

## FINDINGS

(As amended by the City Planning Commission at its meeting on February 25, 2021)

### **Density Bonus/Affordable Housing Incentives Compliance Findings**

1. Pursuant to Section 12.22 A.25(g)(2)(i)(c) of the LAMC, the decision-maker **shall approve** a density bonus and requested incentive(s) unless the decision-maker finds that:
  - 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 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 20 percent of the base density for Very Low Income Households, the applicant is entitled to three (3) incentives under both Government Code Section 65915 and the LAMC. The request for increased floor area ratio qualifies as an On-Menu Incentive. The remaining requests to allow for increased height and a reduction in the side yards are Off-Menu Incentives. Lastly, the requests for a reduction in parking requirements and to count open space above the first habitable room level must be processed as waivers of development standards.

#### Floor Area Ratio

The subject property is zoned [Q]R3-1VL-O. The property's residential zoning and designation of Height District No. 1VL permit a maximum FAR of 3 to 1, equal to a maximum of 13,500 square feet of total building area. The applicant is requesting an on-menu incentive for a 22 percent increase in FAR, up to 3.65 to 1 to allow for a total building area of 16,388 square feet.

The requested increase in FAR will allow for the construction of affordable units in addition to larger-sized dwelling units. Granting of the 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. This Incentives supports the applicant's decision to set aside a minimum of two (2) dwelling units for Very Low Income Households for 55 years.

#### Height

The subject property's [Q]R3-1VL-O Zone permits a maximum height of 45 feet for a residential-only development. The project has requested an Off-Menu Incentive to allow

a maximum height of 67 feet in lieu of the otherwise permitted 45 feet in the [Q]R3-1VL-O Zone pursuant to LAMC Section 12.21.1-A.

As proposed, the height increase will allow an additional 22 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 given the limited size of the lot; 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. This Incentives supports the applicant's decision to set aside a minimum of two (2) dwelling units for Very Low Income Households for 55 years.

### Side Yards

The R3 Zone requires a minimum nine-foot side yards for the proposed development. The project has requested a 30 percent reduction through an Off-Menu Incentive to provide a six-foot and four-inch side yards in lieu of the otherwise required nine (9) feet.

As proposed, the reduced side yards will allow for the construction of the affordable residential units given the limited size of the lot. This Incentive 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.

- 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. 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 at least 5 percent of its base density for Very Low Income Households 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 requests for reductions in the number of parking spaces, the number of standard parking spaces, and the number of guest parking spaces, and the request to count all open space with a minimum of 150 square feet above the first habitable room level are requested as waivers of development standards. Without the requested waivers, the existing development standards would preclude the development of the proposed density bonus units and project amenities for the reasons stated below.

*Parking*

Pursuant to LAMC Section 12.22-A,25(d), Parking Option 1, the proposed project would be required 23 parking spaces; in addition, pursuant to Ordinance No. 166,676 the proposed project would be required four (4) guest parking spaces, all resulting in a total of 27 required parking spaces. Furthermore, pursuant to LAMC Section 12.21-A,5(c), one (1) standard parking space must be provided for every one (1) dwelling unit, or for the proposed project, 13 standards parking spaces for the 13 dwelling units. In lieu of these requirements, given the limited size of the property, the applicant has requested a total of 22 parking spaces with zero (0) parking spaces reserved for guest parking. In order to provide the minimum requirement of 30 parking spaces and to stay within the 67-foot height limit, as requested as an Incentive, the project would require a minimum of four (4) additional subterranean parking levels considering the disproportionate amount of space that would be required for internal circulation and ramping. With five (5) levels of subterranean parking, the project would reach a depth of 45 feet which would be five (5) feet below the historically highest groundwater level. These development standards would have the effect of physically precluding construction of a development providing 15 dwelling units, of which a minimum of two (2) units will be set aside for Very Low Income Households. The waiver for a reduction in parking spaces enable the project to increase the overall space dedicated to residential use, thereby allowing for the provision of affordable residential units. These waivers support the applicant’s decision to provide two (2) units as affordable housing units reserved for Very Low Income Households.

*Open Space*

Ordinance No, 166,676 requires that private patios or enclosed yards (located at the ground level or above the first habitable room level) which are part of the dwelling unit can be counted towards the usable open space if they are a minimum of 150 square feet. Without counting the additional the private open space which is in excess of 150 square feet and which is above the first habitable room level (level 2), the project would not meet its open space requirement. This development standard would have the effect of physically precluding construction of a development providing 13 dwelling units, of which a minimum of two (2) units will be set aside for Very Low Income Households. The waiver to count the additional open space above the first habitable room level enable the project to meet its open space requirement, thereby allowing for the provision

of affordable residential units. This waiver supports the applicant's decision to provide two (2) units as affordable housing units reserved for Very Low Income Households.

### **Conditional Use Findings**

**2. That the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region.**

The project site is relatively flat and consists of one (1) corner lot at the southeast corner of Beverly Drive and Alcott Street. The subject property totals approximately 7,075 square feet of lot area, with a width of 55 feet and a depth of 130 feet. Currently, the site is developed with a two-story duplex which is proposed to be demolished as part of the project.

The proposed project involves the construction, use, and maintenance of a six-story, 67-foot tall, multi-family residential building consisting of 15 dwelling units in the West Los Angeles Community Plan. Of the proposed residential units, the project will set aside two (2) units for Very Low Income Households, while the remaining 13 units will be rented at market rate. The dwelling units will be comprised of a mix of one-, two- and three-bedroom units.

The requested Conditional Use Permit would permit two (2) additional units beyond the 13 units otherwise permitted pursuant to a 35% Density Bonus, pursuant to LAMC Section 12.22-A,25; however, the additional two (2) units do not result in provision of any additional affordable units.

Therefore, the development of the two (2) additional units beyond the 13 units otherwise permitted pursuant to a 35% Density Bonus, pursuant to LAMC Section 12.22-A,25 will not perform a function or service that is beneficial to the city and the region.

**3. That the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood or the public health, welfare, and safety.**

The proposed project consists of the construction of a new six-story multi-family building with 15 residential units. The project site is currently developed with a duplex which will be demolished as part of the proposed development.

The property is located within the West Los Angeles Community Plan, a densely populated portion of the City of Los Angeles. The project site is located in an urbanized area surrounded primarily by multi-family residential uses. The subject property is not adjacent to any single-family zoned properties. Rather, it is surrounded by properties zoned for multi-family development and designated for Medium Residential land uses. Although the multi-family housing project will serve to benefit the neighborhood, the height of the project and lack of the provision of guest parking are not compatible with the area and will adversely affect the area. Given the proposed project's location within the West Los Angeles Community Plan area, along with the existing development in the immediate vicinity of the subject property and its proximity to commercial thoroughfares, the project's location, size, height, operations, and other significant features will not be compatible with and will adversely affect adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

**4. That the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.**

The project site is located within the West Los Angeles Community Plan, which is one of 35 Community Plans which together form the land use element of the General Plan. The Community Plan designates the site for Medium Residential land uses corresponding to the R3 Zone. The project site is zoned [Q]R3-1VL-O and is thus consistent with the existing land use designation. The subject property is not located within the boundaries of and is not subject to any specific plan or community design overlay.

The proposed project does not conform to the following goals, objectives and policies of the Community Plan:

Goal 1: A safe, secure, and high quality residential environment for all economic, age, and ethnic segments of the community.

Objective 1.4: To promote adequate and affordable housing and increase its accessibility to more segments of the population, especially students and senior citizens.

Policy 1.4.1: Promote greater individual choice in type, quality, price and location of housing.

The requested Conditional Use Permit would permit two (2) additional units beyond the 13 units otherwise permitted pursuant to a 35% Density Bonus, pursuant to LAMC Section 12.22-A,25; however, the additional two (2) units do not result in provision of any additional affordable units.

Therefore, the development of the two (2) additional units beyond the 13 units otherwise permitted pursuant to a 35% Density Bonus, pursuant to LAMC Section 12.22-A,25 will not yield housing that's more accessible to more segments of the population or promote greater individual choice in type, quality, price and location of housing.

The project is further inconsistent with other elements of the General Plan, including the Framework Element, the Housing Element, and the Mobility Element. The Framework Element was adopted by the City of Los Angeles in December 1996 and re-adopted in August 2001. The Framework Element provides guidance regarding policy issues for the entire City of Los Angeles, including the project site. The Framework Element also sets forth a Citywide comprehensive long-range growth strategy and defines Citywide polices regarding such issues as land use, housing, urban form, neighborhood design, open space, economic development, transportation, infrastructure, and public services. The project is in conflict with the following goal and objective of the Framework Element:

Goal 3C: Multi-family neighborhoods that enhance the quality of life for the City's existing and future residents.

Objective 3.7: Provide for the stability and enhancement of multi-family residential neighborhoods and allow for growth in areas where there is sufficient public infrastructure and services and the residents' quality of life can be maintained or improved.

The property location does not qualify the project as a Transit Oriented Communities project because it is outside the TOC Affordable Housing Incentive Area; areas where growth can be primarily accommodated. The project requests are consistent with a Tier 3 Transit Oriented Communities project despite not qualifying for such a tier. In consideration of this, the project is outside such areas where public infrastructure is located and is in conflict with the

Framework Element objective of allowing for growth in areas where there is sufficient public infrastructure and services.

**In addition to the above findings set forth in Section 12.24-E of the LAMC, the City Planning Commission shall find that:**

**5. The project is consistent with and implements the affordable housing provisions of the Housing Element of the General Plan.**

The City's Housing Element for 2013-2021 was adopted by City Council on December 3, 2013. The Housing Element of the General Plan will be implemented by the recommended action herein. The Housing Element is the City's blueprint for meeting housing and growth challenges. It identifies the City's housing conditions and needs, reiterates goals, objectives, and policies that are the foundation of the City's housing and growth strategy, and provides the array of programs the City has committed to implement to create sustainable, mixed-income neighborhoods across the City

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Therefore, the development of the two (2) additional units beyond the 13 units otherwise permitted pursuant to a 35% Density Bonus, pursuant to LAMC Section 12.22-A,25 will not yield any additional affordable housing.

**6. The project contains the requisite number of Restricted Affordable Units, based on the number of units permitted by the maximum allowable density on the date of application, as follows:**

- a. **11% Very-Low Income Units for a 35% density increase; or**
- b. **20% Low Income Units for a 35% density increase; or**
- c. **40% Moderate Income Units for a 35% density increase in for-sale projects.**

**The project may then be granted additional density increases beyond 35% by providing additional affordable housing units in the following manner:**

- a. **For every additional 1% set aside of Very-Low Income Units, the project is granted an additional 2.5% density increase; or**
- b. **For every additional 1% set aside of Low Income Units, the project is granted an additional 1.5% density increase; or**
- c. **For every additional 1% set aside of Moderate Income Units in for-sale projects, the project is granted an additional 1% density increase; or**
- d. **In calculating the density increase and Restricted Affordable Units, each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number.**

The subject property is zoned [Q]R3-1VL-O, which limits density to one (1) dwelling unit per 800 square feet of lot area. The subject property has a total lot area of 7,075 square feet, and

as such, the permitted base density on the subject property is nine (9) units.<sup>1</sup> In exchange for reserving a portion of the units for affordable housing, the applicant is entitled to a maximum 35 percent density bonus by-right. The applicant is seeking an additional 22.5 percent density bonus (or a total of a 57.5 percent density bonus) through a Conditional Use to allow for the proposed 15 dwelling units to be built on the site.

Pursuant to the LAMC and California Government Code Section 65915, a Housing Development Project that sets aside a certain percentage of units as affordable, either in rental or for-sale units, shall be granted a corresponding density bonus, up to a maximum of 35 percent. While these provisions are limited to 35 percent, Government Code Section 65915(f) states that “the amount of density bonus to which an applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds percentage established.” As such, in instances where a project is seeking a density bonus increase that is more than 35 percent, the amount of required units that are set aside as affordable shall vary depending on the requested amount of density bonus. Therefore, it is appropriate that any project that requests a density bonus increase beyond 35 percent would extend the existing set-aside charts located in Section 12.22-A,25 of the LAMC. LAMC Section 12.24-U,26, which implements this provision of State law, states, as a Conditional Use, a project may be granted additional density increases beyond the 35 percent maximum by providing additional affordable housing units. Consistent with this Section, Table 2 below illustrates how the maximum allowable Density Bonus increases for every unit set aside for Very Low Income Households (2.5 percent density increase for every additional one (1) percent of Very Low Income units provided), based on the base density and the chart prescribed in Section 12.22-A,25 of the LAMC.

***Density Bonus Percentages***

<b>Very Low Income Units (Percentage of Base Density)</b>	<b>Maximum Density Bonus Permitted (Based on Base Density)</b>
5 %*	20 %*
6 %*	22.5 %*
7 %*	25 %*
8 %*	27.5 %*
9 %*	30 %*
10 %*	32.5 %*
11 %*	35 %*
12 %	37.5 %
13 %	40 %
14 %	42.5 %
15 %	45 %
16 %	47.5 %
17 %	50 %
18 %	52.5 %

<sup>1</sup> Assembly Bill 2501 clarifies that density calculations that result in a fractional number are to be rounded up to the next whole number. This applies to base density, number of bonus units, and number of affordable units required to be eligible for the density bonus.

19 %	55 %
<b>20 %</b>	<b>57.5 %</b>
<i>* Existing set-aside chart as listed in Section 12.22-A,25 of the LAMC</i>	

For the subject property, a 35 percent by-right density bonus would allow for 13 units (equal to an increase of four [4] units beyond the nine-unit base density) to be constructed on the project site. As illustrated in Table 2 above, in order to qualify for the 35 percent by-right density bonus, the project would be required to set aside 11 percent of the base density, or one (1) unit, for Very Low Income Households. The applicant is seeking an additional 22.5 percent density bonus through a Conditional Use to allow for a total of 15 dwelling units, representing an increase of two (2) units beyond what would otherwise be permitted through the by-right 35 percent density bonus. In order to obtain the additional requested 22.5 percent density bonus, as shown in Table 2, the project must set aside at least 20 percent of the base density, equal to two (2) units, for Very Low Income Households. The project proposes to set aside two (2) units for Very Low Income Households in exchange for the requested Density Bonus.

**7. The project meets any applicable dwelling unit replacement requirements of the California Government Code Section 65915(c)(3).**

The project proposes the demolition of an existing duplex. Per the SB 330 Determination Letter dated May 27, 2020, two (2) units need to be replaced with equivalent type, including, at minimum, one (1) unit restricted to Very Low Income Households and one (1) unit restricted to Low Income Households. The project's two (2) proposed Very Low Income units will fulfill the replacement housing requirements of this determination. Therefore, the project will meet the applicable dwelling unit replacement requirements of the California Government Code Section 65915(c)(3).

**8. The project's Restricted Affordable Units are subject to a recorded affordability restriction of 55 years from the issuance of the Certificate of Occupancy, recorded in a covenant acceptable to the Housing and Community Investment Department, and subject to fees as set forth in Section 19.14 of the LAMC.**

The proposed project has been conditioned to record a covenant for affordability restriction of a period of 55 years from the issuance of the Certificate of Occupancy, to the satisfaction of the Housing and Community Investment Department, and subject to fees as set forth in Section 19.14 of the LAMC.

**9. The project addresses the policies and standards contained in the City Planning Commission's Affordable Housing Incentives Guidelines.**

The City Planning Commission approved the Affordable Housing Incentives Guidelines (under Case No. CPC-2005-1101-CA) on June 9, 2005. The Guidelines were subsequently approved by the City Council on February 20, 2008, as a component of the City of Los Angeles Density Bonus Ordinance. The Guidelines describe the density bonus provisions and qualifying criteria, incentives available, design standards, and the procedures through which projects may apply for a density bonus and incentives. HCIDLA utilizes these Guidelines in the preparation of Housing Covenants for Affordable Housing Projects. The Guidelines prescribe that the design and location of affordable units be comparable to the market rate units, the equal distribution of amenities, HCIDLA monitoring requirements, affordability levels, and procedures for obtaining HCIDLA sign-offs for building permits.

The project will result in 15 new dwelling units, of which two (2) will be reserved for Very Low Income Household occupancy and the remainder will be offered as market rate units. In order to ensure that there is equal distribution of amenities, the project has been conditioned to provide the private balconies in accordance with the requirements of the LAMC. All residents of the proposed project will have access to all common open space amenities within the building and each unit will have adequate private open space. The restricted units will comply with affordability requirements in the Guidelines set forth by HCIDLA in conformance with US Department of Housing and Urban Development (HUD). Additionally, as part of the building permit process, the applicant will execute a covenant to the satisfaction of HCIDLA who will ensure compliance with the Guidelines. Therefore, the project will address the policies and standards contained in the Guidelines.