

PC RESOLUTION NO. 17-043

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING TENTATIVE TRACT MAP 74049 (TRACTMAP 5669-2016) FOR CONDOMINIUM PURPOSES ON A PROPERTY LOCATED AT 737 & 763 LEWIS STREET.

WHEREAS, the applicant, Angie Yu & Judy Liu, has submitted an application for Tentative Tract Map (TRACTMAP 5669-2016) for condominium purposes at 737 & 763 Lewis Street;

WHEREAS, the subject property is currently located within the R-2 (Low Density Multiple Family) zoning district;

WHEREAS, the applicant has submitted Conditional Use Permit (CUP 5668-2016) and Minor Deviation Variance (MDV 5667-2016) in conjunction with Tentative Tract 5669-2016 (Tentative Tract Map No. 74049) application;

WHEREAS, the subject property is on a parcel designated as "Residential Neighborhood" and in the T-3 Transect Zone on the General Plan Land Use Map;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on September 13, 2017, concerning the requested Tentative Tract Map (TRACTMAP 5669-2016); 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 independent judgment finds that the proposed project will not have a significant effect on the environment. Pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is categorically exempt under Section 15332 of the California Public Resources Code, which exempts in-fill developments located in urbanized settings. The Planning Commission finds that the project meets the following criteria listed in the exemption: 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) the 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.

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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 5669-2016). 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 Residential Neighborhood in the T-3 Typical Transect Zone. Further, the T-3 Transect Zone prescribes the typical development type as:

"A variety of small scale, primarily single-family housing types as well as limited attached housing types (such as townhomes and multiplexes) that are sensitively designed and explicitly compatible with adjacent homes"

The project is an appropriate development within the area because it is under the maximum allowable height of 2.5 stories allowed in the T-3 transect zone, and the proposed development is proposed in an established single and multi-family residential properties to the north, south, east, and west of the subject site. With the conditions of approval, the proposed residential development will positively affect the general welfare of the community and improve the aesthetics 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 multiple-family residential development, 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 multiple-family residential development. Given the shape and topography of the site, at approximately 60,000 square feet in size, the subdivision design accommodates adequate land for eleven new dwelling units, one existing unit, accompanying driveways and

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open space areas 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 eleven dwelling units and the retention of an existing dwelling unit on property 60,000 square feet in size, which results in a density of approximately 8.7 units per acre. This density is consistent with the City's General Plan and Zoning Ordinance.

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 easements acquired by the public at large.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Tentative Tract Map 5669-2016 (Tentative Tract Map No. 74049) 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

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conditional use permit 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 September 13, 2017, and as illustrated in the stamped approved plans dated September 13, 2017. 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 (September 13, 2019), 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 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

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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. 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, and 10-17 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.

Los Angeles County Fire Department

8. 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 to sky.
9. A copy of the Final Map shall be submitted to the Fire department for review and approval prior to recordation.
10. Submit a minimum of three (3) copies of water plans indicating the new fire hydrant locations to the Fire Department's Land Development Unit for review. The required public fire hydrants shall be installed prior to construction of the proposed buildings.

PUBLIC WORKS DEPARTMENT

Land development requirements

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11. Tentative Tract Map shall conform to the requirements of the Subdivision Map Act and to City Ordinance No. 2779.
12. The tentative tract map shall be recorded and developed as one tract map, but may be developed in phases.
13. All existing and proposed easements for water/sewer lines, ingress/egress, footings and traveled ways 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 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.

14. Prior to the tract map approval the Title Company must submit a Final Subdivision Guarantee to the Engineering Department.
15. All subdivisions must have centerline ties and survey property monuments set by a licensed Land Surveyor or a qualified Professional Civil Engineer 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 recordation.
16. Prior to the issuance of the building permits, the tract map shall be recorded to reflect the new lot lines. Mylar copies of the map with the Los Angeles County Recorder's Office official stamp must be submitted to the Engineering Department.
17. Prior to the map recordation, developer shall post security guaranteeing the construction of all public improvements for the proposed subdivision, including but not limited to: driveway approaches, sidewalk, curb and gutter, street paving, parkway landscaping, existing and proposed overhead lines undergrounding, street light, water, sewer, and storm drain improvements.
18. Applicant/Developer shall ensure that a property owner's 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 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 the issuance of the Certificate of Occupancy.

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

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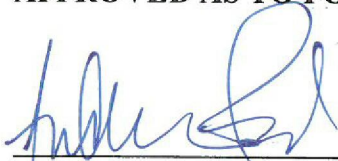
APPROVED AND ADOPTED THIS 13TH DAY OF SEPTEMBER, 2017.


LUIS M. JUAREZ
PLANNING COMMISSION CHAIRPERSON

ATTEST:


MARK LAZZARETTO
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:


ANDREW JARED
ASSISTANT CITY ATTORNEY

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

AYES: Grajeda, Arias, Juarez, Ursua, and Ramos.
NOES: Brown.
ABSTAIN: None.
ABSENT: Hemming.

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.