

PLANNING DEPARTMENT TRANSMITTAL TO THE CITY CLERK'S OFFICE

CITY PLANNING CASE:	ENVIRONMENTAL DOCUMENT:	COUNCIL DISTRICT:
DIR-2019-5388-DB-1A	ENV-2019-5389-CE-1A	13 – O'Farrell
PROJECT ADDRESS:		
5817-5823 West Lexington Avenue		
APPLICANT	TELEPHONE NUMBER:	EMAIL ADDRESS:
Daniel Pourbaba, 5817 Lexington, LLC	N/A	N/A
<input type="checkbox"/> New/Changed		
APPLICANT'S REPRESENTATIVE	TELEPHONE NUMBER:	EMAIL ADDRESS:
Erika Woods, Diaz Group, LLC	N/A	N/A
APPELLANT	TELEPHONE NUMBER:	EMAIL ADDRESS:
Ahmad Heydar	818-370-4219	ahmad@oxfordengr.com
APPELLANT'S REPRESENTATIVE	TELEPHONE NUMBER:	EMAIL ADDRESS:
N/A	N/A	N/A
PLANNER CONTACT INFORMATION:	TELEPHONE NUMBER:	EMAIL ADDRESS:
Alexander Truong	213-978-3308	alexander.truong@lacity.org
ENTITLEMENTS FOR CITY COUNCIL CONSIDERATION		
CE		

FINAL ENTITLEMENTS NOT ADVANCING:

N/A

ITEMS APPEALED:

CEQA appeal - CE

ATTACHMENTS:**REVISED:****ENVIRONMENTAL CLEARANCE:****REVISED:**

- ☒ Letter of Determination
- ☒ Findings of Fact
- ☒ Staff Recommendation Report
- ☒ Conditions of Approval
- ☐ Ordinance
- ☐ Zone Change Map
- ☐ GPA Resolution
- ☐ Land Use Map
- ☐ Exhibit A - Site Plan
- ☒ Mailing List
- ☐ Land Use
- ☒ Other

- ☐
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- ☒ Categorical Exemption
- ☐ Negative Declaration
- ☐ Mitigated Negative Declaration
- ☐ Environmental Impact Report
- ☐ Mitigation Monitoring Program
- ☐ Other

- ☐
- ☐
- ☐
- ☐
- ☐
- ☐

NOTES / INSTRUCTION(S):

N/A

FISCAL IMPACT STATEMENT:☒ Yes☐ No

*If determination states administrative costs are recovered through fees, indicate "Yes".

PLANNING COMMISSION:

- ☒ City Planning Commission (CPC)
- ☐ Cultural Heritage Commission (CHC)
- ☐ Central Area Planning Commission
- ☐ East LA Area Planning Commission
- ☐ Harbor Area Planning Commission
- ☐ North Valley Area Planning Commission
- ☐ South LA Area Planning Commission
- ☐ South Valley Area Planning Commission
- ☐ West LA Area Planning Commission

PLANNING COMMISSION HEARING DATE:	COMMISSION VOTE:
April 23, 2020	7-0
LAST DAY TO APPEAL:	APPEALED:
May 13, 2020	CEQA appealed on May 12, 2020
TRANSMITTED BY:	TRANSMITTAL DATE:
Irene Gonzalez Commission Office	May 15, 2020



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: APR 28 2020

Case No. DIR-2019-5388-DB-1A
CEQA: ENV-2019-5389-CE
Plan Area: Hollywood

Council District: 13 – O' Farrell

Project Site: 5817-5823 West Lexington Avenue
Applicant: Daniel Pourbaba, 5817 Lexington, LLC
Representative: Erika Woods, Diaz Group, LLC
Appellants: Ahmad Heydar, Hollywood Villas LLC
Pedro Guevara, Michael Higgins, and Sar Kotoyan

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:

Demolition of the two existing single-family structures with associated accessory structures and the construction, use and maintenance of a five-story, 56-foot tall, 21-unit multi-family dwelling. The building will be constructed with four residential levels over one at-grade parking level. The Project will provide a total of 29 automobile parking spaces.

1. **Determined**, that based on the whole of the administrative record as supported by the justification prepared and found in the environmental case file, the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332 (Class 32), and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, or hazardous waste sites, or historical resources applies;
2. **Denied** the appeal and **sustained** the Planning Director's determination to approve, pursuant to Section 12.22 A.25 of the Los Angeles Municipal Code, a 25 percent Density Bonus (with seven percent of the base number of units set aside for Very Low Income Households), for a project totaling 21 dwelling units, reserving two units for Very Low Income Household occupancy for a period of 55 years and one On-Menu Incentive as follows:
 - a. Height. Up to an 11-foot height increase in the maximum permitted height limit;
3. **Adopted** the attached Conditions of Approval; and
4. **Adopted** the attached Findings.

The vote proceeded as follows:

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

Vote: 7 – 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 is final and effective upon the mailing of this determination letter and not further appealable.

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. The applicant is advised that any work undertaken while the CEQA clearance is on appeal is at his/her/its own risk and if the appeal is granted, it may result in (1) voiding and rescission of the CEQA clearance, the Determination, and any permits issued in reliance on the Determination and (2) the use by the City of any and all remedies to return the subject property to the condition it was in prior to issuance of the Determination.

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.

Attachment: Conditions of Approval, Findings

c: Nicholas Hendricks, Senior City Planner
Oliver Netburn, City Planner
Alex Truong, City Planning Associate

CONDITIONS OF APPROVAL

1. 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. Minor deviations may be allowed in order to comply with the provisions of the LAMC or the project conditions. Changes beyond minor deviations required by other City Departments or the LAMC may not be made without prior review by the Department of City Planning, Expedited Processing Section, and written approval by the Director of City Planning. Each change shall be identified and justified in writing.
2. **Residential Density.** The project shall be limited to a maximum density of 21 dwelling units including Density Bonus Units.
3. **On-site Restricted Affordable Units.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of HCIDLA to make 7% of the base number of units for Very Low Income Households, as defined by HCIDLA, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. In the event, the applicant reduces the proposed density of the project, the number of required reserved On-site Restricted Units may be adjusted, consistent with LAMC Section 12.22-A,25, to the satisfaction of HCIDLA, and in consideration of the project's AB 2256 Determination. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant shall provide a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by HCIDLA.

Housing Replacement units required pursuant to AB 2556 may be used to satisfy the On-site Restricted Affordable Units provided such units meet the income levels, to the satisfaction of HCIDLA.

4. **Changes in On-site Restricted Units.** Changes in Restricted Units. Deviations that increase the number of restricted affordable units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22-A,25.
5. **Housing Replacement.** 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), and in compliance with AB 2556, to make one (1) unit as affordable to Low Income Households, and one (1) unit as affordable 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 the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by the HCIDLA. Refer to the Density Bonus Legislation Background section of this determination for more information.

On-site Restricted Affordable Units may be used to satisfy the Housing Replacement units required pursuant to AB 2556 provided such units meet the income levels, to the satisfaction of HCIDLA.

6. **Parking.**

- a. **Automobile Parking.** Residential automobile parking shall be provided consistent with LAMC Section 12.21-A,4.
- b. **Unbundling.** Required parking may be sold or rented separately from the units, with the exception of all Restricted Affordable units which shall include any required parking in the base rent or sales price, as verified by HCIDLA.
- c. **Adjustment of Parking.** In the event that the composition of residential changes (i.e. the number of bedrooms), or the applicant selects another Parking Option (including Bicycle Parking Ordinance) and no other Condition of Approval or incentive is affected, then no modification of this determination shall be necessary, and the number of parking spaces shall be re-calculated by the Department of Building and Safety based upon the ratios set forth pursuant to LAMC Section 12.22-A,25.

7. **Bicycle Parking.** Bicycle parking reductions pursuant to LAMC Section 12.21-A,4 shall not be permitted in conjunction with any Density Bonus Parking Option.

8. **Incentive. Height.** Up to an 11-foot height increase in the maximum permitted height limit.

9. **Landscaping.**

- a. Submit a revised Landscape Plan showing a minimum 48-inch deep planter for any trees planted on any rooftop or podium.
- b. All open areas not used for buildings, driveways, parking areas, or recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape development plan and an automatic irrigation plan, prepared by a licensed Landscape Architect and to the satisfaction of the decision maker.

10. **Solar Panels.** Solar panels shall be installed on the project's rooftop space to be connected to the building's electrical system. A minimum of 15% of the roof area shall be reserved for the installation of a solar photovoltaic system, to be installed prior to the issuance of a certificate of occupancy, in substantial conformance with the plans stamped "Exhibit A".

11. **Electric Vehicle Parking.** The project shall include at least twenty percent (20%) of the total parking spaces provided for all types of parking facilities, but in no case less than one location, shall be capable of supporting future electric vehicle supply equipment (EVSE). Plans shall indicate the proposed type and location(s) of EVSE and also include raceway method(s), wiring schematics and electrical calculations to verify that the electrical system has sufficient capacity to simultaneously charge all electric vehicles at all designated EV charging locations at their full rated amperage. Plan design shall be based upon Level 2 or greater EVSE at its maximum operating capacity. Of the 20% EV Ready, 5% of the total parking spaces shall be further provided with EV chargers to immediately accommodate electric vehicles within the parking areas. When the application of either the 20% or 5% results in a fractional space, round up to the next whole number. A label stating "EVCAPABLE" shall be posted in a conspicuous place at the service panel or subpanel and next to the raceway termination point.

12. **Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties, the public right-of-way, nor from the above.
13. **Graffiti.** All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
14. **Roof Structures.** Any structures on the roof, such as air conditioning units and other mechanical equipment, shall be fully screened (with such screening material incorporated in the design of the project) from public right of way and adjoining properties. The building parapet may be used to screen mechanical equipment as long as it fully obstructs the view of the mechanical equipment from abutting properties.

Administrative Conditions

15. **Approvals, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, reviews or approval, plans, etc, as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
16. **Code Compliance.** All area, height and use regulations of the zone classification of the subject property shall be complied with, except wherein these conditions explicitly allow otherwise.
17. **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.
18. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
19. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
20. **Building Plans.** A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
21. **Corrective Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the City Planning Commission, or the Director pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if, in the Commission's or Director's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

22. **Expedited Processing Section.** Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.

23. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

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

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

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

decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

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

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

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

FINDINGS

DENSITY BONUS/AFFORDABLE HOUSING INCENTIVES COMPLIANCE FINDINGS

1. Pursuant to Section 12.22-A,25(c) of the LAMC, the Director shall approve a density bonus and requested incentive(s) unless the director finds that:
 - a. *The incentives are not required to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units.*

The record does not contain substantial evidence that would allow the Director to make a finding that the requested incentives 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.

The list of on-menu incentives in 12.22-A,25 were pre-evaluated at the time the Density Bonus Ordinance was adopted to include types of relief that minimize restrictions on the size of the project. As such, the Director will always arrive at the conclusion that the density bonus on-menu incentives are required to provide for affordable housing costs because the incentives by their nature increase the scale of the project.

Height. The subject site is zoned R3-1 which has a maximum height limit of 45 feet. The height incentive permits a percentage increase in the height requirement in feet equal to the percentage of Density Bonus for which the Housing Development Project is eligible, but not to exceed 11 feet. In this case, the building height may be increased to a maximum of 56 feet. The requested incentive allows the developer to increase the maximum permitted height so that the two (2) restricted affordable units can be constructed and the overall space dedicated to residential uses is increased. This incentive supports the applicant's decision to set aside two (2) dwelling units for Very Low Income Households for 55 years.

- b. *The Incentive will have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there are 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.*

Analysis of the proposed project determined that it qualifies for a Categorical Exemption from environmental review pursuant to Article 19, Class 32 of the CEQA Guidelines. There is no evidence that the proposed incentive will have a specific adverse impact upon public health and safety or the physical environment, or any real property that is

listed in the California Register of Historical Resources. A "specific adverse impact" is defined as "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22-A,25(b)). The project does not involve a contributing structure in a designated Historic Preservation Overlay Zone or on the City of Los Angeles list of Historical-Cultural Monuments. According to ZIMAS, the project is not located on a substandard street in a Hillside area or a Very High Fire Hazard Severity Zone. Therefore, there is no substantial evidence that the proposed project, and thus the requested incentive, will have a specific adverse impact on the physical environment, on public health and safety or the physical environment, or on any Historical Resource.

ADDITIONAL MANDATORY FINDINGS

2. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this Project is not located in a flood zone.