DEPARTMENT OF CITY PLANNING

RECOMMENDATION REPORT

Revised with Supplemental Analysis

City Planning Commission

Date:	December 19, 2013 *(Continued from November 21, 2013)*
Time:	After 8:30 a.m.
Place:	Van Nuys City Hall 14410 Sylvan Street Council Chambers, 2nd Floor Van Nuys, CA 91401

Case No.:	**DIR-2012-2836-DB-SPR-CDO-1A**
CEQA No.:	**ENV-2012-2837-MND**
Council No.:	11 – Bonin
Plan Area:	Brentwood – Pacific Palisades
GPLU:	Community Commercial
Zone:	[Q]C4-1L-CDO

Public Hearing:	Required
Appeal Status:	Not further appealable under LAMC
Expiration Date:	December 19, 2013
Multiple Approval:	LAMC Section 12.36 C.4

PROJECT LOCATION: 12027 – 12035 Wilshire Boulevard.

PROPOSED PROJECT: Density Bonus Incentive, Site Plan Review and Community Design Overlay Plan Approval for the new construction of a six-story, 75-feet in height, mixed-use building comprised of 81 dwelling units and 7,435 square feet of retail/commercial over two subterranean parking levels with 118 parking spaces.

APPLICANT: John Warfel, Metropolitan Pacific Real Estate Group

REPRESENTATIVE.: Jonathan Lonner, Burns & Bouchard

APPELLANT: George Kalman, GE RealProp, LP

REQUESTED ACTION: Appeal of the Director of Planning's Conditional Approval of a Density Bonus Incentive, Site Plan Review and Community Design Overlay Plan Approval, pursuant to Los Angeles Municipal Code (LAMC) Sections 12.22 A.25, 16.05 and 13.08, and of the Director of Planning's Adoption of the Mitigated Negative Declaration (ENV-2012-2837-MND), as modified, as the project's environmental clearance.

RECOMMENDED ACTIONS:

1. **Deny** the appeal of the Director of Planning's conditional Approval of a Density Bonus Incentive, Site Plan Review and Community Design Overlay Plan Approval.
2. **Sustain** the Determination of the Director of Planning in approving a Density Bonus Incentive, Site Plan Review and Community Design Overlay Plan Approval, with revised Findings-2, for the new construction of a six-story, 75-feet in height, mixed-use building comprised of 81 dwelling units and 7,435 square feet of retail/commercial over two subterranean parking levels with 118 parking spaces.
3. **Adopt** the Mitigated Negative Declaration, as modified (ENV-2012-2837-MND).

MICHAEL J. LOGRANDE
Director of Planning

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Exhibits:

PROJECT ANALYSIS

At the November 21, 2013 City Planning Commission meeting, the Commission approved a motion to continue the case and directed the Applicant to provide a proforma. Department staff was instructed to review and provide an assessment of the proforma. Please note that the proforma is newly attached as Exhibit D and that staff's analysis is included in this report, embedded in the appeal points beginning on the page A-3. Additions are shown in underlines, and deletions are shown as strike outs.

Appellate Decision

Pursuant to Sections 12.22 A.25, 16.05 and 13.08 of the Los Angeles Municipal Code (LAMC), appeals of Density Bonus Affordable Housing Incentives are made to the City Planning Commission. Pursuant to Section 16.05 and 13.08, appeals of Site Plan Review and Community Design Overlay Plan Approval are made to the Area Planning Commission. Appeals of multiple entitlement actions are made to the highest level appeal body of the involved entitlement actions, per LAMC Section 12.36 C.4. Therefore, the subject appeals are made to the City Planning Commission. The appellate decision of the City Planning Commission is final and effective as provided in Charter Section 245.

Project Summary

The proposed project involves the construction of a new, six-story, 75 feet in height mixed-use building, comprised of 81 dwelling units, 7,435 square feet of retail/commercial use, and 118 parking spaces within a portion of the mezzanine level and two subterranean parking levels. The subject site, comprised of three lots totaling 22,500 square feet, is located at 12027-12035 Wilshire Blvd. within the West Wilshire Boulevard Community Design Overlay Plan and the Brentwood-Pacific Palisades Community Plan.

Background

The subject site, comprised of three lots totaling 22,500 square feet, is zoned [Q]C4-1L-CDO which allows 60 dwelling units by-right as well as retail/commercial uses. In conformance with Section 12.22 A 25 (Affordable Housing Incentives - Density Bonus) of the Los Angeles Municipal Code (LAMC), the proposed project involves a density bonus of 35% over the allowable 60 units (i.e., an additional 21 dwelling units) in exchange for setting aside seven dwelling units for Very Low Income households for a period of 30 years. In conjunction with the density bonus entitlement, the proposed project will provide at least 88 parking spaces for the residential component of the project, a reduction in required parking as permitted by the LAMC density bonus provisions under Parking Option 1. The proposed project provides 30 parking spaces for the commercial component, as required by the parking provisions of the LAMC.

In setting aside seven Very Low Income units (11% of the allowable 60 dwelling units), the proposed project qualifies for a Density Bonus Incentive (LAMC Section 12.22 A.25(e)). The applicant has requested an increase in the Floor Area Ratio (FAR) from 1.5.1 to an FAR not exceeding 3:1. The project meets the following criteria for a FAR of 3:1 (LAMC Section as.22 A.25(f)(4)):

a. The property is in a commercial zone in Height District 1L
b. The Housing Development Project includes the number of Restricted Affordable Units sufficient to qualify for a 35% Density Bonus
c. Fifty percent or more of the commercially zoned parcel is located in or within 1,500 feet of a Rapid-Red Line Bus Transit Stop (Wilshire Blvd. at Bundy Dr.).
d. The project fronts on Wilshire Blvd., a Major Highway as defined by the General Plan.

The project site is located on the north side of Wilshire Boulevard between Westgate Avenue and Bundy Drive. The project site is located within the West Wilshire Boulevard Community

Design Overlay (CDO) plan area; therefore, the proposed project requires CDO Plan Approval. There are currently three, single-story, 15 feet in height commercial buildings on the project site which will be demolished. As there are no existing dwelling units, the new construction of 81 dwelling units comprises an increase of more than 50 dwelling units on the project site; therefore, the proposed project requires Site Plan Review.

Appeal Points and Responses

Appeal Point 1: There was no Director's hearing.

The appellant contends that per Los Angeles Municipal Code (LAMC) Section 16.05 G.3.a., the Site Plan Review process provides the opportunity for a public hearing and the Director erred in not conducting a hearing for this project. First, this denied the appellant due process. Second, this denied that a six-story building will have a significant impact on the adjacent one-story motel.

The appellant was not denied due process. Per the LAMC, due process is provided through a 15-day period following the Director's action when affected parties may challenge the Director's action. This applies to each of the entitlements conditionally approved for the proposed project; that is, the density bonus incentive, Site Plan Review and Community Design Overlay Plan Approval. The 15-day appeal period provided the opportunity to respond to the Director's action regarding the proposed project, and the appellant exercised this right in filing this appeal.

The proposed project adheres to the development standards of the zone, including a height of 75 feet and six stories. The LAMC provides for inclusive zoning whereby single-story structures are permitted within zones permitting greater density and building size. Therefore, the existence of a one-story building adjacent to the subject site is not a reason to deny the right of the proposed project to take full advantage of the height, density, and building size allowed by the zone.

Staff therefore concludes that the Director did not err in conditionally approving the proposed project without first conducting a public hearing.

Appeal Point 2: The Project is not compatible with existing and future development on adjacent properties and neighboring properties.

The appellant contends that a six-story building is not compatible with the adjacent one-story building or with one- to three-story buildings along the block.

The zones and development standards are applicable to an area, not a specific site or one façade of a given block. Thus, the zoning of the subject site and the motel site, [Q]C4-1L-CDO, applies to the north side of Wilshire Blvd. from Granville Ave. to the City boundary at Centinela Ave., a distance of approximately two-thirds of a mile. Structures may be a high as 75 feet (approximately six stories) or less because the zoning is inclusive and allows smaller structures within zones permitting larger structures. This is an area in transition. Parcels are being redeveloped and larger structures introduced; to wit, directly across Wilshire Blvd. from the subject site and motel is a six-story residential structure built in 2010. Furthermore, the massing and placement of the proposed project is compatible with other structures, with the building being placed at the property line adjacent to the sidewalk.

Staff therefore concludes that the Director did not err in determining that the proposed project is compatible with existing and future development.

Appeal Point 3: There is no evidence to support the finding that the specific incentive sought is necessary to provide for affordable housing.

The appellant contends that general statements by the applicant do not constitute evidence of the need for the incentive, and the Director erred in determining that the incentive is necessary without independent evidence and analysis. In response to the discussion at the November 21, 2013 appeal hearing before the City Planning Commission, the applicant submitted a proforma analysis illustrating that the increased FAR incentive is necessary to provide for the affordable housing costs (Exhibit D). The proforma analyses includes two scenarios: the proposed density bonus project without the FAR incentive at an FAR of 1.5:1, and the proposed density bonus project with the FAR incentive at an FAR of 3:1.

Capitalization Rate and Financial Feasibility
A *capitalization rate* (or "cap rate") is the ratio of the net operating income produced by an asset to its capital cost, that is, net operating income divided by cost. It is the rate of return on a real estate investment property based on the expected income that the property will generate, and is used to estimate the investor's return on his or her investment. Net Operating Income (NOI) is the income a property produces after operating expenses are paid (gross expected income less operating costs). NOI is the "bottom line" of a real estate project; it is what is left over for profit. Income includes rental income and income from the retail portion of the project, after accounting for vacancies. Capital costs include acquisition costs, which are the costs of obtaining land and existing buildings, as well as improvement costs, which include the costs of demolishing unwanted structures, improving existing structures, and constructing new structures.

Because the cap rate is derived using the NOI, a higher or lower net operating income can influence the cap rate. In scenario one (without FAR incentive) the cap rate of 5.29% is based on the NOI of $964,070 divided by the acquisition and development costs of $18,218,815. In scenario two (with FAR incentive) the cap rate of 7.62% is based on the NOI of $1,837,565 divided by the acquisition and development costs of $24,118,073.

The proforma analysis states that without the increased FAR incentive, the capitalization rate ("cap rate") is 5.29% and the project is therefore not financially feasible. With the increased FAR, the cap rate is 7.62% and the project is financially feasible. The higher the cap rate is, the greater the return for each dollar of cost. Thus, with a cap rate of 5.29%, there is $1.00 of income for each $18.90 (100% divided by 5.29%). With a cap rate of 7.62%, there is $1.00 of income for each $13.~~,~~10 of cost (100% divided by 7.62%). Thus, lower cap rates do not appeal to investors, making it more difficult to finance a project.

Staff reviewed several published industry resources to survey cap rates both in the local market and nationally. According to some real estate experts, investors are wary of low cap rates in primary markets, such as Los Angeles (Multifamily Executive magazine, April 2013). Cap rates have been low in the Los Angeles area over the past couple of years, and in Mid-2013 cap rates for apartments in Los Angeles were approximately 5.53% ("Cap Rate Calculations Today," September-October 2013, Commercial Investment Real Estate Magazine, CCIM Institute). According to the *U.S. Multifamily Forecast Report* (Cassidy Turley/Commercial Real Estate Services, Summer 2013), the average cap rate for Los Angeles year to date was 5.4 percent, about the same as the national average cap rate of 5.3 percent. The *Apartment Research Market Report* (Marcus & Millichap, Fourth Quarter 2013) indicates that average cap rates were in the high-5 percent range during the past 12 months for Los Angeles County.

~~To better support the finding regarding the financial need for the requested incentive, staff completed additional analysis of the proposed project.~~ According to the *CBRE Cap Rate Survey*, for the first half of 2013, the stabilized cap rates for multi-housing infill/urban in the Los Angeles market ranged from 3.25 percent for Class A construction to 6.0 percent for Class C construction. The forecast trends for the Los Angeles market in the 2nd half of 2013 indicate that cap rates are likely to remain flat. A desirable cap rate is generally within the range of 7 to 10 percent, depending on the specific details of a project. It is also important to note that cap rates are affected by several factors, including interest rates, market fundamentals, economic performance and investor demand.

Floor Area Ratio and Average Unit Size
The average size of the 81 units is nearly double if the FAR is increased to 3:1 (637~~330~~ square feet versus 330~~637~~ square feet, per the applicant's proforma analysis). ~~First, staff analyzed the requested 3:1 floor area ratio (FAR) in relation to average unit size.~~Staff analysis of FAR and average unit size reaches the same conclusion. Namely, an increase in FAR is necessary to accommodate 81 units at an average size comparable to the average unit size for 60 units at the otherwise allowable 1.5:1 FAR. Under the [Q]C4-1L-CDO zone, a maximum of 60 units can be built at an FAR of 1.5:1. As illustrated in the table below, staff concludes that an FAR of 1.9:1 will allow for the construction of 81 units at a similar average size to that of the allowable 60 units at the lower FAR. An FAR of 3:1 allows for 81 units at an average size that is more than two thirds ~~more than twice~~ than that of the allowable 60 units at a 1.5:1 FAR.

FAR	Allowable Floor Area	Commercial Portion	Residential Portion*	Average Unit Size At **60** units	Average Unit size At **81** units
1.5:1	22,500 x 1.5 = 33,750 s.f.	7,435 s.f.	26,315 s.f.	26,315/60 = **439 s.f.**	26,315/81 = **325 s.f.**
1.9:1	22,500 x 1.9 = 42,750 s.f.	7,435 s.f.	35,315 s.f.	N/A	35,315/81 = **436 s.f.**
3:1	22,500 x 3 = 67,500 s.f.	7,435 s.f.	60,065 s.f.	N/A	60,065/81 = **742 s.f.**

*includes common indoor amenity spaces

Floor Area Ratio, Cost and ~~Reduced~~ Operating Income
Per the proforma analysis, the acquisition cost and other soft costs (entitlements, permits, design and other) are nearly the same regardless of the total square footage of the project; that is, $10,422,650 in the smaller structure versus $10,895,528 in the larger structure. However, these costs are spread over a greater square footage in the larger structure, resulting in a lower cost per square foot. Construction costs of the larger structure ($13,222,545) are nearly double that of the smaller structure ($7,796,165), but with the construction costs spread over a greater total square footage, the cost per square foot is less than that of the smaller structure. On the income side, rental income is spread over a greater square footage in the larger structure and the rent per square foot is less than that of the smaller structure. ~~Third, staff analyzed the impact of reduced rental income of seven Very Low Income units on the overall operating income needed to cover debt service and operating expenses. Financial data specific to the proposed project was not made available; therefore, building operating income and operating costs are addressed in relative terms as a proxy for the actual figures.~~

	1.5:1 FAR	3:1 FAR
Acquisition & soft costs	$339/sf	$182/sf
Construction costs	$254/sf	$221/sf
Rental Income	$3.71/sf	$3.28/sf

Rental income from the seven Very Low Income units will be the same in both 1.5:1 and 3:1 FAR structures. Very Low Income is a household income that is 50 percent or less of the area median household income. Rents are set at one-third of the monthly income of such a household (the rent level that is deemed affordable per Federal and State regulations), and the number of bedrooms of a unit assume a specific household size and corresponding household income. Assuming that the mix of units by number of bedrooms is the same in both scenarios, the mix of seven Very Low Income units will represent the same total rental income in both. Rental income of the 74 units will vary according to the market. The applicant's proforma analysis shows that the gross rental income of the 3:1 FAR project is approximately 1.75 times greater than that of the smaller structure.

	1.5:1 FAR	3:1 FAR
Total Gross Rental Income	$1,367,088	$2,356,902
Gross Rental Income per Unit	$16,878/unit	$29,098/unit

~~Assuming that the market rents would approximate 100 percent of the area median income, seven Very Low Income units would provide one-half the income of market rate units. Rental income from 14 market-rate units equates to the lost rental income of seven Very Low Income units. The proposed project seeks a 35 percent density bonus, which is an additional 21 units. With rental income on 14 of these units making up for the lower rental income of the Very Low Income units, the other seven density bonus units provide a buffer against changing operating costs and market rents. It is typical property management practice to maintain a contingency fund as part of the operating budget to cover changes in or unexpected operating expenses. Such a fund represents at least five percent of operating income. The seven density bonus units represent approximately nine percent of the total 81 units, and thereby provide approximately nine percent of the operating income which represents a reasonable contingency fund.~~

The applicant's proforma analysis thus shows that smaller units each carry a greater share of the costs, yet the income per unit is less. The lower income does not adequately cover costs in order for the project to be financially feasible. This is illustrated by a cap rate of 5.29% for a project at 1.5:1 FAR. ~~This analysis confirms that the 35 percent density bonus, representing 21 units for a project of 81 units, supports seven Very Low Income units and ensures the financial viability of the building.~~ To accommodate a mixed-use building with 7,435 square feet of commercial space and 81 units, with an average unit size comparable to that allowed per the zone and with a cap rate that provides for financial feasibility, an FAR of ~~at least 1.9:1 is needed. However, an FAR of 1.9:1 does not allow the space needed to meet all associated development standards. An FAR of~~ 3:1 is needed.~~, and~~

No Need for Other Incentives or Concessions
Staff analyzed the requested 3:1 FAR in relation to a six-story building and a three-story building on the 22,500-square-foot subject lot. A six-story building is included because the zone allows this height (equivalent to approximately 75 feet). A three-story building is included because the structure adjacent to the appellant's property on the east is three stories. As illustrated in the table below, a 3:1 FAR cannot be built within three stories because this encompasses the entire lot and does not allow the space needed to meet other development standards, such as open space and yard requirements. However, a six-story building at a 3:1 FAR encompasses one-half the site, wherein the development standards can be met, as depicted in Exhibit A of the

Director's Determination. Although a three-story building at a 1.5:1 FAR similarly encompasses one-half the site, this FAR does not allow for comparable unit sizes, as illustrated in the table above. ~~with~~ With the zone allowing for 75 feet in height (six stories), relief from other development standards is not necessary.

FAR	Allowable Floor Area	6 Stories	3 Stories
1.5:1	33,750 s.f.	33,750 / 6 = 5,625 s.f./floor ¼ of lot	33,750 / 3 = 11,250 s.f./floor ½ of lot
1.9:1	42,750 s.f.	42,750 / 6 = 7,125 s.f./floor **1/3** of lot	42,750 / 3 = 14,250 s.f./floor **2/3** of lot
3:1	67,500	67,500 / 6 = 11,250 s.f./floor ½ of lot	67,500 / 3 = 22,500 s.f./floor **Entire** lot

No Specific Adverse Impact

~~In addition, environmental~~ Environmental documentation supports the finding that the requested incentive will not have a Specific Adverse Impact. The proposed project and potential impacts were analyzed in accordance with the City's Environmental Quality Act Guidelines and the City's L.A. CEQA Thresholds Guide. These two documents establish standards and thresholds of significant impact, and provide the data for determining whether or not the impacts of a proposed project reach or exceed thresholds. Analysis of the proposed project involved the preparation of a Mitigated Negative Declaration (MND) (ENV-2012-2837-MND), and it was determined that the proposed project may have an impact on the following environmental factors: aesthetics; air quality; cultural resources; geology and soils; green house gas emissions; hazards and hazardous materials; noise; public services; recreation; transportation/traffic; and, utilities and service systems. Mitigation measures will reduce impacts to less than significant, and are imposed as conditions of approval in the Director's Determination (Environmental Mitigation Conditions 13 through 36). Therefore, there is no substantial evidence that the proposed project will have a Specific Adverse Impact on the physical environment, on public health and safety, and/or on property listed in the California Register of Historical Resources.

Proposed revisions to Finding 2 of the Density Bonus Affordable Housing Incentives Compliance Findings incorporate this analysis. See Revised Findings on page F-1.

Appeal Point 4: There is a fair argument of potentially significant impacts that have not been analyzed or mitigated. Accordingly, a full EIR is required. The conclusions of the Project MND on which the Director relied are themselves not supported by substantial evidence in the record, including but not limited to impact of noise, traffic, light/glare, air quality, and hydrology.

Appeal Point 4.a.: Regarding aesthetics, the appellant contends that the adjacent one-story motel is a sensitive receptor to light and glare, and that there is no acknowledgement of shade impacts. The appellant further contends that the obstruction of Wi-Fi and other electronic signals should be addressed.

For clarification, a motel use is a sensitive receptor regarding light and nighttime illumination, per the L.A. CEQA Thresholds Guide. A sensitive receptor is defined as a commercial or institutional use that requires minimal nighttime illumination for proper function, physical comfort, or commerce. The analysis in the Mitigated Negative Declaration (MND) is based upon the significance thresholds in the L.A. CEQA thresholds Guide: one, that there will be a change in illumination levels as a result of the project, and, two, that the exterior lighting could affect adjacent sensitive areas. Mitigation measures to reduce impacts to less than significant are included in the MND and incorporated in the Director's Determination as Environmental Mitigation Conditions. This includes Condition 13 which requires the design and shielding of light sources such that the light cannot be seen from adjacent properties. Although per CEQA a motel use is not identified as a sensitive receptor to glare, impacts of glare are addressed by Condition 14. Therefore, the clarification that the adjacent motel is a sensitive receptor regarding light and nighttime illumination does not change the analysis of the impacts and the mitigation measures are effective with respect to sensitive receptors.

The appellant has not provided facts or other information to support the contention that there will be shade impacts. In fact, per the L.A. CEQA Thresholds Guide, shading impacts on adjacent properties occur when the new structure is located to the south of a property. The proposed project will be west of the motel. Therefore, there is no impact on the motel with regard to shade caused by the proposed project, and no change to the MND or mitigation measures is necessary.

Wi-Fi and other electronic signals do not comprise an environmental impact category to be analyzed per CEQA, and the appellant does not include data or information that illustrates such impacts as being within an impact category required to be addressed per CEQA. Therefore, no change to the MND is necessary.

Appeal Point 4.b.: Regarding noise, the appellant contends that the adjacent one-story motel is a sensitive receptor to noise and motel guests will suffer noise impacts that the general public may not.

For clarification, a motel use is a sensitive receptor regarding noise, just as are nearby multi-family buildings. Per the L.A. CEQA Thresholds Guide, sensitive receptors include: residences, transient lodging, schools, libraries, churches, hospitals, nursing homes, auditoriums, concert halls, amphitheaters, playgrounds, and parks. Mitigation measures to reduce noise impacts to less than significant are included in the MND and incorporated in the Director's Determination as Environmental Mitigation Conditions. For demolition and construction activities, condition 23 requires: compliance with the City's noise ordinances limiting noise levels; restricted hours for construction and demolition activities; avoiding operating several pieces of equipment simultaneously; and, use of noise shielding and muffling devices. As analyzed in the MND, the long-term operation of the proposed project is not anticipated to result in substantial permanent increase in noise beyond what presently exists in the area today. While the proposed project slightly exceeds the City's 75-unit threshold of significance for noise, it is well below the 100,000 square feet of non-residential development threshold and below the 1,000 average daily vehicle trips threshold (per the Los Angeles Department of Transportation traffic assessment, dated October 16, 2012). Therefore, the analysis and mitigation measures effectively address noise impacts on sensitive receptors, including the adjacent motel, and no change to the MND or mitigation measures is necessary.

Appeal Point 4.c.: Regarding transportation, the appellant contends that the Los Angeles Department of Transportation (LADOT) traffic assessment was not readily available, and that vehicular access through the rear alley poses traffic and pedestrian safety impacts, and significant traffic impacts are likely at the Westgate/Wilshire intersection.

For clarification, a complete copy of the LADOT traffic assessment, dated October 16, 2012, is attached to the MND at the back, both in the case file for ENV-2012-2837-MND and in the related parent case file for the proposed project, DIR-2012-2836-DB-SPR-CDO-1A. As such, the document was available at the beginning of the comment period for the MND as well as at the beginning of the appeal period for the Letter of Determination.

The appellant does not provide data or information to support the contention that vehicular access through the alley will create potentially significant traffic and pedestrian safety issues. As identified in the MND, the proposed project does not substantially increase hazards due to a design feature or incompatible uses. All development along the north side of Wilshire Blvd. between Westgate Ave. and Bundy Dr. is designed to use the rear alley for vehicular access. Some structures also have access directly from Wilshire Blvd., and only the developments at each end of this segment of Wilshire Blvd. have access from the side streets of Westgate Ave. and Bundy Dr. As discussed in finding 3 of the Director's Determination, vehicle access from the rear alley avoids traffic interruptions and vehicle queuing on Wilshire Blvd., a Major Class II roadway and a Primary Transit Priority Arterial Street. The LADOT traffic assessment reflects a net increase of 789 daily trips and indicates that "Adverse traffic impacts could occur due to access and circulation." However, detailed site/driveway plans, including driveway locations and specifications must be approved by LADOT prior to issuance of building permits, wherein LADOT will ensure that impacts will be minimized to the extent feasible. In addition, to ensure pedestrian safety and prevent pedestrian/vehicle conflicts at night, condition 8 requires façade and driveway lighting at the alley façade of the proposed project.

The appellant does not provide data or information to support the contention that the additional traffic due to the proposed project will have a potentially significant impact on the Westgate Ave./Wilshire Blvd. intersection. The LADOT traffic assessment found that the proposed project will not have significant traffic impacts at any of the intersections studied. These intersections include Wilshire Blvd./Bundy Dr. and Wilshire Blvd./Brockton Ave. The LADOT traffic assessment does not raise concerns regarding traffic impacts of the Westgate Ave./Wilshire Blvd. intersection. Furthermore, the net increase in trips during a.m. and p.m. peak hours is less than the LADOT significant threshold for traffic impacts. Thus, there is no substantial evidence of a potentially significant impact regarding traffic at the Westgate Ave./Wilshire Blvd. intersection, and changes to the mitigation measures are not necessary.

Appeal Point 4.d.: Regarding hydrology, the appellant contends that there is a high water table in the vicinity of the proposed project and impacts on the water table were not analyzed.

The subject site is within the Santa Monica Groundwater Basin, and is not within an area known to have contaminated groundwater (Groundwater Basins and Groundwater Contamination Areas, Environmental and Public Facilities Maps, City of Los Angeles). Excavation of soil can involve intercepting and removing groundwater which can have an impact on the water table and/or the direction of groundwater flow. However, while excavation of soil will be substantial in order to accommodate two levels of subterranean parking (approximately 10,000 cubic yards), the proposed project is not expected to affect groundwater supplies. Per documentation submitted by the applicant, three borings were taken at the project site. The highest elevation of groundwater was found at 245.5 feet above mean sea level and the foundation will be one to two feet above this elevation. The proposed foundation type includes a vapor barrier and waterproofing, and the method of grading includes fine grading for the last four to six inches. Monitoring and approval of grading activity by the City's Department of Building and Safety will ensure that grading activities will follow appropriate methods to avoid environmental impacts. Therefore, there is no substantial evidence that ground water will be affected by the proposed project and changes to the MND and mitigation measures are not necessary.

Appeal Point 4.e.: Regarding air quality, the appellant contends that the adjacent motel is a sensitive receptor to dust and other construction-related air quality issues, and such impacts were not analyzed.

For Clarification, a motel use is not a sensitive receptor regarding air quality impacts. Per the L.A. CEQA Thresholds Guide, sensitive receptors include residences, schools, childcare centers hospitals and parks. Per documentation provided by the applicant (analysis conducted by Matrix Environmental, November 8, 2013), construction-related emissions were identified and measured against South Coast Air Quality Management District (SCAQMD) thresholds of significance. All categories of emissions were found to be below SCAQMD thresholds. Mitigation measures regarding dust and air quality impacts due to demolition and construction activities are included in the MND and incorporated as Environmental Mitigation Conditions in the Director's Determination. Condition 15 includes a range of measures from wetting areas and using dust covers to minimizing exhaust emissions of equipment and not allowing idling of trucks. Therefore, no changes to mitigation measures are necessary.

Conclusion

The appeal addresses due process, compatibility with neighboring properties, financial need for the Density Bonus Incentive, and environmental impacts of the proposed project at 12027-12035 Wilshire Blvd. Upon in-depth review and analysis of the issues raised by the appellant, no errors or abuse of discretion by the Director of Planning or his/her designees were found. The appeal of the Density Bonus Incentive, Site Plan Review and Community Design Overlay Plan Approval for the construction of a new, six-story, 75 feet in height mixed-use building, comprised of 81 dwelling units, 7,435 square feet of retail/commercial use, and 118 parking spaces within a portion of the mezzanine level and two subterranean parking levels related to DIR-2012-2836-DB-SPR-CDO-1A and ENV-2012-2837-MND cannot be substantiated and therefore should be denied.

SELECTED FINDINGS -- REVISED

The Density Bonus Finding 2 was revised based on the City Planning Commission's direction on November 21, 2013. Much of the language has been modified and therefore, for ease of reading, the text doesn't contain underlines or strikeouts. For context, Density Bonus Finding 1 is included here as well. The remainder of the findings are unchanged and contained in Exhibit B.

Density Bonus Affordable Housing Incentives Compliance Findings

1. **The project complies with the following criteria required by Section 12.22.A 25 (e) (2) of the LAMC for Housing Development Projects requesting on-menu incentives:**

   a. *The façade of any portion of a building that abuts a street shall be articulated with a change of material or a break in plane, so that the façade is not a flat surface.*

   As depicted in Exhibit A, the Wilshire Boulevard façade is comprised of a variety of materials. At the ground floor, each end of the façade has a vertical element in decorative masonry that extends above the ground floor and mezzanine level. Within these outer vertical elements, there are three shorter vertical elements that are comprised of two tones of tile applied in an alternating pattern of horizontal bands and two of which delineate both edges of the ground floor space and the third is in between the retail space and residential entrance, distinguishing the two ground floor uses. The ground floor storefronts and entrances have floor-to-ceiling glazing. In addition to floor-to-ceiling glazing at balconies and windows, the upper floors incorporate areas with medium dash and with smooth exterior plaster finishes, wood screens and wood balcony railings, and a ventilated façade system of solid composite panels both in a horizontal band at the angled underside of the roof and in a vertical band at the location of the stairs adjacent to residential lobby at each floor.

   The balconies fronting Wilshire Boulevard at the first through fourth floors protrude beyond the façade plane at angle, where the west edge of a balcony has the greatest depth and the front edge is at an angle that meets the building façade at a balcony's east edge. Thus, the balconies provide an interesting break in the plane of the façade. At the ground level, a metal canopy extends across the top of the retail storefronts and residential entrance which provides a break in the façade plane. In addition, the residential entrance and retail entrances are recessed.

   b. *All buildings must be oriented to the street by providing entrances, windows architectural features and/or balconies on the front and along any street facing elevation.*

   As depicted in Exhibit A, the proposed building is oriented toward Wilshire Boulevard and incorporates strong pedestrian-friendly elements. The ground floor provides floor-to-ceiling glazing at storefront windows and at the storefront and residential entrances. Balconies fronting Wilshire Boulevard are incorporated at each of the five upper residential levels.

   c. *The Housing Development Project shall not involve a contributing structure in a designated Historic Preservation Overlay Zone (HPOZ) and shall not involve a structure that is a City of Los Angeles designated Historic-Cultural Monument (HCM).*

The proposed project is not located within a designated Historic Preservation Overlay Zone, nor does it involve a property that is designated as a City Historic-Cultural Monument.

d. *The Housing Development Project shall not be located on a substandard street in a Hillside Area or in a Very High Fire Hazard Severity Zone as established in Section 57.25.01 of the LAMC.*

The proposed project is not located in a Hillside Area, nor is it located in a Very High Fire Hazard Severity Zone.

2. Pursuant to Section 12.22 A.25(c) of the LAMC, the Director shall approve a Density Bonus and requested Incentive(s) unless the Director finds that:

a. *The Incentive is not required in order 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 incentives are necessary to provide for affordable housing costs per State law, per the following analysis of the proposed project:

Capitalization Rate and Financial Feasibility

The applicant's proforma analysis states that without the increased FAR incentive, the capitalization rate ("cap rate") is 5.29% and the project is therefore not financially feasible. With the increased FAR, the cap rate is 7.62% and the project is financially feasible. The cap rate is the ratio of the annual net operating income to the capital cost of the project; that is, net operating income divided by cost. The higher the cap rate is, the greater the return for each dollar of cost. Thus, with a cap rate of 5.29%, there is $1.00 of income for each $18.90 (100% divided by 5.29%). With a cap rate of 7.62%, there is $1.00 of income for each $13.10 of cost (100% divided by 7.62%). Staff reviewed several published industry resources to survey cap rates both in the local market and nationally. Cap rates have been low in the Los Angeles area over the past couple of years, and in Mid-2013 cap rates for apartments in Los Angeles were approximately 5.53% ("Cap Rate Calculations Today," September-October 2013, Commercial Investment Real Estate Magazine, CCIM Institute). According to the *U.S. Multifamily Forecast Report* (Cassidy Turley/Commercial Real Estate Services, Summer 2013), the average cap rate for Los Angeles year to date was 5.4 percent, about the same as the national average cap rate of 5.3 percent. The *Apartment Research Market Report* (Marcus & Millichap, Fourth Quarter 2013) indicates that average cap rates were in the high-5 percent range during the past 12 months for Los Angeles County. According to the *CBRE Cap Rate Survey*, for the first half of 2013, the stabilized cap rates for multi-housing infill/urban in the Los Angeles market ranged from 3.25 percent for Class A construction to 6.0 percent for Class C construction. The forecast trends for the Los Angeles market in the 2nd half of 2013 indicate that cap rates are likely to remain flat. In general, a desirable cap rate could range from 7 percent to 10 percent, depending on the specifics of the project.

Floor Area Ratio and Average Unit Size

The average size of the 81 units is nearly double if the FAR is increased to 3:1 (637 square feet versus 330 square feet, per the applicant's proforma analysis). Staff analysis of FAR and average unit size reaches the same conclusion. Namely, an increase in FAR is necessary to accommodate 81 units at an average size comparable to the average unit size for 60 units at the otherwise allowable 1.5:1 FAR. Under the [Q]C4-1L-CDO zone, a maximum of 60 units can be built at an FAR of 1.5:1. As illustrated in the table below, staff concludes that an FAR of 1.9:1 will allow for the construction of 81 units at a similar average size to that of the allowable 60 units at the lower FAR. An FAR of 3:1 allows for 81 units at an average size that is more than two thirds than that of the allowable 60 units at a 1.5:1 FAR.

FAR	Allowable Floor Area	Commercial Portion	Residential Portion*	Average Unit Size At **60** units	Average Unit size At **81** units
1.5:1	22,500 x 1.5 = 33,750 s.f.	7,435 s.f.	26,315 s.f.	26,315/60 = **439 s.f.**	26,315/81 = **325 s.f.**
1.9:1	22,500 x 1.9 = 42,750 s.f.	7,435 s.f.	35,315 s.f.	N/A	35,315/81 = **436 s.f.**
3:1	22,500 x 3 = 67,500 s.f.	7,435 s.f.	60,065 s.f.	N/A	60,065/81 = **742 s.f.**

*includes common indoor amenity spaces

Floor Area Ratio, Cost and Operating Income
Per the proforma analysis, the acquisition cost and other soft costs (entitlements, permits, design and other) are nearly the same regardless of the total square footage of the project; that is, $10,422,650 in the smaller structure versus $10,895,528 in the larger structure. However, these costs are spread over a greater square footage in the larger structure, resulting in a lower cost per square foot. Construction costs of the larger structure are nearly double that of the smaller structure, but with the construction costs spread over a greater total square footage, the cost per square foot is less than that of the smaller structure. On the income side, rental income is spread over a greater square footage in the larger structure and the rent per square foot is less than that of the smaller structure.

	1.5:1 FAR	3:1 FAR
Acquisition & soft costs	$339/sf	$182/sf
Construction costs	$254/sf	$221/sf
Rental Income	$3.71/sf	$3.28/sf

Rental income from the seven Very Low Income units will be the same in both 1.5:1 and 3:1 FAR structures. Very Low Income is a household income that is 50 percent or less of the area median household income. Rents are set at one-third of the monthly income of such a household (the rent level that is deemed affordable per Federal and State regulations), and the number of bedrooms of a unit assume a specific household size and corresponding household income. Assuming that the mix of units by number of bedrooms is the same in both scenarios, the mix of seven Very Low Income units will represent the same total rental income in both. Rental income of the 74 units will vary according to the market. The applicant's proforma analysis shows that the gross annual rental income of the 3:1 FAR project is approximately 1.75 times greater than that of the smaller structure.

	1.5:1 FAR	3:1 FAR
Total Gross Rental Income	$1,367,088	$2,356,902
Gross Rental Income per Unit	$16,878/unit	$29,098/unit

The applicant's proforma analysis thus shows that smaller units each carry a greater share of the costs, yet the income per unit is less. The lower income does not adequately cover costs in order for the project to be financially feasible. This is illustrated by a cap rate of 5.29% for a project at 1.5:1 FAR. To accommodate a mixed-use building with 7,435 square feet of commercial space and 81 units, with an average unit size comparable to that allowed per the zone and with a cap rate that provides for financial feasibility, an FAR of 3:1 is needed.

No Need for Other Incentives or Concessions
Staff analyzed the requested 3:1 FAR in relation to a six-story building and a three-story building on the 22,500-square-foot subject lot. A six-story building is included because the zone allows this height (equivalent to approximately 75 feet). A three-story building is included because the structure adjacent to the appellant's property on the east is three stories. As illustrated in the table below, a 3:1 FAR cannot be built within three stories because this encompasses the entire lot and does not allow the space needed to meet other development standards, such as open space and yard requirements. However, a six-story building at a 3:1 FAR encompasses one-half the site, wherein the development standards can be met, as depicted in Exhibit A of the Director's Determination. Although a three-story building at a 1.5:1 FAR similarly encompasses one-half the site, this FAR does not allow for comparable unit sizes, as illustrated in the table above. With the zone allowing for 75 feet in height (six stories), relief from other development standards is not necessary.

FAR	Allowable Floor Area	6 Stories	3 Stories
1.5:1	33,750 s.f.	33,750 / 6 = 5,625 s.f./floor ¼ of lot	33,750 / 3 = 11,250 s.f./floor ½ of lot
1.9:1	42,750 s.f.	42,750 / 6 = 7,125 s.f./floor **1/3** of lot	42,750 / 3 = 14,250 s.f./floor **2/3** of lot
3:1	67,500	67,500 / 6 = 11,250 s.f./floor ½ of lot	67,500 / 3 = 22,500 s.f./floor **Entire** lot

b. *The Incentive will have a Specific Adverse Impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is 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 general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.*

The Incentive will not have a Specific Adverse Impact.

The proposed project and potential impacts were analyzed in accordance with the City's Environmental Quality Act Guidelines and the City's L.A. CEQA Thresholds Guide. These two documents establish standards and thresholds of significant impact, and provide the data for determining whether or not the impacts of a proposed project reach or exceed thresholds. Analysis of the proposed project involved the preparation of a Mitigated Negative Declaration (MND) (ENV-2012-2837-MND), and it was determined that the proposed project may have an impact on the following environmental factors: aesthetics;

air quality; cultural resources; geology and soils; green house gas emissions; hazards and hazardous materials; noise; public services; recreation; transportation/traffic; and, utilities and service systems. Mitigation measures will reduce impacts to less than significant, and are imposed as conditions of approval in the Director's Determination (Environmental Mitigation Conditions 13 through 36). Therefore, there is no substantial evidence that the proposed project will have a Specific Adverse Impact on the physical environment, on public health and safety, and/or on property listed in the California Register of Historical Resources.

DETERMINATION LETTER
DIR-2012-2836-DB-SPR-CDO-1A
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