

**PC RESOLUTION NO. 16-029**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING TENTATIVE TRACT MAP (TRACTMAP 4490-2016/TTM 74171) FOR A SUBDIVISION TO CREATE 35 RESIDENTIAL AND 5 COMMERCIAL CONDOMINIUM UNITS FOR A THREE-STORY, MIXED USE DEVELOPMENT PROJECT ON PROPERTY LOCATED AT 1833 N. GAREY AVENUE.**

**WHEREAS**, the applicant and property owner, Mel-Pomona, LLC, has submitted an application for Tentative Tract Map (TRACTMAP 4490-2016/TTM 74171) to create 35 residential and five (5) condominiums for a mixed use development project for ownership purposes at 1833 N. Garey Avenue;

**WHEREAS**, the subject property is currently located within the Corridor Specific Plan, Workplace Gateway Segment zoning district;

**WHEREAS**, the subject site is designated as a Transit Oriented District: Neighborhood place type in the T4-A Typical transect zone by the City's General Plan;

**WHEREAS**, the Development Services Director of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on February 10, 2016, and approved Development Plan Review (DPR No. 14-003) for the development of an approximately 47,610-square foot, three-story mixed use building containing 35 residential units, approximately 6,640-square foot commercial retail space, 88-space at-grade and subterranean parking garage, and various onsite landscape and hardscape improvements on a vacant 0.66 acre parcel;

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on October 12, 2016, concerning the requested Tentative Tract Map (TRACTMAP 4490-2016/TTM 74171); and

**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 Planning Commission exercising its independent judgment has determined that pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), that the project is Categorically Exempt under Section 15332, Class 32 (In-fill Development). The Planning Commission finds that; 1) the proposed project is consistent with the General Plan and Zoning Ordinance of the City; 2) the parcel is smaller than five acres; 3) the project site has no value as habitat for endangered, rare or threatened species; 4) this project will not have significant effects upon the environment and; 5) the site can adequately be served by utilities and

public services.

**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 4490-2016/TTM 74171). 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 is consistent with the General Plan place type of "Transit Oriented District: Neighborhood" within the "T4-A Typical" transect zone. Furthermore, the "T4-A Typical" transect zone prescribes the typical development type as:

*"Ensure that transit oriented districts are walkable, active, and well integrated into surrounding City districts and neighborhoods."*

The project is an appropriate transition to the established medical, commercial offices, retail, personal service, and residential uses within the surrounding area by providing a high quality, mixed used development project that will assist in facilitating future multi-family and mixed-use projects to the area. With the conditions of approval, the proposed development will positively affect the general welfare of the community and improve the overall visual environment of the immediate neighborhood.

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 subdivision are consistent with the General Plan in that on-site improvements, such as driveways, sidewalks and drainage facilities will be designed and constructed in accordance with City standards. In addition, the project design, which is intended for mixed use development project, provides for satisfactory pedestrian and vehicular circulation.

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

The site is physically suitable for the development in that the proposed subdivision is

planned for a mixed use development project. Given the shape and topography of the 0.66 acre site, the subdivision design accommodates adequate land for 35 dwelling and five (5) commercial units, accompanying driveways and open space areas to service the development. Further, the site is relatively flat which will allow for compatible building pad heights with adjacent properties surrounding the project site.

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

The site is physically suitable to accommodate the proposed density resulting from the subdivision. The subdivision proposes 35 residential dwelling units on a 0.66 acre property, which results in a density of approximately 53 dwelling units per acre. This density is consistent and less than the maximum density of 70 units per acre as established within the City's General Plan.

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. 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 subdivision 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 other easements acquired by the public at large. There are no public easements on the subject property that which the site improvements will interfere and/or restrict.

**SECTION 4.** Based upon the above findings, the Planning Commission hereby approves Tentative Tract Map (TRACTMAP 4490-2016/TTM 74171) 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 conditional use permit or any portion thereof:

**DEVELOPMENT SERVICES DEPT. – 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 October 12, 2016, and as illustrated in the stamped approved plans dated March 23, 2016. 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 Development Services 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 (October 12, 2018), in accordance with Pomona Zoning Ordinance section .580.I. The Planning Commission may extend this period for one year 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 (20) 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 Conditional Use Permit.
6. Conditions, Covenants, and Restrictions (CC&Rs) shall be recorded for this project prior to the issuance of "Certificate of Occupancies" for the units and prior to the sale of any condominium unit. At a minimum, the CC&R's shall include provisions that 1) establish a Homeowner's Association (HOA), 2) incorporate conditions 1 and 5 of this TTM and 3) provide reciprocal access easements and facilitate the use and maintenance of the common areas. The CC&Rs shall be submitted to the Planning Division for review prior to the issuance of building permits and recorded prior to any temporary or final certificates of occupancy.
7. Comply with all applicable Development Plan Review No. 14-003 conditions of approval.

**LA COUNTY FIRE DEPARTMENT – LAND DEVELOPMENT UNIT**

**Access Requirements**

8. The Final Map shall be submitted to the office the Land Development Unit of the County of Los Angeles Fire Department, Fire Prevention Division for review and approval prior to recordation.
9. All on-site Fire Department vehicular access roads shall be labeled as "Private Driveway and Fire Lane" on the site plan along with the widths clearly depicted on the plan. Labeling is necessary to assure the access availability for Fire Department use. The designation allows for appropriate signage prohibiting parking.
10. Fire Department vehicular access roads must be installed and maintained in a serviceable manner prior to and during the time of construction. Fire Code 501.4
11. All fire lanes shall be clear of all encroachments, and shall be maintained in accordance with the Title 32, County of Los Angeles Fire Code.
12. The Fire Apparatus Access Roads and designated fire lanes shall be measured from flow line to flow line.
13. The dimensions of the approved Fire Apparatus Access Roads shall be maintained as

originally approved by the fire code official. Fire Code 503.2.2.1

14. A minimum 5 foot wide approved firefighter access walkway leading from the fire department access road to all required openings in the building's exterior walls shall be provided for firefighting and rescue purposes. Fire Code 504.1
15. Approved building address numbers, building numbers or approved building identification shall be provided and maintained so as to be plainly visible and legible from the street fronting the property. The numbers shall contrast with their background, be Arabic numerals or alphabet letters, and be a minimum of 4 inches high with a minimum stroke width of 0.5 inch. Fire Code 505.1

#### **Water System Requirements**

16. All fire hydrants shall measure 6"x 4"x 2-1/2" brass or bronze, conforming to current AWWA standard C503 or approved equal, and shall be installed in accordance with the County of Los Angeles Fire Department Regulation 8.
17. The required fire flow for the public fire hydrants for this project is 3375 gpm at 20 psi residual pressure for 3 hours. Two public fire hydrant(s) flowing simultaneously may be used to achieve the required fire flow. Fire Code 507.3 & Appendix B105.1
18. An approved automatic fire sprinkler system is required for the proposed buildings within this development. Submit design plans to the Fire Department Sprinkler Plan Check Unit for review and approval prior to installation.
19. All required PUBLIC fire hydrants shall be installed, tested and accepted prior to beginning construction. Fire Code 501.
20. Upon clearance of the Final Map additional Fire Department requirements will be determined by Fire Prevention Engineering.

#### **PUBLIC WORKS DEPARTMENT**

##### **Tract Map Requirements:**

21. Tentative Tract Map shall conform to the requirements of the Subdivision Map Act and to City Ordinance No. 2779.
22. The tentative tract map shall be recorded and developed as one tract map, but may be developed in phases.
23. All existing and proposed easements for water/sewer lines, ingress/egress, footings and traveled ways and all easements proposed to be vacated 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 parcel map to be resubmitted for further consideration. Provide copies of all recorded instruments referenced in the easements section pertaining to the project's legal description.
24. Prior to the tract map approval the Title Company must submit a Final Subdivision Guarantee to the Engineering Department.
  25. 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. At least one exterior boundary line of the land being subdivided shall be adequately monumented before the map is recorded. All final monuments shall be set by the Engineer of record within one year of the tract map recordation; adequate monumentation bond is required prior to the final tract map recordation.
  26. The tract map and the condominium map shall be recorded prior to the issuance of any Certificates of Occupancy.
  27. Prior to the issuance of the building permits, developer shall post security guaranteeing the construction of all public improvements for the proposed subdivision.
  28. Prior to issuance of the building permits applicant/developer is responsible for paying the project's impact fees for traffic signals and control devices, road and highway improvements, and public safety improvements.
  29. Applicant/Developer shall ensure that a condominium association is established for the purpose of maintaining all driveways, common areas, private utilities and joint use of parking and access for the benefit of all members of the association. 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 prior to approval of the final map.
  30. All work in the public right-of-way is subject to review, approval, and permitting requirements of Public Works Department. 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; and
    - d) Permittee shall pay fees associated with and possess the City of Pomona Business

License.

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

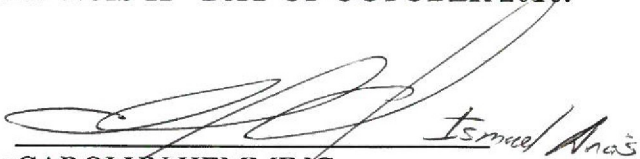
31. Changes and additions to the proposed work, including but not limited to detail plans for street improvement work, water plans and/or other work associated with this project and due to developer's or City's request shall require additional conditions to be completed by the applicant.

**WATER & WASTEWATER OPERATIONS DEPT.**

32. The increased water demand and wastewater generation for this proposed site shall be calculated. These calculations shall be submitted directly to the WWOD for review and acceptance. Any proposed water or sewer infrastructure shall be identified per a separate plan and submitted to the Public Works Department for the review routing process. Required easements for the necessary water meters, fire services or other public services shall be captured on the final map or through separate document. WWOD reserves the right to review and comment on any new development within the proposed tract map area.

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


**APPROVED AND ADOPTED THIS 12<sup>th</sup> DAY OF OCTOBER 2016.**

  
*for* CAROLYN HEMMING  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

  
BRAD JOHNSON  
PLANNING COMMISSION SECRETARY

**APPROVED AS TO FORM:**

  
*for* ANDREW JARED  
ASSISTANT CITY ATTORNEY  
*by Teresa Chen, Deputy City Attorney*

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

AYES:       Mosier, Arias, Hemming, and Tharpe.  
NOES:       Juarez.  
ABSTAIN:   Garcia.  
ABSENT:     Starr.

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.