

PC RESOLUTION NO. 07-044

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA APPROVING TENTATIVE PARCEL MAP (TPM 07-002) FOR RESIDENTIAL CONDOMINIUM PURPOSES IN THE MU-AR (MIXED USE - ARTERIAL RETAIL) ZONE IN THE DOWNTOWN POMONA SPECIFIC PLAN ON PROPERTY LOCATED AT 665 E. 6TH STREET.

THE PLANNING COMMISSION OF THE CITY OF POMONA DOES RESOLVE AS FOLLOWS:

WHEREAS, the applicant, Fabian Garcia, has submitted an application for Tentative Parcel Map (TPM 07-002) to allow for the subdivision of a two (2) unit duplex in the MU-AR (Mixed Use – Arterial Retail) zone of the Downtown Pomona Specific Plan on property located at 665 E. 6th Street;

WHEREAS, the subject property is on a parcel designated as "Downtown Pomona Specific Plan" on the General Plan Land Use Map;

WHEREAS, the subject property is located within the MU-AR (Mixed Use – Arterial Retail) zone;

WHEREAS, the proposed subdivision meets all the development standards of the MU-AR zone; and

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on June 13, 2007 concerning Tentative Parcel Map (TPM 07-002); 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:

SECTION 1. The Planning Commission exercising their 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 15315, Class 15 (Minor Land Divisions). The Planning Commission finds that because the proposed subdivision is four (4) or fewer parcels, it is in conformance with the General Plan and Zoning Ordinance, and no variances are required.

SECTION 2. In accordance with the Subdivision Map Act and the City's Subdivision Ordinance, the Planning Commission must make seven findings in order to approve Tentative Parcel Map (TPM 07-002). 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:

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1. *The proposed tentative parcel map is consistent with the City of Pomona General Plan.*

The General Plan land use designation of the project site is Downtown Pomona Specific Plan, and the property is zoned MU-AR. The MU-AR zoning designation allows for multiple-family residential development with densities up to 12 units per acre. The proposed subdivision is consistent with this standard, and has a proposed density of approximately 12 units per acre, which is the maximum density allowed by the General Plan. Therefore, the proposed development is also consistent with the following objective of the Housing Element of the General Plan:

"It is the policy of the City to encourage the construction of new low-density developments and to be receptive to medium or higher density residential uses if properly located."

2. *The design or improvement of the proposed subdivision is consistent with the City of Pomona General 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 multiple-family residential development, provides for satisfactory pedestrian and vehicular circulation.

Furthermore, the design of the proposed development is consistent with the following objective of the Community Design Element of the General Plan:

"To insure the highest possible aesthetic quality in the architecture and other design considerations of new development."

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

Given the shape and topography of the 7,860 square foot site, the subdivision design accommodates adequate land for two (2) dwelling units, accompanying driveways and parking spaces to service the development. Further, the site is relatively flat which will allow for minimal grading and 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 2 dwelling units on 7,860 square feet, which results in a density of approximately 12 units per acre. This density is consistent with the City's General Plan.

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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 does not conflict with easements acquired by the public-at-large.

SECTION 3. Based on the above findings, the Planning Commission hereby approves Tentative Parcel Map (TPM 07-002), subject to the following conditions:

Planning Division

1. The Tentative Parcel Map (TPM 07-002) shall conform to the requirements of the State Subdivision Map Act and City Ordinance No. 2779.
2. The Tentative Parcel Map (TPM 07-002) shall expire on June 13, 2009, unless the Final Map has been recorded prior to that date and construction has commenced. The Planning Commission may grant a Time Extension for up to 12 additional months if a written request and application for Tentative Parcel Map extension is submitted to the Planning Division within 30 days prior to the expiration date.
3. A Final Map shall be recorded prior to the issuance of Certificate of Occupancy.

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4. Written appeals may be filed with the City Clerk within fifteen (15) days by one or more City Council members, the applicant, or any person owning property within four hundred feet (400') of the exterior boundary of the applicant's property. Four copies of an appeal shall be filed with the City Clerk within fifteen (15) days from the date of action by the Planning Commission.
5. The recorded map shall be in substantial conformance with submitted plans and exhibits approved on June 13, 2007, except as modified herein.
6. The project shall be used only for residential condominiums with owner-occupied units upon sales. Conditions, Covenants, and Restrictions (CC&Rs) shall be recorded as part of this tract. At a minimum, these CC&R's shall include the provisions for the establishment of a Homeowner's Association. The CC&Rs shall include provisions that allow reciprocal access easements and for use and maintenance of the common open space areas. The CC&Rs shall be submitted to the Planning Division for review before recordation of the final map.
7. 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.

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8. In case of violation of any of the conditions of approval 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 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 this Tentative Parcel Map.

Public Works Department – Transportation & Development Division

9. The Tentative Map No. 68887 and the Final Map shall conform to the Subdivision Map Act and to City Ordinance No. 2779. Applicant shall show all existing and proposed easements on the Final Map. The Final Map shall be recorded before a certificate of final occupancy is issued.
10. At the time of development, the applicant shall submit a site plan and grading plan with hydrology calculations to the Building Division showing the handling of on-site drainage. Storm run-off shall be collected on-site and discharged through an approved drainage system. The Transportation & Development Division shall approve the cited plans before obtaining a building permit.
11. Applicant shall contact the County Sanitation Districts of Los Angeles County for their sewer connection fee requirements prior to connection to the existing City sewer main line.
12. The property owner shall join the "Street Lighting and Landscaping District."

SECTION 4. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND PASSED this 13th day of June, 2007.


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FRANK DELGADO
PLANNING COMMISSION CHAIRPERSON

ATTEST:


GLEN KRIEGER
ACTING PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:


RICHARD L. ADAMS II
ASSISTANT CITY ATTORNEY

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

AYES: Vander Molen, Urey, Rosales, Scharf, Saunders and Delgado.
NOES: None.
ABSTAIN: None.
ABSENT: Jimenez.

"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 Sec. 1094.6 C.C.P."