

ORDINANCE NO. _____

An ordinance amending Section 12.04 of the Los Angeles Municipal Code by amending the zoning map.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section ____ . Section 12.04 of the Los Angeles municipal Code is hereby amended by changing the zone classifications of property shown upon a portion of the Zoning Map incorporated therein and made a part of Article 2, Chapter 1 of the LAMC, so that such portion of the Zoning Map shall conform to the zoning on the map attached hereto and incorporated herein by this reference.

Section __. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was introduced at the Council of the City of Los Angeles, by a majority vote of all its members, at the meeting of _____.

Holly L. Wolcott, City Clerk

By _____ Deputy

Approved _____

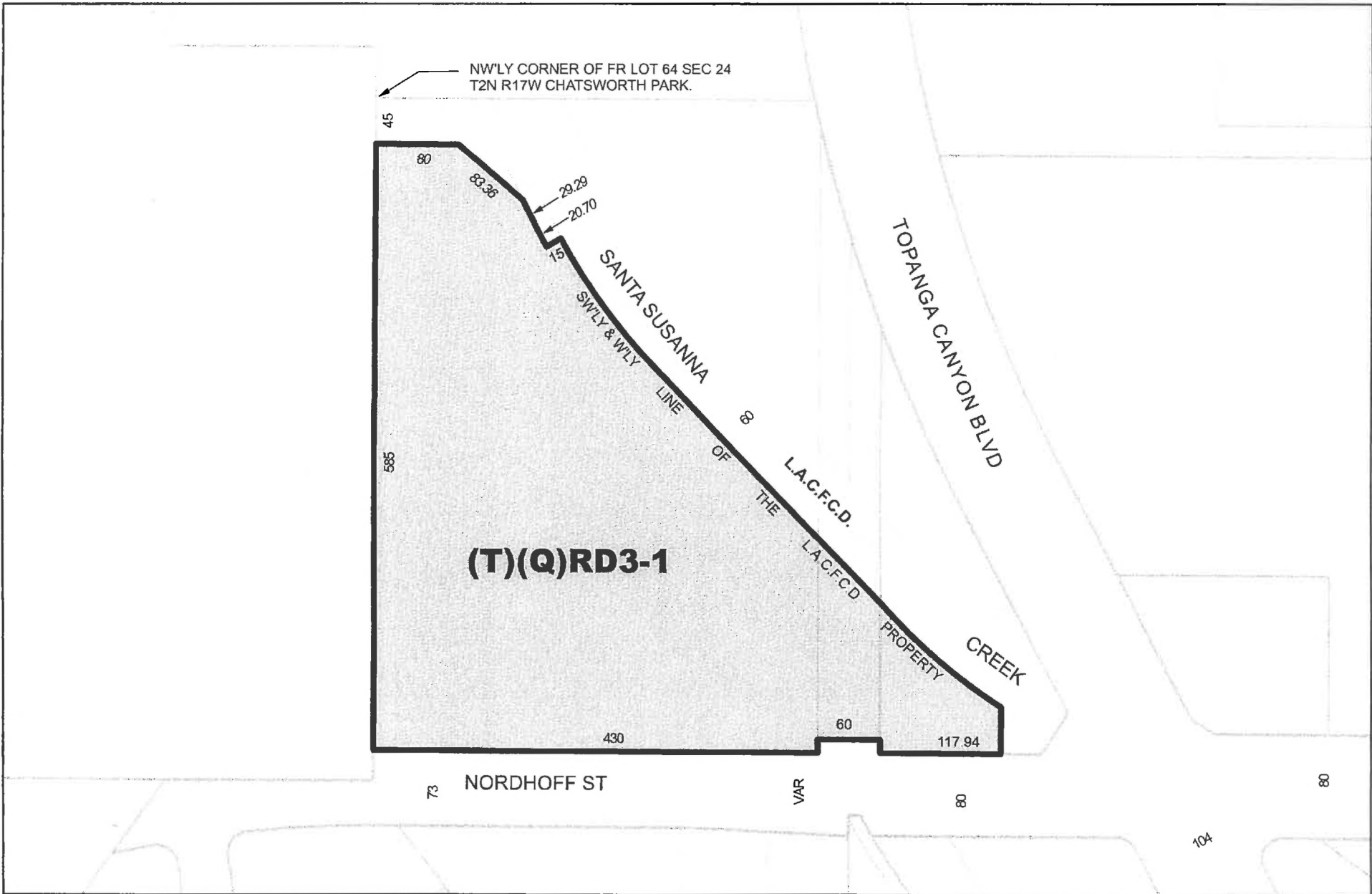
Mayor

Pursuant to Section 558 of the City Charter,
the City Planning Commission on August 27, 2015
recommended this ordinance be adopted by the City Council.



James K. Williams, Commission Executive Assistant II
City Planning Commission

File No. _____



C.M. 198 B 101 CPC 2014-4198 ZC GPA ZAA SPR

THE INTENT OF THIS ORDINANCE IS FOR THE BOUNDARIES OF THIS ZONE CHANGE TO COINCIDE WITH THOSE OF RECORDED TR 72963.



AREA MAPPED



(Q) QUALIFIED CONDITIONS OF APPROVAL

Pursuant to Section 12.32 of the Municipal Code, the following limitations are hereby imposed upon the use of the subject property, subject to the "Q" Qualified classification.

A. Development Conditions:

1. **Permitted Uses.** The property shall be limited to the use and area provisions of the RD3 zone as defined in Section 12.09.1 of the Los Angeles Municipal Code, and as permitted in this grant.
2. **Density.** The Project shall be limited to a maximum density of fifty-eight (58) dwelling units.
3. **Usable Open Space.** Pursuant to the applicant's revised site plan labeled *Exhibit B-5* (dated **July 18, 2015**) and notwithstanding the requirements of LAMC Section 12.21-G.2, the Project shall provide a minimum of 325 square feet of usable open space per dwelling unit. Otherwise, all Common Open Space shall comply with all requirements of LAMC Section 12.21.G.2(a) and all Private Open Space shall comply with the requirements of LAMC Section 12.21-G(b).
4. **Height:** The Project shall not exceed 37'-0" in height, as defined by Section 12.21.1 B.3 of the LAMC.
5. **Roof Pitch.** The roof pitch of any roof on any structure shall be a minimum 4:12 (18.43 degrees). Additionally, the Project shall integrate varied roof lines and elevation styles between structures in the development through the use of sloping roofs, modulated building heights, gables, dormers, or other innovative architectural solutions.
6. **Roof Material.** All units' roofing material shall be flat concrete roof tiles with a Solar Reflectance Index (SRI)¹ value of 55 or greater.
7. **Parking (Resident).** Pursuant to the revised site plan, the Project shall provide parking in accordance with LAMC Section 12.21-A.4(a) including a minimum of two covered spaces located in an attached garage within each unit. Additionally, each attached garage shall be wired with an Electric Vehicle (EV) Charging System which is listed by a nationally recognized testing laboratory (NRTL). The EV Charging System must be installed in accordance with the manufacturer's installation instructions and in accordance with current Los Angeles Municipal Code specifications.
8. **Parking (Guest).** Pursuant to the applicant's revised site plan labeled *Exhibit B-5* (dated **July 18, 2015**), the Project shall provide a minimum 26 guest parking spaces.
9. **Exterior Windows.** All exterior windows shall be constructed with dual-pane glass with a U-Factor of 0.30 or better.

¹ The U.S. Department of Energy defines the **Solar Reflectance Index (SRI)** as a measurement of the roof's ability to reject solar heat, as shown by a small temperature rise. It is defined so that a standard black (reflectance 0.05, emittance 0.90) is 0 and a standard white (reflectance 0.80, emittance 0.90) is 100. For example, the standard black has a temperature rise of 90 deg. F (50 deg. C) in full sun, and the standard white has a temperature rise of 14.6 deg. F (8.1 deg. C). Once the maximum temperature rise of a given material has been computed, the SRI can be computed by interpolating between the values for white and black. According to the U.S. Green Building Council, an acceptable standard for roofing material on a 4:12 pitch roof is a value of 55 or greater.

10. **Landscape Plan.** All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape plan and an automatic irrigation plan, prepared by a Landscape Practitioner (Sec. 12.40-D) and to the satisfaction of the Department of City Planning.
11. **Los Angeles County Metropolitan Transportation Authority (LACMTA).** Prior to the commencement of construction of the Project, the applicant and/or owner should contact LACMTA's Metro Bus Operations Control Special Events Coordinator at (213) 922-4632 regarding construction activities that may impact Metro bus lines.

B. Environmental Conditions.

1. **Aesthetics (Outdoor Lighting).** Outdoor lighting shall be designed and installed with shielding, so that the light source cannot be seen from adjacent residential properties and shall be downward facing.
2. **Aesthetics (Glare).** The exterior of the proposed structure shall be constructed of materials such as, but not limited to, high-performance and/or non-reflective tinted glass (no mirror-like tints or films) and pre-cast concrete or fabricated wall surfaces to minimize glare and reflected heat.
3. **Habitat Modification (Nesting Native Birds, Hillside or Rural Areas).** The Project will result in the removal of vegetation and disturbances to the ground and therefore may result in take of nesting native bird species. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). The following measures are as recommended by the California Department of Fish and Game:

Proposed Project activities (including disturbances to native and non-native vegetation, structures and substrates) should take place outside of the breeding bird season which generally runs from March 1- August 31 (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill (Fish and Game Code Section 86).

If Project activities cannot feasibly avoid the breeding bird season, beginning thirty days prior to the disturbance of suitable nesting habitat, the applicant shall:

- a. Arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within 300 feet of the construction work area (within 500 feet for raptors) as access to adjacent areas allows. The surveys shall be conducted by a Qualified Biologist with experience in conducting breeding bird surveys. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of clearance/construction work.
- b. If a protected native bird is found, the applicant shall delay all clearance/construction disturbance activities within 300 feet of suitable nesting habitat for the observed protected bird species (within 500 feet for suitable raptor nesting habitat) until August 31.

- c. Alternatively, the Qualified Biologist could continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest (within 500 feet for raptor nests) or as determined by a qualified biological monitor, shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. The buffer zone from the nest shall be established in the field with flagging and stakes. Construction personnel shall be instructed on the sensitivity of the area.
 - d. The applicant shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds. Such record shall be submitted and received into the case file for the associated discretionary action permitting the Project.
4. **Habitat Modification (Nesting Native Birds, Non-Hillside or Urban Areas).** The Project will result in the removal of vegetation and disturbances to the ground and therefore may result in take of nesting native bird species. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA).
- a. Proposed Project activities (including disturbances to native and non-native vegetation, structures and substrates) should take place outside of the breeding bird season which generally runs from March 1- August 31 (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill (Fish and Game Code Section 86).
 - b. If Project activities cannot feasibly avoid the breeding bird season, beginning thirty days prior to the disturbance of suitable nesting habitat, the applicant shall:
 - c. Arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within properties adjacent to the Project site, as access to adjacent areas allows. The surveys shall be conducted by a qualified biologist with experience in conducting breeding bird surveys. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of clearance/construction work.
 - d. If a protected native bird is found, the applicant shall delay all clearance/construction disturbance activities within 300 feet of suitable nesting habitat for the observed protected bird species until August 31. Alternatively, the Qualified Biologist could continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest or as determined by a qualified biological monitor, shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. The buffer zone from the nest shall be established in the field with flagging and stakes.
 - e. Construction personnel shall be instructed on the sensitivity of the area.
 - f. The applicant shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds. Such record shall be submitted and

received into the case file for the associated discretionary action permitting the Project.

5. **Tree Preservation (Grading Activities).** “Orange fencing” or other similarly highly visible barrier shall be installed outside of the drip line of locally protected and significant (trunk diameter of 8 inches or greater) non-protected trees, or as may be recommended by the Tree Expert. The barrier shall be maintained throughout the grading phase, and shall not be removed until the completion and cessation of all grading activities.
6. **Tree Removal (Non-Protected Trees).** The removal of any non-protected species of trees shall do the following:
 - a. Prior to the issuance of any permit, a plot plan shall be prepared indicating the location, size, type, and general condition of all existing trees on the site and within the adjacent public right(s)-of-way.
 - b. All significant (8-inch or greater trunk diameter, or cumulative trunk diameter if multi-trunked, as measured 54 inches above the ground) non-protected trees on the site proposed for removal shall be replaced at a 1:1 ratio with a minimum 24-inch box tree. Net, new trees, located within the parkway of the adjacent public right(s)-of-way, may be counted toward replacement tree requirements.
 - c. Removal or planting of any tree in the public right-of-way requires approval of the Board of Public Works. Contact Urban Forestry Division at: 213-847-3077. All trees in the public right-of-way shall be provided per the current standards of the Urban Forestry Division the Department of Public Works, Bureau of Street Services.
7. **Tree Removal (Locally Protected Species).** The removal of any locally protected species of trees shall do the following:
 - a. All protected tree removals require approval from the Board of Public Works.
 - b. A Tree Report shall be submitted to the Urban Forestry Division of the Bureau of Street Services, Department of Public Works, for review and approval (213-847-3077), prior to implementation of the Report’s recommended measures.
 - c. A minimum of two trees (a minimum of 48-inch box in size if available) shall be planted for each protected tree that is removed. The canopy of the replacement trees, at the time they are planted, shall be in proportion to the canopies of the protected tree(s) removed and shall be to the satisfaction of the Urban Forestry Division.
 - d. The location of trees planted for the purposes of replacing a removed protected tree shall be clearly indicated on the required landscape plan, which shall also indicate the replacement tree species and further contain the phrase “Replacement Tree” in its description.
8. **Tree Removal (Public Right-of-Way).** Removal of trees in the public right-of-way requires approval by the Board of Public Works. The required Tree Report shall include the location, size, type, and condition of all existing trees in the adjacent public right-of-way and shall be submitted for review and approval by the Urban Forestry Division of the Bureau of Street Services, Department of Public Works (213-847-3077). The plan shall contain measures recommended by the tree expert for the preservation of as many trees as possible. Measures such as replacement by a minimum of 24-inch box trees in the

parkway and on the site, on a 1:1 basis, shall be required for the unavoidable loss of significant (8-inch or greater trunk diameter, or cumulative trunk diameter if multi-trunked, as measured 54 inches above the ground) trees in the public right-of-way. All trees in the public right-of-way shall be provided per the current Urban Forestry Division standards.

9. **Bonding (Tree Survival).** For all trees which are to be preserved, the following shall apply:
 - a. The applicant shall post a cash bond or other assurances acceptable to the Bureau of Engineering in consultation with the Urban Forestry Division and the decision maker guaranteeing the survival of trees required to be maintained, replaced or relocated in such a fashion as to assure the existence of continuously living trees for a minimum of three years from the date that the bond is posted or from the date such trees are replaced or relocated, whichever is longer. Any change of ownership shall require that the new owner post a new oak tree bond to the satisfaction of the Bureau of Engineering. Subsequently, the original owner's oak tree bond may be exonerated.
 - b. The City Engineer shall use the provisions of Section 17.08 as its procedural guide in satisfaction of said bond requirements and processing. Prior to exoneration of the bond, the owner of the property shall provide evidence satisfactory to the City Engineer and Urban Forestry Division that the oak trees were properly replaced, the date of the replacement and the survival of the replacement trees for a period of three years.
10. **Cultural Resources (Archaeological).** If any archaeological materials are encountered during the course of Project development, all further development activity shall halt and:
 - a. The services of an archaeologist shall then be secured by contacting the South Central Coastal Information Center (657-278-5395) located at California State University Fullerton, or a member of the Society of Professional Archaeologist (SOPA) or a SOPA-qualified archaeologist, who shall assess the discovered material(s) and prepare a survey, study or report evaluating the impact.
 - b. The archaeologist's survey, study or report shall contain a recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource.
 - c. The applicant shall comply with the recommendations of the evaluating archaeologist, as contained in the survey, study or report.
 - d. Project development activities may resume once copies of the archaeological survey, study or report are submitted to: SCCIC Department of Anthropology, McCarthy Hall 477, CSU Fullerton, 800 North State College Boulevard, Fullerton, CA 92834.
 - e. Prior to the issuance of any building permit, the applicant shall submit a letter to the case file indicating what, if any, archaeological reports have been submitted, or a statement indicating that no material was discovered.
 - f. A covenant and agreement binding the applicant to this condition shall be recorded prior to issuance of a grading permit.

11. Cultural Resources (Paleontological). If any paleontological materials are encountered during the course of Project development, all further development activities shall halt and:

- a. The services of a paleontologist shall then be secured by contacting the Center for Public Paleontology - USC, UCLA, California State University Los Angeles, California State University Long Beach, or the Los Angeles County Natural History Museum - who shall assess the discovered material(s) and prepare a survey, study or report evaluating the impact.
- b. The paleontologist's survey, study or report shall contain a recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource.
- c. The applicant shall comply with the recommendations of the evaluating paleontologist, as contained in the survey, study or report.
- d. Project development activities may resume once copies of the paleontological survey, study or report are submitted to the Los Angeles County Natural History Museum.
- e. Prior to the issuance of any building permit, the applicant shall submit a letter to the case file indicating what, if any, paleontological reports have been submitted, or a statement indicating that no material was discovered.
- f. A covenant and agreement binding the applicant to this condition shall be recorded prior to issuance of a grading permit.

12. Cultural Resources (Human Remains). In the event that human remains are discovered during excavation activities, the following procedure shall be observed:

- a. Stop immediately and contact the County Coroner: 1104 N. Mission Road, Los Angeles, CA 90033. 323-343-0512 (8 a.m. to 5 p.m. Monday through Friday) or 323-343-0714 (After Hours, Saturday, Sunday, and Holidays).
- b. The coroner has two working days to examine human remains after being notified by the responsible person. If the remains are Native American, the Coroner has 24 hours to notify the Native American Heritage Commission.
- c. The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendent of the deceased Native American.
- d. The most likely descendent has 48 hours to make recommendations to the owner, or representative, for the treatment or disposition, with proper dignity, of the human remains and grave goods.
- e. If the descendent does not make recommendations within 48 hours the owner shall reinter the remains in an area of the property secure from further disturbance.
- f. If the owner does not accept the descendant's recommendations, the owner or the descendent may request mediation by the Native American Heritage Commission.
- g. Discuss and confer means the meaningful and timely discussion careful consideration of the views of each party.

13. Grading (20,000 Cubic Yards, or 60,000 Square Feet of Surface Area or Greater).

Impacts will result from the alteration of natural landforms due to extensive grading activities. However, this impact will be mitigated to a less than significant level by designing the grading plan to conform to the City's Landform Grading Manual guidelines, subject to approval by the Department of City Planning and the Department of Building and Safety's Grading Division. Chapter IX, Division 70 of the Los Angeles Municipal Code addresses grading, excavations, and fills. All grading activities require grading permits from the Department of Building and Safety. Additional provisions are required for grading activities within Hillside areas. The application of BMPs includes but is not limited to the following mitigation measures:

- a. A deputy grading inspector shall be on-site during grading operations, at the owner's expense, to verify compliance with these conditions. The deputy inspector shall report weekly to the Department of Building and Safety (LADBS); however, they shall immediately notify LADBS if any conditions are violated.
- b. "Silt fencing" supported by hay bales and/or sand bags shall be installed based upon the final evaluation and approval of the deputy inspector to minimize water and/or soil from going through the chain link fencing potentially resulting in silt washing off-site and creating mud accumulation impacts.
- c. "Orange fencing" shall not be permitted as a protective barrier from the secondary impacts normally associated with grading activities.
- d. Movement and removal of approved fencing shall not occur without prior approval by LADBS.

14. Creation of a Health Hazard. Environmental impacts to human health may result from Project implementation due to a release of chemical or microbiological materials into the community. However, these impacts will be mitigated to a less than significant level by the following measure:

Prior to the issuance of a use of land or building permit, or issuance of a change of occupancy, the applicant shall obtain approval from the Fire Department and the Department of Public Works, for the transport, creation, use, containment, treatment, and disposal of the hazardous material(s).

Approved plans for the transport, creation, use, containment, treatment, and disposal of the hazardous material(s) shall be submitted to the decision-maker for retention in the case file.

15. Emergency Evacuation Plan. Environmental impacts may result from Project implementation due to possible interference with an emergency response plan. However, these potential impacts will be mitigated to a less than significant level by the following measure:

Prior to the issuance of a building permit, the applicant shall develop an emergency response plan in consultation with the Fire Department. The emergency response plan shall include but not be limited to the following: mapping of emergency exits, evacuation routes for vehicles and pedestrians, location of nearest hospitals, and fire departments.

16. Increased Noise Levels (Demolition, Grading, and Construction Activities). The Project shall comply with the City of Los Angeles Noise Ordinance No. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of

noise beyond certain levels at adjacent uses unless technically infeasible. The following shall apply:

- a. Construction and demolition shall be restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturday.
- b. Demolition and construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
- c. The Project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.

17. **Public Services (Fire).** The recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit. Specifically, the applicant shall:

- a) Submit a plot plan for approval of access and hydrants by the City Fire Department prior to the issuance of a building permit by the City. The plot plan would include fire prevention and access features to the satisfaction of the City Fire Department which shall include, but not be limited to:
 - Access for Fire Department apparatus and personnel to and into all structures shall be required.
 - No proposed development utilizing cluster, group, or condominium design of one or two family dwellings shall be more than 150 feet from the edge of the roadway of an improved street, access road, or designated fire lane.
 - No framing shall be allowed until a roadway is installed to the satisfaction of the Fire Department.
 - Any required fire hydrants to be installed shall be fully operational and accepted by the Fire Department prior to any building construction.
 - All water systems and roadways are to be improved to the satisfaction of the Fire Department prior to the issuance of any building permits.
 - All structures should be fully sprinklered.
 - No building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
 - The entrance or exit of all ground dwelling units shall not be more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
- b) All new buildings within the Project shall be within 300 feet of an approved fire hydrant.
- c) Within the project, if a fire lane must accommodate the operation of City Fire Department aerial ladder apparatus or where fire hydrants are installed, those portions of the internal streets shall not be less than 28 feet in width. The width of

private roadways for general access use and fire lanes shall not be less than 20 feet, and the fire lane must be clear to the sky. Fire lanes, where required, and dead ending streets shall terminate in a cul-de-sac or other approved turning area. No dead ending street or fire lane shall be greater than 700 feet in length or secondary access shall be required.

- d) During demolition, the City Fire Department access would remain clear and unobstructed.

Additional measures may be required by the Fire Department during the building permit approval process.

18. **Public Services (Police – Demolition/Construction Sites).** Fences shall be constructed around the site to minimize trespassing, vandalism, short-cut attractions and attractive nuisances.
19. **Public Services (Police).** The plans shall incorporate the design guidelines relative to security, semi-public and private spaces, which may include but not be limited to access control to building, secured parking facilities, walls/fences with key systems, well-illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities or building entrances in high-foot traffic areas, and provision of security guard patrol throughout the Project site if needed. Please refer to "Design Out Crime Guidelines: Crime Prevention Through Environmental Design", published by the Los Angeles Police Department. Contact the Community Relations Division, located at 100 W. 1st Street, #250, Los Angeles, CA 90012; (213) 486-6000. These measures shall be approved by the Police Department prior to the issuance of building permits.
20. **Recreation (Increase Demand for Parks or Recreational Facilities – Zone Change).** Pursuant to Section 12.33 of the Los Angeles Municipal Code, the applicant shall pay the applicable fees for the construction of dwelling units.
21. **Utilities (Local Water Supplies - All New Construction/Condo Conversions).** The following mitigations shall be imposed to mitigation the impact of the cumulative increase in demand on the City's water supplies resulting from the Project.
- a. If conditions dictate, the Department of Water and Power may postpone new water connections for this Project until water supply capacity is adequate.
 - b. Install high-efficiency toilets (maximum 1.28 gallons per flush), including dual-flush water closets, and high-efficiency urinals (maximum 0.5 gallons per flush), including no-flush or waterless urinals, in all restrooms as appropriate.
 - c. Install restroom faucets with a maximum flow rate of 1.5 gallons per minute.
 - d. Install no more than one showerhead per shower stall, having a flow rate no greater than 2.0 gallons per minute.
 - e. Install and utilize only high-efficiency clothes washers (water factor of 6.0 or less) in the Project, if proposed to be provided in either individual units and/or in a common laundry room(s). If such appliance is to be furnished by a tenant, this requirement shall be incorporated into the lease agreement, and the applicant shall be responsible for ensuring compliance.

- f. Install and utilize only high-efficiency Energy Star-rated dishwashers in the Project, if proposed to be provided. If such appliance is to be furnished by a tenant, this requirement shall be incorporated into the lease agreement, and the applicant shall be responsible for ensuring compliance.

C. Administrative Conditions:

1. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Planning Department for placement in the subject file.
2. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions are more restrictive.
3. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assign. The agreement must be submitted to the Planning Department for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Planning Department for attachment to the file.
4. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public officials, legislation or their successors, designees or amendment to any legislation.
5. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Planning Department and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
6. **Building Plans.** Page 1 of the grants and all the conditions of approval shall be printed on the building plans submitted to the City Planning Department and the Department of Building and Safety.
7. **Project Plan Modifications.** Any corrections and/or modifications to the Project plans made subsequent to this grant that are deemed necessary by the Department of Building and Safety, Housing Department, or other Agency for Code compliance, and which involve a change in site plan, floor area, parking, building height, yards or setbacks, building separations, or lot coverage, shall require a referral of the revised plans back to the Department of City Planning for additional review and final sign-off prior to the issuance of any building permit in connection with said plans.
8. **Mitigation Monitoring.** Pursuant to California State Public Resources Code Section 21081.6 and the California Environmental Quality Act, the applicant and any future owners, successors, heirs or assigns shall provide the Planning Department with status reports for assessing and ensuring the efficacy of the mitigation measures (environmental conditions) required herein.
 - a. Within 30 days of the effective date of this land use entitlement and prior to any Planning Department clearance of the conditions of approval contained herein, the applicant shall file a Mitigation Monitoring and Reporting Program (MMRP) in a

manner satisfactory to the Planning Department which defines specific reporting and/or monitoring requirements to be enforced during Project implementation. Each environmental condition shall be identified as to the responsible mitigation monitor(s), the applicable enforcement agency, the applicable monitoring agency and applicable phase of Project implementation as follows:

- i. Pre-construction (prior to issuance of a building permit);
- ii. Construction (prior to certificate of occupancy); and
- iii. Post-construction / maintenance (post-issuance of certificate of occupancy).

In some cases, a specific mitigation measure may require compliance monitoring during more than one phase of Project implementation. Such measures shall be noted within the discussion of the specific mitigation measure in the MMRP.

- b. The applicant shall demonstrate compliance with each mitigation measure in a written report submitted to the Planning Department and the applicable enforcement agency prior to issuance of a building permit or certificate of occupancy, and, as applicable, provide periodic status reports to the Planning Department regarding compliance with post-construction / maintenance conditions.
 - c. If the environmental conditions include post-construction / maintenance mitigation measures, the applicant and all future owners, successors, heirs or assigns shall be obligated to disclose these ongoing mitigation monitoring requirements to future buyers of the subject property.
 - d. The applicant and any future owners, successors, heirs or assigns shall reimburse the Planning Department for its actual costs, reasonably and necessarily incurred, necessary to accomplish the required review of periodic status reports.
9. **Indemnification and Reimbursement of Litigation Costs.** The applicant shall do all of the following:
- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
 - (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
 - (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$25,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).

- (iv) Submit supplemental deposits within 15 days of notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it appropriate to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

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

For purposes of this condition, the following definitions apply:

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

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

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