

APPLICATIONS



APPEAL APPLICATION Instructions and Checklist

RELATED CODE SECTION

Refer to the Letter of Determination (LOD) for the subject case to identify the applicable Los Angeles Municipal Code (LAMC) Section for the entitlement and the appeal procedures.

PURPOSE

This application is for the appeal of Los Angeles City Planning determinations, as authorized by the LAMC, as well as first-level Building and Safety Appeals.

APPELLATE BODY

Check only one. If unsure of the Appellate Body, check with City Planning staff before submission.

- ☐ Area Planning Commission (APC) ☐ City Planning Commission (CPC) ☐ City Council
☐ Zoning Administrator (ZA) ☐ Director of Planning (DIR)

CASE INFORMATION

Case Number: CPC-2023-582-CU-DB-HCA-PHP

Project Address: _____

Final Date to Appeal: _____

APPELLANT

For main entitlement cases, except for Building and Safety Appeals:

Check all that apply.

- ☐ Person, other than the Applicant, Owner or Operator claiming to be aggrieved
☐ Representative ☐ Property Owner ☐ Applicant ☐ Operator of the Use/Site

For Building and Safety Appeals only:

Check all that apply.

- ☐ Person claiming to be aggrieved by the determination made by **Building and Safety**¹
☐ Representative ☐ Property Owner ☐ Applicant ☐ Operator of the Use/Site

¹ Appellants of a Building and Safety Appeal are considered the Applicant and must provide the Noticing Requirements identified on page 4 of this form at the time of filing. Pursuant to LAMC Section 12.26 K, an appeal fee shall be required pursuant to LAMC Section 19.01 B.2.

APPELLANT INFORMATION

Appellant Name: _____

Company/Organization: _____

Mailing Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Telephone: _____ **E-mail:** _____

Is the appeal being filed on your behalf or on behalf of another party, organization, or company?

☐ Self ☐ Other: _____

Is the appeal being filed to support the original applicant's position?

☐ YES

☐ NO

REPRESENTATIVE / AGENT INFORMATION

Representative/Agent Name (if applicable): _____

Company: _____

Mailing Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Telephone: _____ **E-mail:** _____

JUSTIFICATION / REASON FOR APPEAL

Is the decision being appealed in its entirety or in part?

☐ Entire

☐ Part

Are specific Conditions of Approval being appealed?

☐ YES

☐ NO

If Yes, list the Condition Number(s) here: _____

On a separate sheet provide the following:

☐ Reason(s) for the appeal

☐ Specific points at issue

☐ How you are aggrieved by the decision

☐ How the decision-maker erred or abused their decision

APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true.

Appellant Signature: _____ **Date:** _____

GENERAL NOTES

A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

The appellate body must act on the appeal within a time period specified in the LAMC Section(s) pertaining to the type of appeal being filed. Los Angeles City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.

THIS SECTION FOR CITY PLANNING STAFF USE ONLY

Base Fee: \$166

Reviewed & Accepted by (DSC Planner): Jason Chan

Receipt No.: 190923C18-A40203C6-6E1D-4812-A8BA-AB63FAB8B1AD **Date :** 9/20/23

☒ Determination authority notified ☐ Original receipt and BTC receipt (if original applicant)

GENERAL APPEAL FILING REQUIREMENTS

If dropping off an appeal at a Development Services Center (DSC), the following items are required. See also additional instructions for specific case types. To file online, visit our [Online Application System \(OAS\)](#).

APPEAL DOCUMENTS

1. Hard Copy

Provide three sets (one original, two duplicates) of the listed documents for each appeal filed.

- ☐ Appeal Application
- ☐ Justification/Reason for Appeal
- ☐ Copy of Letter of Determination (LOD) for the decision being appealed

2. Electronic Copy

- ☐ Provide an electronic copy of the appeal documents on a USB flash drive. The following items must be saved as individual PDFs and labeled accordingly (e.g., “Appeal Form”, “Justification/Reason Statement”, or “Original Determination Letter”). No file should exceed 70 MB in size.

3. Appeal Fee

- ☐ *Original Applicant.* The fee charged shall be in accordance with LAMC Section 19.01 B.1(a), or a fee equal to 85% of the original base application fee. Provide a copy of the original application receipt(s) to calculate the fee.
- ☐ *Aggrieved Party.* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(b).

4. Noticing Requirements (Applicant Appeals or Building and Safety Appeals Only)

- ☐ *Copy of Mailing Labels.* All appeals require noticing of the appeal hearing per the applicable LAMC Section(s). Original Applicants must provide noticing per the LAMC for all Applicant appeals. Appellants for BSAs are considered Original Applicants.
- ☐ *BTC Receipt.* Proof of payment by way of a BTC Receipt must be submitted to verify that mailing fees for the appeal hearing notice have been paid by the Applicant to City Planning’s mailing contractor (BTC).

See the Mailing Procedures Instructions ([CP-2074](#)) for applicable requirements.

SPECIFIC CASE TYPES

ADDITIONAL APPEAL FILING REQUIREMENTS AND / OR LIMITATIONS

DENSITY BONUS (DB) / TRANSIT ORIENTED COMMUNITIES (TOC)

Appeal procedures for DB/TOC cases are pursuant to LAMC Section 12.22 A.25(g).

- Off-Menu Incentives or Waiver of Development Standards are not appealable.
 - Appeals of On-Menu Density Bonus or Additional Incentives for TOC cases can only be filed by adjacent owners or tenants and is appealable to the City Planning Commission.
- ☐ Provide documentation confirming adjacent owner or tenant status is required (e.g., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, driver's license, bill statement).

WAIVER OF DEDICATION AND / OR IMPROVEMENT

Procedures for appeals of Waiver of Dedication and/or Improvements (WDIs) are pursuant to LAMC Section 12.37 I.

- WDIs for by-right projects can only be appealed by the Property Owner.
- If the WDI is part of a larger discretionary project, the applicant may appeal pursuant to the procedures which govern the main entitlement.

[VESTING] TENTATIVE TRACT MAP

Procedures for appeals of [Vesting] Tentative Tract Maps are pursuant LAMC Section 17.54 A.

- Appeals must be filed within 10 days of the date of the written determination of the decision-maker.

BUILDING AND SAFETY APPEAL

First Level Appeal

Procedures for an appeal of a determination by the Los Angeles Department of Building and Safety (LADBS) (i.e., Building and Safety Appeal, or BSA) are pursuant LAMC Section 12.26 K.1.

- The Appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

1. Appeal Fee

- ☐ Appeal fee shall be in accordance with LAMC Section 19.01 B.2 (i.e., the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code, plus surcharges).

2. Noticing Requirement

- ☐ *Copy of Mailing Labels.* All appeals require noticing of the appeal hearing per the applicable LAMC Section(s). Original Applicants must provide noticing per LAMC Section 12.26 K.3. Appellants for BSAs are considered Original Applicants.

- ☐ *BTC Receipt.* Proof of payment by way of a BTC Receipt must be submitted to verify that mailing fees for the appeal hearing notice have been paid by the Applicant to City Planning's mailing contractor (BTC).

See the Mailing Procedures Instructions ([CP-2074](#)) for applicable requirements.

Second Level Appeal

Procedures for a appeal of the Director's Decision on a BSA Appeal are pursuant to LAMC Section 12.26 K.6. The original Appellant or any other aggrieved person may file an appeal to the APC or CPC, as noted in the LOD.

1. Appeal Fee

- ☐ *Original Applicant.* Fees shall be in accordance with the LAMC Section 19.01 B.1(a).

2. Noticing Requirement

- ☐ *Copy of Mailing Labels.* All appeals require noticing of the appeal hearing per the applicable LAMC Section(s). Original Applicants must provide noticing per LAMC Section 12.26 K.7. Appellants for BSAs are considered Original Original Applicants.
- ☐ *BTC Receipt.* Proof of payment by way of a BTC Receipt must be submitted to verify that mailing fees for the appeal hearing notice have been paid by the Applicant to City Planning's mailing contractor (BTC).

See the Mailing Procedures Instructions ([CP-2074](#)) for applicable requirements.

NUISANCE ABATEMENT / REVOCATIONS

Appeal procedures for Nuisance Abatement/Revocations are pursuant to LAMC Section 12.27.1 C.4. Nuisance Abatement/Revocations cases are only appealable to the City Council.

1. Appeal Fee

- ☐ *Applicant (Owner/Operator).* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(a).

For appeals filed by the property owner and/or business owner/operator, or any individuals/agents/representatives/associates affiliated with the property and business, who files the appeal on behalf of the property owner and/or business owner/operator, appeal application fees listed under LAMC Section 19.01 B.1(a) shall be paid, at the time the appeal application is submitted, or the appeal application will not be accepted.

- ☐ *Aggrieved Party.* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(b).

Appeal Application: Case No. CPC-2023-582-CU-DB-HCA-PHP
Project Site: 3676 – 3704 South Kelton Avenue; 10845 West Regent Street

Dear Los Angeles City Council members,

I am writing to appeal the City Planning Commission's approval of the Conditional Use Permit and on-menu incentives for the proposed development project, a five-story building at 3676-3704 Kelton Avenue, Case No. CPC-2023-582-CU-DB-HCA-PHP.

I live directly across from this proposed development plan. This project will have a significant impact on my life and the future of my neighborhood.

I am appealing the following approvals from the Letter of Determination (LOD):

- **Item #2** (Conditional Use Permit to allow a Density Bonus for a housing development project in which the density increase is greater than otherwise permitted by LAMC Section 12.22 A.25);
- **Item #3(a)** (On-Menu Incentive to permit a 23 percent increase in allowable floor area to allow 39,011 square feet of Floor Area Ratio (FAR 3.7:1) in lieu of the 31,590 square feet (FAR 3:1) permitted pursuant to LAMC Section 12.21.1 A.1;); and
- **Item #3(b)** (On-Menu Incentive to permit averaging of density over the Project site located on three continuous parcels zoned RD2-1 and R3-1).

I am also appealing the following conditions of approval:

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;

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.

And Item 8. Parking.

Reasons for Appeal:

By combining the FAR incentive (increasing in allowable floor area) and Averaging parcels zoned RD2-1 and R3-1, and Waivers of Development Standards, the CPC has approved a building with 43 units and a floor area of 39,011 square feet, which is a 201% increase in allowable base density.

The large size of the building and high number of units would exacerbate already-existing specific and adverse safety and health issues in our neighborhood. Kelton Avenue is already burdened by a lack of effective storm drains and sewage pipes, which regularly overflow into the street. Adding yet another large-scale development on Kelton Avenue will place even greater stress on the already struggling stormwater and sewage infrastructure, which presents significant health hazards to our community and threatens the quality of life for both new and existing residents.

Moreover, I am deeply concerned about the inevitable safety risks stemming from increased vehicular traffic. Both Kelton Avenue and Regent Street are one-lane, non-signalized street on which accidents and near-accidents occur daily, as vehicles play “chicken” while trying to squeeze through the narrow roads. The area’s physical constraints pose safety risks to pedestrians, cyclists, and motorists alike. There are no sidewalks on Regent St. and Kelton Avenue, north of Charnock Rd. Pedestrians, and cyclists must compete with vehicles driving on both directions in a narrow space. People who walk their dogs or push baby strollers, or even disabled people in a wheelchair share the same space with cars and trucks passing through the narrow roads, due to lack of sidewalks.

The LOD refers to Section 12.24 U.26 of the Los Angeles Municipal Code (LAMC) for approval of “a Conditional Use Permit to allow a Density Bonus for a housing development project in which the density increase is greater than otherwise permitted by LAMC Section 12.22 A.25.” However, this section of LAMC lists several conditions for the approval of higher density bonus, including: “The project’s location, size, height, operations, and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.” https://planning.lacity.org/odocument/a05bd87a-06a6-4861-a338-4bb88921c123/Conditional_Use_-_35pct_Density_Bonus.pdf

The proposed plan does not meet any of these criteria. Kelton is a narrow residential street with single family houses and small duplexes and fourplexes, mostly one or two stories. The 5 story, 62 feet high proposed project is completely in contrast with the character of the neighborhood. The street is so narrow that the project would literally cast a shadow over nearby properties, including my one-story, single-family house, which is located right across the street from the new building. It will adversely affect and degrade adjacent properties. The project also increases risks to public health of the neighbors by intensifying the pressure on inadequate infrastructure and adds to traffic safety concerns by increasing vehicular traffic.

The author(s) of the “Findings” section of the LOD acknowledge that “Properties along Kelton Avenue, north of Regent Street, are zoned RD2-1 with a land use designation of Low Medium Residential and are developed with a mix of single family homes, duplexes, and two story apartment buildings. Properties on Kelton Avenue to the south of Regent Street are zoned R3-1 and are developed primarily with apartment buildings ranging in height from two to three stories with some single family homes and duplexes.” (p. F-4) Despite these findings, the report suggests that a 5-story, 62 feet high tower is somehow compatible with the existing buildings in the neighborhood. It is all the more astonishing that, not only does the LOD

ignore its own facts, it also emphasizes trite and irrelevant opinions regarding the “well-articulated” façades of the building as the proof of its benefit to the neighborhood.

In addition, the community already struggles with limited parking availability, and the new building’s insufficient parking would exacerbate congestion, increase the number of vehicles circling for parking, and impede emergency vehicle access. The significant number of new residents will further exacerbate these issues and make our neighborhood narrow streets more dangerous for all users.

An overwhelming majority of my neighbors are stunned by the decision makers’ dismissal of their concerns over negative impacts of the proposed project on the health and safety of the neighborhood. Over 300 neighbors have signed a petition opposing the approval of the developers’ requested incentives (<https://www.change.org/Kelton-and-Regent>). They also voiced their opposition at the City Public Hearing on April 18th, and Palms Neighborhood Council and Palms PLUM Committee meetings in May, June and July, and the City Planning Commission meeting on July 27th. They also have written numerous letters and emails and made phone calls to the city officers in charge. In a total disregard for the voices of the affected neighbors, a few unelected decision makers, who have never lived in our neighborhood, and by their own admission, have not even driven on Kelton, have decided to impose a developer’s excessive demands on hundreds of community members.

The manner of the approval of this project also casts doubts on the transparency and integrity of the process. Following the June 14th Palms PLUM Committee meeting, for example, the full PLUM Committee engaged in social activities with the developer's representative after the meeting, with most of the discussion centered on the Kelton Avenue project, a potential violation of the Brown Act. Although this potential breach of the Brown Act was reported to the representative of the City Planning Commission, she chose to attach the PLUM Committee’s statement in support of the project to her recommendation for approval in the July 27th meeting. The process has left community members wondering if they have been heard AT ALL by the city planners.

While I acknowledge the developer's right to take advantage of California's Density Bonus program, the developer is not automatically entitled to excessive extra waivers of Los Angeles development standards. I’m appealing the decision of the City Planning Commission to my elected representatives on the City Council because it is within your power to give the developer less and to prioritize the health and well-being of your constituents over the interests of outside developers.

Regards,

Manzar Foroohar, 3675 Kelton Ave. Los Angeles, 90034

Appeal Application: Case No. CPC-2023-582-CU-DB-HCA-PHP
Project Site: 3676 – 3704 South Kelton Avenue; 10845 West Regent Street

Dear Los Angeles City Council members,

I am writing to appeal the City Planning Commission's approval of the Conditional Use Permit and on-menu incentives for the proposed development project, a five-story building at 3676-3704 Kelton Avenue, Case No. CPC-2023-582-CU-DB-HCA-PHP.

I live directly across from this proposed development plan. This project will have a significant impact on my life and the future of my neighborhood.

I am appealing the following approvals from the Letter of Determination (LOD):

- **Item #2** (Conditional Use Permit to allow a Density Bonus for a housing development project in which the density increase is greater than otherwise permitted by LAMC Section 12.22 A.25);
- **Item #3(a)** (On-Menu Incentive to permit a 23 percent increase in allowable floor area to allow 39,011 square feet of Floor Area Ratio (FAR 3.7:1) in lieu of the 31,590 square feet (FAR 3:1) permitted pursuant to LAMC Section 12.21.1 A.1;); and
- **Item #3(b)** (On-Menu Incentive to permit averaging of density over the Project site located on three continuous parcels zoned RD2-1 and R3-1).

I am also appealing the following conditions of approval:

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;

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.

And Item 8. Parking.

Reasons for Appeal:

By combining the FAR incentive (increasing in allowable floor area) and Averaging parcels zoned RD2-1 and R3-1, and Waivers of Development Standards, the CPC has approved a building with 43 units and a floor area of 39,011 square feet, which is a 201% increase in allowable base density.

The large size of the building and high number of units would exacerbate already-existing specific and adverse safety and health issues in our neighborhood. Kelton Avenue is already burdened by a lack of effective storm drains and sewage pipes, which regularly overflow into the street. Adding yet another large-scale development on Kelton Avenue will place even greater stress on the already struggling stormwater and sewage infrastructure, which presents significant health hazards to our community and threatens the quality of life for both new and existing residents.

Moreover, I am deeply concerned about the inevitable safety risks stemming from increased vehicular traffic. Both Kelton Avenue and Regent Street are one-lane, non-signalized street on which accidents and near-accidents occur daily, as vehicles play “chicken” while trying to squeeze through the narrow roads. The area’s physical constraints pose safety risks to pedestrians, cyclists, and motorists alike. There are no sidewalks on Regent St. and Kelton Avenue, north of Charnock Rd. Pedestrians, and cyclists must compete with vehicles driving on both directions in a narrow space. People who walk their dogs or push baby strollers, or even disabled people in a wheelchair share the same space with cars and trucks passing through the narrow roads, due to lack of sidewalks.

The LOD refers to Section 12.24 U.26 of the Los Angeles Municipal Code (LAMC) for approval of “a Conditional Use Permit to allow a Density Bonus for a housing development project in which the density increase is greater than otherwise permitted by LAMC Section 12.22 A.25.” However, this section of LAMC lists several conditions for the approval of higher density bonus, including: “The project’s location, size, height, operations, and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.” https://planning.lacity.org/odocument/a05bd87a-06a6-4861-a338-4bb88921c123/Conditional_Use_-_35pct_Density_Bonus.pdf

The proposed plan does not meet any of these criteria. Kelton is a narrow residential street with single family houses and small duplexes and fourplexes, mostly one or two stories. The 5 story, 62 feet high proposed project is completely in contrast with the character of the neighborhood. The street is so narrow that the project would literally cast a shadow over nearby properties, including my one-story, single-family house, which is located right across the street from the new building. It will adversely affect and degrade adjacent properties. The project also increases risks to public health of the neighbors by intensifying the pressure on inadequate infrastructure and adds to traffic safety concerns by increasing vehicular traffic.

The author(s) of the “Findings” section of the LOD acknowledge that “Properties along Kelton Avenue, north of Regent Street, are zoned RD2-1 with a land use designation of Low Medium Residential and are developed with a mix of single family homes, duplexes, and two story apartment buildings. Properties on Kelton Avenue to the south of Regent Street are zoned R3-1 and are developed primarily with apartment buildings ranging in height from two to three stories with some single family homes and duplexes.” (p. F-4) Despite these findings, the report suggests that a 5-story, 62 feet high tower is somehow compatible with the existing buildings in the neighborhood. It is all the more astonishing that, not only does the LOD

ignore its own facts, it also emphasizes trite and irrelevant opinions regarding the “well-articulated” façades of the building as the proof of its benefit to the neighborhood.

In addition, the community already struggles with limited parking availability, and the new building’s insufficient parking would exacerbate congestion, increase the number of vehicles circling for parking, and impede emergency vehicle access. The significant number of new residents will further exacerbate these issues and make our neighborhood narrow streets more dangerous for all users.

An overwhelming majority of my neighbors are stunned by the decision makers’ dismissal of their concerns over negative impacts of the proposed project on the health and safety of the neighborhood. Over 300 neighbors have signed a petition opposing the approval of the developers’ requested incentives (<https://www.change.org/Kelton-and-Regent>). They also voiced their opposition at the City Public Hearing on April 18th, and Palms Neighborhood Council and Palms PLUM Committee meetings in May, June and July, and the City Planning Commission meeting on July 27th. They also have written numerous letters and emails and made phone calls to the city officers in charge. In a total disregard for the voices of the affected neighbors, a few unelected decision makers, who have never lived in our neighborhood, and by their own admission, have not even driven on Kelton, have decided to impose a developer’s excessive demands on hundreds of community members.

The manner of the approval of this project also casts doubts on the transparency and integrity of the process. Following the June 14th Palms PLUM Committee meeting, for example, the full PLUM Committee engaged in social activities with the developer's representative after the meeting, with most of the discussion centered on the Kelton Avenue project, a potential violation of the Brown Act. Although this potential breach of the Brown Act was reported to the representative of the City Planning Commission, she chose to attach the PLUM Committee’s statement in support of the project to her recommendation for approval in the July 27th meeting. The process has left community members wondering if they have been heard AT ALL by the city planners.

While I acknowledge the developer's right to take advantage of California's Density Bonus program, the developer is not automatically entitled to excessive extra waivers of Los Angeles development standards. I’m appealing the decision of the City Planning Commission to my elected representatives on the City Council because it is within your power to give the developer less and to prioritize the health and well-being of your constituents over the interests of outside developers.

Regards,

Manzar Foroohar, 3675 Kelton Ave. Los Angeles, 90034



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300
www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: SEPTEMBER 5, 2023

Case No. CPC-2023-582-CU-DB-HCA-PHP

Council District: 5 – Yaroslavsky

CEQA: ENV-2023-583-CE

Plan Area: West Los Angeles

Project Site: 3676 – 3704 South Kelton Avenue; 10845 West Regent Street

Applicant: Kelton Avenue Investments, LLC
Representative: Jessi Harris, Brian Silveira & Associates

At its meeting of **July 27, 2023**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following Project:

Demolition of two existing duplexes (total of four dwelling units) for the construction, use and maintenance of a new Density Bonus project with 43 dwelling units, and 11 of the total units reserved for Very Low Income households. The proposed building is 62 feet in height and has 39,011 square feet of floor area. A total of 2,950 square feet of open space is proposed. The building will observe a 15-foot front yard, a 15-foot rear yard, and side yards of seven feet and two inches. A total of 33 vehicle parking spaces are proposed.

1. **Determined**, that based on the whole of the administrative record, the Project is exempt from CEQA pursuant to 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;
2. **Approved**, pursuant to Section 12.24 U.26 of the Los Angeles Municipal Code (LAMC), a Conditional Use Permit to allow a Density Bonus for a housing development project in which the density increase is greater than otherwise permitted by LAMC Section 12.22 A.25;
3. **Approved**, pursuant to LAMC Section 12.22 A.25(g), a Density Bonus Compliance Review to permit a housing development project consisting of 43 dwelling units, of which 11 will be set aside for Very Low Income households and with the following On-Off Menu Incentives and Waivers of Development Standards:
 - a. An On-Menu Incentive to permit a 23 percent increase in allowable floor area to allow 39,011 square feet of Floor Area Ratio (FAR 3.7:1) in lieu of the 31,590 square feet (FAR 3:1) permitted pursuant to LAMC Section 12.21.1 A.1;
 - b. An On-Menu Incentive to permit averaging of density over the Project site located on three continuous parcels zoned RD2-1 and R3-1;
 - c. An Off-Menu Incentive to permit 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 Section 12.21.1;
 - d. A Waiver of Development Standards to permit a 10 percent decrease in required northerly side yard setback to allow a seven-foot two-inch side yard in lieu of the eight feet required by the RD2 Zone pursuant to LAMC Section 12.09.1 B.2(a); and
 - e. A Waiver of Development Standards to permit a 10 percent decrease in required southerly side yard setback to allow a seven-foot two-inch side yard in lieu of the eight feet required by the R3 Zone pursuant to LAMC Section 12.10 C.3;

4. **Adopted** the attached Conditions of Approval; and
5. **Adopted** the attached Findings.

The vote proceeded as follows:

Moved: Lawshe
Second: Gold
Ayes: Choe, Noonan, Zamora
Nay: Cabildo
Absent: Leung, Mack, Millman

Vote: 5 – 1

Cecilia Lamas

Cecilia Lamas, Commission Executive Assistant II
Los Angeles City Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

Effective Date/Appeals: The decision of the Los Angeles City Planning Commission related to the Off-Menu Density Bonus Incentive and Waivers of Development Standards is not appealable. The On-Menu Density Bonus Incentives is appealable to City Council by the Applicant or abutting owners/occupants per LAMC Section 12.22 A.25(g)(2)(i)(f) and the remaining approvals is appealable to City Council within 15 days after the mailing date of this determination letter. Any appeal not filed within the 15-day period shall not be considered by the Council. All appeals shall be filed on forms provided at the Planning Department's Development Service Centers located at: 201 North Figueroa Street, Fourth Floor, Los Angeles, CA 90012; or 6262 Van Nuys Boulevard, Suite 251, Van Nuys, CA 91401.

FINAL APPEAL DATE: SEPTEMBER 20, 2023

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable** and the decision is final.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Conditions of Approval, Findings, Appeal Filing Procedures

c: Heather Bleemers, Senior City Planner
Renata Ooms, City Planner

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. 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.

32. 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.

FINDINGS

Density Bonus/Affordable Housing Incentives Compliance Findings

1. Pursuant to Section 12.22 A.25 of the LAMC and Section 65915 of the California Government Code, the decision-maker shall approve a density bonus and requested incentive(s) and waiver(s) unless the Commission finds that:
 - a. *The Incentives do not result in identifiable and actual cost 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 City Planning Commission to make a finding that the requested incentives do not result in identifiable and actual cost reductions that provide for affordable housing costs per State Law. The California Health and 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 depending on affordability levels.

Based on the set-aside of 78 percent of the base density for Very Low Income Households, the applicant is entitled to three (3) incentives under both Government Code Section 65915 and the LAMC. The request for an off-menu height increase, an on-menu FAR increase, and the on-menu use of averaging qualify as requested Incentives. The remaining requests to allow for reduction in two side yard setbacks are waivers of development standards.

Floor Area Ratio

The subject property is zoned RD2-1 and R3-1. The property's zoning and designation of Height District 1 permit a maximum FAR of 3 to 1, equal to a maximum of 31,590 square feet of total building area. The applicant is requesting an on-menu incentive for a 23 percent increase in FAR for a maximum FAR of 3.7 to 1 to allow 39,011 square feet of floor area.

The requested increase in FAR will allow for the construction of a larger number of market rate and affordable units, larger-sized dwelling units that are competitive in the rental market, and retail space at the ground level. Granting of the incentive would result in a building design and construction efficiencies that provide for affordable housing costs. It enables the developer to expand the building envelope so that additional market rate and affordable units can be constructed, and the overall space dedicated to residential uses is increased. The additional market rate floor area will increase the availability of market rate rents that will be available to subsidize the operational costs of the affordable units. The increased building envelope also ensures that all dwelling units are of a habitable size, and competitive with the market, while providing a variety of unit types that will serve an array of households. This Incentive helps provide for the cost of the 11 dwelling units for Very Low Income Households.

Averaging

The subject property has a total lot area of 15,334.6 square feet with half of the site zoned R3-1 which limits density to one (1) dwelling unit per 800 square foot of lot area and half zoned RD2-1 which limits density to one (1) dwelling unit per 2,000 square feet of lot area. The density allowed by the underlying zones is 3.7 units on the RD2 zoned portion of the site and 9.3 units on the R3 zoned portion of the site. When Calculating base density for the purposes of Density Bonus calculations, 3.7 is rounded up to four (4) and 9.3 is rounded up to 10 for a base density on the subject property of 14 units. The applicant has requested that the base density be averaged across the entire site such that the dwelling units may be provided on any portion of the site rather than allocating the units by zone. This incentive is offered on the menu of incentives for Density Bonus projects. Averaging allows the 43 units to be provided in the most economical way, by taking advantage of design efficiencies that allows the units to be distributed across the property and within fewer building levels, avoiding the construction of additional floors. Averaging also ensures that all dwelling units are of a habitable size, and competitive with the rental market, while providing a variety of unit types that will serve different types of households. This Incentive helps provide for the cost of the 11 dwelling units for Very Low Income Households.

Height

The subject property's RD2-1 and R3-1 Zone and Height District permits a maximum height of 45 feet. The project has requested an Off-Menu Incentive to allow a maximum height of 62 feet.

As proposed, the height increase will allow an additional 17 feet in building height and will accommodate the construction of an additional story to accommodate additional market rate and affordable units. Granting of the Off-Menu Incentive would result in a building design and construction efficiencies that provide for affordable housing costs given the limited size of the lot; it enables the developer to expand the building envelope so that additional units can be constructed and the overall space dedicated to residential uses and market rate floor area is increased. The additional floor area will increase rent revenue that will subsidize the operational costs of the affordable units in the project. The increased building envelope also ensures that all dwelling units are of a habitable size, and competitive with the rental market, while providing a variety of unit types that will serve different types of households. This Incentives supports the applicant's decision to set aside a minimum of 11 dwelling units for Very Low Income Households.

- b. *The waiver[s] or reduction[s] of development standards 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 provides at least 5 percent of its base density for Very Low Income Households 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)).

Side Yard Setback (northerly)

The RD2 Zone requires an 8 foot side yard. The project is proposed with a 10% decrease in required northerly side yard to allow a 7-foot 2-inch side yard.

Side Yard Setback (southerly)

The R3 Zone requires an 8 foot side yard. The project is proposed with a 10% decrease in required southerly side yard to allow a 7-foot 2-inch side yard.

The two waivers result in an additional combined 20 inches feet of building width which allows the project to accommodate the requested 39,011 square feet of floor area and thus the requested density of 43 units (11 Very Low Income). Adherence to the 8-foot side yard setbacks would physically preclude the construction of the project areas that encroach into the setback, and would physically preclude the floor area granted in the incentives that encroaches into the setback.

Conclusion

Application of these the Development Standards regarding side yards would have the effect of physically precluding construction of the proposed development providing 43 dwelling units with the requested incentives. These waivers are warranted.

- c. ***The Incentives 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.***

There is no evidence that the proposed density bonus incentives 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. 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. The project is not located on a substandard street in a Hillside area or a Very High Fire Hazard Severity Zone. There is no evidence in the record which identifies a written objective health and safety standard that has been exceeded or violated. Based on the above, there is no basis to deny the requested incentives or waivers. Therefore, there is no substantial evidence that the project's proposed incentives or waivers will have a specific adverse impact on the physical environment, on public health and safety, or on property listed in the California Register of Historic Resources.

- d. **The incentives or waivers are contrary to state or federal law.**

There is no substantial evidence in the record that the waivers or the incentives are contrary to state or federal law.

Conditional Use Findings

2. That the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region.

The subject property comprises three lots for a total of 15,334.56 square feet of lot area and is located in the Palms neighborhood on the east side of Kelton Avenue, at the intersection of Regent Street. The project site is currently developed with two residential duplexes (total of four units). The site is one block north of Venice Boulevard (Route 187) and is a 1.2 mile walk from the Metro E Line Palms Station. The site is in close proximity to Downtown Culver City, Sony Pictures Studios, and commercial and retail amenities such as grocery stores (for example Trader Joes).

The project involves the demolition of two duplexes (four units) and the construction, use, and maintenance of a new five-story, 62-foot residential building consisting of 43 dwelling units, of which 11 will be set aside for Very Low Income households while the remaining 32 units will be rented at market rate. The dwelling units will comprise of a mix of studios, one-, and two-bedroom units. The project will provide 33 automobile parking spaces in one subterranean parking level and at grade parking level.

The existing duplexes do not utilize the site's full potential in providing much needed housing. The project will perform an essential function by providing 39 net-new dwelling units to Palms, including increasing the affordable housing stock by five net new units.

The additional 166 percent density bonus (beyond the 35 percent permitted through a by-right density bonus) approved herein results in an additional 24 units, for a total of 43 units. In exchange, the project will set aside at least 78 percent (11 units) of the base density for Very Low Income Households for a minimum of 55 years.

Therefore, the proposed 43-unit development, including the 11 units set aside for Very Low Income Households, will provide new market rate and affordable housing, thus performing a function that is essential and beneficial to the city and the region.

3. That the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood or the public health, welfare, and safety.

The proposed project consists of the construction of a new five-story 43 dwelling unit residential development. The project site is currently developed with two duplexes (for a total of four units) which will be demolished as part of the proposed development.

The property is located within the Palms-Mar Vista-Del Rey Community Plan, a densely populated portion of the City of Los Angeles. The surrounding area is zoned multifamily uses and is developed with multi-family residential buildings and single family homes. The subject property is not adjacent to any single-family zoned properties. Properties along Kelton Avenue, north of Regent Street, are zoned RD2-1 with a land use designation of Low Medium Residential and are developed with a mix of single family homes, duplexes, and two story apartment buildings. Properties on Kelton Avenue to the south of Regent Street are zoned R3-1 and are developed primarily with apartment buildings ranging in height from two to three stories with some single family homes and duplexes. Properties to the east of the site, fronting Midvale Avenue are zoned R3-1 with a Medium Residential Land Use designation and are developed with multifamily residential ranging in height from two to four stories. The project site is located one block north of Venice Boulevard where properties are zoned C2-1 for commercial uses one block south of Palms Middle School.

Construction of the 43-unit housing development will serve to benefit the neighborhood rather than degrade it. The façades are well-articulated and feature ground floor walk-up units which provide a transitional element to the smaller scale single family and duplexes to the north. The residential lobby and landscaping engage pedestrians along Kelton Avenue. Well-designed landscaping and front patio elements will create a pleasing transition from the pedestrian realm of the sidewalk to the façade of the building. Therefore, the project is compatible with the surrounding neighborhood and will not adversely affect nor degrade adjacent properties, surrounding neighborhood, or the public health, safety, or welfare.

With the exception of the requests herein, the proposed project is otherwise entirely consistent with the requirements of the underlying zone. The project's significant features, including the proposed building's use, density, height, and FAR, are permitted by the underlying zone and the provisions of Density Bonus law. The project has been thoughtfully designed to include landscaping and fully screened on-site parking.

Given the proposed project's location within the Palms-Mar Vista-Del Rey Community Plan area, along with the existing development in the immediate vicinity of the subject property and its proximity to commercial thoroughfares, the project's location, size, height, operations, and other significant features will be compatible with and will not adversely affect adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

4. That the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

The project site is located within the Palms-Mar Vista-Del Rey Community Plan, which is one of 35 Community Plans which together form the land use element of the General Plan. The Community Plan designates the site for Low Medium Residential land uses (corresponding to the R2, RD3, RD4, RZ3, RZ4, RU, RW1 Zones) and Medium Residential land uses (corresponding to the R3 Zone). The project site is zoned RD2-1 and R3-1 and is thus consistent with the existing land use designations. The subject property is located within the boundaries of the West LA TIMP Specific Plan and will be evaluated by LADOT for transportation impact fee assessment prior to receiving building permit clearances. The site is not subject to any other specific plan or community design overlay.

The proposed project conforms to the following goals, objectives and policies of the Community Plan:

Goal 1: A safe, secure, and high quality residential environment for all community residents.

Objective 1.1: To provide for the preservation of existing housing and for the development of new housing to meet the diverse economic and physical needs of the existing residents and projected population of the Plan area to the year 2010.

Policy 1.1.2: Protect the quality of residential environment and the appearance of communities with attention to site and building design.

Objective 1.4: To promote the adequacy and affordability of multiple-family housing and increase its accessibility to more segments of the population.

Policy 1.4.1: Promote greater individual choice in type, quality, price and location of housing.

The project is a residential development with 11 units restricted for families or persons of Very Low Income and maximizes the property's development potential. The project's Very Low Income and market rate units satisfy both the needs of affordable housing as well as the City's need for more housing overall. The project will result in the net addition of 11 covenanted affordable dwelling units in a community in-need of more affordable housing.

The project design incorporates four walk-up units at the ground floor, providing compatibility with the lower-scale, apartment buildings, duplexes, and single family homes located to the north along Kelton Avenue, many of which are characterized by walk-up entrances.

The uppermost story is set back from the northern building facade line by an additional XX feet in order to provide reduced building massing and greater compatibility with the RD2 zoned section of Kelton Avenue.

The project is further consistent with other elements of the General Plan, including the Housing Element and the Mobility Element.

The Housing Element of the General Plan will be implemented by the recommended action herein. The Housing Element is the City's blueprint for meeting housing and growth challenges. It identifies the City's housing conditions and needs, reiterates goals, objectives, and policies that are the foundation of the City's housing and growth strategy, and provides the array of programs the City has committed to implement to create sustainable, mixed-income neighborhoods across the City. The Housing Element includes the following objectives and policies relevant to the instant request:

Goal 1: Housing Production and Preservation.

Objective 1.1: Produce an adequate supply of rental and ownership housing in order to meet current and projected needs.

Policy 1.1.2: Expand affordable rental housing for all income groups that need assistance.

Goal 2: Safe, Livable, and Sustainable Neighborhoods.

Objective 2.2: Promote sustainable neighborhoods that have mixed-income housing, jobs, amenities, services and transit.

Objective 2.5: Promote a more equitable distribution of affordable housing opportunities throughout the City.

Policy 2.5.2: Foster the development of new affordable housing units citywide and within each community plan area.

The project provides 43 total units, including 11 units affordable for Very Low Income Households or individuals. In doing so, the project promotes the objectives of the Housing Element by adding to the City's housing stock and contributing to the need for mixed-income housing. The project site is currently developed with two duplex buildings. The project will expand affordable rental housing while utilizing the property to its full potential, resulting in a net gain of 39 units to the City's housing stock. It is within close proximity to various major employment (including Sony Pictures Studios in Culver City) and retail centers (along Venice Boulevard and Downtown Culver City), along with several major transportation lines, thereby connecting residents to jobs, amenities, services, and transit.

The Mobility Element of the General Plan, also known as Mobility Plan 2035, provides policies with the ultimate goal of developing a balanced transportation network for all users. The project supports the following policies of the Mobility Element:

Policy 3.3: Promote equitable land use decisions that result in fewer vehicle trips by providing greater proximity and access to jobs, destinations, and other neighborhood services.

Policy 5.2: Support ways to reduce vehicle miles traveled (VMT) per capita.

Policy 5.4: Continue to encourage the adoption of low and zero emission fuel sources, new mobility technologies, and supporting infrastructure.

The project proposes a residential development that will provide 32 market-rate units and 11 units reserved for Very Low Income Households. Accordingly, the project fulfills the Community Plan, Framework Element, and Housing Element goals and objectives of providing quality housing for all persons in the community, including those who otherwise might not be housed. The project utilizes development incentives to provide a higher number of residential units than would otherwise be permitted, thereby facilitating the creation of a higher number of affordable units and addressing the need for affordable housing in the City. Additionally, the project is a Density Bonus development located one block north of Venice Boulevard within a Tier 2 TOC area. Thus, the project will contribute towards the creation of sustainable neighborhoods and a reduction in vehicle trips and VMT.

In addition, the project has been conditioned to comply with the electric vehicle requirements of state law. The project has also been conditioned to provide solar infrastructure. Together, these conditions further support applicable policies in the Health and Wellness Element, Air Quality Element, and Mobility Element of the General Plan by reducing the level of pollution/greenhouse gas emissions, ensuring new development is compatible with alternative fuel vehicles, and encouraging the adoption of low emission fuel sources and supporting infrastructure. These conditions also support good planning practice by promoting overall sustainability and providing additional benefits and conveniences for residents, workers, and visitors.

The project contributes to and furthers several applicable goals, objectives, and policies of the plans that govern land use and development in the City. Therefore, the project substantially conforms with the purpose, intent, and provisions of the General Plan and the West Los Angeles Community Plan.

In addition to the above findings set forth in Section 12.24-E of the LAMC, the City Planning Commission shall find that:

5. The project is consistent with and implements the affordable housing provisions of the Housing Element of the General Plan.

The City's Housing Element for 2013-2021 was adopted by the City Council on December 3, 2013. The Housing Element of the General Plan will be implemented by the recommended action herein. The Housing Element is the City's blueprint for meeting housing and growth challenges. It identifies the City's housing conditions and needs, reiterates goals, objectives, and policies that are the foundation of the City's housing and growth strategy, and provides the array of programs the City has committed to implement to create sustainable, mixed-income neighborhoods across the City.

As discussed in Finding No. 4, the project, including 32 market-rate units and 11 units reserved for Very Low Income Households, is consistent with many of the goals and objectives of the Housing Element of the General Plan.

- 6. The project contains the requisite number of Restricted Affordable Units, based on the number of units permitted by the maximum allowable density on the date of application, as follows:**
- a. 11% Very-Low Income Units for a 35% density increase; or**
 - b. 20% Low Income Units for a 35% density increase; or**
 - c. 40% Moderate Income Units for a 35% density increase in for-sale projects.**

The project may then be granted additional density increases beyond 35% by providing additional affordable housing units in the following manner:

- a. For every additional 1% set aside of Very-Low Income Units, the project is granted an additional 2.5% density increase; or**
- b. For every additional 1% set aside of Low Income Units, the project is granted an additional 1.5% density increase; or**
- c. For every additional 1% set aside of Moderate Income Units in for-sale projects, the project is granted an additional 1% density increase; or**
- d. In calculating the density increase and Restricted Affordable Units, each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number.**

The subject 15,334.6 square foot property is zoned R3-1 and RD2-1, which limits density to one (1) dwelling unit per 800 square feet of lot area and one (1) dwelling unit per 2,000 square feet of lot area, respectively. The permitted base density on the subject property is 14 units (9.3 [rounded up to 10] plus 3.7 [rounded up to 4]).¹ In exchange for reserving a portion of the units for affordable housing, the applicant is entitled to a maximum 35 percent density bonus by-right. The applicant is seeking an additional 166 percent density bonus (or a total of a 201 percent density bonus) through a Conditional Use to allow for the proposed 43 dwelling units to be built on the site.

Pursuant to the LAMC and California Government Code Section 65915, a Housing Development Project that sets aside a certain percentage of units as affordable, either in rental or for-sale units, shall be granted a corresponding density bonus, up to a maximum of 35 percent. While these provisions are limited to 35 percent, Government Code Section 65915(f) states that “the amount of density bonus to which an applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds percentage established.” As such, in instances where a project is seeking a density bonus increase that is more than 35 percent, the amount of required units that are set aside as affordable shall vary depending on the requested amount of density bonus. Therefore, it is appropriate that any project that requests a density bonus increase beyond 35 percent would extend the existing set-aside charts located in Section 12.22-A,25 of the LAMC. LAMC Section 12.24-U,26, which implements this provision of State law, states, as a Conditional Use, a project

¹ Assembly Bill 2501 clarifies that density calculations that result in a fractional number are to be rounded up to the next whole number. This applies to base density, number of bonus units, and number of affordable units required to be eligible for the density bonus.

may be granted additional density increases beyond the 35 percent maximum by providing additional affordable housing units. Consistent with this Section, the table below illustrates how the maximum allowable Density Bonus increases for every unit set aside for Very Low Income Households (2.5 percent density increase for every additional one (1) percent of Very Low Income units provided), based on the base density and the chart prescribed in Section 12.22-A,25 of the LAMC.

Density Bonus Percentages

Very Low Income Units (Percentage of Base Density)	Maximum Density Bonus Permitted (Based on Base Density)
5 %*	20 %*
6 %*	22.5 %*
7 %*	25 %*
8 %*	27.5 %*
9 %*	30 %*
10 %*	32.5 %*
11 %*	35 %*
<hr/>	
76 %*	197.5 %*
77 %*	200 %*
<u>78 %*</u>	<u>202.5 %*</u>
79 %*	205 %*
80 %*	207.5 %*

For the subject property, a 35 percent by-right density bonus would allow for 19 units (equal to an increase of five [5] units beyond the 14-unit base density) to be constructed on the project site. As illustrated in Table above, in order to qualify for the 35 percent by-right density bonus, the project would be required to set aside 11 percent of the base density, or two (2) units, for Very Low Income Households. The applicant is seeking an additional 166 percent density bonus (for a total of 201% density bonus from the base density) through a Conditional Use to allow for a total of 43 dwelling units, representing an increase of 24 units beyond what would otherwise be permitted through the by-right 35 percent density bonus. In order to obtain the additional requested 166 percent density bonus, as shown in the table above, the project must set aside at least 78 percent of the base density, equal to 10.92 units, for Very Low Income Households. The project proposes to set aside 11 units for Very Low Income Households in exchange for the requested Density Bonus.

7. The project meets any applicable dwelling unit replacement requirements of the California Government Code Section 65915(c)(3).

The project proposes the demolition of two existing duplexes (a total of four units). Per the Housing Crisis Act (SB 8) Replacement Unit Determination Letter dated June 6, 2022, three (3) of the existing units need to be replaced with equivalent type (two Very Low Income and one Low income or deeper levels of affordability). Additionally, the fourth existing unit must be replaced consistent with the City's Rent Stabilization ordinance. The project's 11 proposed Very Low Income units will fulfill the replacement housing requirements of this determination. Therefore, the project will meet the applicable dwelling unit replacement requirements of the California Government Code Section 65915(c)(3).

8. **The project's Restricted Affordable Units are subject to a recorded affordability restriction of 55 years from the issuance of the Certificate of Occupancy, recorded in a covenant acceptable to the Housing Department, and subject to fees as set forth in Section 19.14 of the LAMC.**

The proposed project has been conditioned to record a covenant for affordability restriction for the 11 Very Low Income units of a period of 55 years from the issuance of the Certificate of Occupancy, to the satisfaction of the Los Angeles Housing Department, and subject to fees as set forth in Section 19.14 of the LAMC.

9. **The project addresses the policies and standards contained in the City Planning Commission's Affordable Housing Incentives Guidelines.**

The City Planning Commission approved the Affordable Housing Incentives Guidelines (under Case No. CPC-2005-1101-CA) on June 9, 2005. The Guidelines were subsequently approved by the City Council on February 20, 2008, as a component of the City of Los Angeles Density Bonus Ordinance. The Guidelines describe the density bonus provisions and qualifying criteria, incentives available, design standards, and the procedures through which projects may apply for a density bonus and incentives. LAHD utilizes these Guidelines in the preparation of Housing Covenants for Affordable Housing Projects. The Guidelines prescribe that the design and location of affordable units be comparable to the market rate units, the equal distribution of amenities, LAHD monitoring requirements, affordability levels, and procedures for obtaining LAHD sign-offs for building permits.

The project will result in 43 new dwelling units, of which 11 will be reserved for Very Low Income Household occupancy and the remainder will be offered as market rate units. All residents of the proposed project will have access to all common and open space amenities within the building. The restricted units will comply with affordability requirements in the Guidelines set forth by LAHD in conformance with US Department of Housing and Urban Development (HUD). Additionally, as part of the building permit process, the applicant will execute a covenant to the satisfaction of LAHD who will ensure compliance with the Guidelines. Therefore, the project will address the policies and standards contained in the Guidelines.

CEQA Findings

10. **Class 32 Categorical Exemption.** 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 July 2023 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.



LOS ANGELES CITY PLANNING APPEAL FILING PROCEDURES

Entitlement and CEQA appeals may be filed using either the Online Application System (OAS) or in person Drop Off at DSC (Development Services Center).

Online Application System: The OAS (<https://planning.lacity.org/oas>) allows appeals to be submitted entirely electronically online; fee payment is by credit card or e-check.

Drop off at DSC: Appeals of this determination can be submitted in person at the Metro or Van Nuys DSC locations, and payment can be made by credit card or check. City Planning has established drop-off areas at the DSCs with physical boxes where appellants can drop off appeal applications; alternatively, appeal applications can be filed with staff at DSC public counters. Appeal applications must be on the prescribed forms, and accompanied by the required fee and a copy of the determination letter. Appeal applications shall be received by the DSC public counter and paid for on or before the above date or the appeal will not be accepted.

Forms are available online at <http://planning.lacity.org/development-services/forms>. Public offices are located at:

Metro DSC

(213) 482-7077

201 N. Figueroa Street

Los Angeles, CA 90012

Van Nuys DSC

(818) 374-5050

6262 Van Nuys Boulevard

Van Nuys, CA 91401

West Los Angeles DSC

(CURRENTLY CLOSED)

(310) 231-2901

1828 Sawtelle Boulevard

West Los Angeles, CA 90025

City Planning staff may follow up with the appellant via email and/or phone if there are any questions or missing materials in the appeal submission, to ensure that the appeal package is complete and meets the applicable Los Angeles Municipal Code provisions.

An appeal application must be submitted and paid for before 4:30 PM (PST) on the final day to appeal the determination. Should the final day fall on a weekend or legal City holiday, the time for filing an appeal shall be extended to 4:30 PM (PST) on the next succeeding working day. Appeals should be filed early to ensure that DSC staff members have adequate time to review and accept the documents, and to allow appellants time to submit payment.



QR Code to Online
Appeal Filing



QR Code to Forms
for In-Person Filing