

RESOLUTION PC NO. 2021-

A RESOLUTION OF THE PLANNING COMMISSION FINDING THAT THE PREVIOUSLY ADOPTED INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR MASTER CASE NO. 20-016 APPROVED BY THE CITY COUNCIL OCTOBER 27, 2020 HAS ADEQUATELY IDENTIFIED THE IMPACTS AND NO FURTHER REVIEW IS REQUIRED AND DIRECT STAFF TO FILE A NOTICE OF DETERMINATION, APPROVING ADMINISTRATIVE SITE PLAN NO. 21-023 FOR PAD NO. 1 FOR A NEW 6,690 SQUARE FOOT MULTI-TENANT BUILDING, APPROVING ADMINISTRATIVE SITE PLAN NO. 21-022 FOR PAD NO. 2 FOR A NEW 2,382 SQUARE FOOT DRIVE THRU RESTAURANT, APPROVING MINOR USE PERMIT NO. 20-007 FOR PAD 2 FOR THE DRIVE-THRU USE , AND APPROVING TENTATIVE PARCEL MAP (TPM) NO. 20203 (TPM 20-003R1) TO REVISE PREVIOUSLY APPROVED TPM NO, 20203 (TPM 20-003) TO NOW INCLUDE FOUR (4) PARCELS INSTEAD OF THE ORIGINALLY APPROVED THREE (3) PARCELS ON A 1.64 ACRE SITE LOCATED AT 16826 AND 16856 SAN BERNARDINO AVENUE (APN: 0193-251-43, -44).

WHEREAS, the City of Fontana received an application on April 29, 2021, for a Tentative Parcel Map revision, Minor Use Permit, Administrative Site plans for the request to revise previously approved Tentative Parcel Map 20203 to now include four (4) parcels, and for the site and architectural review of a new 6,690 square foot multi-tenant building, and a new 2,382 square foot drive-thru restaurant.

Project Applicant: Sierra San Bernardino Partners, LLC, ATTN: Gavin Reid
31791 Los Rios Street
San Juan Capistrano, CA 92675

Project Location: 16826 and 16856 San Bernardino Avenue (APN: 0193-251-43, -44).

Site Area: 1.64 adjusted gross acres

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

WHEREAS, the proposal is to revise previously approved Tentative Parcel Map No. 20203 to now include four (4) parcels instead of the original three (3) parcels, approve Minor Use Permit No. 20-007 to allow for the drive-thru use on Pad 2, approve Administrative Site Plan No. 21-022 for the site and architectural review of a new 2,382 square foot drive-thru restaurant on Pad No. 2, and approve Administrative Site Plan No. 21-023 for the site and architectural review of a new 6,690 square foot multi-tenant building on Pad No. 1; 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, Conditions of Approval have been prepared and attached hereto as **Exhibit “A”** for Tentative Parcel map No. 20203 (TPM No. 20-003R1), **Exhibit “B”** for Administrative Site Plan No. 21-022, **Exhibit “C”** for Administrative Site Plan No. 21-023, **Exhibit “D”** for Minor Use Permit 20-007; and

WHEREAS, the subject site, approximately 1.64 adjusted gross acres, was part of the original City incorporation in 1952; and

WHEREAS, pursuant to the Zoning and Development Code, when multiple entitlements are processed concurrently, if anyone of the entitlements require Planning Commission approval, all entitlements for the project shall be heard by the Planning Commission; 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 10th, 2021, posted at City Hall, and on site at the project site; and

WHEREAS, a Notice of Determination has been prepared for this project pursuant Section 15162 (Form-J) of the California Environmental Quality Act and Section 6.22 of the 2019 Local Guidelines for Implementing CEQA; and

WHEREAS, on September 21, 2021, a duly noticed public hearing on Administrative Site Plan No. 21-022, Administrative Site Plan No. 21-023, Minor Use Permit No. 20-007, and Tentative Parcel Map No. 20203 (TPM No. 20-003R1) was held by the Planning Commission to consider testimony and evidence presented by the applicant, City staff, and other interested parties, at the Public Hearing held with respect hereto; and

WHEREAS, the Planning Commission carefully considered all information pertaining to the proposed project, including the staff report, findings, and all of the information, evidence, and testimony presented at its public hearing on September 21, 2021; and

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

NOW, THEREFORE, the Planning Commission RESOLVES as follows:

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

Section 2. The City of Fontana’s, Planning Commission hereby makes the following findings for Administrative Site Plan No. 21-022 in accordance with Section No. 30-81 “Findings for approval” of the Fontana 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 site is located North of San Bernardino Avenue and west of Sierra Avenue. The project site has a General Plan land use designation of Walkable Mixed Use (WMXU-1). The project site is located within the Sierra Gateway zoning designation of the Form Base Code. The General Plan encourages a variety of development including neighborhood service commercial retail centers pursuant to the City of Fontana’s General Plan and Zoning and Development Code.

The proposed project is a request for a new 2,382 square foot drive-thru restaurant as part of the previously approved Northgate Market shopping center. In addition to the Northgate Market, there are three (3) remaining pads. This request is for Pad 2 for a proposed Panda Express drive-thru restaurant. This project meets or exceeds the criteria contained in the Administrative Site plan section of the Zoning and Development Code and the requirements of the Form Base Code zoning designation.

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 as identified and referenced in Finding No. 1 will promote the public health, safety, and welfare of the occupants and the community. The project site is located North of San Bernardino Avenue and west of Sierra Avenue. The project site has a General Plan land use designation of Walkable Mixed Use (WMXU-1). The project site is located within the Sierra Gateway zoning designation of the Form Base Code.

The applicant has worked diligently with staff to incorporate site details that will beautify and enhance the overall aesthetics of the site and exceed the criteria within the Form Base Code. Examples include excellent Spanish architecture, decorative paving at the patio areas, decorative fencing, and lighting, and porte cochere’s. The applicant is also providing 85 parking spaces while the Form Base Code only required 37 parking spaces. The project will promote the public health, safety, and welfare of the occupants and the community.

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 proposed project as identified and referenced in Finding No. 1 is consistent with the Zoning and Development Code. The project site is located North of San Bernardino Avenue and west of Sierra Avenue. The project site has a General Plan land use designation of Walkable Mixed Use (WMXU-1). The project site is located within the Sierra Gateway zoning designation of the Form Base Code.

The project site which is approximately 1.64 acres is physically suited in size and shape to support the development of Pads 1 & 2 of the Northgate Market shopping center. The proposed project is aesthetically and architecturally pleasing and compatible with the neighborhood. The applicant is proposing a Panda Express drive-thru building that represents their corporate branding while also using architectural details to compliment the prominent Spanish architectural style used throughout the shopping center. The applicable building codes, zoning codes, and fire codes and standards will make for a safe, attractive, and well-designed project. As proposed, the project is consistent with the Zoning and Development Code.

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

Findings of Fact: The proposed development as referenced in Finding No. 1 will result in appropriate improvements, not only for the project site, but the surrounding area as well. Project features include sidewalks, drainage, grading, and perimeter and privacy walls and fencing to provide a safe and well-designed neighborhood. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. As referenced in Finding No. 1 through Finding No. 3, above, this project meets and exceeds the standards of the Zoning and Development Code and will provide a safe design for public access.

Section 3. The City of Fontana’s, Planning Commission hereby makes the following findings for Administrative Site Plan No. 21-023 in accordance with Section No. 30-81 “Findings for approval” of the Fontana 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 site is located North of San Bernardino Avenue and west of Sierra Avenue. The project site has a General Plan land use designation of Walkable Mixed Use (WMXU-1). The project site is located within the Sierra Gateway zoning designation of the Form Base Code. The General Plan encourages a variety of development including neighborhood service commercial retail centers pursuant to the City of Fontana’s General Plan and Zoning and Development

Code.

The proposed project is a request for a new 6,690 square foot multi-tenant building as part of the previously approved Northgate Market shopping center. In addition to the Northgate Market, there are three (3) remaining pads. This request is for Pad 1 for a proposed multi-tenant building. This project meets or exceeds the criteria contained in the Administrative Site plan section of the Zoning and Development Code and the requirements of the Form Base Code zoning designation.

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 proposed project as identified and referenced in Finding No. 1 will promote the public health, safety, and welfare of the occupants and the community. The project site is located North of San Bernardino Avenue and west of Sierra Avenue. The project site has a General Plan land use designation of Walkable Mixed Use (WMXU-1). The project site is located within the Sierra Gateway zoning designation of the Form Base Code.

The applicant has worked diligently with staff to incorporate site details that will beautify and enhance the overall aesthetics of the site and exceed the criteria within the Form Base Code. Examples include excellent Spanish architecture, decorative paving at the patio areas, decorative fencing, and lighting, and porte cochere's. The applicant is also providing 85 parking spaces while the Form Base Code only required 37 parking spaces. The project will promote the public health, safety, and welfare of the occupants and the community.

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: As proposed project as identified and referenced in Finding No. 1 is consistent with the Zoning and Development Code. The project site is located North of San Bernardino Avenue and west of Sierra Avenue. The project site has a General Plan land use designation of Walkable Mixed Use (WMXU-1). The project site is located within the Sierra Gateway zoning designation of the Form Base Code.

The project site which is approximately 1.64 acres is physically suited in size and shape to support the development of Pads 1 & 2 of the Northgate Market shopping center. The proposed project has been determined to be aesthetically and architecturally pleasing and

compatible with the neighborhood. The applicant used the prominent Spanish architectural style used throughout the shopping center. The applicable building codes, zoning codes, and fire codes and standards will make for a safe, attractive, and well-designed project. As proposed, the project is consistent with the Zoning and Development Code.

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

Findings of Fact: The proposed development as identified and referenced in Finding No. 1 will result in appropriate improvements, not only for the project site, but the surrounding area as well. Project features include sidewalks, drainage, grading, and perimeter and privacy walls and fencing to provide a safe and well-designed neighborhood. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. As referenced in Finding No. 1 through Finding No. 3, above, this warehouse project meets and exceeds the standards of the Zoning and Development Code and will provide a safe design for public access.

Section 4. The City of Fontana’s, Planning Commission hereby makes the following findings for Minor Use Permit No. 20-007 in accordance with Section No. 30-178 “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.

Findings of Fact: The project site is located North of San Bernardino Avenue and west of Sierra Avenue. The project site has a General Plan land use designation of Walkable Mixed Use (WMXU-1). The project site is located within the Sierra Gateway zoning designation of the Form Base Code. The proposed project is a request for a new 2,382 square foot drive-thru restaurant as part of the previously approved Northgate Market shopping center. In addition to the Northgate Market, there are three (3) remaining pads. This request is for Pad 2 for a proposed Panda Express drive-thru restaurant. The proposed drive-thru restaurant is an allowed use with the approval of a Minor Use Permit within the Sierra Gateway District of the Form Base Code. The use requires a Minor Use Permit to add conditions that reduce potential traffic conflicts and improve the operation of drive-thru restaurants. The use complies with Zoning and Development Code and complies with

all other applicable provisions of the Zoning and Development Code, Municipal Code, General Plan, and the Form Base Code. The applicant work with staff to design a drive-thru restaurant that functions safely.

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 proposed project site as identified and referenced in Finding No. 1 is physically suited in its size and shape for this proposed shopping center. The project site is located North of San Bernardino Avenue and west of Sierra Avenue. The project site has a General Plan land use designation of Walkable Mixed Use (WMXU-1). The project site is located within the Sierra Gateway zoning designation of the Form Base Code. The proposed project is a request for a new 2,382 square foot drive-thru restaurant as part of the previously approved Northgate Market shopping center. The site is physically suited in its size and shape for this type of use and meets all building codes, zoning codes, and fire codes.

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.

Findings of Fact: The proposed project is a request for a new 2,382 square foot drive-thru restaurant as part of the previously approved Northgate Market shopping center. The project site is located North of San Bernardino Avenue and west of Sierra Avenue. The project site has a General Plan land use designation of Walkable Mixed Use (WMXU-1). The project site is located within the Sierra Gateway zoning designation of the Form Base Code.

The applicant worked with staff to design a drive-thru restaurant that would not be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property, or improvements in the vicinity. Staff has prepared a set of conditions to ensure that the drive-thru functions safely and conveniently.

Section 5. The City of Fontana’s, Planning Commission hereby makes the following findings for Tentative Parcel Map No. TPM 20203 (TPM No. 20-003R1) in accordance with Section No. 26-218 (d) “Findings for approval” of the Fontana Zoning and Development Code:

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

Findings of Fact: The originally approved Tentative Parcel Map was to subdivide an existing (2) parcels into three (3) parcels. The applicant is now requesting to revise that Tentative Parcel Map to now include four (4) parcels for the construction of the Northgate Market, Pad 1 for the multi-tenant building, Pad 2 for the Panda Express drive-thru restaurant, and for a future tenant on Pad 3. Tentative Parcel Map No. 20203 is consistent with the General Plan Land Use Designation for the project site of Walkable Mixed Use (WMXU-1). The WMXU-1 designation is intended to provide 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 uses within walking distance of public transit stops and neighborhood shopping areas.

Finding No. 2: **The design or improvements of the proposed subdivision are consistent with the general plan and any applicable specific plan.**

Findings of Fact: The proposed Tentative Parcel Map design as identified and referenced in Finding No. 1 is consistent with the General plan. This project includes all on-site and off-site improvements to meet all the General Plan goals and objectives as well as all of the zoning requirements. Improvements consist of 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 the development.**

Findings of Fact: The proposed project site as identified and referenced in Finding No. 1, is of an adequate size to accommodate the development referenced herein. The existing topography of the site is relatively flat, and development of the site will not require setback variance; therefore, the site is suitable for this type of development. The lot size is consistent with surrounding commercial developments.

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 Parcel Map No. 20203 is not likely to cause substantial environmental damage or substantially and unavoidable 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. The previously adopted Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program anticipated this project and adequately identified any potential impacts associated with the project. The previously adopted Initial Study/Mitigated Negative Declaration and the

Mitigation Monitoring and Reporting Program has been prepared and made a part of the environmental documentation and Conditions of Approval for this project.

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

Findings of Fact: The proposed design of Tentative Parcel Map 20203 as identified and referenced in Finding No. 1 will not cause public health problems. The proposed development complies with the Zoning and Development Code and the General Plan. Improvements include connect 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 Parcel Map No. 20203 and public improvements will not conflict with access easements acquired by the public. The proposed lot is accessed from Sierra Avenue and San Bernardino Avenue, which are publicly maintained streets. Currently there are no other public access easements through or within the proposed project site.

Section 6. Based on the foregoing, the City of Fontana Planning Commission hereby finds that the previously adopted Initial Study/Mitigated Negative Declaration has adequately identified the impacts associated with the project pursuant to Section 15162 of the California Environmental Quality Act and Section 6.22 of the 2019 Local Guidelines for Implementing CEQA, and directs staff to file a Notice of Determination, approve Tentative Parcel Map No. 20203 (TPM No. 20-003R1), approve Minor Use Permit 20-007, approve Administrative Site Plan No. 21-022, and approve Administrative Site Plan 21-023 subject to the conditions of approval as shown in the attached **Exhibits “A” through “D”** for the construction of both Pads 1 & 2 of the Northgate Market shopping center on property designated as APN:0193-251-43, -44.

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 Planning Department– Planning Department, 8353 Sierra Avenue, Fontana, CA 92335. This information is provided in compliance with Public Resources Code Section No. 21081.6.

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

APPROVED, AND ADOPTED by the Planning Commission of the City of Fontana, California, at a regular meeting held on this 21st day of September 2021.

City of Fontana

Cathline Fort, Chairperson

ATTEST:

I, Idilio Sanchez, 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 21st day of September, 2021, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Idilio Sanchez, Secretary

EXHIBIT "A"



**CITY OF FONTANA
CONDITIONS OF APPROVAL**

PROJECT: Master Case No. (MCN) 20-016R1
Tentative Parcel Map No. 20203
(TPM No. 20-003R1)

September 21, 2021

LOCATION: 16826 and 16856 San Bernardino Avenue (0193-251-43, -44)

PLANNING DEPARTMENT:

1. This approval is for Tentative Parcel Map No. 20203 (TPM No. 20-003R1), is a request to revise previously approved TPM No. 20-003 to now subdivide the existing two (2) parcels into four (4) parcels on approximately 7.04 adjusted gross acres, as approved by the Planning Commission on September 21, 2021.
2. 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 (C of O) or other document evidencing the City's final inspection and acceptance of the work.
 - b. All requirements of the Fontana Municipal Code shall be complied with.
 - c. All other Conditions of Approval imposed by this project have been fulfilled.
3. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety, or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Section No. 30-30 and Section No. 30-31 of the Municipal Code.

4. 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.

5. This Tentative Parcel Map No. 20203 shall become null and void two (2) years from the original date of approval on October 27, 2020, 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.
6. 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.
7. The construction contractor shall 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:
- f. Install portable noise barriers, including solid structures and noise blankets, between the active noise sources and the nearest noise receivers.
- g. Temporarily enclose localized and stationary noise sources.
- h. Store and maintain equipment, building materials, and waste materials as far as practical from as many sensitive receivers as practical.

8. 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.
9. 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.

ENGINEERING DEPARTMENT:

10. 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.
11. 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.
12. It is the applicant's responsibility to maintain all improvements and utilities within the public right-of-way, including street sweeping, prior to final acceptance by the City. Where applicable, the applicant must provide provisional street sweeping schedules to the City.

PRIOR TO ISSUANCE OF GRADING PERMIT

13. 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

14. A Security to guarantee the proper setting of all survey monuments within the project limits, and replacement of any existing survey monuments damaged or removed during construction; will be collected during the bond and agreement process. Survey monuments shall be placed as required by plans and corner records must be recorded with the County.

PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS

15. Record any maps, lot line adjustments, right-of-way dedication or easements required for the development.
16. Applicant shall provide a Land Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms.

PRIOR TO ISSUANCE OF OCCUPANCY

17. Applicant/Design Engineer to provide the City of Fontana with As-Built/Record Drawings for all public improvement plans.
18. Applicant/Engineer of Record shall submit a conforming copy of the recorded Memorandum of Agreement for the Water Quality Management Plan and Storm Water BMP Transfer. The Access, Maintenance, and the WQMP Certification for BMP Completion must be submitted to the City Project Engineer.
19. 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

20. All underground utilities (sewer and storm drain) shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and main line. Videos to be inspected and approved by City Inspection. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. If removal and replacement of any utility is required, a subsequent video of the repair will be required.
21. The applicant shall design and construct the traffic signal, intersection improvements and related signing and striping at the Sierra Avenue project driveway intersection to the satisfaction of the City Engineer.
22. The applicant shall design and construct a right turn pocket for Sierra Avenue in the southbound direction at the proposed project entrance to the satisfaction of the City Engineer.
23. The applicant shall be responsible for the removal and replacement of improvements to the east side of sierra avenue to accommodate the new traffic signal and work with the property owner to obtain a Temporary Construction easement and maintenance easement.

FONTANA FIRE PREVENTION DISTRICT:

24. **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.

25. **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
26. **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
27. **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
28. **Fire Lanes.** The applicant shall submit on a site plan to the Fire Department for review and approval 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.
29. **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

The Fire Flow for this project shall be: **_1500_ GPM for a 2-hour duration at 20 psi** residual operating pressure. Fire Flow is based on a **_6,870_**sq.ft. structure.

30. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. SBCFD Standard 508.5.2.

31. **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.
32. **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 sec 508, SBCFD Standard 508.1
33. **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.
34. **Hood and Duct Extinguishing system.** An automatic hood and duct fire extinguishing system is required. A licensed contractor shall submit three (3) sets of detailed plans (minimum 1/8" scale) with manufactures' specification sheets to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. California Fire Code sec. 904.
35. **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.
36. **Fire Alarm, Manual or Automatic.** A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA 72 and all applicable codes is required. 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-E.
37. **Fire Alarm, Waterflow Monitoring.** A water flow monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required for 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.
38. **Commercial Addressing.** Commercial and industrial developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum six (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. SBCFD Standard 505.1

39. **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. SBCFD Standard 505.1
40. **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
41. **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

END OF CONDITIONS

EXHIBIT "B"



**CITY OF FONTANA
CONDITIONS OF APPROVAL**

PROJECT: Master Case No. (MCN) 20-016R1
Administrative Site Plan No. 21-022

September 21, 2021

LOCATION: 16826 and 16856 San Bernardino Avenue (0193-251-43, -44)

PLANNING DEPARTMENT:

1. This approval is for Administrative Site Plan No. 21-022, for site and architectural review of a 2,382 square foot drive-thru restaurant, as approved by the Planning Commission on September 21, 2021.
2. 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 (C of O) or other document evidencing the City's final inspection and acceptance of the work.
 - b. All requirements of the Fontana Municipal Code shall be complied with.
 - c. All other Conditions of Approval imposed by this project have been fulfilled.
3. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety, or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Section No. 30-30 and Section No. 30-31 of the Municipal Code.
4. 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.

5. This Administrative Site Plan 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.
6. 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.
7. Color combinations and color schemes for buildings approved under a design review application shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes may be approved by the Director of Planning. The Director of Planning may refer minor hue color changes to the original approving body for consideration under a revision to the original application.
8. Exterior lighting compatible with the design of the building shall be provided for the parking lot. The lighting shall be directed and shielded so as to illuminate only the parking area and to avoid glare impacts on adjacent properties.
9. Two (2) short-term bicycle parking racks or secured bicycle lockers shall be provided for all nonresidential developments.

10. 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 ¼ inch thick, or as determined by the Director of the Planning Department.
11. The project shall incorporate graffiti resistant materials. The property owner shall at all times maintain an adequate amount of paint, matching the project, and shall abate any graffiti at the project within 48 hours of appearance of such graffiti.
12. The trash enclosure(s) shall be constructed with eight (8) inch wide by three (3) inch high P.C.C. curb for backstop. All trash enclosures shall be provided with a solid decorative cover.
13. Sidewalks shall be provided for all new developments in accordance with the city's circulation element of the General Plan.
14. All parking stalls shall be clearly marked by double striping pavement painting. Parking stall sizes shall be measured from the mid-point between the striping. No parking spaces shall be designated in a commercial/retail parking facility, except for disabled persons parking, van pool, car pool, or any other designated parking as required by law.
15. The construction contractor shall 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:
 - f. Install portable noise barriers, including solid structures and noise blankets, between the active noise sources and the nearest noise receivers.
 - g. Temporarily enclose localized and stationary noise sources.

20. Site and architectural review for Pad 3 shall go through the Administrative Site Plan (ASP) process. The Planning Commission shall be the review and approval body for the ASP application.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

21. The current Development fees must be paid prior to issuance of building/construction permits.
22. 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.

BUILDING & SAFETY:

23. 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
24. 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.
25. 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.
26. 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.
27. The applicant shall verify that all lot lines, easement lines, etc. will be located and/or relocated in such a manner as to not cause any existing structure to become non-conforming with the requirements of the latest adopted edition of the Building Code, or any other applicable law, ordinance, or code.

28. 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.

29. 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.
30. In addition to approval from Building & Safety, the applicant is required to obtain approval from the County of San Bernardino, Department of Public Health.
31. 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

32. 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

ENGINEERING DEPARTMENT:

33. 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.
34. 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.
35. It is the applicant's responsibility to maintain all improvements and utilities within the public right-of-way, including street sweeping, prior to final acceptance by the City. Where applicable, the applicant must provide provisional street sweeping schedules to the City.

PRIOR TO ISSUANCE OF GRADING PERMIT

36. 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

37. A Security to guarantee the proper setting of all survey monuments within the project limits, and replacement of any existing survey monuments damaged or removed during construction; will be collected during the bond and agreement process. Survey monuments shall be placed as required by plans and corner records must be recorded with the County.

PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS

38. Record any maps, lot line adjustments, right-of-way dedication or easements required for the development.
39. Applicant shall provide a Land Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms.

PRIOR TO ISSUANCE OF OCCUPANCY

40. Applicant/Design Engineer to provide the City of Fontana with As-Built/Record Drawings for all public improvement plans.
41. Applicant/Engineer of Record shall submit a conforming copy of the recorded Memorandum of Agreement for the Water Quality Management Plan and Storm Water BMP Transfer. The Access, Maintenance, and the WQMP Certification for BMP Completion must be submitted to the City Project Engineer.
42. 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

43. All underground utilities (sewer and storm drain) shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and main line. Videos to be inspected and approved by City Inspection. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. If removal and replacement of any utility is required, a subsequent video of the repair will be required.
44. The applicant shall design and construct the traffic signal, intersection improvements and related signing and striping at the Sierra Avenue project driveway intersection to the satisfaction of the City Engineer.
45. The applicant shall design and construct a right turn pocket for Sierra Avenue in the southbound direction at the proposed project entrance to the satisfaction of the City Engineer.

46. The applicant shall be responsible for the removal and replacement of improvements to the east side of sierra avenue to accommodate the new traffic signal and work with the property owner to obtain a Temporary Construction easement and maintenance easement.

FONTANA FIRE PREVENTION DISTRICT:

47. **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.
48. **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
49. **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
50. **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
51. **Fire Lanes.** The applicant shall submit on a site plan to the Fire Department for review and approval 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.
52. **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

The Fire Flow for this project shall be: **_1500_ GPM for a 2-hour duration at 20 psi** residual operating pressure. Fire Flow is based on a **_6,870_**sq.ft. structure.

53. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. SBCFD Standard 508.5.2.
54. **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.
55. **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 sec 508, SBCFD Standard 508.1
56. **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.
57. **Hood and Duct Extinguishing system.** An automatic hood and duct fire extinguishing system is required. A licensed contractor shall submit three (3) sets of detailed plans (minimum 1/8" scale) with manufactures' specification sheets to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. California Fire Code sec. 904.
58. **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.
59. **Fire Alarm, Manual or Automatic.** A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA 72 and all applicable codes is required. 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-E.
60. **Fire Alarm, Waterflow Monitoring.** A water flow monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required for 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.

61. **Commercial Addressing.** Commercial and industrial developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum six (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. SBCFD Standard 505.1
62. **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. SBCFD Standard 505.1
63. **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
64. **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

END OF CONDITIONS

EXHIBIT "C"



**CITY OF FONTANA
CONDITIONS OF APPROVAL**

PROJECT: Master Case No. (MCN) 20-016R1
Administrative Site Plan No. 21-023

September 21, 2021

LOCATION: 16826 and 16856 San Bernardino Avenue (0193-251-43, -44)

PLANNING DEPARTMENT:

1. This approval is for Administrative Site Plan No. 21-023, for site and architectural review of a 6,690 square foot multi-tenant building, as approved by the Planning Commission on September 21, 2021.
2. 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 (C of O) or other document evidencing the City's final inspection and acceptance of the work.
 - b. All requirements of the Fontana Municipal Code shall be complied with.
 - c. All other Conditions of Approval imposed by this project have been fulfilled.
3. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety, or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Section No. 30-30 and Section No. 30-31 of the Municipal Code.
4. 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.

5. This Administrative Site Plan 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.
6. 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.
7. Color combinations and color schemes for buildings approved under a design review application shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes may be approved by the Director of the Planning Department. The Director of the Planning Department may refer minor hue color changes to the original approving body for consideration under a revision to the original application.
8. Exterior lighting compatible with the design of the building shall be provided for the parking lot. The lighting shall be directed and shielded so as to illuminate only the parking area and to avoid glare impacts on adjacent properties.

9. Two (2) short-term bicycle parking racks or secured bicycle lockers shall be provided for all nonresidential developments.
10. 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 ¼ inch thick, or as determined by the Director of the Planning Department.
11. The project shall incorporate graffiti resistant materials. The property owner shall at all times maintain an adequate amount of paint, matching the project, and shall abate any graffiti at the project within 48 hours of appearance of such graffiti.
12. The trash enclosure(s) shall be constructed with eight (8) inch wide by three (3) inch high P.C.C. curb for backstop. All trash enclosures shall be provided with a solid decorative cover.
13. Sidewalks shall be provided for all new developments in accordance with the city's circulation element of the General Plan.
14. All parking stalls shall be clearly marked by double striping pavement painting. Parking stall sizes shall be measured from the mid-point between the striping. No parking spaces shall be designated in a commercial/retail parking facility, except for disabled persons parking, van pool, car pool, or any other designated parking as required by law.
15. The construction contractor shall 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:

- f. Install portable noise barriers, including solid structures and noise blankets, between the active noise sources and the nearest noise receivers.
 - g. Temporarily enclose localized and stationary noise sources.
 - h. Store and maintain equipment, building materials, and waste materials as far as practical from as many sensitive receivers as practical.
- 16. All signs shall be reviewed under a separate Design Review Sign application.
- 17. All landscaping shall be healthy and maintained in a reasonable manner as determined by the Director of the Planning Department or his/her designee.
- 18. 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.

19. The applicant/developer shall comply with the mitigation measure identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Report Program as approved by the City Council on September 27, 2020.
20. Site and architectural review for Pad 3 shall go through the Administrative Site Plan (ASP) process. The Planning Commission shall be the review and approval body for the ASP application.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

21. The current Development fees must be paid prior to issuance of building/construction permits.
22. 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.

BUILDING & SAFETY:

23. The applicant shall design the project to show compliance with the latest adopted edition of the following codes as applicable:
 - I. California Building Code
 - J. California Residential Code
 - K. California Electrical Code
 - L. California Mechanical Code
 - M. California Plumbing Code
 - N. California Energy Code
 - O. California Fire Code
 - P. California Green Building Standards Code
24. 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.
25. 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.
26. 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.

27. The applicant shall verify that all lot lines, easement lines, etc. will be located and/or relocated in such a manner as to not cause any existing structure to become non-conforming with the requirements of the latest adopted edition of the Building Code, or any other applicable law, ordinance, or code.
28. The applicant shall comply with the following grading requirements:
- J. 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.
 - K. All drainage water shall drain via approved methods to an approved location, such as a public street, a public drainage system, etc.
 - L. Drainage water shall not cross over a public sidewalk. Drainage water may, however, cross under a sidewalk if an approved drainage structure is used.
 - M. A recorded drainage acceptance agreement is required from adjoining property(s) receiving flows from this property.
 - N. No water course or natural drainage shall be obstructed.
 - O. 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.
 - P. 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.
 - Q. 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.
 - R. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:
 - 5. 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
 - 6. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
 - 7. All proposed drainage structures; and

8. Any proposed and/or required walls or fencing.
29. 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.
30. In addition to approval from Building & Safety, the applicant is required to obtain approval from the County of San Bernardino, Department of Public Health.
31. 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

32. 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:
 - D. Precise grading plans shall be approved
 - E. Rough grading completed
 - F. Compaction certification
 - F. Pad elevation certification
 - G. Rough grade inspection signed off by a City Building Inspector

ENGINEERING DEPARTMENT:

33. 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.
34. 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.
35. It is the applicant's responsibility to maintain all improvements and utilities within the public right-of-way, including street sweeping, prior to final acceptance by the City. Where applicable, the applicant must provide provisional street sweeping schedules to the City.

PRIOR TO ISSUANCE OF GRADING PERMIT

36. 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

37. A Security to guarantee the proper setting of all survey monuments within the project limits, and replacement of any existing survey monuments damaged or removed during construction; will be collected during the bond and agreement process. Survey monuments shall be placed as required by plans and corner records must be recorded with the County.

PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS

38. Record any maps, lot line adjustments, right-of-way dedication or easements required for the development.
39. Applicant shall provide a Land Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms.

PRIOR TO ISSUANCE OF OCCUPANCY

40. Applicant/Design Engineer to provide the City of Fontana with As-Built/Record Drawings for all public improvement plans.
41. Applicant/Engineer of Record shall submit a conforming copy of the recorded Memorandum of Agreement for the Water Quality Management Plan and Storm Water BMP Transfer. The Access, Maintenance, and the WQMP Certification for BMP Completion must be submitted to the City Project Engineer.
42. 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

43. All underground utilities (sewer and storm drain) shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and main line. Videos to be inspected and approved by City Inspection. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. If removal and replacement of any utility is required, a subsequent video of the repair will be required.

44. The applicant shall design and construct the traffic signal, intersection improvements and related signing and striping at the Sierra Avenue project driveway intersection to the satisfaction of the City Engineer.
45. The applicant shall design and construct a right turn pocket for Sierra Avenue in the southbound direction at the proposed project entrance to the satisfaction of the City Engineer.
46. The applicant shall be responsible for the removal and replacement of improvements to the east side of sierra avenue to accommodate the new traffic signal and work with the property owner to obtain a Temporary Construction easement and maintenance easement.

FONTANA FIRE PREVENTION DISTRICT:

47. **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.
48. **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
49. **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
50. **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
51. **Fire Lanes.** The applicant shall submit on a site plan to the Fire Department for review and approval 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.

52. **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

The Fire Flow for this project shall be: **_1500_ GPM for a 2-hour duration at 20 psi** residual operating pressure. Fire Flow is based on a **_6,870_**.sq.ft. structure.

53. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. SBCFD Standard 508.5.2.

54. **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.

55. **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 sec 508, SBCFD Standard 508.1

56. **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.

57. **Hood and Duct Extinguishing system.** An automatic hood and duct fire extinguishing system is required. A licensed contractor shall submit three (3) sets of detailed plans (minimum 1/8" scale) with manufactures' specification sheets to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. California Fire Code sec. 904.

58. **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.

59. **Fire Alarm, Manual or Automatic.** A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA 72 and all applicable codes is required. 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-E.

60. **Fire Alarm, Waterflow Monitoring.** A water flow monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required for 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.
61. **Commercial Addressing.** Commercial and industrial developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum six (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. SBCFD Standard 505.1
62. **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. SBCFD Standard 505.1
63. **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
64. **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

END OF CONDITIONS

EXHIBIT "D"



**CITY OF FONTANA
CONDITIONS OF APPROVAL**

PROJECT: Master Case No. (MCN) 20-016R1
Minor Use Permit No. 20-007

September 21, 2021

LOCATION: 16826 and 16856 San Bernardino Avenue (0193-251-43, -44)

PLANNING DEPARTMENT:

1. This approval is for Minor Use Permit No. 21-007, to allow the proposed 2,382 square foot drive-thru restaurant to operate a drive-thru, as approved by the Planning Commission on September 21, 2021.
2. 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 (C of O) or other document evidencing the City's final inspection and acceptance of the work.
 - b. All requirements of the Fontana Municipal Code shall be complied with.
 - c. All other Conditions of Approval imposed by this project have been fulfilled.
3. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety, or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Section No. 30-30 and Section No. 30-31 of the Municipal Code.
4. 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.

5. This Minor Use 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.
6. The project shall incorporate graffiti resistant materials. The property owner shall at all times maintain an adequate amount of paint, matching the project, and shall abate any graffiti at the project within 48 hours of appearance of such graffiti.
7. Operation of the drive-thru shall not result in stacking of vehicles on the public streets at any time.
8. Operation of the drive-thru shall not result in stacking of vehicles in such a manner that would result in obstruction to any access aisle of parking spaces for other tenants in the retail center, or the main drive aisles for the retail center.
9. The landlord shall stipulate in the lease for the tenant using the drive-thru land that should conflicts occur between vehicles parking and/or circulating in the parking areas and vehicles queuing for the drive-thru, staff of the drive-thru operation shall provide traffic control, take orders ahead of the menu boards, and/or utilize all require methods to eliminate those conflicts. Prior to implementation of any

measures, the landlord or drive-thru tenant shall submit to the City for review and approval, a traffic operations plan outlining the measures to be taken.

10. Staff of the drive-thru operation shall direct vehicles, take orders ahead of the menu boards, or utilize other methods to ensure there are no conflicts between cars parking and queuing for the drive-thru.
11. All landscaping shall be healthy and maintained in a reasonable manner as determined by the Director of the Planning Department or his/her designee.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

POLICE DEPARTMENT:

12. Incorporate an anti-graffiti coating to all proposed block walls to discourage graffiti.
13. Adhere to the City standard of one foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. Reflect all light fixtures on the site plan. All areas shall be illuminated during all hours of darkness and all luminaries utilized shall be vandal-resistant fixtures. The type of lighting shall be fluorescent, white L.E.D.s or metal halide. Provide a photometric layout under separate exhibit to ensure the minimum light standard is met.
14. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

END OF CONDITIONS