

THE CITY OF  
POMONA

Development Services Department



February 28, 2019

The Waterford Group / 12131 Western, LLC  
60 Linda Isle  
Newport Beach, CA 92660

**Re: Substantial Conformance and Consistency of Modifications to Approved  
Tentative Parcel Map 74582 and Development Plan Review 5953-2016  
("Development Plan" or "Project Plans")**

Dear Mr. Rawson:

On December 13, 2017, the City of Pomona ("City") Planning Commission approved Resolution No. 17-052 (Tentative Parcel Map 74582) for the creation of four parcels (Parcel 1, 2, A, and B) to comprehensively delineate the boundaries of the building sites and roadways of the site at 2771 North Garey Avenue ("Property"). The Planning Commission also approved Resolution No. 17-053 (Development Plan Review 5953-2016) for the construction of 647 multi-family residential units and 3,700 square feet of commercial space in two buildings, up to five stories in height ("Project") on the Property.

The Waterford Group, the project applicant ("Applicant"), proposes modifications to the approved Tentative Parcel Map and Development Plan Review. Specifically, the proposed modifications consist of the following:

- Reduction in the number of approved units on Parcel 2 from 406 to no less than 310 units, with a change to the composition of the unit mix and a reduction in retail from 3,700 to no less than 1,200 square feet. ("Proposed Residential Modifications")
- In the approved Tentative Tract Map, Parcel B (Street B) consisted of a street running the length of the entire southern property line. In the Final Map, the Applicant proposes a slight modification resulting in Parcel B terminating at the intersection of Parcel A (Street A), and extending the southern border of Parcel 1 to the southern property line ("Proposed Street Modifications").
- Impact and development fees shall be bifurcated and adjusted to a prorated share to the amount of residential units and retail square foot approved at building permit for each parcel and/or the amount of land square footage for each site.

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In addition, Waterford intends that the development of Parcel 2, pursuant to the referenced modifications above, will proceed ahead of the final design and development of Parcel 1.

For the reasons set forth below, I have determined that the Proposed Residential Modifications and Proposed Street Modifications (collectively, the "Proposed Modifications") are minor modifications consistent with Resolution Nos. 17-052 and 053, as is Waterford's decision to proceed separately with the development of Parcel 2.

**The Proposed Modifications are Minor Modifications that Conform with the Map and are Consistent with the December 2017 Development Plan Approvals**

Planning Commission Resolution Nos. 17-052 and 17-053 both imposed, as a condition of project approval ("Condition 1"), that the Property shall be subdivided, developed, and used in a manner consistent with the tentative parcel map and Project Plans approved by the Planning Commission on December 13, 2017. As discussed more fully below, the Project with the Proposed Modifications is consistent with the tentative parcel map and approved project plans.

Additionally, Condition 1 provided that any "major" major modification to the approved tentative parcel map and approved project plans must be reviewed by the Planning Commission, while "minor" modifications that "do not affect the overall intent" of the approved map and plans may be reviewed and approved by the Development Services Manager. For the reasons discussed below, because the Proposed Modifications are consistent with the December 13, 2017 approval and do not alter the intent of the approval, the Proposed Modifications are "minor" modifications and may be processed and approved by my office.

**A. The Project with the Proposed Modifications Is Consistent with the December 13, 2017 Approvals.**

The Proposed Modifications make the following minor alterations to the proposed Project: (1) reduction in the number of residential units on Parcel 2 by approximately 4.3 percent, with a redistribution of the unit types; and (2) eliminating the portion of the Parcel B street that ran south of Parcel 1 (but did not connect to another arterial) by terminating Parcel B at the intersection with Parcel A and extending Parcel 1's southern parcel line from the current terminus to the southern property line, without any change in the composition of Parcel 1.

Nothing in the Proposed Modifications changes the characteristics of the Project: a mixed-use building with commercial retail and high residential density near transit opportunities consistent with the General Plan and Pomona Corridors Specific Plan ("CSP"). The Project as modified would continue to comply with the CSP's design and density standards, and other applicable regulations.

**B. The Proposed Modifications Are Minor**

The Proposed Modifications are suitable for processing by the Development Services Manager because they are minor. Specifically, the Proposed Modifications are minor because:

- *The Proposed Modifications would not cause significant or potentially significant environmental impacts.* The Project is located on an already developed site, and the Proposed Modifications would not alter the Project design in a manner that would cause significant environmental impacts.
- *The Proposed Modifications would not cause significant or potentially significant on-site and off-site traffic impacts.* The Proposed Street Modification would eliminate a portion of Parcel B that does not connect to a major arterial, necessitating relocation of an entry point for access to Parcel B's parking structure. That entry point would be relocated to Parcel A (Street A). However, this change is not expected to cause significant on- or off-site traffic impacts.
- *The intent of the findings and conditions of approval for the approved project would be preserved.* As discussed more fully below, the Project as modified by the Proposed Modifications would be consistent with Resolution Nos. 17-052 and 17-053.
- *The Proposed Modifications would not result in an impact to or introduction of sensitive uses not previously considered within the site.* The Proposed Modifications do not alter the planned uses for the Project site.
- *The Proposed Modifications do not reconfigure the site plan resulting in a significant reduction in landscaping or a significant change in parking.* The Proposed Modifications do not materially change either the landscaping or on-site parking plans for the Project site.

**C. The Proposed Modifications are Consistent with the Findings of Planning Commission Resolution No. 17-052**

Prior to approval of a tentative parcel map, Government Code section 66474 and the City's Subdivision Ordinance require that the Planning Commission make seven findings. The Planning Commission made those seven findings when it approved Tentative Parcel Map 74582 (PARCEL MAP 7099-2016) on December 13, 2017. The Proposed Modifications do not alter the Planning Commission's findings set forth in Resolution No. 17-052.

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

The Project site is identified by the General Plan as Transit Oriented District. The Proposed Modifications do not alter the fact that the Project is consistent with the General Plan's specifications for the Transit Oriented District. The Project with the Proposed Modifications will not exceed the minimum standards for studio, one bedroom, two bedroom, and three bedroom units since studio units are being eliminated with the Proposed Modifications. The Project is located, specifically, within the CSP's land use "transect zone" T6-B, which allows up to six (6) floors in height and up to 100 du/acre maximum density. The Project as modified by the Proposed Modifications, at five (5) stories, with four (4) stories along Garey, and at a maximum density of 73.3 units per acre, is consistent with the land use requirements and development standards and density assumed in the General Plan and CSP.

Waterford's Proposed Modifications evidence that the Project will remain consistent with the requirements, policies, and development standards of the General Plan and the CSP. Accordingly, the Project is consistent with the General Plan and CSP requirements, and the minor revisions to the Parcel Map, when presented as a Final Map, will substantially conform to the approved Tentative Parcel Map.

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

As noted above, the Project as modified by the Proposed Modifications would still transform an underutilized site into a high-density, transit-oriented development that conforms with the goals and policies of the General Plan's Transit Oriented District. Nothing in the Proposed Modifications alters the finding of the Project's substantial compliance with the CSP's design requirements.

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

Nothing in the Proposed Modifications would result in a finding that the site is unsuitable for the type of development proposed. The overall project shape, topography, and characteristics remain unchanged.

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

The Proposed Modifications do not substantially alter the Project's density, nor do they render the Project inconsistent with the overall vision for Transit Oriented Districts as they are described in the 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 Project as modified will still 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. Further, the Property is currently developed with a single-level office building within an urban environment and not habitat to any fish or wildlife. Based on these factors, the Proposed Modifications 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 Project as modified by the Proposed Modifications 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. Nothing in the Proposed Modifications alters these standards.

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 the property within the proposed subdivision.*

The design of the Project as modified will not conflict with other easements acquired by the public at large. The project will result in new residences and there are no records of easements acquired by the public at large, for access through the property.

**D. The Proposed Modifications are Consistent with the Findings of Planning Commission Resolution No. 17-052**

Prior to the approval of a Development Plan Review, section 2.0.5.A.4 of the CSP requires the Planning Commission to make five findings. The Planning Commission made those four findings when it approved Development Plan Review 5953-2016 on December 13, 2017. The Proposed Modifications do not alter the Planning Commission's findings set forth in Resolution No. 17-053.

1. *The Project is consistent with the City's General Plan and all applicable requirements of the Pomona City Code.*

The Project site is identified by the General Plan as Transit Oriented District. The Proposed Modifications do not alter the fact that the Project is consistent with the General Plan's specifications for the Transit Oriented District. The Project with the Proposed Modifications will still exceed the minimum standards for studio, one bedroom, two bedroom, and three bedroom units. The Project is located, specifically, within the CSP's land use "transect zone" T6-B, which allows up to six (6) floors in height and up to 100 du/acre maximum density.

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The Project as modified by the Proposed Modifications, at five (5) stories, with four (4) stories along Garey, and at a maximum density of 73.3 units per acre, is consistent with the land use requirements and development standards and density assumed in the General Plan and CSP.

The documents provided by Greystar with respect to the Proposed Modifications evidence that the Project is consistent with the requirements, policies, and development standards of the General Plan and the CSP.

Accordingly, the Project with the Proposed Modifications substantially complies with the General Plan and CSP requirements.

2. *The Project will not be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property and improvements in the neighborhood.*

The Proposed Modification will not result in any changes that would be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property and improvements in the neighborhood. The Project would still transform an 8.44 acre site that is currently underutilized into a multi-family residential development which would improve the aesthetics of the site, increase the available housing stock in the City, provide future residents with ample access to mass transit opportunities, and have a positive impact on the value of the properties in the neighborhood.

3. *The Project will not adversely affect the Circulation Plan of the CSP.*

The Proposed Modifications will not adversely affect the Circulation Plan of the CSP. The Project and a project specific Traffic Impact Analysis were evaluated by the City of Pomona Public Works Department, who determined that the transportation and traffic impacts of the proposed project were previously taken into consideration by the GPU EIR. Mitigation measures previously provided in the GPU EIR ensure that transportation and traffic impacts remain less than significant through buildout.

4. *The Project complies with all applicable provisions of the CSP and other applicable regulations.*

The Project design, as modified by the Proposed Modifications, has been reviewed and determined to meet all applicable provisions of the CSP and other applicable regulations.

5. *The Request for Deviation is consistent with the intent of the CSP and otherwise meets the required findings of a Development Plan Review.*

The Proposed Modifications do not necessitate deviations from the CSP as part of the Project.

**Government Code 65457 CEQA Exemption Still Applies to the Project**

The Project remains eligible for the statutory CEQA exemption under section 65457 as a residential development project that is consistent with a recently adopted specific plan, for which a recent environmental impact report ("EIR") has been certified and no substantial changes due to new significant environmental effects have occurred. (See Public Resources Code, § 2116; CEQA Guidelines, § 15182.)

As discussed above, the Project with the Proposed Modifications remains consistent with the CSP. The City certified an EIR for the CSP and the General Plan in March 2014. Accordingly, the Project, including the Proposed Modifications, is exempt from CEQA review under Government Code section 65457. (See *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301, 1312-1313.) The Proposed Modifications do not alter the fact that the Project's height, density, and other characteristics are consistent with the nature and density of development assumed for the Project in the General Plan, CSP, and the 2014 EIR. Accordingly, the Proposed Modifications do not represent a modification within the meaning of Public Resources Code section 21166 that would permit the City to reopen environmental review following certification of the EIR. (See Pub. Resources Code, § 21166, subd. (a); CEQA Guidelines, § 15182.)

**Conclusion**

The Proposed Modifications are minor modifications consistent with the Project approvals (Planning Commission Resolution Nos. 17-052 and 053) and subject to processing by the Community Services Department. Therefore, the Community Services Department Director grants the Applicant's Proposed Modifications, and shall interpret compliance with all conditions of approval to reflect these minor modifications, actual final unit count, and Project Plans.

Should you have any questions regarding this information, you may contact me at (909) 620-2421.

Sincerely,

A handwritten signature in black ink, appearing to read "Anita Gutierrez", with a large, stylized loop at the end.

Anita D. Gutierrez  
Development Services Director