



**APPLICATIONS:**

# APPEAL APPLICATION CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) Instructions and Checklist

**Related Code Section:** The Los Angeles Municipal Code (LAMC) Section 11.5.13 (Ord. No. 186,338) established the appeal procedure to the City Council for California Environmental Quality Act (CEQA) determinations.

**Purpose:** *The Appeal* - A CEQA clearance can only be appealed if a non-elected decision-making body (ZA, APC, CPC, DIR) makes a determination for a project that is not further appealable. To initiate appeal of a CEQA document this form must be completely filled out with the required materials attached and filed within 15 calendar days from the final administrative decision, of the entitlement application.

### General Information

Appealable CEQA documents:

- Certified Environmental Impact Report (EIR)
- Sustainable Communities Environmental Assessment (SCEA)
- Mitigated Negative Declaration (MND)
- Negative Declaration (ND)
- Categorical Exemption (CE)
- Sustainable Exemption (SE)

NOTE:

- Actions not appealable include an addendum, findings made pursuant to CEQA Guidelines Section 15162, or an action in which the determination does not constitute a project under CEQA.
- All CEQA appeals are heard by the City Council.
- This form is only for the appeal of Department of City Planning determinations: All other CEQA appeals are filed with the City Clerk pursuant to the LAMC Section 197.01.
- 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.

### 1. Case Information

Environmental Case Number: ENV-2019-4921

Related Entitlement Case Number(s): DIR-2019-4920-TOC-1A

Project Address: 1600 Venice Boulevard

Date of Final Entitlement Determination: 01/05/2020

The CEQA Clearance being appealed is a(n):

- EIR       SCEA       MND       ND       CE       SE

### 2. Appellant Identity (check all that apply)

- Representative       Property Owner       Other Person  
 Applicant       Operator of the Use/Site

### 3. Appellant Information

Appellant Name: Erica Moore

Company/Organization: \_\_\_\_\_

Mailing Address: 1521 Venice Boulevard

City: Venice      State: CA      Zip: 90291

Telephone: (310) 629-7423      E-mail: bbcatering@earthlink.net

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**

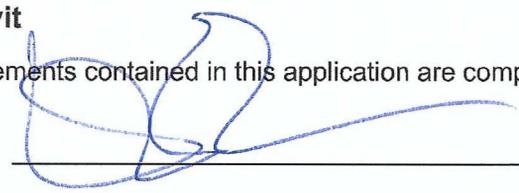
Representative/Agent name (if applicable): Kate Scanlon-Double  
 Company: \_\_\_\_\_  
 Mailing Address: 1832 Penmar Avenue  
 City: Venice State: CA Zip: 90291  
 Telephone: (310) 384-6227 E-mail: evna.venice@gmail.com

**5. Appeal Justification**

Attach a separate sheet providing your specific reasons for the appeal. Your reasons must state how you believe CEQA was incorrectly applied, providing a legal basis for the appeal.

**6. Applicant's Affidavit**

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

Appellant Signature:  Date: 01/20/2021

**ENVIRONMENTAL APPEAL FILING REQUIREMENTS**

Note: City Clerk prepares mailing list for CEQA appeals per LAMC Section 11.5.13 E.

**1. Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates) Each case being appealed is required to provide three (3) sets of the listed documents.

- Environmental Appeal Application (form CP-7840)
- Justification/Reason for Appeal
- Copies of the written Determination Letter, from the final appellate body, which must be a non-elected decision-making body

**2. Electronic Copy**

- 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. "Environmental Appeal Application.pdf", "Justification/Reason Statement.pdf", "Final Determination Letter.pdf"). No file should exceed 9.8 MB in size.

**3. Appeal Fee**

- Original Applicant - A fee equal to 85% of the original application fee of the Environmental case; provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
- Other Persons - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

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

January, 2021

APPEAL OF DIR-2019-4920-TOC, ENV-2019-4921-CE, and PAR-2019-3781-TOC  
1600-1614 EAST VENICE BLVD, VENICE CA 90291

### **APPEAL JUSTIFICATION**

I am aggrieved by the approval of this project for many reasons. Some reasons are basic, substantive reasons related to the legitimacy of the Transit Oriented Community Affordable Housing Incentive Program Guidelines (TOC Guidelines), and other reasons speak to the Department of City Planning decisions in the Director's Determination letter of April 20, 2020 and the City Planning Commission's January 5, 2021 Letter of Determination.

I also object to the City's CEQA determination. A project qualifies for a Class 32 Categorical Exemption if it is developed on an infill site and meets certain criteria. However, before a project can be determined to qualify for a categorical CEQA exemption, exceptions to the exemption, such as cumulative impacts, must be considered. If an exception to a categorical exemption applies, CEQA review in the form of an MND or EIR must be conducted. CEQA Guidelines section 15355 states: "Cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." The Project does not qualify for an exemption due to the cumulative effects of surrounding past, current and future projects.

Additionally, this proposed development is going to impact the street parking that's vital to renters and business owners alike. It's going to increase congestion on Venice Blvd. and nearby residential streets, which will tend to discourage customers from coming to businesses. Glencoe Avenue is already used by commuters as an alternate link between Venice Blvd and Washington Blvd. It will adversely impact the pedestrian experience on this block for members of the community and the city, as the boulevard sidewalk is used daily for strolling and exercise. The entire stretch of Venice Blvd between Lincoln Blvd and Walgrove Ave. is therefore negatively affected.

The Decision Maker errs when he approves the reduced front yard setback in lieu of the current, minimum, conforming 15-foot setback found along the entire length of Venice Blvd between Lincoln Blvd. and Walgrove Ave. This reduced setback will negatively impact the physical environment for the Venice Community, while benefitting the interests of a single Applicant.

There must be a way to balance the need for more housing with the Venice Community desire to preserve the physical cohesion of the built environment as recommended by the Venice Community Plan.

#### **1. The TOC Guidelines contain requirements not authorized by Measure JJJ.**

The language of Measure JJJ limits the incentives to those specified in the Initiative and does not grant carte blanche to a City's Planning Department or Planning Commission to add discretionary Additional Incentives or create TOC Tiers to grant different bonuses within the half mile radius of a major transit stop without going back to the voters.

In addition, the discretionary Additional Incentives approved by the Director of Planning and the CPC were never adopted by the legislative body as required by California Government Code 65915(d)(3). Measure JJJ Section 6 bases its ministerial incentives on the base zone and not on Tiers. Measure JJJ limits the number of incentives to a maximum of three ministerial incentives, which are specified as FAR, density and reduced parking. Each of the Additional Incentives bestowed by the Determination alters otherwise applicable limitations in the LAMC without complying with the procedural requirements for zone changes, height district amendments and General Plan amendments or variances, all of which procedures provide due process and full transparency.

TOC Tiers and the Additional Incentives violate City Charter Section 464(a), because as substantive deviations from a ballot measure, Measure JJJ, they require voter approval as per Section 5.A. and City Charter Section 464(a). There is no authority to grant discretionary Additional Incentives unless the voters approve this change to the law. City Charter Section 464(a) provides that "any ordinance adopted by a vote of the electors of the City pursuant to an initiative petition cannot be amended or repealed, except by an ordinance proposed either by petition or by the Council at its own instance and adopted by a vote of the electors, or by an amendment of the Charter superseding the ordinance."

Measure JJJ Section 4 mandates that prior to making a material change in land use in a community plan area, the Planning Department must first conduct a comprehensive assessment of the impact of the change on affordable housing. In addition, Section 4.A. requires monitoring the inventory of affordable housing with recorded covenants, and an ordinance or law that restricts rents to affordable levels. The Decision Maker errs in neglecting to make a finding that such assessment and the monitoring program have been accomplished. Therefore, no TOC incentives can be lawfully granted in any Community Plan area until those two prerequisites are met in any TOC case.

Neither the TOC Tiers nor the discretionary Additional Incentives are authorized by Measure JJJ. The project violates Measure JJJ by utilizing the Tiers for determining the base incentives and by granting Additional Incentives not authorized by Measure JJJ, including a significant transitional height incentive.

## **2. The project fails to meet the criteria for Tier 2 TOC incentives.**

As stated above, Measure JJJ does not create TOC Tiers granting different bonuses within the half mile radius of a major transit stop. This feature of the City Planning TOC incentive program cannot override State laws.

However, even if the Tier system were allowed under Measure JJJ, the City would still be incorrect in finding that the project qualifies for Tier 2. It is incorrect on two points: distance from intersection and qualifying bus types.

a. Distance:

The Determination Letter errs in stating on page 8, under “Transit Oriented Communities Affordable Housing Incentive Program Background:”

*“The subject property is located within a Tier 2 TOC Affordable Housing Incentive Area, qualified by its proximity to the intersection of two Major Transit Stops [sic], Venice Boulevard and Lincoln Boulevard. Specifically, the site is within 1,500 feet from Metro Bus Line 33 and Rapid Line 733 and Santa Monica Rapid Line 3. As such, the project is located on a site that qualifies for the TOC Tier 2 Incentives.”*

This statement is incorrect as the project site is located approximately **1,965 feet** from the Major Transit Stop intersection of Venice Blvd. and Lincoln Blvd. Zimas identifies the lot as TOC Tier 1 because of its distance from the Major Transit Stop.

b. Qualifying Bus Line Types:

Furthermore, the distance from a Major Transit Stop is not the sole criterion a property must meet to qualify for its Tier designation.

The Determination statement above is incorrect, as the service intervals of the intersecting bus lines do not meet the 15-minute average interval as required by the TOC Guidelines.

The only two qualifying bus lines for the Venice Blvd and Lincoln Blvd Major Transit Stop Intersection are Metro Local Line 33 (Regular bus) and Santa Monica Blue Bus Rapid 3 (Rapid bus).

According to TOC Guidelines Chart 1: a property located between 1500 – 2640 feet from a Major Transit Stop with “Regular plus Rapid Bus” (intersection of a Regular Bus and A Rapid Bus line) qualifies for Tier 1.

The project property’s highest Tier qualification is Tier 1, as its distance from the Major Transit Stop is approximately 1,965 feet and there are two qualifying bus lines, a Regular and a Rapid, at the Major Transit Stop of Venice Blvd and Lincoln Blvd.

Intervals

The eligibility of an intersection to qualify as a Major Transit Stop depends on the frequency of bus service (intervals), and the TOC demands adherence to a specific formula in its guidelines.

The Determination Letter errs (see page 9) in its claims regarding trip intervals:

*“...The project site is located less than 1,500 feet [sic] from the intersection of a Santa Monica Rapid Bus line 3 with a service interval of approximately 13.12 minutes and regular Metro Bus*

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*line 33 and Rapid line 733 with a service interval of approximately 12.7 minutes. Therefore, the project meets the eligibility requirement for proximity to a Major Transit Stop.”*

TOC Guidelines Appendix A: SCAG Methodology: *“To determine the eligibility of the bus line, the average number of minutes per trip for each direction is calculated separately. **If one or both directions fail to meet the 15 minute frequency limit, the entire bus line is ineligible for a Major Transit Stop.**”*

Therefore, besides citing the wrong distance again, this Determination Letter is erroneous on three additional issues:

1. it lists the service interval for only one direction of each qualifying bus;
2. it does not list separate service intervals for the regular Metro Bus Line 33 and the Rapid Line 733;

The City improperly approximates the intervals of regular Bus line 33 and Rapid 733 at 12.7 minutes. According to the Incentive Area Tier Verification Summary Table prepared by the appellants, following SCAG methodology, the service intervals for all the buses at this intersection are:

- Santa Monica Bus Line Rapid 3: Northbound -13.13 min.; Southbound - 12.73 min.
- Regular Santa Monica Bus Line 3 Northbound – 20.00 min.; Southbound – 21.00 min.
- Metro Rapid Line 733: Eastbound and Westbound - both 16.8 min.
- Regular Metro Bus Line 33: Eastbound - 12.35 min.; Westbound- 12.73 min.

The City errs by omitting the fact that the service intervals of Metro Rapid Line 733 are 16.8 minutes both Eastbound and Westbound, and therefore this Rapid line is not a qualifying bus line. The Transit Oriented Community - Referral Form (Form CP-4050) Section II, Project Eligibility, erroneously identifies Metro Line 733 as a “transportation qualifier”, which resulted in the assignment of the wrong tier to this project. The correct tier is Tier 1.

The City is erroneous in assigning Tier 2. The property does not meet the criteria specified in the TOC Guidelines for both the distance from a Major Transit Stop and qualifying bus types to achieve Tier 2 status. As previously demonstrated, the property is in a Tier 1 Affordable Housing Incentive Area.

(See Section 5 below for a further discussion of the Pre-Application Review (PAR))

The “Augmentation” Issue

The TOC Guidelines and SCAG Methodology make no provision for combining separate but overlapping bus routes that do not individually meet the 15-minutes threshold (see attached Appeal Supporting Material, Exhibit D: Connect SoCal, Draft 2020 RTP/SCS Transit Technical Appendix).

There are no criteria in the TOC Guidelines that allow the Planning Department to use a qualifying Regular Bus to “augment” a non-qualifying Rapid Bus in order to achieve qualifying Rapid Bus status and thereby elevate the Type of Major Transit Stop.

However, the Appellant requested any existing written record or documents that permit City Planning to disregard the Tier Verification requirement set out in Chart 1 of the TOC Guidelines. No evidence of such permission was made available, nor were any documents memorializing a different interpretation of the TOC Guidelines requirements.

There is no support for the legitimacy of an alternate interpretation of the requirements for TOC Affordable Housing Incentive Area Tiers as a basis for this project's determination.

The East Venice Neighborhood Association filed a California Public Records Act request with the Planning Department for all communications, documents and other records related to the "augmentation" policy direction regarding Los Angeles City Transit Oriented Community (TOC) guidelines. "Augmentation" is the term used by City Planner Eric Claros in orally describing the use of a qualifying Regular Bus to "augment" a non-qualifying Rapid Bus in order to achieve qualifying Rapid Bus status and thereby elevate the Type of Major Transit Stop.

The Planning Department was unable to provide any such document and stated that it had provided every record it had on the subject other than those exempted from production under California Government Code section 6255 by "deliberative process privilege." Until such documentation, dated on or before the date of the TOC Tier Verification Form (CP-4051) and TOC Referral Form (CP-4050), can be provided, the Appellants and the Planning Commission have no reason to accede to the unsupported assertion that such "augmentation" is legal. If it is not supported in the law, there is no legal basis for granting Tier 2 incentives to this project.

### 3. Finding 1

#### a. Yard/Setback

Nowhere does Measure JJJ authorize Additional Incentives for reduced setback.

Per TOC Guidelines the reduction of Yard/Setback in Tier 1 and Tier 2 is limited as follows:

*"Residential Zones: Eligible Housing Developments in Residential zones may utilize a reduction in the front, rear or side yards as follows:*

- 1. Front Yards: Front yard reductions are limited to no more than the average of the front yards of adjoining buildings along the same street frontage. Or, if located on a corner lot or adjacent to a vacant lot, the front yard setback may align with the façade of the adjoining building along the same front lot line. If there are no adjoining buildings, no reduction is permitted. In Tier 3 and Tier 4, the front yard reduction may be paired with one other individual yard reduction, per subsection 2 below, which will require the use of only one incentive."*

The City grants the 5-foot setback in lieu of the minimum 15-foot setback required in R4 zone based on the fact that the building at 1616 Venice Blvd., a 2-story apartment building with 16 RSO units, has a front yard setback of 5-feet.

The 1616 Venice Blvd. apartment building was built in 1928 only two years after the City of Los Angeles annexed Venice. It is the only residential building between Lincoln Blvd and Walgrove

Ave. that has a front yard setback that is less than the required minimum 15-foot front yard setback for the R4 zone. There are 36 lots on the south side of Venice Blvd, 22 properties total, and only this 92-year-old building at 1616 Venice Blvd. has a front yard setback that is less than 15-feet. On the north side of the boulevard there are also 36 lots, 26 properties, and only the two commercial-use properties have setbacks that are less than 15-feet (1321 Venice Blvd. with a setback of 7-feet and 1523 Venice with a setback of 9-feet). (See attached Appeal Supporting Material Exhibit E: Materials Supporting Contestation of Reduced Setbacks)

The granting of a 5-foot setback contradicts an 80-years-or-more Planning Department policy and erodes its effect. Permitting this one building to depart from the norm will interrupt the frontage-built plane of the boulevard and oppress the pedestrian experience. Going back to at least the 1940s, building records shows a consistent minimum front yard setback for this section of Venice Blvd. between Lincoln Blvd. and Walgrove Ave. of at least 15-feet, including all the 4 and 5-story multi-family buildings of the 1980s. It appears the Planning Department has required a minimum of 15-foot front yard setback for all residential developments along this portion of Venice Blvd.

Unfortunately, instead of honoring an almost 100-year old building as a point of pride for the community, this misuse of 1616 Venice Blvd to allow adjacent developments to drastically reduce setbacks would now cast it as a liability for enabling the degradation of the block's streetscape. In this particular case, the impact is multiplied, as the proposed development spans three lots.

In addition, the balconies at the upper floors of the proposed development extend 30-inches (2.5-feet) into the 5-foot setback, and the balconies located at the 2<sup>nd</sup> floor are only 8'-6" above the sidewalk furthering the sense of intrusion on the pedestrian experience.

A 15-foot setback would decrease the project floor area by close to 5,000 sf. According to the City it would eliminate 16-units, and without the yard incentive, the residential floor area "reserved for Extremely Low Households" might also be reduced.

I challenge the City's conclusion that the number of units would decrease by 16. The fact is that 5,000 sf divided by 16 yields an average unit size of less than 313 sf, considerably smaller than any of the apartments proposed in the plans. The alleged loss of 16 units is clearly an exaggeration.

Moreover, the loss of 16 units would not affect the residential floor area of the Affordable Units. Only reducing the floor area of the market-rate units would affect the size of the ELI units.

**b. Height**

City errs by stating that the number of ELI units is dependent on the additional level made possible by the Height Incentive.

In this case, the total number of Affordable Units cannot be any fewer than seven (7) units. This number is not solely dictated by TOC Guidelines; the project must also replace the nine (9) former, on-site Rent Stabilization Ordinance (RSO) Units as mandated by the Los Angeles Housing and Community Investment Department (HCIDLA).

To be eligible for TOC Incentives a development must provide a minimum number of On-Site Restricted Affordable Units. (The applicant might have chosen to achieve TOC eligibility by providing a different level of affordability. However, that would have increased the total, required number of Affordable Units.)

Moreover, TOC Guidelines do not provide an option for mixing affordability levels to meet the minimum percentage of On-Site Restricted Affordable Units. Therefore, in order to meet both the TOC and HCIDLA requirements with the fewest number of Affordable units, the applicant had no choice but ELI.

The City errs when it ties the height incentive and the resulting increase in square footage to the number of Affordable Units.

(Incidentally, no design plans are referenced in, or attached to, the Determination Letter.)

Maximizing the property's number of units may be one of the developer's goals in order to maximize financial gain; but it is not in the interest of the City and the Venice Community to reduce the front yard setback for the sole financial benefit of the Applicant, while being detrimental to the pedestrian experience and the neighborhood as a whole. This is also in conflict with the vision of the Great Streets Initiative and with the Westside Mobility Plan's objective of creating pedestrian friendly, "livable boulevards," among which Venice Blvd is specified.

#### 4. Finding 3 - Environmental Review Finding

##### CEQA Determination – Class 32 Categorical Exemption Applies

The Decision Maker is negligent in this finding that the project proposes the construction of a three-story residential building containing 77 dwelling units, as the proposed construction is not three-story; it is a **four-story** residential building.

The City neglects to state are the age and condition of the utilities cited. In recent years, Venice has increasingly experienced ruptures in its century-old water and sewage systems.

Without an Environmental Impact Report to prove whether they can “adequately” cope with the increase this project will create, this is unknown.

Additionally, the true cumulative impact on water, waste management, and other infrastructure is unknown until an overdue, community-wide study is undertaken.

The City’s findings regarding the existing infrastructure lack factual support and do not provide a legitimate as the basis for the Class 32 Categorical Exemption. Therefore, the exemption itself is unsupported and conclusory. By law Categorical exemptions are permitted when they fulfill all the required criteria. There is no factual support is provided that this is the case with regard to State CEQA Guidelines, Article 19, Section 15332 item e.

##### Exceptions Findings

In order to make a finding for a Class 32 Categorical Exemption from the requirement for a CEQA determination, a finding must be made that the project fulfills all the required criteria, which are listed by sequential letters from “a” to “e” in the Director’s Determination Letter.

The City lists the State CEQA Guidelines’ Exceptions that, if any of them should apply to the project, would disqualify the project for the exemption. These exceptions are also identified by sequential letters from “a” to “e,” but applied to the individual exceptions in a slightly different sequence than they are in the actual state CEQA guidelines.

The City errs in this sloppy misidentification. (When we refer to any of these exceptions, we use the identifying letter as assigned in the Letter of Determination, not as used in State CEQA Guidelines Section 15300.2.

The City errs for the following reasons in finding that “...the Exceptions outlined in the State CEQA Guidelines Section 15300.2 do not apply to the Project.”

##### *Item a. “Cumulative Impact”*

##### Housing

The City errs in claiming that no comparable pending projects (TOC or Density Bonus) have been identified within a 500-foot radius of the subject site. In making this claim the Decision Maker errs in stating that there is no comparable pending project.

The cumulative impact does not come from TOC or Density Bonus projects only. The impact comes from Multi-Family Dwelling Buildings in general, as well as any significant increase in density that would affect traffic or parking. We are certainly not arguing against multifamily dwellings. Venice needs housing. But neither do we condone denying the reality that the proliferation of multifamily dwellings and consequent increased density may result in cumulative CEQA impacts, and that those potential impacts need to be assessed.

Clearly the mix of by-right zoning, Density Bonus and TOC is creating a “succession of known projects” in the vicinity.

There are some TOC projects around the Major Transit Stop at the Intersection of Venice and Lincoln Blvds., some closer to and some farther from the intersection but all affecting the quality of life of the Venice Community.

Since the inception of TOC in 2018, Los Angeles City Planning has approved 3 TOC projects in Venice totaling a Net Increase of Dwelling Units in the amount of 171 Units (183 new minus 12 demolished).

1. 56-Units at 1015 Venice (replacing 3 units) (residential – TOC)
2. 50-Units at 1808-1816 Lincoln Blvd. (mixed-use – TOC)
3. 77-units at 1600 Venice Blvd. (replacing 9 units) (residential – TOC)

This list of comparable projects by the City is arbitrary and incomplete and presents a false impression by failing to include three other buildings.

4. 31-Units at 1503 Venice Blvd. (residential)
5. 20-Units at 2422 S. Lincoln Blvd. (mixed use – TOC)
6. 40-Units at 2467 S. Lincoln Blvd. (Supportive Housing – DB)

Comparable project #4, at 1503 Venice Blvd., is well within the 500 ft radius referenced in the Determination Letter. Less than a block west of the proposed development, this Apartment Building Project replacing an old Church is currently under construction just 280 ft. from the applicant’s project site.

The other two projects (#s 5 and 6), both with active planning applications, are at almost the exact same distance from the proposed development site as project #1 at 1015 Venice Blvd., that is referenced in the Determination Letter.

With 202 Approved New Dwelling Units (the net 171 units plus the 31-units replacing the church) and more in the pipeline, when will the City take into consideration the consequences of an individual project on the cumulative impact?

No additional known TOC Projects are anticipated at the moment, as **the Intersection of Venice and Lincoln Blvds. is no longer eligible a Major Transit Stop**. As of August 2019, Santa Monica Big Blue Bus Line 3 has reduced service and no longer meets the requirements set by the SCAG methodology (TOC Guidelines Appendix A) and thereby makes the intersection ineligible.

However, in the 2020 SCAG Regional Transportation Plan, the methodology will change as indicated in the Connect SoCal, Draft 2020 RTP/SCS Transit Technical Appendix.

*“Separate but overlapping bus routes that do not individually meet the 15-minute threshold may not be combined in order to qualify as an HQTC. However, based on RTTAC feedback, there are certain corridors where overlapping “line families” or local/bus rapid transit (BRT) lines are intended to function as one bus route. On these corridors, transit riders typically board the first bus available, whether it be a local, express, or BRT line. For these line families or local/BRT corridors, SCAG uses the combined routes to calculate the frequency.”*

TOC Guidelines Chart 1 will need to be amended to reflect this change in the Type of Major Transit Stop definitions as it currently does not list any option for these “line families” combining overlapping types of bus.

Once the **new** SCAG Methodology is in effect and the TOC amended to include this major change; we can expect that more TOC Projects will to be proposed for the Venice Community. Until then, the current methodology must be followed.

The Decision Maker and the City Planning Department seem to be abdicating their responsibility to “plan” for our community, by approving individual housing projects without considering past approvals and anticipated future approvals.

The cumulative impact of anticipated projects must take into account the State mandated increase of housing that will be built in Venice. The Decision Maker errs by not considering this mandated housing increase

### Traffic and Parking

The Department of Transportation (DOT) indicated a net increase of 341 trips for a 77-unit Project.

Using the DOT algorithm, we extrapolated the car trips generated from the currently approved 202 New Dwelling Units are estimated at about 900 daily. Apparently these additional trips are insufficient to compel remediation of the substandard and overburdened intersection of Walgrove and Venice, at the corner of the proposed project’s block. We believe this is an error, either on the part of the Decision Maker or of Overland Traffic Consultants, who did the project’s traffic study. The appellants have not yet had an opportunity to read this traffic study, which we requested approximately a week ago. We hope to amend this Justification document once they’ve had that opportunity.

The Decision Maker ignores the issue of parking impacts in his Determination Letter.

While the Decision Letter asserts that “...the appurtenant parking reductions are not a discretionary action and therefore cannot be appealed,” the appellants challenge the basis of the project’s TOC designation and therefore demand that the requisite analysis of parking and traffic impacts be completed.

This project is in an especially parking-challenged location. Street parking is always overtaxed at night. The 1928 apartment building next door at 1616 Venice was built when the Pacific Red

Car line ran down the median of Venice Blvd. and has no onsite parking (a Transit Oriented Community of its day). This already creates a strain on street parking. The proposed project, with ½ parking space per unit, will negatively impact the residents of that adjacent building and other neighbor's dependent on street parking, TOC exemptions notwithstanding.

We need a community-wide analysis of cumulative traffic and parking impacts to responsibly plan for community transportation and parking needs.

Additionally, Venice needs a community-wide, **cumulative** impact analysis of our other infrastructure resources (i.e. police, fire, water, sewage, parks, etc.) taking into consideration the age and condition of Venice's infrastructure.

The project's proposed parking of 43 automobile spaces for 77 units, though permitted by the TOC Guidelines for a laudable purpose, is in reality foolish. Although the intention is to reduce the carbon footprint and motivate tenants to use public transportation, this is unlikely to happen any time soon, especially when bus service has already been cut back due to diminishing ridership.

Data show that public transit is down to unprecedented levels (even pre-Covid-19). Metro's direction (NextGen Bus Plan) is to remove most of the Rapid Bus lines and convert regular bus lines to be more like Rapid lines by reducing the number of bus stops. This would remove the one feature - short walking distances - that makes taking the bus convenient for most riders.

Categorical Exemptions are granted to "environmentally benign in-fill projects that are consistent with local General Plan and zoning requirements" (Public Resources Code Section 15332). In other words, Categorical Exemptions are meant for by-right projects, not projects seeking discretionary approvals that have significant impacts.

The Decision Maker errs in making this Finding. A CEQA analysis is required.

## **5. Underlying Procedural Problems with PAR**

The appellants recognize that the Decision Maker used the information in the Referral Form properly but because the information in that form was incorrect, the result is in error. The appellants also realize that the appeal of the referral qualification may not be considered appealable in this case as it has a planning case of its own, PAR-2019-3781-TOC. Although it has its own case number it is "related" to this case and the public does not have the opportunity to challenge its conclusions. Not only is there no notification to neighbors of the existence of the PAR case, there is another more serious problem.

The PAR has an expiration date of 180 days where an applicant during that time may or may not apply for an entitlement which then becomes a case, furthermore once a TOC application has been submitted, neighbors are still not notified. Until demolitions starts on a property no one may know about the project, which may be well beyond any appeal opportunity. may be issued to someone who does not yet own the property therefore by the time the TOC application is filed any opportunity for the public to challenge the facts of the verification may no longer exist

**6. The appeal instructions are misleading and due process rights are violated.**

On page 23, the instructions refer to Density Bonus Compliance Review Determination and not a Transit Oriented Affordable Housing Incentive Program Compliance Review. It is not clear if the appeal instructions are accurate as they are referencing the wrong type of project. It is not clear what portion of the project can be appealed or by whom. It is not clear whether only abutting property owners and tenants can appeal this determination or whether that language only applies to Density Bonus projects. The determination should have been reissued with the correct appeal information.

Thank you for your diligent attention to these important issues.



# LOS ANGELES CITY PLANNING COMMISSION

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

[www.planning.lacity.org](http://www.planning.lacity.org)

## LETTER OF DETERMINATION

MAILING DATE: JAN 05 2021

Case No. DIR-2019-4920-TOC-1A  
CEQA: ENV-2019-4921-CE  
Plan Area: Venice

Council District: 11 – Bonin

**Project Site:** 1600 – 1614 East Venice Boulevard

**Applicant:** Venice Wave LP, 1600 Venice LLC  
Representative: Michael Cohanad & Matthew Hayden, Venice Wave LP

**Appellants:** Mickey Ramos and 35 Additional Persons  
Representative: Kate Scanlon-Double

Allen Sarlo

At its meeting of **December 17, 2020**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following Project:

Demolition of three existing residential structures and the construction of a new four-story, maximum 41-feet in height, 49,948 square foot, multi-family apartment building consisting of 77 units over one level of subterranean parking containing 43 automobile stalls. The Project reserves seven of the units for Extremely Low Income Households.

1. **Determined**, that based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332 (Class 32 Urban In-Fill Development), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Denied** the appeals and **sustained**, Planning Director's Determination dated April 20, 2020;
3. **Approved with Conditions**, pursuant to Section 12.22 A.31, a Transit Oriented Communities (TOC) Affordable Housing Incentive Program Compliance Review for a qualifying Tier 2 project, totaling 77 dwelling units, reserving seven units for Extremely Low Income Household occupancy for a period of 55 years, with the following Base and Additional Incentives:
  - a. Residential Density. A 60 percent increase in the maximum density to permit a total of 77 dwelling units, in lieu of 48 units as otherwise permitted by the R4 base density;
  - b. Floor Area Ratio (FAR). A maximum FAR of 4.35:1, in lieu of the 3:1 as otherwise permitted by LAMC Section 12.21.1 A.1;
  - c. Parking. Reduced residential parking requirements to permit 0.5 parking spaces per bedroom;
  - d. Yards/Setback. A reduced front yard setback of 5 feet, in lieu of the 15 feet otherwise required by LAMC Section 12.11; and
  - e. Height. An increase of 11 feet to allow a maximum height of 41 feet, in lieu of the 30 feet otherwise permitted by LAMC Section 12.21.1 A.1;
4. **Adopted** the attached Conditions of Approval; and
5. **Adopted** the attached Findings.

The vote proceeded as follows:

Moved: Khorsand  
Second: Perlman  
Ayes: Leung, López-Ledesma, Millman, Relan  
Nay: Mack  
Absent: Ambroz, Choe

**Vote: 6 – 1**

*Cecilia Lamas* (Electronic Signature due to COVID-19)

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.

Attachments: Conditions of Approval, Findings, Interim Appeal Filing Procedures (CEQA), Appeal Facts Sheet

c: Juliet Oh, Senior City Planner  
Jordann Turner, City Planner  
Esther Serrato, City Planning Associate

## CONDITIONS OF APPROVAL

### Transit Oriented Communities 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, 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 Municipal Code or the project conditions.
2. **Residential Density.** The project shall be limited to a maximum density of 77 residential dwelling units.
3. **Affordable Units.** A minimum of seven (7) dwelling units, or 9 percent of the 77 total units, shall be reserved for Extremely Low Income households as defined in Section 50106 of the California Health and Safety Code. The Transit Oriented Communities Affordable Housing Incentive Program Guidelines also requires a Housing Development to meet any applicable housing replacement requirements of California Government Code Section 65915(c)(3), as verified by the Department of Housing and Community Investment (HCIDLA) prior to the issuance of any building permit. Replacement housing units required per this section may also count towards other On-Site Restricted Affordable Units requirements.
4. **Changes in Restricted Units.** Deviations that increase the number of restricted affordable units, or that change the composition of units or parking numbers, shall be consistent with LAMC Section 12.22 A.31 and comply with the Transit Oriented Communities Affordable Housing Incentive Program Guidelines adopted by the City Planning Commission.
5. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute and record a covenant and agreement running with the land to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA). The covenant shall bind the owner to reserve seven (7) units available to Extremely Low Income Households for 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 TOC Guidelines and any monitoring requirements established by the HCIDLA. Refer to the TOC Affordable Housing Incentive Program and Housing Replacement (AB 2556 Determination) Background sections of this determination.
6. **Floor Area Ratio (FAR).** The project shall be limited to a maximum FAR as shown in "Exhibit A".
7. **Automobile Parking.** The project qualifies for reduced parking requirements in accordance with LAMC 12.22 A.31 and the TOC Guidelines as a mixed-income project within one half mile of a major transit stop to which the project has unobstructed access. Under AB 744, parking requirements are based upon the number and type of dwelling units proposed. The project requires a minimum of 43 residential parking spaces for the 77 proposed dwelling units containing 85 bedrooms, based on a rate of 0.5 parking spaces

per bedroom. Forty-three (43) parking spaces are proposed onsite for the proposed residential use, all located in the subterranean parking level.

8. **Adjustment of Parking.** In the event that the number of Restricted Affordable Units should increase, or the composition of such units should change (i.e. the number of bedrooms, or the number of units made available to Senior Citizens and/or Disabled Persons), 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 recalculated by the Department of Building and Safety, based upon the ratios set forth ratios set forth in the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines).
9. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC Section 12.21 A.16.
10. **Additional Incentives.** In accordance with LAMC Section 12.22 A.31 and the TOC Guidelines, the following Additional Incentives (Tier 2) are requested:
  - a. **Yards/Setback.** The project shall be permitted a reduced front yard setback of 5 feet.
  - b. **Height.** The project shall be permitted an increase of 11 feet in building height, equal to a maximum building height of 41 feet.

#### **[Q] Conditions (Ordinance No. 169,327)**

11. **Tenants.** Prior to the issuance of a building permit or demolition permit, all tenants of an existing multi-unit residential building located on a lot where a project will be located shall be given a minimum 60-day written notice of termination of tenancy.

#### **Administrative Conditions**

12. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building and Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building and Safety for final review and approval by the Department of City Planning. All plans that are awaiting issuance of a building permit by the Department of Building and Safety shall be stamped by Department of City Planning staff "Final Plans". A copy of the Final Plans, supplied by the applicant, shall be retained in the subject case file.
13. **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.
14. **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.
15. **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.

16. **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.
17. **Condition Compliance.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
18. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (Master Covenant and Agreement Form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file
19. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day an appeal may be filed), the grant shall be considered null and void. Issuance of a building permit, and the initiation of, and diligent continuation of, construction activity shall constitute utilization for the purposes of this grant.
20. **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.
21. **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

### TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM / AFFORDABLE HOUSING INCENTIVES COMPLIANCE FINDINGS

Pursuant to Section 12.22 A.31(e) of the LAMC, the Director shall review a Transit Oriented Communities (TOC) Affordable Housing Incentive Program project application in accordance with the procedures outlined in LAMC Section 12.22 A.25(g).

1. Pursuant to LAMC Section 12.22 A.25(g)(2), the Director shall approve a transit oriented communities review with additional requested incentives unless the Director finds that 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 find that the requested incentives are not required 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.

The list of incentives in the TOC Guidelines were pre-evaluated at the time the TOC Affordable Housing Incentive Program 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 on-menu incentives are required to provide for affordable housing costs because the incentives, by their nature, increase the scale of the project. The following incentives allow the developer to increase the height of the mixed-use building so that affordable housing units can be constructed and the overall space dedicated to residential uses is increased. These incentives support the applicant's decision to reserve seven (7) units for Extremely Low Income Households.

**Yards/Setback.** The project is located within the R4 zone and is required to provide a 15-foot front yard setback on Venice Boulevard. The requested yard incentive allows the project to be designed with a reduced front yard setback of 5 feet along Venice Boulevard. Front yard reductions are limited to no more than the average of the front yards of adjoining buildings along the same street frontage; if the project is located on a corner lot or adjacent to a vacant lot, the front yard setback may align with the façade of the adjoining building along the same front lot line. Without the yard incentive, the project's floor area would be reduced by approximately 5,000 square feet, resulting in a decrease of 16 units. With the yard incentive, the project is able to include more residential floor area for dwelling units reserved for Extremely Low Households.

**Height.** The project is subject to the 1XL height district, which limits height to 30 feet. The requested height incentive allows an increase of 11 feet in building height, equal to a maximum building height of 41 feet. Although the underlying zone does not limit the number of stories, the project is limited by building height. Utilization of the height incentive enables the construction of an additional level, and thus facilitates the addition of approximately 21 units. The additional units support the applicant's decision to reserve seven (7) units for Extremely Low Income Households.

The use of the Incentives result in design and construction efficiencies, which in turn makes the inclusion of affordable units more financially feasible. The Additional Incentives requested for this project are part of a broader list of TOC On-Menu Additional

Incentives that have been pre-evaluated and deemed effective in providing applicants with greater flexibility to construct mixed-income developments. The project reserves at least 7 percent of the total units for Extremely Low Income Households and, as such, qualifies for up to two Additional Incentives.

2. **Pursuant to LAMC Section 12.22 A.25(g)(2), the Director shall approve a transit oriented communities review with additional requested incentives unless the Director finds that the incentives will have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Very Low, Low, and Moderate Income households. Inconsistency with the zoning ordinance or the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.**

There is no evidence that the proposed incentive will have a specific adverse impact upon public health and safety or the physical environment. 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 incentives will have a specific adverse impact is further supported by the CEQA findings. 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 CEQA Statute and Guidelines and the City’s L.A. CEQA Thresholds Guide. Analysis of the proposed project determined that the project is Categorically Exempt from environmental review pursuant to Article 19, Class 32 of the State CEQA Statute and Guidelines. Furthermore, the project was evaluated against the exceptions to use of Categorical Exemptions pursuant to Section 15300.2 of the State CEQA Statute and Guidelines and determined that none of the exceptions apply to the proposed project. Therefore, there is no substantial evidence that the proposed project will have a specific adverse impact upon public health and safety or the environment, or on any real property that is listed in the California Register of Historical Resources.

## ENVIRONMENTAL REVIEW FINDINGS

3. As the designee of the Director of Planning, I have determined, based on the whole of the administrative record, that the Project is exempt from 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 project consists of the demolition of three existing residential structures, and the construction of a 41-foot tall, four-story, 49,948 square-foot, multi-family structure over one level of subterranean parking, containing a total of 77 dwelling units, reserving 7 dwelling units (9 percent of the total units) for Extreme Low Income households for 55 years. The project provides a total of 43 vehicular parking spaces and 82 bicycle parking spaces (72

long-term, 10 short-term). The project will grade and export 8,800 cubic yards of earth. The project is an in-fill development and 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 site currently is developed with a 3-unit apartment building, a 4-unit apartment building, and a 2-unit apartment building. The site is zoned [Q]R4-1XL and has a General Plan Land Use designation of High Medium Residential. The project proposes the construction of a three-story residential building containing 77 dwelling units. As proposed, the project is conformance with the General Plan Zoning and Land Use designation.

- 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. Lots surrounding the subject site are developed with multi-family buildings and single-family residences.

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

The site is not a wildland area, and is not inhabited by endangered, rare, or threatened species. The area around the site is highly urbanized and surrounded by commercial and residential uses. NavigateLA shows that the subject site is not located in a Significant Ecological Area.

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

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

- **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), 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 to minimize exhaust emissions.
  - Trucks having no current hauling activity shall not idle but be turned off.
- **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.

These RCMs will reduce any potential impacts on noise and water quality to less than significant. The creation of noise is limited to certain decibels, restricted to specific hours. A Noise Impact Analysis, prepared by Cadence Environmental, dated September 25, 2019, determined that the proposed development would not exceed the limits stated in the Noise Ordinance. Regarding traffic and air quality impacts, DOT staff determined that the project requires a traffic assessment study. A traffic study dated September 3, 2019 was prepared by Overland Traffic Consultants. The Department of Transportation (LADOT) issued a Traffic Assessment, dated February 4, 2020, indicating the project would generate a net increase of 341 trips. The Traffic Assessment included a VMT analysis that determined the project would not have a significant transportation impact under any of the above thresholds.

The project will not conflict with any adopted policies, plans, or programs regarding public transit, bicycle facilities, or pedestrian facilities. Therefore, the project will not have any significant impacts to traffic. Likewise, air quality will not worsen as a result of the proposed project. Interim thresholds were developed by DCP staff based on CalEEMod model runs relying on reasonable assumptions, consulting with AQMD staff, and surveying published air quality studies for which criteria air pollutants did not exceed the established SCAQMD construction and operational thresholds. The Air Quality Impact Analysis prepared by Cadence Environmental Consultants, dated September 24, 2019, concluded the project would not result in impacts to air quality. Regarding water quality, the proposed project will utilize existing municipal water sources through the Department of Water and Power (LADWP). The project is subject to the City's Low Impact Development Ordinance (Ordinance 181,889), which requires the capture and retention of storm water through onsite filtration and treatment. As such, the project has been designed to meet the City's Low Impact Development (LID) requirements.

**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 property is located in an urban tract with water supply, sewage and waste disposal infrastructure, and power lines installed. Venice Boulevard and Glencoe Avenue are improved with existing utilities that service the lots in the area. Both can be accessed

by emergency vehicles. The project includes a street dedication to widen the pedestrian right-of-way. The project will also repair and replace any broken or off-grade asphalt, sidewalk, curb, or gutter. The project shall comply with any street light requirements required by the Bureau of Street Lighting. The proposed project will not result in significant impacts on the capacity of existing utilities and services.

The project is a transit-oriented, infill development on a site within an urbanized area and meets the criteria outlined above. Therefore the project qualifies for a Class 32 Categorical Exemption.

Furthermore, the Exceptions outlined in the State CEQA Guidelines Section 15300.2 do not apply to the project:

- a) **Cumulative Impact.** There is not a succession of known projects of the same type located in the same place as the subject project. No comparable pending projects (TOC or Density Bonus) have been identified within a 500-foot radius of the subject site. One TOC project located approximately 0.33 miles away at 1015 East Venice Boulevard (DIR-2017-4421-TOC) was approved on September 7, 2018. Another TOC project, located at 1808-1816 South Lincoln Boulevard (DIR-2019-1133-TOC), was approved on February 20, 2020. Since these projects qualify for a Class 32 Categorical Exemption and are subject to Regulatory Compliance Measures, no cumulative impacts are anticipated. Further, the proposed 77-unit residence does not exceed thresholds identified for impacts to the area (i.e. traffic, noise, etc.) and will not result in significant cumulative impacts.
- 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 use. Adjacent lots are developed with multi- and single-family residences. No unusual circumstances are present or foreseeable.
- c) **Scenic Highways.** The project site is not located on or near a designated state scenic highway. The only State Scenic Highway within the City of Los Angeles is the Topanga Canton State Scenic Highway, State Route 27, which travels through a portion of Topanga State Park.
- d) **Hazardous Waste Sites.** The project site is not identified as a hazardous waste site or is on any list compiled pursuant to Section 65962.5 of the Government Code.
- e) **Historical Resources.** The project site has not been identified as a historic resource by local or state agencies, and the project site has not been determined to be eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register. The site was not found to be a potential historic resource based on the City's HistoricPlacesLA website or SurveyLA, the citywide survey of Los Angeles. The City does not treat the site as a historic resource. Based on this, the project will not result in a substantial adverse change to the significance of a historic resource.

The project is determined to be categorically exempt and does not require mitigation or monitoring measures; no alternatives of the project were evaluated. An appropriate environmental clearance has been granted.

# COVID-19 UPDATE

## Interim Appeal Filing Procedures

March 27, 2020



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

### OPTION 1: 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](mailto: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 2: 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

# FACT SHEET

## Planning Entitlement Appeals

### Summary

Discretionary planning decisions in Los Angeles can be appealed, at times, to one of the eight City Commissions that oversee planning-related issues and, in some instances, directly to the City Council. These appeals provide members of the public with an opportunity to challenge certain planning decisions, exercising their rights in accordance with the Los Angeles Municipal Code (LAMC). City Planning has developed an informational fact sheet, complete with frequently asked questions, to inform the public of their rights and opportunities for filing project appeals.

### Background

The LAMC outlines a process to allow members of the public to appeal land use decisions that are issued by the City. Appeals are intended to challenge the merits of the decision, specifically to contend that a decision maker erred or abused their discretion. To allow community members the ability to appeal qualifying planning decisions at a minimal personal cost, City Planning has consistently (and significantly) subsidized non-applicant appeal fees. This has allowed individuals to be part of a fair and equitable process, one which has provided the public with the opportunity to question certain decisions.

The Department has developed a fact sheet to further clarify the process for filing project-related appeals. This document will be updated periodically, as needed. For additional information, please contact the planning staff located at the Figueroa Plaza (Downtown), Marvin Braude (Van Nuys), or West Los Angeles Development Services Centers preferably via email at [planning.figcounter@lacity.org](mailto:planning.figcounter@lacity.org).

## Frequently Asked Questions

### Where are project appeals filed?

Appeals can be filed at any of the three Development Services Centers (DSCs)—[Downtown, Van Nuys, and West Los Angeles](#)—where planning staff is located. A physical drop off area has been set up at each location to allow applicants to submit their applications, without having to file an initial appointment or enter the premises. As an additional option, the Department has also created an online portal for electronic appeal applications. Click this [link](#) to access the online forms and submit the relevant information electronically.

### How long do applicants have to submit a project-related appeal?

An appeal must be filed within a specified period of time as established by the LAMC—varying in length from 10 to 15 days of the issuance of the Letter of Determination (LOD), depending on the planning entitlements being appealed. As a point of reference, deadlines for filing appeals are noted in the [Los Angeles Municipal Code](#) (LAMC) and typically also identified within the LOD.

### Where can applicants access the appeal form and corresponding instructions?

The appeal form and instructions can be found [here](#). Both an applicant and “aggrieved party” (a community member opposing the decision) may choose to file an appeal. All appeals will be processed at the same time. Each appeal form represents one appeal, regardless of the number of individuals who have signed the appeal form. For certain planning entitlements, such as determinations for projects that file under the Density Bonus and [Transit Oriented Communities Incentive](#) Programs, appeals are limited to adjacent and abutting owners of property or occupants, as specified in the implementing State and/or local statute. Neighborhood Councils and/or City-appointed decision-making bodies may not file an appeal.

### Who decides the outcome of project appeals?

Letters of Determination are issued by the Director of Planning (DIR), Associate Zoning Administrator (AZA), Deputy Advisory Agency (DAA), Area Planning Commission

(APC), or City Planning Commission (CPC). Depending on the initial decision-maker, there are three appellate bodies for planning cases in Los Angeles: the Area Planning Commissions, the City Planning Commission, and the City Council. The LAMC establishes appeal procedures including which types of decisions are eligible for a first- and second-level appeal (meaning that in some cases, the project can be appealed again to a higher decision maker).

### **How long does the City have to consider the appeal of a land use decision?**

According to the LAMC, the City must process appeals under strict time limits. Depending on the planning entitlements, the date that an appeal hearing must be scheduled varies between 30 days from appeal submittal up to 75 days from the last day of the appeal period. These time periods may be extended if there is mutual agreement between the applicant and the City. The LAMC does not, however, allow a non-applicant to request an extension beyond this allotted time period for project appeals.

### **How (and when) are notifications sent notifying the appellant of their hearing date?**

The LAMC specifies the timelines by which appeal hearings must be held. In general, appellants receive notice of their upcoming hearing at least 10 days prior to the hearing date. Notices for some appeal hearings may be published in a local newspaper. If unavailable to attend the date of the hearing, the appellant can submit written comments to the decision-maker or appoint a representative to provide public testimony on their behalf at the public hearing.

### **Who from City Planning can provide assistance, should there be any questions?**

Planning staff at the DSCs serve as a main point of contact for [general inquiries](#). Once a project appeal has been submitted, questions can be directed to the assigned planner, who will process the appeal and take it to the hearing. The contact information for the assigned planner may be found on the Department's [Planning Case Tracking System \(PCTS\)](#).

## When can documents be sent to the appellate decision maker who will hear the appeal?

In addition to the appeal application, the appellant may submit documents for the official public record at the time the appeal is filed. If there is a need to provide additional documents after the appeal has been filed, the appellant can send them to the planner assigned to the appeal. Information submitted after a staff recommendation report has been drafted will be included in the public record, but it will not have been considered at the time of the writing of the staff report.

City Planning's Commission Office requires that supplemental information be provided more than 48 hours in advance of the hearing, and meet the criteria as outlined below.

### *REQUIREMENTS FOR COMMISSION SUBMISSION OF MATERIALS*

*Regular Submissions: Initial Submissions, not limited as to volume must be received no later than by 4:00 pm on the Monday of the week prior to the week of the Commission meeting. Materials must be emailed to the assigned staff and Commission identified on the project's public hearing notice.*

*Rebuttal Submissions: Secondary Submissions in response to a Staff Recommendation Report and/or additional comments must be received electronically no later than 48 hours prior to the Commission meeting. For the Central, South Los Angeles and Harbor Area Planning Commissions, materials must be received no later than by 3:00 pm, Thursday of the week prior to the Commission meeting. Submissions, including exhibits, shall not exceed ten (10) pages and must be submitted electronically to the Commission identified on this announcement.*

*Day of Hearing Submissions: Submissions less than 48 hours prior to, and including the day of the hearing, must not exceed two (2) written pages, including exhibits, and must be submitted electronically to the staff and Commission identified on the project's public hearing notice. Photographs do not count toward the page limitation.*

*Non-Complying Submissions: Submissions that do not comply with these rules will be stamped "File Copy. Non-complying Submission." Non-complying submissions will be placed into the official case file, but they will not be delivered to or considered by the Commission and will not be included in the official administrative record for the item at issue.*

### **Commission email addresses:**

City Planning Commission: [cpc@lacity.org](mailto:cpc@lacity.org)

Central Los Angeles Area Planning Commission: [apccentral@lacity.org](mailto:apccentral@lacity.org)

East Los Angeles Area Planning Commission: [apceastla@lacity.org](mailto:apceastla@lacity.org)

Harbor Area Planning Commission: [apcharbor@lacity.org](mailto:apcharbor@lacity.org)

North Valley Area Planning Commission: [apcnorthvalley@lacity.org](mailto:apcnorthvalley@lacity.org)

South Valley Area Planning Commission: [apcsouthvalley@lacity.org](mailto:apcsouthvalley@lacity.org)

South Los Angeles Area Planning Commission: [apcsouthla@lacity.org](mailto:apcsouthla@lacity.org)

West Los Angeles Area Planning Commission: [apcwestla@lacity.org](mailto:apcwestla@lacity.org)

### **Are appellants required to sit through the entire meeting when there are multiple items on the agenda?**

The answer is no; however, the agenda items can be taken out of order. Therefore, it is in the interest of each appellant to attend the full meeting at the scheduled start time, until their item is taken up for consideration. Depending on how many items are on the agenda, and the agenda order, your item could be heard very quickly or you may have to wait through several items which could take a few hours. As a point of reference, commission meetings for Area Planning Commissions and City Planning Commission generally start at 4:30 PM and 8:30 AM, respectively. For additional details, please consult the "[Events Calendar](#)" on City Planning's website. For City Council and Council Committee meetings, please consult the Meeting Calendar page for [City Council](#) and [Committees](#).

### **Will the appellant have an opportunity to speak during the hearing?**

Following the presentation by the planner assigned to the appeal case, the appellant can present their case. After the appellant's presentation, the project applicant will be given an equal amount of time to provide a rebuttal to the appellant's presentation. There is often time for an additional rebuttal by the applicant or appellant. While there are exceptions to the rule, the appellate body may invite the appellant to respond to



questions. It is important to note that the appellate body will not engage in a back and forth conversation with either the applicant or appellant. This is done to be both fair and consistent in the amount of time allocated to each party.

### **What is the format and structure of a typical hearing for a project appeal?**

Each appellate body follows a slightly different set of procedures when hearing project appeals. That said, there are a number of common features that apply regardless of whether the appellate body is the Area Planning Commission, Cultural Heritage Commission, City Planning Commission, or City Council. A formal public meeting structure is always maintained in order to ensure a fair and predictable process—one where all sides are heard, and the meeting is conducted in an orderly manner. In the case when a planning commission is the appellate body, there are additional steps, such as: a presentation from the Department, an opportunity for the appellant to testify, a forum for the applicant to offer their rebuttal, and time reserved for public testimony. This would take place leading up to any formal action on the part of the commissioners, as it relates to a project appeal.

To slow the spread of COVID-19, City Planning has implemented new procedures for public hearings and outreach meetings in order to practice proper physical distancing protocols. Until notified otherwise, commission meetings will be conducted virtually to allow applicants and the public to participate using a webcam or by telephone. For more information, consult the City Planning's [website](#) with detailed instructions.

### **How much time does the appellant have to present their argument?**

The time allocated to the appellant for the purposes of their presentation varies. It is ultimately determined by the appellate body and communicated at the start of the meeting. More often than not, appellants are allocated five to 10 minutes to make their presentation. Project appeals that are heard by City Council follow slightly different procedures, which the assigned planner can explain.

### **Is there a need for the appellant to submit a PowerPoint presentation?**

Appellants can prepare a PowerPoint presentation, in addition to making verbal remarks when it is their turn to speak. If a PowerPoint is being prepared, the appellant should



submit the document to City Planning no less than 72 hours in advance of the meeting. The assigned planner will coordinate the submission for the appellant.

### **What role does the planner assigned to this project play during the appeal process?**

The role of the assigned planner is to ensure that an appellant is notified of the appeal hearing as an interested party, to provide them with a courtesy copy of the staff report if prepared, and to make sure that all parties are informed of the outcome or final decision of the appeal. The assigned planner will analyze the appeal points and prepare a staff recommendation report responding to each of the points raised by the appellant. At the hearing, the assigned planner will make a presentation to the decision maker. All information about the case is available for public view in the case file, and the Planner can assist in making an appointment to review it. The planner can also ensure that translation and special accommodations for individuals with disabilities can be provided at the public hearing, if requested.

### **What happens after the Appellate Body issues a formal decision, one way or another?**

After the Commission takes a vote, a formal Letter of Determination is issued. If the decision is not further appealable, this concludes the appeal process. Under the LAMC and City Charter, only certain Commission-level appellate decisions are further appealable to City Council.

### **When can a CEQA appeal be filed?**

Generally, a standalone CEQA appeal to the City Council may only be filed if a project's land use determination is not further appealable to the City Council (with some exceptions). If a determination made by an Area Planning Commission or City Planning Commission is further appealable to the City Council, the City Council will consider CEQA related appeal points made by an appellant when considering the entire appeal of the project.

## **When should appellants fill out the CEQA Appeal Form?**

The CEQA Appeal form shall only be used if the Area Planning Commission or City Planning Commission issues a determination for a project that is not further appealable. In these situations, an individual may file an appeal of a project's CEQA clearance to the City Council. Forms and procedures for the appeal of CEQA documents can be found here listed under "CEQA Appeal Application."

**Applicant Copy**  
 Office: Downtown  
 Application Invoice No: 69670

City of Los Angeles  
 Department of City Planning



Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.



## City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

If you have questions about this invoice, please contact the planner assigned to this case. To identify the assigned planner, please visit <https://planning.lacity.org/pdiscaseinfo/> and enter the Case Number.

**Receipt Number:200121E3C-50CBE8DE-3C1D-45F9-9C74-299DBEFE1FBD, Amount:\$109.47, Paid Date:01/20/2021**

Applicant: MOORE, ERICA
Representative:
Project Address: 1600 1/2 E VENICE BLVD, 90291

**NOTES:**

ENV-2019-4921-CE-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
<b>Case Total</b>			<b>\$89.00</b>

Item	Charged Fee
*Fees Subject to Surcharges	\$89.00
Fees Not Subject to Surcharges	\$0.00
<b>Plan &amp; Land Use Fees Total</b>	<b>\$89.00</b>
<b>Expediting Fee</b>	<b>\$0.00</b>
<b>Development Services Center Surcharge (3%)</b>	<b>\$2.67</b>
<b>City Planning Systems Development Surcharge (6%)</b>	<b>\$5.34</b>
<b>Operating Surcharge (7%)</b>	<b>\$6.23</b>
<b>General Plan Maintenance Surcharge (7%)</b>	<b>\$6.23</b>
<b>Grand Total</b>	<b>\$109.47</b>
<b>Total Invoice</b>	<b>\$109.47</b>
<b>Total Overpayment Amount</b>	<b>\$0.00</b>
<b>Total Paid</b> (this amount must equal the sum of all checks)	<b>\$109.47</b>

Council District: 11  
 Plan Area: Venice  
 Processed by CHAN, JASON on 01/20/2021

Signature: \_\_\_\_\_

**Building & Safety Copy**  
 Office: Downtown  
 Application Invoice No: 69670

City of Los Angeles  
 Department of City Planning



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