



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- ☐ Area Planning Commission ☐ City Planning Commission ☒ City Council ☐ Director of Planning
☐ Zoning Administrator

Regarding Case Number: CPC-2019-4908-DB-SPR; ENV-2019-4909-CE

Project Address: 1309-1331 S. Pacific Ave, San Pedro

Final Date to Appeal: 05/20/2020

2. APPELLANT

Appellant Identity:
(check all that apply)

- ☐ Representative ☐ Property Owner
☐ Applicant ☐ Operator of the Use/Site

☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved

☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: Citizens Protecting San Pedro

Company/Organization: See separate appeal forms for additional individual adjacent appellants

Mailing Address: 728 Paseo del Mar

City: San Pedro State: CA Zip: 90731

Telephone: 310-625-1157 E-mail: aquarianstudios@hotmail.com

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

☒ Self ☐ Other: _____

b. Is the appeal being filed to support the original applicant's position? ☐ Yes ☒ No

4. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): _____

Company: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

5. JUSTIFICATION/REASON FOR APPEAL

a. Is the entire decision, or only parts of it being appealed? ☒ Entire ☐ Part

b. Are specific conditions of approval being appealed? ☐ Yes ☒ No

If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- ☒ The reason for the appeal ☒ How you are aggrieved by the decision
☒ Specifically the points at issue ☒ Why you believe the decision-maker erred or abused their discretion

6. APPLICANT'S AFFIDAVIT

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

Appellant Signature: Robin Rudinoff on behalf of Citizens Protecting San Pedro Date: May 20, 2020
Robin Rudinoff, on behalf of Citizens Protecting San Pedro (May 20, 2020 12:31 PDT)

GENERAL APPEAL FILING REQUIREMENTS

B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES

1. Appeal Documents

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates)
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c. Appeal Fee

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

d. Notice Requirement

- ☐ Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
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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.

G. NUISANCE ABATEMENT

1. Nuisance Abatement - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

a. Appeal Fee

- ☐ Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

2. Plan Approval/Compliance Review

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

a. Appeal Fee

- ☐ Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.
- ☐ Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

NOTES

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

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

This Section for City Planning Staff Use Only		
Base Fee: 89-	Reviewed & Accepted by (DSC Planner): S. Wilson	Date: 5/20/20
Receipt No: 64370 P	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)







Appeal Application

Final Audit Report

2020-05-20

Created:	2020-05-20
By:	Planning Intranet (planning.intranet@lacity.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgM9qNCjQGMyTkJqXoSbxM02sMGxOFxCb

"Appeal Application" History

-  Web Form created by Planning Intranet (planning.intranet@lacity.org)
2020-04-17 - 11:54:27 PM GMT
-  Web Form filled in by Robin Rudisill, on behalf of Citizens Protecting San Pedro (wildrudi@mac.com)
2020-05-20 - 7:31:32 PM GMT- IP address: 75.82.207.91
-  Document emailed to Robin Rudisill, on behalf of Citizens Protecting San Pedro (wildrudi@mac.com) for signature
2020-05-20 - 7:31:34 PM GMT
-  Email viewed by Robin Rudisill, on behalf of Citizens Protecting San Pedro (wildrudi@mac.com)
2020-05-20 - 7:31:50 PM GMT- IP address: 75.82.207.91
-  E-signature verified by Robin Rudisill, on behalf of Citizens Protecting San Pedro (wildrudi@mac.com)
2020-05-20 - 7:31:54 PM GMT- IP address: 75.82.207.91
-  Signed document emailed to Robin Rudisill, on behalf of Citizens Protecting San Pedro (wildrudi@mac.com) and Planning Intranet (planning.intranet@lacity.org)
2020-05-20 - 7:31:54 PM GMT



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Adobe Sign



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- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: Alfredo Ramirez

Company/Organization: Citizens Protecting San Pedro

Mailing Address: 531 - W 13th St

City: San Pedro State: CA Zip: 90731

Telephone: 424-269-7331 E-mail: _____

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☒ Self ☐ Other: _____

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

Appellant Signature: Adriano Date: 5-17-20

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☐ Applicant ☐ Operator of the Use/Site

☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved

☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: Victor Perez

Company/Organization: Citizens Protecting San Pedro

Mailing Address: 529 W 13th St

City: San Pedro State: CA Zip: 90731

Telephone: 310-925-3208 E-mail: remodelingvape3co@live.com

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

☒ Self ☐ Other: _____

b. Is the appeal being filed to support the original applicant's position? ☐ Yes ☒ No

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Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

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

Appellant Signature: _____

Date: May-17-2020

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☐ Applicant

☐ Operator

APPELLANT INFORMATION

Appellant's Name: _____

Victor Perez

Company/Organization: _____

Citizens Protecting San

Mailing Address _____

City: _____

San

Telephone: _____

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Appellant's Name: Macrina Saez

Company/Organization: Citizens Protecting San Pedro

Mailing Address: 528 W. 14th St.

City: San Pedro State: CA Zip: 90731

Telephone: (310) 872-6744 E-mail: creena26@yahoo

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3. APPELLANT INFORMATION

Appellant's Name: LAURIE STEELINK

Company/Organization: CITIZENS FOR PROTECTING SAN PEDRO

Mailing Address: 1417 S. PACIFIC AVENUE

City: SAN PEDRO State: CA Zip: 90731

Telephone: (310) 266-9216 E-mail: corneliusprojects@gmail.com

Fill Out

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Issue Date: Apr 16, 2020
Account Number: 198679691

Payment information below, bill details begin on the next page

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Only select AT&T TV services are available in select markets. Some services may require additional equipment or third-party app. See atandt.com for details.

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Find what you love with a simple voice command

- All your favorite entertainment together in one place, including **Live TV & Sports**, On Demand, Cloud DVR and access to **HBO**, **Netflix**, **Pandora** and more! See atandt.com for details.
- Our voice remote comes complete with **the Google Assistant**, so you can search for entertainment, control your TV and smart home devices, and more - all with your voice. Requires internet connection and compatible device. See atandt.com for details.
- Record 500 hours to your **Cloud DVR** and access it on the go. Requires AT&T TV service. See atandt.com for details.
- **Stream** your favorite entertainment anytime, anywhere. Requires internet connection and compatible device. See atandt.com for details.

We appreciate having you as a loyal customer and we look forward to hearing from you soon. Your AT&T team

CALL 844.865.5954 CLICK att.com/NewBestTV VISIT your local AT&T store

See us at all AT&T stores. See atandt.com for details.



Return this portion with your check in the enclosed envelope. Payments may take 7 days to post.

LAURE STEELINK
1417 S PACIFIC AVE
SAN PEDRO CA 90731-4702

☐ CHECK FOR AUTOPAY
(SEE REVERSE)

Account Number: [REDACTED]
Please include account number on your check.
Make check payable to:
AT&T
PO BOX 5014
CAROL STREAM, IL 60147-5014



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☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: Nickie Tan/Jared Leibowitz

Company/Organization: Citizens Protecting San Pedro

Mailing Address: 524 W 14th St

City: San Pedro State: CA Zip: 90731

Telephone: 310 686 3915 E-mail: nickie.tan@gmail.com
310 347 6990 leibowitzjared@gmail.com

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

☒ Self ☐ Other: _____

b. Is the appeal being filed to support the original applicant's position? ☐ Yes ☒ No

4. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): _____

Company: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

5. JUSTIFICATION/REASON FOR APPEAL

a. Is the entire decision, or only parts of it being appealed? ☒ Entire ☐ Part

b. Are specific conditions of approval being appealed? ☐ Yes ☒ No

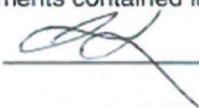
If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- ☒ The reason for the appeal ☒ How you are aggrieved by the decision
☒ Specifically the points at issue ☒ Why you believe the decision-maker erred or abused their discretion

6. APPLICANT'S AFFIDAVIT

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

Appellant Signature:  Date: 5/16/20

GENERAL APPEAL FILING REQUIREMENTS

B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES

1. Appeal Documents

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates)
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- ☐ Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

c. Appeal Fee

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

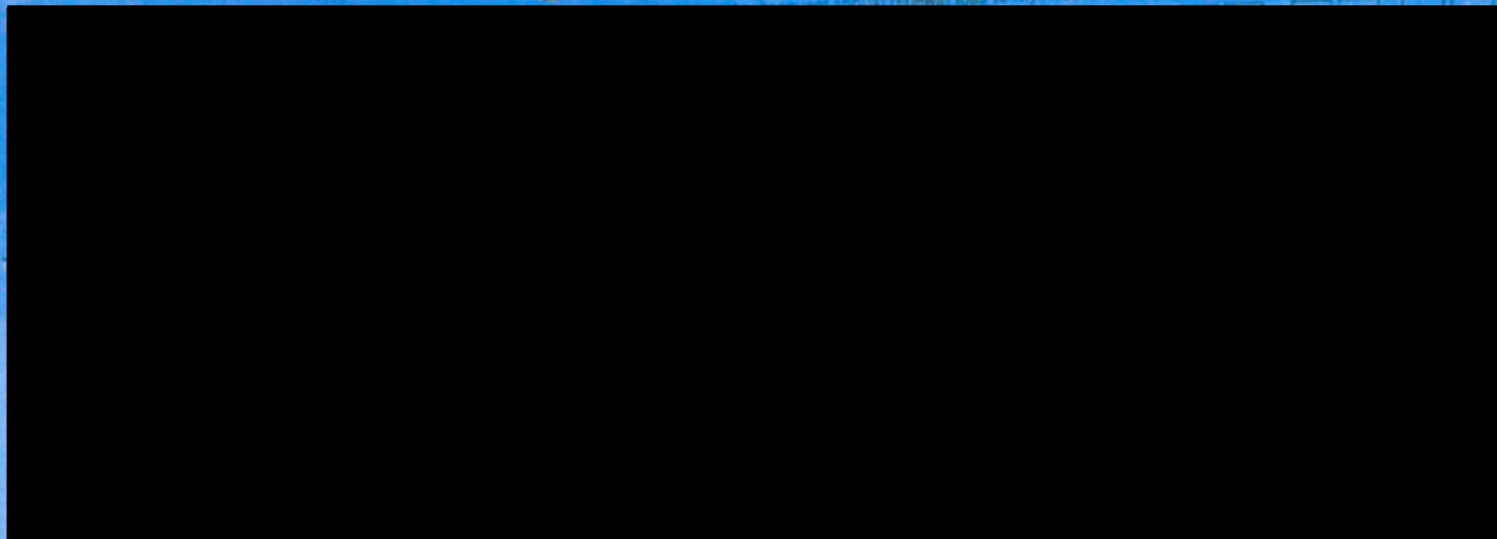
d. Notice Requirement

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APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- ☐ Area Planning Commission ☐ City Planning Commission ☒ City Council ☐ Director of Planning
☐ Zoning Administrator

Regarding Case Number: CPC-2019-4908-DB-SPR; ENV-2019-4909-CE

Project Address: 1309-1331 S. Pacific Ave, San Pedro

Final Date to Appeal: 05/20/2020

2. APPELLANT

Appellant Identity:
(check all that apply)

- ☐ Representative ☐ Property Owner
☐ Applicant ☐ Operator of the Use/Site

☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved

☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: David Winkle - owner of 524 W 14th St.

Company/Organization: 40 Winks LLC

Mailing Address: 313 N. Enrose Ave

City: San Pedro State: CA Zip: 90732

Telephone: (310) 413 5536 E-mail: dlwinkle64@gmail.com

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

☒ Self ☐ Other: _____

b. Is the appeal being filed to support the original applicant's position? ☐ Yes ☒ No

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City: _____ State: _____ Zip: _____

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

Appellant Signature:  Date: 5/19/20

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Real Estate Reports

Property:
524 W 14Th St
San Pedro, CA 90731
APN: 7454-026-015

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Property Details

Winkle David L; Sullivan Winkle Kara D
524 W 14Th St, San Pedro, CA 90731

APN: 7454-026-015
Los Angeles County

Owner Information

Primary Owner: **WINKLE DAVID L; SULLIVAN
WINKLE KARA D**

Secondary Owner:

Mail Address: **313 N ENROSE AVE
SAN PEDRO CA 90732**

Site Address: **524 W 14TH ST
SAN PEDRO CA 90731**

Assessor Parcel Number: **7454-026-015**

Census Tract: **2969.01**

Housing Tract Number:

Lot Number: **15**

Page Grid: **824-B6**

Legal description: **Lot: 15 Block: 13 Abbreviated Description: LOT:15 BLK:13 RUDECINDA TRACT LOT 15 BLK 13
IMP1=SFR,832SF,1 UNIT,YB:1917,2BD/1BA;IMP2=SFR,832SF,1
UNIT,YB:1917,2BD/1BA;IMP3=SFR,832SF,1 UNIT,YB:1917,2BD/1BA.**



APPLICATIONS:

APPEAL APPLICATION

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☐ Zoning Administrator

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Final Date to Appeal: 05/20/2020

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Appellant Identity:
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☐ Applicant ☐ Operator of the Use/Site
☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved

☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: James F. Allen

Company/Organization: Also a member of Citizens Protecting San Pedro

Mailing Address: 1300 SO Pacific Ave

City: San Pedro

State: CA

Zip: 90731

Telephone: 310 579 1442

E-mail: James@Random.orgfloRkats.com

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

☒ Self

☐ Other: _____

b. Is the appeal being filed to support the original applicant's position? ☐ Yes

☒ No

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City: _____ State: _____ Zip: _____

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6. APPLICANT'S AFFIDAVIT

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

Appellant Signature: _____

Date: 5/18/20

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RANDOM LENGTHS NEWS

"A newspaper is not just for reporting the
news as it is, but to make people mad
enough to do something about it."

—Mark Twain

Vol. XLI ; No. 10

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Publisher/Executive Editor
James Preston Allen
james@randomlengthsnews.com

Assoc. Publisher/Production
Coordinator
Suzanne Matsumiya

Managing Editor
Terelle Jerricks
editor@randomlengthsnews.com

Senior Editor
Paul Rosenberg
paul.rosenberg@
randomlengthsnews.com

Col
Anc
Mel
Har
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or
ews.com
tion
ews.com

Columnists/Reporters
Andrea Serna
Melina Paris
Hunter Chase
Send Calendar Items to:
14days@randomlengthsnews.com

Photographers
Terelle Jerricks, Raphael Richardson,
Chris Villanueva

Contributors
Joseph Baroud, Mark L. Friedman,
Amy Goodman, Gregory Moore,
Denis Moynihan, Gretchen Williams

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Andy Singer, Jan Sorensen,
Matt Wuerker

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Editorial Interns
Jordan Darling, Jessica Olvera, Vella
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Display advertising (310) 519-1442
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May 20, 2020
Appeal of CPC-2019-4908-DB-SPR and ENV-2019-4909-CE
Appeal Justification
1309-1331 Pacific, San Pedro

A. HOW APPELLANTS ARE AGGRIEVED

The Appellants are aggrieved by the City Planning Recommendation and the CPC approval of this project as it harms the Community of San Pedro as the project is materially out of conformance with the San Pedro Community Plan of 2017. An entire block of commercial building, including a music venue, that was once the heart of the surrounding community, will be demolished and privatized into a 102-unit apartment complex. The project is materially larger than the mass and scale of the surrounding neighborhood and at 45.4 feet tall, 52% taller than the current height maximum of 30 feet, will tower over surrounding buildings. The entrance and exit to the 127-car parking garage will be on a residential street just a few feet from the intersection at Pacific, San Pedro's two-lane main thoroughfare, without a stop sign or streetlight, creating a dangerous traffic situation one block from an elementary school. Area infrastructure is already taxed in this area and this project will only stress it further. The project does not adhere to the San Pedro Community Plan, the San Pedro Community Plan Implementation Overlay District (CPIO), the Pacific Corridor Redevelopment Plan, the City's Density Bonus regulations and other applicable land use laws, and it is completely out of character with the surrounding mainly one- and two-story homes and thus would cause a significant adverse cumulative impact.

Citizens Protecting San Pedro (CPSP) is organized for the purpose of achieving significant benefits for the general public interest in preserving and protecting San Pedro from the forces causing over development and the destruction of San Pedro's character, which is protected by the Coastal Act, the San Pedro Community Plan, CPIO, the Pacific Corridor Redevelopment Plan and other applicable land use laws. Strong and proper enforcement of the law and conformance to the San Pedro Community Plan are crucial to achieving these goals. As proposed, this project violates many of the agreed upon standards that have been put in place for this hard-working, stunningly beautiful neighborhood and sets a dangerous precedent for future development.

CPSP will be adversely impacted by the project and the determination made by CPC because it has a substantial interest in ensuring that the City's decisions are in conformity with the requirements of law, and in having those requirements properly executed and the public duties of City officials enforced as they relate to application of the laws that protect the quality of life in San Pedro.

CPSP, of which the individual owner or tenant Appellants are members, and the surrounding neighborhood will be adversely impacted by the project and the CPC

Determination because the project will negatively impact their quality of life. Of the six adjacent residential properties, there are five one-story homes and one two-story home, which would all be mere feet away and completely in the shadow of this proposed 45.5-foot apartment building lined with balconies to look down on them. The project's size is grossly out of sync with the surrounding neighborhood and it will shade adjacent residents' homes for much of the day, reducing their quality of life. There will be a loss of prosperity opportunity due to the demolished commercial buildings and significantly increased stress on infrastructure. The public infrastructure on Pacific, including utilities, is outdated and insufficient. The project, which will have a significant impact on the area, does not provide for any infrastructure upgrades for water, sewer, streets, power or cable. There will be significantly increased parking and traffic issues. The project will be completely out of character with the neighborhood by removing historic one-level street store fronts and replacing them with a towering private residential structure. Its size is materially over the mass and scale of the existing neighborhood, which will also significantly lessen sunlight and air flow and shut out the sunset views that are a defining characteristic of the neighborhood.

B. RELATED CODE SECTIONS (SEE EXHIBIT A)

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

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

LAMC 16.05 – Site Plan Review

LAMC 12.36 – Projects Requiring Multiple Approvals (Charter 564)

C. APPEALABLE ITEMS

The CPC erred and abused its discretion in approving the entitlements for the project at 2109-2133 Pacific and in not correctly following its own density bonus regulations. The appealable items are:

1. CEQA:

CEQA Guidelines Section 15332(a) requires Findings that 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. As such, all entitlements requested, including all DB on- and off-menu requests and the Site Plan Review (SPR),

are appealable under CEQA and challenged herein as pertains to these required CEQA Findings.

See also EXHIBIT B, letter to the City Planning Commission (CPC) dated April 20, 2020 from John Given, lawyer for Citizens Protecting San Pedro, pages 5 - 7.

2. On-Menu Item – Open Space:

The Open Space on-menu request, as per LAMC 12.22 A.25(g)(2)(i)(f), is appealable by any owner or tenant of a property abutting or across the street or alley from the subject property who is aggrieved by the decision. As such, seven of the owners or tenants who live or work or own property abutting or across the street or alley from the project are Appellants of this project, and the required proof of adjacent owner or tenant status has been provided with the application. In addition, LAMC 12.22 A.25(g)(2)(f)(ii) states that if there are on-menu items requested in LAMC 12.22 A.25(f) as well as other discretionary actions, such as the SPR in this case, the applicable procedures in LAMC 12.36 shall be followed, which also allows for appeal of the on-menu request.

3. Off-Menu Items/Additional Incentives – FAR, Rear Yard Setback, Height:

Under LAMC 12.22 A.25(g)(3)(ii)a., for a project with off-menu incentives, such as this project, that has other discretionary applications, such as this project, the applicable procedures set forth in Section 12.36 of the Code shall apply. The requirements of LAMC 12.36 apply to quasi-judicial approvals for which the initial decision becomes final unless the specific code sections listed are appealed. The list of code sections covered by LAMC 12.36 includes both LAMC 12.22 A.25 (DB) and 16.05 (SPR). LAMC 12.36 further states that when the CPC is the initial decision-making authority for projects requiring multiple approvals that the appellate body is the City Council. Thus, all entitlements requested--density bonuses (whether indicated as on- or off-menu or a "waiver"), Site Plan Review and CEQA--are appealable to the City Council under LAMC 12.36.

4. Site Plan Review:

The City erred and abused its discretion as the project violates LAMC 16.05.

5. Brown Act, Due Process Violation:

The change of the FAR bonus from on-menu to off-menu should have triggered another community hearing. We are appealing the CPC approval AT the hearing, with no prior notice, of a change of the FAR bonus from an on-menu incentive to an off-menu incentive, which according to page 2 of the CPC Determination changed it to a non-appealable incentive. The FAR bonus was represented to the Community and Neighborhood Councils in initial meetings, noticed to the Public, presented at the local

Public Hearing, and analyzed by Planning Staff in its March 12, 2020 Recommendation Report to the CPC (see page F-1) as an on-menu bonus and as such, as a matter of due process, may not be changed at the Public Hearing.

6. Appeal Points re. Misleading and/or Erroneous Appeal Requirements:

The CPC Determination states on page 2, under "Effective Date/ Appeals" that the decision of the CPC related to the off-menu incentives is not appealable. This is not correct as all entitlements for the entire project are appealable under LAMC 12.36, as noted above.

In addition, the Appeal form requirements are confusing and potentially misleading as they only address Density Bonus projects under LAMC 12.22 A.25(g)(2)(i)f:

- a. At the top of page 3 of the form it states:
"Density Bonus/TOC Appeal procedures for Density Bonus/TOC per LAMC Section 12.22 A.25(g)f."
Presumably the City meant to say LAMC Section 12.22 A.25(g)(2)(i)(f). The appeal form must be corrected.
- b. However, this code section does not cover not the "additional incentives," which are covered by LAMC 12.22 A.25(g)(3).
- c. Yet, as indicated near the top of page 3 of the appeal form the "additional incentives" may be appealed:
"NOTE: Density Bonus/TOC cases, only the *on-menu or additional incentives* items can be appealed."
- d. Thus, the form is in error as it does not indicate LAMC 12.22 A.25(g)(3) in addition to LAMC 12.22 A.25(g)(2)(i)(f). (correction of City's cite on the form)

In addition, it is not clear whether "additional incentives" as per the Appeal form is the same as "off-menu incentives" as used in the CPC Determination or if it is the same as "requests for waiver or modification of any development standards not on the menu" as used in LAMC 12.22 A.25(g)(3). See EXHIBIT C.

Another inconsistency is that the Housing Incentives form, CP-3251, states on page 3 that for "Density Bonus with Off-Menu Incentive Items: LAMC 12.22 A.25(g)(3) - Provide a pro-forma or other documentation to show that the waiver or modification is needed in order to make the Restricted Affordable Units economically feasible. A third-party peer review of the pro-forma is also required." A pro-forma was not provided for the waiver and modification of development standards requested for this project, as is required.

Also, in the May 5, 2020 CPC Determination, page 1, point 2., the LAMC Section indicated, 12.22 A.25(g)(3) is erroneous and therefore misleading and confusing. The correct LAMC Section is 12.22 A.25(g).

It is clear what the law is and it has not been correctly communicated to the Public or followed by the City, which is an error and abuse of discretion.

7. Due Process and Issues Related to Interim Procedures During the Pandemic:

The Appellants have been prejudiced because we have not had access to the entire record upon which to make our claims and case, as legally required, and therefore the Los Angeles Department of City Planning (DCP) has proceeded in violation of the law and the Public is not being given a fair process. We specifically ask for relief in the form of a continuance of the appeal deadline so that we have the required opportunity to raise all issues in controversy.

Nonetheless, we are herewith filing a complete appeal application and justification within the appeal deadline, despite the coronavirus-mandated lockdown and our consequent inability to review the City file in this matter.

Thus, we reserve the right to provide supplemental information and justification, including additional appeal points if needed, after the appeal application has been accepted and once we have access to the case file.

This appeal incorporates by reference all written and oral comments, in their entirety, submitted on the Project by any commenting party or agency.

D. JUSTIFICATION/APPEAL POINTS

1. The project does not comply with the Design Guidelines of the San Pedro CPIO.

A brand-new building offers an opportunity to build a point of pride in the neighborhood, but the current plans neglect the neighborhood and the finished product will add no value to the surrounding area. The San Pedro Community Plan, the CPIO and the Pacific Corridor Redevelopment Plan were put in place to prevent this very type of development. The design guidelines (page 50 of the CPIO) state: "development projects occupying more than 50% of a length of one side of a street block should provide public open space in the form of a plaza, outdoor dining area or another similar space."

Neighbors had requested similar amenities (but to date none have been provided), such as:

- Rooftop restaurant. This additional could turn this building into a point of pride in the neighborhood and be a huge draw to residents as well as provide employment and improve quality of life for all current and future residents in the area.
- Rooftop park space with playground. The current neighborhood does not have a park like this, with the closest swing set a mile up hill. A raised park space offers an element of safety and unique perspective that could truly improve quality of life in San Pedro. A distinctive landmark like this could set a positive precedent for preserving access to nature in a landscape of increased density.
- Ground level shaded park space open and accessible to all ages in the community. A splash pad would be an incredible feature here. The neighborhood is dense with children, and many residences don't have air conditioning. Shared public spaces are in short supply and forward-thinking ground floor amenities in multi-story buildings could also become a distinctive characteristic of increased density, if done right
- Ground floor plans converted to be an open food court, like the Anaheim Packing District or Grand Central Market in downtown Los Angeles, would provide economic opportunity for all, as well as a public place where people of various socio-economic levels can gather and dine together while making purchases in line with their respective budgets.
- Community Kitchens are incredible places to hold cooking classes, help young entrepreneurs get small businesses off the ground, cook for large events, and mobilize to serve meals to the masses in times of crisis, and inclusion of one in this building would be an asset to the neighborhood.

2. A Categorical Exemption (CE) cannot be allowed and must be denied. The City must require an EIR or MND, as appropriate.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15332(a) (see EXHIBIT A), the class 32 categorical exemption does not meet the condition that "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."

The project does not comply with all applicable zoning code regulations, as it must, including LAMC 12.22 25.A and LAMC 16.05, as described at length in the appeal points below. For example, the project does not qualify for a FAR density bonus incentive in excess of 35% (FAR of 2.025:1) as per the on-menu requirements because

the project has a FAR of 2.65:1, a bonus of 77%, significantly in excess of 35%. In addition, the FAR incentive does not qualify for an off-menu incentive (aka Waiver or Modification of any Development Standard(s) Not on the Menu) under LAMC 12.22.A.25 (g)(3) as FAR IS included on the Menu of Incentives at LAMC 12.22 A.25(f) and thus does not meet the requirement. Another example of non-compliance with the zoning code regulations is that the density bonus on-menu height limit of 41 feet may not be circumvented through waiver to allow a height of 45 feet 5 inches because height is included in the Menu of Incentives and as per LAMC 12.22 A.25(g)(3) waivers are limited to any Development Standard(s) Not on the Menu of Incentives.

In addition, the project is not in substantial conformance with the General Plan, which includes the San Pedro Community Plan, as further detailed below. For example, the height of the project of 45 feet 5 inches, which is 15 feet 5 inches (52%) over the base height in the Community Plan of 30 feet as per C2-1XL zone, creates a significant conflict with the San Pedro Community Plan.

Also, as noted in letters to DCP from members of the Public, incorporated by reference herein, there is inaccurate data provided by the applicant and its representative in the Environmental application, which must be corrected prior to any further City decision.

The surrounding infrastructure, including streets, water, sewer, power and cable, is outdated and insufficient. The project, which entails a significant increase in density than what is exiting, will have a significant impact on the area but does not provide for any infrastructure upgrades or mitigation of impacts. Studies done by the applicant's consultants, which conclude that there are no significant impacts, are erroneous and unrealistic. For example, export of 20,000 cubic yards of soil is a misleading and unrealistic number, clearly a "plug" in an attempt to qualify for a CE. Also, the traffic study uses unrealistic and misleading assumptions, resulting in grossly inaccurate estimated vehicle trips of 38 during the weekday a.m. peak hour and 25 during the weekday p.m. peak hour. DOT, relying on this flawed data, concluded that none of the study intersections would be significantly impacted by project-related traffic and thus the project will not have any significant impacts related to traffic. Again, these inaccurate and unrealistic assumptions were used as a "plug" in an attempt to qualify for a CE. In addition, impacts of construction risks such as asbestos and lead were not even studied, even though the consultants recognized that these were serious risks, as the applicant did not pay for them to opine on those risks. This is in spite of the close proximity of residents and an elementary school.

See also points in EXHIBIT B, pages 5 - 6.

The City has approved a CEQA Categorical Exemption (CE) in error. As described above, the project is NOT consistent with the applicable general plan (includes San Pedro Community Plan) designation and all applicable general plan policies and it also is NOT consistent with the applicable zoning regulations. Thus, the CEQA categorical

exemption cannot be used as the Section 15332(a) condition is not met and approval of the CE is an error and abuse of discretion.

3. **A correct cumulative impact analysis of the project as required by CEQA would show that the project meets the exception to a CE and the City must require an MND or EIR.**

Under CEQA Guidelines 15300.2 EXCEPTIONS (See EXHIBIT A), categorical exemptions are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. A correct cumulative impacts analysis would show that the project meets the exception from a categorical exemption as it would include consideration of:

- the subject proposed project at 1309-1331 Pacific (between 13th St and 14th St), and
- the proposed project at 2111-2139 Pacific (entire block between 21st St and 22nd St), and
- the completed project at 1803 Mesa, 1 block east and 4 blocks south of the proposed project, on the entire block between 18th St & 19th St, which is within the Coastal Zone, (all three of these projects are by the same applicant), together with
- the nine other similar large projects proposed or under construction in the area (see complete list of these projects mentioned in local news article "If You Think Traffic is Bad Now, Just Wait," attached in EXHIBIT B, last two pages).

See also points in EXHIBIT B, pages 6 - 7.

The cumulative impact analysis fails entirely to identify or consider any past projects, concurrent projects or likely future projects and is thus inadequate, thus the City has erred and abused its discretion.

4. **A change from on-menu to off-menu for items that don't meet the on-menu requirements and waiver or modification of development standards on the Menu of Incentives are not allowed by law.**

The Density Bonus law, whether State or City, does not allow for an end run around the specific regulations to make any on-menu item that does not comply with the specific on-menu requirements of the Density Bonus law an off-menu item. If there was an unlimited off-menu capability for the on-menu items, the law would not need to go through all of the detailed requirements for the on-menu items.

In fact, the development standards (1) through (8) on the Menu of Incentives in paragraph (f) of LAMC 12.22 A.25 may not be circumvented through waiver or

modification as waivers and modifications are limited to any Development Standard(s) **Not** on the Menu of Incentives--see LAMC 12.22.A.25 (g)(3).

If an incentive exists "on the menu" then the applicant is stuck with the incentive that is described there, and so-called "off-menu" incentives are for things that are not listed on the Menu of Incentives. Otherwise it's as if the City wrote this very specific set of instructions and limitations for on-menu incentives, but then wrote another section of the ordinance that they interpret as saying that the applicant can ask for anything they want instead of complying with the density bonus limitations. To allow the on-menu development standards to exceed the on-menu requirements and be approved as off-menu requests makes no legislative sense. As noted above, the City's interpretation of the regulation that on-menu development standard incentives can be approved as off-menu items is directly contrary to the letter of the law at LAMC 12.22 A.25(g)(3), and any other interpretation is not reasonable. It is impossible to understand how the City could interpret 12.22 A.25(g)(3) to allow on-menu development standards to be approved off-menu when the code clearly states that such waivers and modifications only qualify for off-menu approval for development standards that are NOT on the Menu of Incentives. Any reasonable mind could see that the City's interpretation of the law is incorrect and unreasonable and that this is being exploited by the developer as a way to obtain on-menu incentives for which they do not qualify.

Also, the intent as well as the letter of the law is being violated by the City in allowing this applicant or any applicant to apply for a project with on-menu requests and then change them to off-menu when it is discovered by the public that the project does not comply with the on-menu requirements. Clearly the law does not intend this, as it is written with very clear upper limit requirements for the on-menu items. If the law intended for items that don't comply to just be shifted to off-menu requests, then it would have stated that, or it would have simply done away with on-menu requests.

The City's interpretation and implementation of the law is unreasonable, erroneous, and an abuse of discretion.

5. The requested FAR of 2.65:1 (77%) cannot be allowed. The maximum FAR bonus allowed is 35%, or 2.025:1.

The City's density bonus ordinance permits a FAR incentive bonus up to a maximum of 35% above the base FAR, or 2.025:1, and it can be increased up to 3:1 if the project satisfies additional criteria. The project does not front a street designated as a Major Highway and at least 50% of the project parcel is not within 1,500 feet of a "Transit Stop/Major Employment Center" as the Metro Rapid bus requirement is not met (see details at EXHIBIT B, pages 2 - 3), and thus the project does not satisfy the additional criteria and FAR must be limited to 35%.

In addition, see reasons that FAR cannot be approved via an off-menu incentive at 4. A change from on-menu to off-menu for items that don't meet the on-menu requirements, and waiver or modification of items on the Menu of Incentives is not allowed by law, above.

See also points in EXHIBIT B, pages 2 - 3.

The City has erred and abused its discretion in approving a FAR of 2.65:1.

6. A 20% Open Space reduction cannot be allowed. Full compliance must be required.

A 20% reduction for Open Space does meet the on-menu requirement at LAMC 12.22 A.25(f)(6); however, the project must be consistent with the San Pedro Community Plan, which requires full compliance with the Open Space code requirements.

See also points in EXHIBIT B.

The City has erred and abused its discretion in approving a 20% reduction in the Open Space requirement.

7. A rear yard setback bonus cannot be allowed.

A Yard/Setback incentive is limited to a 20% decrease as per LAMC 12.22 A.25(f)(1). As noted above at 4. A change from on-menu to off-menu for items that don't meet the on-menu requirements, and waiver or modification of items on the Menu of Incentives is not allowed by law, it is a violation of the letter and the intent of the law for a development standard on the Menu of Incentives that does not comply with the requirements of LAMC 12.22 A.25(f) to be approved as an off-menu incentive.

See also points in EXHIBIT B, page 3.

The City has erred and abused its discretion in approving a 5-foot rear yard setback in lieu of the 16 feet otherwise required by the C2-1XL-CPIO Zone.

8. A Waiver of Development Standard resulting in a project height of 45 feet 5 inches, a 52% height increase over the base limit, is not allowed. The maximum height bonus allowed is 41 feet.

The Waiver of Development Standard is being used to allow a considerably greater project height than the on-menu incentives allow, which is counter to the language and intent of the density bonus law. The density bonus on-menu height limit of 41 feet may

not be circumvented through waiver as height is included in the Menu of Incentives and waivers are limited to any Development Standard(s) Not on the Menu of Incentives--see LAMC 12.22 A.25(g)(3).

A height of 45 feet 5 inches, which is 15 feet 5 inches, or 52%, over the base height in the San Pedro Community Plan of 30 feet, creates a significant conflict with the San Pedro Community Plan and it would be an unacceptable precedent and adverse cumulative impact on the character and scale of San Pedro for this applicant and other applicants to violate the density bonus ordinance on-menu limitations for height. The maximum height for a density bonus project at this site is 41 feet: the 30 feet permitted in the base C2-1XL zone plus 11 feet or one additional story, whichever is lower.

See also points in EXHIBIT B, pages 3 - 4.

The City has erred and abused its discretion in approving a height of 45 feet 5 inches.

9. The Site Plan Review Findings are in error and the SPR cannot be approved.

Not only does the project not conform to the San Pedro Community Plan and the goals of the CPIO (see attached CPIO-Purposes + CPIO-Design Guidelines at EXHIBIT D, which among other things appears to require a corner entrance), but the Determination Letter does not in any way address the Pacific Corridor Redevelopment Plan, which is valid until 2033, nor does it conform to its detailed standards and guidelines.

Links to the Pacific Corridor Redevelopment Plan:

<https://planning.lacity.org/plans-policies/overlays/pacific-corridors>

https://planning.lacity.org/odocument/1e917a9c-2851-407d-b664-20d60d67e439/PacificCorridor_DFD.pdf

For example, the project is required to have ground floor retail to support retail continuity on Pacific, which it does not.

The project clearly violates the Pacific Corridor Redevelopment Plan Vision Statement (See EXHIBIT D):

San Pedro is a stable community that provides a high quality of life for its residents -- one that builds upon its distinct natural beauty, rich cultural heritage, and proximity to the Port and waterfront, while retaining the community's small town feel for multiple generations of San Pedrans.

It has been proven throughout this Appeal that *"The project is NOT in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community*

plan, and any applicable specific plan..." because the Pacific Corridor Redevelopment Plan was not even considered or listed in the CPC Determination.

In addition, re. Land Use Element – San Pedro Community Plan, the Determination letter erroneously states that *"the proposed project aligns with the intent of the 2017 San Pedro Community Plan."*

See following excerpts from the San Pedro Community Plan and explanation of violations (a – f):

- a. RE: Page F-7 Goal LU3: Multi-family residential neighborhoods with a mix of ownership and rental units that are well-designed, safe, provide amenities for residents, and exhibit the architectural characteristics and qualities that distinguish San Pedro.*

There is not a mix of ownership and rental units in this project as per Goal LU3. Also, the project, a generic contemporary-style urban infill design, in no way exhibits the architectural characteristics and qualities that distinguish San Pedro.

- b. RE: Page F-7 Policy LU3.1: Neighborhood stability. Stabilize and improve existing multi-family residential neighborhoods, allowing for growth in areas where there are sufficient public infrastructure and services and where quality of life can be maintained or improved.*

The project's size is grossly out of sync with the surrounding neighborhood and it will shade adjacent residents' homes for much of the day, reducing their quality of life. The public infrastructure on Pacific, including utilities, is outdated and insufficient. The project does not provide for any infrastructure upgrades for water, sewer, streets, power or cable. There is also insufficient public transportation as the bus schedules are too infrequent to qualify the area as a Transit Oriented Community (TOC). The project also does not qualify for a parking reduction under AB 744 as it is not located within one-half mile of a major transit stop--as per PRC 21155 and 21064.3, major transit stop means a site containing any of the following: (a) existing rail or bus rapid transit station, (b) a ferry terminal served by either a bus or rail transit service, (c) the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. The TOC map, as indicated by the Council District 15 office, is incorrect in that it identifies Transit -Oriented Hubs in San Pedro in areas that in fact do not qualify as such.

Residents' quality of life will not be maintained or improved but rather degraded.

- c. RE: Page F-7 Policy LU3.3: Equitable housing distribution. Provide an equitable distribution of housing types for all income groups throughout San Pedro's multi-family neighborhoods and promote mixed-income developments rather than creating concentrations of below-market-rate housing.*

The project does not provide Equitable Housing Distribution. The project provides almost 90% market rate housing in a working-class neighborhood with a median household income of \$29,650. (includes Census Tract Block Groups 297110-2 and 296901-1)

The average rent for an apartment in Los Angeles is \$2,524/month or \$30,288/year. Average local residents' entire gross income would not cover the rent in this development. And the cheapest comparable new apartments in San Pedro are \$2,000 per month or 24,000/year – approximately 83% the entire annual income of local residents.

Although the project succeeds in not “creating concentrations of below-market-rate housing” it is not even remotely an Equitable Housing Distribution of housing types for all income groups. Based on median incomes, it is nearly 90% unaffordable for local residents, which in fact creates an Inequitable Distribution of market-rate housing and discriminates against lower income residents.

- d. RE: Policy LU3.6: Amenities. Include amenities for residents such as on-site recreational facilities, community meeting spaces, and useable private and/or public open space in new multi-family development*

The project reduces amenities rather than providing them. There are no on-site recreational facilities or community meeting spaces for the general public in this project. Additionally, the open space in this development has been reduced from 10,950 square feet to 8,381 square feet (20%) and setback requirements have also been reduced. This development will eliminate an entire block of commercially zoned public space and offers no usable public open space in the plans, effectively destroying opportunities for prosperity and engagement for the community.

- e. RE: Page F-7 – Summary--The project is for the construction of a new mixed-income multi-family residential development...*

As specified above [RE: Page F-7 Policy LU3.3: Equitable housing distribution] the project is almost 90% market-rate and is not reasonably proportioned to be considered 'mixed-income.' The project largely excludes San Pedro's community members because local residents, based on their median income, will not be able to afford the units. It is a high-income multi-family residential development, with a minimal number of affordable units.

- f. RE: Page F-7 - Summary*
As shown in Exhibit "A" and Finding No. 4 below, the Project will provide design features and landscaping improvements to enhance the visual quality of the area.

The project is not consistent with the visual or historical character of the area. Its 'design features' include a grey low-maintenance material that spans almost the entire block. The generic contemporary-style facade design violates the Design Guidelines of the San Pedro Community Plan and Pacific Corridor Redevelopment Plan that specifies: "ensuring that new development is consistent with the visual character of San Pedro and enhance the community's overall image."

There is no specific street/sidewalk/frontal landscaping delineated in the project proposal. There are no retail stores as required in the Pacific Corridor Redevelopment Plan, so the project will disrupt and discourage retail continuity and eliminate opportunity for small business.

The height will block out sunrise and sunset views, significantly decreasing the natural beauty essential to the visual quality of the area.

The project will create a grey retail-free block with no landscaping specified but will in fact remove 30 trees from the streetscape. The visual quality of the area will not be enhanced.

Also, the Site Plan Review approval necessarily relies on the project site plan included in Exhibit A of the Staff Recommendation Report. Several of the site plan pages, as well as renderings provided to the Community and to City Planning and the CPC are inaccurate in that they purport to show Grand Avenue, as located directly adjacent to the west side of the project.

The plans and renderings for this project that were provided to the community, the City and the CPC were materially in error and misleading and must be corrected, and a re-hearing is necessary. See attached EXHIBIT E for letters from the Public describing these errors.

See also points in EXHIBIT B, pages 4 - 5.

The City has erred and abused its discretion in approving the Site Plan Review.

10. Entitlements cannot be changed AT a public hearing. That is a Brown Act violation. A new public hearing is required.

We are appealing the CPC's approval of a change AT the CPC hearing of the FAR bonus from an on-menu incentive to an off-menu incentive, which, according to the CPC Determination that followed, is non-appealable, although we believe the FAR bonus IS appealable, as discussed below.

For example, to move the FAR request from on- to off-menu with no notice precluded the Public from being able to challenge the classification as off-menu prior to the CPC meeting with the arguments as detailed in 4. A change from on-menu to off-menu for items that don't meet the on-menu requirements, and waiver or modification of items on the Menu of Incentives is not allowed by law, above. In addition, during meetings with the applicant, Community members did not know that the item was an off-menu, discretionary request, which would likely have warranted further discussion and negotiation with the applicant.

This off-menu request for a 77% FAR bonus (2.65:1) must be appealable as an on-menu bonus as it was represented to the Community and Neighborhood Councils in initial meetings, noticed to the Public, presented at the local Public Hearing, and analyzed by Planning Staff in its March 12, 2020 Recommendation Report to the CPC (see page F-1) as an on-menu bonus (and therefore as appealable). As a matter of due process, such a change must not be made at the Public Hearing for a project. Thus, the FAR bonus must be allowed to be appealed as an on-menu item, as it was represented to the Community and Neighborhood Councils in initial meetings, noticed to the Public, presented at the local Public Hearing, and analyzed by Planning Staff in its March 12, 2020 Recommendation Report to the CPC (see page F-1).

The comments at the CPC hearing that address this issue are as follows:

As per the audio hearing transcript:

<https://planning.lacity.org/StaffRpt/Audios/CPC/2020/04-23-2020/5%20Con%20a%20CPC-2019-4908.mp3>

City Planning, Connie Chauv (2:42):

"Staff would like to note that we did prepare a technical correction which has been submitted as a day-of submission...which we will address in our presentation.

(6:15) As mentioned, Staff has submitted a technical correction, to correct identification of the increased FAR as an off-menu incentive instead of an on-menu incentive. The off-menu incentive was correctly identified on the Affordable Housing Referral Form and the Hearing Notice and will not modify the project description, grant clause or conditions of approval. The technical correction is for the Findings only, again, to correctly identify it as an off-menu incentive."

John Given, lawyer for Citizens Protecting San Pedro (20:34):

"...I have to object to this same day submission changing the nature of the entitlements with respect to the FAR bonus. The FAR bonus cannot be met as an on-menu item. All that the public has had an opportunity to review until now is

all of the Findings and calculations and so forth that were based on the item as an on-menu bonus, which it can't meet that bonus. So now on the same day that you're considering the project it's being swapped out as off-menu so that they can effectively get whatever the Planning Commission is willing to grant to them. I find that completely outrageous especially when the public has not had an opportunity to review what is actually being presented as the project (request) to the Commission."

The Affordable Housing Referral Form was changed subsequent to the Neighborhood Councils' Review and the local Public Hearing and the revised form was not provided to the public. Also, the Hearing Notice and the CPC meeting Agenda only identified the incentives as "on-and off-menu incentives" and did not distinguish between the two types. The type must be disclosed individually and not in combination as the two types follow very different requirements in different sections of the law, as well as very different processes for approval, as per the Density Bonus Ordinance (LAMC 12.22 A.25). Also, the March 12, 2020 Staff Recommendation Report specifically analyzed the FAR request as an on-menu item (see page F-1).

The change of the FAR bonus from on- to off- menu may not modify the project description, as stated by Connie Chauv at the CPC hearing, but it DOES change the entitlements being requested, which then changes the applicable requirements of the Density Bonus ordinance, as well as whether the FAR bonus granted is appealable (according to DCP/CPC) .

We believe this change to off-menu was made by the applicant because the community had discovered that the FAR bonus entitlement did not qualify under the on-menu Density Bonus regulations. Also, as explained above at 4. Change from on-menu to off-menu for items that don't meet the on-menu requirements, and waiver or modification of items on the Menu of Incentives is not allowed by law, as a matter of law, if the FAR bonus does not meet the specific limits of the on-menu bonus regulations it cannot just be transferred to an off-menu discretionary request instead.

In addition, at the hearing the CPC specifically did NOT change the Findings in the Staff Recommendation to the CPC, which evaluate the FAR bonus as an on-menu incentive. It was stated clearly by the Commission and DCP that the change from on- to off-menu was just a technical correction, and it was not identified as requiring a complete change in the related Finding. No Findings for the project's evaluation as an off-menu request were made. However, the Finding in the May 5, 2020 CPC Determination was completely rewritten to evaluate the FAR incentive as an off-menu request as compared to the Finding in the April 20, 2020 recommendation report provided to the CPC by DCP which evaluated the FAR incentive as an on-menu request. This is a post-hoc rationalization, which is not allowed under the law.

Thus, the CPC erred and abused its discretion, violating the Brown Act and the Public's general due process rights, when it approved a change of the FAR incentive from on-menu to off-menu at the hearing, with no notice to the public. The CPC is obligated to provide a new public hearing.

E. SUMMARY

The project as proposed clearly violates the Pacific Corridor Redevelopment Plan Vision Statement (See EXHIBIT D):

San Pedro is a stable community that provides a high quality of life for its residents -- one that builds upon its distinct natural beauty, rich cultural heritage, and proximity to the Port and waterfront, while retaining the community's small town feel for multiple generations of San Pedrans.

New development has the power to transform communities, for better or worse. If approved, this proposal will set a dangerous precedent by ignoring the San Pedro Community Plan, the CPIO and the Pacific Corridor Redevelopment Plan. San Pedro is in a unique position to change the way the city is being gentrified for the better. We must incorporate lessons learned in Venice, downtown L.A., and other areas of the city where we have seen rapid overdevelopment, and we should make inclusiveness of a community a core value of redevelopment.

We look forward to a project at this location and we welcome the opportunity at this time to work with the applicant to identify appropriate changes that would not only bring the project into compliance, but turn it into a distinctive landmark that our entire zip code could be proud of!

However, if that is not achieved, we insist that Councilman Buscaino and the City not allow a project to become a precedent for San Pedro, or anywhere else in the City of Los Angeles, that does not adhere to the law, as noted above for this project. The applicant is requesting a 52% height bonus, a 77% FAR bonus, a 20% reduction in open space, and a 5-foot rear yard setback in lieu of the 16 feet otherwise required but is only providing 12 very low-income dwelling units out of the total of 102 dwelling units. These are outrageous bonuses compared to the affordable housing provided. The project is approximately 1.8 times (almost double) the FAR/size of, and the project significantly undermines our San Pedro Community Plan, the CPIO and the Pacific Corridor Redevelopment Plan, which will result in a significant adverse cumulative impact on the area surrounding the project location as well as on all of San Pedro, if not all of Los Angeles.

We have the opportunity here to do something great and truly improve a wonderful community. But if these plans proceed, we will not be improving a neighborhood, but rather changing it in a way that will be detrimental. True creativity thrives with restrictions. Anything we build should adhere to the guidelines our city planners and community members worked so hard to put into place. Applicants must be pushed to create the best possible projects for our city that fit into the shared vision of our future. To allow such disregard of the dream as would be the case with this proposed project would be a nightmare.



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300

www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: **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.

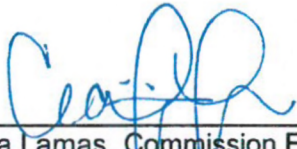
1. **Determined**, that based on the whole of the administrative record, the Project is exempt from CEQA pursuant to CEQA Guidelines, Article 19, Section 15332, Class 32, and that there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, 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

CONDITIONS OF APPROVAL

Density Bonus Conditions

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the Applicant, stamped "Exhibit A," and attached to the subject case file. No change to the plans will be made without prior review by the Department of City Planning, West/South/Coastal Project Planning Division, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Los Angeles Municipal Code or the project conditions.
2. **Residential Density.** The project shall be limited to a maximum density of 102 residential units including Density Bonus Units.
3. **Affordable Units.** A minimum of 12 units, that is 15 percent of the base dwelling units, shall be reserved as affordable units for Very Low Income household occupancy, as defined by the State Density Bonus Law 65915 (c)(1) or (c)(2). The project shall comply with any replacement affordable units required by the Los Angeles Housing and Community Investment Department (HCIDLA) pursuant to AB 2556.
4. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA) to make 12 units available to Very Low Income Households, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant will present a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with any monitoring requirements established by the HCIDLA. Refer to the Density Bonus Legislation Background section of this determination.
5. **Floor Area Ratio (FAR) (Incentive).** The project shall be limited to a maximum floor area ratio of 2.65:1 per Exhibit "A".
6. **Open Space (Incentive).** The project shall provide a minimum 8,831 square feet of open space per Exhibit "A".
7. **Rear Yard Setback (Incentive).** The project shall provide a minimum 5-foot rear yard setback per Exhibit "A".
8. **Height (Waiver).** The project shall be limited to 45 feet and 5 inches in building height per Exhibit "A".
9. **Automobile Parking for Residential Uses.** Based upon the number and/or type of dwelling units proposed 127 parking spaces shall be provided for the project. Vehicle parking shall be provided consistent with LAMC Section 12.22 A.25, Parking Option 1, which permits one on-site parking space for each residential unit with one or fewer bedrooms; two on-site parking spaces for each residential unit with two to three bedrooms; and two-and-one-half parking spaces for each residential unit with four or more bedrooms. The Bicycle Parking Ordinance, LAMC Section 12.21.A.4, allows affordable residential projects to reduce required vehicle parking by 10 percent. Based upon the number and type of dwelling units proposed and the requested 4 percent reduction per the Bicycle Ordinance, 127 parking spaces shall be provided.

10. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC 12.21 A.16.

Site Plan Review Conditions

11. **Mechanical Equipment.** All exterior mechanical equipment, including heating, ventilation and air conditioning (HVAC) equipment, satellite dishes, and cellular antennas, shall be screened from public view through the use of architectural elements such as parapets. The transformer, located along 38th Street, shall be screened with landscaping per Exhibit "A".

12. **Lighting.** All outdoor and parking lighting shall be shielded and down-cast within the site in a manner that prevents the illumination of adjacent public rights-of-way, adjacent properties, and the night sky (unless otherwise required by the Federal Aviation Administration (FAA) or for other public safety purposes).

13. **Lighting Design.** Areas where nighttime uses are located shall be maintained to provide sufficient illumination of the immediate environment so as to render objects or persons clearly visible for the safety of the public and emergency response personnel. All pedestrian walkways, storefront entrances, and vehicular access ways shall be illuminated with lighting fixtures. Lighting fixtures shall be harmonious with the building design. Wall mounted lighting fixtures to accent and complement architectural details at night shall be installed on the building to provide illumination to pedestrians and motorists.

14. **Heat Island Effect.** To reduce the heat island effect, a minimum of 50% of the area of pathways, patios, driveways or other paved areas shall use materials with a minimum initial Solar Reflectance value of 0.35 in accordance with ASTM (American Society of Testing Materials) standards.

15. **Electric Vehicle Parking.** All electric vehicle charging spaces (EV Spaces) and electric vehicle charging stations (EVCS) shall comply with the regulations outlined in Sections 99.04.106 and 99.05.106 of Article 9, Chapter IX of the LAMC.

16. **Unbundled Parking.** Residential parking shall be unbundled from the cost of the rental units, with the exception of parking for Restricted Affordable Units.

17. **Parking Structure Design.** Parking structures or that portion of a building or structure that is used for parking at grade or above grade shall be designed to minimize vehicle headlight and parking structure interior lighting impacts ("spillover") on adjacent streets and properties.

18. **Landscape Plan.** Revised landscape plans shall be submitted to show the size and location of all plants. The landscape plan shall indicate landscape points for the Project as required by LAMC 12.40 and Landscape Ordinance Guidelines "O". All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be landscaped, including an automatic irrigation system, and maintained in accordance with a final landscape plan prepared by a licensed landscape architect or licensed architect, and submitted for approval to the Department of City Planning. The final landscape plan shall be in substantial conformance with the submitted Landscape Plan, Exhibit "A," and shall incorporate any modifications required as a result of this grant.

19. **Tree Wells.** The minimum depth of tree wells and planters on the rooftop, any above grade open space, and above a subterranean structure shall be as follows:

- a. Minimum depth for trees shall be 42 inches.
- b. Minimum depth for shrubs shall be 30 inches.
- c. Minimum depth for herbaceous plantings and ground cover shall be 18 inches
- d. Minimum depth for an extensive green roof shall be 3 inches.

The minimum amount of soil volume for tree wells on the rooftop or any above grade open spaces shall be based on the size of the tree at maturity:

- e. 600 cubic feet for a small tree (less than 25 feet tall at maturity).
 - f. 900 cubic feet for a medium tree (25-40 feet tall at maturity).
 - g. 1,200 cubic feet for a large tree (more than 40 feet tall at maturity)
20. **Street Trees.** New trees planted within the public right-of-way shall be spaced not more than an average of 30 feet on center, unless otherwise permitted by the Urban Forestry Division, Bureau of Public Works.
21. **Greywater.** The project shall be constructed with an operable recycled water pipe system for onsite greywater use, to be served from onsite non-potable water sources such as showers, washbasins, or laundry and to be used as untreated subsurface irrigation for vegetation or for cooling equipment. The system specifics shall be required as determined feasible by the Department of Water and Power in consultation with the Department of City Planning.
22. **Stormwater/irrigation.** The project shall implement on-site stormwater infiltration as feasible based on the site soils conditions, the geotechnical recommendations, and the City of Los Angeles Department of Building and Safety Guidelines for Storm Water Infiltration. If on-site infiltration is deemed infeasible, the project shall analyze the potential for stormwater capture and reuse for irrigation purposes based on the City Low Impact Development (LID) guidelines.
23. **Solar and Electric Generator.** Generators used during the construction process shall be electric or solar powered. Solar generator and electric generator equipment shall be located as far away from sensitive uses as feasible.
24. **Solar-ready Buildings.** The Project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.
25. **Solar Panels.** A minimum 2,948 square feet (15 percent) of solar panels shall be installed on the building rooftop as shown on the roof plan provided as a part of an operational photovoltaic system to be maintained for the life of the project. The Project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.
26. **Signage.** There shall be no off-site commercial signage on construction fencing during construction.

Administrative Conditions

27. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building and Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building and Safety for final review and approval by the Department of City Planning. All plans that are awaiting issuance of a building permit by the Department of Building and Safety shall be stamped by Department of City Planning staff "Plans Approved". A copy of the Plans Approved, supplied by the applicant, shall be retained in the subject case file.
28. **Notations on Plans.** Plans submitted to the Department of Building and Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet, and shall include any modifications or notations required herein.

29. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.
30. **Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
31. **Department of Building and Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building and Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
32. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
33. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assign. The agreement must be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
34. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the

deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).

- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

FINDINGS

(As adopted by City Planning Commission on April 23, 2020)

DENSITY BONUS/AFFORDABLE HOUSING INCENTIVES COMPLIANCE FINDINGS

1. **Government Code Section 65915 and LAMC Section 12.22 A.25 state that the Commission shall approve a density bonus and requested incentive(s) unless the Commission finds that:**

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

The record does not contain substantial evidence that would allow the City Planning Commission to make a finding that the requested on- and off-menu incentives are not necessary to provide for affordable housing costs per State Law. The California Health & Safety Code Sections 50052.5 and 50053 define formulas for calculating affordable housing costs for Very Low, Low, and Moderate Income Households. Section 50052.5 addresses owner-occupied housing and Section 50053 addresses rental households. Affordable housing costs are a calculation of residential rent or ownership pricing not to exceed 25 percent gross income based on area median income thresholds dependent on affordability levels.

Based on the set-aside of 15 percent of base units for Very Low Income households, the applicant is entitled to three (3) Incentives under both the Government Code and LAMC. Therefore, the first On- and Off-Menu requests qualify as the proposed development's Incentives. The remaining request must be processed as a Waiver of Development Standard.

FAR: The subject site is zoned C2-1XL-CPIO, with a Height District No. 1XL and CPIO designation that permit a maximum Floor Area Ratio ("FAR") of 1.5:1. The applicant has requested an Off-Menu Incentive for an FAR of 2.65:1 in lieu of the otherwise allowable 1.5:1 FAR. The project includes many larger-sized dwelling units (including 53 studios, 19 one-bedroom units, and 30 two-bedroom units). The requested increase in FAR will allow 35,908 square feet of additional floor area, and will allow for the construction of affordable units in addition to larger-sized dwelling units.

FAR by-right	Buildable Lot Area (sf)	Total Floor Area (sf)
1.5:1	31,500	$31,500 \times 1.5 =$ 47,250

FAR Requested	Buildable Lot Area (sf)	Total Floor Area (sf)	Additional Floor Area (sf)
2.65:1	31,500	83,158	$83,158 - 47,250 =$ 35,908

Open Space: LAMC Section 12.21 G requires 100 square feet of usable open space per dwelling unit with less than 3 habitable rooms, and 125 square feet of usable open space per dwelling unit with 3 habitable rooms. For the proposed project with 53 studio units, 19 one-bedroom units, and 30 two-bedroom units, a total of 10,950 square feet of open space would be required. Strict compliance with the open space requirements would have the effect of physically precluding construction of the development proposing 102 dwelling units, 12 of which will be set aside for Very Low Income Households. The applicant has requested a 20 percent reduction to allow 8,381 square feet of open space through an On-Menu Incentive. Without the incentive to reduce the minimum usable open space required to 8,381 square feet, the project would need to provide an additional 2,119 square feet of common or private open space on-site. The project currently proposes dwelling units that range in size from 370 square feet to 986 square feet. Compliance with the minimum usable open space provision would require the removal of floor area that could otherwise be dedicated to the number, configuration, and livability of affordable housing units. Specifically, the project would not only need to comply with the total amount of usable open space requirements, but also the design, dimension, and area requirements set forth in LAMC Section 12.21 G. Common open space would need to be at least 15 feet in width on all sides, have a minimum area of 400 square feet, and be open to sky. The project would lose floor area of the development in order to meet all of these additional requirements for common open space.

Rear Yard Setback: LAMC Section 12.14 C.2 requires rear and side yards to conform to the requirements of the R4 Zone for buildings erected and used for residential purposes. The R4 Zone requires a rear yard of a minimum of 15 feet, and requires one additional foot in the width of the rear yard for each additional story above the 3rd story. The Project is a 4-story residential building. Given all levels of the project would be utilized in whole or in part by residential uses, the Project would therefore be required to provide a 16-foot rear yard setback. The Applicant has requested an Off-Menu Incentive for a reduced yard, and proposes a 5-foot rear yard setback in lieu of the 16 feet otherwise required. Strict compliance with the rear yard requirement would reduce the buildable lot area by 11 feet for the rear yard, thereby limiting the buildable area for new development and reducing the number and range of units that could be developed. The requested incentive allows the developer to reduce setback requirements so the affordable housing units can be constructed and the overall space dedicated to residential uses is increased.

- b. The Incentive will have 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 the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.***

There is no evidence in the record that the proposed density bonus incentive(s) will have a specific adverse impact. A "specific adverse impact" is defined as, "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22.A.25(b)). The finding that there is no evidence in the record that the proposed incentive(s) will have a specific adverse impact is further supported by the recommended CEQA finding. The findings to deny an incentive under Density Bonus Law are not equivalent to the findings for determining the existence of a significant unavoidable impact under CEQA. However, under a number

of CEQA impact thresholds, the City is required to analyze whether any environmental changes caused by the project have the possibility to result in health and safety impacts. For example, CEQA Guidelines Section 15065(a)(4), provides that the City is required to find a project will have a significant impact on the environment and require an EIR if the environmental effects of a project will cause a substantial adverse effect on human beings. The proposed project and potential impacts were analyzed in accordance with the State California Environmental Quality Act (CEQA) Guidelines. Analysis of the proposed Project determined that it is Categorically Exempt from environmental review pursuant to Article 19, Class 32 of the CEQA Guidelines. The Categorical Exemption (CE) could be adopted, including, on the basis that none of the potential environmental effects of the proposed Project would cause substantial adverse effects on human beings, the physical environment, on public health and safety, or on property listed in the California Register of Historic Resources. Based on all of the above, there is no basis to deny the requested incentive.

c. *The incentive(s) are contrary to state or federal laws.*

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

Following is a delineation of the findings related to the request for one (1) Waiver of Development Standard, pursuant to Government Code Section 65915.

2. Government Code Section 65915 and LAMC Section 12.22 A.25 state that the Commission shall approve a density bonus and requested Waiver of Development Standard(s) unless the Commission finds that:

a. *The waiver(s) or reduction(s) are contrary to state or federal laws.*

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

A project that provides 15 percent of total units for Very Low Income Households qualifies for three (3) Incentives, and may request other "waiver[s] or reduction[s] of development standards that will have the effect of physically precluding the construction of a development meeting the [affordable set-aside percentage] criteria of subdivision (b) at the densities or with the concessions or incentives permitted under [State Density Bonus Law]" (Government Code Section 65915(e)(1)).

Therefore, the request for the following is recommended as a Waiver of Development Standards. Without the below Waiver, the existing development standards would preclude development of the proposed density bonus units and project amenities:

Height: The subject site is zoned C2-1XL-CPIO, with a Height District No. 1XL and CPIO designation that permit a maximum 30-foot building height. The applicant has requested an increase for 15 feet and 5 inches to allow for 45 feet and 5 inches through a Waiver of Development Standard. The limitation on the height would remove one (1) story from the proposed building which contains 27 dwelling units, and will limit the ability to construct the residential dwelling units permitted by-right and the Restricted Affordable Units which are of a sufficient size. This development standard would have the effect of physically precluding construction of a development providing 102 dwelling units, of which 12 units will be set aside for Very Low Income households. As proposed, the additional height will allow for the construction of the affordable residential units. The

requested waiver will allow the developer to expand the building envelope so the additional units can be constructed and the overall space dedicated to residential uses is increased.

- b. The Incentive will have 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 the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.***

There is no evidence in the record that the proposed density bonus incentive(s) will have a specific adverse impact. A "specific adverse impact" is defined as, "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22.A.25(b)). The finding that there is no evidence in the record that the proposed incentive(s) will have a specific adverse impact is further supported by the recommended CEQA finding. The findings to deny an incentive under Density Bonus Law are not equivalent to the findings for determining the existence of a significant unavoidable impact under CEQA. However, under a number of CEQA impact thresholds, the City is required to analyze whether any environmental changes caused by the project have the possibility to result in health and safety impacts. For example, CEQA Guidelines Section 15065(a)(4), provides that the City is required to find a project will have a significant impact on the environment and require an EIR if the environmental effects of a project will cause a substantial adverse effect on human beings. The proposed project and potential impacts were analyzed in accordance with the State California Environmental Quality Act (CEQA) Guidelines. Analysis of the proposed Project determined that it is Categorically Exempt from environmental review pursuant to Article 19, Class 32 of the CEQA Guidelines. The Categorical Exemption (CE) could be adopted, including, on the basis that none of the potential environmental effects of the proposed Project would cause substantial adverse effects on human beings, the physical environment, on public health and safety, or on property listed in the California Register of Historic Resources. Based on all of the above, there is no basis to deny the requested incentive.

DENSITY BONUS LEGISLATION BACKGROUND

The California State Legislature has declared that "[t]he availability of housing is of vital statewide importance," and has determined that state and local governments have a responsibility to "make adequate provision for the housing needs of all economic segments of the community." Section §65580, subds. (a), (d). Section 65915 further provides that an applicant must agree to, and the municipality must ensure, the "continued affordability of all Low and Very Low Income units that qualified the applicant" for the density bonus.

With Senate Bill 1818 (2004), state law created a requirement that local jurisdictions approve a density bonus and up to three "concessions or incentives" for projects that include defined levels of affordable housing in their projects. In response to this requirement, the City created an ordinance that includes a menu of incentives (referred to as "on-menu" incentives) comprised of eight zoning adjustments that meet the definition of concessions or incentives in state law (California Government Code Section 65915). The eight on-menu incentives allow for: 1) reducing setbacks; 2) reducing lot coverage; 3) reducing lot width, 4) increasing floor area ratio (FAR); 5)

increasing height; 6) reducing required open space; 7) allowing for an alternative density calculation that includes streets/alley dedications; and 8) allowing for "averaging" of FAR, density, parking or open space. In order to grant approval of an on-menu incentive, the City utilizes the same findings contained in state law for the approval of incentives or concessions.

California State Assembly Bill 2222 went into effect January 1, 2015, and was amended by Assembly Bill 2556 on September 28, 2016, and with that Density Bonus projects filed as of that date must demonstrate compliance with the housing replacement provisions which require replacement of rental dwelling units that either exist at the time of application of a Density Bonus project, or have been vacated or demolished in the five-year period preceding the application of the project. This applies to all pre-existing units that have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control (including Rent Stabilization Ordinance); or is occupied by Low or Very Low Income Households (i.e., income levels less than 80 percent of the area median income [AMI]). The replacement units must be equivalent in size, type, or both and be made available at affordable rent/cost to, and occupied by, households of the same or lower income category as those meeting the occupancy criteria. Prior to the issuance of any Director's Determination for Density Bonus and Affordable Housing Incentives, the Housing and Community Investment Department (HCIDLA) is responsible for providing the Department of City Planning, along with the applicant, a determination letter addressing replacement unit requirements for individual projects. The City also requires a Land Use Covenant recognizing the conditions be filed with the County of Los Angeles prior to granting a building permit on the project.

Assembly Bill 2222 also increases covenant restrictions from 30 to 55 years for projects approved after January 1, 2015. This determination letter reflects these 55 year covenant restrictions.

Under Government Code Section § 65915(a), § 65915(d)(2)(C) and § 65915(d)(3) the City of Los Angeles complies with the State Density Bonus law by adopting density bonus regulations and procedures as codified in Section 12.22 A.25 of the Los Angeles Municipal Code. Section 12.22 A.25 creates a procedure to waive or modify Zoning Code standards which may prevent, preclude or interfere with the effect of the density bonus by which the incentive or concession is granted, including legislative body review. The Ordinance must apply equally to all new residential development.

In exchange for setting aside a defined number of affordable dwelling units within a development, applicants may request up to three incentives in addition to the density bonus and parking relief which are permitted by right. The incentives are deviations from the City's development standards, thus providing greater relief from regulatory constraints. Utilization of the Density Bonus/Affordable Housing Incentives Program supersedes requirements of the Los Angeles Municipal Code and underlying ordinances relative to density, number of units, parking, and other requirements relative to incentives, if requested.

For the purpose of clarifying the Covenant Subordination Agreement between the City of Los Angeles and the United States Department of Housing and Urban Development (HUD) note that the covenant required in the Conditions of Approval herein shall prevail unless pre-empted by State or Federal law.

SITE PLAN REVIEW FINDINGS

3. **The project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan.**

The proposed project is in substantial conformance with the purposes, intent, and provisions of the General Plan and the San Pedro Community Plan.

The project site is located in the San Pedro Community Plan, and is designated for Neighborhood Commercial land uses, with corresponding zones of C1, C1.5, C2, C4, R3, and RAS3. The site is zoned C2-1XL-CPIO, and is consistent with the land use designation. Height District No. 1XL limits Floor Area Ratio ("FAR") to 1.5:1 and building height to 30 feet. The site is not located within a Specific Plan, however it is located within the San Pedro Community Plan Implementation Overlay ("CPIO") District Coastal Commercial A Subarea (Subarea No. 150). The CPIO contains additional regulations for ground floor and building height, density, floor area, building disposition, building design, and parking.

Consistent with the Community Plan, the proposed 102-unit multi-family residential development, which includes 12 Very Low Income units, adds new multi-family housing and much needed affordable housing to Los Angeles's housing supply, in a neighborhood which is conveniently located to a variety of regional destinations, community services and amenities, and multi-modal transportation options.

Framework Element

The General Plan designates the subject site with Neighborhood Commercial land use designation with corresponding zones of C1, C1.5, C2, C4, R3, and RAS3. The Framework Element describes Neighborhood Commercial areas as pedestrian-oriented districts that provide local identity, commercial activity, and support Los Angeles' neighborhoods. The property is zoned C2-1XL-CPIO which is consistent with the Neighborhood Commercial land use. The C2-1XL-CPIO zone allows for R4 (High Medium Residential) land uses and estimates 56 to 109 dwelling units per acre.

Per the Framework Element's Long Range Land Use Diagram for the West/Coastal Los Angeles area, the site is also along a Mixed Use Boulevard. A Mixed Use Boulevard is described as "connect[ing] the city's neighborhood districts and community, regional and Downtown centers. Mixed Use development is encouraged along these boulevards, with the scale, density and height of development compatible with the surrounding areas. Generally, different types of Mixed Use Boulevards will fall within a range of floor area ratios from 1.5:1 up to 4.0:1 and be generally characterized by 1- to 2-story commercial structures, up to 3- to 6-story mixed use buildings between centers and higher buildings within centers. Mixed Use Boulevards are served by a variety of transportation facilities".

Therefore, as a 4-story multi-family residential development with a maximum 2.65:1 FAR as allowed by Density Bonus, the proposed project is consistent with the General Plan Framework.

Land Use Element – San Pedro Community Plan

The proposed project aligns with the intent of the 2017 San Pedro Community Plan including the following:

Goal LU3: Multi-family residential neighborhoods with a mix of ownership and rental units that are well-designed, safe, provide amenities for residents, and exhibit the architectural characteristics and qualities that distinguish San Pedro

Policy LU3.1: Neighborhood stability. Stabilize and improve existing multi-family residential neighborhoods, allowing for growth in areas where there are sufficient public infrastructure and services and where quality of life can be maintained or improved

Policy LU3.2: Key locations. Incorporate multi-family housing in areas targeted for mixed use and in the Regional Center

Policy LU3.3: Equitable housing distribution. Provide an equitable distribution of housing types for all income groups throughout San Pedro's multi-family neighborhoods and promote mixed-income developments rather than creating concentrations of below-market-rate housing

Policy LU3.4: Affordable housing and displacement. Encourage the replacement of demolished quality affordable housing stock with new affordable housing opportunities while minimizing the displacement of residents, through programs that support development while meeting the relocation needs of existing residents

Policy LU3.6: Amenities. Include amenities for residents such as on site recreational facilities, community meeting spaces, and useable private and/or public open space in new multi-family development

The project is for the construction of a new mixed-income multi-family residential development on an underutilized site that includes 3 vacant commercial structures. The project will result in the net increase of 102 dwelling units which will include 12 Very Low Income units. The site is located within walking distance of public transit and local and regional amenities. As shown in Exhibit "A" and Finding No. 4 below, the Project will provide design features and landscaping improvements to enhance the visual quality of the area.

Housing Element 2013-2021

The proposed project also conforms with the applicable policies of the Housing Element, including:

Goal 1: A City where housing production and preservation result in an adequate supply of ownership and rental housing that is safe, healthy and affordable to people of all income levels, races, ages, and suitable for their various needs.

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

Policy 1.1.4: Expand opportunities for residential development, particularly in designated Centers, Transit Oriented Districts, and Mixed-Use Boulevards

Policy 1.3.5: Provide sufficient land use and density to accommodate an adequate supply of housing units within the City to meet the projections of housing needs

Goal 2: A City in which housing helps to create safe, livable and sustainable neighborhoods.

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

Policy 2.2.2: Provide incentives and flexibility to generate new multi-family housing near transit and centers, in accordance with the General Plan Framework element, as reflected in Map ES.1.

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

Program 98: In accordance with State law, provide a density bonus up to 35% over the otherwise allowable density as well as reduced parking requirements for all residential developments that include units affordable to very low-, low- and/or moderate-income households. Provide additional incentives and concessions to required development standards in order to provide the buildable area needed for the affordable units and increased density.

The proposed project will result in a net increase of 102 new residential units to the City's housing stock and conforms with the applicable provisions of the Housing Element. The applicant has requested deviations from code requirements under the Density Bonus program for increased FAR and height and reduced yard and open space, thereby allowing the creation of affordable units around transit stops. Pursuant to Density Bonus requirements, 15 percent (12 units) of the base units, will be set aside for Very Low Income units. Additionally, this mixed-income development is in close proximity to public transit options and bus stops, and a variety of retail, commercial, entertainment, recreational, and employment opportunities. Locating new housing in this portion of Pacific Avenue will allow residents to have better access to employment centers and places of interest in area.

Mobility Plan 2035

The proposed project also conforms with the following additional policies of the Mobility Plan, including:

Policy 3.1 – Access for All: Recognize all modes of travel, including pedestrian, bicycle, transit, and vehicular modes - including goods movement – as integral components of the City's transportation system.

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

The project utilizes Density Bonus for the construction of a mixed-income development that provides both housing opportunities in close proximity to public transit along the Pacific Avenue corridor, and to permit reduced parking in accordance with Density Bonus Parking Option 1 and bicycle parking reduction, encouraging multi-modal transportation and decreasing vehicle miles traveled in the neighborhood. The site is located along a portion of Pacific Avenue that is designated by the Mobility Plan as a Tier 2 Bicycle Lane in the Bicycle Lane Network, and is also within the designated Pedestrian Enhanced District.

Therefore, the proposed project is consistent with the purposes, intent and provisions of the General Plan, San Pedro Community Plan, Housing Element, and Mobility Plan by meeting several of its goals, objectives, and policies. Specifically, the project would provide a diverse set of uses that (1) facilitate vehicle trip reduction, reduce vehicle miles traveled, and reduce air pollution; (2) accommodate necessary residential growth and provide a mix of apartment

sizes and affordability levels, including restricted very low income units; and (3) reinforce an existing mixed-use corridor by providing an array of housing options, streetscape, and landscaping opportunities, that would be inviting to nearby residents and pedestrians along Pacific Avenue.

4. **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.**

The subject site is located in the San Pedro Community Plan along the Pacific Avenue commercial corridor, at the northwestern corner of Pacific Avenue and 14th Street. The surrounding area is developed with a combination of primarily single-story commercial uses and multi-family residential uses up to three stories in height, with some one- and two-story single-family residential uses in the surrounding area.

The proposed project is the construction of a 4-story, 45-foot and 5-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 2 subterranean levels, in addition to 81 long-term and 8 short-term bicycle parking spaces. The primary building entrance is located along Pacific Avenue, and ground-floor street-facing units will have individual entrances from the sidewalk. Residential amenities are provided in the form of a recreation room, gym, and dog care room at the ground floor; open-air landscaped courtyard at the second floor; and roof decks. Vehicular access is proposed from one driveway along 14th Street. The proposed project would include design features, landscaping improvements, off-street parking facilities, lighting, landscaping, and enclosed trash collection, to enhance the visual quality of the area, and to be compatible with existing and future development on adjacent properties and neighboring properties.

Height

The proposed project will be four (4) stories and approximately 45 feet and 5 inches in building height. The subject property is zoned C2-1XL-CPIO and is located within Height District 1XL. Both the Height District No. 1XL and San Pedro CPIO Section IV-2.A.2(a) and IV-2.B.1 restrict the site to a maximum building height of 30 feet and Floor Area Ratio ("FAR") of 1.5:1, respectively. Neither the Height District nor CPIO restrict the number of stories for a residential building. 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. The proposed 45-foot and 5-inch building height is requested through an Waiver of Development Standard. Properties across 14th Street to the south and further west are developed with multi-family residential buildings up to three stories in height. In addition, the project is compliant with the transitional height requirements of the San Pedro CPIO Section IV-2.A.3(a), which requires the structure be set back or stepped back one foot for every foot in height as measured 14 feet above grade at the shared property line of a contiguous residentially zoned lot. Therefore, the proposed height is comparable with the maximum building height allowable under the On-Menu Density Bonus program, and will provide a transition to be compatible with existing neighboring buildings.

Bulk/Massing

The proposed project abuts two streets, with the street-fronting facades measuring approximately 210 feet along the west side of Pacific Avenue and 150 feet along north side of 14th Street. While the proposed project massing exceeds the existing prevailing development pattern, the overall height is comparable to the maximum building height

allowable under the On-Menu Density Bonus program. In addition, the project is compliant with the transitional height requirements of CPIO Section IV-2.A.3(a), which requires the structure be set back or stepped back one foot for every foot in height as measured 14 feet above grade at the shared property line of a contiguous residentially zoned lot. The project will provide a 15-foot wide westerly side yard adjacent to the neighboring residential uses, which exceeds the code required side setback of 7 feet. Therefore, the project massing will be appropriately set back from the neighboring residential uses. Lastly, the project provides architectural detailing that enhances the street-facing building frontage along Pacific Avenue by applying recesses, balconies, and varied rooflines along the building facade, along with varying building materials and colors to incorporate variation in design.

Building Materials

The building design incorporates a variety of recesses, balconies, varied rooflines, and different materials to add architectural interest to the building and creates distinct breaks in the building plane. These breaks are further differentiated through the use of a variety of building materials that include stucco, double pane aluminum, and aluminum woven wire mesh. Together, these elements are applied to create sufficient breaks in plane and articulation. In accordance with CPIO Section IV-2.C.2 and IV-2.C.4, respectively, at least 60 percent of the Primary Frontage of the Ground Floor shall consist of doors and windows, and heavily textured stucco is prohibited.

Entrances

The primary building entrance is proposed along Pacific Avenue, and is differentiated from the remainder of the street frontage through a recess that is enhanced with Pedestrian Amenities along the sidewalk. In addition, all ground-floor street-facing units along Pacific Avenue and 14th Avenue will have individual unit entrances that will be directly accessible from the street and set back a minimum of 3 feet from the sidewalk in accordance with CPIO Section IV-2.D.3 and IV-2.D.4.

Setbacks

The project creates a strong street wall with minimal setbacks along both Pacific Avenue and 14th Street. CPIO Section IV-2.C.1 requires that the exterior wall of any building shall be located not more than 5 feet from the Primary Lot Line, except that exterior walls may be more than 5 feet from the Primary Lot Line when the setback is improved with Pedestrian Amenities and/or landscaping. The ground floor along Pacific Avenue is set back approximately 3 feet to provide more area for pedestrian access in compliance with the CPIO, which allows a setback along Pacific Avenue ranging from 0 to 5 feet. The northerly rear yard will be 5 feet, as granted and conditioned herein, and landscaped to provide a buffer from the adjacent commercial building. The westerly side yard will be 15 feet in width to create a buffer from the adjacent residential buildings, and enhanced as residential amenity space to include landscaping, trees, seating, and a firepit.

Parking/Loading

The Applicant has requested to utilize a parking reduction granted by-right under Density Bonus Parking Option 1 LAMC Section 12.22 A.25(d)(1). Density Bonus Parking Option 1 requires parking spaces at the following ratios: 1 space per unit containing 0 to 1 bedrooms, 2 spaces per unit containing 2 to 3 bedrooms, and 2.5 space per unit containing 4 or more bedrooms. The project provides 72 studios and one-bedroom units, and 30 two-bedroom units, and is therefore required to provide a total of 132 parking spaces. The Bicycle Parking Ordinance, LAMC Section 12.21.A.4, allows affordable residential projects to reduce required vehicle parking by 10 percent, in this case, a reduction of 13 vehicular parking spaces, to provide 119 vehicular parking spaces. The applicant is requesting only a 4 percent reduction of 5 vehicular parking spaces, to provide a total of 127 vehicular parking spaces for the project. The parking is proposed in the form of two (2) subterranean parking

levels. No parking spaces are proposed at or above grade level in accordance with CPIO Section IV-2.E.2. The project will reduce the number of curb cuts and driveways currently on-site from two existing curb cuts to one proposed curb cut. The curb cut is proposed along 14th Street and will provide access to one driveway serving the subterranean parking. Therefore, the project will improve walkability of the site by removing an existing curb cut and surface parking lot. As conditioned, all electric vehicle charging spaces (EV Spaces) and electric vehicle charging stations (EVCS) shall comply with the regulations outlined in Sections 99.04.106 and 99.05.106 of Article 9, Chapter IX of the LAMC.

Lighting

The project will comply with CPIO Section IV-2.H.1 to provide ancillary lighting along pedestrian and vehicular access ways, and is conditioned so that all pedestrian walkways and vehicle access points will be well-lit with lighting fixtures that are harmonious with the building design. As conditioned, all outdoor lighting provided on-site will be shielded to prevent excessive illumination and spillage onto adjacent public rights-of-way, adjacent properties, and the night sky.

Landscaping/Open Space

On-site landscaping and open space is provided in the form a 3,241 square-foot courtyard, 2,940 square foot roof deck, and private balconies. The common open space areas shall meet the minimum dimension, landscaping, and amenity requirements per LAMC Section 12.21 G.2(a). Additional landscaping is proposed along the northerly rear yard, and residential amenity space with landscaping, trees, seating, and firepit in the easterly side yard. The project is conditioned to submit landscape plans prepared by a licensed landscape architect or licensed architect to show the size and location of all plants, and ensure sufficient depth and soil volume for trees and green roofs.

Trash Collection

Trash and recycling areas are conditioned to be located within the subterranean parking level to ensure that they are not visible from public view from the street per CPIO Section IV-2.H.3. Service providers will access the trash area from the driveway along 14th Street and enter the parking garage for trash collection. Therefore, trash collection will not affect circulation for surrounding properties.

5. The residential project provides recreational and service amenities to improve habitability for its residents and minimize impacts on neighboring properties.

The proposed project provides recreational and service amenities that will improve habitability for the residents and minimize any impacts on neighboring properties. Common open space is provided in the form of a 3,241 square-foot courtyard on Level 2 and 2,940 square foot roof deck. Additional residential amenity space with landscaping, trees, seating, and firepit is proposed in the easterly side yard. The project also provides private balconies for use as private open space for individual units. Therefore, the proposed project provides sufficient recreational and service amenities for its residents, minimizing any impacts on neighboring properties.

CEQA Findings

The Department of City Planning determined based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, Article 19, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies. The Notice of Exemption and Justification for Project Exemption for Environmental Case No. ENV-2019-4909-CE is provided in the case file and attached as Exhibit D.

The project is the construction of a 4-story, 45-foot and 5-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 2 subterranean levels. The site is currently improved with 3 vacant commercial structures, with 26 trees on the subject site and 4 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, and export of approximately 20,000 cubic yards of soil.

As a multi-family residential building, and a project which is characterized as in-fill development, the project qualifies for the Class 32 Categorical Exemption.

CEQA Determination – Class 32 Categorical Exemption Applies

A project qualifies for a Class 32 Categorical Exemption if it is developed on an infill site and meets the following criteria:

- (a) **The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.**

The subject site is located within the San Pedro Community Plan and is designated for Neighborhood Commercial Land Uses. The site is zoned C2-1XL-CPIO and is consistent with the land use designation. As shown in the case file and under Finding No. 2 above, the project is consistent with the General Plan, the applicable San Pedro Community Plan designation and policies, and all applicable zoning designations and regulations as permitted by Density Bonus law.

- (b) **The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.**

The subject site is wholly within the City of Los Angeles, on a site that is approximately 0.72 acres (31,521 square feet). Lots adjacent to the subject site are developed with the following urban uses: multi-family and single-family residential and commercial uses. The subject site is within one-half mile of several bus stops served by the Los Angeles County Metropolitan Transit Authority ("Metro") Silver Line and 205, 246, and 550 bus lines, Los Angeles Department of Transportation ("LADOT") DASH San Pedro and Commuter Express 142 bus lines. There is a bus stop within 400 feet at the intersection of Pacific Avenue and 15th Street.

- (c) **The project site has no value as habitat for endangered, rare or threatened species.**

The site is previously disturbed and surrounded by development and therefore is not, and has no value as, a habitat for endangered, rare or threatened species. There are no native protected trees on the site per the Tree Report prepared by Courtland Studio, LLC dated

March 26, 2019. There are 26 trees on the subject site and 4 trees along the public right-of-way, all of which will be removed to clear the lot.

- (d) **Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.**

Regulatory Compliance Measures – The project will be subject to Regulatory Compliance Measures (RCMs), which require compliance with the City of Los Angeles Noise Ordinance, pollutant discharge, dewatering, stormwater mitigations; and Best Management Practices for stormwater runoff. More specifically, RCMs include but are not limited to the following, to ensure the project will not have significant impacts:

- **Regulatory Compliance Measure RC-AQ-1 (Demolition, Grading and Construction Activities): Compliance with provisions of the SCAQMD District Rule 403.** The project shall comply with all applicable standards of the Southern California Air Quality Management District, including the following provisions of District Rule 403:
 - All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.
 - The construction area shall be kept sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind.
 - All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust.
 - All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
 - All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
 - General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
 - Trucks having no current hauling activity shall not idle but be turned off.
- **Regulatory Compliance Measure RC-AQ-2:** In accordance with Sections 2485 in Title 13 of the California Code of Regulations, the idling of all diesel-fueled commercial vehicles (weighing over 10,000 pounds) during construction shall be limited to five minutes at any location.
- **Regulatory Compliance Measure RC-AQ-3:** In accordance with Section 93115 in Title 17 of the California Code of Regulations, operation of any stationary, diesel-fueled, compression-ignition engines shall meet specified fuel and fuel additive requirements and emission standards.
- **Regulatory Compliance Measure RC-AQ-4:** The Project shall comply with South Coast Air Quality Management District Rule 1113 limiting the volatile organic compound content of architectural coatings.
- **Regulatory Compliance Measure RC-AQ-5:** The Project shall install odor-reducing equipment in accordance with South Coast Air Quality Management District Rule 1138.
- **Regulatory Compliance Measure RC-AQ-6:** New on-site facility nitrogen oxide emissions shall be minimized through the use of emission control measures (e.g., use of best available control technology for new combustion sources such as boilers and water heaters) as required by South Coast Air Quality Management District Regulation XIII, New Source Review.

- **Regulatory Compliance Measure RC-GEO-1 (Seismic):** The design and construction of the project shall conform to the California Building Code seismic standards as approved by the Department of Building and Safety.
- **Regulatory Compliance Measure RC-NO-1 (Demolition, Grading, and Construction Activities):** The project shall comply with the City of Los Angeles Noise Ordinance and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.

Traffic - A traffic study was prepared by Linscott Law & Greenspan, dated September 26, 2019 analyzed the proposed project and determined that the project is forecast to generate a net increase of 372 daily trip ends during a typical weekday, 38 vehicle trips during the weekday a.m. peak hour, and 25 vehicle trips during the weekday p.m. peak hour. The traffic analysis accounts for ambient growth factors based on a 1.0 percent annual growth and in addition to trips resulting from other development projects that are located within the study area. The Department of Transportation (LADOT) reviewed the traffic study and confirmed its findings in a memo dated October 22, 2019, confirming that none of the study intersections would be significantly impacted by project-related traffic. Therefore, the project will not have any significant impacts relating to traffic.

Noise – The Project must comply with the adopted City of Los Angeles Noise Ordinances No. 144,331 and 161,574 and LAMC Section 41.40 as indicated above in RC-NO-1, LAMC Section 112.05, as well as any subsequent Ordinances, which prohibit the emission or creation of noise beyond certain levels. These Ordinances cover both operational noise levels (i.e., post-construction), and any construction noise impacts. As a result of this mandatory compliance, the proposed Project will not result in any significant noise impacts. Furthermore, the Noise Impact Analysis prepared by DKA Planning dated November 2019 confirmed that the Project would not result in construction-related or operational noise impacts on the environment. The analysis took into account noise from construction activities, operational noise sources from mechanical equipment, parking and auto-related activities, human conservation and activities, recreation facilities, landscape maintenance, trash collection, vibration, impacts to sensitive receptors. The analysis concluded that the project would not result in any significant effects relating to noise.

Air Quality – The Project's potential air quality effects were evaluated by estimating the potential construction and operations emissions of criteria pollutants, and comparing those levels to significance thresholds provided by the Southern California Air Quality Management District (SCAQMD). The Project's emissions were estimated using the CalEEMod 2016.3.2 model (output October 29, 2019) for the purposes of evaluating air quality impacts of proposed projects and summarized in the Air Quality Technical Report prepared by DKA Planning dated November 2019. The analysis took into account construction activity emissions during demolition, grading building construction, and architectural coating, as well as effects to sensitive receptors. The analysis confirms that the Project would not exceed SCAQMD significance thresholds for air quality impacts. In addition, there are several Regulatory Compliance Measures which regulate air quality-related impacts for projects citywide as noted above.

(e) The site can be adequately served by all required utilities and public services.

The project site will be adequately served by all public utilities and services given that the construction of a multi-family residential building will be on a site which has been previously developed and is consistent with the General Plan.

Therefore, the project meets all of the Criteria for the Class 32 Categorical Exemption.

CEQA Section 15300.2: Exceptions to the Use of Categorical Exemptions

There are five (5) Exceptions which must be considered in order to find a project exempt under Class 32:

- (a) **Cumulative Impacts.** *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.*

There is not a succession of known projects of the same type and in the same place as the subject project.

There is a proposed project approximately one-half mile from the subject site, located at 2111-2139 South 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. However, 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 the same type and same place as the subject project.

Both projects would be subject to the citywide Regulatory Compliance Measures as noted above, which regulate impacts related to air quality, noise, and geology to a less than significant level. The traffic study prepared by Linscott Law & Greenspan, dated September 26, 2019, accounts for ambient growth factors based on a 1.0 percent annual growth and in addition to trips resulting from other development projects that are located within the study area (including the project located at 2111-2139 South Pacific Avenue and 7 other projects either proposed or under construction), and concluded no traffic impacts. The Department of Transportation (LADOT) reviewed the traffic study and confirmed its findings in a memo dated October 22, 2019, which included standard conditions for a construction work site traffic control plan and limiting construction-related traffic to off-peak hours. There is no evidence to conclude that significant impacts will occur based on past project approvals or that the proposed Project's impacts are cumulatively considerable when evaluating any cumulative impacts associates with construction noise and transportation/traffic in the surrounding area.

- (b) **Significant Effect Due to Unusual Circumstances.** *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.*

The project proposes a multi-family building in an area zoned and designated for such development. All adjacent lots are developed with multi-family and single-family residential and commercial uses, and the subject site is of a similar size and slope to nearby properties. The applicant has requested an Off-Menu Density Bonus Incentive for 2.65:1 FAR on a site that is otherwise permitted for 1.5:1 FAR. The project size and height is not unusual for the vicinity of the subject site, and is similar in scope to other existing multi-family dwellings and proposed future projects in the area. Furthermore, there is no substantial evidence in the administrative record that this project will cause a significant impact. Thus, there are no unusual circumstances which may lead to a significant effect on the environment.

- (c) **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.*

The only State Scenic Highway within the City of Los Angeles is the Topanga Canyon State Scenic Highway, State Route 27, which travels through a portion of Topanga State Park. The State Route 27 is approximately 27 miles northwest of the subject site. Therefore the subject site will not create any impacts within a designated as a state scenic highway.

- (d) **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*

According to Envirostor, the State of California's database of Hazardous Waste Sites, neither the subject site, nor any site in the vicinity, is identified as a hazardous waste site.

A Phase I Environmental Site Assessment ("ESA") Report prepared by Priority 1 Environmental dated December 28, 2018 for 1309-1323 South Pacific Avenue included reviewing available environmental related information concerning the property and other data; conducting a site visit to observe current site uses, observing adjacent land uses, and gathering data on possible spills or misuse of chemicals that could be considered a Recognized Environmental Concern ("REC"); and reviewing regulatory files regarding the property. The ESA revealed no evidence of RECs in connection with the property, with the exception of historical records indicating that a drycleaners operated at 1311 South Pacific Avenue from 1946 to 1957 (possibly earlier), therefore the use of drycleaning chemicals prior to LAFD regulatory oversight constitutes a potential release. The ESA recommended a limited subsurface soil and soil vapor investigation at 1311 South Pacific Avenue to determine if the historical use as a drycleaners has impacted the property. A Phase II Environmental Site Assessment Report prepared by Priority 1 Environmental dated January 23, 2019 evaluated the subsurface soil vapor and soils in the area of the former drycleaners that was previously on the subject site at 1309-1311 South Pacific Avenue. The gas sampling and soil sampling indicated that only low levels of tetrachloroethane ("PCE") were detected in one soil vapor sample, and is not a significant release to the environment. The Phase II ESA concluded that concerns for the proposed multi-family redevelopment would be resolved by the excavation of the proposed subterranean parking.

A Phase I ESA prepared by Priority 1 Environmental dated August 3, 2018 for 1331-1337 South Pacific Avenue included reviewing available environmental related information concerning the property and other data; conducting a site visit to observe current site uses, observing adjacent land uses, and gathering data on possible spills or misuse of chemicals that could be considered a Recognized Environmental Concern ("REC"); and reviewing regulatory files regarding the property. The ESA revealed no evidence of RECs in connection with the property, with the exception of the historical use of a gasoline service station on site from 1920 to 1959. A Phase II Environmental Site Assessment Report prepared by Priority 1 Environmental dated September 7, 2018 evaluated the subsurface soils in the area of the former gasoline service station that was previously on the subject site, and the suspected underground storage tank that was suspected to be in the center of the property. The soil sampling indicated that contaminants above the regional screening levels were not detected, and that the suspected UST should be confirmed and if confirmed, the City of Los Angeles Fire Department ("LAFD") should be contacted and the UST should be removed per LAFD requirements. The report was reviewed by the LAFD and forwarded to the Los Angeles Regional Water Quality Control Board ("LARWQCB"). In a memorandum dated August 22, 2019, the LARWQCB indicated that the residual concentrations of fuel constituents pose a low threat to human health, and soil and groundwater quality beneath the site, and that no further action is required.

- (e) **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.*

The project site is not listed in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register, and was not found to be a potential historic resource based on the City's HistoricPlacesLA website or SurveyLA, the citywide survey of Los Angeles.

A Historical Resource Evaluation Report prepared by Galvin Preservation Associates ("GPA") Consulting, dated November 2019, indicated that a records search prepared by the South Central Coastal Information Center ("SCCIC") revealed a potential prior evaluation of 1309-1311 South Pacific Avenue and 1331 South Pacific Avenue. The properties have a Status Code of 5S2 (individual property that is eligible for local listing or designation), however, no other details or further documentation was available as part of the record search results. Since no date of evaluation was given, it was assumed that the evaluation was at least five years old, and the properties required re-evaluation. The report evaluated all buildings on the Project site as individual potential historical resources as defined by CEQA. The surrounding area was not examined as a potential historic district for the purposes of this report. It was not recorded as a potential historic district during SurveyLA. Although the area developed as San Pedro's commercial corridor in the 1920s, it does not retain the integrity of setting and feeling needed to convey a sense of a discrete time and place. After careful inspection, investigation, and evaluation, GPA concluded that none of the properties appear to be eligible for listing in the National Register of Historic Places or California Register of Historical Resources, or for designation as a Los Angeles Historic-Cultural Monument due to a lack of significance, architectural distinction, and physical integrity. Furthermore, the properties do not contribute to a potential historic district. Therefore, the properties are not historical resources as defined by CEQA. As such, the Project would have no impact on historical resources and no further study is recommended or required. The report was reviewed by the Office of Historic Resources and accepted per correspondence dated December 24, 2019. Based on this, the project will not result in a substantial adverse change to the significance of a historic resource and this exception does not apply.

COVID-19 UPDATE

Interim Appeal Filing Procedures

April 17, 2020



Consistent with Mayor Eric Garcetti's "Safer At Home" directives to help slow the spread of COVID-19, City Planning has implemented new procedures for the filing of appeals for non-applicants that eliminate or minimize in-person interaction. There are three options for filing appeals, described below.

OPTION 1: NON-APPLICANT ONLINE APPEAL PORTAL

(planning.lacity.org/development-services/appeal-application-online)

Non-applicant appeals of entitlements can now be submitted online and payment can be made by credit card. The online appeal portal allows non-applicants to fill out and submit the appeal application directly to the Development Services Center. Once the appeal is accepted, the portal allows for appellants to submit a credit card payment, enabling the appeal and payment to be submitted entirely electronically. *Note: a 2.7% credit card processing service fee will be charged. CEQA appeals, Building and Safety appeals (LAMC Section 12.26K), and Applicant appeals can only be filed using Option 2 or 3 below.*

OPTION 2: EMAIL PLUS US MAIL

This is a two-step process including pre-clearance by email of the appeal application followed by application and payment submittal via US Mail.

STEP 1:

Email planning.figcounter@lacity.org with the subject line: **"Request to File Appeal."** In the email body provide:

- The case number
- Appellant contact information (name, email, telephone number)

Include as individual attachments to the email:

- Copy of Signed Appeal Application
- Justification
- Letter of Determination

City Planning staff will contact the appellant to confirm whether the appeal is complete and meets the applicable provisions of the Los Angeles Municipal Code (LAMC). The appellant will then be instructed to move forward with Step 2.

STEP 2:

Send appeal application via US Mail, postmarked no later than the last day of the appeal period. The package shall include:

- Original Appeal Application (wet signatures),
- Copy of email correspondence with City Planning staff (from Step 1)
- Appeal fee, check payable to the City of Los Angeles (\$109.47 for an aggrieved party, not the Project Applicant.)
- **Mail the appeal application to:**
Department City Planning - Metro DSC
201 N. Figueroa St., 4th Floor
Los Angeles, CA 90012

City Planning staff will email and mail the appellant with a receipt for payment. Note: only the original application, email, and check need to be sent via US Mail. This ensures a standard envelope with standard postage is sufficient, and no trip to the Post Office is necessary. **Steps 1 and 2 must both be completed. An email alone is not sufficient to satisfy appeal requirements.**

OPTION 3: DROP OFF AT DSC

An appellant may continue to submit an appeal application and payment at any of the three Development Services Center (DSC) locations. City Planning established drop off areas at the DSCs with physical boxes where appellants can drop off appeal applications and payment. **Drop off areas are monitored in secure locations outside the three DSCs (Metro/ Downtown, Van Nuys, and West Los Angeles) and are available during regular business hours.**

City Planning staff will follow up with the appellant via email and phone to:

- Confirm that the appeal package is complete and meets the applicable provisions of the LAMC
- Provide a receipt for payment

