

RESOLUTION NO. 2024-27

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING VARIANCE NO. 2024-04 AS CONDITIONED TO ALLOW A REDUCTION OF SIX FEET SIX INCHES TO THE REQUIRED FIFTY FOOT LOT FRONTAGE WIDTH FOR THE PROPERTY LOCATED AT 5213 WEST SILVER DRIVE (APN: 099-212-14)

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The Planning Commission of the City of Santa Ana hereby finds, determines, and declares as follows:

- A. Evan Dahl, representing Ngoc Thien Ho and Yen N. Dahl (“Applicants and Property Owners”), is requesting approval of Variance (VA) No. 2024-04 to allow a reduction of six feet six inches to the required fifty foot lot frontage for the lot located at 5213 West Silver Drive in order to facilitate the subdivision of the lot into two fee simple lots.
- B. Pursuant to Section 41-237(b) of the Santa Ana Municipal Code (“SAMC”), the minimum street frontage of lots in the R-1 district is fifty feet. Therefore, the Applicant is requesting approval of Variance No. 2024-04 to allow a reduction in the required lot frontage width.
- C. Pursuant to Section 41-632(a)(2) of the SAMC, a variance from the development standards of Chapter 41 (Zoning) may be granted by the Planning Commission in accordance with the findings set forth by Section 41-638 of the SAMC.
- D. On October 28, 2024, the Planning Commission of the City of Santa Ana held a duly-noticed public hearing on VA No. 2024-04.
- E. The Planning Commission of the City of Santa Ana has considered the information and determines that the following findings, which must be established in order to grant VA No. 2024-04, have been established as required by Section 41-638 of the SAMC:
 1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges not otherwise at variance with the intent and purpose of the provisions of this Chapter.

On January 19, 1923, the property was initially subdivided as part of the Silver Acres Tract Map No. 366. In the surrounding area, properties were subdivided prior to the adoption of the Subdivision Map Act in 1974 and thus deeded. In addition, at

that time, the City did not have frontage standards. Pursuant to SAMC Section 41-247.7 (a), the minimum street frontage of a lot in the R1 zoning district should be 50 feet. The subject lot was developed in 1959 with two separate, single-family residences on a single lot, prior to the establishment of the development standards for minimum lot size and lot frontage in Santa Ana. The lot was improved in 2014 with the demolition and replacement of one of the single-family residences. The lot has always functioned as two separate, distinct buildings since 1959 without any significant code enforcement issues. Furthermore, the lot is consistent with the size of the parcels in the surrounding area, since their subdivisions have been previously deeded without the need for this process. Thus, the subdivision has been found to be consistent with the lot width development pattern of the nearby properties and does not break a pattern nor establish a new precedence in the surrounding area.

2. That the granting of a variance is necessary for the preservation and enjoyment of one (1) or more substantial property rights.

The granting of this variance is necessary for the preservation and enjoyment of substantial property rights, because the community will benefit from the existing single-family residences added to the housing supply and sold separately. Without the approval of the requested variance, the lot will remain as is and thus eliminate the ability to sell each as separate units.

3. That the granting of a variance will not be materially detrimental to the public welfare or injurious to surrounding property.

The granting of this variance will not be detrimental to the public welfare nor injurious to surrounding properties because the project entails the subdivision of an existing lot that is currently developed with two single-family residences and accessory structures that are compatible with the surrounding structures. In addition, conditions of approval have been added to ensure the property will continue to be kept well maintained through the recordation of a property maintenance agreement.

4. That the granting of a variance will not adversely affect the General Plan of the city.

The granting of VA No. 2024-04 will not adversely affect the General Plan of the City because the project is consistent with several goals of the General Plan and aligns with the character of the Low Density Residential (LR-7) designation of the

property. Approving the variance would allow the applicant the ability to subdivide the property into two lots and sell each of lot and the existing single-family residences separately. Approval of the subdivision and variance request for the project is consistent with several goals and policies of the General Plan. Policy 1.2 of the Land Use Element of the General Plan (LU-1.2) supports innovative development policies to expand homeownership opportunities at all income levels. Secondly, policy LU-4.6 supports diverse and innovative housing types that improve living conditions and promote a healthy environment. Policy 1.1 of the Housing Element of the General Plan (HE-1.1) supports the rehabilitation, repair, and improvement of single-family homes. Additionally, policy Furthermore, HE-2.5 facilitates diverse types, prices, and sizes of housing, including single-family homes opportunities. Lastly, policy HE-2.8 encourages flexible development review and entitlement processes that facilitate innovative and creative housing solutions, offer a consistent approval process, and allow for appropriate oversight. In summation, the community will benefit from the subdivision due to the fact that both of the existing single-family residences will be added to housing supply and thus be available to be sold separately.

Section 2. In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is categorically exempt from further review per Section 15301 (Class 1 – Existing Facilities) of the CEQA Guidelines. Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The project proposed to subdivide an existing lot developed with two single-family residences and accessory structures into two fee simple lots and does not involve an expansion of use. Based on this analysis, a Notice of Exemption, Environmental Review No. 2023-95, will be filed for this project.

Section 3. The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, referendum, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (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, 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 Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map

Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve the legal counsel providing the City's defense, and that Applicant shall reimburse the 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.


Section 4. The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby approves Variance No. 2024-04, as conditioned in Exhibit A, attached hereto and incorporated herein, for the reduced seven-foot lot frontage at 5213 West Silver Drive. This decision is based upon the evidence submitted at the above-referenced hearing, including but not limited to: The Request for Planning Commission Action dated October 28, 2024, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 28th day of October, 2024.

AYES: Commissioners: Carl Benninger, Christopher Leo, Jennifer Oliva, Bao Pham, Isuri Ramos, Alan Woo (6)
NOES: Commissioners:
ABSENT: Commissioners: Manuel J. Escamilla (1)
ABSTENTIONS: Commissioners:


Jennifer Oliva
Chairperson

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney


By: _____
Melissa M. Crosthwaite
Senior Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, NUVIA OCAMPO, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2024-27 to be the original resolution adopted by the Planning Commission of the City of Santa Ana on October 28, 2024.

Date: 10/28/2024

Nuvia Ocampo
Nuvia Ocampo
Recording Secretary
City of Santa Ana

EXHIBIT A

Conditions of Approval for Variance No. 2024-04

Variance No. 2024-04 is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations. In addition, they shall meet the following conditions of approval.

The Applicant must comply with each and every condition listed below in order to exercise the rights conferred by this variance.

The Applicant must remain in compliance with all conditions listed below throughout the life of the Variance. Failure to comply with each and every condition may result in the revocation of the variance.

1. All proposed site improvements must conform with Development Project Review (DP) No. 2023-20, Tentative Parcel Map No. 2024-02, and the staff report exhibits incorporated herein by reference. Such improvements need to be completed and inspected prior to recordation of the final map.
2. Any amendment to this Variance must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the variance must be amended.
3. Violations of the Variance as contained in Section 41-647.5 of the Santa Ana Municipal Code will be grounds for suspension and/or revocation as described in Section 41-651 of the Santa Ana Municipal Code.
4. Prior to the release of this resolution, the applicant shall conduct the following site improvements:
 - a. Rehabilitate front yard landscape to ensure compliance pursuant to SAMC Section 41-240, Landscape standards in the R1 district. The applicant must contact the Planning Division for a final walk-through inspection of the site once landscape has been improved per the approved landscape plan.
 - b. Demolish unpermitted attached patio cover in the rear of the existing single-family residence located at 5217 West Silver Drive.
 - c. Legalize perimeter block wall located between the two properties on the property line to ensure CMU block wall conforms with required 18-inch maximum height in the front yard area. Demolish existing gate and replace with CMU block wall to match existing.
 - d. Enclose the outdoor water heater to match the architectural design of the existing single-family residence located at 5217 West Silver Drive.

- e. Demolish the chain-link fence in the front yard of the existing single-family residence located at 5217 West Silver Drive.
 - f. Legalize window replacements on the existing single-family residence located at 5217 West Silver Drive.
5. Prior to final map approval, a Property Maintenance Agreement must be recorded against the property. The agreement will be subject to review and applicability by the Planning and Building Agency, the Community Development Agency, the Public Works Agency, and the City Attorney to ensure that the property and all improvements located thereupon are properly maintained. Developer/Applicant (and the owner of the property upon which the authorized use and/or authorized improvements are located if different from the Applicant) shall execute a Maintenance Agreement with the City of Santa Ana which shall be recorded against the property and which shall be in a form reasonably satisfactory to the City Attorney. The Maintenance Agreement shall contain covenants, conditions and restrictions relating to the following:
- a. Compliance with operational conditions applicable during any period(s) of construction or major repair (e.g., proper screening and securing of the construction site; implementation of proper erosion control, dust control and noise mitigation; adherence to approved project phasing etc.), if applicable;
 - b. Compliance with ongoing operational conditions, requirements and restrictions, as applicable (including, but not limited to, hours of operation, security requirements, the proper storage and disposal of trash and debris, enforcement of the parking management plan, and/or restrictions on certain uses) if applicable;
 - c. Ongoing compliance with approved design and construction parameters, signage parameters and restrictions as well as landscape designs, as applicable;
 - d. Ongoing maintenance, repair and upkeep of the property and all improvements located thereupon (including, but not limited to, controls on the proliferation of trash and debris about and immediately adjacent to the property; the proper and timely removal of graffiti; the timely maintenance, repair and upkeep of damaged, vandalized and/or weathered buildings, structures and/or improvements; the timely maintenance, repair and upkeep of exterior paint, parking striping, lighting and irrigation fixtures, walls and fencing, publicly accessible bathrooms and bathroom fixtures, landscaping and related landscape improvements and the like, as applicable;
 - e. If Developer/Applicant and the owner of the property are different (e.g., if the Applicant is a tenant or licensee of the property or any portion thereof), both the Applicant and the owner of the property shall be signatories to the

Maintenance Agreement and both shall be jointly and severally liable for compliance with its terms;

- f. The Maintenance Agreement shall further provide that any party responsible for complying with its terms shall not assign its ownership interest in the property or any interest in any lease, sublease, license or sublicense, unless the prospective assignee agrees in writing to assume all of the duties, obligations and responsibilities set forth under the Maintenance Agreement;
- g. The Maintenance Agreement shall contain provisions relating to the enforcement of its conditions by the City and shall also contain provisions authorizing the City to recover costs and expenses which the City may incur arising out of any enforcement and/or remediation efforts which the City may undertake in order to cure any deficiency in maintenance, repair or upkeep or to enforce any restrictions or conditions upon the use of the property. The maintenance agreement shall further provide that any unreimbursed costs and/or expenses incurred by the City to cure a deficiency in maintenance or to enforce use restrictions shall become a lien upon the property in an amount equivalent to the actual costs and/or expense incurred by the City.