

CONDITIONS OF APPROVAL

(As modified by the City Planning Commission at its meeting on July 22, 2021)

Pursuant to Sections 12.22 A.25 and 16.05 of the Los Angeles Municipal Code, the following conditions are hereby imposed upon the use of the subject property:

Development Conditions

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the Applicant, stamped Exhibit "A" and dated January 22, 2021 and attached to the subject case file. No change to the plans will 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 Los Angeles Municipal Code or the project conditions.
2. **Density Calculation.** A gross lot area of 62,111 square feet, which includes any land required to be dedicated for street or alley purposes, shall be used for purposes of calculating the maximum density, permitting a base density of 78 units for the subject property in the CM Zone.
3. **Residential Density.** The project shall be limited to a maximum density of 106 live/work units including 28 Density Bonus Units.
4. **Live/Work Housing.** The live/work units shall be designed to comply with Section 419 of the Los Angeles Building Code.
5. **Non-Residential Space.** A minimum of 119,845 square feet of the floor area shall be utilized as retail, restaurant and creative office space, as shown in Exhibit "A" dated January 22, 2021.
6. **On-Site Affordable Units.** A minimum of nine (9) units, that is 11 percent of the 78 base density units, shall be reserved for Very Low Income Households, as defined in Section 50105 of the Health and Safety Code, to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA). In addition, a minimum of three (3) units shall be reserved for Moderate Income Households, as defined in Section 50093 of the Health and Safety Code, to the satisfaction of HCIDLA.
7. **Changes in Restricted Units.** Deviations that increase the number of restricted affordable units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22 A.25(a) through (d).
8. **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 HCIDLA. The covenant shall bind the owner to reserve nine (9) units, that is 11 percent of the 78 base density units, available to Very Low Income Households and three (3) units available to Moderate Income Households for sale as determined to be affordable to such households by HCIDLA for a period of 55 years. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant shall present a copy of the recorded covenant to the Department of City Planning for inclusion in the case file. The project shall comply with the

Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and any monitoring requirements established by the HCIDLA.

9. **Residential Automobile Parking.** The minimum number of residential automobile parking spaces shall be provided as required by LAMC Sections 12.21 A.4 (bicycle parking replacement) and 12.21 A.4(p)(1).
10. **Unbundled Parking.** Residential parking shall be unbundled from the cost of the rental units, except for parking for Restricted Affordable Units.
11. **Non-Residential Automobile Parking.** The minimum number of non-residential automobile parking spaces shall be provided as required by LAMC Sections 12.21 A.4 (bicycle parking replacement) and 12.21 A.4(x)(3).
12. **Electric Vehicle Parking.** The project shall comply with the electric vehicle charging spaces (EV spaces) and electric vehicle charging stations (EVCS) regulations set forth in Sections 99.04.106 and 99.05.106 of Article 9, Chapter IX of the LAMC.
13. **Bicycle Parking.** Bicycle parking stalls for residential and non-residential uses shall be provided pursuant to LAMC Sections 12.21 A.4 and 12.21 A.16.
14. **Driveways.** Driveways shall be limited to one on Bay Street and one on Sacramento Street. Driveway widths shall be the minimum permitted by the Los Angeles Department of Transportation.
15. **Open Space.** The project shall provide usable open space as required by LAMC Section 12.21 G.
16. **Building Materials and Glazing.** All exterior building materials and surfaces and the amount of glazing shall be in substantial conformance with Sheets A4.01, A4.02, A4.03, A4.04, and A4.05 of Exhibit "A" stamp-dated January 22, 2021. Substitutes of an equal quality may be permitted to the satisfaction of the Department of City Planning, Central Project Planning Division.
17. **Glare.** The exterior of the proposed structure shall be constructed of high-performance and/or non-reflective tinted glass (no mirror-like tints or films) and pre-cast concrete or fabricated wall surfaces to minimize glare and reflected heat.
18. **Parking Screening.** With the exception of vehicle and pedestrian entrances on the ground floor, facades of all above-grade vehicle parking garage shall be enclosed and screened with exposed concrete material on the north and east elevations and a corridor and an MEP area behind the floor to ceiling glass façade on the south elevation to minimize visual impacts on the public realm, as shown on Sheets A2.02, A4.01, A4.02, and A4.04 with Exhibit "A."
19. **Art Mural.** The project shall provide an art mural on the ground floor façade of the south elevation, as shown on Sheet A4.02 of Exhibit "A." Prior to the issuance of building permits, the project shall receive approval from the Department of Cultural Affairs for the proposed art mural. Any art mural installed on the building façade shall be in compliance with all applicable City regulations, pursuant to LAMC Section 14.4.20 and 22.119 of the Los Angeles Administrative Code, subject to the approval from the Department of Cultural Affairs.

20. Landscape Plan.

- a. All open areas not used for buildings, driveways, parking areas, recreational facilities or pedestrian pathways shall be attractively landscaped. All landscaped areas shall include an automatic irrigation system and be maintained in accordance with a landscape plan prepared by a licensed landscape architect or architect and submitted for approval to the Department of City Planning, Development Services Center.
- b. The landscape plan shall indicate landscape points for the project equivalent to **10% 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.
- c. The project shall plant a minimum of 27 24-inch box or larger trees on-site and/or in the public right-of-way pursuant to LAMC Section 12.21 G.2.

21. **Solar.** The Project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.

22. **Trash Storage.** Trash storage and collection shall be enclosed in the parking garage and not be visible from the public right-of-way. Trash collection shall occur within the enclosed parking garage and shall not interfere with traffic on any public street.

23. **Mechanical Equipment.** All mechanical equipment on the roof shall be screened from view. All surface or ground mounted mechanical equipment shall be screened from public view and treated to match the materials and colors of the building which they serve.

24. **Lighting.** All outdoor and parking lighting shall be shielded and down-cast within the site in a manner that prevents the illumination of adjacent public rights-of-way, adjacent properties and the night sky unless otherwise required by the Federal Aviation Administration (FAA) or for other public safety purposes.

25. **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.

26. **Signage.** Any signage shall comply with the Municipal Code or other applicable laws. No sign rights are granted with this case. There shall be no off-site signage on construction fencing during construction.

27. **Construction Generators.** The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices. On-site power generators shall either be plug-in electric or solar powered.

28. **River Improvement Overlay.** The project shall comply with the River Improvement Overlay (RIO) requirements set forth in LAMC Section 13.17. RIO approval shall be obtained prior to the issuance of Building Permits.

Environmental Clearance Conditions

29. **Implementation.** The Mitigation Monitoring and Reporting Program (MMRP), attached as Exhibit "B" and part of the case file, shall be enforced throughout all phases of the project. The Applicant shall be responsible for implementing each Project Design Features (PDF) and Mitigation Measures (MM) and shall be obligated to provide certification, as identified below, to the appropriate monitoring and enforcement agencies that each PDF and MM has been implemented. The Applicant shall maintain records demonstrating compliance with each PDF and MM. Such records shall be made available to the City upon request.
30. **Construction Monitor.** During the construction phase and prior to the issuance of building permits, the applicant shall retain an independent Construction Monitor (either via the City or through a third-party consultant), approved by the Department of City Planning, who shall be responsible for monitoring implementation of PDFs and MMs during construction activities consistent with the monitoring phase and frequency set forth in the MMRP, attached as Exhibit "B" and part of the case file.

The Construction Monitor shall also prepare documentation of the applicant's compliance with the project design features and mitigation measures during construction every 90 days in a form satisfactory to the Department of City Planning. The documentation must be signed by the applicant and Construction Monitor and be included as part of the applicant's Compliance Report. The Construction Monitor shall be obligated to immediately report to the Enforcement Agency any non-compliance with the MMs and PDFs within two businesses days if the applicant does not correct the non-compliance within a reasonable time of notification to the applicant by the monitor or if the non-compliance is repeated. Such non-compliance shall be appropriately addressed by the Enforcement Agency.

31. **Substantial Conformance and Modification.** After review and approval of the final MMRP by the Lead Agency, minor changes and modifications to the MMRP are permitted, but can only be made subject to City approval. The Lead Agency, in conjunction with any appropriate agencies or departments, will determine the adequacy of any proposed change or modification. This flexibility is necessary in light of the nature of the MMRP and the need to protect the environment. No changes will be permitted unless the MMRP continues to satisfy the requirements of CEQA, as determined by the Lead Agency.

The project shall be in substantial conformance with the PDFs and MMs in the MMRP stamped Exhibit "B" attached to the subject case file. The implementing and enforcing agencies may determine substantial conformance with PDFs and MMs in the MMRP. If substantial conformance results in effectively deleting or modifying the PDFs and/or the MMs, the Director of Planning shall provide a written justification supported by substantial evidence as to why the PDF and/or the MM, in whole or in part, is no longer needed and its effective deletion or modification will not result in a new significant impact or a more severe impact to a previously identified significant impact.

If the project is not in substantial conformance to the adopted PDFs, MMs or MMRP, a modification or deletion shall be treated as a new discretionary action under CEQA Guidelines, Section 15162(c) and will require preparation of an addendum or subsequent CEQA clearance. Under this process, the modification or deletion of a mitigation measure shall not require a Zone Change unless the Director of Planning also finds that the change to the MMs and/or PDFs results in a substantial change to the project or the non-environmental conditions of approval.

- 32. Tribal Cultural Resource Inadvertent Discovery.** In the event that objects or artifacts that may be tribal cultural resources are encountered during the course of any ground disturbance activities (excavating, digging, trenching, plowing, drilling, tunneling, quarrying, grading, leveling, removing peat, clearing, driving posts, augering, backfilling, blasting, stripping topsoil or a similar activity), all such activities shall temporarily cease on the project site until the potential tribal cultural resources are properly assessed and addressed pursuant to the process set forth below:
- a. Upon a discovery of a potential tribal cultural resource, the Applicant shall immediately stop all ground disturbance activities and contact the following: (1) all California Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project; (2) and the Department of City Planning.
 - b. If the City determines, pursuant to Public Resources Code Section 21074 (a)(2), that the object or artifact appears to be tribal cultural resource, the City shall provide any effected tribe a reasonable period of time, not less than 14 days, to conduct a site visit and make recommendations to the Applicant and the City regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources.
 - c. The Applicant shall implement the tribe's recommendations if a qualified archaeologist and a culturally affiliated tribal monitor, both retained by the City and paid for by the Applicant, reasonably conclude that the tribe's recommendations are reasonable and feasible.
 - d. The Applicant shall submit a tribal cultural resource monitoring plan to the City that includes all recommendations from the City and any affected tribes that have been reviewed and determined by the qualified archaeologist and by a culturally affiliated tribal monitor to be reasonable and feasible. The Applicant shall not be allowed to recommence ground disturbance activities until this plan is approved by the City.
 - e. If the Applicant does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist or by a culturally affiliated tribal monitor, the Applicant may request mediation by a mediator agreed to by the Applicant and the City who has the requisite professional qualifications and experience to mediate such a dispute. The Applicant shall pay any costs associated with the mediation.
 - f. The Applicant may recommence ground disturbance activities outside of a specified radius of the discovery site, so long as this radius has been reviewed by the qualified archaeologist and by a culturally affiliated tribal monitor and determined to be reasonable and appropriate.
 - g. Copies of any subsequent prehistoric archaeological study, tribal cultural resources study or report, detailing the nature of any significant tribal cultural resources, remedial actions taken, and disposition of any significant tribal cultural resources shall be submitted to the South Central Coastal Information Center (SCCIC) at California State University, Fullerton.

Administrative Conditions

33. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building and Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building and Safety for final review and approval by the Department of City Planning. All plans that are awaiting issuance of a building permit by the Department of Building and Safety shall be stamped by Department of City Planning staff "Plans Approved". A copy of the Plans Approved, supplied by the applicant, shall be retained in the subject case file.
34. **Notations on Plans.** Plans submitted to the Department of Building and Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet, and shall include any modifications or notations required herein.
35. **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.
36. **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.
37. **Department of Building and Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building and Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
38. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
39. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.

- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.