

# EXHIBITS

# EXHIBIT A

CEQA Guidelines, Article 19,  
Section 15300.2 and  
Section 15332, Class 32

ministerial within the classes and examples contained in this article shall not be construed as a finding by the Secretary for Resources that such an activity is discretionary.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15300.2. EXCEPTIONS

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21084 and 21084.1, Public Resources Code; *Wildlife Alive v. Chickering* (1977) 18 Cal.3d 190; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993) 14 Cal.App.4th 810; *Association for the Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720; and *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464

### 15300.3. REVISIONS TO LIST OF CATEGORICAL EXEMPTIONS

A public agency may, at any time, request that a new class of categorical exemptions be added, or an existing one amended or deleted. This request must be made in writing to the Office of Planning and Research and shall contain detailed information to support the request. The granting of such request shall be by amendment to these Guidelines.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15300.4. APPLICATION BY PUBLIC AGENCIES

Each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes. Public agencies may omit from their implementing procedures classes and examples that do not apply to their activities,

- (3) Construction or maintenance or interim of temporary surface caps;
- (4) Onsite treatment of contaminated soils or sludges provided treatment system meets Title 22 requirements and local air district requirements;
- (5) Excavation and/or offsite disposal of contaminated soils or sludges in regulated units;
- (6) Application of dust suppressants or dust binders to surface soils;
- (7) Controls for surface water run-on and run-off that meets seismic safety standards;
- (8) Pumping of leaking ponds into an enclosed container;
- (9) Construction of interim or emergency ground water treatment systems;
- (10) Posting of warning signs and fencing for a hazardous waste or substance site that meets legal requirements for protection of wildlife.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15331. HISTORICAL RESOURCE RESTORATION/REHABILITATION

Class 31 consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15332. IN-FILL DEVELOPMENT PROJECTS

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.

### 15333. SMALL HABITAT RESTORATION PROJECTS.

Class 33 consists of projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that:

- (a) There would be no significant adverse impact on endangered, rare or threatened species or their habitat pursuant to section 15065,
- (b) There are no hazardous materials at or around the project site that may be disturbed or removed, and

LAMC 12.22 A.25  
aka Density Bonus Ordinance  
No. 179681

ORDINANCE NO. 179681

An ordinance amending Sections 12.22, 12.24, 14.00 and 19.01 of the Los Angeles Municipal Code to implement a Density Bonus program, as required by State law.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Subdivision 25 of Subsection A of Section 12.22 of the Los Angeles Municipal Code is amended to read:

**25. Affordable Housing Incentives – Density Bonus**

(a) **Purpose.** The purpose of this subdivision is to establish procedures for implementing State Density Bonus requirements, as set forth in California Government Code Sections 65915-65918, and to increase the production of affordable housing, consistent with City policies.

(b) **Definitions.** Notwithstanding any provision of this Code to the contrary, the following definitions shall apply to this subdivision:

**Affordable Housing Incentives Guidelines** – the guidelines approved by the City Planning Commission under which Housing Development Projects for which a Density Bonus has been requested are evaluated for compliance with the requirements of this subdivision.

**Area Median Income (AMI)** – the median income in Los Angeles County as determined annually by the California Department of Housing and Community Development (HCD) or any successor agency, adjusted for household size.

**Density Bonus** – a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and/or specific plan granted pursuant to this subdivision.

**Density Bonus Procedures** – procedures to implement the City's Density Bonus program developed by the Departments of Building and Safety, City Planning and Housing.

**Disabled Person** – a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having that type of an impairment or, anyone who has a record of having that type of an impairment.

**Floor Area Ratio** – The multiplier applied to the total buildable area of the lot to determine the total floor area of all buildings on a lot.

**Housing Development Project** – the construction of five or more new residential dwelling units, the addition of five or more residential dwelling units to an existing building or buildings, the remodeling of a building or buildings containing five or more residential dwelling units, or a mixed use development in which the residential floor area occupies at least fifty percent of the total floor area of the building or buildings. For the purpose of establishing the minimum number of five dwelling units, Restricted Affordable Units shall be included and density bonus units shall be excluded.

**Incentive** – a modification to a City development standard or requirement of Chapter I of this Code (zoning).

**Income, Very Low, Low or Moderate** – annual income of a household that does not exceed the amounts designated for each income category as determined by HCD or any successor agency.

**Residential Hotel** – Any building containing six or more Guest Rooms or Efficiency Dwelling Units, which are intended or designed to be used, or are used, rented, or hired out to be occupied, or are occupied for sleeping purposes by guests, so long as the Guest Rooms or Efficiency Dwelling Units are also the primary residence of those guests, but not including any building containing six or more Guest Rooms or Efficiency Dwelling Units, which is primarily used by transient guests who do not occupy that building as their primary residence.

**Residential Unit** – a dwelling unit or joint living and work quarters; a mobilehome, as defined in California Health and Safety Code Section 18008; a mobile home lot in a mobilehome park, as defined in California Health and Safety Code Section 18214; or a Guest Room or Efficiency Dwelling Unit in a Residential Hotel.

**Restricted Affordable Unit** – a residential unit for which rental or mortgage amounts are restricted so as to be affordable to and occupied by Very Low, Low or Moderate Income households, as determined by the Los Angeles Housing Department.

**Senior Citizens** – individuals who are at least 62 years of age, except that for projects of at least 35 units that are subject to this subdivision, a threshold of 55 years of age may be used, provided all applicable City, state and federal regulations are met.

**Senior Citizen Housing Development** – a Housing Development Project for senior citizens that has at least 35 units.

**Specific Adverse Impact** – 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.

**Transit Stop/Major Employment Center** – Any one of the following:

(1) A station stop for a fixed transit guideway or a fixed rail system that is currently in use or whose location is proposed and for which a full funding contract has been signed by all funding partners, or one for which a resolution to fund a preferred alignment has been adopted by the Los Angeles County Metropolitan Transportation Authority or its successor agency; or

(2) A Metro Rapid Bus stop located along a Metro Rapid Bus route or, for a Housing Development Project consisting entirely of Restricted Affordable Units, any bus stop located along a Metro Rapid Bus route; or

(3) The boundaries of the following three major economic activity areas, identified in the General Plan Framework Element: Downtown, LAX and the Port of Los Angeles; or

(4) The boundaries of a college or university campus with an enrollment exceeding 10,000 students.

(c) **Density Bonus.** Notwithstanding any provision of this Code to the contrary, the following provisions shall apply to the grant of a Density Bonus for a Housing Development Project:

(1) **For Sale or Rental Housing with Low or Very Low Income Restricted Affordable Units.** A Housing Development Project that includes 10% of the total units of the project for Low Income households or 5% of the total units of the project for Very Low Income-households, either in rental units or for sale units, shall be granted a minimum Density Bonus of 20%, which may be applied to any part of the Housing Development Project. The bonus may be increased according to the percentage of affordable housing units provided, as follows, but shall not exceed 35%:

Percentage Low Income Units	Percentage Density Bonus
-----------------------------	--------------------------

10	20
----	----

11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

Percentage Very Low Income Units	Percentage Density Bonus
----------------------------------	--------------------------

5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(2) **For Sale or Rental Senior Citizen Housing (Market Rate).** A Senior Citizen Housing Development or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Sections 798.76 or 799.5 shall be granted a minimum Density Bonus of 20%.

(3) **For Sale or Rental Senior Citizen Housing with Low or Very Low Income Restricted Affordable Units.** A Senior Citizen Housing Development or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Sections 798.76 or 799.5 and includes at least 10% of the total units for Low Income households or 5% of the total units for Very Low Income households shall be granted an additional Density Bonus of 15% more than that permitted in Subparagraph (2) of this paragraph, to a maximum of 35%.

(4) **For Sale Housing with Moderate Income Restricted Affordable Units.** A for sale Housing Development Project that includes at least 10% of its units for Moderate Income households shall be granted a minimum Density Bonus of 15%. The bonus may be increased according to the percentage of affordable housing units provided, as follows, but shall not exceed 35%:

Percentage Moderate Income Units	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(5) **Land Donation.** An applicant for a subdivision, parcel map or other residential development approval that donates land for housing to the City of Los Angeles satisfying the criteria of California Government Code Section 65915(h)(2), as verified by the Department of City Planning, shall be granted a minimum Density Bonus of 15%.

(6) **Child Care.** A Housing Development Project that conforms to the requirements of Subparagraphs (1), (2), (3), (4) or (5) of this paragraph and includes a child care facility located on the premises of, as part of, or adjacent to, the project, shall be granted either of the following:

(i) an additional Density Bonus that is, for purposes of calculating residential density, an increase in the floor area of the project equal to the floor area of the child care facility included in the project.

(ii) An additional Incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(7) **Fractional Units.** In calculating Density Bonus and Restricted Affordable units, any number resulting in a fraction shall be rounded up to the next whole number.

(8) **Other Discretionary Approval.** Approval of Density Bonus units shall not, in and of itself, trigger other discretionary approvals required by the Code.

(9) **Other Affordable Housing Subsidies.** Approval of Density Bonus units does not, in and of itself, preclude projects from receipt of other government subsidies for affordable housing.

**(10) Additional Option for Restricted Affordable Units located near Transit Stop/Major Employment Center.**

In lieu of providing the requisite number of Restricted Affordable Units in a Housing Development Project located in or within 1,500 feet of a Transit Stop/Major Employment Center that would otherwise be required under this subdivision, an applicant may opt to provide a greater number of smaller units, provided that:

(i) the total number of units in the Housing Development Project including Density Bonus units does not exceed the maximum permitted by this subdivision;

(ii) the square footage of the aggregate smaller Restricted Affordable units is equal to or greater than the square footage of the aggregate Restricted Affordable Units that would otherwise be required under this subdivision;

(iii) the smaller Restricted Affordable units are distributed throughout the building and have proportionally the same number of bedrooms as the market rate units; and

(iv) the smaller Restricted Affordable Units meet the minimum unit size requirements established by the Low Income Housing Tax Credit Program as administered by the California Tax Credit Allocation Committee (TCAC).

**(11) Common Interest Development with Low or Very Low Income restricted Affordable Units for Rent.**

In a common interest development as defined in California Government Code Section 1351, such as a condominium, Restricted Affordable Units may be for sale or for rent.

**(12) Condominium Conversion.**

A Housing Development Project that involves the conversion of apartments into condominiums and that includes 33 percent of its units restricted to households of Low or Moderate income or 15 percent of its units restricted to households of Very Low Income shall be granted a Density Bonus of 25 percent or up to three incentives as provided in Paragraph (e) of this subdivision.

(d) **Parking in a Housing Development Project.** Required parking spaces for a Housing Development Project that is for sale or for rent and qualifies for a Density Bonus and complies with this subdivision may be provided by complying with whichever of the following options requires the least amount of parking: applicable parking provisions of Section 12.21 A 4 of this Code, or Parking Option 1 or Parking Option 2, below. Required parking in a Housing Development Project that qualifies for a Density Bonus may be sold or rented separately from the dwelling units, so that buyers and tenants have the option of purchasing or renting a unit without a parking space. The separate sale or rental of a dwelling unit and a parking space shall not cause the rent or purchase price of a Restricted Affordable Unit (or the parking space) to be greater than it would otherwise have been.

(1) **Parking Option 1.** Required parking for all residential units in the Housing Development Project (not just the restricted units), inclusive of handicapped and guest parking, shall be reduced to the following requirements:

(i) For each Residential Unit of 0-1 bedroom: 1 on-site parking space.

(ii) For each Residential Unit of 2-3 bedrooms: 2 on-site parking spaces.

(iii) For each Residential Unit of 4 or more bedrooms: 2½ on-site parking spaces.

(2) **Parking Option 2.** Required parking for the Restricted Affordable Units only shall be reduced as set forth in Subparagraphs (i) and (ii) below. Required parking for all other non-restricted units in the Housing Development Project shall comply with applicable provisions of Section 12.21 of this Code.

(i) One parking space per Restricted Affordable Unit, except:

a. 0.5 parking space for each dwelling unit restricted to Low or Very Low Income Senior Citizens or Disabled Persons; and/or

b. 0.25 parking space for each Restricted Affordable Unit in a Residential Hotel.

(ii) Up to 40% of the required parking for the Restricted Affordable Units may be provided by compact stalls.

**(e) Incentives.**

(1) In addition to the Density Bonus and parking options identified in Paragraphs (c) and (d) of this subdivision, a Housing Development Project that qualifies for a Density Bonus shall be granted the number of Incentives set forth in the table below.

Number of Incentives	Required Percentage* of Units Restricted for Very Low Income Households	Required Percentage* of Units Restricted for Low Income Households	Required Percentage* of Units Restricted for Moderate Income Households (For Sale Only)
One Incentive	5% or	10% or	10%
Two Incentives	10% or	20% or	20%
Three Incentives	15% or	30% or	30%

\* Excluding Density Bonus units.

(2) To be eligible for any on-menu incentives, a Housing Development Project (other than an Adaptive Reuse project) shall comply with the following:

(i) The facade of any portion of a building that abuts a street shall be articulated with a change of material or with a break in plane, so that the facade is not a flat surface.

- (ii) All buildings must be oriented to the street by providing entrances, windows, architectural features and/or balconies on the front and along any street-facing elevations.
- (iii) The Housing Development Project shall not be a contributing structure in a designated Historic Preservation Overlay Zone and shall not be on the City of Los Angeles list of Historical-Cultural Monuments.
- (iv) The Housing Development Project shall not be located on a substandard street in a Hillside Area or in a Very High Fire Hazard Severity Zone as established in Section 57.25.01 of this Code.

(f) **Menu of Incentives.** Housing Development Projects that meet the qualifications of Paragraph (e) of this subdivision may request one or more of the following Incentives, as applicable:

(1) **Yard/Setback.** Up to 20% decrease in the required width or depth of any individual yard or setback except along any property line that abuts an R1 or more restrictively zoned property provided that the landscaping for the Housing Development Project is 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."

(2) **Lot Coverage.** Up to 20% increase in lot coverage limits, provided that the landscaping for the Housing Development Project is 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."

(3) **Lot Width.** Up to 20% decrease from a lot width requirement, provided that the landscaping for the Housing Development Project is 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."

(4) **Floor Area Ratio.**

(i) A percentage increase in the allowable Floor Area Ratio equal to the percentage of Density Bonus for which the Housing Development Project is eligible, not to exceed 35%; or

(ii) In lieu of the otherwise applicable Floor Area Ratio, a Floor Area Ratio not to exceed 3:1, provided the parcel is in a

commercial zone in Height District 1 (including 1VL, 1L and 1XL), and fronts on a Major Highway as identified in the City's General Plan, and

a. the Housing Development Project includes the number of Restricted Affordable Units sufficient to qualify for a 35% Density Bonus, and

b. 50% or more of the commercially zoned parcel is located in or within 1,500 feet of a Transit Stop/Major Employment Center.

A Housing Development Project in which at least 80% of the units in a rental project are Restricted Affordable Units or in which 45% of the units in a for-sale project are Restricted Affordable Units shall be exempt from the requirement to front on a Major Highway.

(5) **Height.** A percentage increase in the height requirement in feet equal to the percentage of Density Bonus for which the Housing Development Project is eligible. This percentage increase in height shall be applicable over the entire parcel regardless of the number of underlying height limits. For purposes of this subparagraph, Section 12.21.1 A 10 of this Code shall not apply.

(i) In any zone in which the height or number of stories is limited, this height increase shall permit a maximum of eleven additional feet or one additional story, whichever is lower, to provide the Restricted Affordable Units.

(a) No additional height shall be permitted for that portion of a building in a Housing Development Project that is located within fifteen feet of a lot classified in the R2 zone.

(b) For each foot of additional height the building shall be set back one horizontal foot.

(ii) No additional height shall be permitted for that portion of a building in a Housing Development Project that is located within 50 feet of a lot classified in an R1 or more restrictive residential zone.

(iii) No additional height shall be permitted for any portion of a building in a Housing Development Project located on a lot sharing a common lot line with or across an alley from a lot classified in an R1 or more restrictive zone. This prohibition shall not apply if the lot on which the Housing Development Project is

located is within 1,500 feet of a Transit Stop but no additional height shall be permitted for that portion of a building in the Housing Development Project that is located within 50 feet of a lot classified in an R1 or more restrictive residential zone.

(6) **Open Space.** Up to 20% decrease from an open space requirement, provided that the landscaping for the Housing Development Project is 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."

(7) **Density Calculation.** The area of any land required to be dedicated for street or alley purposes may be included as lot area for purposes of calculating the maximum density permitted by the underlying zone in which the project is located.

(8) **Averaging of Floor Area Ratio, Density, Parking or Open Space, and permitting Vehicular Access.** A Housing Development Project that is located on two or more contiguous parcels may average the floor area, density, open space and parking over the project site, and permit vehicular access from a less restrictive zone to a more restrictive zone, provided that:

(i) the Housing Development Project includes 11% or more of the units as Restricted Affordable Units for Very Low Income households, 20% of the units for Low Income households, or 30% of the units for Moderate Income households; and

(ii) the proposed use is permitted by the underlying zone(s) of each parcel; and

(iii) no further lot line adjustment or any other action that may cause the Housing Development Project site to be subdivided subsequent to this grant shall be permitted.

**(g) Procedures.**

(1) **Density Bonus and Parking.** Housing Development Projects requesting a Density Bonus without any Incentives (which includes a Density Bonus with only parking requirements in accordance with Paragraphs (c) and (d) of this subdivision) shall be considered ministerial and follow the Affordable Housing Incentives Guidelines and the Density Bonus Procedures. No application for these projects need be filed with the City Planning Department.

**(2) Requests for Incentives on the Menu.**

(i) The applicant for Housing Development Projects that qualify for a Density Bonus and that request up to three Incentives on the Menu of Incentives in Paragraph (f) of this subdivision, and which require no other discretionary actions, the following procedures shall apply:

a. **Application.** The request shall be made on a form provided by the Department of City Planning, as set forth in Section 11.5.7 B 2(a) of this Code, accompanied by applicable fees.

b. **Director's Authority.** The Director shall have the initial decision-making authority to determine whether an application for Density Bonus is consistent with this subdivision and the Affordable Housing Incentives Guidelines.

c. **Action.** The Director shall approve a Density Bonus and requested Incentive(s) unless the Director finds that:

(i) The Incentive is not required in order 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; or

(ii) The Incentive will have a Specific Adverse Impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there 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.

d. **Transmittal of Written Decision.** Within three business days of making a decision, the Director shall transmit a copy by First Class Mail to the applicant and to all owners of properties abutting, across the street or alley from,

or having a common corner with the subject property, and to the local Certified Neighborhood Council.

e. **Effective Date of Initial Decision.** The Director's decision shall become effective after an elapsed period of 15 calendar days from the date of the mailing of the written decision unless an appeal is filed to the City Planning Commission.

f. **Appeals.** An applicant or any owner or tenant of a property abutting, across the street or alley from, or having a common corner with the subject property aggrieved by the Director's decision may appeal the decision to the City Planning Commission pursuant to applicable procedures set forth in Section 11.5.7 C6 of this Code that are not in conflict with the provisions of this paragraph (g)(2)(i). The appeal shall include a filing fee pursuant to Section 19.01 B of this Code. Before acting on any appeal, the City Planning Commission shall set the matter for hearing, with written notice of the hearing sent by First Class Mail at least ten days prior to the meeting date to: the applicant; the owner(s) of the property involved; and interested parties who have requested notice in writing. The appeal shall be placed on the agenda for the first available meeting date of the City Planning Commission and acted upon within 60 days from the last day of the appeal period. The City Planning Commission may reverse or modify, in whole or in part, a decision of the Director. The City Planning Commission shall make the same findings required to be made by the Director, supported by facts in the record, and indicate why the Director erred making the determination. The appellate decision of the City Planning Commission shall be final and effective as provided in Charter Section 245.

(ii) For Housing Development Projects that qualify for a Density Bonus and for which the applicant requests up to three Incentives listed in Paragraph (f), above, and that require other discretionary actions, the applicable procedures set forth in Section 12.36 of this Code shall apply.

a. The decision must include a separate section clearly labeled "Density Bonus/Affordable Housing Incentives Program Determination."

b. The decision-maker shall approve a Density Bonus and requested Incentive(s) unless the decision-maker,

based upon substantial evidence, makes either of the two findings set forth in Subparagraph (2)(i)(c), above.

**(3) Requests for Waiver or Modification of any Development Standard(s) Not on the Menu.**

(i) For Housing Development Projects that qualify for a Density Bonus and for which the applicant requests a waiver or modification of any development standard(s) that is not included on the Menu of Incentives in Paragraph (f), above, and that are not subject to other discretionary applications, the following shall apply:

a. The request shall be made on a form provided by the Department of City Planning, accompanied by applicable fees, and shall include a pro forma or other documentation to show that the waiver or modification of any development standard(s) are needed in order to make the Restricted Affordable Units economically feasible.

b. Notice and Hearing. The application shall follow the procedures for conditional uses set forth in Section 12.24 D of this Code. A public hearing shall be held by the City Planning Commission or its designee. The decision of the City Planning Commission shall be final.

c. The City Planning Commission shall approve a Density Bonus and requested waiver or modification of any development standard(s) unless the Commission, based upon substantial evidence, makes either of the two findings set forth in Subparagraph (g)(2)(i)(c), above.

(ii) For Housing Development Projects requesting the waiver or modification of any development standard(s) not included on the Menu of Incentives in Paragraph (f) above, and which include other discretionary applications, the following shall apply:

a. The applicable procedures set forth in Section 12.36 of this Code shall apply.

b. The decision must include a separate section clearly labeled "Density Bonus/Affordable Housing Incentives Program Determination."

c. The decision-maker shall approve a Density Bonus and requested waiver or modification of any development standard(s) unless the decision-maker, based upon

substantial evidence, makes either of the two findings set forth in Subparagraph (g)(2)(i)(c), above.

(h) **Covenant.** Prior to issuance of a Building Permit, the following shall apply:

(1) For any Housing Development Project qualifying for a Density Bonus and that contains housing for Senior Citizens, a covenant acceptable to the Los Angeles Housing Department shall be recorded with the Los Angeles County Recorder, guaranteeing that the occupancy restriction to Senior Citizens shall be observed for at least 30 years from the issuance of the Certificate of Occupancy or a longer period of time if required by the construction or mortgage financing assistance program, mortgage assistance program, or rental subsidy program.

(2) For any Housing Development Project qualifying for a Density Bonus and that contains housing for Low or Very Low Income households, a covenant acceptable to the Los Angeles Housing Department shall be recorded with the Los Angeles County Recorder, guaranteeing that the affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy or a longer period of time if required by the construction or mortgage financing assistance program, mortgage assistance program, or rental subsidy program.

(3) For any Housing Development Project qualifying for a Density Bonus and that contains housing for Moderate Income households for sale, a covenant acceptable to the Los Angeles Housing Department and consistent with the for sale requirements of California Government Code Section 65915(c)(2) shall be recorded with the Los Angeles County Recorder guaranteeing that the affordability criteria will be observed for at least ten years from the issuance of the Certificate of Occupancy.

(4) If the duration of affordability covenants provided for in this subdivision conflicts with the duration for any other government requirement, the longest duration shall control.

(5) Any covenant described in this paragraph must provide for a private right of enforcement by the City, any tenant, or owner of any building to which a covenant and agreement applies.

(i) **Fee Deferral.** At the option of the applicant, payment of fees may be deferred pursuant to Sections 19.01 O and 19.05 A 1 of this Code.

(j) **Applicability.** To the extent permitted under applicable State law, if a conflict arises between the terms of this subdivision and the terms of the City's Mello Act Settlement Agreement, Interim Administrative Procedures for

Complying with the Mello Act or any subsequent permanent Mello Ordinance, Procedures or Regulations (collectively "Mello Terms"), the Mello Terms preempt this subdivision.

Sec. 2. The title of Section 12.24 U 26 of the Los Angeles Municipal Code is amended to read:

**26. Density Bonus for a Housing Development Project in which the density increase is greater than the maximum permitted in Section 12.22 A 25.**

Sec. 3. Subparagraph (4) of Paragraph (a) of Subdivision 2 of Subsection V of Section 12.24 of the Los Angeles Municipal Code is amended to read:

(4) that the developer has agreed, pursuant to Government Code Sections 65915-65918, to construct the development with the number of Restricted Affordable Units sufficient to qualify for a 35% Density Bonus, pursuant to Section 12.22 A 25 of this Code.

Sec. 4. The title of Subdivision 2 of Subsection A of Section 14.00 of the Los Angeles Municipal Code is amended to read:

**2. Density increase for a Housing Development Project to provide for additional density in excess of that permitted in Section 12.22 A 25.**

Sec. 5. Subsection O of Section 19.01 of the Los Angeles Municipal Code is amended to read:

**O. DENSITY INCREASE/AFFORDABLE HOUSING INCENTIVES.**

Type of Application	Filing Fee
Application for a Density Bonus including a request for one or more Incentives included in the Menu of Incentives pursuant to Section 12.22 A 25(e).	\$1,065.00*
Application for a Density Bonus pursuant to Section 12.22 A 25 including a request for an Incentive not included in the Menu of Incentives pursuant to Section 12.22 A 25(e).	\$3,742.00*
Application for a density increase in excess of that permitted by Section 12.22 A 25 pursuant to Section 12.24 U 25 and Section 14.00 A 2.	\$3,742.00*

Payment of the filing fee may be deferred until prior to the issuance of any Certificate of Occupancy, or until two years after the City's final decision granting or denying the application, whichever comes first. Moreover, the payment may be deferred only if a covenant and agreement is recorded with

the County Recorder, to the satisfaction of the Housing Department, which covenant and agreement preserves the affordability of the restricted units in the event that the application is granted. No Building Permit for the development project may be issued unless the developer presents evidence that the fee has been paid and all other requirements for its issuance have been met.

Sec. 6. Chapter I of the Los Angeles Municipal Code is amended by adding a new Section 19.14 to read:

**SEC. 19.14. FEES FOR ENFORCEMENT OF HOUSING COVENANTS.** The following fees shall be charged and collected by the Los Angeles Housing Department for the preparation and enforcement of the affordable housing covenants described in Section 12.22 A 25(h)(1) through (3) of this Code.

Sec. 7. Statement of Intent. It is the intent of the City Council that the provisions of this ordinance shall apply to applications filed on or after the effective date of this ordinance, except that for sale Housing Development Projects with tract or parcel maps that have not been recorded as of the effective date of this ordinance are subject to the provisions of this ordinance regardless of language in tract or parcel map conditions or previously recorded covenants.

M:\Real Prop\_Env\_Land Use\Land Use\Kenneth Fong\SB 1818 Ordinance\City Attorney amended db ord post Jan. 7, 2008, version E2.doc

Sec. 8. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles FEB 13 2008 and was passed by a vote of not less than two-thirds of all of its members, at its meeting of FEB 20 2008.

FRANK T. MARTINEZ, City Clerk

By Maria Gonzalez Deputy

Approved FEB 28 2008

[Signature]  
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By [Signature]  
KENNETH T. FONG  
Deputy City Attorney

Date February 13, 2008

File No. Council File No. 05-1345

Pursuant to Charter Section 559, I disapprove this ordinance on behalf of the City Planning Commission and recommend that it not be adopted . . . .

February 13, 2008

See attached report.

[Signature] Feb 66  
S. Gail Goldberg  
Director of Planning

**DECLARATION OF POSTING ORDINANCE**

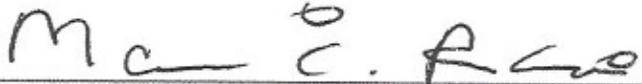
I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 179681 - Amending Sections 12.22, 12.24, 14.00 and 19.01 of the Los Angeles Municipal Code to implement a Density Bonus program, as required by State law - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on February 20, 2008, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on March 6, 2008 I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on March 6, 2008 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 6th day of March 2008 at Los Angeles, California.

  
\_\_\_\_\_  
Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: April 15, 2008

Council File No. 05-1345

**LAMC 16.05  
SITE PLAN REVIEW**

**SEC. 16.05. SITE PLAN REVIEW.**

(Renumbered and amended by Ord. No. 166,127, Eff. 9/23/90, Oper. 10/13/90.)

**A. Purpose.** The purposes of site plan review are to promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City's environmental review process, or on surrounding properties by reason of inadequate site planning or improvements.

**B. Definitions.** (Amended by Ord. No. 173,754, Eff. 3/5/01.) For the purpose of this section, the following words and phrases shall have the meanings specified below. Other terms used in this section shall have the meanings set forth in Section 12.03 of this Code if defined there.

1. **Development Project.** The construction of, addition to, or alteration of, any building or structure, or a change of use of an existing building or structure that requires a building permit and that results in an increase in floor area, or a net increase in average daily vehicle trips as determined by using trip generation factors promulgated by the Department of Transportation for the purpose of effectuating this section.

2. **Discretionary Approval.** (Amended by Ord. No. 184,827, Eff. 3/24/17.) An approval initiated by application of a property owner or representative related to the use of land including, but not limited to a:

- (a) zone change;
- (b) height district change;
- (c) supplemental use district;
- (d) conditional use approval;
- (e) use, area or height variance;
- (f) parcel map;
- (g) tentative tract map;
- (h) coastal development permit;
- (i) development agreement;
- (j) adjustments;
- (k) density bonus greater than the minimums pursuant to Government Code Section 65915;
- (l) density transfer plan;
- (m) exception from a geographically specific plan;
- (n) project permit pursuant to a moratorium or interim control ordinance;
- (o) public benefit projects; or
- (p) floor area deviation of less than 50,000 square feet pursuant to 14.5.7 of Article 4.5 of the Los Angeles Municipal Code.
- (q) single-family dwelling with a cumulative Residential Floor Area of 17,500 square feet or larger within the HCR District pursuant to 13.20 of Article 3 of the Los Angeles Municipal Code.

3. **Fast-food Establishment.** Any establishment which dispenses food for consumption on or off the premises, and which has the following characteristics: a limited menu, items prepared in advance or prepared or heated quickly, no table orders, and food served in disposable wrapping or containers.

### C. Requirements.

1. **Site Plan Review. (Amended by Ord. No. 184,827, Eff. 3/24/17.)** No grading permit, foundation permit, building permit, or use of land permit shall be issued for any of the following development projects unless a site plan approval has first been obtained pursuant to this section. This provision shall apply to individual projects for which permits are sought and also to the cumulative sum of related or successive permits which are part of a larger project, such as piecemeal additions to a building, or multiple buildings on a lot, as determined by the Director.

(a) Any development project which creates, or results in an increase of, 50,000 gross square feet or more of nonresidential floor area.

(b) Any development project which creates, or results in an increase of, 50 or more dwelling units or guest rooms, or combination thereof.

(c) Any change of use to a Drive-Through Fast-food Establishment or any change of use to a Fast-food Establishment, either of which results in a net increase of 500 or more average daily trips as determined by, and using the trip generation factors promulgated by the Department of Transportation.

(d) Any change of use other than to a Drive-Through Fast-food Establishment or to a Fast-food Establishment which results in a net increase of 1,000 or more average daily trips as determined by, and using the trip generation factors promulgated by the Department of Transportation.

(e) (Deleted by Ord. No. 186,325, Eff. 11/11/19.)

(f) Any single-family residential development with a cumulative Residential Floor Area of 17,500 square feet or larger located in the HCR District.

This subdivision shall not apply to one-family dwellings located outside of a HCR District.

2. **Enforcement.** No grading permit, foundation permit, building permit, or certificate of occupancy shall be issued for a development project approved under this site plan review process unless the project meets all requirements and conditions of the site plan approval. Permits issued in error shall be treated as specified in Section 11.02 of this Code. If the development project approval authorized by this section is utilized, the conditions of that approval become effective immediately. The violation of any such condition shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code.

### D. Exemptions. (Amended by Ord. No. 172,489, Eff. 4/16/99.)

1. (Amended by Ord. No. 173,492, Eff. 10/10/00.) Unless made discretionary by any other provision of law, the approval of any building permit for a development project which does not exceed the thresholds set forth in this subsection and Section 12.24U14 is ministerial and exempt from the requirements of the California Environmental Quality Act.

2. Any development project with a still-valid discretionary approval, including but not limited to those listed in Subsection B.2. of this section, shall be exempt from site plan review only if the applicable decision-making body determines in writing that the prior discretionary approval, and the required environmental review, considered significant aspects of the approved project's design (such as, but not limited to, building location, height, density, use, parking, access) and that the existing environmental documentation under the California Environmental Quality Act is adequate for the issuance of the present permit in light of the conditions specified in Section 21166 of the California Public Resources Code. The Department of City Planning may require supplements to the environmental documentation to maintain its currentness. The Director is authorized to establish procedures to process determinations required under this subdivision. (Amended by Ord. No. 177,103, Eff. 12/18/05.)

3. Any development project located within the boundaries of a Redevelopment Project Area with an Unexpired Redevelopment Plan, as defined in Section 11.5.14, shall be exempt from site plan review when: (Amended by Ord. No. 186,325, Eff. 11/11/19.)

(a) The Community Redevelopment Agency of the City of Los Angeles (CRA) and the City Council approved an owner participation agreement, a disposition and development agreement, a loan agreement, a cooperation agreement or other discretionary agreement for the development project prior to February 1, 2012; and

(b) The project was considered during a public hearing prior to February 1, 2012, conducted in accordance with the CRA's adopted policies and procedures for public hearings.

4. Any development project within a specific plan area for which an EIR was certified by the City Council not more than six years prior to the date of the present application for a building permit. The date of the application shall be the date on which architectural and structural plans sufficient for a complete plan check are accepted by the Department of Building and Safety. This exemption shall be applicable only if the Director determines in writing that the EIR considered significant aspects of the approved project's design (such as, but not limited to, building location, height, density, use, parking, access) and that it is adequate for the issuance of the present permit. The Director is hereby authorized to establish procedures to process determinations.

5. Any development project on a motion picture and/or television production lot that is industrially or commercially zoned and is enclosed by a minimum six foot high wall or other barrier (such as building walls, fences, topographical barrier, etc.) which separates the facility and the development from adjacent properties. However, all new office uses shall be directly related to motion picture and/or television production and shall not be rented or leased to other entities not directly related to motion picture and/or television production uses.

6. Adaptive Reuse Projects in the Downtown Project Area pursuant to Section 12.22 A.26. (Added by Ord. No. 172,571, Eff. 6/3/99.)

7. Any residential (including Apartment Hotel or mixed use) building located within the Greater Downtown Housing Incentive Area that is subject to Section 12.22 A.30. of this Code. (Added by Ord. No. 181,557, Eff. 3/15/11.)

8. A Qualified Permanent Supportive Housing Project as defined in Section 14.00 A.11.(a)(1) of this Code and containing no more than 120 units, or no more than 200 units if it is located either in the Greater Downtown Housing Incentive Area or on a lot with a general plan land use designation of Regional Center Commercial, Regional Commercial, or Regional Mixed Commercial. (Added by Ord. No. 185,492, Eff. 5/28/18.)

#### E. Directors Authority.

1. The Director or his/her designee shall have the authority to approve, conditionally approve, or deny site plan approval for development projects specified in Section 16.05 C. above in accordance with the purpose and provisions of this section.

2. In granting site plan approval, the Director may condition and/or modify the project, or select an alternative project, as he or she deems necessary to implement the general or specific plan and to mitigate significant adverse effects of the development project on the environment and surrounding areas.

3. The Director is authorized to designate one or more members of the professional staff of the Department of City Planning to perform any of the Director's duties under this section. The Director shall establish administrative methods, guidelines, procedures, and forms as may be necessary to conduct the review and render a decision expeditiously, prior to processing any site plan review application.

4. The Director shall not approve or conditionally approve a site plan review for a development project unless an appropriate environmental review clearance has been prepared in accordance with the requirements of CEQA. (Amended by Ord. No. 185,052, Eff. 8/14/17.)

F. In granting an approval, the Director, or the Area Planning Commission on appeal, shall find: (Amended by Ord. No. 182,095, Eff. 5/7/12.)

1. that the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan;

2. that the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties; and

3. that any residential project provides recreational and service amenities to improve habitability for its residents and minimize impacts on neighboring properties.

## G. Procedure.

1. **Site Plan Review Application.** Application for the site plan review shall be filed in any public office of the Department of City Planning, upon such forms and accompanied by applicable fees, a site plan drawn to scale, and other information prescribed by the Director for that purpose. The application shall be verified by either the property owner, lessee, owner in escrow, or a legally authorized agent.

2. **Environmental Review.** As part of the application for site plan review, the applicant shall file necessary forms and information for environmental review as prescribed by the Director. The Director, or his/her designee, shall cause to be prepared, concurrently with the review and approval of the site plan, the required environmental studies and notices for the project. (Amended by Ord. No. 185,052, Eff. 8/14/17.)

### 3. Notice – Hearing – Time Limits.

(a) The Director shall refer all completed applications for site plan review to affected City departments for their review and report. Responses shall be returned within fifteen (15) days after receipt, or such other period agreed to by the Director and the affected department. (Amended by Ord. No. 186,325, Eff. 11/11/19.)

(b) If the Director finds that the matter may have a significant effect on neighboring properties, the Director shall set the matter for public hearing. If the application is set for public hearing, written notice of the hearing shall be sent by First Class Mail at least fifteen (15) days prior to the hearing to the applicant, owners and tenants of the property involved, owners and tenants of all property within 100 feet of the boundary of the subject site, the City Councilmembers representing the area in which the property is located, and any organization representing property owners or the community in the project vicinity if they request in writing to be notified. Notice shall also be given by at least one publication in a newspaper of general circulation in the City, designated for that purpose by the City Clerk, not less than fifteen (15) days prior to the date of the hearing. (Amended by Ord. No. 186,325, Eff. 11/11/19.)

(c) The Director shall grant, conditionally grant or deny site plan approval within sixty (60) days after:

- (1) the date of filing of an application, or
- (2) where an EIR is required, the date the EIR is certified as complete.

This time limit may be extended up to forty-five (45) days by mutual consent of the applicant and the Director. The time limit shall also be extended if necessary to prepare and process an EIR, as provided in Section 12.25A of this Code.

(d) The Director shall send notice of the determination to the applicant and the interested parties listed in Section 16.05G3(b) of the determination by First Class Mail. Failure to receive notice shall not invalidate any action taken pursuant to this section. (Amended by Ord. No. 172,489, Eff. 4/16/99.)

4. **Determination Effective – Appeal.** The determination of the Director shall become final after an elapsed period of fifteen (15) days from the date of mailing of the determination to the applicant, unless a written appeal is filed within such period as provided in Subsection 16.05H. The Director shall notify the Department of Building and Safety of the final approval of site plan review.

5. **Failure to Act - Transfer of Jurisdiction.** (Amended by Ord. No. 173,374, Eff. 8/3/00.) If the Director fails to make a decision on an application within the time limit specified in this subsection, the applicant may file a request for transfer of jurisdiction to the Area Planning Commission, in which case the Director shall lose jurisdiction. The Area Planning Commission shall consider the matter following the same procedures and limitations as are applicable to the Director. A request for transfer of jurisdiction may be filed in any public office of the Department of City Planning.

6. (Deleted by Ord. No. 182,106, Eff. 5/20/12.)

## H. Appeals.

1. **Authority.** (Amended by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00.) The Area Planning Commission of the area in which the property is located shall have the authority to decide appeals from site plan review decisions made by the Director. Prior to deciding an appeal, the Area Planning Commission shall hold a hearing or direct a hearing officer to do so.

2. **Filing an Appeal.** (Amended by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00.) The applicant, any officer, board, department, or bureau of the City, or any interested person aggrieved by the decision of the Director may file an appeal to the Area Planning Commission. Appeals shall be in writing and shall set forth specifically the reasons why the decision should not be upheld. Appeals shall be filed in any public office of the Department of City Planning, upon required forms and accompanied by applicable fees, within 15 days of the mailing of the decision to the applicant. An appeal not properly or timely filed shall not be accepted.

3. **Hearing Notice.** (Amended by Ord. No. 185,052, Eff. 8/14/17.) Upon receipt of the appeal application, the Area Planning Commission Secretary shall set the matter for a public hearing to be held within 75 days of the filing of the appeal. The Secretary shall give notice of the hearing to the appellant and to all the other parties specified in Subsection G.3.(b) above, within the time and in the manner specified in that subsection.

4. **Decision.** (Amended by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00.) The Area Planning Commission shall render its decision in writing within 15 days after completion of the hearing. The Area Planning Commission may sustain or reverse any decision of the Director, and may establish additional conditions to conform with the findings required in Subsection F. The decision shall be in writing and based upon evidence in the record, including testimony and documents produced at the hearing before the Area Planning Commission, and supported by additional findings as may be required by Section 16.05 F. above. If the Area Planning Commission fails to act within the time specified, the action of the Director shall be final.

5. **Notice.** The Secretary shall notify the Department of Building and Safety of final appeal decisions.

**I. Alternative Thresholds.** (Amended by Ord. No. 172,489, Eff. 4/16/99.) A different threshold from that indicated in Section 16.05 C. of this Code may be established within a Community Plan or Specific Plan, or portion thereof, when specifically stated in the plan text and only when the plan area contains one or more of the following:

1. A transportation impacted area;
2. An environmentally sensitive area;
3. An historically sensitive area; or
4. Any other area of special significance which is clearly identified as to its significance and the need for a different threshold level.

**J. Severability.** If any provision or clause of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other ordinance provisions, clauses or applications thereof which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this ordinance are declared to be severable.

LAMC 12.36  
PROJECTS REQUIRING  
MULTIPLE APPROVALS  
(CHARTER 564)

**SEC. 12.36. PROJECTS REQUIRING MULTIPLE APPROVALS. (CHARTER § 564).**

(Title and Section Amended by Ord. No. 182,106, Eff. 5/20/12.)

**A. Definitions.** The following definitions shall apply to this Section:

**Legislative Approval.** Any approval that requires an action by the City Council, such as those as set forth in Sections 11.5.6, 11.5.7 G., 12.20.3 F., and 12.32 of this Code.

**Quasi-judicial Approval.** Any approval for which the initial decision becomes final unless appealed, such as those as set forth in Sections 11.5.7 C. - F., H., 12.20.2, 12.20.2.1, 12.20.3 I. - L., 12.21 A.2., 12.21 G.3., 12.22 A.25., 12.24, 12.24.1, 12.26 K., 12.27, 12.28, 12.30 H., 12.30 J., 12.32 H., 13.08 E., 14.00 B., 16.05, 16.50, and Article 8 of this Code.

**Subdivision Approval.** Any approval under the Division of Land Regulations set forth in Article 7 of this Code.

**B. Filing Requirement.** If an applicant files for a project that requires multiple Legislative and/or Quasi-judicial Approvals, then the procedures set forth in this section shall govern. Applicants shall file applications at the same time for all approvals reasonably related and necessary to complete the project. The procedures and time limits set forth in this Section shall only apply to multiple applications filed concurrently, except that, prior to a public hearing, the Director may require an applicant to amend an application for a project requiring multiple approvals to ensure that all relevant approvals are reviewed concurrently.

**C. Decision-makers.** Notwithstanding any provision of this Code to the contrary, the following shall apply for projects requiring multiple approvals.

1. **City Planning Commission.** If a project requires any approval or recommendation separately decided by an Area Planning Commission, the Zoning Administrator, and/or the Director, as the initial decision-maker, and also requires any approval or recommendation by the City Planning Commission as the initial decision-maker, then the City Planning Commission shall have initial decision-making authority for all of the approvals and/or recommendations.

(a) **Procedures.** If all of the applications are for Quasi-judicial Approvals, then the procedures for consideration and appeal of all the applications shall be those set forth in Section 12.24 D. through Q. of this Code. However, if any Legislative Approval is included, then the procedures for consideration and appeal of all the applications shall be those set forth in Section 12.32 B. through D. of this Code.

(b) **Appellate Body.** The City Council shall decide all appeals of the City Planning Commission's decisions or recommendations as the initial decision-maker on projects requiring multiple approvals.

2. **Area Planning Commission.** If a project requires an approval separately decided by the Zoning Administrator and/or the Director, as the initial decision-maker, and also requires any approval or recommendation by an Area Planning Commission as the initial decision-maker, then the Area Planning Commission where the project is located shall have initial decision-making authority for all of the approvals and recommendations.

(a) **Procedures.** If all of the applications are for Quasi-judicial Approvals, then the procedures for consideration and appeal of all the applications shall be those set forth in Section 12.24 D. through Q. of this Code. If, however, any Legislative Approval is included, then the procedures for consideration and appeal of all the approvals shall be those set forth in Section 12.32 B. through D. of this Code.

(b) **Appellate Body.** The City Council shall decide all appeals of the Area Planning Commission's decisions or recommendations as initial decision-maker for projects requiring multiple approvals.

3. **Zoning Administrator.** If a project requires approvals separately decided by the Zoning Administrator and the Director, as the initial decision-maker, then the Zoning Administrator shall have initial decision-making authority for all of the approvals.

(a) **Procedures.** The procedures for consideration and appeal of all related applications for Quasi-Judicial Approvals of the Zoning Administrator as initial decision-maker shall be those set forth in Section 12.24 D. through Q. of this Code.

(b) **Appellate Body.** The Area Planning Commission where the project is located shall decide all appeals of decisions of the Zoning Administrator as initial decision-maker on projects requiring multiple approvals. If, however, regulations within [Chapter I](#) of this Code require any of the approvals to be heard by the City Planning Commission on appeal, the City Planning Commission shall decide all appeals of decisions of the Zoning Administrator as initial decision-maker.

4. **Director of Planning.** If a project requires multiple approvals decided by the Director as the initial decision maker, the following shall apply.

(a) **Procedures.** The procedures for consideration and appeal of all related applications for Quasi-Judicial Approvals of the Director as initial decision-maker shall be those set forth in Section [16.05](#) G. through H. of this Code.

(b) **Appellate Body.** The Area Planning Commission where the project is located shall decide all appeals of decisions of the Director as initial decision-maker on projects requiring multiple approvals. If, however, regulations within [Chapter I](#) of this Code require any of the approvals to be heard by the City Planning Commission on appeal, the City Planning Commission shall decide all appeals of decisions of the Director as initial decision-maker.

5. **Advisory Agency.** If a project requiring multiple approvals also requires a Subdivision Approval by the Advisory Agency, that Subdivision Approval and any appeals shall be decided and governed by the rules set forth in [Article 7 of Chapter 1](#) of this Code. Hearings for and consideration of appeals of Subdivision Approvals by the Advisory Agency shall be scheduled for the same time as any hearing and decision by the Area Planning Commission or City Planning Commission, whichever has jurisdiction over the other approvals. Any time limit within which the Area Planning Commission or City Planning Commission must act on the applications before it shall be automatically extended as necessary to allow the Area Planning Commission or City Planning Commission to hear and decide appeals of Subdivision Approvals at the same time as it serves as the initial decision maker for the other approvals.

**D. Findings.** When acting on multiple applications for a project, the initial decision-maker or appellate body shall separately make all required findings for each application. When appropriate, the initial decision-maker or appellate body may make findings by reference to findings made for another application involving the same project.

**E. No New Appeal Rights.** This section does not create any additional appeal or level of appeal in connection with any land use approval. This section also does not limit or expand who may file an appeal as identified in each discretionary land use application process.

**F. Extension Of Time To Act.** Notwithstanding any other provision of the Code to the contrary, an extension of time to act on applications or initiations under the multiple approval provisions may be agreed upon between the applicant and the decision-maker or the appellate body.

**G. Expiration.** Notwithstanding any other provision of the Code:

1. Quasi-judicial Approvals granted in conjunction with Legislative Approvals pursuant to these multiple entitlement procedures shall expire with the Legislative Approval, not to exceed six years unless a greater time results from the application of Section [12.25](#).

2. Quasi-judicial Approvals granted in conjunction with a Subdivision Approval pursuant to these multiple entitlement procedures shall expire with the Subdivision Approval pursuant to [Article 7](#) of this Code. If the expiration date on a Subdivision Approval is extended pursuant to [Article 7](#) of this Code, or by amendment to the Subdivision Map Act, the Quasi-judicial Approval shall also be automatically extended for a commensurate period of time.

3. Legislative Approvals granted in conjunction with a Subdivision Approval pursuant to these multiple entitlement procedures may be extended for the full time limit of the Subdivision Approval, including time extensions pursuant to [Article 7](#) of this Code, for the purpose of recordation of an approved map.

# EXHIBIT B

LAW OFFICE OF JOHN P. GIVEN  
2461 Santa Monica Blvd., #438  
Santa Monica, CA 90404  
john@johngivenlaw.com  
(310) 471-8485

April 20, 2020

VIA EMAIL ONLY to [cpc@lacity.org](mailto:cpc@lacity.org)<sup>1</sup>

Los Angeles City Planning Commission  
Los Angeles City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

RE: CPC-2019-4908-DB-SPR / ENV-2019-4909-CE  
1309-1331 S. Pacific Avenue, San Pedro Community Plan area

Dear President Millman and Honorable Commissioners:

This submission is made on behalf of Citizens Preserving San Pedro (“Citizens”) in response to the Department of City Planning Recommendation Report.<sup>2</sup> Citizens objects to approval of the proposed 1309-1331 S. Pacific Avenue Project (the “Project”) and entitlements for the reasons contained herein as well as reasons previously provided to the hearing officer and administrative record by community members. Among other objections, the Project does not qualify for a Floor Area Ratio of 2.65:1, the waiver of height standard is beyond the permissible density bonus height incentive and is inconsistent with the zoning code and San Pedro Community Plan, the Project has unanalyzed potential cumulative impacts due to traffic and lack of parking, which will disrupt local traffic circulation. Finally, the Project is not entitled to a categorical exemption.

Citizens notes the Planning Commission’s April 23 hearing will take place telephonically due to the COVID-19 pandemic. Orders by the governor, mayor, and county public health officer require citizens and non-essential workers to remain at home. The Department of City Planning has undertaken some effort to make project documents available electronically, which Citizens appreciates. Nonetheless, the complete project files are unavailable. Citizens therefore regretfully reserves its right to pursue any and all due process claims as a result of its inability to fully review the relevant case files to prepare a complete response to the Recommendation Report.<sup>3</sup>

**I. The Planning Commission Must Deny the Density Bonus Compliance Review, Waiver of Development Standards, and Site Plan Review.**

---

<sup>1</sup> This submission is made in accord with instructions provided on the City Planning Commission’s hearing notice for April 23, 2020, which provides, in part: “Secondary Submissions in response to a Staff Recommendation Report or additional comments must be received electronically no later than 48-hours before the Commission meeting. Submissions shall not exceed ten (10) pages, including exhibits, and must be submitted electronically to [cpc@lacity.org](mailto:cpc@lacity.org).”

<sup>2</sup> The online file including the Recommendation Report and related files is currently located at [https://planning.lacity.org/odocument/035cdbc7-1012-4c64-9a3c-2c4ff3a0655b/CPC-2019-4908\\_\(2\).pdf](https://planning.lacity.org/odocument/035cdbc7-1012-4c64-9a3c-2c4ff3a0655b/CPC-2019-4908_(2).pdf).

<sup>3</sup> Citizens reserves this right on its own behalf and on behalf of any interested San Pedro stakeholders who might have provided public comment to the Planning Commission but did not receive email or internet notice, or if they received notice by physical mail, had no ability to access project materials because they lack personal internet access or rely on public internet facilities closed due to the COVID-19 pandemic.

**The Floor Area Ratio bonus incentive exceeds what is permitted under the zoning code.**

The City Planning Commission must deny the applicant's Density Bonus Compliance Review. While some aspects of the Project comply with the City's density bonus ordinance (see Los Angeles Municipal Code ["LAMC"] section 12.22.A(25)), the proposed density bonus incentives exceed what is permitted. Granting density bonus incentives that do not comply with zoning code requirements or that are inconsistent with the applicable community plan is improper, and results in unaccounted-for land use impacts, which negates the class 32 categorical exemption.

The first density bonus incentive requested per the Planning Commission hearing notice is for a 2.65:1 Floor Area Ratio (FAR) in lieu of the otherwise applicable 1.5:1 FAR. (Recommendation Report, pp. 1-2.) The municipal code grants FAR bonuses equal to the density bonus for a project, but not to exceed 35%. (LAMC § 12.22.A(25)(f)(4)(i).) A density bonus project may receive up to a 3:1 FAR if the project parcel(s) are located in a commercial zone in Height District 1 (including 1XL), fronts on a Major Highway as identified in the City's General Plan, the project qualifies for a 35% density bonus, and 50% or more of the commercially zoned parcel is located in or within 1,500 feet of a Transit Stop/Major Employment Center. (LAMC § 12.22.A(25)(f)(4)(ii).) The zoning code defines "Transit Stop/Major Employment Center" as "any one of the following:

- (1) A station stop for a fixed transit guideway or a fixed rail system that is currently in use or whose location is proposed and for which a full funding contract has been signed by all funding partners, or one for which a resolution to fund a preferred alignment has been adopted by the Los Angeles County Metropolitan Transportation Authority or its successor agency; or
- (2) A Metro Rapid Bus stop located along a Metro Rapid Bus route; or, for a Housing Development Project consisting entirely of Restricted Affordable Units, any bus stop located along a Metro Rapid Bus route; or
- (3) The boundaries of the following three major economic activity areas, identified in the General Plan Framework Element: Downtown, LAX and the Port of Los Angeles; or
- (4) The boundaries of a college or university campus with an enrollment exceeding 10,000 students." [LAMC § 12.22.A(25)(b).]

The Recommendation Report does not mention fixed transit guideways or fixed rail systems, boundaries of a major economic activity area, or boundaries of a college or university campus with an enrollment exceeding 10,000 students. Thus, the only Transit Stop/Major Employment Center category on which the Project may rely to entitle a FAR greater than 35% above the otherwise applicable 1.5:1 FAR is its alleged proximity to a Metro Rapid Bus stop or route. The Project does not consist entirely of Restricted Affordable Units (it has only 12 VLI units of 102 total), therefore in addition to other code requirements, for the Project to be granted a 3:1 FAR, a Metro Rapid Bus stop must be located within 1,500 feet of 50% of the Project site. (*Ibid.*)

The proposed Project appears to qualify for a 35% density bonus and is located in a commercial zone in Height District 1. The Project parcels, however, do *not* front on a Major Highway. Pacific Avenue is designated as a "Modified Avenue II," and 14th Street, one of the side

boundaries for the Project, is designated as a “Local Street – Standard.” (Recommendation Report, p. A-2.) These designations mean a FAR greater than 35% bonus cannot be granted.

The Recommendation Report notes the Project “is within 400 feet of a bus stop located at the intersection of Pacific Avenue and 15<sup>th</sup> Street, which serves the Los Angeles County Metropolitan Transit Authority (“Metro”) Silver Line and 246 bus lines. The surrounding area is served by several other bus lines including the Metro 550 bus line, and the Los Angeles Department of Transportation (“LADOT”) DASH San Pedro and Commuter Express 142 bus line.” (*Id.*) But the Report does not identify which, if any, of these are a Metro Rapid Bus route or where the nearest Metro Rapid Bus stop is located. Review of Metro’s bus routes for the South Bay / Gateway Cities area discloses no Metro Rapid Bus route or stop located within 1,500 of the Project site.<sup>4</sup> The closest Metro Rapid Bus routes appear to be either the Metro Rapid 710 line or Metro Rapid 762 line, both of which appear to be in excess of 10 miles away.

To summarize, the Project does not qualify for a 2.65:1 FAR density bonus incentive, because the Project does not front on a Major Highway and is not within 1,500 feet of a Metro Rapid Bus stop. The maximum FAR available to the Project is thus 2.025:1, which is a 35% bonus above the otherwise permitted 1.5:1 FAR.

**There is no justification to treat the residential-adjacent rear yard as a side yard.**

The Project seeks a 5-foot rear yard setback in lieu of the required 16 feet otherwise required by the C2-1XL-CPIO zone. (Recommendation Report, p. 2.) Review of the Recommendation Report doesn’t disclose why the City is processing the Project, with its front yard on S. Pacific Avenue clearly to the east, with a “rear” yard located adjacent to commercially zoned parcel to the north, which ought to be considered the side yard, rather than the true rear yard between the Project and adjacent residential properties to the west, and on this basis Citizens objects to the rear and side yard setback locations and calculations.

Additionally, Citizens notes the true rear yard to the west purports to only be required to have a seven-foot setback (see Recommendation Report, pp. F-9 to F-10), but if properly considered as a rear yard the Project structure improperly intrudes in what should be an open setback area. The Project’s exterior wall cuts into the required 16-foot setback by one foot, and second and third story balconies intrude into the setback as well, as described in the Project Findings. (*Ibid.*)

**The Waiver of Development Standard for a project height of 45’ 5” is not justified and is inconsistent with the City’s density bonus ordinance and San Pedro Community Plan.**

The Recommendation Report describes the requested Waiver of Development Standard to allow a Project height of 45’ 5” in lieu of the otherwise required 30’ as required by the San Pedro Community Plan CPIO, due to the need for a 14-foot first story. (Recommendation Report, p. A-5.) The Report justifies the grant of a Waiver of Development Standard to allow a greater height

---

<sup>4</sup> Metro’s map for the South Bay / Gateway Cities is available online at:  
[http://media.metro.net/riding\\_metro/maps/images/south\\_bay.pdf](http://media.metro.net/riding_metro/maps/images/south_bay.pdf).

than is permitted by either the underlying zoning or the density bonus ordinance on an exceptionally thin basis:

The project would be allowed an 11-foot height increase for a maximum 41-foot building height through an On-Menu Incentive under the Density Bonus program. However, as stated by the applicant's representative at the public hearing, the project required additional height requiring a Waiver of Development Standard due to the 14 foot Ground Floor height requirement of the CPIO. [Recommendation Report, p. A-5.]

The zoning code provides for waivers of development standards that are not already included in the "Menu of Incentives" found in municipal code section 12.22.A(25)(f). (See LAMC § 12.25.A(25)(g)(3), subsections (i) and (ii).)<sup>5</sup> But a height incentive *is* included in the Menu of Incentives, and is therefore not available as a Waiver of Development Standards. The proper entitlement for a project seeking a height bonus is an On-Menu incentive in municipal code section 12.25.A(25)(f)(5), subject to the procedures described in section 12.25.A(25)(g)(2). As the Recommendation Report admits, the maximum height incentive for the Project is 11 feet on top of the 30-foot height limit of the C2-1XL-CPIO zone, for a total of 41 feet.

The Recommendation Report fails to explain why it is more appropriate for the City to grant a Waiver of Development Standard to allow this excess height that is dramatically greater than what would ordinarily be granted as a density bonus on-menu height incentive instead of a Waiver of Development Standard for a reduction in first floor height otherwise required by the community plan's requirement for a 14-foot ground floor. Waiving the taller first floor would preserve massing consistency in the community plan area, which the Project Findings admit the Project exceeds. (Recommendation Report, p. F-9.) Nothing explains why waiving the community plan's total height requirement is superior to waiving the ground floor height, or why finding a balance between the two competing community plan policies isn't possible.

Granting a Waiver on the basis that the Community Plan demands a taller first story and therefore the Project is not only permitted but is *required* to have a greater height than what is contemplated by the City's carefully calibrated density bonus ordinance creates a Project in excess of the massing and height standards of the community plan area for no additional benefit to the community. The excess height is granted in exchange for 12 affordable units out of a building with 102 units total, 90 of which will be market rate. Waiver does not allow a single additional affordable unit. This outcome is not supported by the zoning code or common sense.

#### **The Site Plan Review Findings are inaccurate and do not support Site Plan Approval.**

In addition to the inaccuracies in the Site Plan Review findings described above with respect to the Waiver of Development Standard for height, and separately with respect to the rear and side yard setback issues, the Site Plan Review Findings admit that the "proposed project massing

<sup>5</sup> LAMC § 12.25.A(25)(g)(3)(i): "For Housing Development Projects that qualify for a Density Bonus and for which the applicant request a waiver or modification of any development standard(s) *that is not included on the Menu of Incentives in Paragraph (f)...*

LAMC § 12.25.A(25)(g)(3)(ii): For Housing Development Projects requesting waiver or modification of any development standard(s) *not included on the Menu of Incentives in Paragraph (f)...*"

exceeds the existing prevailing development pattern” before falsely asserting that “the overall height is comparable to the maximum building height allowable under the On-Menu Density Bonus Program.” (*Id.*, p. F-9.) This assertion is untrue.

As discussed above, the zoning code provision relevant to the density bonus on-menu height incentive states that “[i]n any zone in which the height or number of stories is limited, this height increase shall permit a maximum of eleven additional feet or one additional story, whichever is lower...” (LAMC § 12.22.A(25)(f)(5)) The Project is in a zone in which the height is limited to 30 feet. (See Recommendation Report, p. 2.) Therefore the maximum On-Menu height limit is 41 feet, reflecting 30 feet plus a maximum height incentive of an additional 11 feet. The Recommendation Report admits as much: “The project would be allowed an 11-foot height increase for a maximum 41-foot building height through an On-Menu Incentive under the Density Bonus program.” (Recommendation Report, p. A-5.)

The Site Plan Review Findings instead suggest the Project would be permitted to be 45’ 5” high, which substantially exceeds the 41’ height limit admitted by the Recommendation Report as appropriate for a C2-1XL-CPIO zoned property requesting a density bonus height incentive. This is grossly inaccurate.

The Site Plan Review Findings are also premised on the incorrect conclusion that a 2.65:1 FAR is permissible. (Recommendation Report, p. F-9.) As discussed above, that is not correct.

Finally, the Site Plan Review approval necessarily relies on the Project site plan attached to the Recommendation Report as Exhibit A. Several of the site plan pages are inaccurate in that they purport to show Grand Avenue, which is minimally hundreds of feet to the west of the Project site, is located directly adjacent to west side of the Project. (See, e.g., site plan sheets A2.0 and A3.2.) The Project site plans must be corrected and resubmitted before they can be approved.

Based on these inaccuracies, the Site Plan Review Findings are incorrect and inadequate and do not support approval of the Site Plan Review entitlement.

## **II. The Proposed Class 32 Categorical Exemption is Inapplicable to the Project.**

The proposed class 32 categorical exemption is not available to the Project. Pursuant to the California Environmental Quality Act (CEQA), the class 32 exemption is allowed only for projects that are “consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designations and regulations.” (14 Cal. Code Regs. [hereafter “CEQA Guidelines”] § 15332(a).) As described at length above, the Project as proposed does not comply with all applicable zoning code regulations, as it must.

The specific zoning provisions to which the Project does not comply include numerous provisions within the City’s density bonus ordinance. (See LAMC § 12.25.A(25)). For example, the Project does not qualify for a FAR density bonus incentive in excess of 35% of the base FAR, but the Recommendation supports grant of a 2.65:1 FAR, much greater than a 35% FAR bonus. In addition, the Waiver of Development Standards incentive purports to allow a project height of 45’ 5” in lieu of the otherwise applicable 30’ of the underlying zone and Community Plan, but the available density bonus height incentive is limited to the lesser of 11 feet or one

additional story for a total of 41 feet. The Site Plan Review Finding admits that the “proposed project massing exceeds the existing prevailing development pattern” and falsely asserts “the overall height is comparable to the maximum building height allowable under the On-Menu Density Bonus Program.” (Recommendation Report, p. F-9.) But the Recommendation Report also admits the Project “would be allowed an 11-foot height increase for a maximum 41-foot building height through an On-Menu Incentive under the Density Bonus program.” (*Id.*, p. A-5.)

Any one of the above inconsistencies is sufficient to defeat use of the categorical exemption. Because the Project is not consistent with all applicable zoning code regulations, especially the City’s density bonus ordinance, and the San Pedro Community Plan, the class 32 exemption cannot be used. To approve the Project, the City must undertake adequate environmental review.

Even if the class 32 categorical exemption were available to this Project, and it is not, the cumulative impact exception found in CEQA Guidelines section 15300.2(b) would apply and defeat its application. (“All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.”)

The Justification for Project Exemption (“Justification”) acknowledges that a proposed project exists “approximately one-half mile from the subject site, located at 2111-2139 S. Pacific Avenue (Case No. CPC-2019-4884-CUB-CB-SPR), which is proposed for the construction of a 4-story mixed-use building containing 100 dwelling units and approximately 1,997 square feet of ground-floor retail.” (Justification, p. 4.)<sup>6</sup> The Justification goes on to state: “the project at 2111-2139 South Pacific Avenue is not adjacent to nor within 500 feet of the subject site, and does not constitute a project in [sic] the same type and place as the subject project.” (*Ibid.*) But the Justification cites a fictitious legal standard in disregarding the second project because it is not adjacent or within 500 feet. There is no such legal standard found in the Public Resources Code, CEQA Guidelines, or California law that says a similar project cannot be considered as being a successive project in the same place for purposes of Guidelines section 15300.2(b) if it is not adjacent or within 500 feet.

In *Robinson v. City and County of San Francisco*, the Court acknowledged that the “meaning of the term ‘the same place’ . . . is not self-evident.” (*Robinson v. City and County of San Francisco* (2012) 208 Cal.App.4th 950, 958.) The *Robinson* Court noted:

Given the overall purpose and logic of CEQA and the Guidelines, we construe “the same place” to refer to an area *whose size and configuration depend on the nature of the potential environmental impact of the specific project under consideration*. For example, in determining whether there may be a cumulative impact from an otherwise categorically exempt project that may affect water quality in a stream, consideration must be given to potential similar projects located in the watershed of the same stream. For a project producing noise pollution, the area to be considered would be that within which the noise could be expected to be audible. (208 Cal.App.4th at 959 [emphasis added].)

---

<sup>6</sup> Using the distance-measuring tool available on Google maps, it is evident that the two projects are approximately 2,400 linear feet apart, slightly less than half a mile (which is 2,640 feet).

The 2111-2139 S. Pacific project is remarkably similar to the instant Project. Both have the same applicant and representative. Both are four stories, both have a proposed height of 45' 5", both have approximately 100 residential units, both are located on Pacific Avenue in San Pedro, both are located on C2-1XL-CPIO zoned lots, and both have approximately 20,000 cubic yards of grading export (and likely will share a similar, if not identical, haul route).<sup>7</sup>

But the companion project is not the only project the City should consider for its potentially significant cumulative impacts with the Project. A recent article published in San Pedro Today lists the Project, its companion at 2111-2139 S. Pacific Avenue, and *ten* other local housing developments planned for San Pedro.<sup>8</sup> The cumulative impact analysis considers only the Project, and entirely disregards 2111-2139 S. Pacific as not of the same type or in the same place because it is not adjacent or within 500 feet, a fictional legal standard.

The potentially significant cumulative impacts here are those identified in this letter with respect to land use impacts due to Project conflicts with the zoning code and community plan, as well as public comments already in the record with respect to parking, traffic, air quality, and haul route impacts, among others. Under the standard explained in *Robinson*, at least the two companion projects must be considered as potentially cumulatively considerable. The City's failure to identify any other local projects despite public awareness of their pendency evinces a complete disregard for the thorough preliminary review required to justify use of a categorical exemption for the Project. The cumulative impact analysis fails entirely to identify or consider any past projects or likely future projects and is thus inadequate.

### III. Conclusion.

For all the reasons described above, as well as the additional reasons described in the numerous objection letters and public comments received to date, Citizens Preserving San Pedro respectfully urges the Planning Commission to deny all requested entitlements and reject the proffered categorical exemption for the Project.

Sincerely,



John Given

<sup>7</sup> City Planning Commission cancellation notice, CPC-2019-4884-CU-DB-SPR (attached). The cancellation notice shows the 2111-2139 S Pacific Ave. project description including the details described.

<sup>8</sup> Steve Marconi, *If You Think Traffic Is Bad Now, Just Wait*, San Pedro Today, March 3, 2020, available at <https://sanpedrotoday.com/if-you-think-traffic-is-bad-now-just-wait/> (and attached).



CITY OF LOS ANGELES  
 DEPARTMENT OF CITY PLANNING  
 City Hall 200 North Spring Street Los Angeles CA 90012  
**NOTICE OF PUBLIC HEARING**

To Owners:  Within a 100-Foot Radius  
 Within a 500-Foot Radius  
 Abutting a Proposed Development Site

And Occupants:  Within a 100-Foot Radius  
 Within a 500-Foot Radius  
 And:  Interested Parties/Others

## CANCELLATION

**The public hearing for the below project that had been scheduled for March 12 before the City Planning Commission has been cancelled. The public hearing for the project will be rescheduled to a date uncertain. Subsequent noticing will be sent out with the new hearing date, time, and location.**

~~This notice is sent to you because you own property or are an occupant residing near a site for which an application was filed with the Department of City Planning. All interested persons are invited to attend the public hearing where you may listen, ask questions, and/or present testimony regarding the project. The environmental document, will be among the matters considered at the hearing. The hearing officer or decision-maker may consider all the testimony presented at the hearing, written communications received prior to or at the hearing, and the merits of the project as it relates to existing environmental and land use regulations. Please note that your attendance at the hearing is optional. This notice is for a second public hearing for this project. The notice includes modifications to the project's requested actions and project description as underlined below.~~

**Project Site:** 2111 – 2139 S. Pacific Avenue

**Case No.** CPC-2019-4884-CU-DB-SPR

**CEQA No.** ENV-2019-4885-CE

**Held By:** City Planning Commission

**Date:** ~~March 12, 2020~~

**Time:** ~~After 8:30 a.m.~~

**Place:** Los Angeles City Hall  
 Council Chambers, Room 340  
 200 N. Spring St., Los Angeles, CA 90012  
 (Please use the 201 N. Main St. entrance)

**Staff Contact:** Shannon Ryan, City Planner  
 200 N. Spring Street, Room 720  
 Los Angeles, CA 90012  
 Shannon.Ryan@lacity.org  
 (213) 978-1322

**Council District:** 15 - Buscaino

**Related Cases:** None

**Plan Area:** San Pedro

**Zone:** C2-1XL-CPIO

**Plan Overlay:** San Pedro CPIO: Coastal Commercial A

**Land Use:** Neighborhood Commercial

**Applicant:** RKD 2111 Pacific, LLC

**Representative:** Jonathan Lonner, Kristen Lonner, Josh Guyer, and Dave Zohn, Burns & Bouchard, Inc.

**PROPOSED PROJECT:**

Demolition and removal of all existing uses on the Project Site, and the development of a new 4-story, 45-foot and 5-inch tall mixed-use building comprised of 100 dwelling units (including 11 units restricted to Very Low Income Households) with two retail spaces (994 sq. ft. and 1,003 sq. ft.). The project will provide 75 parking spaces in 2 subterranean levels and 75 long term and 8 short term bicycle parking spaces. The project will be 77,945 square feet in floor area and have a Floor Area Ratio (FAR) of 3.26:1. The project will cover an entire block face and is separated by adjacent residential uses via an alley. The site is currently improved with a 1,490 sq. ft. single tenant bar, surface parking lot, and vacant lot, with 10 trees on the subject site and 11 trees along the public right-of-way, all of which will be removed to clear the lot. The project proposes 20,000 cubic yards of grading and the export of 20,000 cubic yards of soil.

**REQUESTED ACTION(S):** *The Hearing Officer shall consider:*

1. Pursuant to CEQA Guidelines, Section 15332, Class 32, an Exemption from CEQA and that there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies; and
2. Pursuant to Section 12.22 A.25(g)(3) of the Los Angeles Municipal Code, a Density Bonus/Affordable Housing Incentive Program Review to permit the following Off-Menu Incentives for a Housing Development Project totaling 100 units, reserving 11 units for Very Low Income Households for a period of 55 years:

March 2020  
San Pedro Today *all together*

# IF YOU THINK TRAFFIC IS BAD NOW, JUST WAIT

by Steve Marconi



It's an analogy appropriate for the town that was once the nation's fishing capital, but apparently housing developers want San Pedrans packed in like sardines.

To get a clear picture of the horror descending on our once sleepy little town, check out urbanize.la online and click on San Pedro (warning: graphic visuals). For those who don't do computers, here's a rundown on under-construction or planned housing for the near future:

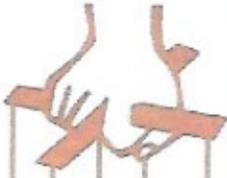
- 111 N. Harbor Blvd., 120 units, seven stories
- 407 N. Harbor Blvd., 63 units, six stories
- 511 N. Harbor Blvd., 137 units,

- eight stories (The Grinder location)
- 222 W. 6th St., 228 units (replacing commercial in the Topaz building)
- 1300 block of Pacific Ave., 102 units, four stories *1309 Pacific*
- 337 W. 7th St., 32 units, five stories
- 444 W. 5th St., 99 units, eight stories
- 420 W. 9th St., 56 units
- 500 block of S. Palos Verdes St., 375 units, seven stories
- 2100 block of Pacific Ave., 101 units, four stories *2111 Pacific*
- 200 block of 8th St., 24 townhomes, three stories
- 1801 Mesa, 22 townhomes, three stories

That's 12 — count 'em, 12 — new housing developments. And it's noteworthy that none of them are in what some real estate agents would call a desirable area. Even those

**We Have 7 HDTVs to see all the games!**  
**Now with 6 beers on tap!**

Choose from  
 Pizza • Appetizers  
 Salads • Sandwiches  
 Calzones • Pasta Dishes  
 Dinner Entrees & Desserts



**GF** **Big Nick's**  
 Gluten Free Pizza  
 Crust is here!

**FAST DELIVERY**  
**310.732.5800** **Pizza**

<p><b>What A Deal!</b></p> <p>Pick Up Special          Large 1 Topping  <b>\$11<sup>99</sup></b></p> <p><small>Not valid with any other offer          excludes gourmet toppings &amp;          extra cheese 310.732-5800          Limited time only.</small></p>	<p><b>Me Familia</b></p> <p>Large Pizza          with up to 2 Toppings          1 Dozen Wings &amp; 2 Liter Soda  <b>\$29<sup>99</sup></b></p> <p><small>Not valid with any other offer          excludes gourmet toppings &amp;          extra cheese 310.732-5800          Limited time only.</small></p>	<p><b>Double Trouble</b></p> <p>2 Large Pizzas          with up to 2 Toppings each  <b>\$27<sup>99</sup></b></p> <p><small>Not valid with any other offer          excludes gourmet toppings &amp;          extra cheese 310.732-5800          Limited time only.</small></p>
---	---	---

with harbor views are bordered by arguably some of San Pedro's more questionable neighborhoods. And I doubt that "homeless encampment views" is included in the sales brochure for the townhomes on 8th Street, which reportedly are starting at nearly \$800,000. Good luck with that.

Here's the bottom line: 1,313 apartments and 46 townhomes.

Figuring a minimum of three people for each townhome and two per apartment (some units are studios), that's an increase in population of 2,764.

Figuring two cars for each townhome and just one for each tenant, which you know is low, that's an additional 1,405 cars, and if you're paying attention, all those new units are between Pacific and Harbor Boulevard. You can picture for yourself the parking nightmare, even with the planned garages.

Can you say urban disaster? I used to think San Pedro had a density limit, but apparently not, and as for zoning, I guess some of those developments are getting around it by having retail on the bottom floor. Adding retail to lower San Pedro, where it seems every other storefront is vacant now, sounds like a bad joke.

I'm sure local business is excited by the prospects of all these new customers, but what about the rest of us, the vast majority of San Pedrans who live here and already face gridlock on a daily basis? We all know there is a housing shortage in Southern California and rents, especially in San Pedro, are through the roof, but there is no doubt all these new developments will negatively impact our quality of life. Some will say this is just a NIMBY attitude. It is, because San Pedro's backyards are full and have been for some time.

The road diet on south Pacific already makes life miserable for Point Fermin residents. Gaffey at rush hour is almost impossible now with cars going on and coming off the 110. What will Gaffey be like when all those new residents on the Pacific corridor want to get on the freeway? Or Harbor Boulevard, already a traffic jam for special events on the waterfront and without the Public Market.

Our infrastructure can't handle

the current population. Just look at northwest San Pedro.

I thought maybe I was done ranting about Western Avenue after last month's column, but like Western Avenue itself, I'm far from done.

I almost choked on my morning coffee when I read "the worst is over" in our "local" paper after Western Avenue was down to one lane for most of January for work on medians.

Only someone who doesn't live in the area, like most of our developers, would say something that dumb. The worst is far from over, folks. What's it going to be like when those 800 units open at Ponte Vista? We're talking a minimum of 1,600 cars (two per household) added to Western Avenue traffic, which can't handle the current load. And adding a new light at Peninsula Verde Drive? How's that going to improve traffic flow from Ponte Vista to Palos Verdes Drive North? I'm sure that light is being put in just for the handful of people who live on Peninsula Verde, because without it, how would they ever get out once Ponte Vista is done?

The best we can hope for is that residents of Ponte Vista will resist the urge to drive their children the few blocks to Dodson and Taper Avenue schools and let them walk or ride bicycles (do kids do that anymore?).

And the "genius" traffic engineers who have created this mess have decided that the solution to the congestion at Taper Avenue and Westmont when Mary Star lets out is to close the Taper gate and funnel all of the Mary Star cars onto Western. Of course, that doesn't solve the problem, it just moves it from one street to another.

Is it any wonder more and more San Pedrans are moving away or thinking of leaving? This beautiful town that we love so much is disappearing. Those hilarious tsunami warnings along the waterfront no longer seem so funny. A tidal wave of people and vehicles will soon make this town unlivable. ugh!

Steve Marconi can be reached at [spmarconi@yahoo.com](mailto:spmarconi@yahoo.com).

# EXHIBIT C

SPECIFIC CASE TYPES - APPEAL FILING INFORMATION

C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)

1. Density Bonus/TOC

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

NOTE:

- Density Bonus/TOC cases, only the on menu or additional incentives items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.

- Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

D. WAIVER OF DEDICATION AND OR IMPROVEMENT

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

NOTE:

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

E. TENTATIVE TRACT/VESTING

1. Tentative Tract/Vesting - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- Provide a copy of the written determination letter from Commission.

F. BUILDING AND SAFETY DETERMINATION

1. Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

a. Appeal Fee

- Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

b. Notice Requirement

- Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

2. Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.

a. Appeal Fee

- Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

b. Notice Requirement

- Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.



# LOS ANGELES CITY PLANNING COMMISSION

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

## LETTER OF DETERMINATION

MAILING DATE: **MAY 05 2020**

Case No. CPC-2019-4908-DB-SPR  
CEQA: ENV-2019-4909-CE  
Plan Area: San Pedro

Council District: 15 – Buscaino

**Project Site:** 1309 – 1331 South Pacific Avenue  
**Applicant:** RKD 13 PAC., LP  
Representative: Jonathan Lonner, Kristen Lonner,  
Josh Guyer, and Dave Zohn, Burns & Bouchard, Inc.

At its meeting of **April 23, 2020**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following project:

Construction of a four-story, 45-foot and five-inch tall residential building comprised of 102 dwelling units (including 12 Very Low Income units). The Project will be approximately 83,158 square feet in floor area with a Floor Area Ratio (FAR) of 2.65:1. The Project will provide 127 parking spaces in two subterranean levels. The site is currently improved with three vacant commercial structures, with 26 trees on the subject site and four trees along the public right-of-way, all of which will be removed to clear the lot. The Project will also involve the grading of approximately 2,500 cubic yards of soil.

1. **Determined**, that based on the whole of the administrative record, the Project is exempt from CEQA pursuant to CEQA Guidelines, Article 19, Section 15332, Class 32, and that 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 12.22 A.25(g)(3) of the Los Angeles Municipal Code (LAMC), a Density Bonus Compliance Review for a project totaling 102 dwelling units and reserving 15 percent of the base dwelling units, or 12 dwelling units, for Very Low Income Household occupancy for a period of 55 years, with the following three On- and Off- Menu Incentives:
  - a. A 2.65:1 FAR in lieu of the 1.5:1 otherwise permitted by the C2-1XL-CPIO Zone and San Pedro Community Plan Implementation Overlay (CPIO) Section IV-2.B;
  - b. A 20 percent reduction in the required open space, to allow 8,831 square feet in lieu of the 10,950 square feet otherwise required by LAMC Section 12.21 G; and
  - c. A 5-foot rear yard setback in lieu of the 16 feet otherwise required by the C2-1XL-CPIO Zone;
3. **Approved**, pursuant to LAMC Section 12.22 A.25(g)(3), the following one Waiver of Development Standard:
  - a. A 45-foot and 5-inch building height in lieu of the 30 feet otherwise permitted by the C2-1XL-CPIO Zone and CPIO Section IV-2.A.2.
4. **Approved**, pursuant to LAMC Section 16.05, a Site Plan Review for a development project which creates, or results in an increase of, 50 or more dwelling units;
5. **Adopted** the attached Conditions of Approval; and

6. **Adopted** the attached Findings.

The vote proceeded as follows:

Moved: Perlman  
Second: Millman  
Ayes: Ambroz, Choe, Khorsand, Leung, Mack, Mitchell, Padilla-Campos

**Vote: 9 – 0**



Cecilia Lamas, Commission Executive Assistant  
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 Incentives is not appealable. All remaining actions are appealable to the Los Angeles City Council 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; 6262 Van Nuys Boulevard, Suite 251, Van Nuys; or 1828 Sawtelle Boulevard, West Los Angeles.

**FINAL APPEAL DATE: MAY 20 2020**

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, Interim Appeal Filing Procedures

c: Faisal Roble, Principal Planner  
Michelle Singh, Senior City Planner  
Connie Chauv, City Planner

# LAMC 12.22 A.25

based upon substantial evidence, makes either of the two findings set forth in Subparagraph (2)(i)(c), above.

## (3) Requests for Waiver or Modification of any Development Standard(s) Not on the Menu.



(i) For Housing Development Projects that qualify for a Density Bonus and for which the applicant requests a waiver or modification of any development standard(s) that is not included on the Menu of Incentives in Paragraph (f), above, and that are not subject to other discretionary applications, the following shall apply:

a. The request shall be made on a form provided by the Department of City Planning, accompanied by applicable fees, and shall include a pro forma or other documentation to show that the waiver or modification of any development standard(s) are needed in order to make the Restricted Affordable Units economically feasible.

b. Notice and Hearing. The application shall follow the procedures for conditional uses set forth in Section 12.24 D of this Code. A public hearing shall be held by the City Planning Commission or its designee. The decision of the City Planning Commission shall be final.

c. The City Planning Commission shall approve a Density Bonus and requested waiver or modification of any development standard(s) unless the Commission, based upon substantial evidence, makes either of the two findings set forth in Subparagraph (g)(2)(i)(c), above.

(ii) For Housing Development Projects requesting the waiver or modification of any development standard(s) not included on the Menu of Incentives in Paragraph (f) above, and which include other discretionary applications, the following shall apply:

a. The applicable procedures set forth in Section 12.36 of this Code shall apply.

b. The decision must include a separate section clearly labeled "Density Bonus/Affordable Housing Incentives Program Determination."

c. The decision-maker shall approve a Density Bonus and requested waiver or modification of any development standard(s) unless the decision-maker, based upon

# EXHIBIT D

### Section 3: PURPOSES

The purposes of the San Pedro CPIO District are as follows:

- A. To provide supplemental development regulations tailored to the Community Plan Area to ensure that development enhances the unique architectural, environmental, and cultural qualities of the Community Plan Area, integrates improvements and enhancements to the public rights-of-way, and maintains compatible land uses, and appropriate development scale, intensity, and density;
- B. To create land use approval processes, including a ministerial administrative clearance process, which enables infill development that will positively impact communities in conformance with these regulations;
- C. To implement the goals and policies of the San Pedro Community Plan;
- D. To ensure that new development complements the traditional character of San Pedro and reflects high quality design and materials;
- E. To enhance the appearance and function of multifamily, commercial, and industrial districts;
- F. To limit non-industrial uses in industrial districts and incentivize clean technology/green technology uses to foster economic development;
- G. To reinforce the vibrancy of districts through pedestrian-oriented design and development;
- H. To facilitate an active, safe and inviting ground floor and pedestrian environment;
- I. To limit inappropriate auto-oriented uses in certain districts;
- J. To protect residential neighborhoods with transition requirements that address height, scale and compatibility;
- K. To improve the appearance of signs, facades and the interface between buildings and the pedestrian environment; and
- L. To incorporate sustainability principles and improve access to, and amenities for, a variety of mobility options.

...

## APPENDIX B – DESIGN GUIDELINES

### I. COMMERCIAL AND MIXED-USE DESIGN GUIDELINES

#### A. SITE PLANNING

Site planning involves the proper placement and orientation of structures, open spaces, parking, and pedestrian and vehicular circulation on a given site. The purpose of good site design is to create functional and attractive development, to minimize adverse impacts on the neighborhood, and to ensure that a new development project will be an asset to the community.

Proper site planning should promote harmony between new and existing buildings and be sensitive to the scale, form, height, and proportion of surrounding development. Good design with complementary landscaping is a major component of vibrant commercial areas that foster a pleasant and desirable character, pedestrian activity and economic vitality.

#### GUIDELINE A-1. Building Orientation and Frontage

- a. Buildings should be positioned to promote pedestrian activity along the public right-of-way by placing business entrances at the street level. Development projects should not be designed to face inward but rather should be oriented towards the street to maintain the pedestrian-oriented character of Downtown San Pedro.
- b. All primary building entrances should be oriented towards the street.
- c. Corner buildings should be built to front and side lot lines with allowances for a "visibility triangle" as required by Chapter 1, Section 12.21.C.7 of the Los Angeles Municipal Code (LAMC). Corner buildings at street intersections should have corner entrances that emphasize the location of the building at the intersection.
- d. Parking structures should be located to the rear of the site and integrated with ground floor retail uses. Such parking structures should be visually compatible with other structures associated with the development project, in terms of materials, colors, and other design elements.

#### GUIDELINE A-2. Setbacks

- a. Development projects should locate new buildings at the front property lot line or close to it in order to provide an inviting pedestrian environment and streetwall continuity. Development projects should encourage active public uses by incorporating additional street trees, outdoor seating areas, kiosks, forecourts and Arcades within any additional setback areas.
- b. Buildings should be stepped back from the street to minimize bulk and height impacts at the pedestrian level. A stepback should occur at a minimum height of 35 feet, and be a minimum of four feet in depth. The stepback should be varied both vertically and

# EXHIBIT E

From: Noel Gould aquarianstudios@hotmail.com  
Subject: CPC-2019-4908-DB-SPR & ENV-2019-4909-CE (1309-1331 Pacific)  
Date: April 21, 2020 at 1:40 AM  
To: cpc@lacity.org  
Cc: Connie Chauv connie.chauv@lacity.org



Honorable Commissioners,

The following excerpt regarding due process is quoted from a July 25, 2019 article by Mary Ann Heidemann, Michigan State University and is extremely apropos regarding the case scheduled to be before you on April 23, 2020, CPC-2019-4908-DB-SPR & ENV-2019-4909-CE (1309-1331 Pacific).

## Procedural Due Process

Procedural Due Process requires a minimum standard of fairness during the process of making public decisions that impact private rights. Relevant standards include proper public notice; a fair hearing presenting of all sides of an issue; reasonable and impartial standards for decision-making; accurate and accessible public records, and assurance that public decision-makers act without bias or conflict of interest including avoidance of *ex parte* contact.

While some aspects of procedural due process can seem overly detailed or just technicalities, ***the importance of assuring procedural compliance cannot be over-emphasized. Violation of procedural due process is the most common way that planning and zoning decisions have been successfully challenged.***

## Substantive Due Process

Substantive Due Process tends to invoke more generalized requirements for planning and zoning decisions. Substantive due process protects private citizens against arbitrary or capricious public decisions. Substantive due process requires that regulations have a rational basis for their adoption, and are reasonably related to public health, safety and welfare concerns;

***The requirement that zoning regulations be supported by a master plan that provides a sound rationale for regulation*** can be seen as an expression of substantive due process. ***For this reason an adopted plan is an important basis for zoning regulations***, even in states where state law does not require zoning to be based on a plan.

Mary Ann Heidemann, Michigan State University

It is a violation of procedural due process to have this hearing during a worldwide

pandemic with a statewide stay at home order in place, thus the hearing must be continued to a date uncertain until the pandemic abates. There's no way the public can have a fair hearing via zoom, as many people are excluded either socioeconomically or are technophobic. Furthermore, testimony via phone or video has only a fraction of the impact of in person delivery. Public records are neither accessible, since planning offices are closed, nor accurate, for example p.8 of their plans shows the project spanning the entire area from Pacific Ave to Grand Ave which is a gross misrepresentation as is yet fails to show the numerous adjacent residential homes, over which this development towers, one of the main issues of the project, and this is only one of a plethora of misleading documents supplied by this developer, see attached showing major error in Exhibit A. In addition, since procedural due process "requires a minimum standard of fairness during the process of making public decisions", this and its companion project by the same developer seven blocks south at 2111 Pacific (CPC-2019-4884-CU-DB-SPR/ENV-2019-4885-CE) MUST be considered together at the same hearing lest cumulative impact issues not be correctly considered.

This project is also in violation of substantive due process because it's "required that zoning regulations be supported by a master plan that provides a sound rationale for regulation, and for this reason an adopted plan is an important basis for zoning regulations." San Pedro has a recently adopted Community Plan that also includes a CPIO granting far more expansive land uses than normally permitted, however this applicant had demanded, and City Planning has condoned, major off menu items that if approved by the CPC significantly override both the San Pedro Community Plan and the CPIO, and will permanently destroy the maritime character and charm for which San Pedro is famous. The project will block sunsets, sunrises, and shade blocks of residential homes, and it will TOWER over the entire neighborhood. This project would be more appropriate for downtown San Pedro, but not this section of the Pacific corridor, and it does little to solve our housing crisis, as the vast majority of units are market rate that remain unaffordable for most of the residents in the area. Furthermore, this is not a transit oriented community, as none of the METRO lines operate more regularly than every 23 minutes during peak hours, and the requirement is 15 minutes or less.

In summary, please continue this hearing and re-schedule it to be heard at the same time with 2111 Pacific when it's safe for the public to attend, and when we're able to access all the necessary records.

Sincerely,

Noel Gould

310-625-1157

aquarianstudios@hotmail.com

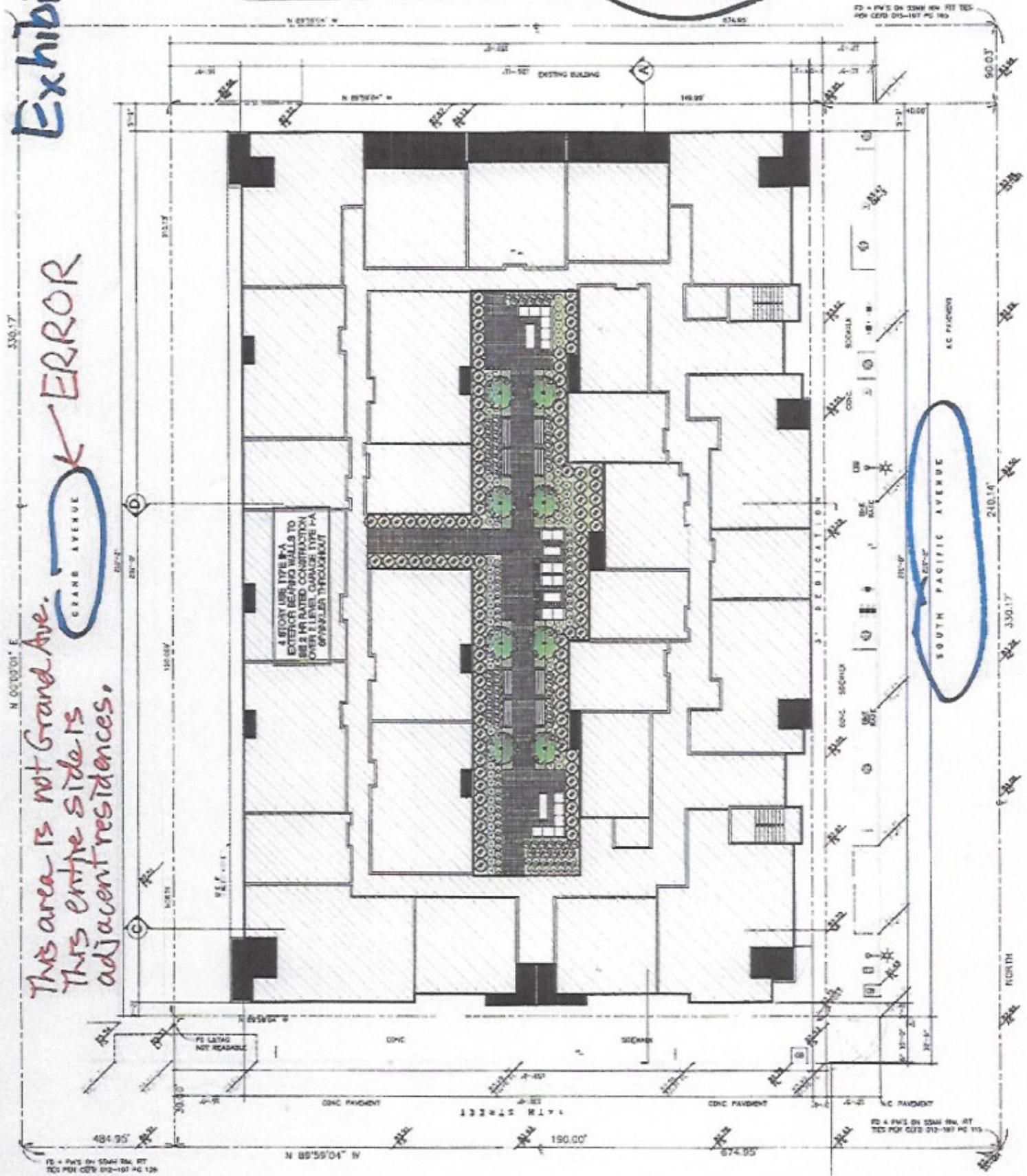


Exhibit A

This area is not Grand Ave.  
This entire side is adjacent residences.

GRAND AVENUE

SITE PLAN  
3/32"=1'-0"



330.17

N 00°03'01" E

15 - PWS ON 5047 RM, RT  
TDS FOR CUBS 012-197 PG 126

N 88°59'04" W

1333 R ST

15 - PWS ON 5047 RM, RT  
TDS FOR CUBS 012-197 PG 115

15 - PWS ON 5047 RM, RT  
TDS FOR CUBS 012-197 PG 160



SOUTH PACIFIC AVENUE



From: Robin Rudisill wildrudi@icloud.com  
Subject: Item 5.a./CPC-2019-4908-DB-SPR/1309-1331 Pacific  
Date: April 23, 2020 at 8:12 AM  
To: cpc@lacity.org  
Cc: Cecilia Lamas cecilia.lamas@lacity.org



Hi Cecelia,

*I am worried about timing and whether the Commissioners will be able to hear me well, etc, so here are my remarks for Item 5. so that they can follow along while I am speaking:*

Honorable L.A. City Planning Commissioners,

I have a hot tip for you – when you look at the applicant’s presentation you’ll see that it’s very clear that they go to great pains not to provide you an elevation that shows the project up against the adjacent residential neighborhood. The only views they provided you are from the side and front, as if there is not an entire block of adjacent homes at all!

Also, the official Exhibit A plans are grossly misleading as every single page of the plans shows that the two long sides of the project front both Pacific and Grand Avenues! This hides the fact that the project is adjacent to and will tower over an entire block of fairly low scale residences, which is one of the biggest issues of this project!

They're not just requesting a little over the maximums allowed, they're requesting a 52% height bonus and a 77% FAR bonus. That is way over the top and outrageous, especially considering the bare minimum of affordable housing they're providing, which clearly does not require the extraordinary level of density bonuses requested.

But the absolute showstopper here is that not only does the project violate the density bonus law, it creates a significant conflict with the recently approved San Pedro Community Plan, both of which prevent the use of a Categorical Exemption under the CEQA law.

The other critical CEQA issue is that cumulative impacts have not been correctly analyzed. There is no analysis of the almost identical simultaneous project by these same developers just up the street and also the ten other local housing developments in the works for San Pedro, as summarized in the recent article "If You Think Traffic is Bad Now, Just Wait" in the "San Pedro Today". The cumulative impacts analysis fails to identify or consider any past projects or any of these numerous, impactful pending projects or likely future projects, and thus it does not meet CEQA's requirements.

We are in favor of a development here but the City must not allow a project that does not adhere to the law and that is so egregious to become a precedent for San Pedro.

PLEASE deny this project as proposed or send it back for an MND or EIR to be prepared and the necessary corrections and changes to the project to be made.

*For the Love of Los Angeles  
and our precious Coast,*  
Robin Rudisill  
(310) 721-2343