

## RESOLUTION PC NO. 2023-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FONTANA APPROVING TENTATIVE TRACT MAP NO. 20498 (TTM NO. 21-005) TO SUBDIVIDE A PARCEL OF APPROXIMATELY 2.5 ACRES FOR CONDOMINIUM PURPOSES AND DESIGN REVIEW NO. 21-042 FOR THE CONSTRUCTION OF A 46-UNIT MULTI-FAMILY CONDOMINIUM PROJECT LOCATED AT 8162 CALABASH AVENUE (APN: 0230-011-36) PURSUANT TO A CATEGORICAL EXEMPTION IN ACCORDANCE WITH CEQA GUIDELINES SECTION 15332.**

**WHEREAS**, the location of 8162 Calabash Avenue, APN: 0230-011-36, was incorporated into the City of Fontana in 1952; and

**WHEREAS**, on October 25, 2021 the City of Fontana (“the City”) received a Tentative Tract Map and Design Review application from Calabash Fontana Holdings LLC to subdivide a parcel of approximately 2.5 Acres for condominium purposes and to construct a 46-unit multi-family condominium project at the location of 8162 Calabash Avenue, APN: 0230-011-36; and

**WHEREAS**, Section 30-116 of the Fontana Municipal Code requires Planning Commission Design Review approval for residential projects of five or more units; and

**WHEREAS**, the project qualifies for a categorical exemption pursuant to Section No. 15332, Class 32, (Infill Development) of the California Environmental Quality Act (CEQA), and Section No. 3.22 (Categorical Exemption) of the 2019 Local Guidelines for Implementing the California Environmental Quality Act; and

**WHEREAS**, Conditions of Approval have been prepared and attached hereto as **Exhibit “A”** for Tentative Tract Map No. 21-005 (TTM No. 20498) and as **Exhibit “B”** for Design Review Permit No. (DRP) No. 21-042; and

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

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

**WHEREAS**, the owners of property within 660 feet of the proposed project site were notified via public hearing notice mailer prior to the Public Hearing; and a notice of the public hearing was published in the local *Fontana Herald* newspaper on September 8, 2023, and posted at City Hall and at the project site; and

**WHEREAS**, on September 19, 2023, the Planning Commission held a public hearing and received public testimony on Tentative Tract Map No. 20498 (TTM No. 21-005) and Design Review No. 21-042; and

**WHEREAS**, the Planning Commission carefully considered all information pertaining to the proposed project and all the evidence and testimony presented at its public hearing on September 19, 2023; and

**WHEREAS**, all other legal prerequisites to the adoption of this resolution have occurred.

**NOW, THEREFORE**, the Commission RESOLVES as follows:

**Section 1.** Recitals. The above recitals are incorporated herein by reference.

**Section 2.** CEQA. The Planning Commission hereby determines that the project qualifies for a Categorical Exemption pursuant to Section No. 15332, (Class No. 32, In-Fill Development Project) of the California Environmental Quality Act (CEQA) and Section No. 3-22 (In-Fill Projects) of the 2019 Local Guidelines for Implementing CEQA. This project site is considered In-Fill Development and meets the CEQA requirements of In-fill: (1) The project is consistent with the Walkable Mixed-Use Corridor & Downtown (WMXU-1) General Plan land use designation and the Form Based Code (FBC) Transitional subdistrict designation and regulations; (2) The project site is less than five (5) acres at approximately 2.5 adjusted gross acres; (3) The project site is not within any known sensitive or threatened habitat area; (4) The project site will not have any significant effect related to traffic, noise, air quality, or water quality; and (5) There are adequate public utilities services for the development of the proposed condominium complex.

**Section 3.** TTM Findings. The City of Fontana's Planning Commission hereby makes the following findings for Tentative Tract Map No. 21-005 (TTM No. 20498) in accordance with Section No. 26-55(e), pursuant to Section No. 30-293, of the Fontana Municipal Code:

**Finding No. 1:**        **The proposed tract map is consistent with the City's General Plan and any applicable specific plan.**

Findings of Fact:    Tentative Tract Map No. 21-005 (TTM No. 20198) is for a subdivision of a parcel for condominium purposes. Tentative Tract Map No. 21-005 is consistent with the General Plan Land Use Designation for the project site, which is Walkable Mixed-Use Downtown and Corridors (WMXU-1). The WMXU-1 land use designation category is described by the General Plan as a land use category that is intended for the creation of areas that allow residents and visitors to walk, bike, and take transit to other uses for work, study, shopping, entertainment, recreation, and civic activities; and to provide compact residential development within walking distance of planned public transit stops and neighborhood shopping areas. The development of this 46-unit multi-family project will continue to support the intent of the WMXU-

1 land use designation. The Tentative Tract Map will establish a condominium development within one parcel (APN: 0230-011-36) of 2.5 acres, for the construction of a 46-unit multi-family condominium project, which is a permitted land use in the General Plan.

**Finding No. 2: The design or improvements of the proposed Tentative Tract Map is consistent with the General Plan and any applicable Specific Plan.**

Findings of Fact: The design of Tentative Tract Map No. 21-005 is for a subdivision of one parcel, for condominium purposes, of 2.5 acres to accommodate the development which is consistent with the General Plan. The development conforms to the requirements of the General Plan, the City of Fontana Municipal Code, and the Form Based Code (FBC) zoning designation standards. The project includes all on-site and off-site improvements including connection to public sewer, public storm drain, streets, gutter, sidewalks, drainage, and grading to provide a safe and well-designed project for the area.

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

Findings of Fact: The project site of approximately 2.5 adjusted gross acres is of an adequate size to accommodate the multi-family development. The project meets all development standards and the City has implemented certain conditions as prescribed in the "Conditions of Approval," attached hereto as Exhibit A, as to satisfy all applicable codes. Therefore, the site is suitable for this type of development.

**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.**

Findings of Fact: The design of Tentative Tract Map No. 21-005 (TTM No. 20498) is not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat. The project will not have a significant effect on the environment as a result of the project's implementation. The site is approximately 2.5 acres of land that is substantially surrounded by urban uses. The site is consistent with the General Plan and zoning. All streets, schools, water, and fire protection have been previously developed and are currently provided in the general area of the project. The project site has no value as habitat for endangered, rare, or threatened species. Therefore, it has been determined that the project qualifies for a categorical exemption pursuant to Section No. 15332, Class 32, (Infill Development) of the California Environmental Quality Act (CEQA), and Section No. 3.22 of the 2019 Local Guidelines for

Implementing the California Environmental Quality Act. The project site is located within the city's development infill boundary, and it is currently surrounded by existing development. All services such as fire, police, sewer, water, and electricity are available to the project site.

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

Findings of Fact: The design of Tentative Tract Map No. 21-005 (TTM No. 20498) will not cause public health problems. The development complies with the Zoning and Development Code and the General Plan. Improvements include connection to public sewer, connection to public storm drain, sidewalks, drainage, and grading to provide a safe and well-designed project for the area. Therefore, the project shall promote the public health, safety, and welfare of the surrounding community.

**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.**

Findings of Fact: The design of Tentative Tract Map No. 21-005 (TTM No. 20498) and corresponding public improvements will not conflict with access easements acquired by the public. The lot is accessed from Calabash Avenue, which is a publicly maintained street. Currently there are no other public access easements through or within the project site. The subject property is not located within the Fire Hazard Overlay Zone; thus, the project is not subject to the requirements of the Fire Hazard Overlay Zone.

**Section 4. Design Review Findings.** The City of Fontana's, Planning Commission hereby makes the following findings for Design Review No. 21-042 in accordance with Section No. 30-120 of the Fontana Zoning and Development Code:

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

Findings of Fact: The project is for the construction of 46 multi-family condominiums units, which is consistent with the General Plan designation for the project site which is Walkable Mixed-Use Downtown and Corridors (WMXU-1). The WMXU-1 land use designation category is described by the General Plan as a land use category that is intended for the creation of areas that allow residents and visitors to walk, bike, and take transit to other uses for work, study, shopping, entertainment, recreation, and civic activities, and to provide compact residential

development within walking distance of planned public transit stops and neighborhood shopping areas. The General Plan sets the framework for the goals of the City and provides the overall policies for development within the community but does not specifically regulate development standards.

The project is located in the Route 66 District of the Form Based Code (FBC) zoning designation. The Route 66 District is an area that seeks to create a lively and walkable land use mix of residential and commercial uses. New development should preserve and exemplify the character of the existing neighborhood. The 46-unit multi-family condominium development will meet all zoning and development standards set forth in the Fontana Municipal Code and, therefore, is consistent with the General Plan, including the required density range. The forty-six (46) units on a 2.5 acre site calculates to a density of 18.4 units per acre. This density is within the eighteen (18) to thirty-nine (39) units per acre range required by the Route 66 District. The project site is not located in a Specific Plan.

**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 complies with the City of Fontana Zoning and Development Code. Improvements including streets, sidewalks, drainage, and grading, will provide a safe and well-designed project. Additionally, the development meets all setback, height, landscaping, design, architecture, parking, access and safety requirements.

The site improvements have been reviewed by the City of Fontana Fire, Building and Safety, and Engineering Departments. During the project review process, changes were made to the plans to ensure that the project is well-designed. Street lighting and on-site lighting have been included to provide ample visibility at night. Landscaping has been incorporated to create an attractive atmosphere along adjacent parcels.

**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 project has been designed to enhance and compliment the surrounding neighborhood. The architectural theme for the project is

progressive Tuscan style. The result is a high-quality architectural design appropriate and desirable for the surrounding neighborhood. The development will enhance the character of the surrounding neighborhood through the aesthetics and design.

Architectural relief utilized for the buildings consists of tile roof, shutters, window tails, window ledges, stone veneer and parapet walls. The use of neutral earth tone colors, pop-outs and varied design between the units will further compliment the architectural style.

The project enhances the surrounding neighborhood by developing a lot that incorporates architectural style which complements the surrounding homes. All buildings are designed with tile roofing material coordinated to match the color scheme of each elevation. Additionally, all garage doors will incorporate windows and the landscaping will utilize plants to complement the architecture of the building and the development as a whole.

The design of the project was reviewed by the Engineering Department, Fire Department and Police Department to ensure the project is in compliance with local ordinances and State Code requirements to address safety concerns.

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

**Findings of Fact:** The development complies with the City of Fontana Zoning and Development Code. Improvements at the site include streets, sidewalks, drainage, and grading, will provide a safe and well-designed neighborhood.

The site improvements have been reviewed by the City of Fontana Fire, Building and Safety, and Engineering Departments. During the project review process, changes were made to the plans to ensure that the project is well-designed. Street lighting and on-site lighting have been included to provide ample visibility at night. Landscaping has been incorporated to create an attractive atmosphere along adjacent parcels.

**Section 5. Approval.** Based on the foregoing, the City of Fontana Planning Commission hereby approves Tentative Tract Map No. 20498 (TTM No. 21-005) and Design Review No. 21-042 subject to the findings listed above and the conditions of approval which are attached hereto as **Exhibits “A and B”** respectively.

**Section 6. Effective Date.** This Resolution shall become effective immediately upon its adoption.

**Section 7.** 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 City of Fontana's Planning Department, 8353 Sierra Avenue, Fontana, CA 92335. This information is provided in compliance with Public Resources Code Section No. 21081.6.

**Section 8.** Certification. The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

**Section 9.** 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.

**APPROVED, AND ADOPTED** by the Planning Commission of the City of Fontana, California, at a regular meeting held on this **19<sup>th</sup> day of September 2023**.

**City of Fontana**

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Cathline Fort, Chairperson

**ATTEST:**

I, Ralph Thrasher, Secretary of the Planning Commission of the City of Fontana, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 19<sup>th</sup> day of September 2023, by the following vote, to-wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Ralph Thrasher, Secretary

**EXHIBIT "A"**



**CITY OF FONTANA  
CONDITIONS OF APPROVAL**

**PROJECT:** Master Case No. (MCN) 21-106                      **DATE:** September 19, 2023  
Tentative Tract Map No. 20498 (TTM No. 21-005)

**LOCATION:** 8162 Calabash Avenue (APN: 0230-011-36)

**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 shall defend, indemnify, and hold harmless the City of Fontana or its agents, officers, and employees from any claim, action or proceeding against the City of Fontana or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission and/or City Council concerning this subdivision, which action is brought within the time period provided for in Government Code Section 66499.37. 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. The applicant 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 its own separate legal counsel to defend the interests of the City. The applicant shall be responsible for reimbursing 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.

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, 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. Tentative Tract Map No. 20498 (TTM No. 21-005) shall comply with all applicable development standards of, Chapter 26 (Subdivisions), Chapter 30 (Zoning and Development, and the Subdivision Map Act.
4. 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.
5. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on a sheet in the final building and grading plans prior to issuance of any building or grading permits.
6. Tentative Tract Map No. 20498 (TTM No. 21-005) 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 Department inspection, has commenced within this period.
7. The development shall maintain an active Homeowner's Association ("HOA") at all times. The City shall be the third party to the HOA's Covenants Conditions and Restrictions solely for the purpose of enforcing property and maintenance standards.

**ENGINEERING DEPARTMENT:**

8. 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 master sanitary sewer plan or as approved by the City Engineer.

9. 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.
10. 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

11. 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

12. Applicant shall provide a Subdivision Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms.

#### PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS

13. Applicant shall record all map's, right-of-way dedications, easements, drainage acceptance agreement (from Assessor's Parcel No. 0230-011-34) as required for the development.
14. 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 ISSUANCE OF FINAL CERTIFICATE OF OCCUPANCY

15. The Applicant/Engineer to provide the City of Fontana with As Built/Record Drawings for all public improvement plans.
16. 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.
17. The Applicant/Engineer shall set survey monuments as required by the map and corner records must be recorded with the County.
18. 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).

19. 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. 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.
20. 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 AND SAFETY:**

21. The applicant shall design the project to show compliance with the latest adopted edition of the following codes as applicable:
  - a. California Building Code
  - b. California Residential Code
  - c. California Electrical Code
  - d. California Mechanical Code
  - e. California Plumbing Code
  - f. California Energy Code
  - g. California Fire Code
  - h. California Green Building Standards Code
22. 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.
23. 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.
24. 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.
25. 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.
  - i. 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.
  - j. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:
    - i. 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
    - ii. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
    - iii. All proposed drainage structures; and
    - iv. Any proposed and/or required walls or fencing.
26. The applicant is required to obtain permits for the removal and/or demolition of structures.
27. In addition to approval from Building & Safety, the applicant is required to obtain approval from the California Regional Water Quality Control Board, Santa Ana Region for the Private Sewage Disposal System.
28. 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

29. 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
30. The project will need to comply with all accessibility provisions found in Ch 11A & 11B of the CBC.

**FONTANA FIRE PREVENTION DISTRICT:**

31. 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.
32. 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 Chapter 5 & SBCoFD Standard A-1.
33. 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 Chapter 5 & SBCoFD Standard A-1.
34. 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 Chapter 5 & SBCoFD Standard A-2.
35. 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. SBCoFD Standard A-2.

36. Hydrant Marking. Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. SBCoFD Standard W-2.
37. Water Improvement Plan: The applicant shall submit "Water Improvement Plans" to Fontana Fire Prevention. W.I.P. to indicate the existing & proposed fire hydrant locations, building construction type and square foot size. Once approved by Fire Department, applicant will provide stamped/approved W.I.P to water purveyor for their construction needs. **FIRE WATER SUPPLY SHALL BE INSPECTED AND IN WORKING CONDITION PRIOR TO PLACING COMBUSTIBLE MATERIALS ON THE JOBSITE.** California Fire Code Chapter 5.
38. Combustible Protection. Prior to combustibles being placed on the project site an approved paved roadway providing fire access and fire hydrants providing an acceptable fire flow shall be installed. California Fire Code Chapter 5.
39. Fire Sprinkler-NFPA #13D. An automatic life safety fire sprinkler system complying with NFPA 13D and Fire Department standards is required. A fire sprinkler contractor shall submit three (3) sets of detailed plans with hydraulic calculations and manufacturer specification sheets to the Fire Department for approval. The required fees shall be paid at the time of plan submittal. California Fire Code Chapter 9 & SBCoFD Standard F-2.
40. Fire Sprinkler-NFPA #13R. An automatic fire sprinkler system complying with NFPA 13R and Fire Department standards is required. A fire sprinkler contractor shall submit three (3) sets of detailed plans with hydraulic calculations and manufacturer specification sheets to the Fire Department for approval. The required fees shall be paid at the time of plan submittal. California Fire Code Chapter 9 & SBCoFD Standard F-3
41. Fire Extinguishers. Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. California Fire Code Chapter 9.
42. Commercial Addressing. Commercial, industrial, and multi-family developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum eight (8) inches in height and with a one (1) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances. California Fire Code Chapter 5 & SBCoFD Standard B-1

43. Illuminated Site Diagram. The applicant shall submit for review and approval a site diagram plan to the Fire Department. The applicant shall install at each entrance to a multi-family complex an illuminated diagrammatic representation of the complex, which shows the location of each unit and each fire hydrant. California Fire Code Chapter 5 & SBCoFD Standard B-1
44. 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. California Fire Code Chapter 5 & SBCoFD Standard A-3
45. San Bernardino County Fire Standards/Codes: Items not directly called out on these Conditions of Approval, shall also adhere to currently adopted San Bernardino County Fire Standards, California Fire Code, & NFPA.

**END OF CONDITIONS**

**EXHIBIT "B"**



**CITY OF FONTANA  
CONDITIONS OF APPROVAL**

**PROJECT:** Master Case No. (MCN) 21-106  
Design Review (DR) No. 21-042

**DATE:** September 19, 2023

**LOCATION:** 8162 Calabash Avenue (APN: 0230-011-36)

**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 of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and
  - B. All other Conditions of Approval imposed by this project have been fulfilled.
2. The applicant 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.

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, 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. Prior to the construction of any modifications, all structural and aesthetic changes to the project design must be requested and approved in writing by the Director of Planning or his/her designee. Major structural and aesthetic changes exceeding the codified parameters of administrative policy shall be presented to the Planning Commission for approval. Changes made without approval as stated herein, will prevent the occupancy of the structure until corrections are approved in writing by all appropriate staff.
4. The development shall maintain an active Homeowner's Association ("HOA") at all times. The City shall be the third party to the HOA's Covenants Conditions and Restrictions solely for the purpose of enforcing property and maintenance standards.
5. The applicant shall provide fully improved access from Calabash Avenue to the project site prior to the issuance of a building permit.
6. This Design Review Permit 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.
7. This project shall comply with all applicable provisions, regulations and development standards of the City of Fontana Municipal Code.
8. Any foam treatment used for architecture treatments and/or projections located on the first floor (under 14 feet) shall be covered with concrete or similar durable material a minimum of ½ inch thick, or as determined by the Director of Planning.
9. The applicant shall provide up-lighting on the perimeter and up-light proposed trees to the satisfaction of the Director of Planning and his/her designee.
10. 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 7:00am to 6:00pm on weekdays, 8:00am to 5:00pm on Saturdays, and no construction on Sundays and Holidays.
11. 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.
12. The construction contractor will use the following source controls at all times:
- A. 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 unless it is approved by the building inspector for cases that are considered urgently necessary as defined in Section 18-63(7) of the Municipal Code.
  - B. 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.
  - C. 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.
  - D. Have only necessary equipment onsite.
  - E. 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.

**PRIOR TO ISSUANCE OF GRADING PERMIT**

13. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

**PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY**

14. Development fees and Planning Department final inspection fee must be paid prior to Certificate of Occupancy.
15. Prior to the issuance of a Certificate of Occupancy, the applicant shall underground all utilities, which for the purpose of this condition shall include all boxes, structures and/or other equipment located in the public rights-of-way, any public utility easement(s), and on any private property, to the satisfaction of the Director of Planning.

**ENGINEERING DEPARTMENT:**

16. 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 master sanitary sewer plan or as approved by the City Engineer.
17. 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.
18. 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**

19. 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**

20. Applicant shall provide a Subdivision Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms.

**PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS**

21. Applicant shall record all map's, right-of-way dedications, easements, drainage acceptance agreement (from Assessor's Parcel No. 0230-011-34) as required for the development.
22. 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 ISSUANCE OF FINAL CERTIFICATE OF OCCUPANCY**

23. The Applicant/Engineer to provide the City of Fontana with As Built/Record Drawings for all public improvement plans.
24. 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.
25. The Applicant/Engineer shall set survey monuments as required by the map and corner records must be recorded with the County.
26. 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).
27. 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. 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.
28. 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 AND SAFETY:**

29. The applicant shall design the project to show compliance with the latest adopted edition of the following codes as applicable:
  - a. California Building Code
  - b. California Residential Code
  - c. California Electrical Code
  - d. California Mechanical Code
  - e. California Plumbing Code
  - f. California Energy Code
  - g. California Fire Code
  - h. California Green Building Standards Code
30. 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.
31. 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.
32. 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.
33. 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.

- i. 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.
  - j. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:
    - A. 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
    - B. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
    - C. All proposed drainage structures; and
    - D. Any proposed and/or required walls or fencing.
34. The applicant is required to obtain permits for the removal and/or demolition of structures.
35. In addition to approval from Building & Safety, the applicant is required to obtain approval from the California Regional Water Quality Control Board, Santa Ana Region for the Private Sewage Disposal System.
36. 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

37. 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
38. The project will need to comply with all accessibility provisions found in Ch 11A & 11B of the CBC.

#### **FONTANA FIRE PREVENTION DISTRICT:**

39. 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.

40. 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 Chapter 5 & SBCoFD Standard A-1.
41. 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 Chapter 5 & SBCoFD Standard A-1.
42. 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 Chapter 5 & SBCoFD Standard A-2.
43. 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. SBCoFD Standard A-2.
44. Hydrant Marking. Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. SBCoFD Standard W-2.
45. Water Improvement Plan: The applicant shall submit "Water Improvement Plans" to Fontana Fire Prevention. W.I.P. to indicate the existing & proposed fire hydrant locations, building construction type and square foot size. Once approved by Fire Department, applicant will provide stamped/approved W.I.P to water purveyor for their construction needs. **FIRE WATER SUPPLY SHALL BE INSPECTED AND IN WORKING CONDITION PRIOR TO PLACING COMBUSTIBLE MATERIALS ON THE JOBSITE.** California Fire Code Chapter 5.
46. Combustible Protection. Prior to combustibles being placed on the project site an approved paved roadway providing fire access and fire hydrants providing an acceptable fire flow shall be installed. California Fire Code Chapter 5.
47. Fire Sprinkler-NFPA #13D. An automatic life safety fire sprinkler system complying with NFPA 13D and Fire Department standards is required. A fire sprinkler contractor

shall submit three (3) sets of detailed plans with hydraulic calculations and manufacturer specification sheets to the Fire Department for approval. The required fees shall be paid at the time of plan submittal. California Fire Code Chapter 9 & SBCoFD Standard F-2.

48. Fire Sprinkler-NFPA #13R. An automatic fire sprinkler system complying with NFPA 13R and Fire Department standards is required. A fire sprinkler contractor shall submit three (3) sets of detailed plans with hydraulic calculations and manufacturer specification sheets to the Fire Department for approval. The required fees shall be paid at the time of plan submittal. California Fire Code Chapter 9 & SBCoFD Standard F-3
49. Fire Extinguishers. Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. California Fire Code Chapter 9.
50. Commercial Addressing. Commercial, industrial, and multi-family developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum eight (8) inches in height and with a one (1) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances. California Fire Code Chapter 5 & SBCoFD Standard B-1
51. Illuminated Site Diagram. The applicant shall submit for review and approval a site diagram plan to the Fire Department. The applicant shall install at each entrance to a multi-family complex an illuminated diagrammatic representation of the complex, which shows the location of each unit and each fire hydrant. California Fire Code Chapter 5 & SBCoFD Standard B-1
52. 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. California Fire Code Chapter 5 & SBCoFD Standard A-3
53. San Bernardino County Fire Standards/Codes: Items not directly called out on these Conditions of Approval, shall also adhere to currently adopted San Bernardino County Fire Standards, California Fire Code, & NFPA.

## **END OF CONDITIONS**