

RESOLUTION NO. PC 2022-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FONTANA APPROVING DESIGN REVIEW NO. 22-019, A PROPOSAL TO CONSTRUCT 249 SINGLE-FAMILY HOMES ON A PREVIOUSLY APPROVED AND RECORDED TRACT MAP (TENTATIVE TRACT MAP NO. 20363) WITHIN THE GARDENS PLANNING AREA OF THE ARBORETUM SPECIFIC PLAN, AND DETERMINING THAT THE PROJECT HAS BEEN REVIEWED UNDER A PREVIOUS FINAL ENVIRONMENTAL IMPACT REPORT STATE CLEARINGHOUSE NO. (2006071109), PURSUANT TO SECTION 15126 THROUGH 15164 OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND SECTION 8.10 OF THE CITY OF FONTANA'S 2019 LOCAL CEQA GUIDELINES AND DIRECTING STAFF TO FILE THE NOTICE OF DETERMINATION.

WHEREAS, the City of Fontana received an application on March 3, 2022, a proposal to construct 249 single-family homes on a previously approved and recorded tract map (Tentative Tract Map No. 20363) that subdivides a parcel of approximate 44.4 adjusted gross acres for the purpose of single-family homes.

Project Applicant: Adrian Hermanson
 Lennar Homes of California
 980 Montecito Drive, Suite 302
 Corona, CA 92879

Project Location: The project site is located on southwest corner of Duncan Canyon Road and Sierra Avenue.

Site Area: Approximately 44.5 adjusted gross acres

WHEREAS, on September 6, 2022, the Planning Commission received, staff reports and all the information, evidence, and public testimony and considered Design Review No. 22-019; and,

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

WHEREAS, pursuant to Article II the Zoning and Development Code, a single-family residential project containing five or more units requires the approval of a Design Review application; and

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

WHEREAS, pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an EIR has been certified, the lead agency is required to review any changed circumstances to determine whether any of the circumstances under Public Resources Code section 21166 and State CEQA Guidelines section 15162 require additional environmental review; and

WHEREAS, based on that evaluation, staff concluded that the EIR fully analyzed and mitigated, where feasible, all potentially significant environmental impacts, if any, that would result from the proposed project, and therefore, no subsequent EIR or mitigated negative declaration is required; and

WHEREAS, Conditions of Approval have been prepared and are attached hereto as **Exhibit “A”** for the Design Review; and

WHEREAS, the owners of property within 660 feet of the proposed project site were notified via public hearing notice mailer prior to the Public Hearing; and a notice of the public hearing was published in the local *Fontana Herald* newspaper on August 26, 2022, posted at City Hall and at the project site; and

WHEREAS, the Planning Commission carefully considered all information pertaining to the proposed project, including the staff report, findings, and all the information, evidence, and testimony presented at its public hearing on September 6, 2022; 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’s Planning Commission hereby makes the following findings for **Design Review No. 22-019** in accordance with Section No. 30-120 “Findings for Approval” for Design Review of the Zoning and Development Code:

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

Findings of Fact: The project is located in the Residential Planned Community (R-PC) general plan land use designation, which is used for master-planned communities with specific plans. The site is also located in the Arboretum Specific Plan. The request is to develop 249 detached single-family dwellings. Nine floorplans are being proposed, ranging from approximately 1,905 square feet to approximately 3,339 square feet. The architectural styles used for these homes include Spanish, Prairie and California Craftsman. These architectural styles are compatible with the architectural styles within the Arboretum Specific Plan. The project will be an appropriate and desirable development for the area. The project is consistent with the General Plan and meets or exceeds the criteria contained in the Design Review section

of the Fontana Zoning and Development Code and the Arboretum Specific Plan.

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

Findings of Fact: The proposed project as identified and referenced in Finding No. 1, above, is located within the Gardens Village planning area of the Arboretum Specific Plan and has been determined to be aesthetically and architecturally pleasing and compatible with the neighborhood. The proposed neighborhood is contemporary and true to style with the specific plan, and are compatible, resulting in high quality architectural design appropriate and desirable for the surrounding community.

The project includes street improvements: sidewalks, drainage, grading, and perimeter/privacy walls to provide a safe and well-designed neighborhood. The proposed neighborhood has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. The proposed project meets or exceeds the standards of the Zoning and Development Code and will provide a safe design for normal public access.

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

Findings of Fact: The proposed project identified in Finding No. 1 and Finding No. 2 will result in much needed and appropriate improvements, not only for the project site, but the surrounding area as well. The project includes street improvements: sidewalks, drainage, grading and perimeter and privacy walls to provide a safe and well-designed neighborhood. The proposed neighborhood has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. The proposed project meets or exceeds the standards of the Zoning and Development Code and will provide a safe design for normal public access. These structures will be built pursuant to all applicable building, zoning, and fire codes and standards and; therefore, shall promote the public health, safety, and welfare of the surrounding community.

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

Findings of Fact: The proposed project as identified and referenced in Finding No. 1, Finding No. 2, and Finding No. 3, above, has been determined to be appropriate and will result in a safe, well-designed development. The tract of homes has been designed and will be developed with appropriate pavement, curb, gutter, and sidewalk. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. The character of the surrounding neighborhood reflects residential uses.

SECTION 2. the Planning Commission hereby determines that the project has been reviewed under a previous Final Environmental Impact Report (State Clearinghouse No. 2006071109), pursuant to Section 15126 through 15164 of the California Environmental Quality Act (CEQA) Guidelines and Section 8.10 of the City of Fontana's 2019 Local CEQA Guidelines and directs staff to file the Notice of Determination.

SECTION 3. Based on the foregoing, the City of Fontana's Planning Commission hereby approves Design Review No. 22-019, subject to the conditions of approval, which are attached hereto as **Exhibit "A"** to this Resolution and incorporated herein by this reference.

SECTION 4. Resolution Regarding Custodian of Record: The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at the Planning Department, 8353 Sierra Avenue, Fontana, CA 92335. This information is provided in compliance with Public Resources Code, Section No. 21081.6.

SECTION NO. 5. The Secretary shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Fontana, California, at a regular meeting held on this **6th day of September 2022.**

City of Fontana

Cathline Fort, Chairperson

ATTEST:

I, Idilio Sanchez, Secretary of the Planning Commission of the City of Fontana, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the **6th day of September 2022**, 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. 22-036
Design Review No. 22-019

DATE: September 6, 2022

LOCATION: The project site is located on the west side of Sierra Avenue between Duncan Canyon Road and Casa Grande Avenue.

PLANNING DEPARTMENT:

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

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

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

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. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on a sheet in the final building and grading plans prior to issuance of any building or grading permits.
4. 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 City of Fontana's Municipal Code shall be complied with.
 - B. All Conditions of Approval imposed on this project have been fulfilled.
 - C. 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 final inspection and acceptance of the work.
5. Prior to the construction of any modifications, all structural and aesthetic changes to the project design must be requested and approved in writing by the Director of Planning or his/her designee. Major structural and aesthetic changes exceeding the codified parameters of administrative policy shall be presented to the Planning Commission for approval. Changes made without approval as stated herein, will prevent the occupancy of the residential structure until corrections are approved in writing by all appropriate staff.
6. The Director of Planning, or his/her designee, shall have the authority for minor architectural changes focusing around items such as window treatments, color combinations, façade treatments, and architectural relief. Questions on the interpretation of this provision or changes not clearly within the scope of this provision shall be submitted to the Planning Commission for consideration under a Revision to the Design Review.
7. Upon discovery of any cultural tribal cultural or archaeological resources, cease construction activities in the immediate vicinity of the find until the find can be assessed. All cultural tribal and archaeological resources unearthed by project construction activities shall be evaluated by the qualified archaeologist and tribal monitor/consultant. If the resources are Native American in origin, interested Tribes (as a result of correspondence with area Tribes) shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the Tribe will request preservation in place or recovery for educational purposes. Work may continue on other parts of the project while evaluation takes place.

Preservation in place shall be the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavation to remove the resource along the subsequent laboratory processing and analysis. All Tribal Cultural Resources shall be returned to the Tribe. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be offered to the Tribe or a local school or historical society in the area for educational purposes.

Archaeological and Native American monitoring and excavation during construction projects shall be consistent with current professional standards. All feasible care to avoid any unnecessary disturbance, physical modification, or separation of human remains and associated funerary objects shall be taken. Principal personnel shall meet the Secretary of the Interior standards for archaeology and have a minimum of 10 years' experience as a principal investigator working with Native American archaeological sites in southern California. The Qualified Archaeologist shall ensure that all other personnel are appropriately trained and qualified.

8. The construction contractor will use the following source controls at all times:
 - A. Use of noise-producing equipment will be limited to the interval from 8:00 a.m. to 5:00 p.m., Monday through Friday.
 - B. For all noise-producing equipment, use types and models that have the lowest horsepower and the lowest noise generating potential practical for their intended use.
 - C. The construction contractor will ensure that all construction equipment, fixed or mobile, is properly operating (tuned-up) and lubricated, and that mufflers are working adequately.
 - D. Have only necessary equipment onsite.
 - E. Use manually adjustable or ambient-sensitive backup alarms. When working adjacent to residential use(s), the construction contractor will also use the following path controls, except where not physically feasible, when necessary:
 - i. Install portable noise barriers, including solid structures and noise blankets, between the active noise sources and the nearest noise receivers.
 - ii. Temporarily enclose localized and stationary noise sources.
9. Foam treatment used for architecture features and/or projections located on the first floor (under 14-foot) shall be covered with concrete or similar durable material a minimum of ¼ inch thick, or as determined by the Director of Planning.
10. If solar panel systems are installed on the roof of any residential structure, the installation shall be on top or above the approved roof tile. If a solar panel system is flush mounted to the roof, matching roof tiles shall be replaced immediately upon removal of the solar panels.
11. No solid masonry wall shall be higher than nine-foot from top of ground (finish grade) when used in combination with a retaining wall unless otherwise stated for this project.
12. All garage doors shall be metal, sectional roll-up and have windows.
13. Wall-mounted decorative lighting fixtures shall be provided at the front porch area as well as on each side of the garage door. Wall-mounted decorative lighting fixtures shall be a minimum of 18 inches in height.

14. Prior to the issuance of a Certificate of Occupancy, the applicant/developer/property owner shall underground all utilities, which for the purpose of this condition shall also include all boxes, structures and/or other equipment located in the public right-of-way, any public utility easement(s) and on any private property, to the satisfaction of the Director of Planning or his/her designee.
15. All new block walls that can be seen by public view shall be constructed with a decorative block and capped with a prefabricated block cap. New block walls that cannot be seen by public view could be constructed of CMU block with a masonry cap.
16. The following electrical outlets and garage door opener will be provided in all garages:
 - a. Install one automatic garage door opener for the double garage door.
 - b. Install at least one duplex receptacle within garage.
17. 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 No. 30-30 and Sections No. 30-31 of the Municipal Code.
18. The current Development Fees shall be paid.
19. Construction of the model complex shall conform to all City requirements for use and removal of such facilities. This shall include off street paved parking spaces, landscaping and bonds for the removal of any office space within the model and removal of the parking spaces.
20. Litter shall be removed daily from the model homes complex.
21. The model homes may be used as offices solely for the first sale of homes within a recorded tract.
22. The sales office shall be located in a garage, trailer, or dwelling.
23. The establishment of the model home complex shall be for a two-year period, at which time the sales office use shall be terminated and the structure restored back to its original condition. Extensions may be granted by the Director of Planning in one year increments up to a maximum of four years or until 90 percent of the development is sold; whichever is less.

24. The applicant shall submit a \$2,500.00 deposit to the City of Fontana for each lot to ensure the restoration of the model homes and associated parking facilities.
25. Street improvements and temporary parking shall be completed to the satisfaction of the City Engineer and Director of Planning prior to commencement of sales activities or the display of model homes. The parking spaces shall be located within an off-street facility, except on-street parking may be permitted subject to the following conditions:
 - a. The sales office, models, and on-street parking spaces shall be located within Tract Map No. 18915, Lot Nos. 16 through 18) and coordinated with construction phasing such that there are no resident homeowners living in homes located adjacent to the gated, secured area of the street.
 - b. The parking stalls shall be adequately striped and shall conform to City standards.
 - c. The model homes (Lot Nos. 16 through 18, Tract Map No. 18915) area shall have a decorative fence that is kept locked during non-operating business hours.
26. The sales office is to be used only for transactions involving the sale, rent, or lease of lots and/or structures within the tract in which the sales office is located, contiguous tracts, or a planned unit community.
27. Failure to terminate sales office and restore structure or failure to apply for an extension on or before the expiration date will result in forfeiture of the cash deposit, a halt in further construction or inspection activity on the project site, and enforcement action to ensure restoration of structure.
28. An area for overflow parking shall be provided off-street to the satisfaction of the City Engineer and Director of Planning. Said parking area shall be located adjacent to the model home sales office, outside the secured area, appropriately signed, and provided with a drive approach construction to City standards.
29. Temporary landscaping, including minimum 48-inch box trees, shall be provided within the on-street parking area. Temporary landscaping shall also be provided within a planter area surrounding the overflow parking area.
30. All fences proposed in conjunction with the model homes and sales office shall be located outside of the public right-of-way, except where approved by the Director of Planning and City Engineer for security.
31. Directional signs located within the right-of-way shall be reviewed and permitted by Engineering Department.

Prior to Issuance of Building /Construction Permits

32. The applicant/developer/property owner shall provide clustered and/or individual mailbox(es) for the delivery of mail to future residents of the development. The location shall be convenient for the residents and not block the line-of-sight for pedestrians or vehicle traffic.
33. The mailboxes shall be made of durable material and shall be installed in a manner that is resistant to vandalism and meets the requirements of the Post Office. The Post Office currently approves freestanding mailboxes that are F-series and wall-mounted boxes that are 4C series. The developer is responsible for contacting the Post Office for the type and location of the mailboxes within their development. Any replacements of the mailboxes subsequent to the original installation shall be the responsibility of the developer, each individual homeowner and/or the homeowners association, and the Post Office.

BUILDING AND SAFETY DIVISION:

34. The applicant/developer/property owner shall comply with the latest adopted edition of the following codes as applicable:
 - A. California Building Code
 - B. California Residential Code
 - C. California Electrical Code
 - D. California Mechanical Code
 - E. California Plumbing Code
 - F. California Energy Code
 - G. California Fire Code
 - H. California Green Building Standards Code
35. The applicant/developer/property owner shall install an automatic fire suppression system, which is required in all new construction per FMC Chapter 11 Article II. Design and type of system shall be based upon the requirements of the Building Code, Fire Code and the requirements of the Fontana Fire Prevention District.
36. The applicant/developer/property owner shall verify that any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project complies with FMC Chapter No. 5 Article XIV.
37. The applicant/developer/property owner shall verify that all perimeter/boundary walls are designed and constructed so that the outer/exterior face of the wall is as close as possible to the lot line. In any case, the outer/exterior face of the wall shall be within two (2) inches of the lot line. Distances greater than two (2) inches may be

approved prior to construction by the Building Official on a case-by-case basis for extenuating circumstances.

38. The applicant/developer/property owner shall have the tract map recorded prior to the issuance of any building permits.

39. The applicant/developer/property owner shall comply with the following grading requirements:

- A. Grading plans shall be submitted to and approved by Building & Safety. The grading plans shall indicate all site improvements and shall indicate complete drainage paths of all drainage water run-offs.
- B. All drainage water shall drain via approved methods to an approved location, such as a public street, a public drainage system, etc.
- C. Drainage water shall not cross over a public sidewalk. Drainage water may, however, cross under a sidewalk if an approved drainage structure is used.
- D. A recorded drainage acceptance agreement is required from adjoining property(s) receiving flows from this property.
- E. No water course or natural drainage shall be obstructed.
- F. Minimum slope or grade for ALL drainage structures shall be one half (0.50) percent for concrete and one (1.0) percent for all other, or as otherwise approved by the Building Official.
- G. Drainage water shall not pass from an 'improved' type of drainage structure to an 'unimproved' type of drainage structure (e.g., concrete swale to a dirt swale) unless otherwise approved by the Building Official.
- H. A complete hydrology study using the latest edition of the San Bernardino County Flood Control Hydrology Manual, and complete hydraulic calculations justifying the size, slope, capacity, etc. of any and all drainage structures being utilized, shall be submitted to and approved by Building & Safety.

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

- I. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:
 - i. The relationship between the proposed finished on-site grade elevations and the existing adjacent property grade elevations (Indicate any additional drainage water that may come from an adjacent property.);
 - ii. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.);
 - iii. All proposed drainage structures;
 - iv. Any proposed and/or required walls or fencing.

40. The applicant/developer/property owner shall verify that all exterior lighting shall be oriented, directed, and/or shielded as much as possible so that direct illumination does not infringe onto adjoining properties.

PRIOR TO ISSUANCE OF BUILDING/CONSTRUCTION PERMITS

41. The following items shall be completed and/or submitted to Building & Safety – as applicable – prior to the issuance of building permits for this project:
 - A. Precise grading plans shall be approved
 - B. Rough grading completed
 - C. Compaction certification
 - D. Pad elevation certification
 - E. Rough grade inspection signed off by a City Building Inspector

ENGINEERING DEPARTMENT:

42. Applicant shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.
43. The former approved Conditions of Approval for Tentative Tract Map No. 20230 shall apply.

END OF CONDITIONS OF APPROVAL