



DEPARTMENT OF CITY PLANNING

APPEAL RECOMMENDATION REPORT

City Planning Commission

Date: November 03, 2022
Time: after 8:30 a.m.*
Place: Due to concerns over COVID-19, the CPC meeting will be conducted entirely telephonically by Zoom [<https://zoom.us/>] and will allow for remote public comment.

The meeting's telephone number and access code number will be provided no later than 72 hours before the meeting on the meeting agenda published at <https://planning.lacity.org/about/commissions-boards-hearings> and/or by contacting cpc@lacity.org

Public Hearing: Required
Appeal Status: Not further appealable
Expiration Date: November 30, 2022, subject to tolling
Multiple Approval: No

Case No.: DIR-2021-5596-TOC-HCA-1A
CEQA No.: ENV-2021-5597-CE; ENV-2013-622-EIR
Incidental Cases: None
Related Cases: None
Council No.: 11 – Bonin
Plan Area: Palms – Mar Vista – Del Rey
Plan Overlay: Exposition Corridor Transit Neighborhood Plan, West Los Angeles Transportation Improvement and Mitigation West Los Angeles Sawtelle
Certified NC:
GPLU: Medium Residential
Zone: R3-1
Applicant: Amir Mehdizadeh
Representative: Aaron Belliston, BMR Enterprises

Appellant: Kathryn Schorr

PROJECT LOCATION: 2456-2460 South Purdue Avenue

PROPOSED PROJECT: The Project is for the construction of a new six-story, 67-foot tall, 27-unit residential building (including 3 units reserved for Extremely Low-Income Households). The project will have a proposed Floor Area Ratio ("FAR") of approximately 4.3:1 with approximately 46,528 square feet of floor area. The project provides 26 parking spaces located at subterranean level. The existing two single-family dwellings and attached garages on-site are proposed to be demolished, along with seven (7) non-protected trees are proposed to be removed from the subject site. The project will involve grading and export approximately 6,475 cubic yards of soil.

APPEAL REQUESTS: A partial appeal of the July 28, 2022 Planning Director's Determination which:

1. Determined, pursuant to California Environmental Quality Act ("CEQA") Guidelines, based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

2. Found, based on the independent judgement of the decision-maker, after consideration of the whole of the administrative record, that the project is within the scope of the Exposition Corridor Transit Neighborhood Plan Program EIR No. ENV-2013-622-EIR, SCH. No. 2013031038 ("Program EIR"), pursuant to CEQA Guidelines Sections 15168 and 15162; the environmental effects of the Project were covered in the Program EIR and no new environmental effects not identified in the Program EIR will occur and no new mitigation is required; and the City has incorporated all feasible mitigation measures from the Program EIR on the Project;

3. Approved, pursuant to Los Angeles Municipal Code ("LAMC") Section 12.22.A.31, a Transit Oriented Communities Affordable Housing Incentive Program Compliance Review for a qualifying Tier 3 project totaling 27 dwelling units, reserving three (3) units for Extremely Low Income Household occupancy for a period of 55 years, with the following requested Additional Incentives:

a. **Height.** A 22-foot increase in the building height, allowing 67 feet in lieu of the maximum 45 feet per the R3-1 Zone;

b. **Side Yard/Setback.** A 30 percent decrease in the required depth of the northwest side yard, allowing a 6-foot 4-inch northwest side yard setback in lieu of otherwise required 9-foot side yard setback per R3-1 Zone; and

c. **Open Space.** A maximum 25 percent reduction in the required open space, allowing 3,342 square feet in lieu of the 4,275 square feet otherwise required.

RECOMMENDED ACTIONS:

1. **Deny** the appeal of DIR-2021-5596-TOC-HCA;
2. **Determine**, based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies..
3. **FIND**, pursuant to CEQA Guidelines Sections 15168 and 15162, based on the independent judgement of the decision-maker, after consideration of the whole of the administrative record, that the project is within the scope of the Exposition Corridor Transit Neighborhood Plan Program EIR No. ENV-2013-622-EIR, SCH. No. 2013031038 ("Program EIR"), pursuant to CEQA Guidelines Sections 15168 and 15162; the environmental effects of the Project were covered in the Program EIR and no new environmental effects not identified in the Program EIR will occur and no new mitigation is required; and the City has incorporated all feasible mitigation measures from the Program EIR on the Project.
4. **Sustain** the Director of Planning's Determination to approve the TOC Affordable Housing Incentive Program for a Tier 3 project totaling 27 dwelling units, reserving three (3) units for Extremely Low Income occupancy for a period of 55 years, with Base Incentives and the following Additional Incentives:
 - a. **Height.** A 22-foot increase in the building height, allowing 67 feet in lieu of the maximum 45 feet per the R3-1 Zone;
 - b. **Side Yard/Setback.** A 30 percent reduction in the required depth of the northwest side yard, allowing a 6-foot 4-inch northwest side yard setback in lieu of otherwise required 9-foot side yard setback per the R3-1 Zone; and
 - c. **Open Space.** A maximum 25 percent reduction in the required open space, allowing 3,342 square feet in lieu of the 4,275 square feet otherwise required.
5. **Adopt** the Director of Planning's Conditions of Approval, Findings, and Exhibit "A."

VINCENT P. BERTONI, AICP
Director of Planning

Michelle Singh

Faisal Roble, Principal City Planner

Michelle Singh

Michelle Singh, Senior City Planner

Connie Chau

Connie Chau, City Planner

Norali Martinez

Norali Martinez, City Planning Associate
Norali.martinez@lacity.org

ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *Commission Secretariat, Room 273, City Hall, 200 North Spring Street, Los Angeles, CA 90012* (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent to the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1300.

TABLE OF CONTENTS

Project Analysis A-1

Appellate Decision Body
Project Summary
Background
Appeal Analysis
Conclusion

Exhibits:

Exhibit A – Project Plans
Exhibit B – Director of Planning’s Letter of Determination (DIR-2021-5596-TOC-HCA)
Exhibit C – Environmental Clearance (ENV-2021-5597-CE)
Exhibit D – Maps, Site Photos, and ZIMAS Parcel Profile Report
Exhibit E – Appeal Documents
Exhibit F – Agency Correspondence
Exhibit G – Public Comments
Exhibit H – Citywide Design Guideline Compliance Review Form

PROJECT ANALYSIS

APPELLATE DECISION BODY

Pursuant to Section 12.22 A.31 and 12.22 A.25 of the Los Angeles Municipal Code (“LAMC”), appeals of Transit Oriented Communities (TOC) Affordable Housing Incentive Program cases are heard by the City Planning Commission. The decision of the City Planning Commission is not further appealable.

PROJECT SUMMARY

On July 28, 2022, the Director of Planning approved a Transit Oriented Communities Affordable Housing Incentive Program Compliance Review for a project totaling 27 dwelling units, reserving three (3) units for Very Low Income occupancy for a period of 55 years, with Base Incentives and three (3) Additional Incentives for an increase in height, decreased side yard setback, and a reduction of required open space.

The Project is for the construction of a new six-story, 67-foot tall, 27-unit residential building (including 3 units reserved for Extremely Low-Income Households). The project will have a proposed Floor Area Ratio (“FAR”) of approximately 4.3:1 with approximately 46,528 square feet of floor area. The project provides 26 parking spaces located at subterranean level. The existing two single-family dwellings and attached garages on-site are proposed to be demolished, along with seven (7) non-protected trees are proposed to be removed from the subject site. The project will involve grading and export approximately 6,475 cubic yards of soil. The approved plans are provided in Exhibit “A”; the Director’s Determination is provided in Exhibit “B”; and the environmental clearance under Case No. ENV-2021-5597-CE is provided in Exhibit “C” herein.

The appeal period ended on August 12, 2022. On August 10, 2022, an adjacent property owner filed a partial appeal of the determination, represented by this case.

BACKGROUND

Subject Property

The project site is located at 2456 South Purdue Avenue, approximately mid-block along Purdue Avenue between Exposition Boulevard and Pearl Street. The project site is comprised of two (2) flat, rectangular-shaped lots. In total, the lots cover approximately 15,000 square feet, with approximately 100 feet of frontage along the east side of Purdue Avenue and a lot depth of approximately 150 feet. The project site is located within 1.78 kilometers (1.1 miles) of the Santa Monica Fault. The site is not located within a designated hillside area, a Special Grading Area (BOE Basic Grid Map A-13372), very high fire hazard severity zone, flood zone, landslide, tsunami inundation zone, or liquefaction zone.

The property is currently developed with two single-family dwellings with detached garages, which will be demolished to clear the site. There are no known designated historic resources or cultural monuments on the subject site. Per the Arborist Report (prepared by Brandon’s Landscapes dated September 10, 2021), there are seven (7) non-protected trees on the subject site which will be removed, and one (1) non-protected (Victorian box) street tree located in the public-right-of-way which will remain.

Zoning and Land Use Designation

The site is zoned R3-1 and has a General Plan Land Use designation of Medium Residential, which has corresponding zones of R3 and R3(PV). The R3 Zone allows for a base residential density at a rate of the one unit per 800 square feet of lot area. Height District No. 1 in the R3 Zone allows for a height of 45 feet and the site is limited to a Floor Area Ratio (FAR) of 3:1. The project site is located in the Palms – Mar Vista – Del Rey Community Plan area. The Exposition Corridor Transit Neighborhood Plan (Specific Plan) established by Ordinance 186,402 and effective December 26, 2019, established review procedures, design standards, and environmental standards for the subject site. The project site is in the West Los Angeles Transportation Improvement and Mitigation Specific Plan (WLA TIMP, Ordinance 186,105 and 186,108). The project is subject to Department of Transportation clearance of the WLA TIMP. In addition, the project is within a Tier 3 designation of the Transit Oriented Communities Program. Pursuant to LAMC Section 12.22 A.31 and the TOC Guidelines, the applicant requests a Transit Oriented Communities Compliance Review.

Surrounding Uses

Abutting properties to the north, south, east and west are zoned R3-1 and are developed primarily with multi-family dwellings ranging from one to five stories in height. Properties further to the south (across Pearl Street) are zoned R1-1 and developed with single-family dwellings.

Transit Oriented Communities

Pursuant to the voter-approved Measure JJJ, Los Angeles Municipal Code (LAMC) 12.22-A.31 was added to create the Transit Oriented Communities (TOC) Affordable Housing Incentive Program (TOC Program). The Measure requires the Department of City Planning to create TOC Affordable Housing Incentive Program Guidelines (TOC Guideline) for all Housing Developments located within a ½ -mile (or, 2,640-foot) radius of a Major Transit Stop. These Guidelines provide the eligibility standards, incentives, and other necessary components of the TOC Program consistent with LAMC 12.22-A.31.

A qualifying TOC Project shall be granted Base Incentives with regard to increased residential density, increased floor area ratio, and reduced automobile parking requirements. In addition to these Base Incentives, and eligible project may be granted Additional Incentives with regard to yards and setbacks, open space, lot coverage, lot width, averaging, density calculation, height, and developments in public facility zones. Up to three (3) Additional Incentives may be granted in exchange for providing the requisite set aside of affordable housing as enumerated in the TOC Guidelines.

The subject site is located within a half-mile (2,640 feet) of the Los Angeles County Metropolitan Transportation Authority (“Metro”) “E” (Expo) Light Rail Transit Line Bundy Station and is eligible as a Tier 3 development in the TOC Guidelines, as indicated on the TOC Referral Form dated January 12, 2021. Tier 3 Base Incentives require On-Site Restricted Affordable Units at the rate of 10% for Extremely Low Income, 14% for Very Low Income, or 23% for Lower Income, of the total number of units. Three Additional Incentives may be granted for projects that include at least 11% for Extremely Low Income, 15% for Very Low Income, or 30% for Lower Income, of the base density of units. The Project is proposing three (3) Extremely Low Income units, consistent with the Base Incentive requirements (which requires 10 percent of the 27 total units, or 2.7 units), and which make the project eligible for three Additional Incentives (which requires 11 percent of the 19 base units, or 2.09 units).

Tier 3 Base Incentives:

- a. **Residential Density.** The R3-1 Zone allows for a base density of one dwelling unit per 800 square feet of lot area. As an Eligible Housing Development in TOC Tier 3, the project is eligible for a 70 percent increase in the maximum density to permit a total of 27 dwelling units, in lieu of 19 units as otherwise permitted by the R3 base density.
- b. **Floor Area Ratio (FAR).** The R3-1 zone establishes a by-right FAR of 3.0:1. As an Eligible Housing Development in TOC Tier 3, the project is eligible for a 50 percent increase in FAR, up to 4.5:1. The Project proposes an FAR of 4.3:1, which is a 45 percent increase in FAR.
- c. **Parking.** As an Eligible Housing Development in Tier 3, the project shall not be required to exceed one-half space per unit. The project is required to provide 14 parking spaces under the TOC incentive and is providing 26 spaces.

Tier 3 Additional Incentives:

- a. **Height.** In Tier 3 areas, the TOC incentive for height allows a 22-foot increase in the building height, except projects located on lots with a height limit 45-feet or less shall require any height increases over 11-feet to be stepped-back at least 15-feet from the exterior of the Ground Floor of the building located along any street frontage. In the R3 Zone in Height District 1, the LAMC allows for a maximum building height of 45-feet and unlimited stories. The TOC incentive for height allows a 22-foot increase in the building for a Tier 3 project, allowing a maximum 67-feet in lieu of the 45-feet otherwise allowed by the R3-1 Zone.

The TOC height incentive also requires any height increases over 11-feet to be stepped-back at least 15-feet from the exterior face of the ground floor of the building located along the street frontage. The project is proposing a maximum height of 67-feet and is complying with the 15-foot step-back requirement along the Purdue Avenue façade, as provided in Sheets A2.06, A3.02, A3.04, and A4.02 through A4.04 of Exhibit "A". The project is consistent with the TOC Guideline's height incentive and step-back requirements.

- b. **Yard/Setback.** In Tier 3 areas, the TOC incentive for side and rear yard reductions allows up to a 30 percent reduction in the required width or depth of two individual yards or setbacks.

In the R3 Zone, for a building more than two stories in height, the five-foot side yards are required to be increased by one foot for each additional story above the second story. The proposed project is six (6) stories and therefore has 9-foot required side yards. The project proposes a 6-foot 4-inch side yard on the northwest lot line consistent with TOC Guidelines and as shown in Exhibit "A".

- c. **Open Space.** In Tier 3 areas, the TOC Guidelines allow for an incentive of up to a 25 percent reduction in the required open space.

Based on the number of habitable rooms in the project, a total of 4,275 square feet of open space is required by LAMC Section 12.21.G. The Additional Incentive allows for a maximum 25 percent reduction, which results in a minimum 3,206.25 square feet of open space. The project is providing 3,342 square feet of qualified open space, consistent with the TOC Guidelines open space incentive and as shown in Exhibit "A".

The tables below provide a summary of the relevant and underlying LAMC provisions for the subject property and requested TOC Base and Additional Incentives:

Incentives	Otherwise Allowed/Required	TOC Guidelines	Proposed
Density	18 units	33 units	27 units
FAR	3:1	4.5:1	4.3:1
Parking Spaces	48 spaces	14 spaces	26 spaces
Height	45-feet	67-feet	67-feet
Side Yard/Setback	9-feet	6-feet 3.6-inches	6-feet 4 inches
Open Space	4,275 square feet	3,206.25 square feet	3,342 square feet

Housing Replacement

The Los Angeles Housing Department (LAHD) has determined, per the Housing Crisis Act of 2019 (SB 330) Replacement Unit Determination, dated October 19, 2020 (Exhibit F3), that two (2) units need to be replaced with equivalent type, with one (1) unit restricted to Extremely Low Income Households, and one (1) unit restricted to Very Low Income Households. The project satisfies the TOC Affordable Housing requirement by providing three (3) units restricted to Extremely Low-Income households. This is reflected in the Conditions of Approval.

Public Correspondence

A comment letter was received from the West Los Angeles Sawtelle Neighborhood Council, dated November 17, 2021, stating that, “the Board of Directors voted 9-0 to oppose the project as designed, and authorize the Chair to submit Community Impact Statements in the future.”

Three (3) emails were received from neighbors expressing opposition to the development, with concerns related to the increased density, reduced parking, reduced setbacks, construction impacts including other construction in the neighborhood, and loss of landscaping. The comment letters are provided in Exhibit “G”.

APPEAL ANALYSIS

One appeal was filed by Kathryn Schorr, an owner of a property across the street. The following is a summary of the appeal points and staff’s response. The full appeal justifications are provided in Exhibit “E.” Similar appeal points are grouped for staff response.

APPEAL POINT 1: TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM

Appeal Point 1a (Tier 3 Designation): *The Project was erroneously slated as a Tier 3 incentive area, but fails to comply with the one-half mile radius proximity requirement around a Major Transit Stop. The property is over 2645 feet from the Expo/Sepulveda Metro Station of the Metro Exposition Line. The project should be approved as a Tier 2.*

Appeal Point 1b (Open Space Incentive): *The Determination erroneously identified the allowable open space reduction as “providing useable open space as intended by the code.” The above-ground balconies and concrete slab in the back of the property should not count as “usable open space” as it conflicts with the LAMC.*

Appeal Point 1c (Height Incentive): *The additional height for a 56-foot tall building and allowance for mechanical equipment and other unspecified structures located on the rooftop violates the Residential Citywide Design Guidelines. The building is not similar in scale or size to other dwellings, and will be taller than other buildings in the neighborhood, which will cast shade and block views. The southern end of Purdue Avenue is zoned R-1 but the three adjacent streets are entirely zoned R1; such designation to the west and south of Purdue Avenue would normally require a “step down” zoning designation of R2.*

Appeal Point 1d (Stepbacks): *The Determination identifies measurements and photographs which are inconsistent with the appropriate setback requirements beginning at 56 feet. The additional eleven feet of height incentives are not in fact ‘setback’ per TOC Guidelines “Height incentives.”*

Appeal Point 1e (Transitional height): *The lack of upper story setbacks is in opposition to the TOC Guidelines which requires that building height limit shall be stepped-back at a 45-degree angle as measured from a horizontal plane originating 25 feet above grade at the property line of the adjoining lot in the RW1 Zone or more restrictive residential zone or Specific Plan subarea.*

Appeal Point 1f (Setbacks): *The project fails to provide appropriate front and side yard setbacks.*

Staff Response: The project was reviewed for conformance with the Transit Oriented Communities Affordable Housing Incentive Program. The subject site is located within a half-mile (2,640 feet) of the Los Angeles County Metropolitan Transportation Authority (“Metro”) “E” (Expo) Light Rail Transit Line Expo/Sepulveda Station and is eligible as a Tier 3 development in the TOC Guidelines, as indicated on the TOC Referral Form dated January 12, 2021 (Exhibit F1). The Metro E Line Expo/Sepulveda Station is located on the intersection of Sepulveda Boulevard and Exposition Boulevard. As stated on page 5 of the TOC Guidelines, “Distance is measured from the closest point on any lot to the entrance(s) of a rail station”; the ZIMAS radius map (Exhibit D) demonstrates that the site is well within the half-mile radius boundaries. Therefore, the site meets the half-mile proximity to qualify for Tier 3 of the TOC program.

In Tier 3 areas, the TOC Guidelines allow for an incentive of up to a 25 percent reduction in the required open space. Based on the number of habitable rooms in the project, a total of 4,275 square feet of open space is required by LAMC Section 12.21.G. The Additional Incentive allows for a maximum 25 percent reduction, which results in a minimum 3,206.25 square feet of open space. The project is providing 3,342 square feet of qualified open space, consistent with the TOC Guidelines open space incentive and as shown in Exhibit “A”; open space is provided in the form of a rear yard, courtyard, recreation room, and roof deck. As allowed by LAMC 12.21.G.2.(a)(v), common open space can be located above grade level “in developments built at an R3, RAS3, R4, RAS4, and/or R5 density regardless of the underlying zone.” The project utilizes R3 density of 1 dwelling unit per 800 square feet of lot area, and is therefore allowed to locate common open space in a recreation room and roof deck above grade level. In addition, LAMC Section 12.21 G.2 does not prohibit open space along the rear yard. The rear yard is designed as usable open space that is enhanced with landscaping including trees, LID planters, enhanced paving, and built-in bench seating, as shown in Exhibit “A”. Furthermore, the Director’s Determination for the Transit Oriented Communities Affordable Housing Incentive Program (Exhibit B) is an entitlement for certain incentives provided in exchange for the provision of on-site affordable housing; the Director’s Determination is not a building permit. As specified in Condition 9, “The common open space shall meet the requirements of LAMC Section 12.21 G per the satisfaction of the Department of Building and Safety.”

The TOC Height Incentive allows an additional 22 feet in height, over the base height, for a Tier 3 project, except that in those projects located on lots with a height limit of 45 feet or less, or located within a Specific Plan or overlay district that regulates height, any height increases over 11 feet must be stepped-back at least 15 feet from the exterior face of the Ground Floor of the

building located along any street frontage. In the R3 Zone in Height District 1, the LAMC allows for a maximum building height of 45-feet and unlimited stories. The TOC incentive for height allows a 22-foot increase in the building height for a Tier 3 project, allowing a maximum 67-feet in lieu of the 45-feet otherwise allowed by the R3-1 Zone. The TOC height incentive also requires any height increases over 11-feet to be stepped-back at least 15-feet from the exterior face of the ground floor of the building located along the street frontage. The project is proposing a maximum height of 67-feet and is complying with the 15-foot step-back requirement along the Purdue Avenue façade, as provided in Sheets A2.06, A3.02, A3.04, and A4.02 through A4.04 of Exhibit "A". Specifically, the 6th floor is stepped back 15 feet from the Purdue Avenue façade, and the stepback area is enhanced with common open space and landscaping. While compliance with Citywide Design Guidelines is encouraged for the development of projects, they are not mandatory. As such the project demonstrates to be consistent with the TOC Guideline's height incentive and step-back requirements.

The appellant also contends that the project violates transitional height requirements of the TOC Guidelines, but the applicant is not requesting a transitional height incentive, as otherwise allowed under the TOC Guidelines. The TOC Guidelines include a height incentive that allows an applicant to use the TOC Guidelines transitional height provision in lieu of the transitional height requirements found in LAMC Section 12.21.1 A.10 or any applicable transitional height limits in a Specific Plan. The site is zoned R3-1 and is not subject to transitional height requirements of LAMC Section 12.21.1 A.10 which apply to C or M zoned lots. Furthermore, although the site is located Exposition Corridor Transit Neighborhood Plan (Expo TNP), it is not located with a subarea that is subject to transitional height requirements of the Expo TNP. Therefore, the project is not subject to transitional height requirements of the LAMC or Expo TNP, and therefore the transitional height incentive of the TOC Guidelines is not applicable nor necessary for this case. Lastly, abutting properties to the north, south, east and west are zoned R3-1 and are developed primarily with multi-family dwellings ranging from one to five stories in height; therefore the project will be compatible in height with surrounding buildings.

In Tier 3 areas, the TOC incentive for side and rear yard reductions allows up to a 30 percent reduction in the required width or depth of two individual yards or setbacks. In the R3 Zone, for a building more than two stories in height, the five-foot side yards are required to be increased by one foot for each additional story above the second story. The proposed project is six (6) stories and therefore has 9-foot required side yards. The project proposes a 6-foot 4-inch side yard on the northwest lot line consistent with TOC Guidelines and as shown in Exhibit "A".

The property is not requesting a reduction in the front yard and will provide a 15-foot 6-inch front yard setback (10 feet 6 inches post-dedication), as required by the Exposition Corridor Transit Neighborhood Plan Section 4.3.1.A.2, the front yard setback shall be within 5-feet of the Prevailing Front Setback as defined in LAMC Section 12.08 C.1. The property is not requesting a reduction in the rear yard and will provide a 15-foot rear yard setback; this is consistent with the rear yard setback required by code. The property is not requesting a reduction to the southerly side yard and will maintain the 9-foot side yard; this is consistent with the side yard required by code.

The list of on-menu incentives in the TOC Guidelines were pre-evaluated at the time the Transit Oriented Communities Affordable Housing Incentive Program Ordinance was adopted to include types of relief that minimize restrictions on the size of the project. As such, the Director will always arrive at the conclusion that the on-menu incentives are required to provide for affordable housing costs because the incentives by their nature increase the scale of the project. Therefore, the site and project qualify for the TOC Affordable Housing Incentive Program as an Eligible Housing Development, and is eligible for the incentives granted therein.

APPEAL POINT 2: ENVIRONMENTAL REVIEW

Appeal Point 2a (Class 32 Categorical Exemption): *The project should not be exempt from said environmental review due to the fact that it fails to meet relevant exemption criteria and would fail an appropriate environmental review as required by CEQA Guidelines Section 15300.2. This class is not intended for projects that would result in any significant traffic, noise, air quality, or water quality impacts. This exemption is not limited to any use type and may apply to residential, commercial, industrial, public facility, and/or mixed-use projects.*

Appeal Point 2b (Cumulative Impacts): *The project and successive projects of the same type in the same place will result in cumulative impacts related to traffic, noise, and air quality.*

Appeal Point 2b (Unbundled Parking and Traffic): *The Determination allowing unbundled parking sets a precedent which would create an adverse cumulative traffic impact adverse to CEQA Guidelines and City Traffic Mitigation plans. Monetizing parking in a residential community incentivizes traffic flow, and does not take into account the impact on other similarly situated unbundled parking projects which rent their parking spaces to commercial interested resulting in vastly increased trips throughout the day including 6:00pm peak hour trips. Additionally, the traffic diversion as a result of WAZE and other community-based traffic application devices currently sends peak hour traffic down Purdue to avoid gridlock on Sawtelle. This additional traffic continues to block driveways, create safety hazards for residents using sidewalks and creates a greater likelihood of delayed response times for emergency services.*

Appeal Point 2c (Noise): *The added population density with the close proximity to adjacent dwellings would increase noise.*

Appeal Point 2d (Air Quality): *The project should comply with Information File (ZI NO 2427) Freeway Adjacent Advisory Notice Air Quality which requires discretionary projects within 1,000 feet of a freeway to conform with the General Plan and Citywide Design Guidelines. The "Clean Up Green Up" Initiative requires all new mechanically ventilated buildings located within 1,000 feet of the freeway to install air filtration media that provides a Minimum Efficiency Reporting Value (MERV) of 13.*

Appeal Point 2e (Unusual circumstances): *There are unusual circumstances which create a reasonable possibility of significant adverse effects related to the Tier 3 designation, failure to comply with Design Conformance requirements, and failure to adhere to the West LA TIMP and LADOT Guidelines, usable open space criteria, front and side setbacks, side yard landscaping, height, and setback height requirements. The project may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within an officially designated scenic highway.*

Staff Response: As detailed in the Director's Determination and the rest of the administrative record, the City has provided substantial evidence to support its determination that the Project is exempt from 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.

The Appellant has failed to provide substantive evidence to support its allegations that the Project would create excessive traffic, noise, air quality, trees, or result in unusual circumstances or cumulative impacts. Pursuant to Section 15064 of the CEQA Statute and Guidelines, argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts and expert opinion

supported by facts. The appellant has not submitted any evidence to support the claim that the project may have potentially significant impacts. Argument, speculation, unsubstantiated opinion, or narrative does not constitute substantial evidence, as provided in CEQA Guidelines Section 15384, which defines “substantial evidence” as:

(a) “Substantial evidence” as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

Staff have identified two (2) comparable projects that were granted approval for land use entitlements within a 500-foot radius of the subject site:

- Case No. DIR-2018-7647-TOC-CDO-SPR (11430 W. Exposition Blvd)
- Case No. DIR-2015-4086-DB-CDO-SPR (2425 S. Butler Avenue)

In conjunction with citywide RCMs and compliance with other applicable regulations, no foreseeable cumulative impacts are expected.

The project will be subject to Regulatory Compliance Measures (RCMs), which require compliance with the City of Los Angeles Noise Ordinance, pollutant discharge, dewatering, stormwater mitigations; and Best Management Practices for stormwater runoff. More specifically, RCMs include but are not limited to:

- **Regulatory Compliance Measure RC-AQ-1 (Demolition, Grading and Construction Activities): Compliance with provisions of the SCAQMD District Rule 403.** The project shall comply with all applicable standards of the Southern California Air Quality Management District, including the following provisions of District Rule 403:
 - All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.
 - The construction area shall be kept sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind.
 - All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust.
 - All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
 - All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
 - General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
 - Trucks having no current hauling activity shall not idle but be turned off.

- **Regulatory Compliance Measure RC-GEO-1 (Seismic):** The design and construction of the project shall conform to the California Building Code seismic standards as approved by the Department of Building and Safety.
- **Regulatory Compliance Measure RC-NO-1 (Demolition, Grading, and Construction Activities):** The project shall comply with the City of Los Angeles Noise Ordinance and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.

In addition, the project shall comply with the Environmental Standards in Appendix D of the Exposition Corridor Transit Neighborhood Plan Specific Plan, which include but are not limited to:

- **Regulatory Compliance Measure (Landscape):** The Project shall comply with Ordinance No. 170,978 (Water Management Ordinance), which imposes numerous water conservation measures in landscape, installation, and maintenance (e.g., use drip irrigation and soak hoses in lieu of sprinklers to lower the amount of water lost to evaporation and overspray, set automatic sprinkler systems to irrigate during the early morning or evening hours to minimize water loss due to evaporation, and water less in the cooler months and during the rainy season).
- **Mitigation Measure (Construction Noise and Vibration):**
 - Construction Staging Areas. The construction contractor shall locate construction staging areas away from Sensitive Land Uses.
 - Construction Noise Barriers. When construction activities are located within 500 feet of Sensitive Land Uses, noise barriers (e.g., temporary walls or piles of excavated material) shall be constructed between activities and Sensitive Land Uses.

These RCMs will ensure the project will not have significant impacts on noise and water.

No Evidence of Traffic Impacts: The Department of Transportation Referral Form dated April 25, 2022 and the VMT calculator indicated that the project will result in an increase of 130 daily vehicle trips, which is under the threshold of 250 or more daily vehicles trips to require VMT analysis. Therefore, the project does not exceed the threshold criteria established by LADOT for preparing a traffic study and will not have any significant impacts to traffic.

No Evidence of Parking Impacts: Furthermore, the project is required to provide 14 parking spaces under the TOC incentive and is providing 26 spaces, consistent with the requirements of Los Angeles Municipal Code 12.22-A.31. TOC Guidelines Section VI.2.c provides that parking maybe 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. Therefore, the project is consistent with the parking requirements of the TOC Guidelines.

No Evidence of air quality impacts: Interim thresholds were developed by DCP staff based on CalEEMod model runs relying on reasonable assumptions, consulting with AQMD staff, and surveying published air quality studies for which criteria air pollutants did not exceed the established SCAQMD construction and operational thresholds. These RCMs will ensure the project will not have significant impacts on noise, air quality, and water. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The site is located within 1,000 feet of the I-405 and I-10 Freeways and is therefore subject to the Freeway Adjacent Advisory Notice (Zoning Information “ZI” File No. 2427). In regards to the Clean Up Green Up (CUGU) standards, per Section 13.18.C, the CUGU standards apply to all properties identified on the zoning map with a “CUGU” suffix on the zone classification. This site is not identified by the zoning map with an CUGU suffix and therefore the ordinance does not apply. In addition, the project is subject to standard Building Code standards for MERV filtration requirements which is administered by LADBS during building permits. Furthermore, consistent with ZI-2427, the project locates the majority of open space areas as far from the freeway sources as possible by locating the roof deck along the westerly façade and courtyard at the interior of the building; the rear yard is screened with trees and landscaping to serve as a barrier along the westerly property line.

As mentioned, the project proposes a multi-family residential building in an area zoned and designated for such development. Adjacent lots are developed with multi-family residential. The subject site is of a similar size and slope to nearby residential properties. The Floor Area, Density, Height, Yards, and Open Space of the proposed project are consistent with the Zone and Transit Oriented Communities Guidelines, pursuant to LAMC Section 12.22 A.31. The site is not located within a designated hillside area, a Special Grading Area (BOE Basic Grid Map A-13372), very high fire hazard severity zone, flood zone, landslide, tsunami inundation zone, or liquefaction zone. Per the Arborist Report (prepared by Brandon’s Landscapes dated September 10, 2021), there are seven (7) non-protected trees on the subject site which will be removed, and one (1) non-protected (Victorian box) street tree located in the public-right-of-way which will remain. There are no designated historic resources or cultural monuments on the subject site. Thus, there are no unusual circumstances which may lead to a significant effect on the environment, and this exception does not apply.

The current project is in an urbanized area and characterized as in-fill development, which qualifies for the Class 32 Categorical Exemption. As shown in the case file, the project is consistent with the applicable Palms – Mar Vista – Del Rey Community Plan designation and policies and all applicable zoning designations and regulations.

APPEAL POINT 3: WEST LOS ANGELES TRAFFIC IMPACT MITIGATION PLAN

Appeal Point 3a (WEST LA TIMP): *The Determination made an erroneous finding when it determined that the project adheres to the West Los Angeles Traffic Impact Mitigation Plan and the Los Angeles Department of Transportation Guidelines. The West LA TIMP requires mitigation measures be undertaken or guaranteed to reduce the significant transportation impacts of a project to a level of insignificance.*

Staff Response: The project site is in the West Los Angeles Transportation Improvement and Mitigation Specific Plan (WLA TIMP, Ordinance 186,105 and 186,108). The project is subject to Department of Transportation clearance of the WLA TIMP during the building permit process, consistent with ZI-2192.

APPEAL POINT 4: AFFORDABLE HOUSING

Appeal Point 4a (Managers Unit): *The Determination fails to address the requirement of California Civil Code Title 25, Section 42 which requires a manager, janitor, housekeeper, or other responsible person to live on the premises and have charge of every apartment complex that has sixteen (16) or more apartment units on the property if the property owner does not live on the premises.*

Appeal Point 4b (Enforceability): *While this project and others of its kind apparently receive approvals and incentives for affordable housing, there is no oversight or compliance mechanism to ensure that such affordable housing is in fact provided by the builder. The City's Systemic Code Enforcement Program inspection and compliance oversight is inadequate.*

Staff Response: A Director's Determination for the Transit Oriented Communities Affordable Housing Incentive Program (Exhibit B) is an entitlement for certain incentives provided in exchange for the provision of on-site affordable housing. The Conditions of Approval address the maximum density (Condition 2), affordable units (Condition 3), and housing requirements (Condition 5), and do not preclude the provision of a manager's unit. The project proposes one (1) Manager's Unit, as noted on the Transit Oriented Communities Referral Form (Exhibit F1), consistent with California Civil Code Title 25, Section 42.

In addition, the Los Angeles Housing Department (LAHD) has determined, per the Housing Crisis Act of 2019 (SB 330) Replacement Unit Determination, dated October 19, 2020 (Exhibit F3), that two (2) units need to be replaced with equivalent type, with one (1) unit restricted to Extremely Low Income Households, and one (1) unit restricted to Very Low Income Households. The project satisfies the TOC Affordable Housing requirement by providing three (3) units restricted to Extremely Low-Income households. Section VIII of the TOC Guidelines requires a Covenant and agreement guaranteeing that affordability criteria will be observed for at least 55 years. This is further reflected in the Conditions of Approval. Specifically, LAHD is responsible for enforcing the affordability requirements for the project, as provided in Condition 5 in the Director's Determination, which reads in pertinent part:

"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 Department (LAHD) to make three (3) unit for Extremely Low Income Households for 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.25, 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 Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and any monitoring requirements established by the LAHD".

APPEAL POINT 5: DESIGN CONFORMANCE

Appeal Point 5a (Citywide Design Guidelines Compliance): *The project fails to comply with the Design Conformance requirements of the TOC Guidelines which includes the Citywide Design Guidelines. The applicant fails to comply with approximately 59 of 66 Citywide Design Guidelines and Community Plan Design Guidelines."*

Appeal Point 5b (Neighborhood Context): *The project violates Residential Citywide Design Guidelines to "provide a sensitive transition by maintaining a height compatible with adjacent buildings. Mitigate negative shade/shadow and privacy impacts." The project also violates Residential Citywide Design Guidelines that requires "new buildings are compatible in scale, massing, style, and/or architectural materials with existing structures in the surrounding neighborhood. In older neighborhoods, new developments should likewise respect the character of existing buildings with regards to height, scale, style, and architectural materials"*

Appeal Point 5c (Landscaping): *The project fails to provide side yard landscaping in opposition to Residential Citywide Design Guidelines.*

Staff Response: Compliance with the Citywide Design Guidelines are encouraged yet not mandatory for developments. The applicant references Residential Citywide Design Guidelines for Neighborhood Context that are outdated and superseded by the current Citywide Design Guidelines that focus on Pedestrian First Design, 360 Degree Design, and Climate Adapted Design.

The proposed project was reviewed by the Department of City Planning's Urban Design Studio (UDS) on September 8, 2021. The resulting comments and suggestions focus primarily on the pedestrian experience, 360-degree design, and climate adaptive design. The following includes a discussion of UDS comments and suggestions and the applicant's response:

Pedestrian First Design

- Verify with LADWP if a transformer is required and, if so, where it will be placed.
- The driveway placement is good

360 Degree Design

- Verify how the 6th floor deck trees will be recessed and how will it affect the floor below.
- Consider ways to improve the side (north and south) elevations with additional windows or other treatments.
- Consider moving the gym to be adjacent the rear yard and provide roll-up doors to activate and interface with the rear yard space.

Climate Adapted Design

- Consider larger planters for the trees on the 6th floor deck and rear yard to ensure they will have the ability to grow and increase their canopy size per the Soil Depths resource guide.
- The open front stairwell is good.

The applicant responded that LADWP does not require a transformer for the site, and that the 6th floor deck trees are elevated and will not affect the floor below. The applicant responded that adding windows to the side yards is not feasible as they are structural walls, and that the gym is designed to activate the courtyard so that the rear yard will be a tranquil garden space.

As provided under Appeal Point 1, the project is requesting a TOC incentive for a reduced northwest side yard of 6 feet 4 inches in lieu of the 9 feet otherwise required. The project is not requesting a reduction in and is therefore consistent with the front, rear, or southerly side yard required by the Expo TNP and LAMC, respectively. The project has a 15 foot front yard setback, providing landscaping, ADA ramping, and wide steps for pedestrian accessibility. The driveway is located at the southerly edge of the building separate from the pedestrian access. As shown in Exhibit "A", the central courtyard, balconies, and stepback provide breaks in the building massing, and articulation is provided through window sizes and dimensions. Therefore, the project is organized and shaped to recognize and respect the surrounding context, consistent with the Citywide Design Guidelines.

Furthermore, the project site is subject to the Exposition Corridor Transit Neighborhood Plan established by Ordinance 186,402 and effective December 26, 2019, which established review procedures, design standards, and environmental standards for the subject site. Therefore, as conditioned and as required by the Expo TNP, the project is subject to administrative review for compliance with the Expo TNP standards during the building permit review process. Specifically, Condition 15 in the Director's Determination, reads in pertinent part:

“Specific Plan. Prior to the issuance of a building permit, the applicant shall demonstrate compliance with the Exposition Corridor Transit Neighborhood Plan Specific Plan (“Expo TNP”) pursuant to Ordinance No. 186,402, including but not limited to:

- a. Street-fronting residential units on the ground floor shall each have a primary entrance facing the street per Expo TNP Section 4.3.2.A.1.*
- b. Primary pedestrian entrances shall be prominent and distinguished through architectural features such as, but not limited to, front porches, overhead projections, columns, side windows, or recessed planes per Expo TNP Section 4.3.2.A.2.*
- c. Visible exterior surfaces of the proposed structure, fencing, recreational equipment, or outdoor art installations shall be constructed of materials such as, but not limited to, high-performance and/ or non-reflective tinted glass (without mirror-like tints or films), pre-cast concrete, fabricated wall surfaces, composite materials, wood, coated metal, and stone to minimize glare and reflected heat per Expo TNP 4.3.3.B.2.*
- d. At least 50% of hardscape areas shall include permeable paving, except where not feasible due to water table levels, contamination, or permeability of the soil per Expo TNP 4.3.4.A.2.”*

As previously stated, the project will need to be reviewed for compliance with LAMC 12.21. G in relation to open space, trees, and landscaping. Furthermore, in exchange for the open space and yard incentives, the project is also conditioned to provide 10 percent more landscape points, as provided in Condition 13 in the Director’s Determination, which reads in pertinent part.

“Revised landscape plans shall be submitted to show the size and location of all plants. 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 landscaped, including an automatic irrigation system, and maintained in accordance with a final landscape plan prepared by a licensed landscape architect or licensed architect, and submitted for approval to the Department of City Planning. The final landscape plan shall be in substantial conformance with the submitted Landscape Plan, Exhibit “A,” and shall incorporate any modifications required as a result of this grant.”

Lastly, the subject site is located within a half-mile (2,640 feet) of the Los Angeles County Metropolitan Transportation Authority (“Metro”) “E” (Expo) Light Rail Transit Line Expo/Sepulveda Station and is eligible as a Tier 3 development in the TOC Guidelines, as indicated on the TOC Referral Form dated January 12, 2021 (Exhibit F1). Therefore, the site is within a Transit Priority Area as defined by Public Resources Code (“PRC”) Section 21099. Senate Bill (SB) 743 sets forth guidelines for evaluating aesthetic impacts of a project located in a transit priority area (TPA) under CEQA as follows: “Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area (TPA) shall not be considered significant impacts on the environment.” Pursuant to Public Resources Code Section 21099(a)(7), a TPA is defined as an area within one-half mile of a major transit stop that is existing or planned, and a major transit stop is defined as a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. Pursuant to Public Resources Code Section 21099(a)(4), an infill site is a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The City’s Zoning Information (“ZI”) No. 2452 provides further information regarding SB 743 and states that “visual resources, aesthetic character, shade and shadow, light and glare, and scenic vistas or any other aesthetic impact as defined in the City’s CEQA Threshold Guide shall not be considered

an impact for infill projects within TPAs pursuant to CEQA.” Therefore, as the project is located in a transit priority area, the lead agency is precluded by SB 743 from finding that a project will result in aesthetic impacts, including those relating to shade and shadow.

Therefore, the project is in substantial compliance with the applicable Citywide Design Guidelines and is conditioned for further review of Expo TNP and landscape points requirements.

CONCLUSION

In consideration of the foregoing, it is submitted that the Director of Planning acted reasonably in approving Case Nos. DIR-2021-5596-TOC-HCA and ENV-2021-5597-CE. Upon in-depth review and analysis of the issues raised by the appellant for the proposed Project at 2456-2460 South Purdue Avenue, no errors by the Director of Planning or his/her designees were found in regards to the appeal points raised. For the reasons stated herein, and as provided in the Findings in the Director’s Determination, the proposed Project does comply with the applicable provisions of the Transit Oriented Communities Housing Incentive Program, the Exposition Corridor Transit Neighborhood Plan, the California Environmental Quality Act and Los Angeles Municipal Code. The appeal of the Director’s Determination cannot be substantiated and therefore should be denied.

Therefore, it is recommended that the City Planning Commission Deny the appeal; Determine, based on the whole of the administrative record, that the Project is exempt from the 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; Find that the project is within the scope of the Exposition Corridor Transit Neighborhood Plan Program EIR; Sustain the Determination by the Director of Planning; and Adopt the Director of Planning’s Conditions of Approval, Findings, and Exhibit “A.”