

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING ZONE VARIANCE 21-02 TO CONSTRUCT A RETAINING WALL AND SWIMMING POOL WITHIN THE FRONT SETBACK AT 1100 NORTH HILLSIDE STREET, AS PER THE APPROVED PLANS, MAKING THE APPROPRIATE FINDINGS, AND SUBJECT TO CONDITIONS.

The Planning Commission of the City of La Habra does hereby resolve as follows:

Section 1. The Planning Commission does hereby find and determine that:

- a. Sara and Juan Ramon Hernandez, filed an application requesting Zone Variance 21-02 to construct a retaining wall and swimming pool within the front setback at 1100 North Hillside Street.
- b. This project was reviewed pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined to be Categorically Exempt pursuant to Section 15303, Class 3 (e): New Construction or Conversion of Small Structures of the California Environmental Quality Act Guidelines.
- c. The Applicant's proposal has been reviewed pursuant to the requirements of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, the Local Implementation Plan (LIP), and the Model Water Quality Management Plan (WQMP), Section 7.2. Since no redevelopment is proposed, no NPDES action is required.
- d. The Planning Commission held a duly noticed public hearing on May 24, 2021, to consider the Applicant's request of Zone Variance 21-02. The Planning Commission, after considering all the written and oral evidence offered including the staff report and all attachments, approves the request.

Section 2. The Planning Commission further finds and determines that:

- a. The Applicant has succeeded in meeting their burden of providing evidence to support the granting of the Zone Variance application pursuant to Chapter 18.76 of the La Habra Municipal Code.
- b. The Planning Commission hereby makes the following required findings of the Zone Variance application pursuant to Section 18.76.030 of the La Habra Municipal Code:

1. That 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 the property or class of use in the same zone or vicinity.

The extraordinary circumstances that affect the subject lot include its improvement as a corner lot with two street frontages which reduces the available usable yard area. The dwelling unit has been constructed with a 20-foot front yard setback (southerly property line - Code requires a 10-foot setback) and a 24-25-foot street side setback (westerly property line - Code requires a 25-foot setback). It appears that the dwelling unit was constructed with modified setbacks.

The property was granted a Zone Variance in 1969 for an addition to encroach 10 feet into the required 25-foot rear yard setback. It appears that in 1969, the rear of the property was identified as the easterly property line based on the current layout and building setback of 15 feet to the easterly property line. Based on the original variance, the front building setback would be directly opposite of the rear yard setback making the westerly property line the front and the southerly property line the street side setback. The 1969 variance indicated that the subject lot differs from a standard lot in that it is wider than it is deeper, meaning that the property's configuration is a unique circumstance.

2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located.

The requested improvements will be contained on the property. The construction of a retaining wall and vinyl fence within the front setback (southerly property line) will not obstruct any views or create line of sight issues. The adjacent property to the east is a corner lot with the front of the property facing Kingston Drive (facing east). The adjacent property does not have any walkways or driveway improvements along La Presa Drive that would be obstructed with the requested retaining wall.

Also, the requested retaining wall and vinyl fence will not be constructed along the entire length of the southerly property

line. The retaining wall will be setback approximately 38 feet from the westerly property line which provides sufficient visibility for both pedestrian and vehicular traffic along Hillside Street. The retaining wall's 4-foot setback to the adjacent sidewalk provides sufficient area for the planting of vines or shrubs in front of the wall that overtime would grow and cover the wall to create a green screen.

The construction of a swimming pool on site will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone. The Applicant has obtained and recorded an encroachment agreement with Southern California Edison (SCE) for the requested retaining wall and swimming pool as parts of the improvements will be constructed within SCE's 6-foot-wide utility easement located along the easterly property line. The agreement was recorded on August 7, 2020.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property in the same zone and vicinity.

In a typical, level or flat interior lot, the construction of a swimming pool within the rear yard would not be a cause for concern. For this particular case, the subject property is a corner lot with a grade difference. Also, based on the orientation of the lot, the front yard area (southerly) of the property can be described as the rear and side yard areas combined. Based on the grade difference, a retaining wall is needed to grade the property level with the rear of the dwelling unit to create a functional/usable yard area. The variance is required to allow for the construction of the retaining wall and vinyl fence which will exceed the 3-foot height limit, in conjunction with the construction of the swimming pool within the front setback.

The required findings can be made in support of the requested variance as the property's location, orientation and topography create a hardship as compared to a typical, level, interior lot. The SCE easement also causes a slight impediment that affects the design and layout of the requested improvements. However, the Applicant has obtained and recorded an encroachment agreement with SCE for the requested improvements.

4. That the granting of such variance will not adversely affect the comprehensive general plan.

The La Habra General Plan 2035 designates the property as Low Density Residential which is characterized by single-family residential development. The construction of a swimming pool within an existing single-family home is appropriate. The project implements Policies LU 7.1 Neighborhood Conservation and LU 8.1 Neighborhood Identity, of the General Plan 2035.

Section 3. The Planning Commission further finds and determines that:

- a. This action is subject to the following conditions:

General conditions:

Standard Condition 1.1 CODE COMPLIANCE

The property owner/business operator shall comply with all applicable City of La Habra Municipal Codes and Ordinances.

Standard Condition 1.2 BUILDING PERMITS

The property owner/business operator shall comply with all the applicable California/La Habra Building Code requirements and obtain all required permits from the Chief Building Official. Construction shall comply with the California/La Habra Building Code (or Residential Code), California/La Habra Plumbing Code, California/La Habra Mechanical Code, California/La Habra Electrical Code, California/La Habra Energy Code, and California/La Habra Green Building Standards Code, as applicable.

Standard Condition 1.4 LA COUNTY FIRE DEPARTMENT

The property owner/business operator shall comply with the Los Angeles County/La Habra Fire Code and Fire Department requirements, as applicable.

Standard Condition 1.5 MINOR MODIFICATIONS

The Director of Community and Economic Development or designee may approve minor modifications through the Administrative

Adjustment process to the conditions of approval so long as the intent of the Planning Commission or City Council is maintained.

Standard Condition 1.6 PLANS

This approval is for those plans date stamped May 6, 2021 and are those plans reviewed and approved by the City of La Habra Planning Commission at its meeting of May 24, 2021. A copy of said plans shall be maintained in the files of the City of La Habra Planning Division. The project shall be developed and maintained in substantial conformance with said plans, except as otherwise specified in these conditions of approval.

Standard Condition 1.7 COMPLIANCE

The failure to comply with any of these conditions of approval by the property owner/business operator shall be grounds for rehearing and consideration by the Planning Commission for possible revocation of Zone Variance 21-02.

Standard Condition 1.8 VIOLATION

In the event that the property owner/business operator violates or fails to comply with any of the conditions of approval of this permit, the City may take measures to cure such violations, including but not limited to, administrative citation and full reimbursement of the City for its costs and expenses, including but not limited to, attorney's fees, in undertaking such corrective action. Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means permitted by law. In the event that violations of this permit occur, the City shall refrain from issuing further permits, licenses or other approvals until such violations have been fully remedied.

Standard Condition 1.9 LANDSCAPE MAINTENANCE

The property owner/business operator shall maintain landscaping in a healthy and well-kept manner at all times.

Prior to the issuance of building permits:

Standard Condition 4.1 CONDITIONS ON CONSTRUCTION PLANS

The applicant/developer shall include the conditions of approval of this resolution on the construction plans.

Standard Condition 3.1 EROSION CONTROL PLAN

The applicant/developer shall submit Erosion Control Plans to be reviewed and approved by the Chief Building Official.

Standard Condition 2.1 UTILITY EASEMENTS

The applicant/developer shall ensure that all utility easements are provided to the specifications of the appropriate utility companies and the City Engineer.

Standard Condition 3.4 SOILS REPORT

The applicant/developer shall provide a geotechnical investigation report prepared by a qualified engineer to the satisfaction of the Chief Building Official.

Standard Condition 3.11 GRADING

The applicant/developer shall grade the subject property in accordance with the Grading Ordinance and to the satisfaction of the Chief Building Official.

Project specific conditions:

1. The applicant/developer shall, prior to a permit final, plant vines or shrubs in front of the proposed retaining wall to act as a green screen and cover the face of the wall.

Section 4. Based upon the foregoing, the Planning Commission of the City of La Habra approves Zone Variance 21-02. The Planning Commission Secretary shall certify to the adoption of this resolution and transmit a copy to the Applicant.

Said motion CARRIED by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:

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ABSENT: COMMISSIONERS:

Dated: May 24, 2021

ATTEST: _____ APPROVED: _____
Veronica Lopez, Secretary Jason Manley, Chair