

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, APPROVING, PURSUANT TO THE CERTIFIED ENVIRONMENTAL IMPACT REPORT FOR THE CITRUS/OLEANDER INDUSTRIAL COMMERCE CENTER (STATE CLEARINGHOUSE NO. 2022110389), ZONING DISTRICT MAP AMENDMENT NO. 23-006 TO CHANGE THE ZONING DESIGNATION FOR APNS 0255-011-13, -14, -15, -18, -19, -25, -26, -27, -28, -29, -30, -31, and -32, AND 0255-021-17, -18, -22, -23, and -24, INCLUDING A FIVE-ACRE PARCEL WHERE NO DEVELOPMENT IS CURRENTLY PROPOSED, FROM RESIDENTIAL PLANNED COMMUNITY (R-PC) AND MULTI-FAMILY MEDIUM/HIGH DENSITY RESIDENTIAL (R-4) TO SOUTHWEST INDUSTRIAL PARK (SWIP) SPECIFIC PLAN, SLOVER EAST INDUSTRIAL DISTRICT FOR APPROXIMATELY 29.4 ACRES LOCATED WEST OF CITRUS AVENUE, EAST AND WEST OF OLEANDER AVENUE AND NORTH OF SANTA ANA AVENUE.

WHEREAS, Assessor Parcel Numbers: 0255-011-13, -14, -15, -18, -19, -25, -26, -27, -28, -29, -30, -31, and -32, and 0255-021-17, -18, -22, -23, and -24 were annexed from San Bernardino County and incorporated into the City of Fontana on May 23, 1966 and September 19, 2006; and

WHEREAS, the original application was submitted on May 18, 2022, for a General Plan Amendment (GPA) No. 22-004, Zone Change Application (ZCA) No. 22-005, Specific Plan Amendment (SPA) No. 22-002, Development Agreement (DA) No. 23-005, Design Review (DRP) No. 22-029 (Building No. 1), Tentative Parcel Map (TPM) No. 20709 (TPM No. 22-009, Building No. 1), Design Review No. 22-061 (Building No. 2), Tentative Parcel Map (TPM) No. 20708 (TPM No. 22-030, Building No. 2), Design Review No. 22-062 (Building No. 3), Tentative Parcel Map (TPM) No. 20707 (TPM No. 22-031, Building No. 3). - a request for the site and architectural review for the construction of three (3) industrial commerce center buildings having maximum sizes of 151,618 square feet (s.f.), 196,336 s.f., and 192,895 s.f. (total of 504,849 s.f.); on three sites with a total project site of approximately 24.8 gross acres; and a Development Agreement No. 23-005 to include a review of the development agreement for a public benefit fee of \$2,145,608.25; and

WHEREAS, on June 20, 2023, the Fontana Planning Commission ("Planning Commission") received public testimony and evidence presented by the Applicant, City staff, and other interested parties at a public hearing held on Citrus/Oleander Industrial Commerce Center EIR (State Clearinghouse No. 2022110389), and MCN No. 22-053. After carefully considering all information pertaining to the project, recommended approval of the Project to the Fontana City Council ("City Council"); and

WHEREAS, on July 25, 2023, the City Council held a duly noticed public hearing on Citrus/Oleander Industrial Commerce Center EIR (State Clearinghouse No. 2022110389) and MCN No. 22-053, where City Council received evidence and

testimony concerning the project and denied the project with a vote of 3-2; and

WHEREAS, Sections 30-39 (General Plan Amendment, Time limitations) and 30-74 (Specific Plan Amendment, Time limitations) of the Zoning and Development Code state that if an application is denied by either the Planning Commission or City Council, another application of the same nature and effecting the same property shall not be filed with a period of one year from the date of denial. However, the aforementioned section also provides that a hearing body denying the application may give permission for a new application to be filed if a change in circumstances or plans indicate that a new application is warranted; and

WHEREAS, On October 4, 2023, John Shardlow with Allen Matkins Leck Gamble Mallory & Natsis LLP, submitted a request on behalf of the Applicant for permission to file a new application based on revisions to the proposed project; and

WHEREAS, on October 24, 2023, the City Council Approved the Applicant's request for reconsideration with a vote of 4-1; and

WHEREAS, on October 25, 2023, applicant, Acacia Real Estate Group Inc., submitted a request to amend the General Plan Land Use designation (General Plan Amendment No. 23-004) on approximately 29.4 adjusted gross acres (APNs 0255-011-13, -14, -15, -18, -19, -25, -26, -27, -28, -29, -30, -31, and -32, and 0255-021-17, -18, -22, -23, and -24 (inclusive of a five-acre parcel that does not include development) from Residential Planned Community (R-PC) and Multiple-Family Medium/High Residential (R-MFMH) to General Industrial (I-G); Specific Plan Amendment 23-004 to amend the Southwest Industrial Park (SWIP) Specific Plan Land Use Plan to expand the SWIP boundary to include the entire 29.4 acres and designate the property with Slover East industrial District (SED) land use designation; Zoning District Map Amendment No. 23-006 to rezone the parcels from Residential Planned Community (R-PC) and Multiple-Family Medium/High Density Residential (R4) to Southwest Industrial Park (SWIP) Specific Plan, Slover East Industrial District (see attached **Exhibit "A"**); and approving Tentative Parcel Map No. 22-009R1 (TPM No. 20709) to consolidate six (6) parcels into one parcel to develop the project site for Building No. 1; Tentative Parcel Map No. 22-030R1 (TPM No. 20708) to consolidate six (6) parcels into one parcel to develop the project site for Building No. 2; Tentative Parcel Map No. 22-031R1 (TPM No. 20707) to consolidate five (5) parcels into one to develop the project site for Building No. 3; Design Review No. 22-029R1 for the design of Building No. 1; Design Review No. 22-061R1 for the design of Building No. 2; and Design Review No. 22-062R1 for the design of Building No. 3 totaling approximately 532,104 square feet and associated on-site and off-site improvements; and Development Agreement No. 23-085 to include a review of the development agreement for a public benefit fee of \$3,192,624.00 and the owner shall remit payment of an additional One Million Five Hundred Thousand Dollars (\$1,500,000.00) to fund the City's design and construction of an Action Sports Park; and

WHEREAS, an amendment to the boundaries of the SWIP specific plan and zoning classifications would allow for the development of the industrial commerce buildings;

and

WHEREAS, the subject property is to be developed below the assumed capacity as identified in the approved Housing Element, however there is still sufficient capacity in the city at the “extremely low/very low” income category to meet the City’s Regional House Needs Assessment (RHNA) allocation; and

WHEREAS, to comply with California’s Housing Crisis Act of 2019 (SB 330), the project will participate in the City of Fontana Municipal Code (“FMC”) Chapter 30 Article XV “No Net Loss Density Bonus/Replacement Program.” Pursuant to FMC section 30-967, the Unit Bank cannot exceed 2,200 units. The Unit Bank is currently 1,280 units. These 507 units will be added to the Unit Bank increasing the number of units in the Unit Bank to 507 which is less than the 2,200 units authorized by FMC. The units in the Unit Bank shall be available as density bonuses for other residential properties throughout the city. The program will enable, on a first come, first serve basis, density bonuses of up to 20% on other parcels until these 1787 residential units are reclaimed within future planned residential projects; and

WHEREAS, A Draft Environmental Impact Report (Draft EIR) was circulated for the 45-day public review period on November 10, 2022, with the review period closing on May 22, 2023. The document was submitted to the State Clearinghouse for notification to State agencies for comment (SCH No. 2022110389). The Planning Commission conducted a public hearing on the DEIR on April 18, 2023, to receive public comments, and prior to the end of the comment period of May 22, 2023, the City received comments on the Draft EIR from public agencies, organizations, and individuals; responses to these comments are included in the Final EIR, which consists of the Draft EIR, comments and responses to comments on the Draft EIR, a list of those commenting on the Draft EIR, a Statement of Overriding Consideration, and related Findings. Based on the City’s review of the Project, and the T&B Planning Letter and Urban Crossroad Supplemental Assessment, no recirculation of the EIR is required by CEQA Guidelines section 15088.5 as the Project, as detailed above, would result in the same or fewer/lesser impacts on the environment in comparison to the conclusions presented in the Draft EIR. To approve the project, the City Council must adopt a Statement of Overriding Considerations identifying that the project benefits override or outweigh the project’s identified unavoidable environmental impacts (greenhouse gas emissions, noise, and transportation) which have been prepared and are attached with the specific mitigation monitoring and reporting program, for the City Council. The project’s California Environmental Quality Act (CEQA) environmental documents can be viewed at [Environmental Documents | Fontana, CA - Official Website \(fontanaca.gov\)](https://www.fontanaca.gov/environmental-documents)

WHEREAS, on November 14, 2023, the City Council held a duly noticed public hearing on Citrus/Oleander Industrial Commerce Center EIR (State Clearinghouse No. 2022110389) and MCN No. 23-100, received testimony and evidence concerning the project and found it to be in conformance with the goals and policies of the General Plan, found that the project provides a community that is balanced between residential,

commercial and industrial that is developed to high standards, found that the project provides diverse economic and social opportunities for our citizens and those who wish to invest in the City of Fontana ("City"); and

WHEREAS, on November 14, 2023, pursuant to Resolution No. 2023-110 the City Council certified the Citrus/Oleander Industrial Commerce Center EIR (State Clearinghouse No. 2022110389) and adopted the Mitigated Monitoring and Reporting Program ("MMRP") for the revised project; and

WHEREAS, all the notices required by statute and the FMC have been given as required; and

WHEREAS, ZCA No. 23-006 is consistent with the goals and policies of the City and Goal number 7 of Chapter 15 of the Fontana General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA DOES ORDAIN AS FOLLOWS:

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

SECTION 2. CEQA. Consistent with the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), on Citrus/Oleander Industrial Commerce Center EIR (State Clearinghouse No. 2022110389) was prepared for development, including the General Plan Amendment and Tentative Vesting Map. The City Council has certified the Citrus/Oleander Industrial Commerce Center EIR and adopted the MMRP and, based on the CEQA Sections 15162 through 15164, staff has determined that none of the criteria requiring a subsequent environmental document have been met and that further environmental analysis is not required. A Notice of Determination has been prepared.

SECTION 3. Zoning District Map Amendments Findings. The City Council hereby makes the following findings for ZCA No. 23-006 in accordance with Section 30-40 "Purpose" of the Fontana Zoning and Development Code:

Finding: **The Zoning and Development Code may be amended by changing the development standards (text) or zoning designation map boundaries of any zone whenever such an amendment is deemed necessary to protect or promote the public's health, safety, or general welfare or when modification is viewed as appropriate in the context of generally accepted planning principles, surrounding land uses, and the General Plan.**

Findings of Fact: The zoning change from Residential Planned Community (R-PC) and Multiple-Family Medium/High Density Residential (R-4) to Southwest Industrial Park (SWIP) Specific Plan, Slover East Industrial District would allow for the construction of three (3) industrial commerce center buildings totaling approximately 521,030 square feet. This development will assist with growing industrial commerce demand in the City and the surrounding area. The zone change will provide consistency with the zoning and development to the south and west of the subject site and will provide safe and attractive development.

SECTION 4. Zoning District Map Amendment Approval. The City Council approves ZCA No. 23-006 to amend the zoning designation for APNS 0255-011-13, -14, -15, -18, -19, -25, -26, -27, -28, -29, -30, -31, and -32, and 0255-021-17, -18, -22, -23, and -24, including a five-acre parcel with no development, from Residential Planned Community (R-PC) and Multi-Family Medium/High Density Residential (R-4) to Southwest Industrial Park (SWIP) Specific Plan, Slover East Industrial District for approximately 29.4 acres as shown on **Exhibit "A"** which is attached hereto and incorporated herein.

SECTION 5. Effective Date/Publication. This Ordinance shall take effect thirty (30) days after the date of the adoption and prior to the expiration of fifteen (15) days from the passage thereof, shall be published by the City Clerk at least once in the Fontana Herald News, or a local newspaper of the general circulation, published and circulated in the City of Fontana, and henceforth and thereafter the same shall be in full force and effect.

SECTION 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 8353 Sierra Avenue, Fontana, CA 92335. The custodian or records is the City Clerk.

SECTION 7. Certification. The City Clerk of the City Council shall certify to the adoption of this Ordinance.

SECTION 8. Severability. If any provision of this Ordinance or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application.

APPROVED AND ADOPTED this 14th day of November 2023.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine Key, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council and was introduced at a regular meeting on the 14th day of November 2023, and was finally passed and adopted not less than five days thereafter on the 12th day of December 2023, by the following vote to wit:

AYES:

NOES:

ABSENT:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

“EXHIBIT A”

EXISTING AND PROPOSED ZONING MAP DESIGNATION -
RESIDENTIAL PLANNED COMMUNITY (R-PC) AND MULTIPLE-FAMILY
MEDIUM/HIGH DENSITY RESIDENTIAL (R-4) TO SOUTHWEST INDUSTRIAL
PARK (SWIP) SPECIFIC PLAN, SLOVER EAST INDUSTRIAL DISTRICT

