

CONDITIONS OF APPROVAL

As modified by the City Planning Commission on December 21, 2017

Pursuant to Section 11.5.11(e) and 16.05 of the Los Angeles Municipal Code, the following conditions are hereby imposed upon the use of the subject property:

A. Development Conditions

1. **Site Development.** The use and development of the subject property shall be in substantial conformance with the site plan labeled Exhibit "A". Prior to the issuance of building permits, detailed development plans including a site plan illustrating elevations, facades, and architectural treatment, and a landscape/irrigation plan shall be submitted for review and approval by the Central Project Planning Bureau of the Department of City Planning. The plans shall comply with provisions of the Municipal Code, the subject conditions, and the intent of the subject permit authorization.
2. **Use.** The Project shall be limited to a 100 percent affordable housing building, exclusive of the manager's unit, as defined by the Los Angeles Municipal Code (LAMC) Section 11.5.11(a)(3). Ancillary uses; such as, office space for on-site social services for residents may be permitted in conjunction with the proposed Project.
3. **Wiggins Settlement.** Prior to the issuance of a demolition permit or building permit, the applicant shall submit documentation to the Department of City Planning demonstrating the following:
 - a. Clearance from the Community Redevelopment Agency or its successor agency for compliance with the Wiggins Settlement pertaining to any applicable requirements for the replacement of any previously existing affordable units on the site and/or for the provisions of new affordable units, as determined by the Community Redevelopment Agency or any successor agency responsible for implementation or enforcement of the Wiggins Settlement.
 - b. Clearance from the Housing and Community Investment Department for compliance with the Wiggins Settlement pertaining to any applicable requirements for the replacement of any previously existing affordable units on the site and/or for the provisions of new affordable units, as determined by the Housing and Community Investment Department for implementation or enforcement of the Wiggins Settlement.
4. **Affordable Units.** A minimum of 81 units shall be designated as Restricted Affordable Units and reserved for Very-Low Income households, as defined by LAMC Section 11.5.11(j).
5. **Changes in Restricted Units.** Deviations that change the composition of units shall be consistent with LAMC Section 11.5.11(a)(3).
6. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA) to make 81 units available to Very-Low Income Households, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant 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 with any monitoring requirements established by the HCIDLA.

7. Developer's Incentives.

- a. A minimum of 3,380 square feet of open space may be provided in lieu of the minimum required 8,225 square feet of open space;
- b. A minimum of 10 trees may be provided in lieu of the minimum required 21 trees.
 - i. 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";
 - ii. Except as modified herein, the landscape plan shall comply with the applicable regulations of LAMC Section 12.21-G.

8. Landscaping.

- a. Tree Wells.
 - i. The minimum depth of tree wells on the rooftop shall be as follows:
 1. Minimum depth for trees shall be 42 inches.
 2. Minimum depth for shrubs shall be 30 inches.
 3. Minimum depth for herbaceous plantings and ground cover shall be 18 inches.
 4. Minimum depth for an extensive green roof shall be 3 inches.
 - ii. The minimum amount of soil volume for tree wells on the rooftop shall be based on the size of the tree at maturity:
 1. 600 cubic feet for a small tree (less than 25 feet tall at maturity).
 2. 900 cubic feet for a medium tree (25-40 feet tall at maturity).
 3. 1,200 cubic feet for a large tree (more than 40 feet tall at maturity).
- b. Any trees that are required pursuant to LAMC Section 12.21 G and are planted on any podium or deck shall be planted in a minimum three (3) foot planter.
- c. New trees planted within the public right-of-way shall be spaced not more than an average of 30 feet on center, unless otherwise permitted by the Urban Forestry Division, Bureau of Public Works.

9. Parking.

- a. The project shall provide unbundled parking leases for residential units. Residential tenants shall have the option to lease parking spaces separately from the residential dwelling units or commercial tenant space, or to opt out of leasing parking spaces.
- b. Electric Vehicle Parking. The project shall include at least twenty percent (20%) of the total provided parking spaces provided for all types of parking facilities, but in no case less than one location, shall be capable of supporting future electric vehicle supply equipment (EVSE). Plans shall indicate the proposed type and location(s) of

EVSE and also include raceway method(s), wiring schematics and electrical calculations to verify that the electrical system has sufficient capacity to simultaneously charge all electric vehicles at all designated EV charging locations at their full rated amperage. Plan design shall be based upon Level 2 or greater EVSE at its maximum operating capacity. Of the 20% EV Ready, five (5) percent of the total provided parking spaces shall be further provided with EV chargers to immediately accommodate electric vehicles within the parking areas. When the application of either the 20% or 5% results in a fractional space, round up to the next whole number. A label stating "EVCAPABLE" shall be posted in a conspicuous place at the service panel or subpanel and next to the raceway termination point.

10. Rooftop Equipment.

- a. All mechanical equipment on the roof shall be screened from view. The transformer, if located in the front yard, shall be screened with landscaping.
- b. Prior to the issuance of the Certificate of Occupancy, the applicant shall install a minimum of 1,248 square feet of solar panels. The solar panels may be installed within multiple areas; however, the total area shall not be less than 1,248 square feet.

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

12. **Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties, the public right-of-way, nor from above.

B. Environmental Conditions

13. **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:
 - i. 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.

- ii. 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.
- iii. 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. Construction personnel shall be instructed on the sensitivity of the area.
- iv. 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.

14. Tree Removal (Public Right-of-Way)

- a. Removal of trees in the public right-of-way requires approval by the Board of Public Works.
- b. The required Tree Report shall include the location, size, type, and condition of all existing trees in the public right-of-way and shall be submitted for review and approval by the Urban Forestry Division of Bureau of Street Services, Department of Public Works (213-847-3077)
- c. The plan shall contain measures recommended by the tree expert for the preservation of as many 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.
- d. All trees in the public right-of-way shall be provided per the current Urban Forestry Division standards.

15. Increased Noise Levels (Demolition, Grading, and Construction Activities).

- 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.

- d. A temporary noise control barrier shall be installed on the property line of the construction site abutting residential uses. The noise control barrier shall be engineered to reduce construction-related noise levels at the adjacent residential structures with a goal of a reduction of 10dBA. The supporting structure shall be engineered and erected according to applicable codes. The temporary barrier shall remain in place until all windows have been installed and all activities on the project site are complete.

16. **Public Services (Police – Demolition/Construction Sites).** Temporary construction fencing shall be placed along the periphery of the active construction areas to screen as much of the construction activity from view at the local street level and to keep unpermitted persons from entering the construction area.

C. Administrative Conditions

17. **Approvals, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, reviews or approval, plans, etc, as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
18. **Code Compliance.** All area, height and use regulations of the zone classification of the subject property shall be complied with, except wherein these conditions explicitly allow otherwise.
19. **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 Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
20. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
21. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
22. **Building Plans.** A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
23. **Corrective Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the City Planning Commission, or the Director pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if, in the Commission's or Director's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

24. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

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

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

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

For purposes of this condition, the following definitions apply:

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

“Action” shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions include 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.