any, and cost of suit attorney's fees, and other costs awarded against the city liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the city and/or any parties bringing such forth.

The City of Fontana and the applicant acknowledge that the city would not have approved this project if the city were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, the applicant shall not sue the city for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and

exclusive remedy exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

2. This Tentative Tract Map shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.
3. The applicant/developer shall underground all utilities, which for the purpose of this condition shall also include all boxes, structures and/or other equipment located in the public right-of-way, any public utility easement(s) and on any private property, to the satisfaction of the Director of Planning. A note to this effect shall be placed on the map prior to recordation of the final map.
4. There shall be no combination wall over three (3) feet of retaining and six (6) feet freestanding wall; the maximum height of any combination shall not exceed nine (9) feet.
5. Solid masonry walls of a minimum of six (6) feet in height measured from finished grade shall have a decorative cap and shall be required at all rear and side property lines.

**“EXHIBIT C”**



**CITY OF FONTANA  
CONDITIONS OF APPROVAL**

**PROJECT:** Master Case No. (MCN) 20-073  
Design Review (DRP) No. 20-028  
Conditional Use Permit (CUP) 22-013

**DATE:** April 9, 2024

**LOCATION:** The project site is an undeveloped site located on the southeast corner of Orchid Avenue and Poplar Avenue and continues to the west side of Catawba Avenue, approximately 8.8 adjusted gross acres, APNs: 0233-122-28; -29, -60, -63.

**PLANNING DEPARTMENT:**

1. The rights and privileges granted by this project shall not become effective, nor shall the applicant commence the use for which this project is granted, until both of the following have occurred:
  - A. All requirements of the Fontana City's Municipal Code shall be complied with.
  - B. All Conditions of Approval imposed on this project have been fulfilled.
2. The applicant/developer/property owner shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

In the event of any such third-party action or proceeding, the City shall have the right to retain legal counsel. The applicant shall be responsible and reimburse the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs

awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or an part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

3. This project shall comply with all applicable provisions, regulations and development standards of the Fontana Zoning and Development Code, including Section No. 30-326 Development Standards.
4. Historic Archaeological Resources
  - A. Upon discovery of any tribal cultural or archaeological resources, cease construction activities in the immediate vicinity of the find until the find can be assessed. All tribal cultural and archaeological resources unearthed by project construction activities shall be evaluated by the qualified archaeologist and tribal monitor/consultant. If the resources are Native American in origin, interested Tribes (as a result of correspondence with area Tribes) shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the Tribe will request preservation in place or recovery for educational purposes. Work may continue on other parts of the project while evaluation takes place.
  - B. Preservation in place shall be the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavation to remove the resource along the subsequent laboratory processing and analysis. All Tribal Cultural Resources shall be returned to the Tribe. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be offered to the Tribe or a local school or historical society in the area for educational purposes.
  - C. Archaeological and Native American monitoring and excavation during construction projects shall be consistent with current professional standards. All feasible care to avoid any unnecessary disturbance, physical modification, or separation of human remains and associated funerary objects shall be taken. Principal personnel shall meet the Secretary of the Interior standards for archaeology and have a minimum of 10 years' experience as a principal investigator working with Native American archaeological sites in southern California. The Qualified Archaeologist shall ensure that all other personnel are appropriately trained and qualified.

5. The construction contractor shall always use the following source controls:
  - A. Construction shall be limited to 7:00 am to 6:00 pm on weekday, 8:00 am to 5:00 pm on Saturdays, and no construction on Sundays and holidays unless it is approved by the Building Inspector for cases that are considered urgently necessary as defined in Section No. 18-63(7) of the Municipal Code. For all noise-producing equipment, use types and models that have the lowest horsepower and the lowest noise generating potential practical for their intended use. The construction contractor will ensure that all construction equipment, fixed or mobile, is properly operating (tuned-up) and lubricated, and that mufflers are working adequately.
  - B. Have only necessary equipment onsite.
  - C. Use manually adjustable or ambient-sensitive backup alarms. When working adjacent to residential use(s), the construction contractor will also use the following path controls, except where not physically feasible, when necessary:
    1. Install portable noise barriers, including solid structures and noise blankets, between the active noise sources and the nearest noise receivers.
    2. Temporarily enclose localized and stationary noise sources.
    3. Store and maintain equipment, building materials, and waste materials as far as practical from as many sensitive receivers as practical.
6. Any foam treatment used for architecture treatments and/or projections located on the first floor shall be covered with concrete or similar durable material a minimum of ¼ inch thick, or as determined by the Director of Planning.
7. The applicant shall post a publicly visible sign on the project site with the telephone number and 24-hour point of contact for dust, noise and construction complaints. The 24-hour point of contact shall be available 24 hours a day, 7 days a week and have authority to commit additional assets to control dust, or respond to construction complaints after hours, on weekends and on holidays. Construction shall be limited to 7:00 am to 6:00 pm on weekdays, 8:00 am to 5:00 pm on Saturdays, and no construction on Sundays and Holidays.
8. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on a sheet in the final building and grading plans prior to issuance of any building or grading permits.
9. The current development fees must be paid prior to issuance of ~~building/construction permits~~ **the Certificate of Occupancy. (Modified by Planning Commission meeting January 16, 2024)**
10. After the fifteen (15) day appeal period, the applicant shall remove the notice of Filing sign from the project site. The applicant may request a refund of the \$300 sign deposit. The request shall be submitted to the Planning Department.



**ENGINEERING LAND DEVELOPMENT:**

11. The project shall be served by the City's sanitary sewer system, all sewer facilities shall be constructed in accordance with the City Standards. Main trunk sewer line shall be in accordance with the master sanitary sewer plan or as approved by the City Engineer.
12. The applicant shall obtain design and plan approval from all utility providers having jurisdiction over the on-site and off-site utilities. Completion of all undergrounding of on-site and off-site utilities is required by Section 27-52 of the City Municipal Code and in accordance with plans and specifications approved by the City Engineer.
13. The Applicant shall maintain all improvements and utilities within the public right-of-way, including street sweeping, prior to issuance of final certificate of occupancy by the City.

*PRIOR TO ISSUANCE OF GRADING PERMIT*

14. The Applicant shall submit and gain approval of a complete Water Quality Management Plan report in accordance with the County of San Bernardino Technical Guidance Document and latest template.

*PRIOR TO MAP RECORDATION*

15. Applicant shall provide a ~~Land Improvement~~ **Subdivision** Agreement, with accompanying security. The agreement shall be executed on City-provided forms. **(Modified by Planning Commission meeting January 16, 2024)**

*PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS*

16. The Applicant shall record ~~tentative~~ **Final** map as required for the development. **(Modified by Planning Commission meeting January 16, 2024)**
17. The Applicant shall submit engineered improvement plans and obtain full approval. All required public improvements, including but not limited to streets, storm drainage systems, sewers, traffic signals, streetlights, striping, signs, landscape, and any required traffic control and/or detour plans. All plans shall conform to City Standards and Specifications, and as approved by the City Engineer.

*PRIOR TO **FINAL** CERTIFICATE OF OCCUPANCY*

**(Modified by Planning Commission meeting January 16, 2024)**

18. The Applicant/Engineer to provide the City of Fontana with As Built/Record Drawings for all public improvement plans.
19. The Applicant/Engineer shall provide centerline ties to the City of Fontana reflecting proper setting of all survey monuments within the project limits and replace any

existing survey monuments damaged or removed during construction.

20. The Applicant/Landscape Architect shall provide a "Landscape Certificate of Compliance" certifying that the work has been designed, installed, and will be maintained in accordance with the City of Fontana's Model Water Efficiency Landscape Ordinance (Ordinance 1743, FCC Section 28).

*PRIOR TO FINAL ACCEPTANCE OF PROJECT*

21. Applicant/Design Engineer to provide the City of Fontana with As-Built/Record Drawings for all public improvement plans.
22. The Applicant/Engineer shall provide centerline ties to the City of Fontana reflecting proper setting of all survey monuments within the project limits and replace any existing survey monuments damaged or removed during construction.
23. Applicant/Landscape Architect shall provide a "Landscape Certificate of Compliance" certifying that the work has been designed, installed, and will be maintained in accordance with the City of Fontana's Model Water Efficiency Landscape Ordinance (Ordinance 1743, FCC Section 28).
24. All sewers shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and main line. The contractor performing the video inspection must have a NASSCO PACP, LACP, and MACP certification. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff with an accompanying full report. Videos to be inspected and approved by City Inspector. If removal and replacement of any utility is required, a subsequent video of the repair will be required.
25. All storm drains shall be video inspected by applicant/contractor. Storm drain video shall include main lines and laterals. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. Videos to be inspected and approved by City Inspector. If removal and replacement of any utility is required, a subsequent video of the repair will be required.
26. The Applicant/Engineer of Record shall submit a conforming copy of the recorded Memorandum of Agreement for the Water Quality Management Plan and Storm Water Best Management Practices transfer. The Access, Maintenance, and the WQMP Certification for BMP Completion must be submitted to the City Project Engineer.

**BUILDING & SAFETY:**

27. The applicant shall install an automatic fire suppression system, which is required in all new construction per FMC Chapter 11 Article II. Design and type of system

shall be based upon the requirements of the Building Code, Fire Code and the requirements of the Fontana Fire Prevention District.

28. The applicant shall comply with the requirements of the South Coast Air Quality Management District (909-396-2000). SCAQMD requirements shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.
29. The applicant shall verify that any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project complies with FMC Chapter 5 Article XIV.
30. The applicant shall verify that all perimeter/boundary walls are designed and constructed so that the outer/exterior face of the wall is as close as possible to the lot line. In any case, the outer/exterior face of the wall shall be within two (2) inches of the lot line. Distances greater than two (2) inches may be approved prior to construction by the Building Official on a case by case basis for extenuating circumstances.
31. The applicant shall comply with the following grading requirements:
  - A. Grading plans shall be submitted to and approved by Building & Safety. The grading plans shall indicate all site improvements and shall indicate complete drainage paths of all drainage water run-offs.
  - B. All drainage water shall drain via approved methods to an approved location, such as a public street, a public drainage system, etc.
  - C. Drainage water shall not cross over a public sidewalk. Drainage water may, however, cross under a sidewalk if an approved drainage structure is used.
  - D. A recorded drainage acceptance agreement is required from adjoining property(s) receiving flows from this property.
  - E. No water course or natural drainage shall be obstructed.
  - F. Minimum slope or grade for ALL drainage structures shall be one half (0.50) percent for concrete and one (1.0) percent for all other, or as otherwise approved by the Building Official.
  - G. Drainage water shall not pass from an 'improved' type of drainage structure to an 'unimproved' type of drainage structure (e.g., concrete swale to a dirt swale) unless otherwise approved by the Building Official.
  - H. A complete hydrology study using the latest edition of the San Bernardino County Flood Control Hydrology Manual, and complete hydraulic calculations justifying the size, slope, capacity, etc. of any and all drainage structures being utilized, shall be submitted to and approved by Building & Safety.

The on-site drainage system shall, as a minimum, be designed to handle the run-off generated by a ten (10) year storm. Check for flooding of all on-site structures (buildings) and all adjacent properties during a hundred (100) year storm.

- I. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:
  1. The relationship between the proposed finished on-site grade elevations and the existing adjacent property grade elevations (Indicate any additional drainage water that may come from an adjacent property.); and
  2. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
  3. All proposed drainage structures; and
  4. Any proposed and/or required walls or fencing.
32. The applicant shall verify that all exterior lighting shall be oriented, directed, and/or shielded as much as possible so that direct illumination does not infringe onto adjoining properties.

**PRIOR TO ISSUANCE OF BUILDING/CONSTRUCTION PERMITS**

33. The following items (as applicable) shall be completed by the applicant and submitted to Building & Safety prior to the issuance of building permits for this project:
  - A. Precise grading plans shall be approved
  - B. Rough grading completed
  - C. Compaction certification
  - D. Pad elevation certification
  - E. Rough grade inspection signed off by a City Building Inspector
34. If hazardous substances are used and/or stored, the applicant shall provide a technical opinion and report, identifying and developing methods of protection from the hazards presented by the hazardous materials, may be required. This report shall be prepared by a qualified person, firm, or corporation and submitted to Building & Safety. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

**SAN BERNARDINO COUNTY FIRE DEPARTMENT:**

35. **Jurisdiction.** The above referenced project is under the jurisdiction of the Fontana fire Protection District (herein "Fire Department"). Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances, and standards of the Fire Department.
36. **Fire Access Road Width.** Prior to map recordation, all fire access roadways shall be designed to meet the requirements for this development and shall be approved by the Fire Department. All buildings shall have access provided by approved

roads, alleys and private drives with a minimum twenty-six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height. California Fire Code sec 503, SBCFD Standard 503.1

37. **Turnaround.** An approved turnaround shall be provided at the end of each roadway one hundred and fifty (150) feet or more in length. Cul-de-sac length shall not exceed six hundred (600) feet; all roadways shall not exceed a 12 % grade and have a minimum of nineteen (19) foot inside radius and a forty-five (45) foot outside radius for all turns. California Fire Code sec 503, SBCFD Standard 503.1
38. **Street Signs.** Approved temporary or permanent street signs shall be installed throughout the project prior any combustible materials being placed on the construction site. California Fire Code sec. 505, SBCFD Standard 505.1
39. **Fire Lanes.** The applicant shall submit a site plan to the Fire Department for review and approval of all proposed signage and striping for all fire access roadways. All curbs adjacent to fire lanes shall be painted red and "No Parking, Fire Lane" signs shall be installed on public and private roads in accordance with approved standards. SBCFD Standard 501.
40. **Water System Commercial.** Prior to map recordation, all water supply systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using Appendix B of the California Fire Code. A minimum of one new six (6) inch fire hydrant assembly with two (2) two and one half (2 1/2) inch and one (1) four (4) inch outlet shall be provided. All fire hydrants shall be spaced no more than three hundred (300) feet apart as measured along vehicular travel-ways. California Fire Code sec 508, SBCFD Standard 508.1
41. The Fire Flow for this project shall be: 3375 GPM for a 2-hour duration at 20 psi residual operating pressure. Fire Flow is based on a 102,330 sq.ft. structure.
42. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. SBCFD Standard 508.5.2.
43. **Water System Certification.** The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the jobsite.
44. **Combustible Protection.** Prior to combustibles being placed on the project site an approved paved roadway, **compacted to SBCFD Standards**, providing fire

access and fire hydrants providing an acceptable fire flow shall be installed. California Fire Code sec 508, SBCFD Standard 508.1. **(Modified by Planning Commission meeting January 16, 2024)**

45. **Fire Sprinkler-NFPA #13.** An automatic fire sprinkler system complying with NFPA 13 and Fire Department standards is required. A fire sprinkler contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The plans shall include hydraulic calculations and manufacturer specification sheets. The required fees shall be paid at the time of plan submittal. SBCFD Standard 903.
46. **Fire Alarm, Waterflow Monitoring.** A water flow monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required or fire sprinkler systems with twenty (20) sprinkler heads or more. A fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. California Fire Code sec. 907, SBCFD Standard 907 FA-M.
47. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. California Fire Code sec. 906.
48. ~~**Key Box.** An approved Fire Department key box is required. The key box shall be provided with a tamper switch and shall be monitored by a Fire Department approved central monitoring service. SBCFD Standard 506. **(Removed by the Planning Commission meeting January 16, 2024)**~~
49. ~~**Security Gates.** In commercial, industrial, and multi-family complexes, all swing gates shall have an approved fire department Knox Lock. Where an automatic electric security gate is used, an approved Fire Department override switch is required. SBCFD Standard 503.1.2 **(Removed by the Planning Commission meeting January 16, 2024)**~~
50. ~~**Material Identification Placards.** The applicant shall install, in all locations deemed appropriate by the Fire Department, approved material identification placards on the outside of all buildings and/or storage tanks that store hazardous or flammable materials. Additional placards shall be required inside the buildings when chemicals are segregated into separate areas. Standard 2703.5. **(Removed by the Planning Commission meeting January 16, 2024)**~~
51. **Secondary Access.** The development shall have a minimum of 2 points of vehicular access during each phase of construction for fire and emergency access purposes and for evacuation routes. SBCFD Standard 503.1

**END OF CONDITIONS OF APPROVAL**