

## 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 was 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.

The requested incentives, a 20 percent decrease in the side yard setback, an increase in FAR, and an Averaging of Floor Area Ratio, Density, Parking or Open Space, and permitting Vehicular Access, are expressed in the Menu of Incentives per LAMC 12.22 A.25(f) and, as such, permit exceptions to zoning requirements that result in building design or construction efficiencies that provide for affordable housing costs. The requested incentives allow the developer to expand the building envelope so the additional units can be constructed and the overall space dedicated to residential uses is increased. These incentives support the applicant's decision to set aside five (5) Very Low Income dwelling units for 55 years.

*Side Yard Setback:* The proposed project requests a 20 percent reduction in the required side yard to allow a 6-foot 5-inch side yard setback in lieu of the 8-foot setback otherwise required in the C2 Zone by LAMC 12.14 C.2. The requirement for the side yard setback could limit the ability to construct the residential dwelling units permitted by-right and the Restricted Affordable units which are of a sufficient size. As proposed, the decreased side yard setback would allow for the construction of the affordable residential units.

*Floor Area Ratio Increase:* The subject site is zoned C2-1 and R3-1 which permits a base density of 28 units on the 11,759 square foot site, with a maximum 1.5:1 Floor Area Ratio (FAR) and unlimited height in the commercial zone and a maximum of 3:1 FAR and a maximum height of 45 feet in the residential zone.

The FAR Increase incentive permits a percentage increase in the allowable Floor Area Ratio equal to the percentage of Density Bonus for which the Housing Development Project is eligible, not to exceed 35 percent, or an FAR not to exceed 3:1, provided that the parcel meets the following conditions: it is within a commercial zone in Height District 1 (including 1VL, 1L and 1XL), it fronts on a Major Highway as identified in the City's General Plan, it includes a number of Restrictive Affordable Units sufficient to qualify for a 35% Density Bonus, and 50% or more of the commercially zoned parcel is located in or within 1,500 feet of a Transit Stop or Major Employment Center. The commercially

zoned project site is within 1,500 feet of a bus stop servicing Metro Rapid Bus Route 733, located along Venice Boulevard. Venice Boulevard is designated as a Boulevard II, as identified in the City's General Plan. As shown below, the total maximum floor area allowed by-right is 17,393.

By-Right FAR	Buildable Lot Area (sf)* *sf gross lot area less required yards	Total Floor Area (sf)
1.5:1 commercial zone	9,643	9,643 X 1.5 = <b>14,465</b>
3:1 residential zone	976*	976 X 3 = <b>2,928</b>
<b>TOTAL</b>	<b>10,619</b>	<b>17,393</b>

By utilizing the FAR increase incentive, the Applicant is proposing a FAR of 3:1 in the C2-1 zone. The maximum floor area allowed is therefore 31,857 square feet. However, the Applicant is proposing 29,221 square feet of floor area.

FAR with Incentive	Buildable Lot Area (sf)* *sf gross lot area less required yards	Total Floor Area (sf) + Incentive
3:1 commercial zone	9,643	9,643 X 3 = <b>28,929</b>
3:1 residential zone	976*	976 X 3 = <b>2,928</b>
<b>TOTAL</b>	<b>10,619</b>	<b>31,857</b>

*Averaging of Floor Area Ratio, Density, Parking or Open Space, and permitting Vehicular Access:* The Project is comprised of two different zones, C2-1 and R3-1, with different allowable maximum FARs. The C2-1 Zone allows for a 1.5:1 FAR and the R3-1 Zone allows for a 3:1 FAR. The FAR averaging permits the total allowable floor area for all parcels to be allocated to the entire site. For this project the maximum allowable floor area is 31,857 square feet.

Total Floor Area	Total Buildable Lot Area	Total Site FAR
29,221	10,619	29,221/10,619 = 2.75

The requested incentive will allow the developer to expand the Project's building envelope so that the restricted affordable units can be constructed and the overall space dedicated to residential units is increased. These incentives support the Applicant's decision to set aside five (5) Very Low Income units for 55 years.

The FAR Averaging incentive results in a maximum floor area of 31,857 (28,929 sf + 2,928 sf), or a FAR of 3:1 across the two zones. The Project is proposing 29,221 square feet of floor area, or a FAR of 2.75: 1 (29,221/10,617 = 2.75).

- a. *The Incentive will have specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse Impact without rendering the development unaffordable to Very Low, Low and Moderate Income households. Inconsistency with the zoning*

*ordinance or the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.*

There is no evidence in the record that the proposed density bonus incentive(s) will have a specific adverse impact. A “specific adverse impact” is defined as, “a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete” (LAMC Section 12.22.A.25(b)). The finding that there is no evidence in the record that the proposed incentive(s) will have a specific adverse impact is further supported by the recommended CEQA finding. The findings to deny an incentive under Density Bonus Law are not equivalent to the findings for determining the existence of a significant unavoidable impact under CEQA. However, under a number of CEQA impact thresholds, the City is required to analyze whether any environmental changes caused by the project have the possibility to result in health and safety impacts. For example, CEQA Guidelines Section 15065(a)(4), provides that the City is required to find a project will have a significant impact on the environment and require an EIR if the environmental effects of a project will cause a substantial adverse effect on human beings. The proposed project and potential impacts were analyzed in accordance with the City’s Environmental Quality Act (CEQA) Guidelines. Analysis of the proposed Project determined that it is Categorically Exempt from environmental review pursuant to Article 19, Sections 15332 (Class 32) of the CEQA Guidelines. The Categorical Exemption (CE) could be adopted, including, on the basis that none of the potential environmental effects of the proposed Project would cause substantial adverse effects on human beings, the physical environment, on public health and safety, or on property listed in the California Register of Historic Resources. Based on all of the above, there is no basis to deny the requested incentive.

## **CEQA FINDINGS**

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 Proposed Project is a five-story multi-family residential dwelling measuring 57-foot 6-inches in the C2 Zone and 45-feet in the R3 Zone. The Proposed Project contains 38 residential dwelling units (including 5 Very Low Income units). The building will be approximately 30,681 square feet of floor area, with a Floor Area Ratio (“FAR”) of 2.89:1. The project will provide 39 vehicle parking spaces in one subterranean parking level, and will replace four (4) vehicle parking spaces with bicycle parking as permitted by Los Angeles Municipal Code (LAMC) Section 12.21 A.4. The project will also provide 52 long-term bicycle spaces and four (4) short-term bicycle spaces. The existing medical office building will be demolished. There are no existing trees on the subject site. One non-protected tree in the adjacent public right-of-way will be removed to accommodate the proposed driveway. The project will require the grading and export of approximately 8,008 cubic yards of soil. As a multi-family residential building and a project which is characterized as in-fill development, the project qualifies for the Class 32 Categorical Exemption.

### CEQA Determination – Class 32 Categorical Exemption Applies

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

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

The subject site is located within the Palms – Mar Vista – Del Rey Community Plan and is designated for Community Commercial Land Uses, corresponding to the CR, C2, C4, RAS3, and RAS4 Zones. The site is zoned C2-1 and is consistent with the land use designation. As shown in the case file, the project is consistent with the applicable Palms – Mar Vista – Del Rey Community Plan designation and policies and all applicable zoning designations and regulations.

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

The subject site is wholly within the City of Los Angeles, on a site that is approximately 0.27 acres. The existing site is improved with a medical office building. Lots adjacent to the subject site are developed with the following urban uses: commercial and multi-family residential uses.

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

The site is previously disturbed and surrounded by development and therefore is not, and has no value as, a habitat for endangered, rare or threatened species. There are trees on the subject site. There is one non-protected tree in the adjacent public right-of-way, as identified in the Tree Report prepared by McKinley & Associates on October 17, 2019, which will be removed to accommodate the proposed driveway.

- (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, pollutant discharge, dewatering, 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), so as to prevent excessive amounts of dust.
  - All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.

- All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
- General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
- Trucks having no current hauling activity shall not idle but be turned off.
- **Regulatory Compliance Measure RC-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 ensure the project will not have significant impacts on noise and water. Furthermore, the project does not exceed the threshold criteria established by the Los Angeles Department of Transportation (LADOT) for preparing a traffic study. Therefore, the project will not have any significant impacts to traffic. Interim thresholds were developed by DCP staff based on California Emissions Estimator Model (CalEEMod) 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.

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

The project site will be adequately served by all public utilities and services given that the construction of a multi-family residential building will be on a site which has been previously developed and is consistent with the General Plan. Therefore, the project meets all of the Criteria for the Class 32.

CEQA Section 15300.2: Exceptions to the Use of Categorical Exemptions

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

- (a) **Cumulative Impacts.** *All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.*

There is not a succession of known projects of the same type and in the same place as the subject project. Therefore, no cumulative impacts would occur.

- (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.*

As mentioned, the project proposes a multi-family residential building in an area zoned and designated for such uses. Adjacent lots are developed with commercial and multi-family residential uses, and the subject site is of a similar size and slope to nearby properties. The project proposes a Floor Area Ratio (FAR) of 2.89:1 on a site that is permitted to have a maximum FAR of 3:1 through the Density Bonus Affordable Housing Program and pursuant to LAMC Section 12.22 A.25. The project size and height is not unusual for the vicinity of the subject site. Thus, there are no unusual circumstances which may lead to a significant effect on the environment.

- (c) **Scenic Highways.** *A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.*

The only State Scenic Highway within the City of Los Angeles is the Topanga Canyon State Scenic Highway, State Route 27, which travels through a portion of Topanga State Park. The State Route 27 is approximately 8.9 miles northwest of the subject site. Therefore, the subject site will not create any impacts within a designated as a state scenic highway.

- (d) **Hazardous Waste Sites.** *A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code*

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

- (e) **Historical Resources.** *A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.*

The project site 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; and was not found to be a potential historic resource based on the City's HistoricPlacesLA website or SurveyLA, the citywide survey of Los Angeles. Finally, the City does not choose to 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 and this exception does not apply.