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**DIRECTOR'S DETERMINATION
TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM**

May 13, 2021

Applicant/Owner

Evan Kasper
730 Vermont Venture, LLC
P.O. Box 639
Dexter, MO 63841

Representative

Gary Benjamin
Alchemy Planning + Land Use
4470 West Sunset Boulevard, Unit 547
Los Angeles, CA 90027

Case No. DIR-2020-4389-TOC

CEQA: ENV-2019-2483-CE

Location: 730 South Vermont Avenue
& 3077 Leeward Avenue

Council District: 5 - Paul Koretz

Neighborhood Council: Mar Vista

Community Plan Area: Wilshire

Land Use Designation: Neighborhood Office
Commercial

Zone: C2-1

Legal Description: Lots 37-38, Fulmer Tract

Last Day to File an Appeal: May 27, 2021

DETERMINATION – Transit Oriented Communities Affordable Housing Incentive Program

Pursuant to the Los Angeles Municipal Code (LAMC) Section 12.22-A,31, I have reviewed the proposed project and as the designee of the Director of City Planning, I hereby:

- Determine** that based on the whole of the administrative record that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332, Class 32, and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the CEQA Guidelines regarding location, cumulative impacts, significant effects based on unusual circumstances, scenic highways, hazardous waste sites, or historical resources apply;
- Approve** a 70% increase in density consistent with the provisions of the Transit Oriented Communities Affordable Housing Incentive Program for a Tier 3 project with a total of 80 dwelling units, including eight (8) units reserved for Extremely Low Income (ELI) Household occupancy for a period of 55 years, along with the following two (2) Additional Incentives:

- a. **Setback (Side and Rear).** To utilize any or all of the yard requirements for the RAS3 zone per LAMC 12.10.5; and
 - b. **Open Space.** To permit a 25 reduction in open space per LAMC Section 12.22 A.25(f)(6), and
3. **Adopt** the attached Findings.

CONDITIONS OF APPROVAL

Pursuant to LAMC Section 12.22-A,31, 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. **Base Incentives.**
 - a. **Residential Density.** The project shall be limited to a maximum density of 80 residential units.
 - b. **Floor Area Ratio (FAR).** The project is permitted a maximum FAR of 3.75 to 1.
 - c. **Parking.**
 - i. **Automobile Parking.** The project shall provide a minimum of 0.5 automobile parking spaces per residential unit. In addition, the project shall be provided up to a 30% reduction in the nonresidential parking requirement.
 - ii. **Bicycle Parking.** Bicycle parking shall be provided in compliance with the Municipal Code and to the satisfaction of the Department of Building and Safety. No variance from the bicycle parking requirements has been requested or granted herein.
 - iii. **Adjustment of Parking.** In the event that the number of Restricted Affordable Units should increase or the composition of such units should change (i.e. the number of bedrooms, or the number of units made available to Senior Citizens and/or Disabled Persons), and no other Condition of Approval or incentive is affected, then no modification of this determination shall be necessary, and the number of parking spaces shall be re-calculated by the Department of Building and Safety based upon the ratios set forth pursuant to LAMC Section 12.22-A,25.
 - iv. **Unbundling.** Required parking may be sold or rented separately from the units, with the exception of all Restricted Affordable Units which shall include any required parking in the base rent or sales price, as verified by HCIDLA.
3. **Additional Incentives.**
 - a. **Setbacks.** To permit the use of any or all of the yard requirements for the RAS3 Zone per LAMC Section 12.10.05.
 - b. **Open Space.** The project shall be permitted a 25 percent in open space reduction, provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O".

4. **On-site Restricted Affordable Units.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of HCIDLA to make 10% of the total number of units available for Extremely Low Income Households, as defined by HCIDLA, 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 the Transit Oriented Communities Affordable Housing Incentive Program Guidelines, to the satisfaction of HCIDLA, and in consideration of the project's AB 2556 Determination. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant shall provide 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 HCIDLA.
5. **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.
6. **Housing Replacement.** The HCIDLA has determined that the proposed project is not required to provide replacement units as reflected in the letter dated June 24, 2020.
7. **Commercial Unit.** The commercial space shall be a minimum of 1,468 square feet, as proposed within "Exhibit A."
8. **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.
9. **Driveway.** The driveway along Leeward Avenue shall be reduced to the minimum required widths in conformance with LAMC Section 12.21-A,5(f), unless otherwise required by the Department of Transportation.
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. **Maintenance.** The subject property (including all trash storage areas, associated parking facilities, sidewalks, yard areas, parkways, and exterior walls along the property lines) shall be maintained in an attractive condition and shall be kept free of trash and debris.
12. **Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties or the public right-of-way, nor from above.
13. **Electric Vehicle Parking.** Electric Vehicle Parking. All electric vehicle charging spaces (EV Spaces) and electric vehicle charging stations (EVCS) shall comply with the regulations outlined in Sections 99.04.106 and 99.05.106 of Article 9, Chapter IX of the LAMC.
14. **Solar Panels.** Solar panels shall be installed on the project's rooftop space to be connected to the building's electrical system. A minimum 15% of the roof area shall be reserved for the installation of a solar photovoltaic system, to be installed prior to the issuance of a certificate of occupancy, in substantial conformance with the plans stamped "Exhibit A".

Administrative Conditions

15. **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.
16. **Covenant.** Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file.
17. **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.
18. **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.
19. **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.
20. **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.
21. **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.

22. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
23. **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.
24. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

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

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

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation

imposed by this condition. In the event the applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

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

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

PROJECT BACKGROUND

The subject property is comprised of two (2) flat, rectangular lots totaling approximately 18,998 square feet in lot area with a frontage of approximately 154 feet along Vermont Avenue and approximately 122 feet along Leeward Avenue. The subject property is currently improved with a 7,420 square-foot commercial use and 11,567 square foot paved surface level parking lot.

The subject property is zoned C2-1 within the Wilshire Community Plan Area with a Neighborhood Office Commercial land use designation. The project is located within a Transit Oriented Communities (TOC), Tier 3 area, Redevelopment Project Area: Wilshire Z1-2488, Transit Priority Area in the City of Los Angeles ZI-2452, and State Enterprise Zone: Los Angeles ZI-2374. The project is located within an Urban Agriculture Incentive Zone, Outside Flood Zone, Methane Buffer Zone, and within the Puente Hills Blind Thrust.

The proposed project is the demolition of existing site improvements and the construction, use, and maintenance of a new, seven-story, 70,963 square-foot mixed-use building with 80 dwelling units, including eight (8) dwelling units set aside for Extremely Low Income Households (or 10% of the proposed density). The project will be constructed with one (1) level of at-grade parking 1,468 square feet of commercial space, and six (6) residential levels above. The project includes 40 studios, seven (7) three-bedroom units, 16 four-bedroom units, 17 five-bedroom units, and 8,548 square feet of open space for residents.

The project will provide a total of 69 automobile parking spaces and nine (9) short-term and 67 long-term bicycle parking spaces. Vehicular access to the site is provided via one (1) two-way driveway that is along Leeward Avenue. Primary entrances to the commercial and residential lobby are located along Vermont Avenue.

The project is located in Tier 3 of the Transit Oriented Communities Incentive Areas and therefore, pursuant to the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines), by setting aside eight (8) of the total number of dwelling units for Extremely Low Income Households, the project is eligible for the Base Incentives (Residential Density, Floor Area Ratio (FAR) and Automobile Parking); and by setting aside at least 7% of the base density the project is entitled to two (2) Additional Incentives.

The Additional Incentives requested are found on the Menu of Incentives and include: utilization of RAS3 setbacks of five (5) feet for the easterly side yard and rear yard, and 25% reduction in required open space.

SURROUNDING PROPERTIES

Surrounding uses are within residential and commercial zones and are generally developed with multi-family residences and commercial uses. Properties to the north are zoned C2-1 with a land use designation of Neighborhood Office Commercial and developed with multi-family residences and developed with a gas station and a one-story corner mini-shopping center with surface level parking. Properties to the east are zoned R4-2 with a land use designation of High Medium Residential and developed with multi-story residential buildings. Properties to the south, across Leeward Avenue, are zoned C2-1 and R4-2 with land use designations of Neighborhood Office Commercial and High Medium Residential and developed with an at-grade parking lot, one-story commercial uses along Vermont Avenue and multi-story residential buildings. Properties to the west, across Vermont Avenue, are zoned C2-1 and R4-2 with land use designations of Neighborhood Office Commercial and High Medium Residential and developed with one (1) and

two-story commercial buildings including a one-story shopping center with surface level parking and multi-story residential buildings.

STREETS

Vermont Avenue, adjoining the property to the west is an Avenue I, dedicated to a right-of-way width of 100 feet and improved with asphalt roadway, curb, gutter, and concrete sidewalks.

Leeward Avenue, adjoining the property to the south is a Local Street-Standard, dedicated to a right-of-way width of 60 feet and improved with asphalt roadway, curb, gutter, and concrete sidewalks.

TRANSIT ORIENTED COMMUNITIES

Pursuant to the voter-approved Measure JJJ, Los Angeles Municipal Code (LAMC) 12.22-A,31 was added to create the Transit Oriented Communities (TOC) Affordable Housing Incentive Program (TOC Program). The Measure requires the Department of City Planning to create TOC Affordable Housing Incentive Program Guidelines (TOC Guidelines) for all Housing Developments located within a ½-mile (or 2,640-foot) radius of a Major Transit Stop. These Guidelines provide the eligibility standards, incentives, and other necessary components of the TOC Program consistent with LAMC 12.22-A,31.

A qualifying TOC Project shall be granted Base Incentives with regard to increased residential density, increased floor area ratio, and reduced automobile parking requirements. In addition to these Base Incentives, an eligible project may be granted Additional Incentives with regard to yards and setbacks, open space, lot coverage, lot width, averaging, density calculation, height, and developments in public facilities zones. Up to two (2) Additional Incentives may be granted in exchange for providing the requisite set aside of affordable housing as enumerated in the TOC Guidelines.

The proposed project is located less than 0.2 miles or (1,056 feet) from a Major Transit Stop, the Wilshire/Vermont Subway Station which provides access to the Metro Purple and Red Lines. As such, the project meets the eligibility requirement for proximity to a Major Transit Stop. Furthermore, as the project will set aside 10% of the total number of units for Extremely Low Income Households and meets all other eligibility requirements of the TOC Affordable Housing Incentive Program, the project is entitled to the Base Incentives.

In addition, as the Wilshire/Vermont Subway Station is located less than 0.2 miles (or 1,056 feet) from the project site, the project is located within Tier 3 of the TOC Guidelines. Therefore, as the project will set aside eight (8) of the total number of units for Extremely Low Income Households, the project is entitled to two (2) Additional Incentives. The applicant is requesting two (2) Additional Incentives.

Given the above, the proposed project includes the following Base and Additional Incentives for a qualifying Tier 3 Project:

Tier 3 Base Incentives:

- a. **Density:** The subject property is zoned C2-1 and limited to a maximum density of one (1) dwelling unit per 400 square feet of lot area. At 18,998 square feet in size, the property has a base density of 48 units (19,998 square feet of lot area divided by 400 square feet equals 47.49 and rounded up to 48). As an eligible Housing Development, the project is

entitled for a 70 percent density increase for a maximum of 80 total units; 80 units are proposed.

- b. **Floor Area Ratio (FAR):** The subject property is zoned C2-1 and limited to an FAR of 1.5 to 1. As an eligible Housing Development, the project is entitled to a 50% FAR increase, or 3.75 to 1 in a commercial zone, whichever is greater. As proposed, the project has a maximum FAR of 3.75 to 1.
- c. **Parking:** Pursuant to LAMC Section 12.21-A,4, the proposed 80-unit project would be required to provide a total of 123 automobile parking spaces. As an Eligible Housing Development, the project is entitled to provide 0.5 parking spaces per unit (or 40 parking spaces for the residential units), and up to a 30% reduction in the nonresidential parking requirement (or 3 spaces for the commercial floor area). As proposed, the project is providing 69 parking spaces including the required three (3) parking spaces for the commercial space.

Tier 3 Additional Incentives:

Pursuant to the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines), the Tier 3 Project is eligible for and has been granted two (2) Additional Incentives in order to construct the proposed project:

- a. **Setbacks (Side and Rear).** Eligible Housing Developments within commercial zones may utilize the RAS3 yards in lieu of those otherwise required. In this case, the project would be required to provide 10-foot side yards and a 19-foot rear yard in conformance with the C2 Zone. The applicant has requested to utilize the RAS3 yards, thereby reducing the rear yard from 19 feet to five (5) feet and the side yard from 10 feet to five (5) feet.
- b. **Open Space.** Eligible Housing Developments may utilize up to a 25 percent reduction of the open space required when located in a Tier 3 TOC area. In this case, the project would be required 11,000 square feet of open space, however with a 25% reduction would be permitted to provide 8,250 square feet of open space. The project proposes to allocate 9,740 square feet of open space.

HOUSING REPLACEMENT

Pursuant to LAMC Section 12.22-A,31(b)(1), a Housing Development located within a Transit Oriented Communities (TOC) Affordable Housing Incentive Area shall be eligible for TOC Incentives if it meets any applicable replacement requirements of California Government Code Section 65915(c)(3) (California State Density Bonus Law).

Assembly Bill 2222 (AB 2222) amended the State Density Bonus Law to require applicants of density bonus projects filed as of January 1, 2015 to demonstrate compliance with the housing replacement provisions which require replacement of rental dwelling units that either exist at the time of application of a Density Bonus project, or have been vacated or demolished in the five-year period preceding the application of the project. This applies to all pre-existing units that have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control; or occupied by Low or Very Low Income Households.

On September 28, 2016, Governor Brown signed Assembly Bill 2556 (AB 2556) which further amended the State Density Bonus Law. The amendments took effect on January 1, 2017. AB

2556 clarifies the implementation of the required replacement of affordable units in Density Bonus projects, first introduced by AB 2222. AB 2556 further defines "equivalent size" to mean that as a whole, the new units must contain at least the same total number of bedrooms as the units being replaced.

In addition to the requirements of California State Density Bonus Law, on October 9, 2019, the Governor signed into law the Housing Crisis Act of 2019 (SB 330). SB 330 creates new state laws regarding the production, preservation and planning for housing, and establishes a statewide housing emergency until January 1, 2025. During the duration of the statewide housing emergency, SB 330, among other things, creates new housing replacement requirements for Housing Development Projects by prohibiting the approval of any proposed housing development project on a site that will require the demolition of existing residential dwelling units or occupied vacant "Protected Units" unless the proposed housing development project replaces those units.

Pursuant to the Determination made by the Housing and Community Investment Department (HCIDLA) dated June 24, 2020, the proposed project is not required to provide replacement units as the property contains no protected units.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM ELIGIBILITY REQUIREMENTS

To be an eligible Transit Oriented Communities (TOC) Housing Development, a project must meet the Eligibility criteria set forth in Section IV of the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines). A Housing Development located within a TOC Affordable Housing Incentive Area shall be eligible for TOC Incentives if it meets all of the following requirements, **which it does**:

1. ***On-Site Restricted Affordable Units.*** *In each Tier, a Housing Development shall provide On-Site Restricted Affordable Units at a rate of at least the minimum percentages described below. The minimum number of On-Site Restricted Affordable Units shall be calculated based upon the total number of units in the final project.*
 - a. *Tier 1 - 8% of the total number of dwelling units shall be affordable to Extremely Low Income (ELI) income households, 11% of the total number of dwelling units shall be affordable to Very Low (VL) income households, or 20% of the total number of dwelling units shall be affordable to Lower Income households.*
 - b. *Tier 2 - 9% ELI, 12% VL or 21% Lower.*
 - c. *Tier 3 - 10% ELI, 14% VL or 23% Lower.*
 - d. *Tier 4 - 11% ELI, 15% VL or 25% Lower.*

The project site is located within a Tier 3 Transit Oriented Communities Affordable Housing Incentive Area. As part of the proposed development, the project is required to reserve 10 percent of the total dwelling units (80) for Extremely Low Income Households on-site dwelling units, which is a total of eight (8). As such, the project meets the eligibility requirement for On-Site Restricted Affordable Units.

2. ***Major Transit Stop.*** *A Housing Development shall be located on a lot, any portion of which must be located within 2,640 feet of a Major Transit Stop, as defined in Section II and according to the procedures in Section III.2 of the TOC Guidelines.*

As defined in the TOC Guidelines, a Major Transit Stop is a site containing a rail station or the intersection of two or more bus routes with a service interval of 15 minutes or less

during the morning and afternoon peak commute periods. The stations or bus routes may be existing, under construction or included in the most recent Southern California Association of Governments (SCAG) Regional Transportation Plan (RTP). The proposed project is located less than 0.2 miles or (1,056 feet) from a Major Transit Stop, the Wilshire/Vermont Subway Station which provides access to the Metro Purple and Red Lines. Therefore, the project meets the eligibility requirement for proximity to a Major Transit Stop.

3. **Housing Replacement.** *A Housing Development must meet any applicable housing replacement requirements of California Government Code Section 65915(c)(3), as verified by the Department of Housing and Community Investment (HCIDLA) prior to the issuance of any building permit. Replacement housing units required per this section may also count towards other On-Site Restricted Affordable Units requirements.*

Pursuant to the Determination made by the Housing and Community Investment Department (HCIDLA) dated June 24, 2020, the proposed project is not required to provide replacement units, as the property contains no Protected Units. Therefore, the project meets the eligibility requirement for providing replacement housing consistent with California Government Code Section 65915(c)(3).

4. **Other Density or Development Bonus Provisions.** *A Housing Development shall not seek and receive a density or development bonus under the provisions of California Government Code Section 65915 (state Density Bonus law) or any other State or local program that provides development bonuses. This includes any development bonus or other incentive granting additional residential units or floor area provided through a General Plan Amendment, Zone Change, Height District Change, or any affordable housing development bonus in a Transit Neighborhood Plan, Community Plan Implementation Overlay (CPIO), Specific Plan, or overlay district.*

There are no additional requests for density or development bonuses under the provisions of the State Density Bonus Law or any other State or local program that provides development bonuses, including, but not limited to a General Plan Amendment, Zone Change, Height District Change, or any affordable housing development bonus in a Transit Neighborhood Plan, Community Implementation Overlay (CPIO), Specific Plan, or overlay district. Therefore, the project meets this eligibility requirement.

5. **Base Incentives and Additional Incentives.** *All Eligible Housing Developments are eligible to receive the Base Incentives listed in Section VI of the TOC Guidelines. Up to three Additional Incentives listed in Section VII of the TOC Guidelines may be granted based upon the affordability requirements described below. For the purposes of this section below “base units” refers to the maximum allowable density allowed by the zoning, prior to any density increase provided through these Guidelines. The affordable housing units required per this section may also count towards the On-Site Restricted Affordable Units requirement in Section IV.1 above (except Moderate Income units).*

Two Additional Incentives may be granted for projects that include at least 7% of the base units for Extremely Low Income Households, at least 10% of the base units for Very Low Income Households, at least 20% of the base units for Lower Income Households, or at least 20% of the base units for persons and families of Moderate Income in a common interest development.

As an Eligible Housing Development, the project is entitled to receive the Base Incentives listed in the TOC Guidelines. The project may be granted two (2) Additional Incentives for reserving at least 7% of the base units for Extremely Low Income Households. Base units are the maximum allowable density allowed by the zone rounded up, prior to any requests for increase in density provided by the Guidelines. The subject site is zoned C2-1 with a Neighborhood Office Commercial land use designation and has a base density of 48 units. The project is setting aside eight (8) units for Extremely Low Income Households, which equates to more than 7% of the 48 base units permitted through the underlying zoning of the site. The project is requesting two (2) Additional Incentives, for utilization of RAS3 setbacks and reduction in open space. Therefore, the project meets the eligibility requirement for Base and Additional Incentives because the project is located less than 1,056 feet from the Wilshire/Vermont Subway Station, and the project will contain units that are restricted for Extremely Low Income Households.

6. ***Projects Adhering to Labor Standards.*** *Projects that adhere to the labor standards required in LAMC 11.5.11 may be granted two Additional Incentives from the menu in Section VII of these Guidelines (for a total of up to five Additional Incentives).*

The project is not seeking Additional Incentives beyond the two (2) permitted as a means of reserving at least 10% of the base units for Extremely Low Income Households. Therefore, the project is not required to adhere to the labor standards required in LAMC Section 11.5.11; this eligibility requirement does not apply.

7. ***Multiple Lots.*** *A building that crosses one or more lots may request the TOC Incentives that correspond to the lot with the highest Tier permitted by Section III above.*

The proposed building crosses two (2) lots; however, the lots are located within Tier 3 of the Transit Oriented Communities Affordable Housing Incentive Area. Therefore, this eligibility requirement does not apply.

8. ***Request for a Lower Tier.*** *Even though an applicant may be eligible for a certain Tier, they may choose to select a Lower Tier by providing the percentage of On-Site Restricted Affordable Housing units required for any lower Tier and be limited to the Incentives available for the lower Tier.*

The applicant has not selected a Lower Tier and is not providing the percentage of On-Site Restricted Affordable Housing units required for any lower Tier. Therefore, this eligibility requirement does not apply.

9. ***100% Affordable Housing Projects.*** *Buildings that are Eligible Housing Developments that consist of 100% On-Site Restricted Affordable units, exclusive of a building manager's unit or units shall, for purposes of these Guidelines, be eligible for one increase in Tier than otherwise would be provided.*

The project does not consist of 100 percent On-Site Restricted Affordable units. It is not eligible for or seeking an increase in Tier. As such, this eligibility requirement does not apply.

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

Pursuant to LAMC Section 12.22-A,31(e), the Director of Planning 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. The incentives do not result in identifiable and actual cost reductions to provide for affordable housing costs, defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units.**

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. There were no 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 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 various types of relief that minimize restrictions on the size of the project. The base incentives are required to provide for affordable housing costs because the incentives by their nature may result in increasing the scale of the project. The additional incentives requested for the use of RAS3 setbacks and transitional height 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.

Setback (Side and Rear). Eligible Housing Developments within commercial zones may utilize the RAS3 yards in lieu of those otherwise required. In this case, the project would be required to provide 10-foot side yards and a 19-foot rear yard in conformance with the C2 Zone. The applicant has requested to utilize the RAS3 yards, thereby reducing the rear yard from 19 feet to five (5) feet and the side yard from 10 feet to five (5) feet.

Open Space. Eligible Housing Developments may utilize up to a 25 percent reduction of the open space required when located in a Tier 3 TOC area. In this case, the project would be required 11,000 square feet of open space, however with a 25% reduction would be permitted to provide 8,250 square feet of open space. The project proposes to allocate 9,740 square feet of open space.

- 2. 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 has been no evidence provided that indicated that the proposed incentives 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. 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 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 and the project was determined to be exempt from CEQA 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.

3. The incentives/waivers are contrary to state or federal law.

There is no substantial evidence in the record that the proposed incentives/waivers are contrary to state or federal law.

ADDITIONAL MANDATORY FINDINGS

4. 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 not located in a flood zone.
5. The City of Los Angeles determined that the propose project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332, Class 32, and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the CEQA Guidelines regarding location, cumulative impacts, significant effects based on unusual circumstances, scenic highways, hazardous waste sites, or historical resources apply.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM BACKGROUND

Measure JJJ was adopted by the Los Angeles City Council on December 13, 2016. Section 6 of the Measure instructed the Department of City Planning to create the Transit Oriented Communities (TOC) Affordable Housing Incentive Program, a transit-based affordable housing incentive program. The measure required that the Department adopt a set of TOC Guidelines, which establish incentives for residential or mixed-use projects located within ½ mile of a major transit stop. Major transit stops are defined under existing State law.

The TOC Guidelines, adopted September 22, 2017, establish a tier-based system with varying development bonuses and incentives based on a project's distance from different types of transit. The largest bonuses are reserved for those areas in the closest proximity to significant rail stops or the intersection of major bus rapid transit lines. Required affordability levels are increased incrementally in each higher tier. The incentives provided in the TOC Guidelines describe the range of bonuses from particular zoning standards that applicants may select.

TIME LIMIT – OBSERVANCE OF CONDITIONS

All terms and conditions of the Director's Determination shall be fulfilled before the use may be established. Pursuant to LAMC Section 12.25-A,2, the instant authorization is further conditional upon the privileges being utilized within **three years** after the effective date of this determination and, if such privileges are not utilized, building permits are not issued, or substantial physical construction work is not begun within said time and carried on diligently so that building permits do not lapse, the authorization shall terminate and become void.

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then the applicant or his successor in interest may be prosecuted for violating these conditions the same as for any violation of the requirements contained in the Municipal Code, or the approval may be revoked.

Verification of condition compliance with building plans and/or building permit applications are done at the Development Services Center of the Department of City Planning at either Figueroa Plaza in Downtown Los Angeles, West Los Angeles Development Services Center, or the Marvin Braude Constituent Service Center in the Valley. In order to assure that you receive service with a minimum amount of waiting, applicants are encouraged to schedule an appointment with the Development Services Center either by calling (213) 482-7077, (310) 231-2901, (818) 374-5050, or through the Department of City Planning website at <http://cityplanning.lacity.org>. The applicant is further advised to notify any consultant representing you of this requirement as well.

Section 11.00 of the LAMC states in part (m): "It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code shall be guilty of a misdemeanor unless that violation or failure is declared in that section to be an infraction. An infraction shall be tried and be punishable as provided in Section 19.6 of the Penal Code and the provisions of this section. Any violation of this Code that is designated as a misdemeanor may be charged by the City Attorney as either a misdemeanor or an infraction. Every violation of this determination is punishable as a misdemeanor unless provision is otherwise made, and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both a fine and imprisonment."

TRANSFERABILITY

This determination runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions of this grant. If any portion of this approval is utilized, then all other conditions and requirements set forth herein become immediately operative and must be strictly observed.

APPEAL PERIOD - EFFECTIVE DATE

The Determination in this matter will become effective after May 27, 2021 unless an appeal there from is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of this Determination, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. Forms are available on-line at www.cityplanning.lacity.org.

Planning Department public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

**Marvin Braude San Fernando Valley
Constituent Service Center**
6262 Van Nuys Boulevard, Suite 251
Van Nuys, CA 91401
(818) 374-5050

**West Los Angeles Development
Services Center**
1828 Sawtelle Boulevard, 2nd Floor
Los Angeles, CA 90025
(310) 231-2901

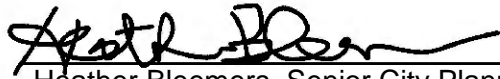
Pursuant to LAMC Section 12.22-A,25(f), only abutting property owners and tenants can appeal the Transit Oriented Communities Affordable Housing Incentive Program portion of this determination. Per the Density Bonus Provision of State Law (Government Code Section §65915) the Density Bonus increase in units above the base density zone limits and the appurtenant parking reductions are not a discretionary action and therefore cannot be appealed. Only the requested incentives are appealable. Per Section 12.22-A,25 of the LAMC, appeals of Density Bonus Compliance Review cases are heard by the City Planning Commission.

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedures Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

Note of Instruction Regarding the Notice of Exemption: Applicant is hereby advised to file the Notice of Exemption for the associated categorical exemption after the issuance of this letter. If filed, the form shall be filed with the County of Los Angeles, 12400 Imperial Highway, Norwalk, CA 90650, pursuant to Public Resources Code Section 21152 (b). More information on the associated fees can be found online here: <https://www.lavote.net/home/county-clerk/environmental-notices-fees>. The best practice is to go in person and photograph the posted notice in order to ensure compliance. Pursuant to Public Resources Code Section 21167 (d), the filing of this notice of exemption starts a 35-day statute of limitations on court challenges to the approval of the project. Failure to file this notice with the County Clerk results in the statute of limitations, **and the possibility of a CEQA appeal**, being extended to 180 days.

Vincent P. Bertoni, AICP
Director of Planning

Approved by:



Heather Bleemers, Senior City Planner

Reviewed by:



Oliver Netburn, City Planner
oliver.netburn@lacity.org

Prepared by:



Stephanie Escobar, Planning Assistant
Stephanie.escobar@lacity.org

Attachments:

Exhibit A: Architectural Plans