

**PLANNING DEPARTMENT TRANSMITTAL  
TO THE CITY CLERK'S OFFICE**

<b>CITY PLANNING CASE:</b>	<b>ENVIRONMENTAL DOCUMENT:</b>	<b>COUNCIL DISTRICT:</b>
CEQA Appeal	ENV-2017-4873-CE	13 – O'Farrell
<b>PROJECT ADDRESS:</b>		
5627 West Fernwood Avenue		
<b>APPLICANT</b>	<b>TELEPHONE NUMBER:</b>	<b>EMAIL ADDRESS:</b>
Amy Anderson, PVH LA LP, People Assisting the Homeless (PATH)	(323) 664-2270	
<input type="checkbox"/> New/Changed		
<b>APPLICANT'S REPRESENTATIVE</b>	<b>TELEPHONE NUMBER:</b>	<b>EMAIL ADDRESS:</b>
Alexander Irvine, Irvine and Associates, Inc.		
<b>APPELLANT</b>	<b>TELEPHONE NUMBER:</b>	<b>EMAIL ADDRESS:</b>
Doug Haines La Mirada Avenue Neighborhood Association of Hollywood P.O. Box 93596 Los Angeles, CA 90093	310-281-7625	
<b>APPELLANT'S REPRESENTATIVE</b>	<b>TELEPHONE NUMBER:</b>	<b>EMAIL ADDRESS:</b>
Robert Silverstein The Silverstein Law Firm 215 N. Marengo Ave., 3 <sup>rd</sup> Floor Pasadena, CA 91101	626-449-4200	
<b>PLANNER CONTACT INFORMATION:</b>	<b>TELEPHONE NUMBER:</b>	<b>EMAIL ADDRESS:</b>
William Hughen	213-978-1182	<a href="mailto:william.hughen@lacity.com">william.hughen@lacity.com</a>
<b>ENTITLEMENTS FOR CITY COUNCIL CONSIDERATION</b>		
N/A		

**FINAL ENTITLEMENTS NOT ADVANCING:**

N/A

**ITEMS APPEALED:**

CEQA appeal

**ATTACHMENTS:****REVISED:****ENVIRONMENTAL CLEARANCE:****REVISED:**

- Letter of Determination
- Findings of Fact
- Staff Recommendation Report
- Conditions of Approval
- Ordinance
- Zone Change Map
- GPA Resolution
- Land Use Map
- Exhibit A - Site Plan
- Mailing List
- Land Use
- Other \_\_\_\_\_

- 
- 
- 
- 
- 
- 
- 
- 
- 
- 
- 
- 

- Categorical Exemption
- Negative Declaration
- Mitigated Negative Declaration
- Environmental Impact Report
- Mitigation Monitoring Program
- Other \_\_\_\_\_

- 
- 
- 
- 
- 
- 

**NOTES / INSTRUCTION(S):**

Related Case: DIR-2017-4872-TOC-1A

**FISCAL IMPACT STATEMENT:** Yes No

\*If determination states administrative costs are recovered through fees, indicate "Yes".

**PLANNING COMMISSION:**

- City Planning Commission (CPC)
- Cultural Heritage Commission (CHC)
- Central Area Planning Commission
- East LA Area Planning Commission
- Harbor Area Planning Commission

- North Valley Area Planning Commission
- South LA Area Planning Commission
- South Valley Area Planning Commission
- West LA Area Planning Commission

<b>PLANNING COMMISSION HEARING DATE:</b>	<b>COMMISSION VOTE:</b>
May 10, 2018	6 - 0
<b>LAST DAY TO APPEAL:</b>	<b>APPEALED:</b>
N/A	CEQA Appeal on 6/8/18
<b>TRANSMITTED BY:</b>	<b>TRANSMITTAL DATE:</b>
Rocky Wiles Commission Office	June 12, 2018



# LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300  
[www.planning.lacity.org](http://www.planning.lacity.org)

## LETTER OF DETERMINATION

MAILING DATE: MAY 25 2018

Case No. DIR-2017-4872-TOC-1A  
CEQA: ENV-2017-4873-CE  
Plan Area: Hollywood

Council District: 13 – O'Farrell

**Project Site:** 5627 West Fernwood Avenue

**Applicant:** Amy Anderson, PVH LA LP, People Assisting the Homeless (PATH)  
Representative: Alexander Irvine, Irvine and Associates, Inc.

**Appellant:** Eden Taylor  
Representative: Robert Silverstein, Silverstein Law Firm

At its meeting of **May 10, 2018**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following project:

Demolition of an existing two-story homeless shelter with supportive services building and the construction, use, and maintenance of a six-story, 60 unit, permanent supportive housing residential building totaling 74 feet in height with 14 automobile parking spaces, six (6) short-term bicycle parking spaces, and 60 long-term bicycle parking spaces.

1. **Determined** based on the whole of the administrative record that the project is exempt from CEQA pursuant to CEQA Guidelines, Section 21080 of the California Public Resources Code and Article 19, Class 32, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Approved** the appeal in part and **denied** the appeal in part;
3. **Sustained** the Planning Director's determination to approve approving a 65 percent increase in density consistent with the provisions of the Transit Oriented Communities Affordable Housing Incentive Program along with the following three (3) incentives for a qualifying Tier 4 project totaling 60 dwelling units, reserving 59 units as affordable for Extremely Low, Very Low, or Lower Income Households<sup>1</sup>:
  - a. Front and rear yard setbacks: A five (5)-foot, one (1)-inch reduction to permit a front yard setback of nine (9) feet, 11 inches in lieu of the minimum 15 feet required in the R4-2 Zone; and a six (6)-foot, three (3)-inch reduction to permit a rear yard setback of 11 feet, nine (9) inches in lieu of the minimum 18 feet required in the R4-2 Zone;
  - b. Side yard setbacks: A three (3)-foot, one (1)-inch reduction to permit side yard setbacks of five (5) feet, 11 inches in lieu of minimum nine (9) feet required in the R4-2 Zone; and
  - c. Open Space. A 1,506 square-foot reduction to permit a minimum of 4,519 square feet of open space in lieu of the minimum 6,025 square feet required in the R4-2 Zone.


<sup>1</sup> As those income ranges are defined by the United States Department of Housing and Urban Development (HUD) or any successor agency as verified by the Housing and Community Investment Department (HCIDLA).

- 4. **Adopted** the attached Conditions of Approval, as modified by the Commission; and
- 5. **Adopted** the attached Findings.

The vote proceeded as follows:

**Moved:** Dake Wilson  
**Seconded:** Khorsand  
**Ayes:** Choe, Millman, Mitchell, Perlman  
**Absent:** Ambroz, Padilla-Campos

**Vote:** 6 – 0

  
\_\_\_\_\_  
James K. Williams, Commission Executive Assistant II  
Los Angeles City Planning Commission

**Effective Date/Appeals:** *The decision of the Los Angeles City Planning Commission is final and not further appealable.*

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Modified Conditions of Approval, Findings

- c: Nicholas Hendricks, Senior City Planner
- Courtney Shum, City Planner
- William Hughen, Planning Assistant



## CONDITIONS OF APPROVAL

As modified by the City Planning Commission on May 10, 2018

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

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the Applicant, stamped "Exhibit A," and attached to the subject case file. No change to the plans will be made without prior review by the Department of City Planning, Expedited Processing Section, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Los Angeles Municipal Code or the project conditions.
2. **Residential Density.** The project shall be limited to a maximum density of 60 residential units, including On-site Restricted Affordable Units.
3. **Affordable Units.** Pursuant to Section IV.1.d of the TOC Guidelines, the Applicant shall provide a minimum of 11% of the total units to be reserved as Extremely Low Income as defined by Section 50106 of the California Health and Safety Code, or 15% to be reserved as Very Low Income as defined by Section 50105 of the California Health and Safety Code, or 25% to be reserved as Lower Income as defined by Section 50079.5 of the California Health and Safety Code. With the exception of the manager's unit and the minimum units required under Section IV.1.d of the TOC Guidelines, all remaining units shall be restricted to Extremely Low, Very Low or Lower Income households as those income ranges are defined by the United States Department of Housing and Urban Development (HUD) or any successor agency, as verified by the Housing & Community Investment Department (HCIDLA).
4. **Changes in Restricted Units.** Deviations that increase the number of restricted affordable units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22-A.25.
5. **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 59 units available to Extremely Low, Very-Low Income, or Lower Income Households, consistent with Condition No. 3 of this approval, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. In the event, the applicant reduces the proposed density of the project, the number of required set-aside affordable units may be adjusted, consistent with LAMC Section 12.22-A.25, to the satisfaction of HCIDLA, and in consideration of the project's AB 2222 Determination. 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. Refer to the Density Bonus Legislation Background section of this determination.
6. **Setbacks.** The project is permitted the following reduced setbacks:
  - a. **Side Yards.** Five (5)-foot, 11-inch side yards in lieu of the minimum nine (9) feet otherwise required.

- b. **Front Yard.** A nine (9)-foot, 11-inch front yard in lieu of the minimum 15 feet otherwise required.
    - c. **Rear Yard.** An 11-foot, nine (9)-inch rear yard shall be permitted in lieu of the minimum 18 feet otherwise required.
7. **Open Space.** A minimum of 4,519 square feet of open space shall be permitted in lieu of the minimum 6,025 square feet otherwise required.
8. **Parking.**
  - a. **Automotive Parking.** No automobile parking is required.
  - b. **Bicycle Parking.** The project shall provide a minimum of 60 long-term bicycle parking spaces and six (6) short-term bicycle parking spaces. In the event that the number of On-Site Restricted Affordable Units should increase or the composition of such units should change, then no modification of this determination shall be necessary and the number of bicycle parking spaces shall be re-calculated consistent with LAMC Section 12.21-A.16.
9. **Landscaping.** All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped, including an automatic irrigation system, and maintained in accordance with a landscape plan prepared by a licensed landscape architect or licensed architect, and submitted for approval to the Department of City Planning. 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.
10. **Mechanical Equipment.** All mechanical equipment on the roof shall be screened from view. The transformer, if located in the front yard, shall be screened with landscaping.
11. **Complaint Log.** A sign shall be posted on site containing a telephone number and email address to be contacted in the event that the operation of the establishment is causing concerns or problems in the neighborhood resulting from the subject use. The hotline shall be available at all times to receive and resolve complaints regarding the operation of the use. If a live person is not available to answer the telephone call, a voicemail system shall be established for members of the public to report any problems associated with the operation of the use. An email address to submit concerns shall also be established and made available to the public. A live person shall respond to all voicemail and email messages within 24 hours of the call or email being placed. A logging of such complaints will be secured by management. Complaints will be available for review to the Los Angeles Police Department (LAPD) and government officials upon request.
12. **MERV Filtration.** An air filtration system shall be installed and maintained with filters meeting or exceeding the ASHRAE Standard 52.2 Minimum Efficiency Reporting Value (MERV) of 13. The air filtration system shall be installed to the satisfaction of the Department of Building and Safety.

During operation, the Applicant or its successor shall verify that all air filters are properly maintained through inspection, self-certification, survey, or other equally effective measure. In addition, the Applicant or its successor shall be responsible for the replacement of all air filters at intervals to be established by the heating, ventilation and air conditioning (HVAC) system manufacturer. The Applicant or its successor shall retain, and make available to the City upon request, maintenance records related to the inspection and replacement of all air filters for at least 5 years after the recorded inspection date. The Applicant or its successor

shall also ensure that long term funding for air filter maintenance and replacement is available.

### Administrative Conditions

13. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building & Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building & Safety for final review and approval by the Department of City Planning. All plans that are awaiting issuance of a building permit by the Department of Building & Safety shall be stamped by Department of City Planning staff "Final Plans". A copy of the Final Plans, supplied by the applicant, shall be retained in the subject case file.
14. **Notations on Plans.** Plans submitted to the Department of Building & Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet, and shall include any modifications or notations required herein.
15. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.
16. **Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
17. **Department of Building & Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building & Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building & Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
18. **Department of Water and Power.** Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power (LADWP) for compliance with LADWP's Rules Governing Water and Electric Service. Any corrections and/or modifications to plans made subsequent to this determination in order to accommodate changes to the project due to the under-grounding of utility lines, that are outside of substantial compliance or that affect any part of the exterior design or appearance of the project as approved by the Director, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
19. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
20. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day that an appeal may be filed), the grant shall be considered null and void. Issuance of a building permit, and the initiation of, and diligent continuation of, construction activity shall constitute utilization for the purposes of this grant.
21. **Expedited Processing Section Fee.** Prior to the clearance of any conditions, the applicant



shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.

## 22. Indemnification and Reimbursement of Litigation Costs.

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out, in whole or in part, of the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

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

For purposes of this condition, the following definitions apply:

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

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

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

## FINDINGS

As amended by the City Planning Commission on May 10, 2018

### TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM/AFFORDABLE HOUSING INCENTIVES COMPLIANCE FINDINGS

Pursuant to Section 12.22 A.31(e) of the LAMC, the Director shall review a Transit Oriented Communities Affordable Housing Incentive Program project application in accordance with the procedures outlined in LAMC Section 12.22 A.25(g).

**1. Pursuant to Section 12.22 A.25(g) of the LAMC, the Director shall approve a density bonus and requested incentive(s) unless the director finds that:**

- a. *The incentives are not required to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units.*

The record does not contain substantial evidence that would allow the Director to make a finding that the requested incentives are not necessary to provide for affordable housing costs per State Law. The California Health & Safety Code Sections 50052.5 and 50053 define formulas for calculating affordable housing costs for very low, low, and moderate income households. Section 50052.5 addresses owner-occupied housing and Section 50053 addresses rental households. Affordable housing costs are a calculation of residential rent or ownership pricing not to exceed 25 percent gross income based on area median income thresholds dependent on affordability levels.

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

*Yards.* The requested yard incentives, including the averaging of the adjoining buildings' front yard setbacks along the same street frontage to determine the proposed project front yard setback, a 35% reduction in the required rear yard setback, and a 35% reduction in the required side yards, are expressed in the Menu of Incentives in the Transit Oriented Communities Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate affordable housing costs. The requested incentives allow the developer to reduce setback requirements so the permanent supportive housing units reserved for Extremely Low, Very Low, or Lower Income Households can be constructed and the overall space dedicated to residential uses is increased. These incentives support the applicant's decision to reserve 59 units as permanent supportive housing units reserved for Extremely Low, Very Low, or Lower Income Households. One (1) unit will be set aside as a market-rate manager's unit, for a total of 60 units.

*Open Space.* The requested open space incentive, including a 25% reduction in the permitted open space area, is expressed in the Menu of Incentives in the Transit Oriented Communities Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate affordable

housing costs. The requested incentive will allow the developer to reduce open space requirements so the permanent supportive housing units reserved for Extremely Low, Very Low, or Lower Income Households can be constructed and the overall space dedicated to residential uses is increased. This incentive supports the applicant's decision to reserve 59 units as permanent supportive housing units reserved for Extremely Low, Very Low, or Lower Income Households. One (1) unit will be set aside as a market-rate manager's unit, for a total of 60 units.

- 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 are no feasible method to satisfactorily mitigate or avoid the specific adverse Impact without rendering the development unaffordable to Very Low, Low and Moderate Income households. Inconsistency with the zoning ordinance or the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.*

There is no evidence that the proposed incentive will have a specific adverse impact. A "specific adverse impact" is defined as "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22 A.25(b)). The proposed Project and potential impacts were analyzed in accordance with the California Environmental Quality Act (CEQA) Guidelines and the City's L.A. CEQA Thresholds Guide. These two documents establish guidelines and thresholds of significant impact, and provide the data for determining whether or not the impacts of a proposed Project reach or exceed those thresholds. Analysis of the proposed Project determined that it is Categorical Exempt from environmental review pursuant to Article 19, Class 32 of the CEQA Guidelines.

The Class 32 Exemption is intended to promote infill development within urbanized areas. The proposed project qualifies for a Class 32 Categorical Exemption because it conforms to the definition of "Infill Projects" as further described in the analysis for Case No. ENV-2017-4873-CE. The five (5) conditions which the project must meet in order to qualify for the Class 32 Categorical Exemption are as follows: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations; (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) The project site has no value as habitat for endangered, rare or threatened species; (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) The site can be adequately served by all required utilities and public services. The project, as proposed, was determined to meet all five conditions. Furthermore, planning staff evaluated the exceptions to the use of Categorical Exemptions for the proposed ordinance listed in "CEQA Guidelines" Section 15300.2 and determined that none of the exceptions apply to the proposed project.

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, or on property listed in the California Register of Historic Resources.

## **ADDITIONAL MANDATORY FINDINGS**

2. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, which is categorized as an area of minimal flooding.
3. DETERMINED based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to State CEQA Guidelines, Section 15300 and Article III, Section 1, Class 32, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.