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

June 23, 2021

Owner/Applicant

720 Normandie, LP
3470 Wilshire Boulevard #700
Los Angeles, CA 90010

Representative

Allen Park
3470 Wilshire Boulevard, Suite 700
Los Angeles, CA 90010

Case No. DIR-2020-149-TOC-HCA

CEQA: ENV-2020-151-CE

Location: 715 South Mariposa Avenue

Council District: 10 – Ridley-Thomas

Neighborhood Council: Wilshire Center-Koreatown

Community Plan Area: Wilshire

Land Use Designation: Regional Center
Commercial

Zone: R5-2

Legal Description: Lot 14, Tract 7502

Last Day to File an Appeal: July 08, 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, based on the whole of the administrative record, that the 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;

Approve with Conditions a Transit Oriented Communities (TOC) Affordable Housing Incentive Program Compliance Review for a qualifying Tier 3 project, totaling 44 dwelling units, reserving five (5) units for Extremely Low-Income Household occupancy for a period of 55 years, with the following Additional Incentives:

- a. **Front Yard.** An averaging of the front adjoining yards to allow four and one fourth feet (4.25') in lieu of the required fifteen (15) feet otherwise required by LAMC Section 12.10.C.1; and
- b. **Side Yards.** A 30 percent reduction in both side yard setbacks to permit a minimum of seven (7) feet in lieu of the minimum ten (10) feet as otherwise required by LAMC Section 12.11 C.2; and
- c. **Rear Yard.** A 30 percent reduction in the rear yard setback to permit a minimum of thirteen (13) feet and three (3) inches for the rear yard in lieu of the minimum nineteen (19) feet as otherwise required by LAMC Section 12.11 C.3; and
- d. **Open Space.** A 25 percent reduction in the usable open space to require a minimum of 3,300 square feet in lieu of the minimum 4,400 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 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 44 residential dwelling units.
3. **Affordable Units.** A minimum of five (5) units, that is 11-percent of the 44 total units, shall be reserved as affordable units as follows: a minimum of five (5) units shall be reserved for Extremely Low-Income Households as defined in Section 50106 of the California Health and Safety Code.
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 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 five (5) units available to Extremely Low-Income Households 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 and TOC Guidelines, 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 TOC Guidelines and any monitoring requirements established by the HCIDLA. Refer to the TOC Affordable Housing Incentive Program and Housing Replacement (SB 330 Determination Replacement Unit Determination) Background sections of this determination.
6. **Rent Stabilization Ordinance (RSO).** Prior to the issuance of a Certificate of Occupancy, the owner shall obtain approval from the Los Angeles Housing and Community Investment Department (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. **Floor Area Ratio (FAR).** The project shall be permitted a maximum FAR of 5.53.
8. **Building Height.** The project shall be limited to a maximum building height of 85 feet as measured from Grade to the highest point of the parapet pursuant to LAMC Section 12.03.

9. **Front Yard.** The project shall provide a minimum front yard setback of four and one fourth feet (4.25') in lieu of the minimum fifteen (15) feet otherwise required under to LAMC Section 12.11 C.1.
10. **Side Yards.** The project shall provide minimum side yard setbacks of seven (7) feet for both side yards in lieu of the minimum required ten (10) feet otherwise required under LAMC Section 12.11 C.2
11. **Rear Yard.** The project shall provide minimum rear yard setback of thirteen (13) feet and three (3) inches in lieu of a nineteen (19) foot rear yard setback otherwise required under LAMC Section 12.11 C.3.
12. **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.
13. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC Section 12.21 A 16.
14. **Open Space.** The project shall provide a minimum of 3,300 square feet in lieu of 4,400 square feet of usable open space.
15. **Trees.** There shall be a minimum of eleven (11) 24-inch box, or larger, trees on site and/or in the public right-of-way pursuant to LAMC Section 12.21 G.2.
16. **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.
17. **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.
18. **Maintenance.** The project site (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.
19. **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

20. **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.

21. **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.
22. **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.
23. **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.
24. **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.
25. **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.
26. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
27. **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.
28. **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 one (1) rectangular parcel with 60 feet of total street frontage along the west side of South Mariposa Avenue and a uniform depth of approximately 138 feet, for a total lot size of approximately 8,097 square feet (0.186 acres). The project site is located within the Wilshire Community Plan, the R5-2 Zone, and designated for Regional Center Commercial land uses. The site is located within the boundaries of the Wilshire Center-Koreatown Redevelopment Project Area. The site is located within the City of Los Angeles Transit Priority Area (ZI-2452), the Los Angeles State Enterprise Zone (ZI-2374), Wilshire Center/Koreatown Redevelopment Project Area (ZI-2488), Qualified Historically Underutilized Business Zone (HUBZone), Los Angeles State Enterprise Zone, Los Angeles Promise Zone, and Urban Agriculture Incentive Zone. The project site also lies 0.12 kilometers from the Puente Hills Blind Thrust fault. There is one school (Robert F. Kennedy Community Schools) within 500 feet of the project site.

The project site is improved with a surface parking lot. There are no trees on site. There are no trees in the public right-of-way. The existing on site use (surface parking lot) is not a subject of a Historic Preservation Review, not listed in HistoricPlaces LA, and not listed in SurveyLA. The site is a non-contributing property in the Normandie-Mariposa Apartments District. Per the Administrative Review and Referral Wilshire Center/Koreatown Form No. CP 3576, signed and dated April 7, 2020, the site is not historic. Per the October 28, 2020 communication from the Los Angeles Office of Historic Resources, the project will not materially impact historic resources (namely, the historic district) under CEQA.

Surrounding properties are all within the R5-2 Zone, designated for Regional Center Commercial land uses, and generally developed with 2-story to 4-story multifamily residential buildings. The adjacent properties to the north and south of the site are each improved with a 4-story residential building. The adjacent property to the west is improved with a surface parking lot, and the adjacent property to the east is improved with a 2-story residential building.

The proposed project is for the removal of the surface parking lot, and for the construction, use and maintenance of a seven story, multifamily residential building (6 stories of residential levels above one ground parking level and one subterranean parking level) containing 44 dwelling units, including five (5) units restricted to Extremely Low-Income Households. The building will be a maximum height of 85 feet, as measured from Grade to the top of parapet, and contain 29,000 square feet of floor area with a floor area ratio (FAR) of 5.53:1. The unit mix will be comprised of seven (7) studio units, 37 one-bedroom units. The project is providing the required 22 automobile parking spaces. Twelve of the vehicular parking spaces will be located in the subterranean parking level and ten of the parking stalls will be located on the ground level. In addition, the project is providing 38 long-term bicycle parking stalls in the subterranean parking garage level, and four (4) short-term bicycle parking stalls located in the front yard. The project will provide a total of 3,300 square feet of open space, and 11 trees on-site and in the adjacent public-right-of-way. The project is not required to provide a fault study since the site is not located within the Alquist-Priolo Fault Zone; however, the applicant did receive a Soils Report Approval Letter from the Grading Division of the Los Angeles Department of Building and Safety on August 19, 2020, Log Number 114126. The project anticipates approximately 3,249 cubic yards of earth to be exported.

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 70-percent increase in density to allow a total of 44 units in lieu of 40 base units.
 - A 50-percent increase in the floor area ratio to allow 9:1 in lieu of 6:1.
 - A minimum of 22 automobile parking spaces for a 44-unit residential development.
- Additional Incentives
 - An averaging of the front adjoining yards to allow four and one fourth feet (4.25') in lieu of the required fifteen (15) feet otherwise required by LAMC Section 12.11.C.1.
 - A 30 percent reduction in both side yard setbacks to permit a minimum of seven (7) feet in lieu of the minimum ten (10) feet as otherwise required by LAMC Section 12.11.C.2.
 - A 30 percent reduction in rear yard setback to permit a minimum of thirteen (13) feet and three (inches) in lieu of the minimum nineteen (19) feet as otherwise required by LAMC Section 12.11.C.3.
 - A 25 percent reduction in the usable open space to require a minimum of 3,300 square feet in lieu of the minimum 4,400 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 Determination Letter dated April 26, 2019 and prepared by the Los Angeles Housing and Community Investment Department (HCIDLA), zero (0) units are subject to replacement under AB 2556 (formerly AB 2222). The proposed project is a seven-story multifamily residential development with six (6) stories of residential levels over one ground level parking and one subterranean parking level, 44 dwelling units, consisting of five (5) units restricted for Extremely Low-Income Households, and 39 market rate units.

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 one-half 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 2,640 feet of the Wilshire /Normandie Station and the Metro Purple Rail Line, with service intervals of approximately 12 minutes, 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.*

Per the TOC Referral Form, the project qualifies for Tier 3 TOC Affordable Housing Incentives. As such, the project is required to reserve at least 10 percent, or five (5) units, of the total 44 units for Extremely Low-Income Households. The project proposes to reserve five (5) 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 2,640 feet of the Wilshire /Normandie Station and the Metro Purple Rail Line, with service intervals of approximately 12 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 Determination Letter dated April 26, 2019 and prepared by the Los Angeles Housing and Community Investment Department (HCIDLA), zero (0) units are subject to replacement under AB 2556 (formerly AB 2222). The proposed project is seven-story multifamily residential development containing 44 dwelling units, consisting of five (5) units restricted for Extremely Low-Income Households, and 39 market rate units. As such, the project meets this eligibility requirement.

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 front and rear yard setback with an averaging of the adjoining front yards, and reduced open space, which requires at least 11-percent, or five (5) units, of the 40 base units to be set aside for Extremely Low-Income Households. The project proposes to set aside five (5) units for Extremely Low-Income Households, which is 12 percent of the 30 base units. As such, the project meets the eligibility requirement for 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 (2) Additional Incentives beyond the three (3) permitted in exchange for reserving five (5) dwelling units for Extremely Low-Income Households, which is 11 percent of the 40 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 one (1) lot which is 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. 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 both side yard setbacks, reduce the front and rear yard setbacks, including the averaging of the adjoining front yards, and a reduction in 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 are expressed in the TOC Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate affordable housing costs. These incentives also support the applicant's decision to reserve five (5) units for Extremely Low Income Households of the total 44 units.

Front Yard Setback. An averaging of the front adjoining yards to allow four and one fourth feet (4.25') in lieu the minimum fifteen (15) feet otherwise required by LAMC Section 12.11.C.1.

Side Yard Setbacks. A reduction in the required side yard setbacks to allow a minimum of seven (7) feet for both side yards in lieu of the minimum ten (10) feet as otherwise required by LAMC Section 12.11 C.2.

Rear Yard Setback. A reduction in the rear yard setback to allow a minimum of thirteen (13) feet and three (3) inches for the rear yard in lieu of the minimum nineteen (19) feet as otherwise required by LAMC Section 12.11 C.3.

Open Space: A reduction in the usable open space to require a minimum of 3,300 square feet in lieu of the minimum 4,400 square feet as otherwise required by LAMC Section 12.21 G.2.

The requested incentives are 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.

- 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 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 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 32: (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-2020-151-CE* in the case file for the narrative demonstrating that the proposed project meets the five (5) 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:

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

**Valley Office Marvin Braude
Constituent Service Center**
6262 Van Nuys Boulevard,
Suite 251
Van Nuys, CA 91401
(818) 374-5050

**West Los Angeles Office
Development Services Center**
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:

Deborah Kahen

Deborah Kahen, AICP, Senior City Planner

Reviewed by:

Griselda Gonzalez
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