

PC RESOLUTION NO. 22-017

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING TENTATIVE TRACT MAP NO. 083672 (TRACTMAP 17412-2021) FOR THE AIR-SPACE SUBDIVISION OF AN EXISTING, TWO-STORY OFFICE BUILDING WITH 19 FOR-RENT TENANT SPACES INTO 35 FOR-SALE OFFICE CONDOMINIUMS ON AN 3.20 ACRE LOT LOCATED AT 3191 W. TEMPLE AVENUE (8719-002-018) WITHIN THE “C-4” HIGHWAY COMMERCIAL ZONE OF THE POMONA ZONING ORDINANCE.

WHEREAS, the applicant, UTC Development, LLC., has filed an application for a Tentative Tract Map (TRACTMAP 17412-2022) for condominium purposes on a property located at 3191 W. Temple Avenue (APN: 8719-002-018);

WHEREAS, the subject site is within the “C-4” Highway Commercial Zone of the Pomona Zoning Ordinance;

WHEREAS, the subject site is designated as “Transit Oriented District: Neighborhood” Place Type as well as “T-5” Transect Zone by the City’s General Plan;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law held a public hearing on June 22, 2022, concerning the requested Tentative Tract Map (TRACTMAP 17412-2021);

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Pomona, California:

SECTION 1. The City of Pomona, as lead agency, has conducted an environmental review on the proposed project per the California Environmental Quality Act (CEQA). Pursuant to the provisions of CEQA (Public Resources Code, Section 21084 et. seq.), the guidelines include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. The Planning Commission will consider adopting a Categorical Exemption in compliance with Article 19, Section 15301, Class 1 (Existing Facilities) in that the project is an existing office building with no proposed expansions. The proposed project described above hereby meets the guidelines for a Categorical Exemption. Therefore, no further environmental review is required.

SECTION 2. If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

SECTION 3. Pursuant to Section 66474 of the California Government Code (Subdivision Map Act) and the City's Subdivision Ordinance, the Planning Commission must make seven findings in order to approve Tentative Tract Map (TRACTMAP 17412-2021). Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds as follows:

1. The proposed tentative tract map is consistent with the general plan and applicable specific plan.

The project site is designated as General Place Type of Transit Oriented District: Neighborhood, which contemplates development types of greater intensity than surrounding areas and is within the T5 Transect Zone, which allows mixed-used developments with residential densities of up to 80 dwelling units per acre. The General Plan also identifies the project site as within the vicinity of the Cal Poly / Lanterman Center, which is indicated to have significant potential for a thriving transit oriented district consisting of a mixture of housing, office, lodging, neighborhood serving retail and entertainment uses. The proposed subdivision would establish 35 permanent professional office condominiums, therefore the proposed project is consistent with the sites' designated General Plan Place Type and Transect Zone.

2. The design or improvement of the proposed subdivision is consistent with the general plan and applicable specific plan.

The design and improvements of the proposed condominium development is consistent with the General Plan in that on-site improvements such as parking lot space dedications, signage, etc. will be designed and implemented in accordance with City Standards. In addition, the subdivision of air space will be reserved for uses consistent with use standards of the Highway Commercial District of the Pomona Zoning Ordinance.

3. The site is physically suitable for the type of development.

The site is physically suitable for the interior air-space subdivision in that the property was originally developed as existing in 1986 in accordance with the development standards of the Highway Commercial District of the Pomona Zoning Ordinance. Furthermore, all proposed associated on-site improvements to accommodate the interior subdivision such as parking requirements meet all applicable development standards of the Highway Commercial District of the Pomona Zoning Ordinance.

4. The site is physically suitable for the proposed density of development.

The site is physically suitable for the proposed density of development in that the site is designated as Transit Oriented District, which supports the intensification of commercial and residential uses. The proposed development of 35 for-sale office condominiums is within the existing office building is not proposing any physical expansions of the building nor any extensive on-site improvements capable of negatively impacting the subject site.

5. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The proposed project will comply with the policies and regulations of the Pomona City Code and General Plan and with all local or regional plans, policies, regulations, and any requirements by the California Department of Fish and Game or U.S. Fish and Wildlife Service as the proposed project is only for the interior subdivision and renovation of an existing office building. Based on these factors, the proposed subdivision will not cause substantial environmental damage or injure wildlife or their habitat.

6. The design of the subdivision or type of improvements is not likely to cause serious public health problems.

The design of the proposed project and the type of improvements are not likely to cause serious problems to public health because the building and infrastructure improvements shall be constructed to conform to all City standards. The adopted City standards relating to the Uniform Building Code and Grading Code are designed to protect the public health and welfare and have been approved by the City.

7. The design of the subdivision or 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 design of the subdivision or type of improvements will not conflict with easements acquired by the public at large.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Tentative Tract Map (TRACTMAP 17412-2021) subject to compliance with all applicable laws and ordinances of the City as well as the addition of the following conditions, violations of which (or failure to complete any of which) shall constitute grounds for revocation of the Tentative Tract Map or any portion thereof.

DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Planning Commission on June 22, 2022 and as illustrated in the stamped approved plans. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Planning Manager.
2. This approval shall lapse and become void if the privilege authorized is not utilized within two years from the date of this approval or June 22, 2023, in accordance with Pomona Subdivision Ordinance section 29-49, et seq. The Planning Commission may extend this period not to exceed an aggregate of three years upon receipt of an application for a Time Extension request submitted by the applicant at least thirty days before the expiration date of this approval.
3. The project is subject to a twenty-day appeal period. Written appeals may be filed with the City Clerk within twenty days by one or more City Council members, the applicant, or any person owning property within four hundred feet of the exterior boundary of the applicant's property. The appeal shall be filed with the City Clerk within twenty days from the date of action by the Planning Commission.
4. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
5. In case of a violation of any of the conditions of approval and/or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the

property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein Tentative Tract Map.

6. The applicant shall make a reduction of all approved resolutions related to the project, which shall be placed on the title sheet of construction plans prior to Plan Check submittal.

**COUNTY OF LOS ANGELES FIRE DEPARTMENT—FIRE PREVENTION
ENGINEERING SECTION—FIRE PREVENTION DIVISION**

No conditions.

PUBLIC WORKS DEPARTMENT

Tract Map Requirements:

1. Tentative **Tract Map** shall conform to the requirements of the Subdivision Map Act and to City Ordinance No. 2779.
2. All existing and proposed water, sewer, drainage, ingress/egress easements, roadway dedications, traveled ways and drainage courses must be clearly shown on the map. Prior to recordation, the applicant shall demonstrate to the satisfaction of the City Engineer that the proposed subdivision will not unreasonably interfere with the use of any easement holder of property. Any omission or misrepresentation of these documents may require the final map to be resubmitted for further consideration.

Provide copies of all recorded instruments referenced in the easements section of property legal description.

3. Prior to the final map approval, the Title Company must submit a **Final Subdivision Guarantee** to the Engineering Department.
4. All subdivisions must have centerline ties and survey property monuments set by a licensed Professional Civil Engineer or Land Surveyor as shown on the recorded subdivision. All final monuments shall be set by the Engineer/Surveyor of record within one year of the final map recordation; adequate **monumentation bond** is required prior to the final map approval.
5. Prior to the final map approval, Applicant/Developer shall post **surety bonds** for any/all public improvements, as applicable, that may include but not be limited to: street lights, sidewalk, curb and gutter.
6. Prior to the issuance of the first Certificate of Occupancy, Applicant/Developer shall provide proof of:
 - a. The final map recordation. Mylar copies of the map with the Los Angeles County Recorder's Office official stamp must be submitted to the Engineering Department.
 - b. The condominium subdivision approval by the California Department of Real Estate.
 - c. The Assessor Parcel Numbers issuance by the Los Angeles County Assessor's Office.
 - d. The condominium association being established for the purpose of maintaining all driveways, common areas, private utilities and joint use of parking and access for

the benefit of all individual condominium units. The association documents, including any necessary Covenants, Conditions and Restrictions (CC&Rs) shall be approved by the City Attorney and recorded on the grant deed.

Improvement plans requirements

7. Prior to the approval of the Tract map, Applicant/Developer shall submit **public street improvement plans** to include the following items, as applicable, and are responsible for the construction thereof:
 - a. New sidewalk, curb and gutter, as applicable, to replace all damaged, cracked and uplifted sections along the Temple Avenue lot frontage.
 - b. In the event that project related hardscape, wet and/or dry utility pavement cuts are needed along the Temple Avenue property frontage, overlay paving shall occur in accordance with the City standard A-26-02.
 - c. Street Lights - To address site access safety and required City standard upgrades, the following are required:
 - i. A lighting analysis must be prepared and submitted to the Public Works Department for review and approval. The study area will be along Temple Avenue, from Foley Way to the railroad overpass bridge, to ensure the roadway illumination design meets the IES RP-8 requirements; the owner is responsible for the compliance (design & installation) with all mitigation measures along the property frontage.
 - ii. The installation of the new street lights and the refurbishing of the existing street lights shall comply with the City standards. A separate public street lights improvement plan is required for more than three (3) new street lights installation.
 - d. Existing and proposed sewer, water and storm drain infrastructure, including laterals.
 - e. The parkway landscaped area shall be maintained by the property owner, as required by the City's Municipal Code Section 46-496 and a note to this effect shall be added to the public street improvement plan.
 - f. The property abutting sidewalk, parkway and alley, as applicable, shall be maintained free of weeds, rubbish and refuse by the property owner, as required by the City's Municipal Code Section 18-261 and a note to this effect shall be added to the public street improvement plan.
 - g. Undergrounding of any proposed overhead utility lines, if applicable, shall conform with the City of Pomona Municipal Code Section 62-31(b) and a note to this effect shall be added to the public street improvement plan.
 - h. It is the owner's and the contractor's responsibility to repair all damage to the existing public improvements due to the proposed construction activities and to address all repairs requested by the Public Works Inspector based on the inspector's review of the current condition of the said public improvements and a note to this effect shall be added to the public street improvement plan.
8. The demolition or relocation of any public improvements (street lights, signs, trees, vaults, catch basins, hydrants, etc.) due to the proposed project must be coordinated and agreed upon by the appropriate City departments, shall be designed per City standards and

- applicable ADA requirements, and must be reviewed and approved by Public Works Engineering Department.
9. Applicant/Developer shall identify the existence of all City utilities that may be in conflict with the development and submit protection measures to the City Engineer for those City utilities.
 10. Applicant/Developer shall implement **storm water** Good Housekeeping BMPs for the site to ensure that pollutants are not discharged to the municipal storm drain system throughout occupancy.
 11. Owner is responsible for the compliance with the special annual levy assessment derived from the current inclusion of the project site into the **City's Street Lighting District and Landscaping Maintenance District**. The Developer shall disclose to any future buyers that the property is within the City of Pomona Lighting and Landscaping District and is subject to annual special taxes. This requirement applies to Assessor Parcel Number 8719-002-018.
 12. The final improvement plans, as applicable and shown on the Mylar, shall be provided to the City in both hard copy and electronic in AutoCAD v. 2010. Following construction and prior to acceptance of the improvements by the City, the project engineer shall provide hand drafted "AS BUILT" corrections on the original approved Mylars of the final constructed improvements to the satisfaction of the City Engineer. A corrected "AS BUILT" plan shall also be provided to the City on disk in AutoCAD v. 2010 and .pdf formats.
 13. The plans shall be submitted on 24" x 36" sheet size with a standard City title block, and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities (water, sewer, and storm drain), utility easements, and the public right-of-way areas with dimensions.

Public Works Improvements Permit

All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.

14. **Prior to the final map approval, Applicant/Developer shall post surety bonds for all public improvements, as applicable, including but not limited to: street lights, sidewalk, curb and gutter.**
15. Permittee shall procure and maintain throughout the period of the Permit the following policies of insurance:
 - a. Commercial General Liability;
 - b. Automobile Liability;
 - c. Worker's Compensation as required by the State of California;

Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured.

16. Permittee shall pay fees associated with and possess the City of Pomona Business License.
17. Changes and additions to the proposed work, including but not limited to detail plans for street improvement work, water plans and/or other work associated with this project and due to developer's or City's request shall require additional conditions to be completed by the applicant.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND PASSED THIS 22ND DAY OF JUNE, 2022.



YESENIA MIRANDA MEZA
PLANNING COMMISSION CHAIRPERSON

ATTEST:



ATA KHAN
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:



MARCO A. MARTINEZ
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

AYES: Camacho; Urey; VanderMolen; Kercheval.
NOES: None.
ABSTAIN: None.
ABSENT: Miranda Meza; Ontiveros; Brown.

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.