

FINDINGS

Density Bonus / Affordable Housing Incentives Findings

1. Pursuant to Section 12.22 A.25 of the LAMC and Section 65915 of the California Government Code, the Director of Planning shall approve a density bonus and requested incentive(s) and/or Waiver(s) unless the Director finds that¹:
 - 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 cost reductions to provide for 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.

In exchange for reserving at least 15 percent of the number of units for Very Low Income households, the applicant is entitled to three Incentives under both Government Code Section 65915 and the LAMC. The project proposes to reserve at least 15 percent of the 46 proposed units for Very Low Income households; accordingly, the project is entitled to the three requested Off-menu Incentives. These requested Incentives provide cost reductions that provide for affordable housing costs because the incentives by their nature increase the scale of the project, allow for design efficiencies, and accommodate the construction of floor area to support the operational costs and construction of the affordable housing units.

Averaging of Floor Area, Density, Parking, Open Space, and Vehicle Access

The applicant is requesting an On-Menu Incentive to permit averaging of various development standards including Floor Area, Density, Parking, Open Space, and Vehicle Access. The subject property is split-zoned, with the northern portion of the property zoned C2-1, the southern portion of the property zoned CR-1VL, and the eastern portion of the property zoned RD2-1. As each of these zones have their own development standard limitations, such as floor area, density, and vehicular access, the applicant is requesting this Incentive to enable a unified development across the entire property.

The requested Incentive for averaging also permits the proposed project to spread out the density and floor area over the entirety of the site (including the more restrictively zoned portions of the site), thereby utilizing more permissive development standards than what the most restrictively zoned portion of the property would otherwise limit that portion of the project to. Doing so allows for an expanded building envelope, making way for design efficiencies and the construction of floor area that supports the provision of affordable units. The incentive enables the construction of floor area in a cost-efficient manner in order to build out the proposed density of the project. Facilitating the creation of additional

¹ Pursuant to LAMC Section 12.22 A.25(g)(3), the City Planning Commission is considered the decision-maker for Off-menu density bonus requests. The findings referenced in LAMC Section 12.22 A.25(g)(2)(i)(c) apply to Off-menu requests.

market-rate floor area increases the opportunity for market rate rents that will subsidize the operational costs of the affordable housing units. In addition, averaging development standards enables the development of a more uniform and more efficiently-designed project across the project site, rather than impractically limiting development on the more restrictively zoned portion of the site. As such, the requested Incentive allows an expanded building envelope that allows for the construction of market rate floor area and residential units used to offset the cost of the proposed affordable housing units and enables a more practical and efficient development overall, all of which provides actual and identifiable cost reductions that provide for affordable housing costs.

Building Height

Specific Plan Section 7.B.3 limits residential building height on the subject property to 33 feet. The applicant is requesting an Off-Menu Incentive for a maximum building height of 42 feet. The requested increase in height allows for an expanded building envelope, making way for the provision of additional residential units to support the provision of the proposed affordable units. Maintaining the maximum height limits allowed by the Specific Plan would restrict development of the proposed project above the second and third floors above grade, resulting in a reduced density and a reduced build-out of both market and affordable rate floor area. By allowing the requested increase in height, the proposed density of 46 units may be achieved, which allows for the fixed costs of providing the seven Very Low Income units to be distributed across a greater number of market-rate units, thereby creating a reduced cost burden for the Applicant to provide the affordable units. Accordingly, the requested Off-Menu Incentive to increase the allowable height provides actual and identifiable cost reductions that provide for affordable housing costs by allowing for an expanded building envelope that allows for the construction of additional residential units and floor area necessary to offset the cost of the proposed affordable housing units.

Westerly Front Yard Setback

The proposed project would otherwise be required to provide a westerly front yard of 15 feet along Plainview Avenue. The proposed project requests an Off-Menu Incentive to permit a westerly front yard setback of three feet along Plainview Avenue. The subject property is an irregularly shaped through-parcel with multiple front yards. If the project were required to provide the full required front yard setback, it would necessitate removing the portion of the proposed project that currently encroaches into that area, resulting in a loss of residential units and residential floor area that supports the operational costs of the affordable units. The reduction in setbacks also allows the project to expand each floorplate so that the proposed floor area can be built on fewer floors, resulting in a shorter structure and an overall project cost reduction. For these reasons a reduction in the westerly front yard provides an actual and identifiable cost reduction, as defined, such that the proposed project can be achieved as designed inclusive of the requested Incentives herein.

- b. ***The Incentives and/or Waivers 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 and for which there is no feasible method 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 general plan land use designation shall not constitute a specific adverse impact upon the public health or safety (Government Code Section 65915(d)(1)(B) and 65589.5(d)).***

There is no substantial evidence in the record 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)). Potential environmental impacts of the project, including impacts to historic resources, have been fully analyzed in the Class 32 Categorical Exemption prepared for the project, which has concluded that the project would not have any significant environmental impacts. The project is not located within a flood zone, hillside area, methane hazard zone, liquefaction zone, or within an Alquist-Priolo Fault Zone. The project will further comply with all applicable regulatory measures governing construction. Therefore, there is no substantial evidence that the proposed project, and thus the requested Incentives and Waivers, will have a specific adverse impact on the physical environment, on public health and safety or the physical environment, or on any historical resource. Based on the above, there is no basis to deny the requested Incentives or Waivers.

- c. The waiver[s] or reduction[s] of development standards relate to development standards that will not have the effect of physically precluding the construction of a development meeting the [affordable set-aside percentage] criteria of subdivision (b) at the densities or with the concessions or incentives permitted under [State Density Bonus Law]" (Government Code Section 65915(e)(1).**

A project that meets the requirements of Government Code 65915 may request other "waiver[s] or reduction[s] of development standards that will have the effect of physically precluding the construction of a development meeting the [affordable set-aside percentage] criteria of subdivision (b) at the densities or with the concessions or incentives permitted under [State Density Bonus Law]" (Government Code Section 65915(e)(1)).

Southwesterly Front Yard Setback

The proposed project would otherwise be required to provide a southwesterly front yard of 15 feet along Foothill Boulevard. The proposed project requests a Waiver of Development Standards to permit a southwesterly front yard setback of 10 feet along Foothill Boulevard. The subject property is an irregularly shaped through-parcel with multiple front yards. If the project were required to provide the full required front yard setback, it would necessitate removing the portion of the proposed project that currently encroaches into that area, resulting in a loss of residential units and residential floor area that supports the operational costs of the affordable unit. The reduction in setbacks also allows the project to expand each floorplate so that the proposed floor area can be built on fewer floors, resulting in a shorter structure and an overall project cost reduction. For these reasons a reduction in the southwesterly front yard provides an actual and identifiable cost reduction, as defined, such that the proposed project can be achieved as designed inclusive of the requested Incentives herein.

Southeasterly and Easterly Front Yard Setback

The proposed project would otherwise be required to provide a southeasterly and easterly front yard of 15 feet along Day Street and Wilsey Avenue. The proposed project requests a Waiver of Development Standards to permit a southeasterly and easterly front yard setback of 10 feet along Day Street and Wilsey Avenue. The subject property is an irregularly shaped through-parcel with multiple front yards. If the project were required to provide the full required front yard setback, it would necessitate removing the portion of

the proposed project that currently encroaches into that area, resulting in a loss of residential units and residential floor area that supports the operational costs of the affordable unit. The reduction in setbacks also allows the project to expand each floorplate so that the proposed floor area can be built on fewer floors, resulting in a shorter structure and an overall project cost reduction. For these reasons a reduction in the southeasterly and easterly front yards provides an actual and identifiable cost reduction, as defined, such that the proposed project can be achieved as designed inclusive of the requested Incentives herein.

Reduction in Space Between Buildings

As the proposed project includes the construction of two residential buildings, it is subject to the passageway requirements set forth in LAMC Section 12.21.C.2. The applicant is requesting a Waiver of Development Standards to reduce the passageway requirements, which if applied in full would result in the removal of the portions of the proposed project that currently encroach into this area, resulting in a loss of residential units and residential floor area. It is therefore necessary to remove the passageway requirements such that the proposed project can be achieved as designed inclusive of the requested Incentives and Waivers herein.

Therefore, the requested Waivers of Development Standards relate to development standards that would physically preclude a project otherwise meeting the requirements of State Density Bonus law.

d. The Incentives and/or Waivers are contrary to State/federal law.

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

Project Permit Compliance Review Findings

2. The project substantially complies with the applicable regulations, findings, standards, and provisions of the specific plan, as follows:

As described in greater detail below, the proposed project is in compliance with the applicable regulations, findings, standards and provisions of the Foothill Boulevard Corridor Specific Plan (Specific Plan). The subject property is designated for Neighborhood and General Commercial land uses under the Specific Plan.

Section 6: General Provisions

Section 6.A. General Design Provisions for Buildings and Structures

Section 6.B. General Provisions for Access and Circulation

Section 6.C. General Provisions for Landscaping

Section 6.D. General Provisions for Buffering

The project has been conditioned to comply with the applicable requirements of these sections of the Specific Plan. Upon construction, the project will no longer be subject to the requirements under Section 6.D.

Section 7: Multiple Family Residential Provisions

Section 7.A. Land Use Limitations

Section 7.A of the Specific Plan limits residential construction in commercial zones to areas designated as Target Areas by the Specific Plan. As the project site is not located within a Target Area, residential uses would be prohibited on most of the subject property (those portions commercially zoned). However, Government Code Section 65915(o)(6) states that the maximum allowable residential density of a site, or "base density" is the maximum number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, means the maximum number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project. In this case, although the Specific Plan prohibits residential development in this location, the underlying zoning and land use designations permit residential development and thus permits a higher residential density that the project may utilize. Therefore, in compliance with State Law, the proposed use and density is entirely permissible.

Section 7.B Development Provisions

Section 7.B of the Specific Plan prescribes various development standards such as yards, open space, parking, and height. The project utilizes Incentives and Waivers of Development Standards pursuant to State Density Bonus law to achieve deviations from certain development standards prescribed in the Specific Plan, but is otherwise consistent with the applicable requirements of this Section.

Section 7.C Design Provisions

The project has been conditioned to comply with the applicable requirements of this Section of the Specific Plan.

Section 8: Commercial and Industrial Provisions

The proposed project does not include any commercial or industrial uses; therefore, this section of the Specific Plan does not apply.

Section 9: Sign Regulations

No signs are being requested as part of this grant. Any future sign request must comply with the requirements of the Specific Plan.

- 3. The project incorporates mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review which would mitigate the negative environmental effects of the project, to the extent physically feasible.**

A Class 32 Categorical Exemption has been prepared for the proposed project, which concludes that the project qualifies for a Class 32 Categorical Exemption and that there will be no significant environmental impacts and no mitigation measures necessary.

Environmental Findings

- 4. Environmental Finding.** The project has been determined to be categorically 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 Categorical Exemption Study dated April

2023 and attached to the subject environmental case file (ENV-2021-9910-CE) provides the full analysis and justification

5. **Flood Insurance.** 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 outside of a flood zone.