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June 5, 2017

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CASE NO. ZA-2017-0052-ZV-ZAA
ZONE VARIANCE; ZONING
ADMINISTRATOR'S ADJUSTMENT
838 North Mansfield Avenue
Hollywood Planning Area
Related Case: AA-2010-2952-PMLA-CC
Zone : R2-1XL
D. M. : 141B181
C. D. : 5
CEQA : ENV-2010-2954-CE
Legal Description: Lot 149, Tract 4608

Pursuant to Charter Section 562 and Los Angeles Municipal Code Section 12.27, I hereby APPROVE:

a Variance from Section 12.09 C.4 of the Municipal Code to allow the continuation of four existing units in lieu of the two units otherwise permitted in the R2 Zone; and

Pursuant to Los Angeles Municipal Code Section 12.28, I hereby APPROVE:

a Zoning Administrator's Adjustment to allow a 10-foot front yard setback in lieu of the otherwise required 15 feet within the R2 Zone,

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Zoning Administrator's opinion, such Conditions

are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or Letters of Clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
6. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.
7. Approved herein is the continued use and maintenance of four dwelling units and a 10-foot front yard setback in conjunction with the conversion of the units to condominiums.
8. The project shall comply with the conditions found in Case No. AA-2010-2952-PMLA-CC, including Condition No. 10 of said case which requires that one of the units be reserved as an affordable unit for moderate-income household.
9. All necessary building permits shall be obtained to ensure that the converted dwelling units meet and comply with all building code requirements to the satisfaction of the Los Angeles Department of Building and Safety and the Los Angeles Housing and Community Investment Department.
10. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

1. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
2. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
3. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole

discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).

4. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
5. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the applicant otherwise created by this condition.

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

"A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its Conditions. The violation of any valid Condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code."

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$2,500 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD - EFFECTIVE DATE

The applicant's attention is called to the fact that this variance is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then this variance and adjustment shall be subject to revocation as provided in Section 12.27 and 12.28 of the Municipal Code. The Zoning Administrator's determination in this matter will become effective after June 20, 2017, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. Forms are available on line at <http://planning.lacity.org>. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

West Los Angeles
1828 Sawtelle Boulevard
2nd Floor
Los Angeles, CA 90025
(310) 231-2901

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than

the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that subsequent contact regarding this determination must be with the Development Services Center. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the statements made at the public hearing on May 23, 2017, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements and prerequisites for granting a variance and an adjustment as enumerated, respectively, in Section 562 of the City Charter, Section 12.27 and 12.28 of the Municipal Code have been established by the following facts:

BACKGROUND

The subject property is developed with a two-story residential building on a level, rectangular-shaped lot fronting Mansfield Avenue between Willoughby Avenue and Warning Avenue. The property is zoned R2-1XL, designated for Low Medium I Residential land uses and is located in the Hollywood Community Plan Area. The subject property is located 2.06 kilometers away from the Hollywood Fault Zone (Fault Type B), and within the Transverse Ranges and Los Angeles Basin, and Methane Zone. The subject lot has a width of 50 feet and a lot depth of 120 feet, for a total lot size of 3,900 square feet.

The surrounding properties are zoned R2-1XL, are located on leveled, rectangular-shaped lots, and developed with single-family dwellings.

Mansfield Avenue, adjoining the subject property to the west, is a Local Street - Standard, dedicated to a width of 60 feet and improved with asphalt roadway, concrete curb, gutter, and sidewalk.

Previous zoning related actions on the site include:

AA-2010-2952-PMLA-CC – On March 9, 2011, the Advisory Agency approved a maximum four-unit condominium conversion and the unit density based on the previous R3 Zone, which is legally nonconforming.

Ordinance 161,687 – On November 10, 1986, a Zone Change took effect which changed the zoning from R3-1 to R2-1.

Surrounding Properties (within a 500-foot radius):

ZA-2015-1749-ZAA – On March 31, 2016, the Zoning Administrator allowed Lots 3 and 4 to contain 4,850 square feet of lot area and lot widths of 48.5 feet, and Lots 1 and 5 to contain lot areas of 4,966 square feet; and densities of one dwelling unit for every 2,426 square feet of lot

area for Lot 3 and Lot 4, and one unit for every 2,483 square feet of lot area for Lot 1 and Lot 5, located at 850-860 Sycamore Avenue; 7014 Willoughby Avenue; 853-859 Orange Drive.

VARIANCE FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 and Municipal Code Section 12.27 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. **The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The variance entails a request to retain four existing legally permitted units on the subject property which was rezoned from R3 to R2 in 1986. As apartment units, the existing density is permitted. However, a condominium conversion was approved on the subject site which, unless a variance was granted would require conformance with the new R2 Zone, which allows a maximum of two units.

The subject property is developed with a legally nonconforming residential building constructed in 1977. A building permit (1977LA45538) was issued on May 31, 1977 for the construction of a 20-foot tall, two-story, five-unit apartment building. A Certificate of Occupancy (LA 45538/77) was issued on January 17, 1978, for a two-story, five-unit apartment with an attached two car parking garage and a total of seven parking spaces required and provided. At the time of construction the underlying zone was designated as R3, which permitted the current density. On November 10, 1986, Ordinance No. 161,687 became effective, which changed the zoning from R3 to R2 decreasing the previous density allowed. On January 23, 2007, building permits (PCIS Nos. 00016-40000-19895 and 04016-40000-17699) were issued to convert units four and five into one large unit for an overall total of four units. On March 9, 2011, the Advisory Agency approved a maximum four-unit condominium conversion as the legally nonconforming density, based on the previous R3 Zone.

The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships as the building was legally constructed, meeting zoning requirements at the time, and the denial of the variance would require the loss of two viable units which can meet home ownership goals. As such, the grant is appropriate and non-invasive as there are no structural changes or square footage increase under consideration. The population density resulting from the legalization of the conversion will remain the same. If no conversion to condominiums had been pursued, the four existing units would still remain. To deny the request would mean that the Applicant would have to combine the four units into two units which would result in units which may be too large to be functionally viable and which would be inconsistent with the general purpose and intent of the zoning regulations.

2. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The subject property is the only R2 zoned property within 500 feet that was legally developed originally with five units and later reduced voluntarily to four units. The other R2 zoned properties in the immediate vicinity are developed with single or two-family

dwelling. Thus, the property's density is significantly different from other properties. As such, the existing development on the subject property is a special circumstance that does not generally apply to similarly-zoned surrounding properties which if seeking an entitlement for a conversion to condominiums would not be subject to a variance process.

3. **That such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.**

The request and grant herein allows the project to fulfill a condition and thus to allow the conversion of the existing four-unit apartment building into four condominium units. On March 9, 2011, the Advisory Agency approved a maximum four-unit condominium conversion and also required that one of the four units be sold as an affordable unit reserved for moderate-income household. The building as a five-unit development dates back to 1977 and was converted to four units in 2007. As such, a property right for the current density has been established for 40 years. In this instance, the grant allows for the retention of a long-standing property right. Were it not for the request to convert to condominiums, the existing building would continue with established legally nonconforming rights to the current density.

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

The approval of this grant will not adversely impact the existing character of the area. The existing building is located along Mansfield Avenue with an existing surface parking lot containing seven code-required spaces at the rear of the lot. There is an existing 10-foot concrete driveway that leads tenants to the parking area at the rear. The surrounding properties are developed with one- to two-story single and two-family dwellings. No changes to the existing legal nonconforming building will be made and the density will remain the same. As part of the condominium conversion approval, various City Departments reviewed the project and submitted conditions of approval which included requirements for street improvements. At the public hearing on the variance request, the Applicant's representative also submitted signatures from neighbors in support of the request. It was noted that neighbors appreciated that the project would result in home ownership which would represent the existing ownership pattern in the neighborhood more closely. The ability to provide units for ownership, including an affordable unit, represents an opportunity for many to enter the housing market, who would otherwise be limited in options of location and type of dwelling unit available. Therefore, the request is not anticipated to be materially detrimental to the public welfare or injurious to other property in the same zone and vicinity.

5. **The granting of the variance will not adversely affect any element of the General Plan.**

The property is located in the Hollywood Community Plan area, designated for Low Medium I Residential land uses, with corresponding zones of R2, RD5, RD4 and RD3 and Height District 1-XL.

The property is not currently located within the area of any specific plan. The proposed request complies with General Plan Objective 1.2 which is intended to "Preserve quality rental and ownership housing for households of all income levels." The continued

maintenance and use of an existing four unit residential building in lieu of the otherwise allowed two units will not result in a net loss of housing stock and it will preserve the existing dwelling units and make these available for ownership. Therefore, this grant will not adversely affect any element of the General Plan.

ZONING ADMINISTRATOR ADJUSTMENT FINDINGS

6. **While site characteristics or existing improvements make strict adherence to the zoning regulations impractical or infeasible, the project nonetheless conforms with the intent of those regulations.**

The subject property has an existing 15-foot front yard setback along Mansfield Avenue consistent with other setbacks along the block. The project does not propose any changes to the existing two-story residential building or existing yard setbacks. When the existing residential building was originally constructed, no street dedications were required and the 15-foot front yard setback provided met the setback requirement. The front yard setback requirement for the R3 and R2 Zones is 15 feet, respectively. In a condition set forth by the Bureau of Engineering for the approved Case No. AA-2010-2953-PMLA-CC, the project is required to provide a five-foot wide strip of land to be dedicated along Mansfield Avenue adjoining the proposed conversion to complete a 30-foot wide half right-of-way dedication. Street improvements are also required. The subject request is merely to maintain the existing setback which will be reduced to 10 feet after the dedication of the five-foot strip of land is taken and any required street improvements are completed since the property line will be moved back five feet. A denial of the request would result in the existing building being required to be set back five feet to retain a 15-foot front yard setback which is infeasible. The adjustment request does not change the existing front yard setback pattern. The 10-foot yard setback will still achieve the intent of the Zoning Code provisions in terms of providing a uniform open front yard consistent with adjacent neighboring lots. Therefore, the project conforms with the intent of the zoning regulations.

7. **In light of the project as a whole including any mitigation measures imposed, the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the safety, public health, welfare and safety.**

The subject property has an existing 15-foot front yard setback along Mansfield Avenue that complies with the R3 underlying zone at the time of construction. The request to reduce the front yard setback from 15 feet to 10 feet will not adversely affect or degrade adjacent properties. Some of the setbacks of adjacent properties are slightly over the 15-foot yard setback of the existing building but they all remain compatible as the location of the building will remain unchanged. Thus, the request will not further degrade adjacent properties or the surrounding neighborhood.

8. **The project is in substantial conformance with the purpose, intent and provisions of the General Plan, the applicable community plan, and any specific plan.**

The property is located in the Hollywood Community Plan area, designated for Low Medium Density Residential land uses, with corresponding zones of R2, RD5, RD4, RD3 and Height District 1XL. The property is not currently located within the area of any specific plan.

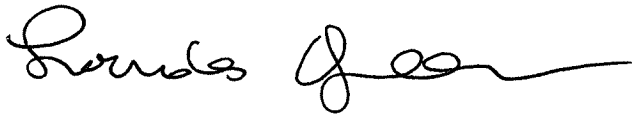
The proposed request complies with General Plan Objective 1.2 which is intended to "Preserve quality rental and ownership housing for households of all income levels." The

conversion of an existing four-unit apartment dwelling to a four-unit condominium will not result in a net loss of housing stock and it will preserve the existing dwelling units and allow for home ownership opportunities. Therefore, the project is in substantial conformance with the purpose, intent, and provisions of the General Plan and the community plan.

ADDITIONAL MANDATORY FINDINGS

9. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is not located in a Flood Zone.
10. On July 25, 2016, the project was issued a Notice of Exemption, log reference ENV-2010-2954-CE, for a Categorical Exemption, Class 15 and Class 3, Category 2 of the City of Los Angeles CEQA Guidelines (Section 15300, State CEQA Guidelines).

Inquiries regarding this matter shall be directed to Jason Hernández, Project Planner at jason.hernandez@lacity.org or (213) 978-1276.



LOURDES GREEN
Associate Zoning Administrator

LC:MN:JH

cc: Councilmember Paul Koretz
Fifth District
Adjoining Property Owners