

PC RESOLUTION NO. 20-XXX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING TENTATIVE TRACT MAP (TRACTMAP 013793-2020) FOR CONDOMINIUM SUBDIVISION OF 11 UNIT RESIDENTIAL DEVELOPMENT ON A SITE LOCATED AT 952 E. NINTH STREET (APN 8333-004-010).

WHEREAS, the applicant, Feng Xiao, has submitted an application for Tentative Tract Map (TRACTMAP 013793-2020) to subdivide a 11 unit residential development located at 952 E. Ninth Street, (APN: 8333-004-010 & APN 8333-004-012)

WHEREAS, the subject property is located within the R-2-S (Low Density Multiple-Family, S Overlay) Zoning District;

WHEREAS, the subject property is designated “Residential Neighborhood” by the City’s General Plan;

WHEREAS, a Conditional Use Permit (CUP 013792-2020) is also requested in tandem to the approval of this Tentative Tract Map;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on July 8, 2020, concerning the requested Tentative Tract Map (TRACTMAP 013793-2020); 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 their independent judgment, has determined that the proposed project meets the criteria for a Class 32 Categorical Exemption (In-fill development) pursuant to Section 15332 of the Guidelines for Implementation of the Environmental Quality Act (CEQA). The proposed project is consistent with the City’s General Plan and PZO; the proposed project site is less than five (5) acres; the project site has no value as habitat for endangered, rare or threatened species; the proposed project will not have any significant effects upon the environment; and the site can adequately be served by all required utilities and public services. Therefore, the project is not subject to further environmental review.

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 013793-2020). 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 proposed residential use is consistent with the “Residential Neighborhood” place type as designated on the General Plan Land Use Map. The project furthers the goals and objectives of the General Plan by allowing a development that would:

“Improve neighborhoods exhibiting substandard conditions and declining private investments (Goals 6G.G3)

Promote attractive community character as viewed from the public streets, while providing adequate buffer areas between homes and heavily-travel roads (Goals 6G.G7)

Ensure continuity in development scale and character with careful transitions between areas of differing use composition and density (Goals 6G.G9).”

The project also meets the following goals and policies of the Housing Element:

“Assist in the development of adequate housing to meet the needs of low- and moderate-income households.” (Goal 2)

“Support the construction of multi-family housing in close proximity to transit, employment centers, shopping, schools, community facilities and public services.” (10-P-12)

“Encourage single-family and multi-family infill development integrated into and compatible with the surrounding neighborhood.” (10-P-13)

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

The design of the proposed subdivision is consistent with the General Plan in that the development of condominiums will maintain the development as residential, which is consistent with the use and compatible with the neighboring area.

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

The subject site has adequate topography, size and shape to accommodate the proposed residential development project. Furthermore, the site's characteristics enable the project to conform fully to the development standards of the R-2-S Zone while compatible with other uses in the vicinity.

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

The residential units meets the City's development standards, and adequate utilities, access roads, drainage, and other necessary facilities have been provided for the development.

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 subdivision 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 project will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity since the project is in full conformance with the development standards and use requirements of the R-2-S Zone. The project will not be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the subject site is consistent with the surrounding properties, which are zoned and planned for residential uses by the General Plan. The new project will also enhance the neighborhood and replace the dilapidated homes.

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 subject site has street access directly to East Ninth Street, a minor arterial street with access to both S. Towne Ave. and S. San Antonio Ave. All available access to the subject site are adequate in width to carry traffic generations typical of multi-family residential development projects.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Tentative Tract Map (TRACTMAP 013793-2020) 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 parcel map or any portion thereof:

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 July 8, 2020. 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 (July 8, 2022), 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 fifteen day appeal period. Written appeals may be filed with the City Clerk within fifteen 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 fifteen 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 Parcel Map.
6. Pursuant to City Code Section 70-66 et seq., prior to issuance of any grading or building permits, the applicant or developer shall pay the following Development Impact "Miscellaneous Fees"; Traffic Signal & Control Device Program; Road & Highway Improvement Program; Parks & Recreation improvement program; and Public Safety Improvement Program.
7. Conditions, Covenants, and Restrictions (CC&Rs) shall be recorded for this project prior to the issuance of "Certificate of Occupancies" for the dwellings and prior to the sale of any lot or dwelling. At a minimum, the CC&R's shall include provisions that 1) establish a Homeowner's Association (HOA), 2) incorporate conditions 1,4,5, of this Tentative Tract Map 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. All costs associated with legal counsel review of the CC&Rs shall be borne by the applicant.
8. The applicant shall make a reduction of the approved resolutions related to the project, which shall be placed on the title sheet of construction plans prior to Plan Check submittal.

Tract Map requirements:

9. The development's tentative tract map shall be recorded as one final map and developed as one tract. Financial security for all public improvements shall be posted prior to the approval of the final map to guarantee the construction of all public improvements for the proposed subdivision.
10. Tentative Tract Map shall conform to the requirements of the Subdivision Map Act and to City Ordinance No. 2779.
11. The final map must include the dedication to the City of Pomona of a 5-foot strip of land along the property frontage, for roadway purposes.
12. All existing and proposed easements for water/storm drain/sewer lines, ingress/egress, footings and traveled ways must be clearly shown on the final map. Prior to recordation, the Applicant/Developer shall demonstrate to the satisfaction of the City Engineer that the proposed subdivision will not unreasonable 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 pertaining to the project's legal description.

13. Prior to the final map approval the Title Company must submit a Final Subdivision Guarantee to the Engineering Department.
14. 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 of record within one year of the final map recordation; adequate monumentation bond is required prior to the final map approval.
15. Prior to the issuance of the building permits, the final map shall be recorded to reflect the new lot lines, easements and Fire Department access. Mylar copies of the final map with the Los Angeles County Recorder's Office official stamp must be submitted to the Engineering Department.
16. Prior to the building permits issuance, Owner is responsible for the compliance with any special annual levy assessment derived from the current inclusion of the project site into the City's Street Lighting and Landscaping Maintenance District. The due assessment levy will be adjusted based on the proposed subdivision. 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.
17. Prior to issuance of the building permits Applicant/Developer is responsible for paying the project's water and sewer connection fees, impact fees for traffic signals and control devices, road and highway improvements, public safety improvements and park and recreation

improvements, and shall make proof of payment of the Los Angeles County Sanitation District fees associated with the proposed development.

18. 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 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 prior to approval of the final map.

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.

19. **Prior to final map recordation, Applicant/Developer shall post surety bonds for all public improvements, including but not limited to: sewer, water, storm drains, sidewalk, driveway approaches, and street paving.**
20. 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.

21. Permittee shall pay fees associated with and possess the City of Pomona Business License.
22. 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/Developer.

Los Angeles County Fire Department

Final Map Requirements

23. Access as noted on the Tentative and the Exhibit Maps shall comply with Title 21 (County of Los Angeles Subdivision Code) and Section 503 of the Title 32 (County of Los Angeles Fire Code), which requires an all-weather access surface to be clear of any obstructions.

24. The Private Driveways proposed as private streets for access throughout the development shall be labeled as "Private Driveway" on the Final Map. The portion of the private driveway intended for fire apparatus access shall be identified as "Fire Lane" on the Final Map. All widths and dimensions shall be clearly delineated with a reciprocal access agreement is required for all private driveways. Compliance required prior to Final Map clearance.

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

APPROVED AND ADOPTED THIS 8TH DAY OF JULY, 2020.

DR. KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

GUSTAVO N. GONZALEZ, AICP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

MARCO A. MARTINEZ
DEPUTY CITY ATTORNEY

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

AYES:
NOES:
ABSTAIN:
ABSENT:

“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.”