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**DIRECTOR'S DETERMINATION
TRANSIT ORIENTED COMMUNITIES AND AFFORDABLE HOUSING INCENTIVES
PROGRAM**

November 3, 2022

Applicant/Owner

Ramin Shilian
500 Union, LLC
18375 W. Ventura Boulevard, #155
Tarzana, CA 91356

Representative/Architect

Jacques Mashihi
West Pacifica Design
8671 Wilshire Boulevard, #610
Beverly Hills, CA 90211

Case No. DIR-2020-1867-TOC-HCA

CEQA: ENV-2020-1868-CE

Location: 500, 500 ½, 502, 502 ½, 508.
510, 510 ¼, 510 ½, 512, 512
¼, 512 ½ S. Union Avenue

Council District: 1 – Cedillo

Neighborhood Council: Westlake North

Community Plan Area: Westlake

Land Use Designation: High Medium Residential

Zone: R4-1

Legal Description: Lots FR 47, FR 48, and FR
49, Oscar B. Smith's Crown
Hill Tract

Last Day to File an Appeal: November 18, 2022

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 California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332, Class 32, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Approve with Conditions a Transit Oriented Communities (TOC) Affordable Housing Incentive Program pursuant to Los Angeles Municipal Code (LAMC) Section 12.22 A.31, for a qualifying Tier 3 Project totaling 85 dwelling units, reserving eight (8) units for Very Low Income household occupancy and four (4) units for Extremely Low Income household occupancy for a period of 55 years, with the following three (3) Additional Incentives:

- a. **Setback (Rear).** Allow a rear yard setback of 13 feet 4 inches in lieu of 19 feet as otherwise required by LAMC Section 12.11 C.3.
- b. **Setbacks (Sides).** Allow side yard setbacks of 7 feet in lieu of 10 feet as otherwise required by LAMC Section 12.11 C.2.
- c. **Open Space.** A 25% reduction in Open Space to allow 6,487.5 square feet in lieu of the 8,650 square feet otherwise required by LAMC Section 12.21 G.2.

Adopt the attached Findings.

CONDITIONS OF APPROVAL

Pursuant to Section 12.22-A.31 of the Los Angeles Municipal Code, the following conditions are hereby imposed upon the use of the subject property:

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 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. **On-Site Restricted Affordable Units.** The project shall reserve a minimum of eight (8) units for Very Low Income Households and a minimum of four (4) units for Extremely Low Income Households, as determined by the Los Angeles Housing Department (LAHD) and California Government Code Section 65915(c)(2).
3. **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.31 and TOC Guidelines.
4. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing Department (LAHD) to make eight (8) units available to Very Low Income Households and four (4) units available to Extremely Low Income Households, for sale or rental as determined to be affordable to such households by LAHD 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 LAHD, and in consideration of the project's SB 330 Determination. Enforcement of the terms of said covenant shall be the responsibility of LAHD. 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 LAHD. Refer to the Transit Oriented Communities (TOC) Affordable Housing Incentive Program and Housing Replacement sections of this determination.
5. **Rent Stabilization Ordinance (RSO).** Prior to the issuance of a Certificate of Occupancy, the owner shall obtain approval from the LAHD 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 the new units to be exempt from the Rent Stabilization Ordinance, 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 covenant and agreement submitted and approved by LAHD shall be provided.
6. **Height.** The building shall not exceed 77 feet 8 inches in height as measured from grade to the highest point of the roof parapet.
7. **Base Incentives.**

- a. **Residential Density.** The project shall be limited to a maximum density of 85 residential dwelling units (equal to a density increase of 70 percent), including On-site Restricted Affordable Units.
- b. **Floor Area Ratio (FAR).** The project shall be permitted a FAR of 4.5:1 for a Tier 3 project in a residential zone.
- c. **Parking.**
 - i. **Residential Automobile Parking.** Automobile parking shall be provided consistent with LAMC Section 12.22 A.31 and Government Code Section 65915(p)(2), which require a minimum of 0.5 spaces per unit for all residential units in an Eligible Housing Development Project located in a Tier 3 TOC Affordable Housing Incentive Area. A greater number may be provided at the applicant's discretion.
 - ii. **Adjustment of Parking.** In the event that the number of Restricted Affordable Units should increase, or the composition of such units should change (i.e. the number of bedrooms, or the number of units made available to Senior Citizens and/or Disabled Persons), or the applicant selects another Parking Option (including Bicycle Parking Ordinance) and no other Condition of Approval or incentive is affected, then no modification of this determination shall be necessary, and the number of parking spaces shall be re-calculated by the Department of Building and Safety based upon the ratios set forth above.

8. Additional Incentives.

- a. **Rear Yard Setback.** The project shall be permitted a 30% reduction of the rear yard setback requirement to allow a rear yard setback of 13 feet 4 inches
- b. **Side Yard Setbacks.** The project shall be permitted a 30% reduction of two individual yard setback requirements to allow two side yard setbacks of 7 feet.
- c. **Open Space.** The project shall be permitted a 25% reduction in open to allow a minimum of 6,487.5 square feet of usable open space.

9. Bicycle Parking. Bicycle parking shall be provided consistent with LAMC 12.21 A.16.

10. Unbundling. Required parking may be sold or rented separately from the units with the exception of all Restricted Affordable Units which shall include any required parking in the base rent or sales price, as verified by LAHD.

11. Landscaping. 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.

12. **Trash Storage.** Trash storage and collection shall be enclosed in the parking garage and not 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.
13. **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.
14. **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.
15. **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.
16. **Utilities.** To the extent feasible, all new utility lines which directly service a project shall be installed underground. If underground service is not currently available, then provisions shall be made for future underground service, as determined by the Department of Water and Power.
17. Review and approval of a new driveway shall be coordinated with the Los Angeles Department of Transportation (LADOT) Citywide Planning Coordination Section at 201 North Figueroa Street, 5th Floor, Room 550 or at (213) 482-7024. In order to minimize and prevent last minute building design changes, the applicant shall contact LADOT for driveway width and internal circulation requirements prior to the commencement of building or parking layout design.
18. A construction work site traffic control plan shall be submitted to LADOT's Citywide Temporary Traffic Control Section or Permit Plan Review Section for review and approval prior to the start of any construction work. The plan shall show the location of any roadway or sidewalk closures, traffic detours, haul routes, hours of operation, protective devices, warning signs and access to abutting properties. LADOT recommends that all construction related truck traffic be restricted to off-peak hours to the extent feasible.
19. The applicant shall comply with applicable fees per LAMC Section 19.15 for traffic study review, condition clearance, and permit issuance.

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. **Parking Requirements.** The Project shall provide 43 automobile parking spaces. The Project would also provide 66 long-term and seven short-term bicycle stalls. The applicant should check with the Departments of Building and Safety and City Planning on the number of parking spaces required for this project.
29. **Highway Dedication and Street Widening Requirements.** Per the new Mobility Element of the General Plan, Union Avenue, has been designated a Collector, which would require a 20-foot half-width roadway within a 33-foot half-width right-of-way and 5th Street, has been designated a Local Street, which would require an 18-foot halfwidth roadway within a 30-foot half-width right-of-way. For all applicable highway dedication, street widening and/or sidewalk requirements of the project, the applicant should check with the Bureau of Engineering's Land Development Group.
30. **Project Access and Circulation.** The conceptual site plan for the project (see Attachment A) is acceptable to LADOT. As indicated previously, vehicular access will be provided via a driveway on 5th Street, located near the northeast corner of the site. Review of this study does not constitute approval of the dimensions for any new proposed driveway. Review and

approval of a new driveway should be coordinated with LADOT's Citywide Planning Coordination Section (201 North Figueroa Street, 5th Floor, Room 550, at 213-482-7024). In order to minimize and prevent last minute building design changes, the applicant should contact LADOT for driveway width and internal circulation requirements prior to the commencement of building or parking layout design. The applicant should check with City Planning regarding the project's vehicular access and design.

31. **Worksite Traffic Control Requirements.** LADOT recommends that a construction work site traffic control plan be submitted to LADOT's Citywide Temporary Traffic Control Section or Permit Plan Review Section for review and approval prior to the start of any construction work. Refer to <http://ladot.lacity.org/businesses/temporary-traffic-control-plans> to determine which section to coordinate review of the work site traffic control plan. The plan should show the location of any roadway or sidewalk closures, traffic detours, haul routes, hours of operation, protective devices, warning signs and access to abutting properties. LADOT also recommends that all construction related truck traffic be restricted to off-peak hours to the extent feasible.
32. **Development Review Fees.** Section 19.15 of the LAMC identifies specific fees for traffic study review, condition clearance, and permit issuance. The applicant shall comply with any applicable fees per this ordinance.
33. **Street Trees.** Street trees shall be provided to the satisfaction of the Urban Forestry Division. Street trees may be used to satisfy on-site tree requirements pursuant to LAMC Article Section 12.21.G.3 (Chapter 1, Open Space Requirement for Six or More Residential Units). Per Exhibit A, four (4) Street trees shall be provided.
34. **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 subject property is comprised of three lots with approximately 150 feet of street frontage along Union Avenue to the west and approximately 133 feet of street frontage along Fifth Street to the north. The subject property is rectangular-shaped lot with approximately 19,921 square feet of lot area. The subject property is zoned R4-1 and is in the Westlake Community Plan Area with a High Medium Residential land use designation. The subject property has a Height District 1 designation that establishes no height limit and restricts the Floor Area Ratio (FAR) of the development to a maximum of 3:1.

The project includes the demolition of five (5) existing residential apartment buildings that contain 14 dwelling units for the construction, use, and maintenance of an 85-unit residential apartment building, of which eight (8) dwelling units will be reserved for Very Low Income Households and four (4) dwelling units will be reserved for Extremely Low Income Households. The building will total 77 feet 8 inches in height and be constructed with five residential floors over two levels of parking containing 43 vehicle parking spaces, 66 long-term bicycle parking spaces, and 7 short-term bicycle parking spaces. The project will contain 64,309 square feet of floor area for a maximum Floor Area Ratio of 4.5:1. The unit mix will be comprised of 80 one-bedroom apartments and five (5) two-bedroom apartments. There will be 6,500 square feet of open space, comprised of 1,500 square feet of private open space and 5,000 square feet of common open space on the third floor and roof. The subject property contains five (5) non-protected trees on-site, one (1) of which has a trunk diameter greater than or equal to eight (8) inches. The project includes the removal of the five (5) non-protected trees on-site and the export of 2,800 cubic yards of dirt.

The subject property site qualifies as a Tier 3 Transit Oriented Communities housing project based on being located within one half mile from the Metro Westlake / MacArthur Park Station, which is served by the Metro B (Red) and D (Purple) Lines. The subject property is located within a Transit Priority Area, a State Enterprise Zone, the Westlake Recovery Redevelopment Project Area, an Urban Agriculture Incentive Zone, and a BOE Special Grading Area. On March 4, 2020, Planning staff approved an administrative review of the proposed project with the Westlake Recovery Redevelopment Plan and determined the project conforms to the Redevelopment Plan.

On December 23, 2020, the proposed project was reviewed by the Urban Design Studio (UDS). The purpose of the UDS meeting is to provide project specific recommendations, organized around three distinct yet interrelated approaches to design that include: 1) Pedestrian First Design, 2) 360 Degree Design, and 3) Climate Adaptive Design. At this meeting, UDS recommended the following:

- Consider moving the bicycle parking in the southeast corner of the first floor to the southwest corner or in a space with natural lighting and direct access to the public sidewalk through a single door.
- Make sure that operable windows for living and sleeping spaces facing the courtyard are included.
- Ensure all material and color callouts on the elevations are complete.
- Find ways to soften the walls relieved only by ventilation louvers at the first two stories facing the rear yard and the properties to the south.
- Consider using tiered planters for landscaping.
- Consider more robust planting instead of using raised planters as much of the space that makes up the required yards is at natural grade.
- Confirm if the rear yard is usable and how it will be used, considering the requested reduction in open space.

- Ensure that all dimensions are added to balconies that are being counted towards the open space requirement, as they require a minimum six-foot dimension.
- Consider adding operable clerestory windows to the kitchen and bath spaces to provide natural light and cross-ventilation.
- Consider other designs or removing partitions from the roof garden.
- Add the percentage of the roof area that will be used for solar panels.
- Consider changing the low-hedge and foundation plantings to local native species.
- Ensure that the project is compliant with the Westlake Recovery Redevelopment Plan's requirements.
- Ensure that the project references and meets the 2019 California Building Code and the 2020 Los Angeles Building Code.

The applicant considered UDS recommendations and provided a response to their comments. The applicant elected to keep the bicycle parking in the southeast corner of the first floor. Living and sleeping spaces that will face the courtyard will be provided with operable windows. The elevations were revised to provide complete material and color callouts. The applicant declined to make further changes to the ventilation louvers. The applicant made some modifications to the originally submitted landscaping plans, considering the Los Angeles Bureau of Sanitation (LASAN)'s regulations regarding trees within Low Impact Development (LID) planters. However, revised landscaping plans retained the use of raised planters. According to the applicant, the rear yard is not usable and thus LID planters will be provided. Plans were revised to provide balcony dimensions. The applicant declined to add additional windows in kitchen and bath areas, noting that only one kitchen per floor has an outside window and that window can be opened for cross-ventilation. Rooftop plans were revised to show that partitions were removed from the garden and to show that at least 15 percent of the roof area will be used for solar panels. Plans were also updated to show revisions in the plant species that will be used for landscaping. The applicant also confirmed that the project meets the requirements of the Westlake Recovery Redevelopment Plan, the 2019 California Building Code, and the 2020 Los Angeles Building Code.

Union Avenue, adjoining the subject property to the west, is a designated Collector Street, dedicated to a right-of-way width of 66 feet and a roadway width of 40 feet, and improved with asphalt roadway, concrete curb, gutter, and sidewalk.

Fifth Street, adjoining the property to the north, is a designated Local Street – Standard, dedicated to a right-of-way width of 60 feet and a roadway width of 36 feet, and improved with an asphalt roadway, concrete curb, and sidewalk.

As a Tier 3 project, the project is entitled to the following Base Incentives and is seeking Additional Incentives of the Transit Oriented Communities (TOC) Affordable Housing Incentive Program:

- Base Incentives
 - A 70% increase in density to allow a total of 85 dwelling units in lieu of 50 dwelling units otherwise permitted.
 - An increase in the Floor Area Ratio (FAR) from 3:1 to a maximum 4.5:1.
 - Parking reduction of 0.5 spaces per unit, allowing 43 vehicle parking spaces in lieu of the 130 vehicle parking spaces otherwise required.
- Additional Incentives
 - A reduction in the rear yard setback to allow 13 feet 4 inches in lieu of the 19 feet otherwise required.
 - A reduction in the side yard setbacks to allow 7 feet in lieu of the 10 feet otherwise required.

- Open space reduction to allow 6,500 square feet in lieu of the 8,650 square feet otherwise required.

HOUSING REPLACEMENT 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. On September 16, 2021, the Governor signed SB 8, which updated several provisions of the Housing Crisis Act of 2019, into law.

Pursuant to the SB 330 (TOC) Determination Letter, dated July 12, 2021, and prepared by the Los Angeles Housing Department (LAHD), ten (10) affordable units need to be replaced with an equivalent type, with four (4) units restricted to Extremely Low Income Households, three (3) units restricted to Very Low Income Households, and three (3) units restricted to Low Income Households. The project proposes eight (8) units restricted for Very Low Income Households and four (4) units restricted for Extremely Low Income Households. As such, the project complies with SB 330. The updated regulations for the Housing Crisis Act created through SB 8 do not alter the replacement requirements already described.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM BACKGROUND

Measure JJJ was adopted by the Los Angeles City Council and established 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, as defined under existing State law.

The TOC Affordable Housing Incentive Program Guidelines (TOC Guidelines), released on September 22, 2017, and amended on February 26, 2018, established 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.

Per the TOC Referral Form, dated April 14, 2022, the subject property is located within one-half mile of the Metro Westlake / MacArthur Park Station, which is served by the Metro B (Red) and D (Purple) Lines. As such, the project is eligible for Tier 3 TOC Affordable Housing Incentives.

Tier 3 Base Incentives require On-Site Restricted Affordable Units at the rate of 14% of the total number of units for Very Low Income Households. The project proposes to set aside eight (8) units for Very Low Income Households and four (4) units for Extremely Low Income Households, for a total of 12 units or 14% of the total 85 units reserved for Very Low Income Households or lower. Up to three (3) Additional Incentives may be granted for projects that include at least 15% of the base units for Very Low Income Households. The project proposes to set aside 12 units,

that is 24% of the base 50 units, for Very Low Income Households or lower. As such, the project is eligible for up to three (3) Additional Incentives.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM ELIGIBILITY REQUIREMENTS

To be an eligible Transit Oriented Communities (TOC) Housing Development, a project must meet the Eligibility criteria set forth in Section IV of the TOC Affordable Housing Incentive Program Guidelines (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, 8% of the total units shall be for Very Low (VL), or 20% of the total show be for 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 is qualified for Tier 3. The project is required to reserve at least 14%, or twelve (12) units, of the 85 total units for Very Low-Income Households. The project proposes to reserve eight (8) units for Very Low Income Households and four (4) 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 subsection (b) of Section 21155 of the California Public Resources Code, and Section II 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 subject site is located within one-half mile from the Metro Westlake / MacArthur Park Station, which is served by the Metro B (Red) and D (Purple) Lines and thereby 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 Los Angeles Department of Housing (LAHD) 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 July 12, 2021 and prepared by the Los Angeles Housing Department (LAHD), ten (10) SB 330 replacement affordable units are required. However, the project will set aside eight (8) units restricted for Very Low Income Households and four (4) units restricted for Extremely Low Income Households for a total of twelve (12) units. As such, the project complies with SB 330. The updated regulations for the

Housing Crisis Act created by SB 8 do not alter the replacement requirements already described.

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, which requires that at least 15% of the 50 base units to be set aside for Very Low Income Households. This project proposes to set aside eight (8) units for Very Low Income Households and four (4) units for Extremely Low Income Households for a total of twelve (12) units, which is 24% of the 50 base units. As such, the project meets the eligibility requirement for three (3) 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 any Additional Incentives beyond the three permitted in exchange for reserving at least eleven percent of the base units for Extremely Low Income Households. 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 proposed project is located on three (3) lots located wholly 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% 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 Affordable Housing Incentive Program project application in accordance with the procedures outlined in LAMC Section 12.22 A.25(g).

1. **Pursuant to Section 12.22 A.25(g) of the LAMC, the Director shall approve a density bonus and requested incentive(s) unless the Director finds that:**
- a. *The incentives are not required to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units.*

The record does not contain substantial evidence that would allow the Director to make a finding that the requested incentives are not necessary to provide for affordable housing costs per State Law. The California Health & Safety Code Sections 50052.5 and 50053 define formulas for calculating affordable housing costs for Extremely Low, 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 was 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 the required rear and side yard setbacks as well as open space so that affordable housing units reserved for Very 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 eight (8) units for Very Low Income Households and four (4) units for Extremely Low Income Households for a total 12 units of the total 85 units.

Setback (Rear). Allow a rear yard setback of 13 feet 4 inches in lieu of 19 feet as otherwise required by LAMC Section 12.11 C.3.

Setbacks (Sides). Allow side yard setbacks of 7 feet in lieu of 10 feet as otherwise required by LAMC Section 12.11 C.2.

Open Space. A 25% reduction in Open Space to allow 6,487.5 square feet in lieu of the 8,650 square feet 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 have a specific adverse impact upon public health and safety 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 that will have a significant impact on the environment and require an EIR if the environmental effects of a project will cause a substantial adverse effect on human beings.

The proposed project and potential impacts were analyzed in accordance with the CEQA Guidelines. The project was evaluated against the exceptions to the use of Categorical Exemptions pursuant to Section 15300.2 of the CEQA Guidelines. The Director of Planning determined that none of the exceptions apply to the proposed project and the project is Categorically Exempt from CEQA pursuant to Class 32 of the CEQA Guidelines. 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.

ADDITIONAL MANDATORY FINDINGS

2. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located outside of a flood zone.

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:



Jane J. Choi, AICP, Principal City Planner

Reviewed by:



Yi Lu, AICP, City Planner

Prepared by:



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