

RESOLUTION PC NO. 2022-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FONTANA APPROVING TENTATIVE TRACT MAP NO. 20431 (TTM NO. 21-011) AND DESIGN REVIEW NO. 21-050 FOR SITE AND ARCHITECTURAL REVIEW TO ESTABLISHMENT A NEW 82-UNIT CONDOMINIUM COMPLEX ON A 4.4 ACRE PROJECT SITE LOCATED AT 8160, 8160, AND 8194 CHERRY AVE (APNS: 0230-051-39, -40, -41, AND -42).

WHEREAS, the City of Fontana received an application on December 15, 2021, for a Tentative Tract Map for condominium purposes and Design Review for site and architectural review to establish a 82-unit condominium complex on a 4.4 adjusted gross acre project site (APNs 0230-051-39, -40, -41, and -42) within the Route 66 Gateway subdistrict of the Form-Base Code (FBC) Zoning District.

Project Applicant: MCO Development, Inc.
One Venture, Suite 130
Irvine, CA 92618

Project Location: 8160, 8180, and 8194 Cherry Ave (APNs: 0230-051-39, -40, -41, and -42).

Site Area: Approximately 4.4 adjusted gross acres

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

WHEREAS, the proposal is for the establishment of a condominium map and the architecture and design review of 82 condominiums; and

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

WHEREAS, Conditions of Approval have been prepared and attached hereto as **Exhibit “A”** for Tentative Tract Map No. 20431 (TTM No. 21-011) and **Exhibit “B”** for Design Review No. (DR No. 21-050); and

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

WHEREAS, the subject site includes four parcels, which two are developed with a single-family dwelling, the houses will be demolished as part of the project development, and the parcels were annexed from San Bernardino County into the City of Fontana on September 15, 2005, (Annexation No. 161, LAFCO No. 2968); and

WHEREAS, pursuant to the City of Fontana's Zoning and Development Code, residential projects of five units or more require approval of a Design Review by the Planning Commission; and

WHEREAS, pursuant to Article III of the Zoning and Development Code, a multi-family housing project up to 39 dwelling units per acre is a permitted use and requires approval of a Design Review application for the review a by the Planning Commission; and

WHEREAS, the owners of property within 660 feet of the proposed project site were notified via public hearing notice mailer prior to the Public Hearing; and a notice of the public hearing was published in the local *Fontana Herald* newspaper on September 9, 2022, posted at City Hall and at the project site; and

WHEREAS, on September 20, 2022, a duly noticed public hearing on Tentative Tract Map No. 20431 (TTM No. 21-011) and Design Review No. 21-050 was held by the Planning Commission to consider testimony and evidence presented by the applicant, City staff, and other interested parties, at the Public Hearing held with respect hereto; and

WHEREAS, the Planning Commission carefully considered all information pertaining to the proposed project, including the staff report, findings, and all of the information, evidence, and testimony presented at its public hearing on September 20, 2022; and

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

NOW, THEREFORE, the Commission RESOLVES as follows:

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

Section 2. The City of Fontana's, Planning Commission hereby makes the following findings for Tentative Tract Map No. 20431 (TTM No. 21-011) in accordance with Section No. 26-55(e) "Hearing; Criteria for Approval," of the Fontana Subdivision Code:

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

Findings of Fact: Tentative Tract Map No. 20431 (TTM No. 21-011) is a request to consolidate four existing lots into one parcel for condominium purpose totaling approximately 4.4 adjusted gross acres. The proposed condominium project is located in the Walkable Mixed-Use Corridor and Downtown (WMXU-1) General Plan Map land use designation area which allows the establishment of condominiums. These parcels are located on the west side of Cherry Avenue approximately 250-foot south of the southwest corner of the intersection of Foothill Boulevard and Cherry Avenue, the project site

is otherwise identified as 8160, 8180, and 8194 Cherry Ave (APNs: 0230-051-39, -40, -41, and -42).

The tentative tract map will comply with the City of Fontana's Municipal Code, the Subdivision Sections of the Code (Chapter 26) General Plan, and Zoning and Development Code (Chapter 30). The tentative tract map is compatible with the surrounding residential land uses. The Route 66 Gateway subdistrict permits multi-family uses from minimum 18 dwelling units per acre to a maximum 39 dwelling units per acre. The lot size is approximately 4.4 adjusted gross acres with 82 proposed condominiums; therefore, the proposed Tentative Tract Map No. 20431 is consistent with the City's General Plan. The project site is not located within any specific plan boundary or a Fire Hazard Overlay District.

Finding No. 2: That the design and improvements of the proposed subdivision is consistent with the General Plan and any applicable specific plan.

Findings of Fact: The design of the proposed condominium project as, mentioned in Finding No. 1, above, is consistent with the General Plan with the lot size and street configuration that conforms to the requirements of the Land Use, Zoning, and Urban Design Element, Community Mobility and Circulation Element, Subdivisions (Chapter No. 26), and the Zoning and Development Code (Chapter No. 30). The project includes public sewer, public storm drain, streets, gutter, sidewalks, drainage, and grading to provide a safe and well-designed project for the area that is consistent with the General Plan. The project site is not located within any specific plan boundary. Additionally, the project has been reviewed by the Engineering Department and San Bernardino County Fire Department for safety and access.

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

Findings of Fact: The proposed development complies with the City of Fontana's Zoning and Development Code. Improvements including streets, sidewalks, drainage, and grading, that will provide a safe and well-designed neighborhood as mentioned in Finding No. 2, above. The project site, shape, and topography are physically suitable and of an adequate size to accommodate the development referenced herein. The existing topography of the site is less than two (2) percent gradient and development of the site did not require any variances; therefore, the site is suitable for this type of development. The project site will accommodate the proposed 82 condominium development, at 18 dwelling units per acre, along with parking facilities for the residents. The main point of access will be provided to the project from Cherry Avenue which is designated as a modified major highway with a second access point for emergence vehicles

(EVA) and a resident exit point, also on Cherry Avenue. The proposed project at 82 units is well within the zoning district of the Route 66 Gateway subdistrict of the Form-Based Code that permits multi-family uses from a minimum of 18 dwelling unit per acre to a maximum of 39 dwelling units per acre. The project is proposed at 18 dwelling unit per acre.

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

Findings of Fact: The design of the subdivision and the proposed improvements as described in Finding No. 1 through Finding No. 3 above complies with the City of Fontana's Municipal Code requirements, conditions of approval (referenced herein), and will not have any impact on the environment or substantially and avoidably injury to fish, wildlife, or their habitat. Moreover, the site is completely surrounded by development and is highly disturbed. The project site is not listed as a potential site for habitat for any endangered or threatened species per the City's General Plan. The project has been reviewed by traffic engineering and will not cause any impacts to the adjacent streets or transportation network.

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

Findings of Fact: The design of the subdivision as described in Finding No. 1 through Finding No. 4, above, complies with the City of Fontana's Municipal Code requirements and the improvements associated with the subdivision such as street, curb, gutter, sidewalk modifications as required to be constructed and have been designed as part of this project pursuant to the Zoning and Development Code and the Engineering Department requirements. Additional improvements such as water connection will be built pursuant to applicable building, zoning, and fire code standards; moreover, the sewer and storm drain connections, through an easement located on Tract No. 15881, will be built pursuant to applicable building and engineering code standards. Therefore, the design of the subdivision and the public improvements shall promote the public health, safety, and welfare of the surrounding community and will not cause public health problems.

Finding No. 6: That the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. The planning commission may approve a map if it finds that alternative easements, for access or for use, will be

provided, and that these will be substantially equivalent to easements previously acquired by the public.

Findings of Fact: The design of the subdivision and improvements will not conflict with any access easements acquired by the public. The proposed subdivision will have adequate access from Cherry Avenue. Currently, there are no other existing public access easements through or within the proposed subdivision boundaries.

Section 3. The City of Fontana's Planning Commission hereby makes the following findings for Design Review No. 21-050 is 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 proposal for the development of 82 condominiums is consistent with the General Plan land use designation for the project site which is the Walkable Mixed-Use Downtown and Corridors (WMXU-1). The WMXU-1 include a variety of medium density to high-density residential types, retail and services, office, entertainment, education, civic, and open space. WMXU-1 residential densities range from 3 to 39 dwelling units per acre. The proposed project has a density of 18 dwelling units per acre which is within the allowable density mention above.

The General Plan is the document that sets the framework for the City of Fontana and provides the overall policies for development within the community. Furthermore, the General Plan encourages variety of housing including multi-family housing pursuant to the City of Fontana's, General Plan Land Use Element, (Chapter No. 15), Goal No. 1, (Policy 2,). Land Use Element Goal No. 7, which states that "public and private development meets high design standards" (page 15.40 FGP), action A through action D which seeks to integrate housing projects into existing city grids. The proposed project is an infill project that will add housing into the existing city grids promoting Goal No. 7 mentioned above.

The proposed project is located within the Route 66 Gateway subdistrict of the Form-Based Code. This district is an area intended for and permits the development of multiple-family dwellings as well as condominiums. The proposed 82 condominiums will meet all zoning and development standards set forth in the City of Fontana's Municipal Code as noted in the staff report and the findings herein and, therefore, is consistent with the zoning regulations. This project is for the site and architecture approval of a new 82-unit condominium complex within 27 two-story buildings totaling approximately 128,000 square feet, with two-bedroom units and

three-bedroom units, range in size from 1,172 square feet to 1,672 square feet.

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 referenced in Finding No. 1, above, complies with the City of Fontana's Zoning and Development Code. Improvements including streets, sidewalks, drainage, and grading, modifications, will provide a safe and well-designed neighborhood. Additionally, the proposed development meets all setback, height, landscaping, design, architecture, parking, access, and safety requirements as mentioned in Findings No. 1 through Findings No. 4 and in the attached Staff Report. The proposed complex is contemporary and true to style with the surrounding uses resulting in high quality architectural design appropriate and desirable for the surrounding community. The proposed development will enhance the character of the surrounding residential area through appropriate attention to aesthetics and design. The project provides both common and private amenities in excess of that required by the Zoning and Development Code.

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

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

Findings of Fact: The proposed as referenced in Finding No. 1 and Finding No. 2, has been designed to enhance and compliment the surrounding neighborhood. The architectural theme for the project is described as Spanish/Mediterranean. The building will reflect light earth tone colors and a reddish accent color. This architectural style includes a smooth stucco finish, barrel tile low pitched roofs, arched openings, and covered porches and balconies. There are added architectural feature like: exposed wood corbels, window trim, and decorative iron work. The development will comply with the required setbacks and will not exceed the maximum height or maximum lot coverage. All other applicable development standards specified in the Zoning and Development Code will be met.

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 facility. There will be one vehicle access points to the site. The main point of access will be provided to the project from Cherry Avenue which is designated as a modified major highway with a second access point for emergence vehicles (EVA) and a resident exit point, also on Cherry Avenue. The proposed project at 82 units is well within the General Plan land use designation and the Route 66 Gateway subdistrict of the Form-Based Code that permits multi-family uses from a minimum of 18 dwelling unit per acre to a maximum of 39 dwelling units per acre. The driveway is designed to accommodate passenger vehicle traffic and service vehicle as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety.

Section 4. The Planning Commission hereby determines that this project is Categorically Exempt pursuant to Section 15332 Class 32, (Infill Development) of the California Environmental Quality Act (CEQA), and Section No. 3.22 of the Local 2019 Guidelines for Implementing CEQA. based on the following: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) The project site has no value, as habitat for endangered, rare or threatened species; (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; (e) The site can be adequately served by all required utilities and public services; and that further.

Section 5. Based on the foregoing, the City of Fontana’s Planning Commission hereby approves Tentative Tract Map No. 20431 (TTM No. 21-011) and Design Review (DR) No. 21-050, and subject to the findings listed above and the conditions of approval, which are attached hereto as **Exhibit “A”** and **Exhibit “B”** respectively.

Section 6. 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 7. 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,

Resolution PC No. 2022-_____

California, at a regular meeting held on this 20th 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 20th 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. (MCN) 21-127 **DATE:** September 20, 2022
Tentative Tract Map No. 204316 (TTM No. 21-011)

LOCATION: The project site is located on the west side of Cherry Avenue approximately 250-foot south of the southwest corner of Foothill Boulevard and Cherry Avenue, the project site is otherwise identified as 8160, 8180, and 8194 Cherry Ave (APNs: 0230-051-39, -40, -41, and -42).

PLANNING DEPARTMENT:

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

3. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections No. 30-23 of the Municipal Code.
4. This tentative tract map shall comply with all applicable development standards of Chapter 26 (Subdivisions), Chapter 30 (Zoning and Development Code) of the Municipal Codes of the City of Fontana and the Subdivision Map Act.
5. 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. A note to this effect shall be placed on the map prior to recordation of the final map.
6. All temporary signs (banners, wind flags, etc.) shall not be placed on the property unless the proper permits are obtained.
7. This Tentative Tract Map shall become null and void two (2) years from the date of approval as outlined by Section 26-58 of the Municipal Code, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Department inspection, has commenced within this period.
8. This project shall comply with all applicable provisions, regulations, and development standards of the City of Fontana's Municipal Code.
9. After the fifteen (15) day appeal period, the applicant shall remove the notice of Filing sign from the project site. The applicant may request a refund of the \$300 sign deposit. The request shall be submitted to the Planning Department.
10. Historic Archaeological Resources

- A. Upon discovery of any tribal cultural or archaeological resources, cease construction activities in the immediate vicinity of the find until the find can be assessed. All tribal cultural and archaeological resources unearthed by project construction activities shall be evaluated by the qualified archaeologist and tribal monitor/consultant. If the resources are Native American in origin, interested Tribes (as a result of correspondence with area Tribes) shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the Tribe will request preservation in place or recovery for educational purposes. Work may continue on other parts of the project while evaluation takes place.
 - B. Preservation in place shall be the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavation to remove the resource along the subsequent laboratory processing and analysis. All Tribal Cultural Resources shall be returned to the Tribe. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be offered to the Tribe or a local school or historical society in the area for educational purposes.
 - C. Archaeological and Native American monitoring and excavation during construction projects shall be consistent with current professional standards. All feasible care to avoid any unnecessary disturbance, physical modification, or separation of human remains and associated funerary objects shall be taken. Principal personnel shall meet the Secretary of the Interior standards for archaeology and have a minimum of 10 years' experience as a principal investigator working with Native American archaeological sites in southern California. The Qualified Archaeologist shall ensure that all other personnel are appropriately trained and qualified.
11. The construction contractor will use the following source controls at all times:
- A. Construction shall be limited to 7:00 am to 6:00 pm on weekdays, 8:00 am to 5:00 pm on Saturdays, and no construction on Sundays and Holidays unless it is approved by the building inspector for cases that are considered urgently necessary as defined in Section No. 18-63(7) of the Municipal Code.
 - B. For all noise-producing equipment, use types and models that have the lowest horsepower and the lowest noise generating potential practical for their intended use.
 - C. The construction contractor will ensure that all construction equipment, fixed or mobile, is properly operating (tuned-up) and lubricated, and that mufflers are working adequately.
 - D. Have only necessary equipment on-site.
 - E. Use manually adjustable or ambient-sensitive backup alarms. When working adjacent to residential use(s), the construction contractor will also use the following path controls, except where not physically feasible, when necessary:

1. Install portable noise barriers, including solid structures and noise blankets, between the active noise sources and the nearest noise receivers.
2. Temporarily enclose localized and stationary noise sources.

ENGINEERING DEPARTMENT:

12. 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.
13. The applicant/developer/property owner shall obtain design and plan approval from all utility providers having jurisdiction over the on-site and off-site utilities. Completion of all undergrounding of on-site and off-site utilities is required by Section No. 27-52 of the City Municipal Code and in accordance with plans and specifications approved by the City Engineer.
14. The applicant/developer/property owner shall maintain all improvements and utilities within the public right-of-way, including street sweeping, prior to issuance of final certificate of occupancy by the City.

PRIOR TO ISSUANCE OF GRADING PERMIT

15. The applicant/developer/property owner shall submit and gain approval of a complete Water Quality Management Plan report in accordance with the County of San Bernardino Technical Guidance Document and latest template.

PRIOR TO MAP RECORDATION

16. The applicant/developer/property owner 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. The applicant/developer/property owner shall record all map's, right-of-way dedications, easements as required for the development.
18. The applicant/developer/property owner shall submit engineered improvement plans and obtain full approval. All required public improvements, including but not limited to streets, storm drainage systems, sewers, traffic signals, streetlights, striping, signs, landscape, and any required traffic control and/or detour plans. All plans shall conform to City Standards and Specifications, and as approved by the City Engineer.

PRIOR TO ISSUANCE OF FINAL CERTIFICATE OF OCCUPANCY

19. Applicant/Design Engineer to provide the City of Fontana with As-Built/Record Drawings for all public improvement plans.
20. The Applicant/Engineer shall provide centerline ties to the City of Fontana reflecting proper setting of all survey monuments within the project limits and replace any existing survey monuments damaged or removed during construction.
21. The Applicant/Engineer shall set survey monuments as required by the map and corner records must be recorded with the County.
22. The Applicant/Landscape Architect shall provide a "Landscape Certificate of Compliance" certifying that the work has been designed, installed, and will be maintained in accordance with the City of Fontana's Model Water Efficiency Landscape Ordinance (Ordinance 1743, FCC Section 28).
23. 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.
24. 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.

Exhibit “B”



**CITY OF FONTANA
CONDITIONS OF APPROVAL**

PROJECT: Master Case No. 21-127
Design Review No. 21-050

DATE: September 20, 2022

LOCATION: The project site is located on the west side of Cherry Avenue approximately 250-foot south of the southwest corner of Foothill Boulevard and Cherry Avenue, the project site is otherwise identified as 8160, 8180, and 8194 Cherry Ave (APNs: 0230-051-39, -40, -41, and -42).

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 Department inspection, has commenced within this period.
3. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and 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 on 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. Foam treatment used for architecture features and/or projections located on the first floor (under 14 feet) shall be covered with concrete or similar durable material a minimum of ¼ inch thick, or as determined by the Director of Planning.
8. 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.
9. No solid masonry wall shall be higher than nine-foot from top of ground when used in combination with a retaining wall unless otherwise stated in mitigations for this project.

10. All new block walls shall be constructed with a decorative block and capped with a prefabricated block cap to match the existing walls on the adjacent properties.
11. Wall-mounted decorative lighting fixtures shall be provided at the front porch area and both sides of the garage doors. In addition, any wall mounted site lighting shall be added to the construction documents; the specifications shall be provided. A photometric shall also be included with the construction documents.
12. Prior to the issuance of a Certificate of Occupancy, the applicant 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.
13. The applicant/developer/property owner shall employ a certified professional manager or management company to provide maintenance, security, and other services. The professional manager or management company shall be California Association of Community Managers (CACM) certified or equivalent.
14. The development shall establish an active Homeowner's Association (HOA) prior to the sale of the first condominium unit.
15. The applicant must install an underground gas line for the built-in barbeque island and fire pit.
16. 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 of the Municipal Code.
17. The current Development Fees shall be paid.

Prior to Issuance of Building /Construction Permits

18. 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.

ENGINEERING LAND DEVELOPMENT:

19. All Conditions of Approval issued to Tentative Tract Map No. 20431 shall apply.
20. The applicant/developer/property owner shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.

BUILDING AND SAFETY DIVISION:

21. The applicant/developer/property owner shall design the project to show compliance with the latest adopted edition of the following codes as applicable:
 - A. California Building Code
 - B. California Residential Code
 - C. California Electrical Code
 - D. California Mechanical Code
 - E. California Plumbing Code
 - F. California Energy Code
 - G. California Fire Code
 - H. California Green Building Standards Code
22. The applicant/developer/property owner shall install an automatic fire suppression system, which is required in all new construction per Fontana Municipal Code, Chapter 11 Article II. Design and type of system shall be based upon the requirements of the Building Code, Fire Code and the requirements of the Fontana Fire Prevention District.
23. The applicant/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 Fontana Municipal Code, Chapter 5 Article XIV.
24. 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.
25. 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:
 - 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.

- 26. 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

- 27. 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

FIRE PROTECTION DISTRICT:

- 28. Jurisdiction. The above referenced project is under the jurisdiction of the San Bernardino County Fire Department (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.

29. 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.
30. Turnaround. An approved turnaround shall be provided at the end of each roadway one hundred and fifty (150) feet or more in length. Cul-de-sac length shall not exceed six hundred (600) feet; and all roadways shall not exceed a 12 % grade and have a minimum of nineteen (19) foot inside radius and a forty-five (45) foot outside radius for all turns.
31. Street Signs. Approved temporary or permanent street signs shall be installed throughout the project prior any combustible materials being placed on the construction site.
32. Fire Lanes. The applicant/developer/property owner 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.
33. 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.

The Fire Flow for this project shall be 1500 GPM for a 2-hour duration at 20 psi residual operating pressure. Fire Flow is based on an 8,360 square foot structure.
34. Hydrant Marking. Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department.
35. Water System Certification. The applicant/developer/property owner shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the jobsite.
36. 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.

37. 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.
38. Fire Sprinkler-NFPA #13R. An automatic fire sprinkler system complying with NFPA 13R and Fire Department standards is required. A fire sprinkler contractor shall submit three (3) sets of detailed plans with hydraulic calculations and manufacturer specification sheets to the Fire Department for approval. The required fees shall be paid at the time of plan submittal.
39. Fire Alarm, Waterflow Monitoring. A water flow monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required for fire sprinkler systems with twenty (20) sprinkler heads or more. A fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.
40. Fire Extinguishers. Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.
41. Commercial Addressing. Multi-family developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum (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.
42. Illuminated Site Diagram. The applicant shall submit for review and approval a site diagram plan to the Fire Department. The applicant shall install at each entrance to a multi-family complex an illuminated diagrammatic representation of the complex, which shows the location of each unit and each fire hydrant.
43. 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.
44. Security Gates. In multi-family complexes, all swing gates shall have an approved fire department Knox Lock. Where an automatic electric security gate is used, an approved Fire Department override switch is required.
45. Secondary Access. The development shall have a minimum of two points of vehicular access during each phase of construction for fire and emergency access purposes and for evacuation routes.
46. Spark Arrestor. An approved spark arrestor is required. Every chimney that is used in conjunction with any fireplace or any heating appliance in which solid or liquid fuel

are used, shall have an approved spark arrestor visible from the ground that is maintained in conformance with Fire Department requirements.

END OF CONDITIONS OF APPROVAL