

GARDEN GROVE CITY COUNCIL

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DENYING THE APPEAL OF ANH PHAN AND DENYING SITE PLAN NO. SP-046-2018, LOT LINE ADJUSTMENT NO. LLA-013-2018, AND VARIANCE NO. V-018-2018, FOR TWO PROPERTIES LOCATED ON THE WEST SIDE OF 9TH STREET, BETWEEN COLLEGE AVENUE AND STANFORD AVENUE, AT 12671 9TH STREET, ASSESSOR'S PARCEL NO. 090-132-17

WHEREAS, the subject case was initiated by Anh Phan ("Applicant"), owner of the subject site located on the west side of 9th Street, between College Avenue and Stanford Avenue, Assessor's Parcel No. 090-132-17;

WHEREAS, the subject site has a General Plan Land Use designation of Low Medium Density Residential, is currently zoned CCSP-PR61 (Community Center Specific Plan – Peripheral Residential, Area 61), and is currently improved with three (3) one-story detached apartment units;

WHEREAS, the Applicant is requesting (1) Site Plan approval to demolish all existing on-site improvements and to construct four new three-story apartment units on a 12,564 square foot consolidated site; (2) Lot Line Adjustment approval to eliminate an existing property line to consolidate the two (2) existing parcels into one lot; and (3) Variance approval to deviate from the 20,000 square foot minimum lot size requirement of the CCSP-PR61 (Community Center Specific Plan – Peripheral Residential, Area 61) zone;

WHEREAS, City Staff has recommended approval of the Applicant's request;

WHEREAS, the Planning Commission held a Public Hearing on March 1, 2018 and considered the Applicant's request;

WHEREAS, following conclusion of the Public Hearing, the Planning Commission determined that it could not make all of the findings required for approval and concluded that the Applicant's request should therefore be denied, orally articulated findings for denial of the Applicant's request on the record, and voted to direct City Staff to prepare a resolution of denial based on the articulated findings for adoption by the Planning Commission at its March 15, 2018 meeting;

WHEREAS, the Applicant appealed the Planning Commission's March 1, 2018 action on March 8, 2018, choosing to proceed before the Planning Commission adopted a resolution containing written findings;

WHEREAS, because the application is denied, the project is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15270(a);

WHEREAS, pursuant to legal notice, a Public Hearing was held by the City Council on April 24, 2018, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter during its meeting of April 24, 2018.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY RESOLVES, DETERMINES, AND FINDS AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. The facts and reasons supporting the conclusion of the City Council, as required under Municipal Code Section 9.32.030 and Government Code Section 66412, are as follows:

The subject site is currently 13,564 (135.64' x 100') square feet in area and located on the west side of 9th Street, between College Avenue and Stanford Avenue. The site is currently improved with three (3) one-story detached apartment units. The site has a General Plan Land Use Designation of Low Medium Density Residential and is zoned CCSP-PR61 (Community Center Specific Plan – Peripheral Residential, Area 61). The intent of the Peripheral Residential Districts identified in the Specific Plan is, first, to serve as a residential neighborhood, and, second, to serve as a transitional area between the more highly developed Core Area of the Specific Plan and less urban development outside of the Specific Plan area. The site abuts CCSP-PR61 zoned properties to the north, west, and south, and R-1 (Single-Family Residential) zoned properties, across 9th Street, to the east, all of which are developed with a mix residential uses consisting of one and two-story single-family homes, and one and two-story apartment/condominium buildings.

The applicant is proposing to demolish all existing on-site improvements, which include the three (3) existing one-story apartment units, and to construct four (4) new three-story apartment units. Each unit would be a three-story dwelling 33'-10" in height providing a total living area of 1,938 square feet, excluding the two-car garage. Each unit would provide a total of four (4) bedrooms and four (4) bathrooms and would include a private patio on the first floor and a private balcony on the second floor. Two (2) units would be located on each side, north and south, of the property, with a private 28'-0" wide drive aisle running down the center of the development, and providing access off 9th Street to the units and to four (4) two-car enclosed garages and six (6) covered guest parking stalls. Units 1 and 3 would be set back 15'-0" from the easterly property line, as measured from the ultimate

right-of-way, and all four units would provide a 5'-0" setback to the interior side property lines (northerly and southerly). Units 2 and 4 would provide a 5'-0" rear setback to the westerly property line. The Municipal Code requires Site Plan land use entitlement approval to develop the property with the proposed multiple-family residential project.

Based on the title report of the subject properties, the site is comprised of two (2) separate lots (Lots 14 and 15 of Tract No. 559), under a single Assessor's Parcel Number (APN: 090-132-17). Each property has a lot depth of 135.64' and a lot width of 50'. Combined, the properties have a current lot size of 13,564 square feet (135.64' x 100'). In order for the proposed integrated project to be developed, the Municipal Code requires approval of a Lot Line Adjustment to consolidate the two (2) lots into one.

Based on the City's Master Plan of Streets and Highways, 9th Street is considered a secondary 4-lane undivided roadway (secondary arterial), which has a planned ultimate right-of-way of 80 feet. Currently, the measurement from the centerline of 9th Street to the property lines of the subject properties is 30 feet. Therefore, a 10-foot public right-of-way dedication, along the 100' frontage of the subject site (the easterly property line), would be required to bring the properties into conformance with the Master Plan of Streets and Highways. Therefore, after the proposed Lot Line Adjustment and required 10-foot right-of-way dedication, the resulting lot size of the consolidated property would be 12,564 square feet.

Pursuant to Table III-3 and Subsection 9370.3.3(c)(2)(g) of the Community Center Specific Plan, a 20,000 square foot minimum lot size is required for development of properties with multi-family residential projects like the proposed project within the CCSP-PR61 (Community Center Specific Plan – Peripheral Residential, Area 61) zone. After the proposed Lot Line Adjustment to consolidate the two (2) properties (Lots 14 and 15 of Tract No. 559) into one, the resulting lot size, would be 12,564 square feet, which is less than the minimum 20,000 square feet lot size requirement applicable to the CCSP-PR61 zone. Without a Variance, the proposed Lot Line Adjustment and Site Plan would not be consistent with the provisions of the Specific Plan. Therefore, approval of a Variance from the minimum lot area standard set forth in the Specific Plan is necessary in order to facilitate the proposed redevelopment of the site.

On March 1, 2018, the Planning Commission held a Public Hearing to consider Site Plan No. SP 046 2018, Lot Line Adjustment No. LLA 013 2018, and Variance No. V 018 2018. The Applicant and eight (8) members of the public provided oral testimony at the Public Hearing. Seven (7) members of the public came forward to speak in opposition to the proposed Project. Those in opposition cited concerns in regard to insufficient on-site and off-site parking;

existing traffic safety issues on 9th Street that would be exacerbated, including a dangerous sight line for pulling out of College Avenue onto 9th Street, aggressive drivers in a small area, and car accidents; concerns for the current tenants in the apartments to be demolished; adverse impacts on privacy of adjacent properties; loss of views and sunlight by adjacent properties due to the size and orientation of the proposed buildings; a decrease in property values; street sweeping; loitering; construction debris; construction noise; and quality of life. Except for the adjacent property to the north, which is being constructed with a two-story single-family home, all other adjacent properties are developed with one-story single-family homes. Concerns were also expressed that the proposed consolidated 12,564 square foot lot was not large enough for the proposed multi-family development and that the size and massing of the proposed buildings is significantly different from that of the neighboring uses. Several owners and residents of the neighborhood in which the subject site is located testified at the Public Hearing that the proposed size and orientation of the buildings on the site would not be compatible with the existing neighboring uses or the neighborhood characteristics they deem desirable. Several residents of the neighborhood in which the subject property is located also testified at the Planning Commission Public Hearing that existing traffic on 9th Street adjacent to and in the vicinity of the subject property is already too heavy and results in safety hazards and that available on-street parking on 9th Street and College Avenue in the vicinity of the subject property is very limited.

In addition to the Applicant, one (1) member of the public came forward to speak in favor of the project, stating that the project would improve the blighted area and that the project, which includes obscured windows and inward facing balconies, addresses privacy concerns. The Applicant was given the opportunity to respond to all of the comments made by members of the public and the Public Hearing was closed. Staff advised the Planning Commission that the applicant was entitled to written findings if its request was denied. After discussion amongst the five (5) Planning Commissioners in attendance, a motion was made articulating reasons justifying denial of the applicant's request and directing Staff to prepare a Resolution of Denial based on the reasons articulated for adoption by the Planning Commission at its March 15, 2018 meeting. The motion was adopted by a vote of 5-0 (with 2 Commissioners absent). On March 8, 2018, the applicant filed an appeal of the March 1, 2018 Planning Commission decision with the City Clerk and paid the appeal fee, unilaterally choosing to proceed to the City Council without the Planning Commission having formally adopted written findings for denial.

SECTION 3. In order to approve the Applicant's request, all of the findings required by California Government Code Section 65906 and set forth in Garden Grove Municipal Code Section 9.32.030 must be made. In this case, based on the totality of information provided, the City Council concurs with the determination of

the Planning Commission and finds that for the following reasons, several required findings for approval of a Site Plan, Lot Line Adjustment, and Variance cannot be made for the following reasons:

- A. In order to approve a site plan, the City Council must find that the proposed site plan is consistent with the spirit and intent of the provisions, conditions, and requirements of Title 9 of the Garden Grove Municipal Code and other applicable ordinances. The project is proposed to be constructed on a 12,564 square foot site. The minimum lot size required for redevelopment projects such as the proposed project within the CCSP-PR61 (Community Center Specific Plan – Peripheral Residential, Area 61) zone without a variance is 20,000 square feet. This minimum 20,000 square foot lot size requirement encourages lot consolidation and helps ensure that the moderate intensity, moderate height suburban residential development of the Peripheral Residential District area anticipated by the Specific Plan occurs in a coordinated manner involving larger, but fewer, integrated developments, rather than in a piecemeal, lot-by-lot, manner. The minimum 20,000 square foot lot size requirement also provides for more opportunities to design multi-family projects in a way that have lesser impacts on adjacent properties and uses. Because the lot size of the site on which the project is proposed would only be 12,564 square feet, and no variance has been approved, the proposed Site Plan is inconsistent with the Specific Plan, which is incorporated into Title 9 of the Municipal Code. Therefore, this required finding for approval of a site plan cannot be made.

- B. In order to approve a site plan, the City Council must find that the proposed project will not adversely affect essential public facilities such as streets and alleys, utilities and drainage channels. The proposed project would increase the number of residential units and bedrooms on the subject site, which is reasonably anticipated to increase the amount of vehicle trips and off-site parking demand associated with the property in comparison to its current condition. Several residents of the neighborhood in which the subject property is located testified that existing traffic on 9th Street adjacent to and in the vicinity of the subject property is already too heavy and results in safety hazards. Several residents of the subject neighborhood also testified that available on-street parking on 9th Street and College Avenue in the vicinity of the subject property is very limited. The City Council was not presented with contrary evidence. For these reasons, and based on the totality of the information provided, it appears that the additional vehicle trips and off-site parking demand anticipated to be generated as a result of the proposed project would exacerbate these issues and therefore adversely affect the surrounding streets.

Therefore, this required finding for approval of a site plan cannot be made.

- C. In order to approve a site plan, the City Council must find that the proposed project is compatible with the physical, functional, and visual quality of the neighboring uses and desirable neighborhood characteristics. The immediately adjacent properties are developed with single-family dwellings, and all but one are one-story. The neighboring uses on the same block consist of one- and two-story single-family and multi-family residential structures. The proposed project would consist of four (4) large three-story multi-family structures containing four (4) bedrooms and four (4) bathrooms, each located within five (5) feet of the side and rear property lines, constructed on a 12,564 square foot lot. The size and massing of the proposed buildings is significantly different from that of the neighboring uses, and several owners and residents of the neighborhood in which the subject site is located testified that the proposed size and orientation of the buildings on the site would not be compatible with the existing neighboring uses or the neighborhood characteristics they deem desirable. Given the substandard lot size and single-family residential nature of the adjacent parcels, smaller, less imposing, structures containing fewer bedrooms would be more attractive and functional and have less adverse impact on adjacent properties. For these reasons, and based on the totality of the information provided, it appears that the proposed development will, in fact, be incompatible with the physical, functional, and visual quality of the neighboring uses and desirable neighborhood characteristics. Therefore, this required finding for approval of a site plan cannot be made.
- D. In order to approve a variance, the City Council must affirmatively make all of the findings required by California Government Code Section 65906 and set forth in Garden Grove Municipal Code Section 9.32.030.D.6. For the foregoing reasons, and based on the totality of the information provided, the City Council finds that it cannot affirmatively make all of the required findings for the proposed Variance. Specifically, the City Council concludes that it cannot affirmatively make the required findings that granting of the requested variance to reduce the required lot size from 20,000 to 12,564 square feet would not be injurious to the other properties in the neighborhood or that there are exceptional or extraordinary circumstances or conditions applicable to the subject property or its proposed development warranting the variance. The project is proposed to be constructed on a 12,564 square foot site. The minimum lot size required for redevelopment projects such as the proposed project

within the CCSP-PR61 (Community Center Specific Plan – Peripheral Residential, Area 61) zone without a variance is 20,000 square feet. This minimum 20,000 square foot lot size requirement encourages lot consolidation and helps ensure that the moderate intensity, moderate height suburban residential development of the Peripheral Residential District area anticipated by the Specific Plan occurs in a coordinated manner involving larger, but fewer, integrated developments, rather than in a piecemeal, lot-by-lot, manner. The minimum 20,000 square foot lot size requirement also provides for more opportunities to design multi-family projects in a way that have lesser impacts on adjacent properties and uses. The anticipated adverse impacts of the proposed project noted above result, in part, from the proposal to develop the proposed project on a lot that is smaller than 20,000 square feet in area. In addition, the City Council does not believe the evidence presented shows that there are exceptional or extraordinary circumstances applicable to the subject property that justify the requested variance.

- E. In order to approve a lot line adjustment, the City Council must find that the parcel or parcels that would result from approval of the proposed Lot Line Adjustment would conform to the City’s zoning ordinances. Because the requested Variance has not been granted, the parcel that would result from approval of the proposed Lot Line Adjustment would not conform to the Specific Plan in that it would be less than 20,000 square feet in area. Therefore, this required finding for approval of a lot line adjustment cannot be made.

Section 4. Unless otherwise provided, each and every one of the findings and conclusions in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the requested Site Plan, Lot Line Adjustment, and Variance. The findings and conclusions constitute the independent findings and conclusions of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole. Unless otherwise provided, all summaries of information in this Resolution are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

Section 5. Based upon the foregoing findings, and upon the facts and evidence in the record and presented at the Public Hearing, the Applicant’s appeal is hereby denied, and Site Plan No. SP-046-2018, Lot Line Adjustment No. LLA-013-2018, and Variance No. V-018-2018 are hereby denied in their entirety.