

RESOLUTION NO. 2022-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING VESTING TENTATIVE TRACT MAP NO. 2022-03 (COUNTY MAP NO. 19195) AS CONDITIONED TO ALLOW A FIFTY-ONE UNIT SUBDIVISION FOR CONDOMINIUM PURPOSES FOR THE PROPERTY LOCATED AT 717 SOUTH LYON STREET

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. Greg Ocasek, representing Warmington Residential California, Inc. (applicant), on behalf of Wesley T. Geller, trustee of the Orange County Electrical Joint Apprenticeship Trust (property owner), is requesting approval of Vesting Tentative Tract Map No. 2022-03 (County Map No. 19195) and a density bonus agreement (DBA) to allow the construction of a fifty-one unit attached townhome development, eight of which are proposed as onsite low-income affordable units.
- 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 (SB8).
- D. The proposed development is being submitted as a Senate Bill No. 330 (SB 330) application and in consultation with City Staff and pursuant to Appendix A of the General Plan Land Use Element, the applicant has selected the Corridor District zoning designation within the Harbor Mixed Use Transit Corridor Plan (SP-2), as the proposed zoning for the project.
- E. Pursuant to Santa Ana Municipal Code (“SAMC”) Section 34-127, the Planning Commission is authorized to review and approve tentative tract maps.
- F. Vesting Tentative Tract Map No. 2022-03 came before the Planning Commission of the City of Santa Ana on September 26, 2022, for a duly noticed public hearing.
- G. The Planning Commission of the City of Santa Ana determines that following findings, which must be established in order to approve Vesting

Tentative Tract Map No. 2022-03, have been established as required by SAMC Section 34-127 and the California Subdivision Map Act:

1. The proposed project and its design and improvements are consistent with the Medium Density Residential (MR-15) designation of the General Plan and are otherwise consistent with all other Elements of the General Plan.

The proposed project and its design and improvements will be consistent with the Medium Density Residential (MR-15) designation of the General Plan and are otherwise consistent with all other elements of the General Plan and any applicable specific plans. The proposed subdivision of land will create fifty-one condominium air-right units and will be consistent with the various provisions of the General Plan. As proposed, the development is permitted pursuant to SB330 and SB 8. Moreover, the development is permitted subject to a separate approval of a density bonus agreement, where the developer is requesting a 46.25-percent (46.25%) state density bonus. The maximum unit yield for the 2.3-acre site using the MR-15 general plan density and the State density bonus is 52 units, and the applicant is proposing to development 51 units on the site.

Finally, the project has been designed to be compatible with the scale of other residences in the area will be consistent with several goals and policies of the General Plan as follow:

- Goal LU-1: Growing Responsibly – Provide a land use plan that improves quality of life and respects our existing community.
 - Policy LU-1.1 Compatible Uses – Foster compatibility between land uses to enhance livability and promote healthy lifestyles.
 - Policy LU-1.2 Homeownership Opportunities – Support innovative development policies to expand homeownership opportunities at all income levels.
 - Policy LU-1.5 Diverse Housing Types – Incentivize quality infill residential development that provides a diversity of housing types and accommodates all income levels and age groups.

- Goal LU-4: Complete Communities – Support a sustainable Santa Ana through improvements to the built environment and a culture of collaboration.
 - Policy LU-4.7 Diverse Communities – Promote mixed-income developments with mixed housing types to create inclusive communities and economically diverse neighborhoods.
- Lastly, the project is consistent with the General Plan Appendix A, Table LU-A-1. Interim Industrial Development Standards for development projects.

2. The proposed project conforms to all applicable requirements of the zoning and subdivision codes as well as other applicable City ordinances.

The proposed development is being submitted as an SB 330 application and in consultation with City Staff and pursuant to Appendix A of the General Plan Land Use Element, the applicant has selected the Corridor District zoning designation within the Harbor Mixed Use Transit Corridor Plan (SP-2), as the proposed zoning for the project. The proposed project will conform to all of the requirements of the Santa Ana Municipal Code (SAMC) and development standards as specified by the Harbor Mixed Use Transit Corridor Plan (SP-2), with the exception of open space, maximum building setbacks, fencing height, and building frontage and minimum ground floor heights, which are subject of a separate density bonus agreement application. Lastly, all subdivision codes will be met as well as other applicable City ordinances.

3. The project site is physically suitable for the type and density of the proposed project.

The project site is physically suitable for the type and density of the proposed project. The proposed site consists of approximately 2.3 acres of land and is physically suitable for the proposed development, where access to the site will be from Lyon Street. The current general plan land use designation for the project site is MR-15, which applies to residential areas characterized by a mix of single-family and multifamily housing. Residential building types include apartments, townhomes, live-work units, and small-lot subdivisions, typically resulting in neighborhoods with a mix of low- and medium-rise buildings. The general plan density would allow up to 15 dwelling units per acre (du/ac). The

proposed density is 22.16 du/ac, which would be permitted through density bonus through a separate density bonus agreement application. The proposed density is below the density bonus provisions in the California Density Bonus Law for low-income rental projects (46.25-percent density bonus) which allows 22.6 du/ac on the project site.

4. The design and improvements of the proposed project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The design and improvements of the proposed project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. Since the project is located in an urbanized area, there are no known fish or wildlife populations existing on the project site. Therefore, the proposed subdivision will not cause any substantial environmental damage or substantially and avoidably injure fish and wildlife or their habitat. Additionally, the development of the property as proposed, has been determined to be 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). 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 low income families.

5. The design or improvements of the proposed project will not cause serious public health problems.

The design or improvements of the proposed project will not cause serious health problems, with the proposed subdivision not having any detrimental effects upon the general public. The property will include necessary utilities and infrastructure improvements as required under Development Project Review No. 2021-38.

6. The design or improvements of the proposed project will not conflict with easements necessary for public access through or use of, property within the proposed project.

The design or improvements of the proposed project will not conflict with easements necessary for public access through or use of the property within the proposed project since the existing and recorded easements for the property have been considered as part of the review. An existing easement for electric lines, conduits, and incidental purposes in the document recorded September 23, 1963 as book 6728, page 662 of official records is proposed to remain. An easement for either or both underground lines, conduits, including above-ground appurtenant fixtures and incidental purposes in the document recorded as book 9812, page 266 of official records is proposed to be removed. A new emergency vehicle, trash collection, and public utility easement will be recorded under the new subdivision. The subdivision consists of fifty-one condominium air-right units along Lyon Street. The installation of all utilities will conform with the requirements stated in Section 41-626 of the Santa Ana Municipal Code. The conceptual design of all proposed construction for the property will not affect the right-of-way for road purposes.

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 low income families. Based on this analysis, a Notice of Exemption, Environmental Review No. 2022-08 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 Vesting Tentative Tract Map No. 2022-03 as conditioned 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 September 26, 2022, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 26th day of September 2022, by the following vote:

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

Bao Pham
Chairperson

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

By: 
Ryan O. Hodge
Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Kelly Arcadio-Tajonar, Acting Recording Secretary, do hereby attest to and certify the attached Resolution No. 2022-XXX to be the original resolution adopted by the Planning Commission of the City of Santa Ana on September 26, 2022.

Date: _____

Recording Secretary

EXHIBIT A
Conditions for Approval for Vesting Tentative Tract Map No. 2022-03

Vesting Tentative Tract Map No. 2022-03 is 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, Applicant 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 this tentative tract map.

The Applicant must remain in compliance with all conditions listed below throughout the life of the development project. Failure to comply with each and every condition may result in the revocation of the vesting tentative tract map.

1. All proposed site improvements must conform to the Development Project (DP) approval of DP No. 2021-38.
2. Any amendment to this Vesting Tentative Tract Map No. 2022-03, including modifications to approved materials, finishes, architecture, site plan, landscaping, parking, 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 Vesting Tentative Tract Map must be amended.
3. Applicant must submit Covenants, Conditions and Restrictions (CC&Rs) for the project to the case planner for review and approval prior to the final map being recorded.
4. Walls and Fencing.
 - a. The applicant shall be construct a minimum six-foot (6') tall 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.
5. The following parking management practices shall be incorporated into the final, recorded CC&Rs and shall apply through the life of the project:

- a. Requiring onsite parking permits (such as stickers or hang-tags) for any parking in the surface guest parking spaces;
 - b. Policies for maximum time vehicles may be parked in the surface guest spaces;
 - c. Policies for towing unauthorized vehicles; vehicles parked in unauthorized locations, such as fire lanes; vehicles parking in surface guest parking without a sticker, hang-tag, or other identifiers; and vehicles parked longer than any maximum guest parking timeframes allowed; and
 - d. Routine garage inspections to ensure garages are available for vehicle parking.
6. The final map must be approved and recorded prior to issuance of a certificate of occupancy or final sign-offs of building permits for the townhome buildings, whichever is first.
7. The final map and all improvements required to be made or installed by the subdivider must be in accordance with the design standards and specifications of the Santa Ana Municipal Code and the requirements of the State Subdivision Map Act.
8. Two copies of the recorded final map and CC&Rs shall be submitted each to the Planning Division, Fire Authority, Building Division, and Public Works Agency within 10 days of recordation.
9. 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.