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**DIRECTOR'S DETERMINATION
TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM**

March 31, 2022

Applicant

Troy White,
West 8th & Bonnie Brae, LLC
800 South Barranca Avenue, #260
Covina, CA 91723

Case No. DIR-2021-8104-TOC-VHCA

CEQA: ENV-2021-8105-CE

Location: 1900-1914 West 8th Street,
805-807 South Bonnie
Brae Street

Owner

1914 8th Street LLC
1914 8th Street
Los Angeles, CA 90057

Council District: 1 – Cedillo

Neighborhood Council: Westlake South

Community Plan Area: Westlake

Land Use Designation: Highway Oriented
Commercial

Zone: C2-1

Representative

Jonathan Yang,
Irvine & Associates, Inc.
660 South Figueroa Street, #1780
Los Angeles, CA 90017

Legal Description: Lots FR12 and 13, Block G,
Bonnie Brae Tract

Last Day to File an Appeal: April 15, 2022

DETERMINATION – Transit Oriented Communities Affordable Housing Incentive Program

Pursuant to Los Angeles Municipal Code (LAMC) Section 12.22 A.31, I have reviewed the proposed project and as the designee of the Director of Planning, I hereby:

- Determine** based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
- Approve with Conditions** a 65 percent increase in density, consistent with the provisions of the Transit Oriented Communities (TOC) Affordable Housing Incentive Program along with the following two (2) incentives for a qualifying Tier 3 project totaling 64 dwelling units, reserving a minimum of seven units for Extremely Low Income (ELI) Household occupancy for a period of 55 years:

- a. **Yards/Setbacks.** Utilization of the side and rear yard setback requirements of the RAS3 Zone for a project in a commercial zone; and
 - b. **Open Space.** A maximum reduction of 25 percent in the required amount of open space; and
3. **Adopt** the attached Findings.

CONDITIONS OF APPROVAL

Pursuant to Section 12.22 A.31 of the LAMC, the following conditions are hereby imposed upon the use of the subject property:

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the Applicant, stamped "Exhibit A," and attached to the subject case file. Minor deviations may be allowed in order to comply with the provisions of the LAMC or the project conditions. Changes beyond minor deviations required by other City Departments or the LAMC may not be made without prior review by the Department of City Planning, Expedited Processing Section, and written approval by the Director of Planning. Each change shall be identified and justified in writing.
2. **On-site Restricted Affordable Units.** Seven units, or equal to a minimum of ten percent of the total number of dwelling units, shall be designated for Extremely Low Income Households, as defined by the Los Angeles Housing and Community Investment Department (HCIDLA) and California Government Code Section 65915(c)(2).
3. **Changes in On-site Restricted Units.** Deviations that increase the number of restricted affordable units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22 A.31.
4. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of HCIDLA to make ten percent of the total number of dwelling units available to Extremely Low Income Households, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. In the event the applicant reduces the proposed density of the project, the number of required set-aside affordable units may be adjusted, consistent with LAMC Section 12.22 A.31, to the satisfaction of HCIDLA, and in consideration of the project's SB 330 Determination. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant will present a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by the HCIDLA. Refer to the Density Bonus Legislation Background section of this determination.
5. **Base Incentives:**
 - a. **Residential Density.** The project shall be limited to a maximum density of 64 residential dwelling units (equal to a density increase of 65 percent), including On-site Restricted Affordable Units.
 - b. **Floor Area Ratio (FAR).** The project may be permitted a maximum FAR of 3.75:1.

c. **Parking:**

- i. **Automotive Parking.** Automobile parking shall be provided consistent with LAMC Section 12.22 A.31. The proposed development, a Tier 3 project, shall not be required to exceed 0.5 automobile parking spaces per unit to fulfill residential vehicle parking requirements (commercial vehicle parking requirements may apply separately). A greater number may be provided at the applicant's discretion. In the event that the number of On-Site Restricted Affordable Units should increase or the composition of such units should change, then no modification of this determination shall be necessary and the number of vehicle parking spaces shall be re-calculated consistent with LAMC Section 12.22 A.31.
- ii. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC Section 12.21 A.16. In the event that the number of On-Site Restricted Affordable Units should increase or the composition of such units should change, then no modification of this determination shall be necessary and the number of bicycle parking spaces shall be re-calculated by the Department of Building and Safety consistent with LAMC Section 12.21 A.16.
- iii. **Unbundling.** Required parking may be sold or rented separately from the units, with the exception of all Restricted Affordable units which shall include any required parking in the base rent or sales price, as verified by HCIDLA.

6. **Additional Incentives:**

- a. **Yards/Setbacks.** The project may be permitted to utilize the side yard setback requirements of the RAS3 Zone for a project in a commercial zone.
- b. **Open Space.** The project may be permitted a maximum reduction of 25 percent in the required amount of open space.

Design Conformance Conditions

7. **Building Facades:**

- a. The project shall utilize a minimum of two different materials, as well as feature differing/accent paint colors. Windows, doors, balcony railings, and decorative features (such as light fixtures, planters, etc.) shall not count towards this requirement.
- b. Along the project's street frontages along 8th Street, the ground level façade shall feature a minimum total of 50 horizontal feet of glazing/windows/doors. To meet this requirement, glazing/windows/doors shall be transparent and a minimum of six feet in height.

8. **Landscaping.** All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped, including an automatic irrigation system, and maintained in accordance with a landscape plan prepared by a licensed landscape architect or licensed architect, and submitted for approval to the Department of City Planning. The landscape plan shall indicate landscape points for the project equivalent to 10 percent more than otherwise required by LAMC 12.40 and Landscape Ordinance Guidelines.

9. **Parking.** With the exception of vehicle and pedestrian entrances and air grilles, any ground-level vehicle parking shall be completely enclosed along all sides of the building.
10. **Mechanical Equipment.** All mechanical equipment on the roof shall be screened from view. The transformer, if located in the front yard, shall be screened with landscaping on all exposed sides (those not adjacent to a building wall).
11. **Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source does not illuminate adjacent residential properties or the public right-of-way, nor the above night skies.
12. **Maintenance.** The subject property, including any trash storage areas, associated parking facilities, sidewalks, driveways, yard areas, parkways, and exterior walls along the property lines, shall be maintained in an attractive condition and shall be kept free of trash and debris.
13. **Trash.** Trash receptacles shall be stored within a fully enclosed portion of the building at all times. Trash/recycling containers shall be locked when not in use and shall not be placed in or block access to required parking.
14. **Sustainability:**
 - a. The project shall comply with Section 99.05.211.1 of the LAMC regarding solar energy infrastructure.
 - b. All electric vehicle charging spaces (EV Spaces) and electric vehicle charging stations (EVCS) shall comply with the regulations outlined in Sections 99.04.106 and 99.05.106 of the LAMC.

Administrative Conditions

15. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building & Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building & Safety for final review and approval by the Department of City Planning. All plans that are awaiting issuance of a building permit by the Department of Building & Safety shall be stamped by Department of City Planning staff "Final Plans". A copy of the Final Plans, supplied by the applicant, shall be retained in the subject case file.
16. **Notations on Plans.** Plans submitted to the Department of Building & Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet, and shall include any modifications or notations required herein.
17. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.
18. **Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
19. **Department of Building & Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the LAMC,

Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building & Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building & Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.

20. **Department of Water and Power.** Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power (LADWP) for compliance with LADWP's Rules Governing Water and Electric Service. Any corrections and/or modifications to plans made subsequent to this determination in order to accommodate changes to the project due to the under-grounding of utility lines, that are outside of substantial compliance or that affect any part of the exterior design or appearance of the project as approved by the Director, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
21. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
22. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day that an appeal may be filed), the grant shall be considered null and void. Issuance of a building permit, and the initiation of, and diligent continuation of, construction activity shall constitute utilization for the purposes of this grant.
23. **Expedited Processing Section Fee.** Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
24. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

- (i) 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.
- (ii) 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, of 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.
- (iii) 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).

- (iv) 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).
- (v) 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.

PROJECT BACKGROUND

The subject property consists of two contiguous lots encompassing a total of approximately 14,650 square feet of lot area. The property is rectangular-shaped and is located at the southwestern corner of 8th Street and Bonnie Brae Street, with street frontages of approximately 150 feet along the southern side of 8th Street and approximately 100 feet along the western side of Bonnie Brae Street. An alleyway abuts the subject property to the west/rear. The project site is located within the Westlake Community Plan and is zoned C2-1 with a corresponding land use designation of Highway Oriented Commercial. The project site is also located within the Westlake Recovery Redevelopment Project Area and a Transit Priority Area within the City of Los Angeles. The property is not within the boundaries of any other specific plan or interim control ordinance.

The subject property is located within a Tier 3 TOC Affordable Housing Incentive Area, qualified by its proximity to the intersection of a Major Transit Stop. The project site is located approximately 950 feet south of the Westlake/MacArthur Park station servicing Metro's B Line (Red) subway line. As such, the project meets the eligibility requirement for a TOC Housing Development to be located within 2,640 feet of a Major Transit Stop and the eligibility requirement for a Tier 3 Project to be located within 2,640 feet of a Metro Rail station.

The subject property is currently developed with two one-story commercial buildings and surface parking areas, all of which will be demolished through development of the proposed project. The proposed project involves the construction of a new seven-story, approximately 85 feet-high mixed-use building with 64 residential units and approximately 1,000 square feet of commercial space on the ground floor. Of the 64 proposed residential units, seven will be set aside for Extremely Low Income households to satisfy the TOC program requirements. The proposed building will encompass approximately 50,216 square feet in total building area, resulting in a Floor Area Ratio (FAR) of approximately 3.6:1. Of the 64 proposed residential units, 35 will be one-bedroom units, 22 will be two-bedroom units, and seven will be co-living units with three, four, or five bedrooms. The project proposes to provide 34 automobile parking spaces on the ground floor, including 32 residential vehicle parking spaces and two commercial vehicle parking spaces. The project will also provide 53 long-term bicycle parking spaces and eight short-term bicycle parking spaces. The project proposes to provide at least 5,066 square feet of common open space to meet the requirements of the TOC program and the LAMC, divided between an outdoor pool deck on the second floor, interior recreation rooms, and a roof deck. The project will maintain a front yard setback of zero feet along Bonnie Brae Street, a northerly side yard setback of zero feet along 8th Street, and a westerly rear yard setback of zero feet along the alley, as permitted by the underlying C2-1 Zone and the LAMC for mixed-use residential and commercial properties abutting a street or alley (LAMC Section 12.22 A.18); as an Incentive, the project proposes to utilize the side yard requirements of the RAS3 Zone for a project in a commercial zone for the remaining side yard, resulting in a southerly side yard setback of five feet.

The project meets all eligibility requirements for the TOC Affordable Housing Incentive Program. As an eligible Housing Development and pursuant to the TOC Guidelines, the project is eligible for Base Incentives and up to three Additional Incentives. As base incentives, the project is eligible to (1) increase the maximum allowable number of dwelling units permitted by 70 percent; (2) increase the maximum allowable FAR to 3.75:1 for a project in a commercial zone; and (3) provide automobile parking at a ratio of 0.5 spaces per unit. The project is seeking an approximately 64 percent density increase and an increase in FAR to approximately 3.6:1 and will provide at least the minimum number of parking spaces required. The project is also requesting two Additional Incentives: 1) the utilization of the side yard setback requirements of the RAS3 Zone for a project in a commercial zone; and 2) a maximum reduction of 25 percent in the required amount of open space. The project meets the TOC Guideline requirements of providing at least seven percent of the base units for Extremely Low Income Households in exchange for being granted the two requested Additional Incentives. The project is setting aside seven units for Extremely Low Income Households, which equates to approximately 18 percent of the 39 base units permitted through the underlying zoning of the site.

HOUSING REPLACEMENT

Pursuant to LAMC Section 12.22 A.31(b)(1), a Housing Development located within a Transit Oriented Communities (TOC) Affordable Housing Incentive Area shall be eligible for TOC Incentives if it meets any applicable replacement requirements of California Government Code Section 65915(c)(3) (California State Density Bonus Law).

Assembly Bill 2222 (AB 2222) amended the State Density Bonus Law to require applicants of density bonus projects filed as of January 1, 2015 to demonstrate compliance with the housing replacement provisions which require replacement of rental dwelling units that either exist at the time of application of a Density Bonus project, or have been vacated or demolished in the five-year period preceding the application of the project. This applies to all pre-existing units that have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control; or occupied by Low or Very Low Income Households.

On September 28, 2016, Governor Brown signed Assembly Bill 2556 (AB 2556) which further amended the State Density Bonus Law. The amendments took effect on January 1, 2017. AB 2556 clarifies the implementation of the required replacement of affordable units in Density Bonus projects, first introduced by AB 2222. AB 2556 further defines “equivalent size” to mean that as a whole, the new units must contain at least the same total number of bedrooms as the units being replaced.

In addition to the requirements of California State Density Bonus Law, on October 9, 2019, the Governor signed into law the Housing Crisis Act of 2019 (SB 330). SB 330 creates new state laws regarding the production, preservation and planning for housing, and establishes a statewide housing emergency until January 1, 2025. During the duration of the statewide housing emergency, SB 330, among other things, creates new housing replacement requirements for Housing Development Projects by prohibiting the approval of any proposed housing development project on a site that will require the demolition of existing residential dwelling units or occupied or vacant “Protected Units” unless the proposed housing development project replaces those units.

The subject property is currently developed entirely with various commercial uses and accessory parking. The Department of Housing and Community Investment (HCIDLA) has determined, per the Housing Crisis Act of 2019 (SB 330) Replacement Unit Determination, dated June 8, 2021, that as the project has been entirely developed with commercial uses for at least the previous ten years, no residential units are subject to replacement, and the requirements of SB 330 do not apply. The Determination made by HCIDLA provides additional information.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM ELIGIBILITY REQUIREMENTS AND APPLICATION AND APPROVALS

To be an eligible Transit Oriented Communities (TOC) Housing Development, a project must meet the Eligibility criteria set forth in Section IV of the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines). A Housing Development located within a TOC Affordable Housing Incentive Area shall be eligible for TOC Incentives if it meets all of the following requirements, which the request herein does:

1. ***On-Site Restricted Affordable Units.*** *In each Tier, a Housing Development shall provide On-Site Restricted Affordable Units at a rate of at least the minimum percentages described below. The minimum number of On-Site Restricted Affordable Units shall be calculated based upon the total number of units in the final project.*
 - a. *Tier 1 - 8% of the total number of dwelling units shall be affordable to Extremely Low Income (ELI) income households, 11% of the total number of dwelling units shall be affordable to Very Low (VL) income households, or 20% of the total number of dwelling units shall be affordable to Lower Income households.*

- b. Tier 2 - 9% ELI, 12% VL or 21% Lower.
- c. Tier 3 - 10% ELI, 14% VL or 23% Lower.
- d. Tier 4 - 11% ELI, 15% VL or 25% Lower.

The project site is located within a Tier 3 TOC Affordable Housing Incentive Area. As part of the proposed development, the project is required to reserve a minimum of ten percent of the total number of on-site dwelling units for Extremely Low Income Households. The project will reserve a total of seven on-site dwelling units for Extremely Low Income Households, which equates to 10 percent of the 64 total dwelling units proposed as part of the Housing Development, and thus meets the eligibility requirement for On-Site Restricted Affordable Units.

2. **Major Transit Stop.** *A Housing Development shall be located on a lot, any portion of which must be located within 2,640 feet of a Major Transit Stop, as defined in Section II and according to the procedures in Section III.2 of the TOC Guidelines.*

As defined in the TOC Guidelines, a Major Transit Stop means a site with an existing rail transit station or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. The project site is located approximately 950 feet south of the Westlake/MacArthur Park station servicing Metro's B Line (Red) subway line. As such, the project meets the eligibility requirement for a TOC Housing Development to be located within 2,640 feet of a Major Transit Stop and the eligibility requirement for a Tier 3 Project to be located within 2,640 feet of a Metro Rail station.

3. **Housing Replacement.** *A Housing Development must meet any applicable housing replacement requirements of California Government Code Section 65915(c)(3), as verified by HCIDLA prior to the issuance of any building permit. Replacement housing units required per this section may also count towards other On-Site Restricted Affordable Units requirements.*

Pursuant to the Determination made by HCIDLA dated June 8, 2021 and attached to the subject case file, as the project has been entirely developed with commercial uses for at least the previous ten years, no residential units are subject to replacement and the requirements of SB 330 do not apply. The proposed project will provide seven affordable units for Extremely Low Income households to the satisfaction of HCIDLA and will comply with all applicable requirements of the City's Rent Stabilization Ordinance. As such, the project meets the eligibility requirement for providing replacement housing consistent with California Government Code Section 65915(c)(3).

4. **Other Density or Development Bonus Provisions.** *A Housing Development shall not seek and receive a density or development bonus under the provisions of California Government Code Section 65915 (state Density Bonus law) or any other State or local program that provides development bonuses. This includes any development bonus or other incentive granting additional residential units or floor area provided through a General Plan Amendment, Zone Change, Height District Change, or any affordable housing development bonus in a Transit Neighborhood Plan, Community Plan Implementation Overlay (CPIO), Specific Plan, or overlay district.*

The project is not seeking any additional density or development bonuses under the provisions of the State Density Bonus Law or any other State or local program that provides development bonuses, including, but not limited to a General Plan Amendment, Zone Change, Height District Change, or any affordable housing development bonus in a Transit Neighborhood Plan, Community Implementation Overlay (CPIO), Specific Plan, or overlay district. As such, the project meets this eligibility requirement.

5. **Base Incentives and Additional Incentives.** *All Eligible Housing Developments are eligible to receive the Base Incentives listed in Section VI of the TOC Guidelines. Up to three Additional Incentives listed in Section VII of the TOC Guidelines may be granted based upon the affordability requirements described below. For the purposes of this section below “base units” refers to the maximum allowable density allowed by the zoning, prior to any density increase provided through these Guidelines. The affordable housing units required per this section may also count towards the On-Site Restricted Affordable Units requirement in the Eligibility Requirement No. 1 above (except Moderate Income units).*
- a. *One Additional Incentive may be granted for projects that include at least 4% of the base units for Extremely Low Income Households, at least 5% of the base units for Very Low Income Households, at least 10% of the base units for Lower Income Households, or at least 10% of the base units for persons and families of Moderate Income in a common interest development.*
 - b. *Two Additional Incentives may be granted for projects that include at least 7% of the base units for Extremely Low Income Households, at least 10% of the base units for Very Low Income Households, at least 20% of the base units for Lower Income Households, or at least 20% of the base units for persons and families of Moderate Income in a common interest development.*
 - c. *Three Additional Incentives may be granted for projects that include at least 11% of the base units for Extremely Low Income Households, at least 15% of the base units for Very Low Income Households, at least 30% of the base units for Lower Income Households, or at least 30% of the base units for persons and families of Moderate Income in a common interest development.*

As an eligible housing development, the project is eligible to receive the Base Incentives listed in the TOC Guidelines. The project is also seeking two Additional Incentives: 1) the utilization of the side yard setback requirements of the RAS3 Zone for a project in a commercial zone; and 2) a maximum reduction of 25 percent in the required amount of open space. The project may be granted two Additional Incentives for reserving at least seven percent of the base units for Extremely Low Income Households. The project is setting aside seven units for Extremely Low Income Households, which equates to approximately 18 percent of the 39 base units permitted through the underlying zoning of the site. As such, the project meets the eligibility requirements for both on-site restricted affordable units and Base and Additional Incentives.

6. **Projects Adhering to Labor Standards.** *Projects that adhere to the labor standards required in LAMC 11.5.11 may be granted two Additional Incentives from the menu in Section VII of these Guidelines (for a total of up to five Additional Incentives).*

The project is not seeking any Additional Incentives beyond the two permitted in exchange for reserving at least seven percent of the base units for Extremely Low Income

Households. The project is setting aside seven units for Extremely Low Income Households, which equates to approximately 18 percent of the 39 base units permitted through the underlying zoning of the site. As such, the project need not adhere to the labor standards required in LAMC Section 11.5.11, and this eligibility requirement does not apply.

7. **Multiple Lots.** *A building that crosses one or more lots may request the TOC Incentives that correspond to the lot with the highest Tier permitted by Section III above.*

The subject property consists of seven contiguous lots, all of which are located within a Tier 3 TOC Affordable Housing Incentive Area. As such, this eligibility requirement does not apply.

8. **Request for a Lower Tier.** *Even though an applicant may be eligible for a certain Tier, they may choose to select a Lower Tier by providing the percentage of On-Site Restricted Affordable Housing units required for any lower Tier and be limited to the Incentives available for the lower Tier.*

The applicant has not selected a Lower Tier and is not providing the percentage of On-Site Restricted Affordable Housing units required for any lower Tier. As such, this eligibility requirement does not apply.

9. **100% Affordable Housing Projects.** *Buildings that are Eligible Housing Developments that consist of 100% On-Site Restricted Affordable units, exclusive of a building manager's unit or units shall, for purposes of these Guidelines, be eligible for one increase in Tier than otherwise would be provided.*

The project is not seeking eligibility for an increase in one Tier than otherwise would be provided.

10. **Design Conformance.** *Projects seeking to obtain Additional Incentives shall be subject to any applicable design guidelines, including any Community Plan design guidelines, Specific Plan design guidelines, and/or Citywide Design Guidelines and may be subject to conditions to meet design performance. The conditions shall not preclude the ability to construct the building with the residential density permitted by Section VI of the TOC Guidelines.*

The project seeks two (2) Additional Incentives. The proposed development conforms to the Citywide Design Guidelines and has been conditioned to ensure a well-designed development and compliance with the Design Guidelines. The project has been designed to incorporate visually interesting variations in building material and massing and has been conditioned to provide a more pedestrian-friendly and higher-quality streetscape through the use of glazing, windows, and articulation along the main building façade. Additionally, the project has been conditioned to provide landscaping and buffers around all utilities such as transformers and to completely enclose any visible automobile parking to minimize impacts on surrounding properties. These design features do not preclude the provision of the permitted density of residential units. Thus, the project conforms to the applicable design guidelines and conditions have been imposed accordingly.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM / AFFORDABLE HOUSING INCENTIVES COMPLIANCE FINDINGS

Pursuant to Section 12.22 A.31(e) of the LAMC, the Director shall review a Transit Oriented Communities Affordable Housing Incentive Program project application in accordance with the procedures outlined in LAMC Section 12.22 A.25(g).

1. Pursuant to Section 12.22 A.25(g) of the LAMC, the Director shall approve a density bonus and requested incentive(s) unless the director finds that:

- a. *The incentives do not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units.*

The record does not contain substantial evidence that would allow the Director to make a finding that the requested incentives do not result in identifiable and actual affordable housing costs per State Law. The California Health & Safety Code Sections 50052.5 and 50053 define formulas for calculating affordable housing costs for very low, low, and moderate income households. Section 50052.5 addresses owner-occupied housing and Section 50053 addresses rental households. Affordable housing costs are a calculation of residential rent or ownership pricing not to exceed 25 percent gross income based on area median income thresholds dependent on affordability levels.

The list of Additional Incentives in the Transit Oriented Communities Guidelines were pre-evaluated at the time the Transit Oriented Communities Affordable Housing Incentive Program Ordinance was adopted to include types of relief that minimize restrictions on the size of the project. As such, the Director will always arrive at the conclusion that the Additional Incentives are required to provide for affordable housing costs because the incentives by their nature increase the scale of the project.

Yards/Setbacks. The requested incentive to utilize the side yard setback requirements of the RAS3 Zone for a project in a commercial zone is expressed in the Menu of Incentives in the TOC Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate the creation of affordable housing. In this case, the applicant has requested to utilize the side yard setback requirements of the RAS3 Zone for the southerly side yard. The RAS3 Zone permits smaller yard setbacks on the sides of the building than what would otherwise be required for a residential project in a commercial zone. The requested incentive allows the developer to expand the building footprint and allow for the construction of more units, including affordable units, while remaining in compliance with all other applicable zoning regulations. The provision of additional housing units at higher income levels offsets costs associated with providing affordable housing units at the Extremely Low Income level and enables the provision of additional units set aside for Extremely Low Income households. Therefore, the incentive further supports the applicant's decision to reserve seven units for Extremely Low Income Households and facilitates the creation of affordable housing units.

Open Space. The requested incentive for a reduction in the required amount of open space is expressed in the Menu of Incentives in the TOC Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate the creation of affordable housing. The requested incentive

allows the developer to utilize more of the total building square footage for residential units, which facilitates the creation of more affordable units, while remaining in compliance with all other applicable zoning regulations. The provision of additional housing units at higher income levels offsets costs associated with providing affordable housing units at the Extremely Low Income level and enables the provision of additional units set aside for Extremely Low Income households. Therefore, the incentive further supports the applicant's decision to reserve seven units for Extremely Low Income Households and facilitates the creation of affordable housing units.

Therefore, all two Additional Incentives result in identifiable and actual cost reductions to provide for affordable housing.

- b. *The Incentive will have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there are no feasible methods to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Very Low, Low and Moderate Income households. Inconsistency with the zoning ordinance or the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.*

There is no evidence that the proposed incentives will have a specific adverse impact upon public health and safety or the physical environment, or any real property that is listed in the California Register of Historical Resources. A "specific adverse impact" is defined as "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22 A.25(b)). The project does not involve a contributing structure in a designated Historic Preservation Overlay Zone or on the City of Los Angeles list of Historical-Cultural Monuments. Accordingly, the project will not have a significant impact on any on-site resource or any resource in the surrounding area. The property is not located on a substandard street in a Hillside area, a Very High Fire Hazard Severity Zone, a Methane zone, a Liquefaction Zone, or any other special hazard area. The project is required to comply with all other pertinent regulations including those governing construction, use, and maintenance, and will not create any significant direct impacts on public health and safety. Therefore, there is no substantial evidence that the proposed project, and thus the requested incentive, will have a specific adverse impact on the physical environment, on public health and safety or the physical environment, or on any Historical Resource.

- c. *The Incentives are contrary to state or federal law.*

There is no substantial evidence in the record indicating that the requested Incentives are contrary to any State or federal laws.

ADDITIONAL MANDATORY FINDINGS

2. 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 located in Zone C, which is categorized as an area outside of a flood zone.

3. It has been determined based on the whole of the administrative record that the project is exempt from CEQA pursuant to State CEQA Guidelines, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2, applies.

The proposed project qualifies for a Class 32 Categorical Exemption because it conforms to the definition of “In-fill Projects”. The project can be characterized as in-fill development within urban areas for the purpose of qualifying for Class 32 Categorical Exemption as a result of meeting five established conditions and if it is not subject to an Exception that would disqualify it. The Categorical Exception document dated January 2022 and attached to the subject case file provides the full analysis and justification for project conformance with the definition of a Class 32 Categorical Exemption.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM BACKGROUND

Measure JJJ was adopted by the Los Angeles City Council on December 13, 2016. Section 6 of the Measure instructed the Department of City Planning to create the Transit Oriented Communities (TOC) Affordable Housing Incentive Program, a transit-based affordable housing incentive program. The measure required that the Department adopt a set of TOC Guidelines, which establish incentives for residential or mixed-use projects located within 1/2 mile of a major transit stop. Major transit stops are defined under existing State law.

The TOC Guidelines, adopted September 22, 2017, establish a tier-based system with varying development bonuses and incentives based on a project’s distance from different types of transit; a project in closer proximity to significant rail stops or the intersection of major bus rapid transit lines is rated a higher tier. The largest bonuses are reserved for those projects in the highest tiers. Required percentages of affordable housing are also increased incrementally in each higher tier. The incentives provided in the TOC Guidelines describe the range of bonuses from particular zoning standards that applicants may select.

TIME LIMIT – OBSERVANCE OF CONDITIONS

All terms and conditions of the Director’s Determination shall be fulfilled before the use may be established. Pursuant to LAMC Section 12.25 A.2, the instant authorization is further conditional upon the privileges being utilized within **three years** after the effective date of this determination and, if such privileges are not utilized, building permits are not issued, or substantial physical construction work is not begun within said time and carried on diligently so that building permits do not lapse, the authorization shall terminate and become void.

The applicant's attention is called to the fact that this grant 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 the applicant or his successor in interest may be prosecuted for violating these conditions the same as for any violation of the requirements contained in the LAMC, or the approval may be revoked.

Verification of condition compliance with building plans and/or building permit applications are done at the Development Services Center of the Department of City Planning at either Figueroa Plaza in Downtown Los Angeles or the Marvin Braude Constituent Service Center in the Valley. In order to assure that you receive service with a minimum amount of waiting, applicants are encouraged to schedule an appointment with the Development Services Center either by calling (213) 482-7077, (818) 374-5050, or through the Department of City Planning website at

<http://cityplanning.lacity.org>. The applicant is further advised to notify any consultant representing you of this requirement as well.

Section 11.00 of the LAMC states in part (m): "It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code shall be guilty of a misdemeanor unless that violation or failure is declared in that section to be an infraction. An infraction shall be tried and be punishable as provided in Section 19.6 of the Penal Code and the provisions of this section. Any violation of this Code that is designated as a misdemeanor may be charged by the City Attorney as either a misdemeanor or an infraction.

Every violation of this determination is punishable as a misdemeanor unless provision is otherwise made, and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both a fine and imprisonment."

TRANSFERABILITY

This determination 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 that you advise them regarding the conditions of this grant. If any portion of this approval is utilized, then all other conditions and requirements set forth herein become immediately operative and must be strictly observed.

APPEAL PERIOD - EFFECTIVE DATE

The Determination in this matter will become effective after April 15, 2022 unless an appeal there from 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 this Determination, 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 www.cityplanning.lacity.org.

Planning Department public offices are located at:

<i>Figueroa Plaza</i>	<i>Marvin Braude San Fernando</i>	<i>West Los Angeles</i>
<i>201 North Figueroa Street,</i>	<i>Valley Constituent Service Center</i>	<i>Development Services Center</i>
<i>4th Floor</i>	<i>6262 Van Nuys Boulevard, Suite</i>	<i>1828 Sawtelle Boulevard,</i>
<i>Los Angeles, CA 90012</i>	<i>251</i>	<i>2nd Floor</i>
<i>(213) 482-7077</i>	<i>Van Nuys, CA 91401</i>	<i>Los Angeles, CA 90025</i>
	<i>(818) 374-5050</i>	<i>(310) 231-2901</i>

Pursuant to LAMC Section 12.22 A.25(g)(2)(i)(f), only an applicant, abutting property owners, and abutting tenants can appeal this Determination. Per the Density Bonus Provision of State Law (Government Code Section §65915) the Density Bonus increase in units above the base density zone limits, increase in FAR, and the appurtenant parking reductions are not a discretionary action and therefore cannot be appealed. Only the requested incentives are appealable. Per Sections 12.22 A.25 and 12.22 A.31 of the LAMC, appeals of Transit Oriented Communities Affordable Housing Incentive Program cases are heard by the City Planning Commission.

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedures Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

Note of Instruction Regarding the Notice of Exemption: Applicant is hereby advised to file the Notice of Exemption for the associated categorical exemption after the issuance of this letter. If filed, the form shall be filed with the County of Los Angeles, 12400 Imperial Highway, Norwalk, CA 90650, pursuant to Public Resources Code Section 21152 (b). More information on the associated fees can be found online here: <https://www.lavote.net/home/county-clerk/environmental-notices-fees>. The best practice is to go in person and photograph the posted notice in order to ensure compliance. Pursuant to Public Resources Code Section 21167 (d), the filing of this notice of exemption starts a 35-day statute of limitations on court challenges to the approval of the project. Failure to file this notice with the County Clerk results in the statute of limitations, **and the possibility of a CEQA appeal**, being extended to 180 days.

VINCENT P. BERTONI, AICP
Director of Planning

Approved by:



Heather Bleemers
Senior City Planner

Reviewed by:



Kevin Golden
City Planner

Prepared by:



More Song
City Planning Associate

Attachments:
Exhibit A: Architectural Plans