

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

CITY PLANNING CASE:	ENVIRONMENTAL DOCUMENT:	COUNCIL DISTRICT:
CEQA APPEAL	ENV-2013-2332-CE	5 – Koretz
PROJECT ADDRESS:		
2136 – 2140 Westwood Boulevard		
APPLICANT	TELEPHONE NUMBER:	EMAIL ADDRESS:
Farzad Halavi Westwood3, LLC 11040 Santa Monica Blvd, Suite 400 Los Angeles, CA 90025 <input type="checkbox"/> New/Changed		
APPLICANT'S REPRESENTATIVE	TELEPHONE NUMBER:	EMAIL ADDRESS:
Eli Halavi Westwood3, LLC 11040 Santa Monica Blvd, Suite 400 Los Angeles, CA 90025	310-477-0110	
APPELLANT	TELEPHONE NUMBER:	EMAIL ADDRESS:
Dr. Stewart Fordham Concerned Neighbors of Glendon Avenue 2121 Glendon Avenue Los Angeles, CA 90025		
APPELLANT'S REPRESENTATIVE	TELEPHONE NUMBER:	EMAIL ADDRESS:
Mitchell M. Tsai, Mitchell M. Tsai, Attorney at Law 155 South El Molino Avenue #104 Pasadena, CA 91101	626-381-9248	mitch@mitchtsailaw.com
PLANNER CONTACT INFORMATION:	TELEPHONE NUMBER:	EMAIL ADDRESS:
Jordann Turner	213-978-1365	jordann.turner@lacity.org
ENTITLEMENTS FOR CITY COUNCIL CONSIDERATION		
CEQA APPEAL		

FINAL ENTITLEMENTS NOT ADVANCING:

N/A

ITEMS APPEALED:

ENV-2013-2332-CE

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

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

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NOTES / INSTRUCTION(S):

Related to Case No. DIR-2013-2331-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

PLANNING COMMISSION HEARING DATE:	COMMISSION VOTE:
January 24, 2019	6 – 0
LAST DAY TO APPEAL:	APPEALED:
N/A	Yes
TRANSMITTED BY:	TRANSMITTAL DATE:
James K. Williams Commission Executive Assistant II	April 1, 2019



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300

www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: FEB 26 2019

Case No. DIR-2013-2331-TOC-1A

CEQA: ENV-2013-2332-CE

Plan Area: West Los Angeles

Council District: 5 – Koretz

Project Site: 2136-2140 Westwood Boulevard

Applicant: Farzad Halavi, Westwood3, LLC
Representative: Eli Halavi

Appellant: Dr. Stewart Fordham
Representative: John P. Given, Law Offices of John P. Given

At its meeting of **January 24, 2019**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following project:

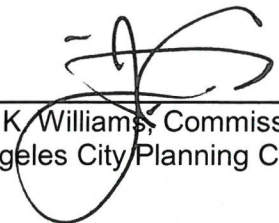
The proposed project includes construction and maintenance of a new, 56-feet in height, residential building with 77 residential units, 6,300 square feet of open space, 70 automobile parking spaces, 8 short-term bicycle parking spaces, and 78 long-term bicycle parking spaces. The project sets aside seven of the proposed residential units for Extremely Low Income Households.

1. **Determined** that based on the whole of the administrative record, the project is exempt from CEQA pursuant to State CEQA Guidelines, Section 15300, 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;
2. **Denied** the appeal in part and **granted** the appeal in part;
3. **Sustained** the Director of Planning's determination to conditionally approve, pursuant to Section 12.22 A.31 of the Los Angeles Municipal Code (LAMC), a 60 percent increase in density consistent with the provisions of the Transient Oriented Communities (TOC) Affordable Housing Incentive Program for a Tier 2 project, totaling 77 dwelling units with 7 units reserved for Extremely Low Income Households along with the following three incentives:
 - a. Height. A maximum height of 56-feet in lieu of the maximum permitted 45-feet;
 - b. Setbacks (side). A reduction in required side yards to correspond to those of the RAS3 Zone; and
 - c. Open Space. A 20 percent reduction in the required open space.
4. **Adopted** the attached Conditions of Approval as modified by the Commission; and
5. **Adopted** the attached Findings.

The vote proceeded as follows:

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

Vote: 6 – 0



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

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

Effective Date/Appeals: *The decision of the Los Angeles City Planning Commission is final and effective upon the mailing of this determination letter and not further appealable.*

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable** and the decision is final. The applicant is advised that any work undertaken while the CEQA clearance is on appeal is at his/her/its own risk and if the appeal is granted, it may result in (1) voiding and rescission of the CEQA clearance, the Determination, and any permits issued in reliance on the Determination and (2) the use by the City of any and all remedies to return the subject property to the condition it was in prior to issuance of the Determination.

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.

Attachment: Modified Conditions of Approval, Findings

c: Nicholas Hendricks, Senior City Planner
Jordann Turner, City Planner

CONDITIONS OF APPROVAL

As modified by the City Planning Commission on January 24, 2019

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. Minor deviations may be allowed in order to comply with the provisions of the Los Angeles Municipal Code or the project conditions. Changes beyond minor deviations required by other City Departments or the LAMC may not 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. Additionally, the ground floor along Westwood Boulevard shall be designed in a manner to maximize the pedestrian engagement of the proposed project to the satisfaction of the Director of Planning or his designee.
2. **Residential Density.** The project shall be limited to a maximum density of 77 residential units, including on-site Restricted Affordable Units.
3. **On-site Restricted Affordable Units.** Seven (7) dwelling units, or equal to nine percent of the project's total proposed density, shall be reserved for Extremely Low Income Households, as defined by the Los Angeles Housing and Community Investment Department (HCIDLA) and California Government Code Section 65915(c)(2).
4. **Changes in On-site Restricted Units.** Deviations that increase the number of On-site Restricted Units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22-A.31.
5. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the HCIDLA to make seven (7) units available to Extremely Low Income Households or equal to nine percent of the project's total proposed residential density allowed, 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 reserved on-site Restricted Units may be adjusted, consistent with LAMC Section 12.22-A,31, 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. **Base Incentives.**
 - a. **Floor Area Ratio.** The project is permitted to have an F.A.R. of 3.25 to 1.
 - b. **Parking.**
 - i. **Automotive Parking.** Automobile parking shall be provided consistent with LAMC Section 12.22-A.31, which permits a maximum of one (1) parking space per residential unit or 0.5 parking space per bedroom for a Tier 2 Project.

subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.

13. **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.
14. **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.
15. **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.
16. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
17. **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.
18. **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.
19. **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 of, 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

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

1. 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).
 - 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, moderate, and extreme 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 base 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. The on-menu incentives are required to provide for affordable housing costs because the incentives by their nature may increase the scale of the project. The additional incentives requested for setbacks and open space reduction, would result in building design or construction efficiencies that provide for affordable housing costs. As a result of the prescribed incentives, it is likely that the Director will always conclude that the incentives are required for such projects to provide for affordable housing units as identified by the TOC Guidelines.

Height. The requested increase in height 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 provide for affordable housing costs. The C4-1VL-POD zone allows a building height of 45 feet. The TOC height incentive allows for an additional 11 feet in height and one additional stories thereby creating a building envelope with the area necessary to accommodate the proposed density, including the affordable housing units. The project is 56 feet in height and six stories with one level of subterranean parking. The requested incentives in combination with the requested floor area of 28,422 square feet will allow the developer to increase the amount of units in the building so seven (7) units reserved for Extremely Low Income Households can be constructed and the overall space dedicated to residential uses is increased. This incentive supports the applicant's decision to reserve seven (7) units as affordable housing units reserved for Extremely Low Income Households.

Setbacks (Sides). The requested yard incentives, which include utilization of all of the yard requirements for the RAS3 Zone, 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 housing units reserved for Extremely Low Income Households can be constructed and the overall space dedicated to residential uses is increased. These incentives support the applicant's decision to reserve seven housing units for Extremely Low Income Households.

Open Space. The requested open space incentive, allowing a 20 percent reduction of the open space requirements, 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. Per LAMC, the proposed project is required a minimum of 7,875 square feet for open space, however, the project will be utilizing the open space incentive to reduce the minimum open space requirement to 6,300 square feet. The reduction in open space by approximately 20 percent allows the inclusion of affordable housing while still providing usable open space as intended by the code. The requested incentive allows the developer to reduce open space requirements so that affordable housing units reserved for Extremely Low Income Households can be constructed and the overall space dedicated to residential uses is increased. These incentives support the applicant's decision to reserve seven (7) units as affordable housing units reserved for Extremely Low Income Households.

- 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 Categorically Exempt from environmental review pursuant to Article 19, Class 32 of the CEQA Guidelines.

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 outside of a flood zone.
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.