

**DEPARTMENT OF
CITY PLANNING**

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

DAVID H. J. AMBROZ
HELEN LEUNG

KAREN MACK

DANA M. PERLMAN

YVETTE LOPEZ-LEDESMA

AJAY RELAN

JENNA HORNSTOCK

**CITY OF LOS ANGELES
CALIFORNIA**



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES

200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

KEVIN J. KELLER, AICP
EXECUTIVE OFFICER

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

VACANT
DEPUTY DIRECTOR

**DIRECTOR'S DETERMINATION
TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM**

March 31, 2021

Applicant/Owner

Alex Kim
Sevvo Holdings Inc.
3810 Wilshire Blvd. Ste. #2008
Los Angeles, CA 90010

Representative

Bill Robinson
117 ½ North Manhattan Place
Los Angeles, CA 90004

Case No. DIR-2020-350-TOC-HCA

CEQA: ENV-2020-351-CE

Location: 927-933 South Ardmore Avenue

Council District: 10 – Ridley-Thomas

Neighborhood Council: Wilshire Center – Koreatown

Community Plan Area: Wilshire

Land Use Designation: High Medium Residential

Zone: R4-1

Legal Description: Lot 344 and 345, Tract Wilshire
Harvard Heights

Last Day to File an Appeal: April 15, 2021

DETERMINATION - Transit Oriented Communities Affordable Housing Incentive Program

Pursuant to the Los Angeles Municipal Code (LAMC) Section 12.22 A.31, I have reviewed the proposed project and as the designee of the Director of Planning, I hereby:

Determine that based on the whole of the administrative record as supported by the justification prepared and found in the environmental case file, the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332 (Class 32 Urban In-Fill Development), and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, or hazardous waste sites, or historical resources applies;

Approve with Conditions a Transit Oriented Communities (TOC) Affordable Housing Incentive Program Compliance Review for a qualifying Tier 3 project, totaling 54 dwelling units, reserving six (6) units for Extremely Low Income Household occupancy for a period of 55 years, with the following three (3) Additional Incentives:

Additional Incentives

- a. Side Yard Setbacks.** A reduction in the minimum northerly and southerly side yard setbacks to permit 7 feet, in lieu of 10 feet as otherwise required by LAMC Section 12.11 C.2; and
- b. Rear Yard Setback.** A reduction of the westerly rear yard setback to permit 13.3 feet, in lieu of the minimum 19 feet as required by LAMC Section 12.11 C.3; and
- c. Open Space.** A 25-percent reduction in the usable open space to require a minimum of 4,219 square feet in lieu of the minimum 5,625 square feet as otherwise required by LAMC Section 12.21 G.2; and

Adopt the attached Findings and Conditions of Approval.

CONDITIONS OF APPROVAL

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 DIR-2020-350-TOC-HCA. No change to the plans shall be made without prior review by the Department of City Planning, Central Project Planning Division, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Municipal Code or the project conditions.
2. **Residential Density.** The project shall be limited to a maximum density of 54 residential dwelling units.
3. **Affordable Units.** At least six (6) units shall be reserved for Extremely Low Income Households, as defined in Sections 50106 of the California Health and Safety Code, respectively.
4. **Changes in On-Site 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 TOC Guidelines.
5. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA) to make units available for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. In the event the applicant reduces the proposed density of the project, the number of required set-aside affordable units may be adjusted, consistent with LAMC Section 12.22 A.31, to the satisfaction of HCIDLA, and in consideration of the project's SB 330 Determination. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant will present a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by the HCIDLA. Refer to the TOC Affordable Housing Incentive Program Background and Housing Replacement (SB 330 Determination) sections of this determination.
6. **Rent Stabilization Ordinance (RSO).** Prior to the issuance of a Certificate of Occupancy, the owner shall obtain approval from HCIDLA regarding replacement of affordable units, provision of RSO units, and qualification for the Exemption from the Rent Stabilization Ordinance with Replacement Affordable Units in compliance with Ordinance No. 184,873. In order for all new units to be exempt from the RSO, the applicant will need to either replace all withdrawn RSO units with affordable units on a one-for-one basis or provide at least 20 percent of the total number of newly constructed rental units as affordable, whichever results in the greater number. The executed and recorded and agreement submitted and approved by HCIDLA shall be provided.
7. **Parking.** Automobile parking shall be provided consistent with LAMC Section 12.22 A.31, which permits 0.5 spaces per dwelling unit for a project located in Tier 3 TOC Affordable Housing Incentive Area.
8. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC Section 12.21 A 16.
9. **Floor Area Ratio (FAR).** The project shall be permitted a maximum FAR of 4.5:1.

10. **Building Height.** The project shall be limited to a maximum building height of 78 feet 6 inches, as measured from grade to the highest point of the roof parapet.
11. **Rear Yard.** The project shall provide a minimum westerly rear yard setback of 13.3 feet.
12. **Side Yard.** The project shall provide the minimum northerly and southerly side yard setbacks of 7 feet.
13. **Open Space.** The project shall provide a minimum of 4,619 square feet of usable open space.
14. **Landscaping.** The landscape plan shall indicate landscape points for the project equivalent to **10 percent more than otherwise required** by LAMC 12.40 and Landscape Ordinance Guidelines "O". All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped, including an automatic irrigation system, and maintained in accordance with a landscape plan prepared by a licensed landscape architect or licensed architect, and submitted for approval to the Department of City Planning.
15. **Mechanical Equipment.** All mechanical equipment on the roof shall be screened from view. The transformer, if located in the front yard, shall be screened with landscaping.
16. **Maintenance.** The subject property (including all trash storage areas, associated parking facilities, sidewalks, yard areas, parkways, and exterior walls along the property lines) shall be maintained in an attractive condition and shall be kept free of trash and debris.
17. **Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties or the public right-of-way, nor from above.

Administrative Conditions

18. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building & Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building & 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 & 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.
19. **Notations on Plans.** Plans submitted to the Department of Building & 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.
20. **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.
21. **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.
22. **Department of Building & 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 & 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 & 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.

23. **Department of Water and Power.** Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power (LADWP) for compliance with LADWP's Rules Governing Water and Electric Service. Any corrections and/or modifications to plans made subsequent to this determination in order to accommodate changes to the project due to the under-grounding of utility lines, that are outside of substantial compliance or that affect any part of the exterior design or appearance of the project as approved by the Director, 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.
24. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
25. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day that 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.
26. **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, in whole or in part, of 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.

PROJECT BACKGROUND

The project site consists of two rectangular lots with 100 feet of street frontage along the west side of South Ardmore Avenue and a uniform depth of 135 feet, for a total lot size of 13,520.80 square feet. The project site is located within the Wilshire Community Plan, zoned R4-1, and designated for High Medium Residential land uses. The site is located within the City of Los Angeles Transit Priority Area and the Community Redevelopment Agency Los Angeles' (CRA/LA) Wilshire Center/ Koreatown Redevelopment area which does not regulate residential density. The site is not located in a historic district and is not identified as a historic resource. Ordinance No. 65,802 approved on January 29, 1921 ordered the establishment of a five (5)-foot set-back line on Ardmore Avenue along the easterly side of the subject property. The site is located approximately 0.94 kilometers from the Puente Hills Blind Thrust Fault.

The site is currently developed with a two (2)-story single-family dwelling built in 1922 and a multi-family built-in 1964. On June 19, 2020, the applicant submitted applications to the Los Angeles Department of Building and Safety (LADBS) for a new seven (7)-story type IA/IIIA, 54-unit apartment building over one (1) level of subterranean and one (1) at grade level parking garages with six (6) extremely low income-restricted units in TOC Tier 3 area (Permit #20010-10000-00602) and Temporary shoring for a new structure (Permit #20020-10000-00951).

Properties in the immediate surrounding area are zoned R4-1 and developed with single and multi-family residential structures ranging from two to five stories in height and a vacant lot. Abutting property to the north is developed with a two (2)-story apartment building. Abutting property to the south is a vacant lot. Adjoining properties to the east across Ardmore Avenue are developed with two (2)-story and four (4)-story apartment building and a two (2)-story single-family dwelling. Abutting property to the west are developed with two (2)-story single-family dwellings. The site is also located approximately 600 feet from the Hobart Boulevard Early Education Center and Elementary School and approximately 100 feet from Seoul International Park Recreation Center and Playground.

The proposed project is for the construction, use, and maintenance of a seven-story residential structure over one level of subterranean parking garage, containing 54 dwelling units, including six (6) units reserve for Extremely Low Income Households and 48 market-rate units, two (2) of which are reserved for market rate RSO units. The building will be a maximum of 78 feet 6 inches, as measured from grade to the top of parapet, and contain approximately 42,507 square feet of floor area with a floor area ratio (FAR) of 4.5:1. The unit mix will be comprised of 19 studio units, 26 one-bedroom units, and nine (9) two-bedroom units. The project will provide 50 vehicular parking spaces located at grade and within one level of subterranean parking garage. The project will also provide 54 long-term and 5 short-term bicycle parking spaces. The project will provide a total of 4,619 square feet of open space, including 2,731.90 square feet roof decks, 935.10 square feet of common indoor community area and gym, and 950 square feet of private balconies. The project proposes the removal of one (1) street tree to be replaced with one (1) non-protected tree located along Ardmore Avenue. The project proposes grading of 7,500 cubic yards of earth and exporting approximately 7,000 cubic yards of earth.

The applicant is seeking approval of the following Base and Additional Incentives of the Transit Oriented Communities (TOC) Affordable Housing Incentive Program:

- Base Incentives:
 - A 63% increase in density to allow 54 units in lieu of 34 base units.
 - A minimum of 50 automobile parking spaces required for a 54-unit residential development.

- A 50% increase in floor area to allow 42,507 square feet in lieu of 28,350 square feet.
- Additional Incentives
 - Side Yard Setbacks. A reduction in the minimum northerly and southerly side yard setbacks to permit 7 feet, in lieu of 10 feet as otherwise required by LAMC Section 12.11 C.2.
 - Rear Yard Setback. A reduction to the westerly rear yard setback to permit a minimum of 13.3 feet, in lieu of the minimum 19 feet as otherwise required by LAMC Section 12.11 C.3.
 - Open Space. A 25-percent reduction in the usable open space to require a minimum of 4,219 square feet in lieu of the minimum 5,625 square feet as otherwise required by LAMC Section 12.21 G.2.

HOUSING REPLACEMENT (SB 330 DETERMINATION) BACKGROUND

On October 9, 2019, Governor Gavin Newsom signed into law the Housing Crisis Act of 2019 (SB 330). SB330 requires projects that meet the criteria per California Government Code Section 65589.5(h)(2)(B) filed as of January 1, 2020 to demonstrate compliance with the housing replacement provisions which require replacement of dwelling units that either exist at the time of application of a project, or have been vacated or demolished in the ten-year period preceding the application of the project. This applies to all pre-existing units that have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control; or occupied by Low or Very Low Income Households.

Pursuant to the SB 330 (TOC) Determination Letter dated August 12, 2019 and prepared by the Los Angeles Housing and Community Investment Department (HCIDLA), two (2) market rate RSO replacement units and five (5) affordable units need to be replaced with equivalent type, with two (2) units restricted for Extremely Low Income Households, two (2) units restricted for Very Low Income Households, and one (1) unit reserved for Low Income Households. The project proposes six (6) units restricted for Extremely Low Income Households. As such, the project complies with SB 330.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM BACKGROUND

Measure JJJ was adopted by the Los Angeles City Council on December 13, 2016. Section 6 of the Measure instructed the Department of City Planning to create the Transit Oriented Communities (TOC) Affordable Housing Incentive Program. The measure required that the Department adopt a set of TOC Guidelines, which establishes incentives for residential and mixed-use projects located within ½ mile of a major transit stop. Major transit stops are defined under existing State law.

The TOC Affordable Housing Incentive Program Guidelines (TOC Guidelines), released on September 22, 2017, establish a tier-based system with varying development bonuses and incentives based on a project's distance from different types of transit. The largest bonuses are reserved for those areas in the closest proximity to significant rail stops or the intersection of major bus rapid transit lines. Required affordability levels are increased incrementally in each higher tier. The incentives provided in the TOC Guidelines describe the range of bonuses from particular zoning standards that applicants may select.

The project site is located less than 2,470 feet from the Metro Purple Line Wilshire/Normandie Station, which qualifies the site as Tier 3 TOC Affordable Housing Incentive Area. As such, the project is eligible for Tier 3 TOC Affordable Housing Incentives.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM ELIGIBILITY REQUIREMENTS

To be an eligible TOC Housing Development, a project must meet the Eligibility criteria set forth in Section IV of the TOC Guidelines. A Housing Development located within a TOC Affordable Housing Incentive Area shall be eligible for TOC Incentives if it meets all of the following requirements, which it does:

1. **On-Site Restricted Affordable Units.** *In each Tier, a Housing Development shall provide On-Site Restricted Affordable Units at a rate of at least the minimum percentages described below. The minimum number of On-Site Restricted Affordable Units shall be calculated based upon the total number of units in the final project.*
 - a. *Tier 1 - 8% of the total number of dwelling units shall be affordable to Extremely Low Income (ELI) Households, 11% of the total number of dwelling units shall be affordable to Very Low (VL) Income Households, or 20% of the total number of dwelling units shall be affordable to Lower Income Households.*
 - b. *Tier 2 - 9% ELI, 12% VL or 21% Lower.*
 - c. *Tier 3 - 10% ELI, 14% VL or 23% Lower.*
 - d. *Tier 4 - 11% ELI, 15% VL or 25% Lower.*

As previously mentioned, the project qualifies for Tier 3. As such, the project is required to reserve at least 10 percent, or six (6) units, of the 54 total units for Extremely Low Income Households. The project proposes to reserve six (6) units for Extremely Low Income Households. As such, the project satisfies the eligibility requirement for On-Site Restricted Affordable Units.

2. **Major Transit Stop.** *A Housing Development shall be located on a lot, any portion of which must be located within 2,640 feet of a Major Transit Stop, as defined in Section II and according to the procedures in Section III.2 of the TOC Guidelines.*

A Major Transit Stop is a site containing a rail station or the intersection of two or more bus routes with a service interval of 15 minutes or less during the morning and afternoon peak commute periods. The project site is located less than 2,470 feet from the Metro Purple Line Wilshire/Normandie Station with trips scheduled every 10 minutes, which qualifies the site as Tier 3 TOC Affordable Housing Incentive Area. As such, the project meets the eligibility requirement for proximity to a Major Transit Stop.

3. **Housing Replacement.** *A Housing Development must 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.*

Pursuant to the SB 330 (TOC) Determination Letter dated August 12, 2019 and prepared by the Los Angeles Housing and Community Investment Department (HCIDLA), five (5) units need to be replaced with equivalent type, with two (2) unit restricted to Extremely Low Income Households, two (2) unit to Very Low Income Household, and one (1) unit to Low Income Households and two (2) market rate RSO replacement units. As such, the project complies with SB 330.

4. **Other Density or Development Bonus Provisions.** *A Housing Development shall not seek and receive a density or development bonus under the provisions of California Government Code Section 65915 (State Density Bonus law) or any other State or local program that provides development bonuses. This includes any development bonus or other incentive granting additional residential units or floor area provided through a General Plan Amendment, Zone Change, Height District Change, or any affordable housing development bonus in a Transit Neighborhood Plan, Community Plan Implementation Overlay (CPIO), Specific Plan, or overlay district.*

The project is not seeking any additional density or development bonuses under the provisions of the State Density Bonus Law or any other State or local program that provides development bonuses, including, but not limited to a General Plan Amendment, Zone Change, Height District Change, or any affordable housing development bonus in a Transit Neighborhood Plan, Community Implementation Overlay (CPIO), Specific Plan, or overlay district. As such, the project meets this eligibility requirement.

5. **Base Incentives and Additional Incentives.** *All Eligible Housing Developments are eligible to receive the Base Incentives listed in Section VI of the TOC Guidelines. Up to three Additional Incentives listed in Section VII of the TOC Guidelines may be granted based upon the affordability requirements described below. For the purposes of this section below, “base units” refers to the maximum allowable density allowed by the zoning, prior to any density increase provided through these Guidelines. The affordable housing units required per this section may also count towards the On-Site Restricted Affordable Units requirement in the Eligibility Requirement No. 1 above (except Moderate Income units).*

- a. *One Additional Incentive may be granted for projects that include at least 4% of the base units for Extremely Low Income Households, at least 5% of the base units for Very Low Income Households, at least 10% of the base units for Lower Income Households, or at least 10% of the base units for persons and families of Moderate Income in a common interest development.*
- b. *Two Additional Incentives may be granted for projects that include at least 7% of the base units for Extremely Low Income Households, at least 10% of the base units for Very Low Income Households, at least 20% of the base units for Lower Income Households, or at least 20% of the base units for persons and families of Moderate Income in a common interest development.*
- c. *Three Additional Incentives may be granted for projects that include at least 11% of the base units for Extremely Low Income Households, at least 15% of the base units for Very Low Income Households, at least 30% of the base units for Lower Income Households, or at least 30% of the base units for persons and families of Moderate Income in a common interest development.*

The project is seeking three (3) Additional Incentives for reduced side yard setbacks, reduced rear yard setback, and reduction in usable open space, which requires at least 11 percent, or four (4) units, of the 34 base units to be set aside for Extremely Low Income Households. The project proposes to set aside six (6) dwelling units for Extremely Low Income Households, which is 17 percent of the 34 base units. As such, the project meets the eligibility requirement for three Additional Incentives.

6. **Projects Adhering to Labor Standards.** *Projects that adhere to the labor standards required in LAMC 11.5.11 may be granted two Additional Incentives from the menu in Section VII of these Guidelines (for a total of up to five Additional Incentives).*

The project is not seeking two Additional Incentives beyond the three permitted in exchange for reserving six (6) dwelling units for Extremely Low Income Households, which is 17 percent of the 34 base units. As such, the project need not adhere to the labor standards required in LAMC Section 11.5.11, and this eligibility requirement does not apply.

7. **Multiple Lots.** *A building that crosses one or more lots may request the TOC Incentives that correspond to the lot with the highest Tier permitted by Section III above.*

The project site consists of two lots which are located within a Tier 3 TOC Affordable Housing Incentive Area. As such, this eligibility requirement does not apply.

8. **Request for a Lower Tier.** *Even though an applicant may be eligible for a certain Tier, they may choose to select a Lower Tier by providing the percentage of On-Site Restricted Affordable Housing units required for any lower Tier and be limited to the Incentives available for the lower Tier.*

The applicant has not selected a Lower Tier and is not providing the percentage of On-Site Restricted Affordable Housing units required for any lower Tier. As such, this eligibility requirement does not apply.

9. **100% Affordable Housing Projects.** *Buildings that are Eligible Housing Developments that consist of 100% On-Site Restricted Affordable units, exclusive of a building manager's unit or units shall, for purposes of these Guidelines, be eligible for one increase in Tier than otherwise would be provided.*

The proposed project does not consist of 100 percent On-Site Restricted Affordable units. As such, this eligibility requirement does not apply.

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 Section 12.22 A.25(g) of the LAMC, the Director shall approve a density bonus and requested incentives 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 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 reduce side yard and rear setbacks and usable open space so that affordable housing units reserved for Extremely Low Income Households can be constructed and the overall space dedicated to residential uses is increased. These incentives support the applicant's decision to reserve six (6) of 54 total units for Extremely Low Income Households.

Side Yards: The applicant requests reductions in the northerly and southerly side yard setbacks to permit 7 feet in lieu of the minimum 10 feet as otherwise required by LAMC Section 12.11 C.2. This incentive is expressed in the Menu of Incentives in the TOC Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate affordable housing costs.

Rear Yard: The applicant requests a reduction in the westerly rear yard setback to permit 13.3 feet in lieu of the minimum 19 feet as otherwise required by LAMC Section 12.11 C.3. This incentive is expressed in the Menu of Incentives in the TOC Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate affordable housing costs.

Open Space: The applicant requests a 25-percent reduction in the usable open space to require a minimum of 4,219 square feet in lieu of the minimum 5,625 square feet as otherwise required by LAMC Section 12.21 G.2. The requested open space incentive is expressed in the Menu of Incentives in the TOC Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate affordable housing costs. The requested incentive allows the inclusion of affordable housing while still providing usable open space as intended by the Code.

- b. **The Incentive will not have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there are no feasible method to satisfactorily mitigate or avoid the specific adverse Impact without rendering the development unaffordable to Very Low, Low and Moderate Income Households. Inconsistency with the zoning ordinance or the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.**

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 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. Analysis of the proposed project determined that the project is Categorical 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 FINDINGS

The Department of City Planning determined that the proposed project is exempt from CEQA pursuant to State CEQA Statute and Guidelines, Article 19, Section 15332 (Class 32 Urban In-Fill Development), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to State CEQA Statute and Guidelines, Section 15300.2 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;
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- (c) The project site has no value as habitat for endangered, rare or threatened species;
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- (e) The site can be adequately served by all required utilities and public services.

There are five (5) exceptions which the City is required to consider before finding a project exempt under Class 15332: (a) Cumulative Impacts; (b) Significant Effect; (c) Scenic Highways; (d) Hazardous Waste Sites; and (e) Historical Resources.

See *Justification for Categorical Exemption Case No. ENV-2020-351-CE* in the case file for the narrative demonstrating that the proposed project meets the five criteria under Class 32 and that exceptions do not apply.

TIME LIMIT – OBSERVANCE OF CONDITIONS

All terms and conditions of the Director's Determination shall be fulfilled before the use may be established. Pursuant to LAMC Section 12.25 A.2, the instant authorization is further conditional upon the privileges being utilized within **three years** after the effective date of this determination and, if such privileges are not utilized, building permits are not issued, or substantial physical construction work is not begun within said time and carried on diligently so that building permits do not lapse, the authorization shall terminate and become void.

TRANSFERABILITY

This determination runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions of this grant. If any portion of this approval is utilized, then all other conditions and requirements set forth herein become immediately operative and must be strictly observed.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then the applicant or his successor in interest may be prosecuted for violating these conditions the same as for any violation of the requirements contained in the Municipal Code, or the approval may be revoked.

Section 11.00 of the LAMC states in part (m): "It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code shall be guilty of a misdemeanor unless that violation or failure is declared in that section to be an infraction. An infraction shall be tried and be punishable as provided in Section 19.6 of the Penal Code and the provisions of this section. Any violation of this Code that is designated as a misdemeanor may be charged by the City Attorney as either a misdemeanor or an infraction.

Every violation of this determination is punishable as a misdemeanor unless provision is otherwise made, and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both a fine and imprisonment."

APPEAL PERIOD - EFFECTIVE DATE

The Determination in this matter will become effective and final fifteen (15) days after the date of mailing of the Notice of Director's Determination unless an appeal there from is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of this Determination, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. Forms are available on-line at <http://planning.lacity.org>.

Planning Department public offices are located at:

Figueroa Plaza
201 North Figueroa Street
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

West Los Angeles
1828 Sawtelle Boulevard
2nd Floor
Los Angeles, CA 90025
(310) 231-2901

Only an applicant or any owner or tenant of a property abutting, across the street or alley from, or having a common corner with the subject property can appeal this Density Bonus Compliance Review Determination. Per the Density Bonus Provision of State Law (Government Code Section §65915) the Density Bonus increase in units above the base density zone limits and the appurtenant parking reductions are not a discretionary action and therefore cannot be appealed. Only the requested incentives are appealable. Per Section 12.22 A.25 of the LAMC, appeals of Density Bonus Compliance Review cases are heard by the City Planning Commission.

Verification of condition compliance with building plans and/or building permit applications are done at the Development Services Center of the Department of City Planning at Figueroa Plaza in Downtown Los Angeles, Marvin Braude Constituent Service Center in the Valley, or in West Los Angeles. In order to assure that you receive service with a minimum amount of waiting, applicants are encouraged to schedule an appointment with the Development Services Center either through the Department of City Planning website at <http://planning.lacity.org> or by calling

(213) 482-7077, (818) 374-5050, or (310) 231-2901. The applicant is further advised to notify any consultant representing you of this requirement as well.

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedures Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

VINCENT P. BERTONI, AICP
Director of Planning

Approved by:

Reviewed by:

Deborah Kahen, AICP, Senior City Planner

Griselda Gonzalez, City Planner

Prepared by:

Adrineh Melkonian, City Planning Associate
adrineh.melkonian@lacity.org