

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 Affordable Housing Incentive Program project application in accordance with the procedures outlined in LAMC Section 12.22 A.25(g).

1. Pursuant to Section 12.22 A.25(g) 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 a predetermined percentage of income based on area median income thresholds dependent on affordability levels.

The list of on-menu incentives in the TOC Guidelines was pre-evaluated at the time the Transit Oriented Communities 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.

Increased Height:

A restriction on height could limit the ability to construct the additional residential dwelling units, and specifically the Restricted Affordable Units. The project is financially feasible because of the increased flexibility the incentives allow the applicant in the building envelope. The applicant has requested a Tier 4 Additional Incentive for increased height, which allows for three additional stories up to 33 additional feet. The C4-1VL-POD zone and Height District No. 1VL allows for a maximum height of 45 feet. Therefore, the Tier 4 Height Incentive would allow a maximum height of 78 feet. The project is within that envelope at 75 feet and 7 stories and is consistent with the TOC Guidelines. The proposed project requests an increase of 30 additional feet to allow for approximately 75 feet in building height, in lieu of the otherwise permitted 45 feet in building height in the C4-1VL-POD Zone. Per the TOC Guidelines, the proposed project qualifies for the 33-foot height increase. The limitation on the height could limit the ability to construct the residential dwelling units permitted by-right and the Restricted Affordable Units which are of sufficient size. The building as proposed would have a maximum height of approximately 75 feet and would have a total of seven stories. In accordance with TOC Guidelines, height increases over 11 feet over a height district limit of 45 feet shall be stepped back at least 15 feet from the exterior facade of the ground floor of the building

located along any street frontage. As proposed, the additional height would allow for the construction of affordable residential units.

Reduced Yard/Setback:

The proposed project requests RAS3 yard incentive in the northerly and southerly side yard setbacks, allowing 5-foot setbacks in lieu of the 10-foot side setbacks and 15-foot rear yard setback in lieu of 19-foot rear yard setback required per the C4-1VL-POD Zone. The requested incentives allow the developer to reduce setback requirements so the affordable housing units can be constructed and the overall space dedicated to residential uses is increased.

Reduced Open Space:

The proposed project requests a 25 percent reduction in the open space requirements of LAMC Section 12.21 G, allowing a minimum of 2,457 square feet of open space in lieu of 3,275 square feet of open space. Common open space will be provided in the form of a gym, recreation center, and rooftop deck per Exhibit "A", and is conditioned to meet the requirements of LAMC Section 12.21 G per the satisfaction of the Department of Building and Safety. The requested incentive will allow the developer to reduce open space requirements so the affordable housing units are reserved to be constructed and the overall space dedicated to residential uses increased.

- b. *The Incentive will have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there 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 incentive 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 that 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 Environmental Quality Act (CEQA) Guidelines. Analysis of the proposed Project determined that it is Categorical Exempt from environmental review pursuant to Article 19, Class 32 of the CEQA Guidelines. The Categorical Exemption (CE) could be adopted, including, on the basis that none of the potential environmental effects of the

proposed Project would cause substantial adverse effects on human beings, the physical environment, on public health and safety, or is the 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 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 is for the construction of a seven-story 31-unit residential building with a maximum height of approximately 75 feet and encompasses approximately 25,693 square feet of floor area. The project provides 12 parking spaces located in one subterranean level, with pedestrian access of Westwood Boulevard and vehicular access off the rear alley. The project also provides 32 long-term and four short-term bicycle parking spaces and will involve grading and a haul route to export 3,000 cubic yards of soil to accommodate the subterranean parking level. The Department of Building and Safety, Grading Division issued a Geology and Soils Report Approval letter on May 23, 2019 (Log No. 108317) which details conditions of approval that must be followed. The existing parking lot on site is proposed to be demolished and there are no significant trees or street trees on-site. No trees will be removed from this existing site and the two street trees located on Wellworth Avenue will remain. As a multi-family residential building, and a project that 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 site consists of one 7,108 square foot lot and is zoned C4-1VL-POD and is designated Neighborhood Commercial/Neighborhood Office Commercial Land Uses with corresponding zones of C1, C1.5, C2, C4, RAS3, and RAS4. The site is located within the Westwood Community Plan Area, West Los Angeles Transportation Improvement and Mitigation Specific Plan Area, Transit Priority Area, and located in Tier 4 Transit-Oriented Communities (TOC) Affordable Housing Incentive Area and the Westwood Oriented Pedestrian District Overlay.

The project site is not located within a Methane Zone, Flood Zone, Landslide Area, Liquefaction Zone, or Very High Fire Hazard Severity Zone but is located within a Special Grading Area and the Santa Monica Fault Zone. As shown in the case file, the project is consistent with all the applicable Westwood Community Plan land use designation, policies, and zoning designations. The project is allowed an increase in dwelling units by 80 percent and floor area ratio up to 4.25:1 as an Eligible Housing Development within Tier 4 of the TOC Guidelines. The proposed residential floor area is 25,693 square

feet and the proposed floor area ratio is 3.89:1, after consideration of the TOC Guidelines per LAMC Code Section 12.22 A.31.

- (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 7,108 square feet or 0.15 acres. Lots adjacent to the subject site to the north, west, and south, are all zoned C4-1VL-POD, designated for commercial uses, and developed with commercial uses. Lots adjacent to the east are all zoned R1-1, for low residential uses and are developed with single-family dwellings.

- (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 site is currently developed as a street-level commercial parking lot. The site has a slope of less than 10 percent and is not heavily graded. The proposed project is in a heavily developed area and will not cause any impact on wildlife. There are no protected trees and street trees located on-site.

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

The Subject Site is not located within a Liquefaction zone, Flood Zone, Hillside Area, Landslide Area, Methane Zone, Very High Fire Hazard Severity Zone, or Alquist-Priolo Fault Zone, but is located within a Special Grading Area and the Santa Monica Fault Zone. Specific Regulatory Compliance Measures (RCMs) in the City of Los Angeles regulate grading and construction in these particular types of "sensitive" locations and reduce any potential impacts to less than significant. Regulatory Compliance Measures (RCMs) include the submittal of a Geology and Soils Report prepared by AGI Geotechnical, Inc. (dated January 15, 2019) to the Department of Building and Safety (DBS) for the issuance of a Soils Report Approval Letter. Such Soils Report Approval Letter was issued by DBS on May 23, 2019 (Log No. 108317) which details conditions of approval that must be followed. The RCMs require that design and construction of the building must conform to the California Building Code, and grading on site shall comply with the City's Landform Grading Manual, as approved by the Department of Building and Safety Grading Division.

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-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-GEO-5 (Subsidence Area):** Prior to the issuance of building or grading permits, the applicant shall submit a geotechnical report prepared by a registered civil engineer or certified engineering geologist to

the written satisfaction of the Department of Building and Safety. The geotechnical report shall assess potential consequences of any subsidence and soil strength loss, estimation of settlement, lateral movement, or reduction in foundation soil-bearing capacity, and discuss mitigation measures that may include building design consideration. Building design considerations shall include but are not limited to ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements, or any combination of these measures. The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the proposed project, and as it may be subsequently amended or modified.

- **Regulatory Compliance Measure RC-GEO-6 (Expansive Soils Area):** Prior to the issuance of grading or building permits, the applicant shall submit a geotechnical report, prepared by a registered civil engineer or certified engineering geologist, to the Department of Building and Safety, for review and approval. The geotechnical report shall assess potential consequences of any soil expansion and soil strength loss, estimation of settlement, lateral movement, or reduction in foundation soil-bearing capacity, and discuss mitigation measures that may include building design consideration. Building design considerations shall include but are not limited to ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements, or any combination of these measures. The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the proposed project, and as it may be subsequently amended or modified.

- **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, earthmoving, 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 an 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.
- **Regulatory Compliance Measure RC-GEO-6 (Expansive Soils Area):** Prior to the issuance of grading or building permits, the applicant shall submit a geotechnical report, prepared by a registered civil engineer or certified engineering geologist, to the Department of Building and Safety, for review and approval. The geotechnical report shall assess potential consequences of any soil expansion and soil strength loss, estimation of settlement, lateral movement or reduction in foundation soil-bearing capacity, and discuss mitigation measures that may include building design consideration. Building design considerations shall include but are not limited to ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements, or any combination of these measures. The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the proposed project and as it may be subsequently amended or modified.

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. These RCMs will ensure the project will not have significant impacts on noise, air quality, and water. The Project will also be governed by an approved haul route under City Code requirements, which will regulate the route hauling trucks will travel, and the times at which they may leave the site, thereby reducing any potential traffic impacts to less than significant. The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the proposed project and as it may be subsequently amended or modified. 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 further Regulatory Compliance Measures (RCMs). These require compliance with the City of Los Angeles Noise Ordinance; pollutant discharge, dewatering, stormwater mitigations; and Best Management Practices for stormwater runoff. These RCMs will reduce any potential impacts on noise and water to less than significant. Furthermore, the project does not exceed the threshold criteria established by the Los Angeles Department of Transportation (LADOT) for preparing a traffic study. The LADOT Referral Form dated August 26, 2020, indicates that the project would generate a net increase of 169 daily vehicle trips, which is less than the threshold of 250 daily trips that would otherwise require a Vehicle Miles Traveled (VMT) analysis. Therefore, the project will not have any significant impacts on traffic. All haul route applications require the submittal of a Geology and Soils Report to the Department of Building and Safety (DBS). A Geology and Soils Report Approval Letter for the subject property, which details

conditions of approval that must be followed, has been issued by DBS on May 23, 2019 (Log No. 108317). Thus, in conjunction with the above RCMs and compliance with other applicable regulations, the Project will not result in a significant impact based on its location.

(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 project site is developed, surrounded by urban uses, served by existing infrastructure, and is consistent with the General Plan.

Therefore, the project meets all of the Criteria for 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.*

According to NavigateLA, there is one open haul route for the grading, excavation, and export of approximately 5,830 cubic yards of earth for a project at 1361 South Kelton Avenue which is approximately 1,100 feet from the subject site, for the period between June 2018 and December 2020; and one pending haul route for the grading, excavation, and export of approximately 1,642 cubic yards of earth is located at 10717 West Ohio Avenue which is within 0.5 miles from the site and would use the same street as the subject site.

The haul route approval will be subject to recommended conditions prepared by LADOT to be considered by the Board of Building and Safety Commissioners that will reduce the impacts of the construction-related hauling activity, monitor the traffic effects of hauling, and reduce haul trips in response to congestion. Furthermore, DBS staggers the haul route schedules to ensure that all of the haul routes do not occur simultaneously. Therefore, in conjunction with citywide RCMs and compliance with other applicable regulations, no foreseeable cumulative impacts are expected. All projects would be subject to the citywide Regulatory Compliance Measures as noted above. Furthermore, the project will result in less than significant impacts related to traffic, noise, and air quality, as shown above.

(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 consists of the construction of a new 31-unit multi-family dwelling with one level of subterranean parking. The project consists of seven stories featuring a total of 25,693 square feet. The proposed project consists of one level of subterranean parking spaces include 11 parking spaces and one 1 ADA parking space located on the ground floor, a haul route for the export of approximately 3,000 cubic yards on a 6,608 square foot lot. The proposed residential floor area and density are below the maximum amount after the consideration of an 80 percent density bonus per TOC Guidelines.

The proposed project is seeking various Base and Additional Incentives as stated under TOC Guidelines. Those consist of: a) increasing the allowable number of dwelling units by 80%, b) increasing floor area ratio up to 3.89:1 totaling 25,693 square feet, c) to allow RAS3 side yards and rear yard as an incentive, allowing 5-foot side yard setbacks in lieu of 10-foot side yard setbacks and allowing 15-foot rear yard setback in lieu of 19-foot rear yard setback, d) decreasing 25 percent of open space that totals to 2,457 square feet, and e) increasing total height by 30 feet.

The proposed project is not unusual for the vicinity of the Subject Site and is similar in scope to other existing residential uses and commercial in the area. Thus, there are no unusual circumstances which may lead to a significant effect on the environment, and this exception does not apply

- (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 Subject Site is approximately 14.4 miles away from the Topanga Canyon State Scenic Highway. Therefore, the Project will not result in damage to any 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, and this exception does not apply.

- (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, the Subject Site, is not identified as a hazardous waste site. Furthermore, the building permit history for the Project Site does not indicate the Site may be hazardous or otherwise contaminated and this exception does not apply.

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

The Project Site is currently developed with a parking lot that has not been identified as a historic resource by local or state agencies, and 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. 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.