

RESOLUTION NO. 2024-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING A CONCESSION AND WAIVERS OR REDUCTIONS OF DEVELOPMENT STANDARDS PURSUANT TO STATE DENSITY BONUS LAW TO BE MEMORIALIZED IN DENSITY BONUS AGREEMENT NO. 2024-02 TO ALLOW A FORTY-FIVE UNIT SINGLE-FAMILY ATTACHED TOWNHOME DEVELOPMENT FOR THE PROPERTY LOCATED AT 510 AND 520 NORTH HARBOR BOULEVARD (APN: 100-631-05 & 100-631-04)

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The Planning Commission of the City of Santa Ana hereby finds, determines and declares as follows:

- A. Kim Prijatel, representing City Ventures Homebuilding, LCC (applicant), on behalf of Clark Beyer, General Manager of the Alminlo Properties, LLC (property owner), is requesting approval of Vesting Tentative Tract Map No. 2024-02 (County Map No. 19328) and a certain concession and waivers or reductions of certain development standards pursuant to State Density Bonus Law (or “deviation,” as referenced in the SAMC) to be memorialized in a density bonus agreement (DBA) to allow the construction of a forty-five unit attached townhome development, five of which are proposed as onsite moderate-income affordable units, for the property located at 510 and 520 North Harbor Boulevard.
- B. California Senate Bill 330, the Housing Crisis Act of 2019 (HCA), became effective on January 1, 2020, and established a statewide “housing emergency” until January 1, 2025.
- C. On January 1, 2022, the HCA was extended until January 1, 2030, with the passage of Senate Bill 8.
- D. The proposed development is being submitted as a Senate Bill No. 330 (SB 330) application.
- E. The Harbor Mixed Use Transit Corridor Plan (SP-2) was adopted in 2014 as a result of interest in developing mixed-use residential and commercial projects in its project area. The regulating plan, which establishes land uses and development standards, allows a variety of housing projects, including multi-family and mixed-use residential communities, as well as live/work

units. The selection of the SP-2 development standards for this project is consistent with the overall character of the surrounding community.

- F. The California Density Bonus law allows developers to seek increases in base density for providing on-site housing units in exchange for providing affordable units on site. To help make constructing on-site affordable units feasible, the law allows developers to seek incentives/concessions or waivers or reductions of development standards.
- G. The Applicant's request has been evaluated by the City's Development Review Committee (DRC) through Development Project No. 2024-10. Through this review, the DRC has considered the subject site, proposed development, and the applicant's requests for concessions and waivers or reductions pursuant to the State's Density Bonus Law.
- H. On December 9, 2024 the Planning Commission of the City of Santa Ana held a duly noticed public hearing and at that time considered all testimony, written and oral.
- I. Section 41-1607 of the Santa Ana Municipal Code (SAMC) requires an application for a density bonus agreement containing deviations (incentives/concessions and/or waivers or reductions) to be approved by the Planning Commission.
- J. The Planning Commission determined that the following findings, which must be established in order to grant a deviation pursuant to SAMC Section 41-1607, have been established for Density Bonus Agreement No. 2024-02 to allow construction of the proposed project:
 - 1. That the proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the city.

The proposed development will provide a forty-five unit single-family attached townhome development, five of which are proposed as moderate-income affordable units, contributing toward the City's ownership housing stock to serve the needs of diverse and underserved populations. The area in which the project is proposed currently contains multiple low- to medium-density, multi-family residential communities. The construction of this project will contribute toward an economically balanced community by providing housing for different demographic and income levels in an area rich with employment opportunities, commercial development, and market-rate housing.

2. That the development will not be inconsistent with the purpose of the underlying zone or applicable designation in the general plan land use element.

The application is being submitted as a Senate Bill No. 330 application. The proposed project and its design and improvements will be consistent with the Urban Neighborhood-50 (UN-50) land use designation of the General Plan and are otherwise consistent with all other elements of the General Plan and any applicable specific plans. The current general plan land use designation for the project site is UN-50 which allows a mix of uses, including medium and medium-high density apartments, townhomes, garden- or motor-court homes, and neighborhood- serving commercial. The proposed density is 18 du/ac and well within the 50 dwelling units per acre (du/ac) maximum allowed under its general plan land use designation.

3. That the deviation is necessary to make it economically feasible for the Applicant to utilize a density bonus authorized for the development pursuant to section 41-1603.

The proposed project requires six deviations in: (1) frontyard/porch ground floor height, (2) frontyard/porch depth, (3) frontyard/porch width for asymmetrical entry, (4) common open space area; (5) private open space area; (6) private open space dimensions. The six deviations are described as follows:

Frontyard/Porch Frontage – Ground Floor Height

The development standards in SP-2 require minimum floor heights based on the selected frontage type (e.g., forecourt, shop front, stoop, etc.). The project design proposes a frontyard/porch frontage type and the ground floor heights are proposed below the minimum 10' required. The ground floor height is designed at a minimum of 9'-1"

The development's location in a flood zone necessitates raising the site's base flood elevation, directly impacting ground floor-to-ceiling heights. To comply with flood regulations, interior floor levels must be elevated, reducing first-floor ceiling heights. Maintaining the proposed unit count while adhering to these requirements would require a comprehensive site and elevation redesign. This could potentially lead to a reduction in residential units, affecting the project's density and efficiency.

SP-2 was originally intended to achieve a specific urban form. Existing nearby multi-family residential developments to the project site do not maintain a minimum building floor height. Therefore, the proposed design is consistent with the existing multi-family residences.

Frontyard/Porch Frontage – Depth

The minimum dimension for porch type building frontages is 6' depth. None of the porches provide the minimum entry depth required for porches.

Modifying the porch depth presents significant challenges due to the development's location in a flood zone. Such changes would necessitate building reconfiguration to accommodate proper stair risers and treads from street level, which would be complex given the elevated floor requirements in flood-prone areas. This reconfiguration would cascade into the unit layouts, disrupting the efficient stacked floor plan design and potentially reducing habitable interior space and bedroom counts.

Frontyard/Porch Frontage – Width

The minimum dimension for porch type building frontages 10' width if an asymmetrical entry. None of the porches provide the minimum entry width required for porches.

Modifying the porch width presents significant challenges due to the development's location in a flood zone. Such changes would necessitate building reconfiguration to accommodate proper stair risers and treads from street level, which would be complex given the elevated floor requirements in flood-prone areas. This reconfiguration would cascade into the unit layouts, disrupting the efficient stacked floor plan design and potentially reducing habitable interior space and bedroom counts.

Common Open Space – Area

Pursuant to SP-2, the minimum common open space for the project site (net) is equal to 15 percent of the lot, or approximately 12,290 sq. ft. As proposed, the project provides a 3,853 sq. ft. of common open space (approximately 5 percent).

The minimum common open space requirement specified in SP-2 is designed to offer visual relief and strengthen the

connection to the natural environment. As new homes and businesses are established along the corridor, there will be an increased demand for spaces to relax and recreate that are easy to access. While the full 15 percent is not provided, residents will still have access to a 3,853 square foot common open central courtyard within the site's interior. The design and layout (50'x77') of the proposed common open space would provide functional amenities to residents (e.g., picnic tables, BBQ, lounge furniture, etc.). The open space would also feature a shade trellis, hardscaping materials, trees, and shrubs.

Providing the required open space standard would lead to the elimination of six or more units, which would affect the feasibility to construct the project. In order to maintain the current proposed unit count, the developer would be required to modify the building type and construct additional floor levels, which may exceed the maximum allowable height as part of the Harbor Mixed Use Transit Corridor Plan (SP-2), and would further increase development costs. To help alleviate the open space deficiency, the project proposes an average of 174 sq. ft. of private open space per unit, through use of private balconies/decks.

Private Open Space – Area

The minimum required private open space is 90 sq. ft. per dwelling unit. Units featuring both upper balconies/decks and ground floor yards meet this requirement. However, units with only upper balcony decks fall short of the minimum area.

Adhering to the minimum private open space requirement would necessitate significant design alterations. Unit layouts would require reconfiguration, reducing habitable interior space and potentially bedroom counts. Expanding balconies, especially if cantilevered over the private drive, could impede emergency vehicle access, raising safety concerns. These changes would disrupt the efficient stacked floor plan design, affecting the development's livability and unit mix.

Private Open Space – Dimensions

The minimum dimensions for private open space are 6'. None of the private open space areas provide the minimum 6' in all directions.

Adhering to the minimum private open space requirement would necessitate significant design alterations. Unit layouts

would require reconfiguration, reducing habitable interior space and potentially bedroom counts. Expanding balconies, especially if cantilevered over the private drive, could impede emergency vehicle access, raising safety concerns. These changes would disrupt the efficient stacked floor plan design, affecting the development's livability and unit mix.

Section 2. In accordance with the California Environmental Quality Act (CEQA), the recommended action is exempt from further review under Section 15195 (Residential Infill Exemption), as this project meets all the threshold criteria set forth in Section 15192 (Threshold Requirements for Exemptions). This exemption applies to projects or sites that:

1. Meet the threshold criteria set forth in section 15192; provided that with respect to the requirement in section 15192(b) regarding community-level environmental review, such review must be certified or adopted within five years of the date that the lead agency deems the application for the project to be complete pursuant to Section 65943 of the Government Code.
2. Meet both of the following size criteria:
 - A. The site of the project is not more than four acres in total area.
 - B. The project does not include any single level building that exceeds 100,000 square feet.
3. Meet both of the following requirements regarding location:
 - A. The project is a residential project on an infill site.
 - B. The project is within one-half mile of a major transit stop.
4. Meet both of the following requirements regarding number of units:
 - A. The project does not contain more than 100 residential units.
 - B. The project promotes higher density infill housing. The lead agency may establish its own criteria for determining whether the project promotes higher density infill housing except in either of the following two circumstances:
 - 1) A project with a density of at least 20 units per acre is conclusively presumed to promote higher density infill housing.
 - 2) A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density infill housing unless the preponderance of the evidence demonstrates otherwise.
5. Meets the following requirements regarding availability of affordable housing: The project would result in housing units being made available to moderate, low, or very low income families as set forth in either A or B below:
 - A. The project meets one of the following criteria, and the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units as set forth below at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.
 - 1) At least 10-percent of the housing is sold to families of moderate income, or

- 2) Not less than 10-percent of the housing is rented to families of low income, or
 - 3) Not less than 5-percent of the housing is rented families of very low income.
- B. If the project does not result in housing units being available as set forth in subdivision (A) above, then the project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).

The project site is not more than four acres in area, the project does not include any single level building exceeding 100,000 square feet, and the project is an infill development within one-half mile of a major transit stop. Moreover, the development promotes higher density infill housing, does not contain more than 100 residential units, and results in housing units made available to moderate income families. Based on this analysis, a Notice of Exemption, Environmental Review No. 2024-32, will be filed for this project.

Section 3. The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, referendum, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (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, 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 Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve the legal counsel providing the City’s defense, and that Applicant shall reimburse the 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.

Section 4. The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby approves that certain concession and those certain waivers or reductions of development standards (deviations), as described in this Resolution and in the City’s Staff Report and as memorialized in Density Bonus Agreement No. 2024-02 in Exhibit A attached hereto and incorporated as though fully set forth herein. This decision is based upon the evidence submitted at the above said hearing, which includes, but is not limited to: the Request for Planning Commission Action dated December 9, 2024, and exhibits

attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 9th day of December 2024, by the following vote:

AYES: Commissioners:
NOES: Commissioners:
ABSENT: Commissioners:
ABSTENTIONS: Commissioners:

Jennifer Oliva
Chairperson

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: 

Melissa M. Crosthwaite
Senior Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, NUVIA OCAMPO, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2024-XXX to be the original resolution adopted by the Planning Commission of the City of Santa Ana on December 9, 2024.

Date: _____

Recording Secretary
City of Santa Ana

EXHIBIT A
Conditions for Approval for Density Bonus Agreement Application No. 2024-02

The concession and waivers or reductions of development standards (deviations) as memorialized in Density Bonus Agreement Application No. 2024-02 are approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations. In addition, it shall meet the following conditions of approval:

The Applicant must comply with each and every condition listed below prior to exercising the rights conferred by the Density Bonus Agreement.

The Applicant must remain in compliance with all conditions listed below throughout the life of the development project.

1. All proposed site improvements must conform to the Development Project (DP) approval of DP No. 2024-10 and the plans presented to the Planning Commission on the date of public hearing and project approval.
2. Any amendment to the DP No. 2024-10, including modifications to approved materials, finishes, architecture, site plan, landscaping, unit count, mix, and square footages must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the Development Project Review must be amended.
3. Walls and Fencing.
 - a. The applicant shall construct a minimum six-foot (6') tall solid perimeter wall, as measured from nearest adjacent finished sidewalk, surrounding the project site. The perimeter wall shall conform to all applicable Citywide Design Guidelines, including a split-face or painted design with regularly-spaced pilasters and decorative cap. The applicant is responsible for coordination with any adjacent property owners to avoid double-walls or gaps between walls where possible.
 - b. Climbing vines shall be planted at regularly-spaced intervals along all exposed walls and wrought-iron fencing to deter graffiti. All solid walls shall be finished with anti-graffiti coating.
4. All mechanical equipment shall be screened from view from public and courtyard areas.
5. Before submitting a landscape review application, the applicant shall meet with Planning Division staff to evaluate the proposed plant species, sizes, quantities, and placement of trees, shrubs, and groundcover to ensure they maximize onsite landscaping in compliance with established landscape standards. The final landscape plan shall include a diverse selection of shade-producing

canopy trees from the City's approved street tree list, ensuring the maximum possible number is incorporated.

6. Prior to issuance of building permits, the Applicant shall submit a construction schedule and staging plan to the Planning Division for review and approval. The plan shall include construction hours, staging areas, parking and site security/screening during project construction.
7. A final detailed amenity plan must be reviewed and approved prior to issuance of any building permits. The plan shall include details on the hardscape design, lighting concepts and outdoor furniture for amenity, plaza, or courtyard areas as well as an installation plan. The exact specifications for these items are subject to the review and approval by the Planning Division.
8. Prior to installation of landscaping, the Applicant shall submit photos and specifications of all trees to be installed on the project site for review and approval by the Planning Division. Specifications shall include, at a minimum, the species, box size (24 inches minimum), brown trunk height (10-foot minimum), and name and location of the supplier.
9. After project occupancy, landscaping and hardscape materials must be maintained as shown on the approved landscape plans.
10. Property Maintenance Agreement. Subject to review and applicability by the Planning and Building Agency, the Community Development Agency, the Public Works Agency, and the City Attorney to ensure that the property and all improvements located thereupon are properly maintained, Applicant (and the owner of the property upon which the authorized use and/or authorized improvements are located if different from the Applicant) shall execute a maintenance agreement or incorporate the form of this condition within the Project's CC&R's with the City of Santa Ana which shall be recorded against the property and which shall be in a form reasonably satisfactory to the City Attorney. The maintenance agreement shall contain covenants, conditions and restrictions relating to the following:
 - a. Compliance with operational conditions applicable during any period(s) of construction or major repair (e.g., proper screening and securing of the construction site; implementation of proper erosion control, dust control and noise mitigation measure; adherence to approved project phasing etc.);
 - b. Compliance with ongoing operational conditions, requirements and restrictions, as applicable (including but not limited to hours of operation, security requirements, the proper storage and disposal of trash and debris, enforcement of the parking management plan, and/or restrictions on certain uses);

- c. Ongoing compliance with approved design and construction parameters, signage parameters and restrictions as well as landscape designs, as applicable;
- d. Ongoing maintenance, repair and upkeep of the property and all improvements located thereupon (including but not limited to controls on the proliferation of trash and debris about the property; the proper and timely removal of graffiti; the timely maintenance, repair and upkeep of damaged, vandalized and/or weathered buildings, structures and/or improvements; the timely maintenance, repair and upkeep of exterior paint, parking striping, lighting and irrigation fixtures, walls and fencing, publicly accessible bathrooms and bathroom fixtures, landscaping and related landscape improvements and the like, as applicable);
- e. If Applicant and the owner of the property are different (e.g., if the Applicant is a tenant or licensee of the property or any portion thereof), both the Applicant and the owner of the property shall be signatories to the maintenance agreement and both shall be jointly and severally liable for compliance with its terms.
- f. The maintenance agreement shall further provide that any party responsible for complying with its terms shall not assign its ownership interest in the property or any interest in any lease, sublease, license or sublicense, unless the prospective assignee agrees in writing to assume all of the duties and obligations and responsibilities set forth under the maintenance agreement.
- g. The maintenance agreement shall contain provisions relating to the enforcement of its conditions by the City and shall also contain provisions authorizing the City to recover costs and expenses which the City may incur arising out of any enforcement and/or remediation efforts which the City may undertake in order to cure any deficiency in maintenance, repair or upkeep or to enforce any restrictions or conditions upon the use of the property. The maintenance agreement shall further provide that any unreimbursed costs and/or expenses incurred by the City to cure a deficiency in maintenance or to enforce use restrictions shall become a lien upon the property in an amount equivalent to the actual costs and/or expense incurred by the City.
- h. The execution and recordation of the maintenance agreement shall be a condition precedent to the final map being recorded.