

RESOLUTION NO. 2022-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA APPROVING A ONE-YEAR EXTENSION OF SITE PLAN REVIEW 2020-03 AND VARIANCE NO. 2020-06 FOR THE 4TH AND MORTIMER MIXED-USE DEVELOPMENT TO BE LOCATED AT 409 AND 509 EAST FOURTH STREET

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

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

- A. On October 12, 2020, the Planning Commission unanimously approved Site Plan Review No. 2020-03, for a development project over four stories in height, and Variance No. 2020-06, to allow an increase in the allowable building size and massing, for a new mixed-use development located at 409 and 509 East Fourth Street.
- B. On October 22, 2020, an appeal (Appeal No. 2020-02) to the project was filed by Michael Lozeau with Lozeau Drury, LLP, on behalf of the Supporters Alliance for Environmental Responsibility (SAFER).
- C. On December 1, 2020, the City Council denied Appeal No. 2020-02, upholding the determination of the Planning Commission to approve the subject entitlements.
- D. Pursuant to Section 41-647 of the Santa Ana Municipal Code (SAMC), entitlements automatically become void should the property owner fail to institute an action to comply with the provisions of the entitlements within two years of its approval.
- E. As a result of the global Covid-19 pandemic, the California Legislature approved AB 1561, which extended entitlements that were effective prior to March 4, 2020, and that were set to expire before December 31, 2021. Due to the various dates of approval and expiration on December 15, 2020 and December 15, 2022, respectively, AB 1561 does not apply to the subject entitlement. Therefore, the applicant is requesting an extension by the City Council pursuant to Section 41-647 of the SAMC.
- F. Due to difficulties stemming from the COVID-19 global pandemic, which affected the development industry worldwide, the applicant has experienced a number of uncertainties during the last two years that impact viability. These include construction and material cost increases,

uncertainty in labor availability, supply chain disruptions, and financial challenges arising out of an inflationary/high interest rate environment. All of these challenges have created delays in moving the project forward and constructing the new mixed-use development.

- G. The applicant intends to complete the plan check process and obtain all necessary building permits for the project. The construction plans for the project have been submitted for plan check as of August 1, 2022. The applicant submitted a subsequent plan check submittal on September 19, 2022. The applicant expects to obtain permits and start construction in early 2023.
- H. Pursuant to City of Santa Ana Municipal Code Section 41-647, where construction does not commence, these types of entitlements expire after two (2) years unless the applicant applies for, and the City Council approves, an extension. Up to three extensions may be granted.
- I. It is the Planning Division's policy to recommend no more than one-year extensions at a time, mainly in an effort to encourage the construction of previously approved projects.
- J. The applicant filed a request for the extension on October 24, 2022. The extension request came before the City Council on December 6, 2022.
- K. In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the extension for this project is exempt pursuant to Section 15061(b)(3). This determination has been made as it has been determined that the proposed action to extend the existing, approved entitlement does not have the potential to cause a significant effect on the environment, as the existing, approved entitlement has already been evaluated pursuant to CEQA.

Section 2. Site Plan Review No. 2020-03 and Variance No. 2020-06 are each hereby extended for a period of one (1) year until December 15, 2023. This decision is based upon the evidence submitted, which includes, but is not limited to, the Request for Council Action dated December 6, 2022, and exhibits attached thereto, and any public testimony, all of which are incorporated herein by this reference.

Section 3. This Resolution shall take effect immediately upon its adoption by the City Council, and the Clerk of the Council shall attest to and certify the vote adopting this Resolution.

ADOPTED this ____ day of _____, 2022.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

By: John M. Funk
John M. Funk
Chief Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2022-
_____ to be the original resolution adopted by the City Council of the City of Santa Ana
on _____, 2022.

Date: _____

Clerk of the Council
City of Santa Ana