

PC RESOLUTION NO. 25-012

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING A VARIANCE (VAR-000472-2025) TO INCREASE THE MAXIMUM ALLOWABLE HEIGHT FOR A FRONTAGE YARD FENCE FROM 4.5' TO 6' AND TO REDUCE THE REQUIRED STREET LOT LINE SETBACK FOR FRONTAGE YARD FENCES AT AN EXISTING SINGLE-FAMILY HOME ON A PROPERTY LOCATED AT 1320 HILLCREST DRIVE (APN: 8360-026-006)

WHEREAS, the Applicant, Norma Torres, has filed an application for a Variance (VAR-000472-2025) to increase the maximum allowable height for a frontage yard fence from 4.5' to 6' and to reduce the required street lot line setback for frontage yard fences at an existing single-family home on a property located at 1320 Hillcrest Drive (APN: 8360-026-006);

WHEREAS, the Applicant has filed an application for a Fence and Wall Permit (FENCE-000471-2025) proposing a 6' tall decorative wrought iron vehicular and pedestrian gate and a 2' tall decorative wrought iron addition to an existing stucco block wall at or near the front property line and within the frontage yard;

WHEREAS, the subject property is on a parcel designated as "Residential Neighborhood" Place Type on the General Plan Land Use Map;

WHEREAS, the subject property is currently located within the Residential Neighborhood District 4 (RND-4) Zone and subject to the Neighborhood Yard 1 (N1) Frontage Module;

WHEREAS, the maximum allowable height for a fence within the frontage yard of a property subject to the Neighborhood Yard 1 (N1) Frontage Module is six (6') feet and the minimum required street lot line setback for frontage yard fences is three (3') feet;

WHEREAS, pursuant Section 1160.F of the Pomona Zoning and Development Code, a Variance may be approved to allow deviation from any numerical development standard established by this Zoning and Development Code with respect to minimum and/or maximum dimensions, area, mass, and quantity;

WHEREAS, the Planning Commission of the City of Pomona has, after giving public notice, thereof as required by law, held a public hearing on August 27, 2025, concerning the requested Variance (VAR-000472-2025); 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 judgement has

determined that pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), which the project is Categorically Exempt under Article 19, Section 15301 (Existing Facilities) and Section 15303 (New construction or Conversion of Small Structures), as the project consists of the new construction of an accessory structure (a fence) at an existing single-family home.

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. In accordance with Section 1160.F.4 of the Pomona Zoning and Development Code, a Variance must be acted upon by the Planning Commission based upon the information provided in the submitted application, evidence presented in the Planning Division's written report, and testimony provided during the public hearing, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application must be denied if one or more of the below-listed findings cannot be clearly established. Based on consideration of the whole record before it, including but not limited to, 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 strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the development regulations contained in this Zoning and Development Code.*

According to Section 490.B.3.b.3, Type A3 fencing is "intended for frontage yards where the need for visual interest and activation along the public realm must be balanced with the need for security between private ground story uses and the public realm." However, the maximum height set is 4.5'. Though the proposed fence and gate exceed the height maximum, the proposal balances visual interest and activation as the fence is composed of decorative wrought iron, a material that is compatible with the Spanish Revival architectural style of the primary home.

2. *There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to other properties in the vicinity and in the same zoning district.*

The property owner experiences a greater security risk due to the nature of their occupation. The unique circumstances of the property owner's occupation do not apply to other properties in the vicinity and zoning district, therefore the approval of a variance to exceed the maximum allowable height for a frontage yard fence by 18" is justified.

3. *The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same*

zoning district.

The strict interpretation of the specified regulation would deprive the Applicant of the benefit a 6' frontage yard fence that is currently enjoyed multiple owners of nearby properties in the neighborhood and zoning district. Though these fences are non-conforming as they were constructed prior to the adoption of the current Zoning and Development Code, the proposed fence is not greater in scale than other similar fences present in the neighborhood.

4. *The granting of the Variance will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.*

The proposed height of the fence is of the same scale and size as similar fences within the frontage yard area of multiple nearby properties. The counterpart fences on neighboring properties are non-conforming as they were constructed prior to the adoption of the current Zoning and Development Code. The proposed location of the fence within the typically required street lot line setback area will continue the setback of the existing block wall. The fence is to be constructed of decorative wrought iron, a material that is compatible with the Spanish Revival architectural style of the home and the predominant style of the neighborhood. Because this area of Hillcrest Drive is not improved with a pedestrian sidewalk, no intended landscaped buffer will be eliminated with the reduction of the street lot line setback. Due to the proposed fence being similar to those currently existing throughout the neighborhood, the granting of the requested variance will not be detrimental to the public health and safety or properties in the vicinity.

5. *The proposed Variance is consistent with the goals, policies, plans and exhibits of the General Plan, and the purposes of any applicable specific plan, and the purposes of this Zoning and Development Code.*

The subject property is designated as the Residential Neighborhood Place Type. Among the Pomona General Plan Goals of this place type that the request is consistent with include:

6G.G4: Respect and maintain historic residential neighborhood scale and character.

6G.G7: Promote attractive community character as viewed from public streets, while providing adequate buffer areas between homes and heavily-traveled roads.

6G.G8: Ensure safe, family-oriented, human-scaled, walkable and livable residential neighborhoods.

The design and scale of the fence is consistent with the fences currently existing within the neighborhood in both size, location, and scale. The decorative wrought iron design of the fence is compatible with the architectural style of the home and many other homes within the neighborhood, adding to community character and ensuring and promoting safety.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Variance (VAR-000472-2025) 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 Variance or any portion thereof:

1. **Approved Project Plans.** The subject property shall be used in a manner consistent with the project plans reviewed and approved by the Planning Commission on August 27, 2025, and as illustrated in the stamped approved plans. 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 modification that do not affect the overall intent of the approved project, may be reviewed and approved by the Planning Manager.
2. **Approval Period.** This approval shall lapse and become void if the privilege authorized is not utilized within one (1) year from the date of this approval (August 27, 2026), in accordance with Pomona Zoning and Development Code Section 1160.F. The Planning Commission may extend this period for one (1) 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. **Appeal Period.** The project is subject to a 20 day appeal period. Written appeals may be filed with the City Clerk within twenty days by any person having legal standing, including but not limited to an applicant, resident, business owner, or any person owning real property within the City, that is aggrieved by the Planning Commission's decision. The appeal shall be filed with the City Clerk within 20 days from the date of action by the Planning Commission.
4. **Indemnification.** 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. Violations. In case of 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 violation 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 Variance.
6. Graffiti. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti must substantially match the existing structure. In the event that the paint finish of the abated areas is noticeable distinguishable from the rest of the structure, the property owner shall paint portion of the building to minimize the disparity, subject to the approval of the Planning Manager. Original surface materials installed and designed to not accept paint material such as stone, metal, brick, faux stone, veneers, etc. shall be restored to original finish with methods accepted and agreed to by the Planning Manager.
7. Property Maintenance. The property owner shall provide regular maintenance and cleaning of all exterior walkways, patios, sidewalks, and landscaped parkways in compliance with Pomona City Code 62-351 et seq.
8. The approval shall be used in the manner requested and shall be in substantial conformity with the plans associated with FENCE-000471-2025.
9. The proposed fence shall be decorative and be of a style and material that is compatible with the Spanish Revival architecture of the primary home.
10. The Applicant shall obtain any required permits from the Building & Safety Division and/or Department of Public Works.
11. In the event that the approved plans under this Variance are inconsistent with the provisions of the California Code of Regulations, Title 24 and/or any other applicable uniform building codes, the applicable building codes shall prevail.

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

APPROVED AND PASSED THIS 27th DAY OF AUGUST, 2025

MARCOS MOLINA
PLANNING COMMISSION
CHAIRPERSON

ATTEST:

GEOFFREY STARNES, AICP, AIA, LEED AP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

MARCO A. MARTINEZ
ASSISTANT CITY ATTORNEY

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."