

Case No. CPC-2023-0582-CU-DB-HCA-PHP

**Revised Conditions of Approval
(as modified by the Planning and Land Use Management Committee on February
20, 2023)**

The rest of the document includes all Conditions of Approval, including the newly adopted Condition.

CONDITIONS OF APPROVAL

Pursuant to Sections 12.22-A,25 and 12.24-U,26 of the Los Angeles Municipal Code, the following conditions are hereby imposed upon the use of the subject property:

A. Development Conditions

Density Bonus

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans dated April 13, 2023, submitted by the Applicant, stamped "Exhibit A," and /attached to the subject case file.
2. **Residential Density.** The project shall be limited to a maximum density of 43 dwelling units.
3. **Affordable Units.**
 - a. A minimum of seven (11) units, that is at least 78 percent of the base dwelling units permitted in the underlying zone(s), shall be reserved as Very Low Income Households, as defined by the State Density Bonus Law per Government Code Section 65915(c)(2).
 - b. **Changes in 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,25.
4. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing Department (LAHD) to make at least 78 percent of the site's base density units (11 units) available to Very Low Income Households, for sale or rental as determined to be affordable to such Households by LAHD for a period of 55 years. In the event the applicant reduces the proposed density of the project, the number of required reserved on-site Restricted Units may be adjusted, consistent with LAMC Section 12.22-A,25, to the satisfaction of LAHD, and in consideration of the project's SB 8 Determination, dated July 6, 2022 (or any subsequent update to that letter as deemed necessary by LAHD). Enforcement of the terms of said covenant shall be the responsibility of LAHD. The applicant shall 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 LAHD. Refer to the Density Bonus Legislation Background section of this determination for more information.
5. **Housing Replacement.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing Department (LAHD), and in compliance with LAHD's July 6, 2022 SB 330 Determination Letter (or any subsequent update to that letter as deemed necessary by LAHD), to make three (3) units, for sale or rental as determined to be affordable to such Households by LAHD for a period of 55 years and one additional market rate unit subject to the Rent Stabilization Ordinance (RSO). Enforcement of the terms of said covenant shall be the responsibility of LAHD. 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 LAHD. Refer to the Density Bonus Legislation Background section of this determination for more information.

On-site Restricted Affordable Units may be used to satisfy the Housing Replacement units required pursuant to SB 8 provided such units meet the income levels, to the satisfaction of LAHD.

6. Incentives.

- a. **FAR.** The project shall be permitted a 23% increase in allowable floor area to allow 39,011 square feet of floor area (FAR 3.7:1) in lieu of the 31,590 square feet (FAR 3:1) permitted pursuant to LAMC 12.21.1-A,1;
- b. **Height.** The project shall be permitted a 17-foot increase in height to a maximum of 62 feet with no step-back after 45 feet of height in lieu of the maximum 45 feet allowed in the RD2-1 and R3-1 zones pursuant to LAMC 12.21.1;
- c. **Averaging.** The project shall be permitted averaging of density over the project site located on three continuous parcels zoned RD2-1 and R3-1;

7. Waivers of Development Standards.

- a. **Side Yard (northerly).** The project shall be permitted 10% decrease in required northerly side yard setback to allow a 7-foot 2-inch side yard in lieu of the 8 feet required by the RD2 and R3 zones pursuant to LAMC 12.09.1-B,2(a) and LAMC 12.10-C,3, respectively.
- b. **Side Yard (southerly).** The project shall be permitted a 10% decrease in required southerly side yard setback to allow a 7-foot 2-inch side yard in lieu of the 8 feet required by the RD2 and R3 zones pursuant to LAMC 12.09.1-B,2(a) and LAMC 12.10-C,3, respectively.

8. Parking.

- a. **Parking.** The project shall not be required to provide vehicular parking, pursuant to California State Assembly Bill No. 2097 (AB 2097).
- b. **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 LAHD.
- c. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC Section 12.21-A,16.

9. Street Trees:

- a. Street trees shall be provided to the satisfaction of the Urban Forestry Division. Street trees may be used to satisfy on-site tree requirements pursuant to LAMC Article Section 12.21.G.3 (Chapter 1, Open Space Requirement for Six or More Residential Units). Per Exhibit A and 12.21.G.3, six (6) Street trees shall be provided.
- b. Project shall preserve all healthy mature street trees whenever possible. All feasible alternatives in project design should be considered and implemented to retain healthy mature street trees. A permit is required for the removal of any street tree and shall

be replaced 2:1 as approved by the Board of Public Works and Urban Forestry Division.

- c. Plant street trees at all feasible planting locations within dedicated streets as directed and required by the Bureau of Street Services, Urban Forestry Division. All tree plantings shall be installed to current tree planting standards when the City has previously been paid for tree plantings. The sub divider or contractor shall notify the Urban Forestry Division at: (213) 847- 3077 upon completion of construction for tree planting direction and instructions.

Note: Removal of street trees requires approval from the Board of Public Works. All projects must have environmental (CEQA) documents that appropriately address any removal and replacement of street trees. Contact Urban Forestry Division at: (213) 847-3077 for tree removal permit information

10. Landscaping:

- a. All open areas not used for buildings, driveways, parking areas, or walkways shall be attractively landscaped and maintained in accordance with a landscape plan and an automatic irrigation plan, prepared by a licensed Landscape Architect and to the satisfaction of the Department of City Planning.
- b. The landscaping shall be sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O".
- c. **Tree Wells.**
 - i. The minimum depth of tree wells on the rooftop or any other location where planters are used shall be as follows:
 - (1) Minimum depth for trees shall be 42 inches.
 - (2) Minimum depth for shrubs shall be 30 inches.
 - (3) Minimum depth for herbaceous plantings and ground cover shall be 18 inches.
 - (4) Minimum depth for an extensive green roof shall be 3 inches.
 - ii. The minimum amount of soil volume for tree wells on the rooftop or any other location where planters are used shall be based on the size of the tree at maturity:
 - (1) 600 cubic feet for a small tree (less than 25 feet tall at maturity).
 - (2) 900 cubic feet for a medium tree (25-40 feet tall at maturity).
 - (3) 1,200 cubic feet for a large tree (more than 40 feet tall at maturity).

11. Street Lighting. No Street lighting improvements if no street widening per BOE improvement conditions. Otherwise relocate and upgrade street luges: one (1) on Kelton Avenue.

12. Solar. The project shall provide for the installation of a photovoltaic system and comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the

satisfaction of the Department of Building and Safety.

- 13. Electric Vehicle Parking.** 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 Article 9, Chapter IX of the LAMC.
- 14. Materials.** A variety of high quality exterior building materials, consistent with Exhibit A, shall be used. Substitutes of an equal quality shall be permitted, to the satisfaction of the Department of City Planning.
- 15. Circulation.** The applicant shall submit a parking and driveway plan to the Los Angeles Department of Transportation (LADOT) for approval. The project shall be limited to a maximum of one driveway, as shown in Exhibit A. The curb cut dimension shall be no more than 10 feet or as narrow as permitted by LADOT.
- 16. Mechanical Equipment.** All mechanical equipment on the roof shall be screened from view by any abutting properties. The transformer, if located in the front yard, shall be screened with landscaping and/or materials consistent with the building façade on all exposed sides (those not adjacent to a building wall).
- 17. 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.
- 18. Graffiti.** All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
- 19. 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.

B. Administrative Conditions

- 20. Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building and Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building and 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 and 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.
- 21. Notations on Plans.** Plans submitted to the Department of Building and Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval attached herein as a cover sheet, and shall include any modifications or notations required herein.
- 22. Building Plans.** A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
- 23. Corrective Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the City Planning Commission, or the Director pursuant to Section 12.27.1 of the Municipal Code,

to impose additional corrective conditions, if, in the Commission's or Director's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

- 24. Approvals, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, reviews or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
- 25. Code Compliance.** All area, height and use regulations of the zone classification of the subject property shall be complied with, except wherein these conditions explicitly allow otherwise.
- 26. Department of Building and Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and 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 and 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.
- 27. 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.
- 28. Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assign. The agreement must be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
- 29. Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
- 30. Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
- 31. Council District 5 Condition.** The property owner shall actively reach out to SEIU Local 721 and UNITE HERE Local 11 to promote the availability of affordable units on the property to qualifying individuals and families.

32. Expedited Processing Section. 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.

33. Indemnification and Reimbursement of Litigation Costs.

Applicant shall do all of the following:

- a. 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.
- b. 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, 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.
- c. 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 (b).
- d. 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 (b).
- e. 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 include 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.