

PC RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA RECOMMENDING APPROVAL OF A MAJOR VARIANCE (VAR 11494-2019) TO DEVIATE FROM THE POPULATION DENSITY AND SETBACKS REQUIREMENTS OF THE R-1-6,000 DISTRICT TO ALLOW FOR THE CONSTRUCTION OF A TWO-STORY SINGLE FAMILY RESIDENCE ON A SUBSTANDARD 3,257 SQUARE-FOOT LOT LOCATED AT 261 S. CASWELL STREET (APN 8335-003-034).

WHEREAS, the applicant, Silvia Gehna, has submitted an application for a Major Variance (VAR 11494-2019) to deviate from the population density, and setbacks requirements of the R-1-6,000 district for the construction of a two-story single family residence on a substandard 3,257 square-foot lot located at 261 S. Caswell Street, Assessor's Parcel Number 8335-003-034;

WHEREAS, the applicant has concurrently submitted an application for Change of Zone (ZONE 11492-2019) from M-1 (Light Industrial) to R-1-6,000 (Single Family Residential) to construct a two-story single family residence on a property located at 261 S. Caswell Street, Assessor's Parcel Number 8335-003-034;

WHEREAS, the subject property has a General Plan designation of Urban Neighborhood as well as a Transect Zone designation of T4 Typical;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on June 12, 2019, concerning the requested Major Variance (VAR 11494-2019); 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. Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), this action as defined is Categorically Exempt, under Section 15303, Class 3 exemption for construction of small facilities, in that the project is located in an urbanized area and consists of the construction of one new single family structure. Therefore, no further environmental review is required.

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 .580.B of the Zoning Ordinance, the Planning

Commission must make four findings in order to approve Variance (VAR 11494-2019). 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. *There are special circumstances applicable to the property including but not limited to size, shape, location, topography or surroundings that deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.*

The special circumstances applicable to the property are that the lot is substandard in terms of area (3,257 square feet) and depth (53'). While the existing lot is sub-standard in terms of lot area and depth it is considered legal, non-conforming because it met the requirements for subdivision at that time it was created. Lots in the R-1-6,000 District typically require a minimum area of 6,000 square feet and a minimum depth of 100' in order to accommodate adequate space for single-family development. Due to the substandard conditions of the lot, strict application of development standards as they relate to population density and setback, would make it impractical to develop the lot and therefore deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification, specifically other single family uses in the immediate vicinity of the subject site that are zoned R-1-6,000.

2. *That the granting of the variance will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.*

The granting of this variance will not constitute any special privileges inconsistent with the limitations upon other properties in the vicinity and zone. The property is being deprived of a single family dwelling which properties directly to the east and west with lot sizes ranging from 5,173 to 6,648 square feet in area under the identical zoning designation are able to enjoy. As provided in the Zoning Compliance Analysis section, the project conforms to the majority of the applicable development standards of the respective district and the granting of this variance would allow for the substandard and constrained property to obtain relief from setback and population density requirements that would otherwise prohibit the property from being developed. Therefore, the granting of the Variance will not adversely affect the intent and purpose of the Pomona Zoning Ordinance.

3. *That the granting of the variance will be consistent with the provisions of any Specific Plan, or the adopted General Plan.*

The project conforms to the City's General Plan in that the proposed development is

consistent with the “Urban Neighborhood” place type as identified on the General Plan Land Use Map which allows for single family residential uses. The project would also promote the following General Plan goals:

Goal 6G.G1: Pomona’s neighborhoods are diverse and each neighborhood’s character should be preserved and enhanced.

Goal 6G.G9: Ensure continuity in development scale and character with careful transitions between areas of differing use, position and density.

Goal 7B.G5: Maximize property values throughout the City.

Goal 7F.G4: Ensure high quality new development and redevelopment throughout the city that is designed appropriately to add value to its surrounding context.

4. *That the granting of the variance will not be materially detrimental or injurious to the surrounding properties nor to the general development pattern of the neighborhood.*

The existing neighborhood is predominantly single family homes with the exception to the north which is light industrial and a parking lot; however, those uses are segregated by a public alley. The subject site is located adjacent to single family and has been planned for residential uses in the General Plan therefore the granting of the Variance will not be materially detrimental or injurious to the surrounding properties nor the general development pattern of the neighborhood.

SECTION 4. Based upon the above findings, the Planning Commission hereby recommends the City Council approve Variance (VAR 11494-2019) 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 conditional use permit or any portion thereof:

Planning

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and recommended for approval by the Planning Commission on June 12, 2019. 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 Development Services Manager.
2. 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.

3. 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 Variance.
4. This approval shall lapse and become void if the privileged authorized is not utilized or where some form of construction pursuant to issuance of a building permit has not commenced within one (1) year from the date of approval (June 12, 2019).
5. The Variance may be extended twice for an additional period of one (1) year provided that prior to the expiration of one year from the date when the approval or renewal became effective, an application has been filed with the Planning Division and has remained valid from the time of application for extensions until the matter is heard by the granting body.
6. Major Variance 11494-2019 shall only apply to the front and rear yard setbacks and population density for the proposed single family dwelling, as indicated on the approved plans.

7. All building permits shall be obtained prior to starting any construction of the proposed single family dwelling and shall be in accordance and compliance with the stamped approved plans dated June 12, 2019.

Building and Safety

8. 2016 California Codes for plans submitted to the building department prior to 2020.
9. The undergrounding of utility facilities is required. (PMC 62-31)
10. The design must be reviewed and stamped by an architect or engineer licensed in the State of California – (Business and Professions code Sections 5537, 5538 and 6737.1)
11. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2016 California Building Codes.
12. All grading shall conform to the 2016 California Building Code, and all other relevant laws, ordinances and resolutions governing grading as adopted by the City of Pomona. The applicant shall obtain a grading permit from the Building & Safety Division prior to commencing any grading or site excavation.
13. Geotechnical and/or soils reports required in order to obtain a grading permit shall be submitted to the Building Official for review and approval prior to issuance of a grading permit. All grading shall be in conformance with the recommendations of the geotechnical/soils reports as approved by the City of Pomona.
14. All proposed work shall comply with the 2016 California Energy Code and all other relevant laws, ordinances and resolutions governing Energy conservation as adopted by the City of Pomona.
15. Proposed project shall comply with the 2016 California Green Building Standards Code and all other relevant laws, ordinances and resolutions governing sustainable design as adopted by the City of Pomona.
16. Proposed project shall be sprinklered and comply with all other relevant laws, ordinances and resolutions governing residential sprinklers as adopted by the City of Pomona.
17. Park and Recreation Improvement Fee shall be \$675 per dwelling unit for new construction. (Ordinance 3506)

18. Building Department comments and conditions are subject to plan check. Comments are based on information provided.
19. Fence and wall plan required.

Public Works

20. The proposed development shall comply with the City of Pomona Standard A-34-11, in that unobstructed visibility shall be maintained at the intersection of Caswell Street and the public alley located north of Third Street, between Caswell Street and Towne Avenue.
21. Property Owner shall dedicate a 2-foot strip of land along the northerly lot frontage to ensure the compliance with the ultimate public alley right-of-way width of 20 feet, per the City General Plan. Certificate of Compliance application, in accordance with the Subdivision Map Act Section 66412.6(b). The Certificate of Compliance shall be approved and recorded prior to the issuance of the building permits.
22. Completion of all required offsite improvements (driveway approach, curb, gutter, sidewalk, sprinklered landscaped parkway, wet utility trench repair, street-alley paving, water, sewer, storm drain improvements, etc.) per the City standards and ADA requirements. Plan check fees, permit fees and bond submittal will apply.
23. Undergrounding of the existing and proposed overhead utility lines to conform with the City of Pomona Municipal Code Section 62-31(b).
24. Prior to the issuance of the building permits Property 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 Owner 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.
25. Prior to issuance of the building permits Applicant/Developer is responsible for paying the project's impact fees for traffic signals and control devices, road and highway improvements public safety and parks improvements.
26. Prior to the issuance of the building permits Applicant/Developer is responsible for the payment of all City water and sewer connection fees and shall make proof of payment of the Los Angeles County Sanitation District fees associated with the proposed development.
27. Prior to issuance of the building permits Applicant/Developer is responsible for paying the development tax associated with the proposed project.

Solid Waste

28. Services shall be provided by City Approved franchise Handler.

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

APPROVED AND ADOPTED THIS 12TH DAY OF JUNE, 2019.

DR. KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

ANITA D. GUTIÉRREZ, AICP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

MARCO A. MARTINEZ
INTERIM 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.