

RESOLUTION NO. PC 2021-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FONTANA RECOMMENDING THAT THE CITY COUNCIL APPROVE A RESOLUTION TO ADOPT THE INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) AND DIRECT STAFF TO FILE A NOTICE OF DETERMINATION, ADOPT AN ORDINANCE APPROVING ZONING CODE AMENDMENT 21-001 FOR TEXT AND FIGURE CHANGES TO THE ZONING AND DEVELOPMENT CODE, ADOPT A RESOLUTION APPROVING TENTATIVE PARCEL MAP NO. 20370 FOR CONSOLIDATION OF EIGHT (8) LOTS INTO ONE (1) PARCEL, ADOPT AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT 21-003 BETWEEN THE APPLICANT AND THE CITY OF FONTANA, ADOPT A RESOLUTION APPROVING CONDITIONAL USE PERMIT NO. 21-004 FOR A TYPE 21 ABC LICENSE, CONDITIONAL USE PERMIT NO. 21-005 AND -006 FOR DRIVE-THRU ESTABLISHMENTS, DESIGN REVIEW 21-010 FOR SITE AND ARCHITECTURAL REVIEW OF A COMMERCIAL SHOPPING CENTER WITH A GROCERY STORE AND FIVE OTHER PADS FOR A TOTAL BUILDING SQUARE FOOTAGE OF APPROXIMATELY 53,740 SQUARE FEET AND DESIGN REVIEW SIGN 21-018 FOR A SIGN PROGRAM TO THE AUTO CENTER OVERLAY ON A 6.20 ADJUSTED GROSS ACRE PROJECT SITE (APN: 0240-011-38, -41, -03, -05, -42, -06, -35 and -44).

WHEREAS, the City of Fontana received an application on March 24, 2021, for a Zoning Code Amendment (ZCA No. 21-001) to modify text and the boundaries of Planning Area 1 of the Auto Center Overlay, Tentative Parcel Map 20370 (TPM No. 21-006) to combine eight (8) parcels totaling approximately 6.20 adjusted gross acres into one (1) parcel, a Conditional Use Permit (CUP 21-004) for a Type 21 ABC License, Conditional Use Permits 21-005 and 006 for drive-thru establishments, a Design Review (DRP No. 21-010) application for site and architectural review of a proposed 53,740 square foot commercial center consisting of an anchor grocery store and five (5) other pads and Design Review Sign (DRS 21-018) application for a sign program to the Auto Center Overlay.

Project Applicant: Ralph Deppisch
Sage Investco
4340 Von Karman Avenue, #110
Newport Beach, CA 92660

Project Location: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, -35 and -44)

Site Area: Approximately 6.2 adjusted gross acres

WHEREAS, the subject site includes eight (8) parcels that were annexed from the San Bernardino County into the City of Fontana in October, 1981; and

WHEREAS, the City of Fontana received an application on March 24, 2021, for Zone Code Amendment (ZCA No. 21-001) to modify text and the boundaries of Planning Area 1 of the Auto Center Overlay, Tentative Parcel Map 20370 (TPM No. 21-006) to combine eight (8) parcels totaling approximately 6.20 adjusted gross acres into one (1) parcel, a Conditional Use Permit (CUP 21-004) for a Type 21 ABC License, Conditional Use Permits 21-005 and 006 for drive-thru establishments, a Design Review (DRP No. 21-010) application for site and architectural review of a proposed 53,740 square foot commercial center consisting of an anchor grocery store and five (5) other pads and Design Review Sign (DRS 21-018) application for a sign program to the Auto Center Overlay.

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 are attached hereto as **Exhibits “A, B, C, D, E”** for Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permits 21-004, -005, -006 and Design Review No. 21-010; and

WHEREAS, pursuant to the California Environmental Act (CEQA), an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Program were completed on November 8th, and concluded that no significant impacts would be caused by the project, therefore, a Mitigated Negative Declaration has been recommended for adoption; 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; posted at City Hall and onsite at the project site; and

WHEREAS, on December 7, 2021, a duly noticed public hearing for Tentative Parcel Map 20370 (TPM No. 21-006), Zone Code Amendment No. 21-001, Agreement No. 21-003, Conditional Use Permits 21-004, -005, -006, Design Review No. 21-010 and Design Review Sign No. 21-018, was held by the Planning Commission (“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 December 7, 2021; and

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

NOW, THEREFORE, the Commission RESOLVES as follows:

Section 1. The City of Fontana Planning Commission hereby makes the following findings for the Tentative Parcel Map No. 20370 in accordance with the Fontana Development Code:

Finding No. 1: The proposed parcel map is consistent with the City’s General Plan.

Finding of Fact: Tentative Parcel Map No. 20370 is consistent with the General Plan Land Use Designation for the project site of General Commercial (C-G) within the Auto Center Overlay. The C-G with Auto Center Overlay designation is intended for automobile sales and related services. The proposed project for an automotive car dealership is consistent with the General Plan and Auto Center Overlay. The project is for a tentative parcel map to combine eight (8) parcels into one (1) for the development of a commercial center. The use is consistent with the General Plan Land Use Designation.

Finding No. 2: The design and improvements of the proposed tentative parcel map is consistent with the General Plan.

Finding of Fact: The design of the proposed parcel map is consistent with the General Plan. The lot width is approximately 790 feet and has an approximate lot depth of 330 feet and street configuration conform to the requirements of the Circulation Master Plan, Subdivisions (Chapter No. 26), and the Zoning and Development Code (Chapter No. 30). The parcel map will combine eight (8) parcels into one (1) parcel to accommodate an anchor grocery store, two drive-thru establishments and three other future commercial pads. Three (3) proposed points of access are proposed along South Highland Avenue.

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

Finding of Fact: The project site has existing topography of less than two percent gradient and development of the site did not require setback variances; therefore, the site is suitable for this type of development. The lot size, lot width, and lot depth are as indicated in Finding No. 2 above are consistent with other commercial developments and dealerships in the Auto Center Overlay district. Three points of access are proposed for the commercial center along South Highland Avenue.

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

Finding of Fact: The design of the parcel map is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. An Initial Study (IS) & Mitigated Negative Declaration was completed to identify environmental impacts and mitigation measures are included to make any impacts less than significant. The Initial Study/Mitigated Negative Declaration is included under separate cover and is referenced herein.

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

Finding of Fact: The combining of eight (8) parcels into one (1) parcel will not cause health problems. The proposed development complies with the Fontana City Codes and the General Plan as indicated in Findings Nos. 1 through 4 above. Improvements include streets, 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. 5: The design of the subdivision or the types of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

Finding of Fact: The design and improvements of Tentative Parcel Map No. 20370 will not conflict with access easements acquired by the public. The proposed lot is accessed from South Highland Avenue which are publicly maintained streets. Currently there are no other public access easements through or within the proposed project site.

Section 2. The City of Fontana Planning Commission hereby makes the following findings for CUP No. 21-004 in accordance with Section 30-150 "Findings for approval of conditional use permits" of the Fontana Zoning and Development Code:

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

Finding of Fact: The request is for a Conditional Use Permit (CUP) for the proposed anchor tenant located within the Citrus Crossroads development for an Alcoholic Beverage Control (ABC) license. The proposed CUP would allow for beer, wine and distilled spirits to be consumed off-site under a Type 21 ABC license. The Zoning and Development

Code allows for grocery stores to operate with a California Department of Alcohol Beverage Control (ABC) Type 21 (Off-Sale Beer, Wine and Distilled Spirits) license subject to approval of a Conditional Use Permit.

The site is located at the northeast corner of Citrus Avenue and South Highland Avenue. The General Plan land use designation for the site is General Commercial (C-G). Specific development types allowed in C-G include: retailing, wholesaling, service activities, offices and businesses providing professional services, as well as retail stores such as grocery stores.

The site is located within the General Commercial (C-2) of the Zoning and Development Code. The C-2 zoning district includes retail and wholesale activities. Type 21 ABC licenses are permitted within this district with a Conditional Use Permit of the Zoning and Development Code. Therefore, the proposed use of a Type 21 ABC license at a retail grocery store is consistent with the General Plan and Zoning regulations.

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.

Finding of Fact: The proposed grocery store will occupy the anchor building within the shopping center. The building is approximately 40,100 square feet on an approximately 6.20 adjusted gross acre site. The physical characteristics of the site were reviewed, and staff has determined that the project site meets all of the necessary requirements for a type 21 ABC license such as the physical relationship and proximity of the use to other off-sale licenses as well as proximity to sensitive uses such as schools, parks, religious institutions, hospitals and other similar uses. None of the uses listed above are within 600 feet of the project site where the type 21 ABC license is proposed. Furthermore, the proposed use is for the grocery store to operate in conjunction with a new California Department of Alcoholic Beverage Control (ABC) Type 21 license (Off-Sale Beer, Wine and Distilled Spirits) which will not result in any physical change to the site or building.

Adequate streets and highways exist to accommodate the existing and anticipated traffic with adequate on-site circulation. Traffic to and from the project site has three (3) access points proposed along South Highland Avenue. South Highland Avenue is identified as a Primary Highway in the City's General Plan Hierarchy of Street in Fontana General Plan map. South Highland Avenue has been determined to be adequate to handle the traffic generated by the

commercial center. In addition, access to utilities and services can be obtained.

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

Finding of Fact: There will be no adverse effect to the neighboring sites or their permitted uses. The proposed project has been reviewed by the Planning Department, Engineering Department, the Building and Safety Division, and County Fire Prevention for site circulation, access, and safety. Any possible adverse effects shall be mitigated by the Conditions of Approval set forth in the Conditional Use Permit and as referenced herein. The Planning Department has drafted Conditions of Approval to mitigate potential negative impacts.

Section 3. The City of Fontana's, Planning Commission hereby makes the following findings for Conditional Use Permit No. 21-005 in accordance with Section No. 30-150 "Findings for approval" of the Fontana Zoning and Development Code:

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

Findings of Fact: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue. The project site has a General Plan land use designation of General Commercial (C-G). The C-G land use designation category is described by the Zoning and Development code as "retail, malls, wholesale, auto dealerships and offices, including medical offices and clinics, that can serve a broader, regional population". This includes grocery stores, restaurants and retail pads. The Zoning District for the project site is General Commercial (C-2) within the proposed Planning Area 3 of the Auto Center Overlay District. Drive-thru restaurants are permitted in the C-2 zone with the approval of a Conditional Use Permit by the Planning Commission. The proposed project will comply with the applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project.

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 as identified and referenced in Finding No. 1, above, meets or exceeds the criteria contained in the Zoning and

Development Code. This facility will be built pursuant to all applicable building, zoning, and fire codes and standards. The project includes streets improvements and sidewalks, grading, drainage, and perimeter and privacy walls to provide a safe and well-designed project.

There will be three (3) vehicle access points to the site from South Highland Avenue. The driveway will be designed to accommodate passenger vehicle traffic, tractor-trailer traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety.

The project site is physically suitable in size and shape to support the development of a trailer sales office. The applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project. As proposed, the project is consistent with the standards of the Zoning and Development Code. The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood.

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 as identified and referenced in Finding No. 1 and Finding No. 2, above, has been determined not to be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property. The on-site circulation is adequate. All drive aisle widths meet both the Zoning and Development Code and Fontana Fire Prevention District minimums for access. The site will be accessed from South Highland Avenue. For the anticipated traffic to the project site, there are three (3) proposed driveway for the purpose of ingress and egress. The driveway is designed to accommodate passenger vehicle traffic, tractor-trailers traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. Additionally, adequate utilities and services exist on-site and off-site.

The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood. It will also be consistent with the proposed commercial projects in the vicinity.

The proposed development will result in appropriate improvements, not only for the project site, but the surrounding area as well. The project includes sidewalks, drainage, grading, and perimeter and privacy walls to provide a safe and well-designed neighborhood. The proposed building has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. As mentioned in Findings No. 1 and No. 2, above, the proposed project meets or 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 Conditional Use Permit No. 21-006 in accordance with Section No. 30-150 "Findings for approval" of the Fontana Zoning and Development Code:

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

Findings of Fact: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue. The project site has a General Plan land use designation of General Commercial (C-G). The C-G land use designation category is described by the Zoning and Development code as "retail, malls, wholesale, auto dealerships and offices, including medical offices and clinics, that can serve a broader, regional population". This includes grocery stores, restaurants and retail pads. The Zoning District for the project site is General Commercial (C-2) within the proposed Planning Area 3 of the Auto Center Overlay District. Drive-thru restaurants are permitted in the C-2 zone with the approval of a Conditional Use Permit by the Planning Commission. The proposed project will comply with the applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project.

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 as identified and referenced in Finding No. 1, above, meets or exceeds the criteria contained in the Zoning and Development Code. This facility will be built pursuant to all applicable building, zoning, and fire codes and standards. The project includes streets improvements and sidewalks, grading, drainage, and perimeter and privacy walls to provide a safe and well-designed project.

There will be three (3) vehicle access points to the site from South Highland Avenue. The driveway will be designed to accommodate passenger vehicle traffic, tractor-trailer traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety.

The project site is physically suitable in size and shape to support the development of a trailer sales office. The applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project. As proposed, the project is consistent with the standards of the Zoning and Development Code. The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood.

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 as identified and referenced in Finding No. 1 and Finding No. 2, above, has been determined not to be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property. The on-site circulation is adequate. All drive aisle widths meet both the Zoning and Development Code and Fontana Fire Prevention District minimums for access. The site will be accessed from South Highland Avenue. For the anticipated traffic to the project site, there are three (3) proposed driveway for the purpose of ingress and egress. The driveway is designed to accommodate passenger vehicle traffic, tractor-trailers traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. Additionally, adequate utilities and services exist on-site and off-site.

The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood. It will also be consistent with the proposed commercial projects in the vicinity.

The proposed development will result in appropriate improvements, not only for the project site, but the surrounding area as well. The project includes sidewalks, drainage, grading, and perimeter and privacy walls to provide a safe and well-designed neighborhood. The proposed building has been reviewed by Planning, Engineering,

Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. As mentioned in Findings No. 1 and No. 2, above, the proposed project meets or exceeds the standards of the Zoning and Development Code and will provide a safe design for public access.

Section 5. The City of Fontana Planning Commission hereby makes the following findings for Design Review No. 21-010 in accordance with Section No. 30-120 “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.

Finding of Fact: The project site is located on the northeast corner of Citrus Avenue and South Highland Avenue. Further, the project site is zoned General Commercial (C-2) and is within the Auto Center Overlay. The C-2, along with the Auto Center Overlay designation, is intended for retail and wholesale activities. The proposed project for an anchor grocery store, two (2) drive-thru establishments and three (3) other commercial pads meets all the minimum standards in the Fontana Municipal Code and Auto Center Overlay District. The project is proposed with a high-quality architectural design appropriate for the General Commercial (C-2) and Auto Center Overlay districts. Appropriate screening from the public right-of-way will also be done.

This project, as proposed, is a request for the Planning Commission to review and recommend that the City Council approve the site and architectural design for the construction of a shopping center totaling approximately 53,354 square feet. The anchor tenant would be approximately 40,100 square feet. The remaining square footage would be for buildings located at five (5) other pads within the center. This project meets or exceeds the criteria contained in the Design Review section of the Zoning and Development Code.

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

Finding of Fact: The applicant has worked diligently with staff to incorporate site details that will beautify and enhance the overall aesthetics of the site. Some of the features include a modern architectural theme for the center, patios and drive entries, porte cochere’s for the drive thru restaurants, a unique and well-designed water feature that will enhance the corner statement of Citrus and South Highland, additional landscaping, building lighting and signage that would give the sense of place and act as a landmark for the prominent corner.

The development would encompass a grocery store, restaurants and retail alike to accommodate and residents, visitors and the overall community. Adequate parking and accessibility per standards has been incorporated therefore the project will promote the public health, safety and welfare of the occupants and therefore, 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.

Finding of Fact: The proposed project as identified and referenced in Finding No. 1 and 2, has been determined to be aesthetically and architecturally pleasing and compatible with the neighborhood. The project site which is approximately 6.2 adjusted gross acres is physically suitable in size and shape to support the development of the proposed 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 with approval of the Zoning Code Amendment.

The modern architecture theme selected for the shopping center is appropriate for the area and is consistent with surrounding uses. The design guidelines in the Development Code and more specifically the Auto Center Overlay. In addition, the proposed project is consistent with the goals and policies of the General Plan and applicable provisions of the zoning district, including Goal 5.3, Policy 5: (Community Design Element) stating that buildings “shall incorporate distinct and varied architectural details through varied rooflines, and detailed façade treatments”. Design characteristics include decorative cornices, wall sconces, veneer, stucco wall surface and decorative awnings.

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

The proposed development will result in appropriate improvements for the project site and the surrounding area as well. The project includes sidewalks, drainage, grading and a traffic signal with all necessary improvements on Citrus Avenue and South Highland Avenue 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. The proposed project identified in Finding No. through Finding No. 3, above, meets or exceeds the standards of the

Zoning and Development Code and will provide a safe design for public access.

Section 6. The City of Fontana Planning Commission hereby makes the following findings for Design Review Sign No. 21-018 in accordance with Section No. 30-120 “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.

Finding of Fact: The site currently has a general plan land use designation of General Commercial (C-G) and a current zoning district of General Commercial (C-2). Pylon, monument and wall signs are permitted with approval of a Design Review Sign application. Additionally, the use is required to comply with all other applicable provisions of the Zoning Code, Municipal Code, and General Plan.

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

Finding of Fact: The shopping center, if approved, would meet the regulations, standards, and intent of the Zoning and Development Code. The signs would be located in an area that has a variety of commercial and retail uses meeting development standards.

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.

Finding of Fact: The proposed signage is complimentary to and with the proposed commercial center. Materials and colors of the buildings match the proposed signage thus creating a theme of architectural compatibility throughout the project site.

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

Finding of Fact: The proposed signs will be reviewed under a separate permit for legibility, sign copy, colors, materials, size and location. The sign will also be reviewed by the Building and Safety Department to ensure the future signage is structurally sound.

Section 7. The Planning Commission has reviewed and considered the Initial Study/Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, any oral or written comments received, and the administrative record prior to making any recommendation on the proposed project. The Planning Commission finds that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program contain a complete and accurate reporting of all the environmental impacts associated with the Project. The Planning Commission further finds that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program has been completed in compliance with CEQA and the State CEQA Guidelines.

Section 8. Based on the foregoing, the City of Fontana Planning Commission hereby recommends the City Council to adopt a resolution adopting the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, adopt an ordinance to approve ZCA 21-001, adopt an ordinance approving DA 21-003, and adopt a resolution approving Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permit (CUP 21-004), Conditional Use Permits 21-005 and 006, Design Review (DRP No. 21-010) and Design Review Sign (DRS 21-018) application for a sign program to the Auto Center Overlay, subject to the conditions of approval as shown in the attached Exhibits “A” through “E” for the construction of a commercial shopping center at the northeast corner of Citrus Avenue and South Highland Avenue.

Section 9. 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 Community Development Department – Planning Department, 8353 Sierra Avenue, Fontana, CA 92335. This information is provided in compliance with Public Resources Code Section No. 21081.6.

Section 10. 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 7th day of December 2021.

City of Fontana

Cathline Fort, Chair

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 7th day of December 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. 21-032
Tentative Parcel Map 20370
(TPM No. 21-006)

DATE: December 7th, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44).

PLANNING DEPARTMENT:

1. The Tentative Parcel Map shall become null and void two (2) years from the date of approval unless the Final map is recorded or the applicant applies for an extension of time in accordance with the provisions in the Subdivision Map Act and the provisions in the City's Municipal Code.
2. The rights and privileges granted by Tentative Parcel Map No. 20370 shall not become effective, nor shall the Applicant commence the use for which this tentative parcel map approval is granted, until the following has occurred:
 - All conditions of approval imposed by this project have been fulfilled.
3. This tentative parcel map shall comply with all applicable development standards of Chapter No. 26 (Subdivisions), Chapter No. 30 (Zoning and Development) of the Municipal Code of the City of Fontana, and the Subdivision Map Act.
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 legal counsel. The applicant shall be responsible and reimburse the City

for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or 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. 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 Manger's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-30 and 30-31 of the Municipal Code.
6. The applicant/developer shall comply with the mitigation measures identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Reporting Program for this project.
7. Applicant shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.

ENGINEERING DEPARTMENT:

8. The project shall be served by the City's sanitary sewer system, all sewer facilities shall be constructed in accordance with the City Standards. Main trunk sewer line shall be in accordance with master sanitary sewer plan or as approved by the City Engineer.
9. The applicant shall obtain design and plan approval from all utility providers having jurisdiction over the on-site and off-site utilities. Completion of all undergrounding of onsite and off-site utilities is required by Section 27-52 of the City Municipal Code and in accordance with plans and specifications approved by the City Engineer.
10. 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.

11. The applicant shall obtain an encroachment permit from Caltrans for any work required within Caltrans' right-of-way.
12. This applicant's engineer shall prepare and submit traffic signal plans per approved site plan and as required to the satisfaction of the City Engineer. PRIOR TO ISSUANCE OF GRADING PERMIT
13. Applicant shall submit and gain approval of a complete WQMP Report in accordance with the County of San Bernardino Technical Guidance Document and latest template.
14. Traffic study must be approved.

PRIOR TO MAP RECORDATION

15. Record parcel map, right-of-way dedications, easements, and reciprocal access agreement as 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 CONSTRUCTION PERMITS
17. Applicant shall submit engineered improvement plans and obtain full approval. All required public improvements, including streets, storm drainage systems, sewers, traffic signals, streetlights, striping, signs, landscape, and any required traffic control and/or detour plans. All plans shall conform to City Standards and Specifications, and as approved by the City Engineer. PRIOR TO ISSUANCE OF FINAL CERTIFICATE OF OCCUPANCY
18. Applicant/Engineer to provide the City of Fontana with As Built/Record Drawings for all public improvement plans. Commercial Industrial Land Development Engineering Conditions MCN21-000032 Revised 11-18-21 KS & RG
19. Applicant/Engineer shall provide centerline ties to the City of Fontana reflecting proper setting of all survey monuments within the project limits and replace any existing survey monuments damaged or removed during construction. 13. Applicant/Engineer shall set survey monuments as required by the map and corner records must be recorded with the County.
20. 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).
21. All sewers and storm drains shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and main line. Storm drain video shall include main lines and laterals. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. Videos to be

inspected and approved by City Inspection. If removal and replacement of any utility is required, a subsequent video of the repair will be required.

22. 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.

BUILDING & SAFETY DIVISION:

23. Shall comply with the latest adopted edition of the following codes as applicable:
 - A. California Building Code
 - B. California Electrical Code
 - C. California Mechanical Code
 - D. California Plumbing Code
 - E. California Energy Code
 - F. California Fire Code
 - G. California Green Building Standards Code
24. Automatic fire suppression systems shall be installed in all new construction per Article II, Chapter 11 of the Code of the City of Fontana. 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 requirements of the South Coast Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.
26. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall comply with City Code.
27. All perimeter/boundary walls shall be 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.
28. The Parcel map shall record prior to the issuance of any permits.
29. 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.

30. All signs shall be Underwriters Laboratories approved or equal.

31. Permits are required prior to the removal and/or demolition of structures.

32. All exterior lighting shall be oriented, directed, and/or shielded as much as possible so that direct illumination does not infringe onto adjoining properties.

PRIOR TO ISSUANCE OF BUILDING/CONSTRUCTION PERMITS

33. The following items (as applicable) shall be completed and/or submitted to Building & Safety prior to the issuance of building permits for this project:

- A. Precise grading plans shall be approved

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

END OF FINAL CONDITIONS

EXHIBIT “B”



**CITY OF FONTANA
CONDITIONS OF APPROVAL**

PROJECT: Master Case No. (MCN) 21-032
Conditional Use Permit No. 20-010
Type 21 ABC License for a Grocery Store

DATE: December 7th, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44) within a 40,100 square foot grocery store.

PLANNING DEPARTMENT:

1. This conditional use permit is conditional upon the permittee proceeding with good faith intent to commence upon the proposed use within two (2) years after the effective date of the approval, or such other period specified as a condition of approval.
2. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

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

The City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or

with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

3. 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 all of the following have occurred:
 - a. All requirements of the Fontana Municipal Code shall be complied with.
 - b. All Conditions of Approval imposed on this project have been fulfilled.
4. 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 Sections 30-23 and 30-24 of the Municipal Code.
5. At any time, the Director of Community Development may bring a status report to the Planning Commission identifying impacts or failure to comply with conditions resulting from the Conditional Use Permit approval. Such status report may contain a police report regarding calls for service at the location. Nothing herein shall modify or limit the City's authority to regulate the business or modify or revoke the permit upon the City's determination that the business is being operated in a manner adverse to the public's health, safety, and welfare.

POLICE DEPARTMENT:

6. The operation of the business shall not violate any federal, state, or local laws or ordinances, including the rules, regulations and orders of the State Alcoholic Beverage Control Department and all conditions of the City of Fontana's Conditional Use Permit. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit.
7. All tobacco products shall remain under the control of the management, behind the cashier's counter.
8. Employees engaged in the sale or distribution of alcoholic beverages shall be at least 18 years of age. If the business owner, licensee, or management choose to employ a salesperson between the ages of 18 to 20, that salesperson must be under the continuous supervision of at least one salesperson who is 21 years old or older.
9. No beer, wine or distilled spirits shall be displayed within five feet of the front door or between the register and the front door unless it is under the control of the management within locked shelving units.

10. No display or sale of beer, wine or distilled spirits, shall be made from an ice tub.
11. No alcoholic beverages shall be stored, sold or displayed (even for special events) within any aisle-way of the main sales floor or vestibule.
12. The sale of malt liquor or fortified wine products with an alcoholic content greater than 17 percent by volume is prohibited.
13. The licensee shall not sell single bottles of wine in less than 750 ml. containers. Specialty or dessert wines which are only packaged in 375 milliliter bottles shall be permitted.
14. No distilled spirits shall be sold in bottles or containers smaller than 375 ml.
15. The sale of beer or malt beverages in single size containers of 40 ounces or less is prohibited.
16. The licensed premise shall not sell individual units of beer or wine from the manufacturer's multi-unit packages (three-packs, four-packs, six-packs, etc.).
17. The licensee shall not allocate more than half of the cooler doors for the sale of alcoholic beverages. All designated coolers for alcoholic beverages shall be located furthest away from the entrance doors.
18. The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages are prohibited on or around the licensed premises.
19. On a regular and reasonable basis litter shall be removed daily from the premises, including adjacent public sidewalks and all parking areas under the control of the business owner/licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis to control debris.
20. The business owner/licensee shall comply with the City False Alarm Ordinances.
21. Graffiti abatement by the business owner/licensee shall be immediate and ongoing on the licensed premises, but in no event shall graffiti be allowed unabated on the premises for more than 48 hours. Abatement shall take the form of removal or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee shall notify the City within 24 hours (at 909.350-GONE) of any graffiti elsewhere on the property not under the business owner/licensee's control so that it may be abated by the property owner and/or the City's Graffiti Enforcement Team.
22. The management and employees of the licensed premise shall be required to prevent loitering in the parking lot of the site. The management and employees of the licensed premise shall regularly police the area under its control to prevent the loitering of persons about the premises.

23. Sales of alcoholic beverages will be restricted to, and within the confines of, the building portion of the licensed premises.
24. A digital video surveillance system is required at the premise. It is recommended to be an internet-based system and shall be maintained in proper working order at all times. The surveillance video/visual media shall be maintained for a minimum of sixty (60) days and upon request, shall be accessible to law enforcement personnel for viewing, copying and collection purposes during regular business hours.
25. Signs shall comply with all City of Fontana sign requirements. No more than 25% of the total window area and clear doors shall bear advertising, signs or obstructions of any sort. Window signs or other obstructions shall be placed and maintained in a manner so that there is a clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises (this applies to all windows and glass doors of this location).
26. The exterior of the premise, including all entrances, walkways, adjacent public sidewalks, alleyways and parking lots under the control of the licensee, shall be illuminated at a minimum of one (1) foot candle of light during all hours of darkness, so that persons standing in those areas at night are identifiable by law enforcement personnel. All luminaries utilized are required to have vandal resistant light fixtures.
27. The exterior of the licensed premises, including adjacent public sidewalks and all parking lots under the control of the licensee, shall be illuminated during the hours of darkness, at all entrances, sidewalks or parking surfaces, at a minimum of one foot candle of light.
28. A prominent, permanent sign or signs stating "NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES" shall be posted on the front of the building or in the front windows of the business, and shall be clearly visible to patrons of the licensee. The size, format, placement, and languages of the sign or signs shall be determined by the Department of Alcoholic Beverage Control. Generally, the signs should be 24 inches in length and 14 inches in width with the print of sufficient size to make them clearly readable.
29. A prominent, permanent sign or signs stating "NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED ON THE PREMISES" shall be posted on the front of the building or in the front windows of the business, and shall be clearly visible to patrons of the licensee. The size, format, placement and languages of the sign or signs shall be determined by the Department of Alcoholic Beverage Control. Generally, the signs should be 24 inches in length and 14 inches in width with the print of sufficient size to make them clearly readable.
30. No electronic arcade or amusement games are permitted on the licensed premises at any time.
31. In the event security problems occur, the Police Department (Chief of Police) will issue a letter to the owner requesting a meeting to discuss said security problems.

If security problems are not resolved by the owner in the timeframe mutually agreed upon in said meeting, at the discretion of the Chief of Police, the business owner/licensee or management, at his or her own expense, shall provide a California licensed, uniformed security guard(s) on the premises, during such hours as requested and directed by the Police Department. All uniformed security guards shall comply with Fontana City Code section 22-62, and shall be registered with the State of California's Bureau of Security and Investigative Services as a security guard prior to employment within the City of Fontana.

32. Responsible Beverage Service Training: All persons engaged in the sale or service of alcohol shall abide by the following requirements. If compliance with Item B (AB 1221 of 2017) is achieved, the requirement for Item A is void.
33. The licensee, business owner, all managers and employees engaged in the sale of alcohol, shall attend a L.E.A.D. training (Licensee Education on Alcohol and Drugs provided by the Department of Alcoholic Beverage Control) or an alternative responsible beverage service training (RBS), within 90 days of employment.
34. Comply with California Assembly Bill 1221 of 2017, Responsible Beverage Service Training Act. Details can be found on the website for the California Department of Alcoholic Beverage Control.
35. The approved set of Conditions of Approval, and the ABC license shall be posted at all times at a visible location behind the cashier's counter in the facility and shall remain legible at all times.

END OF CONDITIONS OF APPROVAL

EXHIBIT “C”



**CITY OF FONTANA
CONDITIONS OF APPROVAL**

PROJECT: Master Case No. (MCN) 21-032 **DATE:** December 7, 2021
Conditional Use Permit No. (CUP) 21-005
Drive Thru Restaurant for a Coffee Shop

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue, adjacent to South Highland Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44) within a 2,200 square foot suite.

PLANNING DEPARTMENT:

1. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:
 - A. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and
 - B. All other Conditions of Approval imposed by this project have been fulfilled.
2. 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.
3. 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.

4. This Conditional 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.
5. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.
6. 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 Community Development. The Director of Community Development may refer minor hue color changes to the original approving body for consideration under a revision to the original application.
7. 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.
8. This project will comply with all applicable provisions, regulations, and development standards of Planning Area 3 of the Auto Overlay District.
9. All signs shall be reviewed under a separate Design Review Sign application.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

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

POLICE DEPARTMENT:

11. This is a high graffiti area of the city. To discourage graffiti, apply an anti-graffiti coating on all block walls.
12. Adhere to the City standard of one-foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. 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.
13. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

END OF CONDITIONS

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.

4. This Conditional 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.
5. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.
6. 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 Community Development. The Director of Community Development may refer minor hue color changes to the original approving body for consideration under a revision to the original application.
7. 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.
8. This project will comply with all applicable provisions, regulations, and development standards of Planning Area 3 of the Auto Overlay District.

All signs shall be reviewed under a separate Design Review Sign application.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

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

POLICE DEPARTMENT:

10. This is a high graffiti area of the city. To discourage graffiti, apply an anti-graffiti coating on all block walls.
11. Adhere to the City standard of one-foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. 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.
12. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

END OF CONDITIONS

EXHIBIT “E”



**CITY OF FONTANA
CONDITIONS OF APPROVAL**

PROJECT: Master Case No. 21-032
Design Review No. 21-010
Shopping Center

DATE: December 7, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue, (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44).

PLANNING DEPARRTMENT:

1. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on the first sheet of the final building plans prior to issuance of any building permits.
2. This Design Review shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.
3. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:
 - a. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and
 - b. All other Conditions of Approval imposed by this project have been fulfilled.

4. Prior to the construction of any modifications, all structural and aesthetic changes to the project design must be requested and approved in writing by the Director of Community Development or his/her designee.
5. This project will comply with all applicable provisions, regulations and development standards of the City of Fontana Municipal Code.
6. The occupants of this facility shall comply with applicable provisions of local, state and federal laws and regulations with respect to noise, vibration, smoke, odors, fire and explosive hazards, including, but not limited to the City's adopted Hazardous Materials Management Plan and Industrial Wastewater/Discharge requirements.
7. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

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

Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or 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.

8. 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 Manger's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-30 and 30-31 of the Municipal Code.

9. 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.
10. All roof-mounted equipment and ground mounted equipment shall be screened from view from adjacent properties and streets with colors and materials that are compatible with the architecture of the building(s).
11. Any foam treatment used for architecture treatments and/or projections located on the first floor shall be covered with concrete or similar durable material a minimum of ¼ inch thick, or as determined by the Director of Community Development.]
12. The applicant shall post a publicly visible sign on the project site with the telephone number and 24-hour point of contact for dust, noise, and construction complaints. The 24-hour point of contact shall be available 24 hours a day, 7 days a week and have authority to commit additional assets to control dust, or respond to construction complaints after hours, on weekends and on holidays. Construction shall be limited to 7:00am to 6:00pm on weekdays, 8:00am to 5:00pm on Saturdays, and no construction on Sundays and Holidays.
13. Bicycle parking racks or secured bicycle lockers shall be provided for this development. Bicycle racks or lockers shall be provided at a rate of one bicycle parking space per 20 automobile parking spaces with a minimum of a two-bike rack.
14. All future monument signs shall be reviewed under a separate Design Review Sign application.

PRIOR TO ISSUANCE OF A GRADING PERMIT:

15. The applicant/developer shall comply with the mitigation measures identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Reporting Program.
16. The applicant shall have fully provided, constructed, or otherwise meet all Planning Department's requirements per approved plans, and shall have addressed all punch list items to the satisfaction of the Director of Planning.
17. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

18. A Planning Department final inspection fee of \$265.00 shall be paid prior to issuance of the Certificate of Occupancy for Industrial and Commercial Development.
19. Applicant shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.
20. All architecture treatments and /or projections located on any elevation of any building shall be of durable non-foam e.g. (extrusive polystyrene) material; the use of foam for additional detailing is permitted above the first 14 feet in height on the elevations.

BUILDING & SAFETY DIVISION:

21. Shall comply with the latest adopted edition of the following codes as applicable:
 - A. California Building Code
 - B. California Electrical Code
 - C. California Mechanical Code
 - D. California Plumbing Code
 - E. California Energy Code
 - F. California Fire Code
 - G. California Green Building Standards Code
22. Automatic fire suppression systems shall be installed in all new construction per Article II, Chapter 11 of the Code of the City of Fontana. Design and type of system shall be based upon the requirements of the Building Code, Fire Code and the requirements of the Fontana Fire Prevention District.
23. The requirements of the Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.
24. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall comply with City Code.
25. All perimeter/boundary walls shall be 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.
26. The Parcel map shall record prior to the issuance of any permits.
27. 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.

28. All signs shall be Underwriters Laboratories approved or equal.

29. Permits are required prior to the removal and/or demolition of structures.

30. 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

31. The following items (as applicable) shall be completed and/or 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
32. If hazardous substances are used and/or stored, a technical opinion and report, identifying and developing methods of protection from the hazards presented by the hazardous materials, may be required. This report shall be prepared by a qualified person, firm, or corporation and submitted to Building & Safety. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

ENGINEERING LAND DEVELOPMENT:

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 onsite 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.
36. The applicant shall obtain an encroachment permit from Caltrans for any work required within Caltrans' right-of-way.
37. This applicant's engineer shall prepare and submit traffic signal plans per approved site plan and as required to the satisfaction of the City Engineer. PRIOR TO ISSUANCE OF GRADING PERMIT
38. Applicant shall submit and gain approval of a complete WQMP Report in accordance with the County of San Bernardino Technical Guidance Document and latest template.
39. Traffic study must be approved.

PRIOR TO MAP RECORDATION

40. Record parcel map, right-of-way dedications, easements, and reciprocal access agreement as required for the development.

41. Applicant shall provide a Land Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms. PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS
42. Applicant shall submit engineered improvement plans and obtain full approval. All required public improvements, including streets, storm drainage systems, sewers, traffic signals, streetlights, striping, signs, landscape, and any required traffic control and/or detour plans. All plans shall conform to City Standards and Specifications, and as approved by the City Engineer. PRIOR TO ISSUANCE OF FINAL CERTIFICATE OF OCCUPANCY
43. Applicant/Engineer to provide the City of Fontana with As Built/Record Drawings for all public improvement plans. Commercial Industrial Land Development Engineering Conditions MCN21-000032 Revised 11-18-21 KS & RG
44. Applicant/Engineer shall provide centerline ties to the City of Fontana reflecting proper setting of all survey monuments within the project limits and replace any existing survey monuments damaged or removed during construction. 13. Applicant/Engineer shall set survey monuments as required by the map and corner records must be recorded with the County.
45. 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).
46. All sewers and storm drains shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and main line. Storm drain video shall include main lines and laterals. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. Videos to be inspected and approved by City Inspection. If removal and replacement of any utility is required, a subsequent video of the repair will be required.
47. 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.

PUBLIC WORKS:

48. All commercial facilities must complete an Industrial Wastewater Discharge Permit application prior to final Certificate of Occupancy (FMC 23-218).
49. All commercial or industrial facilities within the following categories must install a gravity separation interceptor to comply with the requirements of FMC Section 23-190 unless the requirement is modified by a variance issued by the Public Services Director.

Solid Waste:

50. All Commercial, Industrial, Institutional, or Residential buildings having 5 or more living units must provide refuse collection areas (AB 1327). Design plans shall be submitted and approved prior to construction and shall meet the following design requirements:
- These areas (Trash Enclosures) shall be of adequate size to contain a refuse and recycling bin and provide convenient accessibility for the deposit and collection of these materials. (AB 1327)
 - The standard bin size provided by the City of Fontana's franchise hauler for commercial establishments is 7'L x 4'W x 5'H.
 - Collection areas must adequately protect recyclable materials from the harmful effects of the weather. (FMC 24-12, AB 1327)
 - Refuse collection areas used by food service facilities (restaurants, bakeries, coffee or juice bars, ice cream stores, or food processing) for the collection of food wastes shall have a solid roof (NPDES Standard BMP).
51. All Commercial, Industrial and construction projects must comply with the requirements of FMC 24-11; General Standards relating to the hauling of refuse and/or recycling by the City's franchise hauler during construction and post-construction.

Storm Water:

52. All parkway culverts constructed for the purpose of conveying storm water from the project to a public right of way must be maintained in operating condition by the property owner.

SCHOOL DISTRICT:

53. Prior to issuance of building permits the applicant shall be responsible for paying the applicable school district fee.

POLICE DEPARTMENT:

54. Adhere to the City standard of one foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. 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.
55. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

SAN BERNARDINO COUNTY HAZARDOUSE MATERIALS DIVISION:

56. Prior to occupancy, the business operator shall be required to apply for one or more of the following permits, or apply for exemption from hazardous materials laws and

regulations: Hazardous Materials Permit, Hazardous Waste Permit, Aboveground Storage Tank Permit, or Underground Storage Tank Permit. Application for one or more of these permits shall occur by submitting a hazardous materials business plan using the California Environmental Reporting System (CERS) <http://cers.calepa.ca.gov/> Additional information can be found at <http://www.sbcfire.org/ofm/Hazmat/PoliciesProcedures.aspx> or you may contact The Office of the Fire Marshal, Hazardous Materials Division at (909) 386-8401.

57. Facilities having an aggregate store capacity of over 1320 gallons of petroleum products on site must prepare and implement a Spill Prevention, Control, and Countermeasures (SPCC) Plan prior to having petroleum product in them. 40 CFR 112.3

FIRE DEPARTMENT:

58. **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.
59. **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
60. **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.
61. **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.

62. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. SBCFD Standard 508.5.2.
63. **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 job-site.
64. **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
65. **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.
66. **Fire Alarm, Water Flow 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.
67. **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.
68. **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
69. **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
70. **Material Identification Placards.** The applicant shall install, in all locations deemed appropriate by the Fire Department, approved material identification placards on the outside of all buildings and/or storage tanks that store hazardous or flammable materials. Additional placards shall be required inside the buildings when chemicals are segregated into separate areas. Standard 2703.5.

EXHIBIT “F”



**CITY OF FONTANA
CONDITIONS OF APPROVAL**

PROJECT: Master Case No. 18-033
Design Review Sign No. 21-018

DATE: December 7, 2021

LOCATION: The project site is located on the northwest corner of South Highland Avenue and Sierra Avenue within Planning Area 4 of the Auto Center Overlay District (APN 0240-091-39, -41, -43, -48, -54, -57, -58, -59, and -60)

PLANNING DIVISION:

1. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on the first sheet of the final building plans prior to issuance of any building permits.
2. This Design Review shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.
3. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:
 - a. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and
 - b. All other Conditions of Approval imposed by this project have been fulfilled.

4. Prior to the construction of any modifications, all structural and aesthetic changes to the project design must be requested and approved in writing by the Director of Community Development or his/her designee.
5. This project will comply with all applicable provisions, regulations and development standards of the City of Fontana Municipal Code.
6. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

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

Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or 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.

7. 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 Sections 30-30 and 30-31 of the Municipal Code.
8. The applicant shall post a publicly visible sign on the project site with the telephone number and 24-hour point of contact for dust, noise, and construction complaints.

The 24-hour point of contact shall be available 24 hours a day, 7 days a week and have authority to commit additional assets to control dust, or respond to construction complaints after hours, on weekends and on holidays. Construction shall be limited to 7:00am to 6:00pm on weekdays, 8:00am to 5:00pm on Saturdays, and no construction on Sundays and Holidays.

PRIOR TO ISSUANCE OF A GRADING PERMIT:

9. The applicant/developer shall comply with the mitigation measures identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Reporting Program.
10. The applicant shall have fully provided, constructed, or otherwise meet all Planning Division's requirements per approved plans, and shall have addressed all punch list items to the satisfaction of the Planning Director.
11. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.
12. A Planning Department final inspection fee of \$265.00 shall be paid prior to issuance of the Certificate of Occupancy for Industrial and Commercial Development.
13. Applicant shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.
14. All architecture treatments and /or projections located on any elevation of any building shall be of durable non-foam e.g. (extrusive polystyrene) material; the use of foam for additional detailing is permitted above the first 14 feet in height on the elevations.

BUILDING & SAFETY DIVISION:

15. Shall comply with the latest adopted edition of the following codes as applicable:
 - A. California Building Code
 - B. California Electrical Code
 - C. California Mechanical Code
 - D. California Plumbing Code
 - E. California Energy Code
 - F. California Fire Code
 - G. California Green Building Standards Code
16. Automatic fire suppression systems shall be installed in all new construction per Article II, Chapter 11 of the Code of the City of Fontana. 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.

17. The requirements of the Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.
18. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall comply with City Code.
19. All perimeter/boundary walls shall be 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.
20. The Parcel map shall record prior to the issuance of any permits.
21. 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.

22. All signs shall be Underwriters Laboratories approved or equal.

23. Permits are required prior to the removal and/or demolition of structures.

24. 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

25. The following items (as applicable) shall be completed and/or 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

26. If hazardous substances are used and/or stored, a technical opinion and report, identifying and developing methods of protection from the hazards presented by the hazardous materials, may be required. This report shall be prepared by a qualified person, firm, or corporation and submitted to Building & Safety. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

END OF CONDITIONS OF APPROVAL