

## FINDINGS

### Density Bonus/Affordable Housing Incentives Compliance Findings

1. Pursuant to Section 12.22 A.25(g)(2)(i)(c) of the LAMC, the Director shall approve a density bonus and requested incentive(s) unless the Director finds that:<sup>2</sup>
  - a. *The Incentive is 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 City Planning Commission to make a finding that the requested off-menu incentives are not necessary to provide for affordable housing costs per State Law. The California Health and 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 depending on affordability levels.

Based on the set-aside of 10 percent of the base density for Very Low Income households, the applicant is entitled to two incentives under both Government Code Section 65915 and the LAMC. Therefore, the two off-menu requests for increased floor area ratio and height/stories qualify as the proposed development incentives. The remaining request to allow for a rear yard reduction must be processed as a Waiver of Development Standard.

#### Floor Area Ratio

The subject site is zoned C2-1VL-O (Commercial Zone, Height District No. 1VL, Oil Drilling District). Commercially-zoned properties within Height District No. 1VL are permitted a maximum Floor Area Ratio (FAR) of 1.5 to 1. The applicant has requested a further increase in FAR to 3.1 to 1 through an off-menu incentive. The project includes dwelling units ranging from 547 to 1,257 square feet in size. The requested increase in FAR will allow 28,130 square feet of additional floor area, and will allow for the construction of affordable units in addition to larger-sized dwelling units. Granting of the off-menu incentive would result in a building design and construction efficiencies that provide for affordable housing costs; it enables the developer to expand the building envelope so that additional affordable units can be constructed and the overall space dedicated to residential uses is increased. The increased building envelope also ensures that all dwelling units are of a habitable size while providing a variety of unit types. These incentives support the applicant's decision to set aside a minimum of five dwelling units for Very Low Income households for 55 years.

#### Height and Stories

The project site, located within the C2 Zone and Height District No. 1VL, is permitted a maximum building height of 45 feet and three stories. The applicant has requested to increase the allowable building height to 61 feet and five stories through an off-menu

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<sup>2</sup> Pursuant to LAMC Section 12.22-A,25(g)(3), the City Planning Commission is considered the decision-maker for off-menu density bonus requests. The findings referenced in LAMC Section 12.22-A,25(g)(2)(i)(c) apply to off-menu requests.

incentive. The requested increase in height will allow an additional two stories and 16 feet in building height, and will accommodate the construction of affordable units in addition to larger-sized dwelling units. Granting of the off-menu incentive would result in a building design and construction efficiencies that provide for affordable housing costs; it enables the developer to expand the building envelope so that additional affordable units can be constructed and the overall space dedicated to residential uses is increased. The increased building envelope also ensures that all dwelling units are of a habitable size while providing a variety of unit types. These incentives support the applicant's decision to set aside a minimum of five dwelling units for Very Low Income households for 55 years.

- b. *The Incentive will have a Specific Adverse Impact upon public health and safety or the physical environment or any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the Specific Adverse Impact without rendering the development unaffordable to Very Low, Low and Moderate Income households. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.***

There is no evidence that the proposed density bonus incentives will have a specific adverse impact upon public health and safety or the physical environment, or any real property that is listed in the California Register of Historical Resources. 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 project does not involve a contributing structure in a designated Historic Preservation Overlay Zone or on the City of Los Angeles list of Historical-Cultural Monuments. With regard to the surrounding uses, the nearest historic resource to the project site is the Farmers Market and Rancho La Brea Adobe (a designated Historic-Cultural Monument), located approximately 800 feet east of the project site. However, based on the project site's proximity to this historic resource, the project would not impinge on noteworthy views of the building nor would it cause an adverse change in the significance of a historical resource. The project is not located on a substandard street in a Hillside area or a Very High Fire Hazard Severity Zone. There is no evidence in the record which identifies a written objective health and safety standard that has been exceeded or violated. Based on the above, there is no basis to deny the requested incentives. Therefore, there is no substantial evidence that the project's proposed incentives 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.

- c. *The waiver[s] or reduction[s] of development standards will not have the effect of physically precluding the construction of a development meeting the [affordable set-aside percentage] criteria of subdivision (b) at the densities or with the concessions or incentives permitted under [State Density Bonus Law]" (Government Code Section 65915(e)(1))***

A project that provides 10 percent of base density for Very Low Income Households qualifies for two incentives, and may request other "waiver[s] or reduction[s] of development standards that will have the effect of physically precluding the construction of a development meeting the [affordable set-aside percentage] criteria of subdivision (b) at the densities or with the concessions or incentives permitted under [State Density Bonus Law]" (Government Code Section 65915(e)(1)).

Therefore, the request for a zero-foot rear yard above the ground floor in lieu of the rear yard requirement pursuant to LAMC Sections 12.11-C,3 and 12.14-C,2 is recommended as a Waiver of Development Standards. Without the requested waiver, the existing development standards would preclude development of the proposed density bonus units and project amenities for the reasons stated as follows.

### Rear Yard

Pursuant to LAMC Section 12.22-A,18, the project, as a mixed-use development, may observe zero-foot setbacks at the ground floor and zero-foot setbacks along any street or alley above the ground floor. Any yards above the ground floor not fronting a public street or alley must adhere to the yard requirements of the underlying zone. Only one yard, the rear yard, of the project site does not face a street or alley. Pursuant to LAMC Sections 12.11-C,3 and 12.14-C,2, no rear yards are required for buildings erected and used exclusively for commercial purposes in the C2 zone; however, for all portions of buildings erected and used for residential purposes, a rear yard conforming to the requirements of the R4 Zone shall be provided and maintained at the floor level of the first story used in whole or in part for residential purposes. The R4 zone requires a rear yard of a minimum of 15 feet, and requires one additional foot in depth of the rear yard for each additional story above the third story. The project is a five-story building containing a ground floor with grade-level parking and commercial space and four levels of residential uses above. As such, the project is required to provide a 17-foot rear yard on all upper floors of the building. The applicant requests a zero-foot rear yard in lieu of the otherwise required 17 feet to allow for an expanded building envelope on the upper levels.

A 17-foot rear yard setback would limit the ability to construct the residential dwelling units permitted by-right and the Restricted Affordable Units which are of a sufficient size. This development standard would have the effect of physically precluding construction of a development providing 50 dwelling units, of which a minimum of five units will be set aside for Very Low Income households. As proposed, the reduced rear yard will allow for the construction of the affordable residential units. The requested waiver will allow the developer to expand the building envelope so the additional units can be constructed and the overall space dedicated to residential units is increased.

### Waiver of Dedication and Improvement Findings

2. Pursuant to LAMC Sections 12.37-I,2(b) and 12.37-I,3, the Director<sup>3</sup> may waive, reduce or modify the required dedication or improvement as appropriate after making any of the following findings, based on substantial evidence in the record:
  - a. *The dedication or improvement requirement does not bear a reasonable relationship to any project impact;*
  - b. *The dedication or improvement is not necessary to meet the City's mobility needs for the next 20 years based on the guidelines the Street Standards Committee has established; or*
  - c. *The dedication or improvement requirement is physically impractical.*

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<sup>3</sup> Pursuant to LAMC Section 12.37-I,3, for projects that require a discretionary entitlement, the decision maker for the discretionary entitlement shall process the waiver of dedication and improvement requirements request. The waiver request is subject to the findings set forth in LAMC Section 12.37-I,2(b).

The decision maker **DOES NOT** find, based on substantial evidence in the record that:

- a. The dedication or improvement requirement does not bear a reasonable relationship to any project impact.***

The subject property is located at the southwest corner of 3rd Street and Edinburgh Avenue within the Wilshire Community Plan. 3rd Street is a designated Avenue II under the Mobility Plan 2035, which requires a 43-foot half right-of-way, including a 28-foot half roadway and 15-foot sidewalk/parkway. 3rd Street is currently dedicated to a 40-foot half right-of-way (28-foot half roadway and 12-foot sidewalk/parkway) where the street abuts the subject property. In accordance with the Mobility Plan 2035, the applicant would be required to dedicate three additional feet of land and widen the existing sidewalk to a 15-foot width. The applicant requested a waiver of the Avenue II dedication and improvement requirements for the portion of 3rd Street adjacent to the subject property, and to maintain the existing right-of-way in conjunction with the proposed development.

However, the decision maker determines that the findings cannot be made to approve the requested waiver, as the dedication and improvements along 3<sup>rd</sup> Street **do** bear a reasonable relationship to a project impact. The project site is at a prominent corner along 3<sup>rd</sup> Street, including active uses and a traffic signal. Though the prevailing 3<sup>rd</sup> Street right-of-way is not currently dedicated or improved to the full street standards dimensions, 3<sup>rd</sup> Street represents a commercial corridor with the potential for new development requiring sidewalk dedications and widening. The project's required dedication and improvements will increase the existing sidewalk from 12 feet to 15 feet in accordance with the Mobility Plan and will set a precedent for new development that proceeds it along 3<sup>rd</sup> Street.

In light of the foregoing, the sidewalk dedication and improvements bear a reasonable relationship to the project's impacts. The Waiver of Dedication and Improvement request is henceforth denied based on those grounds.

- b. The dedication or improvement is not necessary to meet the City's mobility needs for the next 20 years based on the guidelines the Street Standards Committee has established.***

The decision maker also determines that the findings cannot be made to approve the requested waiver on the basis that the dedication and improvements along 3<sup>rd</sup> Street **are** necessary to meet the City's mobility needs for the next 20 years. The intent of the Mobility Element is to establish uniform right-of-way dimensions for future development that is not only geared toward vehicular travel, but also to pedestrian access. Especially on commercial corridors such as 3<sup>rd</sup> Street, it is an integral priority of the Mobility Plan 2035 to ensure high quality pedestrian access in all site planning. Imposing the dedication and improvements to construct the standard 15-foot sidewalk along 3<sup>rd</sup> Street is necessary to meet the vision and goals of the Mobility Element, which is intended to promote pedestrian-friendly and walkable streets connected with mixed-use development, businesses and transit. In fact, the Farmers Market, The Grove, Whole Foods Market, and Fairfax High School are all within close proximity to this site. The standard sidewalk will facilitate walkability around the project site, enhance the pedestrian environment and connectivity, and allow the City to maintain street wells, street lighting, and utilities.

Furthermore, the project site is located within the proposed boundaries of the Purple Line Transit Neighborhood Plan. As part of the Transit Neighborhood Plans program, the Department of City Planning is developing regulatory tools and strategies for the areas around these stations. These tools and strategies aim to encourage transit ridership, enhance the urban built environment, and focus new growth and housing in proximity of transit and along corridors, among other priorities.

In light of the foregoing, the sidewalk dedication and improvements are necessary to meet the City's mobility needs for the next 20 years. The Waiver of Dedication and Improvement request is henceforth denied based on those grounds.

***c. The dedication or improvement requirement is physically impractical.***

Finally, the decision maker determines that the findings cannot be made to approve the requested waiver as the dedication and improvement requirement along 3<sup>rd</sup> Street **is not** physically impractical. The applicant cites the property's site constraints as one of the primary reasons for needing the waiver. They have indicated that the limited north-south dimensions of the site severely limit the project's potential retail depth; the additional three feet of otherwise required sidewalk would help to improve the viability of the retail space and its ability to be leased and retained as an active use. However, the project features a three-foot setback along the alley. The building could be shifted back to the property line along the alley to maintain the same retail depth. Even if this setback were to be maintained, the proposed retail space could be reoriented to have a wider instead of deeper space along 3<sup>rd</sup> Street.

In light of the foregoing, the sidewalk dedication and improvement requirement is not physically impractical. The Waiver of Dedication and Improvement request is henceforth denied based on those grounds.

### **Environmental Findings**

- 3. Environmental Finding.** A Mitigated Negative Declaration (ENV-2018-1651-MND) and corresponding Mitigation Monitoring Program (MMP) were prepared for the proposed project in compliance with the California Environmental Quality Act (CEQA). The MMP is a document that is separate from the MND and is prepared and adopted as part of the project's proposal. Section 21081.6 of the Public Resources Code requires a Lead Agency to adopt a "reporting or monitoring program for the changes made to the project or conditions of approval, adopted in order to mitigate or avoid significant effects on the environment."

The Department found that potential impacts related to biological resources; cultural resources; geology and soils; hazards and hazardous materials; noise; and tribal cultural resources could occur from the project's implementation, however, these impacts would be reduced to less than significant levels with mitigation. The MND was circulated for public review from January 31, 2019 through February 20, 2019. During the review period, the Department of City Planning received two comment letters related to the MND, both of which were from members of the public.

The first letter, from Daniel Gleiberman, on behalf of Ruth and Manny Gleiberman, and dated February 20, 2019, stated that the project description is not complete as it does not make any reference or mention of the requested waiver of the required dedication. The letter also states that the Mitigated Negative Declaration does not provide an analysis on what the impact the requested waiver would have.

The formal response to Mr. Gleiberman's letter by Eyestone Environmental is included in this staff report as Exhibit C.5 and summarized below:

1. Page A-17 of the Project Description, included as Attachment A of the Initial Study/MND, provides a description of the Waiver of Dedication and Improvement request. In addition, the discussion of the Waiver of Dedication and Improvement is referenced on Page B-101 of Attachment B: Environmental Checklist of the Initial Study/MND.
2. Since the project evaluated in the Initial Study/MND incorporates the Waiver of Dedication and Improvement, the physical impacts of the waiver, including design, scale, access and massing, have thus been fully evaluated in the Initial Study/MND.

The second letter, from Allen Meilach and dated February 18, 2019, provided a number of comments regarding the inconvenient location of the project site, that the project does not help the housing shortage, and that the project does not make sense from a city planning perspective, which have been addressed within the formal response to comments submitted by Eyestone Environmental. With regard to the project's environmental impacts, Mr. Meilach most notably expressed concerns about (1) the project's impacts to views of the Hollywood Hills and the Hollywood sign; (2) the renderings use in the Initial Study/MND; (3) the project impacts to traffic and parking; (4) the project's compatibility with the surrounding uses; and (5) the project's noise impacts.

The formal response to Mr. Meilach's letter by Eyestone Environmental is included in this staff report as Exhibit C.5 and summarized below:

1. As discussed in detail in on Pages B-1 and B-2 of the Initial Study/MND, pursuant to Senate Bill 743, the project is considered a mixed-use residential project and the project site is located in a transit priority area as defined in Public Resources Code Section 21099. Thus, pursuant to Public Resources Code Section 21099, the aesthetic impacts of the project, including impacts associated with views, are less than significant. Nonetheless, the Initial Study/MND provides an analysis of potential view impacts for informational purposes only.

The commenter is describing private views from his dwelling units, which are not protected under CEQA. Therefore, the Initial Study/MND properly focused on public views in the project vicinity. As illustrated in the views provided in Figure B-1 on page B-4 in Attachment B, Environmental Checklist, of the Initial Study/MND, public views of the Hollywood Hills are limited due to existing intervening development.

2. Figures A-7 and A-8 on Pages A-12 and A-13, respectively, in Attachment A, Project Description, of the Initial Study/MND, provide a conceptual rendering of the project and is as an accurate a depiction of the project site as can be provided at this time. In addition, aerial views of the project site and surrounding vicinity are provided in Figure A-3 on page A-4 in Attachment A, Project Description, of the Initial Study/MND. Regardless, the graphics provided in the Initial Study/MND are for descriptive purposes only and do not override the analysis provided throughout the environmental document.
3. With regard to the project's impacts on traffic during construction and operation of the project, analysis provided in the Initial Study/MND concluded that construction-related activities would not contribute a substantial amount of traffic during commuter peak hours and that under operation of the project, traffic impacts at all study intersections would be less than significant during both the a.m. and p.m. peak periods under Future with Project Conditions.

With regard to the commenter's concern regarding parking, as described in Attachment A, Project Description, of this Initial Study/MND, the project would provide 76 vehicle parking spaces in accordance with the requirements of the LAMC and state law. In particular, the project is required to provide one vehicular parking space for each studio/efficiency and each one-bedroom unit, along with two spaces for each two-bedroom unit. These requirements can be reduced by up to 15 percent, pursuant to the provision of bicycle parking, which results in a total requirement of 49 residential vehicle parking spaces for all 50 residential units, or an average of approximately one vehicular parking space for each unit. Similarly, the commercial component is required to provide vehicular parking at a rate of four spaces per 1,000 square feet of retail, and five spaces per 1,000 square feet of "small restaurant" area. As with the residential parking requirements, the commercial vehicular parking can also be reduced (but by up to 30 percent) pursuant to the provision of commercial bicycle parking. As a result, the project is required to provide a total of 26 commercial vehicular parking spaces. Based on the above, the project would be required to provide a total of 75 vehicular parking spaces (49 residential, 26 commercial) and is meeting that amount. Furthermore, pursuant to SB 743, the project's parking impacts shall not be considered significant impacts on the environment pursuant to Public Resources Code Section 21099. Therefore, impacts related to parking would be less than significant.

4. Pursuant to Public Resources Code Section 21099, the aesthetic impacts of the project, including impacts associated with views, are less than significant. Nonetheless, the Initial Study/MND provides an analysis of potential view impacts for informational purposes only.

As discussed in the Initial Study/MND, at its maximum height, the proposed building would be consistent with other building heights in the vicinity, including the Writers Guild of America West one block east of the project site (61 feet in height) and 8075 3rd Street one block west of the Project Site (54 feet in height). In addition, as described in Attachment A, Project Description, of the Initial Study/MND, the 61-foot-tall building would step down to 21 feet along the alley abutting the residential structures. In addition, the design of the proposed building would feature plaster, wood-look siding, glass balcony rails, and ample windows on Floors 2 through 5 to create texture and break up the building's massing. Therefore, the project would not be incompatible with surrounding development.

5. The Initial Study/MND provided an analysis of the project's impacts to noise during operation along public streets. With respect to the alley, the project would generate 36 vehicle trips during the p.m. peak hour (as provided in the project Traffic Study), which would result in approximately 49.0 dBA  $L_{eq}$  along the alley. The estimated traffic noise level through the alley would be well below the existing ambient noise level of 60.7 dBA  $L_{eq}$ , as measured at Receptor R1 (located along the alley). Furthermore, composite operational noise levels, including project-related noise from traffic, mechanical equipment, parking, loading dock operations and outdoor uses at Receptor R1 (representing the uses south of the alley) would also be less than significant.

On the basis of the whole of the record before the lead agency including any comments received, the lead agency finds that, with imposition of the mitigation measures described in the MND, there is no substantial evidence that the proposed project will have a significant effect on the environment. The attached Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis. The records upon which this decision is based are with the Environmental Review Section of the Planning Department at 221 North Figueroa Street, 13<sup>th</sup> Floor.

- 1. Flood Insurance.** 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 X, areas determined to be outside the 500-year flood plain.