



DEPARTMENT OF CITY PLANNING

APPEAL RECOMMENDATION REPORT

City Planning Commission

Date: October 8, 2020
Time: after 8:30 a.m.
Place: In conformity with the Governor's Executive Order N-29-20 (March 17, 2020) and due to concerns over COVID-19, the CPC meeting will be conducted entirely telephonically by Zoom [<https://zoom.us/>].

The meeting's telephone number and access code will be provided no later than 72 hours before the meeting on the meeting agenda published at <https://planning.lacity.org/about/commissions-boards-hearings> and/or by contacting cpc@lacity.org

Case No.: DIR-2020-2956-DB-PSH-SIP-PHP-1A
CEQA No.: N/A
Incidental Cases: None
Related Cases: None
Council No.: 11 – Bonin
Plan Area: Palms – Mar Vista – Del Rey
Plan Overlay: Exposition Corridor Transit Neighborhood Plan
Certified NC: West Los Angeles Sawtelle
GPLU: Low Medium Residential
Zone: RD1.5-1
Applicant: Barry Family Housing, L.P.
Representative: Tim Moran
Appellant: David Maman

Public Hearing: Required
Appeal Status: Not further appealable
Expiration Date: October 26, 2020
Multiple Approval: No

PROJECT LOCATION: 2444-2456 S. Barry Avenue


PROPOSED PROJECT: The project is for the construction, use, and maintenance of a 6-story, 78-foot tall residential building containing 61 residential dwelling units (including 32 Very Low Income Supportive Housing units and 28 Low Income units). The building will be approximately 39,790 square feet of floor area, with a Floor Area Ratio ("FAR") of 4.05:1. The project proposes a total of 12 vehicle parking spaces located at the ground floor level. The existing multi-family structures are proposed to be demolished.

REQUEST: Appeal of the Director of Planning's determination conditionally approving a Density Bonus Compliance Review, pursuant to Los Angeles Municipal Code ("LAMC") Section 12.22 A.25.

RECOMMENDED ACTIONS:

1. **Deny** the appeal of Case No. DIR-2020-2956-DB-PSH-SIP-PHP.
2. **Determine** that, pursuant to California Government Code Section 65651 and Public Resources Code Section 21080(b)(1) and 21080.27(b)(1), based on the whole of the record, that the Supportive Housing Project is Statutorily Exempt from the California Environmental Quality Act ("CEQA") as a ministerial project.
3. **Sustain** the action of the Director of Planning to approve Case No. DIR-2020-2956-DB-PSH-SIP-PHP.
4. **Adopt** the Director of Planning's Conditions of Approval, Findings, and Exhibit "A".

VINCENT P. BERTONI, AICP
Director of Planning



Maya E. Zaitzevsky, Principal City Planner



Sarah Molina-Pearson, Senior City Planner



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ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *Commission Secretariat, Room 273, City Hall, 200 North Spring Street, Los Angeles, CA 90012* (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent to the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services and activities. Sign language interpreters, assistive listening devices, or other auxillary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1300.

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- Exhibit D – Maps and Photos
 - D1 – Vicinity Map
 - D2 – Abutting Owners Map
 - D3 – ZIMAS Parcel Profile Report
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- Exhibit E – Agency Correspondence
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- Exhibit F – Public Correspondence

PROJECT ANALYSIS

APPELLATE DECISION BODY

Pursuant to Section 12.22 A.25 of the Los Angeles Municipal Code (“LAMC”), appeals of Density Bonus Compliance Review are heard by the City Planning Commission. The appellate decision of the City Planning Commission is final and effective as provided in Charter Section 245.

PROJECT SUMMARY

On August 13, 2020, the Director of Planning approved a Density Bonus / Affordable Housing Incentive Program Compliance Review for a project totaling 61 dwelling units, reserving 32 units for Very Low Income Supportive Housing and 28 units for Low Income household occupancy for a period of 55 years, with three (3) On-Menu Density Bonus Incentives to allow an increase in the Floor Area Ratio (“FAR”), a reduction in the rear yard setback, and a decrease of the open space requirement.

The proposed project is a 6-story, 78-foot tall residential building containing 61 residential dwelling units (including 32 Very Low Income Supportive Housing units and 28 Low Income units). The building will be approximately 39,790 square feet of floor area, with a FAR of 4.05:1. The project proposes a total of 12 vehicle parking spaces and 54 bicycle parking spaces located at the ground floor level. The existing multi-family structures are proposed to be demolished. The Determination is provided in Exhibit C herein, and the appeal period ended on August 28, 2020.

Pursuant to the Density Bonus / Affordable Housing Incentives Program, the project is eligible for and requests the following three (3) On-Menu Density Bonus Incentives to construct the proposed project:

1. **Floor Area Ratio.** A 35% increase to the allowable Floor Area Ratio (FAR) to allow a FAR of 4.05:1 in lieu of the otherwise allowed 3:1 FAR;
2. **Yard/Setback.** A 20% decrease in the required rear yard setback to allow 12 feet in lieu of the otherwise required 15 feet; and
3. **Open Space.** A 20% decrease from the open space requirement to allow 5,240 square feet in lieu of the otherwise required 6,550 square feet.

In addition, pursuant to California Government Code Section 65915 and Assembly Bill (“AB”) 1763, a ministerial review of a Density Bonus Compliance Review, for a supportive housing development project totaling 61 dwelling units, 100% affordable, exclusive of one market-rate manager’s unit, for a period of 55 years, located within one-half mile of a Major Transit Stop, with the following:

1. **Density.** Pursuant to California Government Code Section 65915 (f)(3)(D)(ii), a 455% increase in density to 61 dwelling units in lieu of 11 dwelling units otherwise permitted by the RD1.5-1 Zone; and
2. **Height.** Pursuant to California Government Code Section 65915 (d)(2)(D), a height increase of 33 feet, or up to three additional stories, to allow a building height of 78 feet in lieu of the 45 feet otherwise permitted by the RD1.5-1 Zone.

BACKGROUND

Subject Property

The subject site is located in the Palms – Mar Vista – Del Rey Community Plan approximately 120 feet to the southeast of the intersection of Barry Avenue and Ayres Avenue. The project site consists of three (3) contiguous lots totaling approximately 16,200 square feet, with approximately 135 feet of frontage along the east side of Barry Avenue. The site is currently improved with two single-story structures each with three units, and a single-story duplex for a total of eight existing units (see site photos in Exhibit D). The existing multi-family structures are proposed to be demolished. There are five existing trees on the subject site or the adjacent public right-of-way. There are no known designated historic resources or cultural monuments on the subject site.

The applicant submitted a building permit application with the Los Angeles Department of Building and Safety (“LADBS”) on May 11, 2020 for the construction of a new 61-unit 6-story apartment building (Permit No. 20010-10001-00637). On May 27, 2020, LADBS issued corrections which are pending. A building permit has not yet been issued.

Zoning and Land Use Designation

The project site is located in the Palms – Mar Vista – Del Rey Community Plan, which designates the site for Low Medium Residential land uses with RD1.5 as the corresponding zone. The subject site is zoned RD1.5, with a Height District No. 1 limitation that restricts building height to 45 feet and FAR to 3:1. The site is also within the Exposition Corridor Transit Neighborhood Plan.

Surrounding Uses / Transit

Abutting as well as adjacent properties north and west of the subject property are zoned RD1.5-1, all of which are improved with either multi-family or single-family residential buildings. Abutting as well as adjacent properties south and east of the subject property are zoned R3-1, all of which are improved with multi-family residential buildings. Properties further north of the site, fronting Pico Boulevard, are zoned C2-1VL and are improved with commercial uses.

The site is within one-half mile of a Major Transit Stop located at the entrance to the Bundy Station of the Metro Exposition Line. The site is also within 700 feet of bus stops located along Pico Boulevard that serve the Big Blue Bus 7 bus line.

APPEAL ANALYSIS

One appeal was filed in a timely manner within the appeal period ending on August 28, 2020 by an abutting property owner, David Maman¹.

The following is a summary of the appeal points (provided in Exhibit B) and staff’s response. Appeal points are organized by appeal point topic (1, 2, 3, etc.). Similar appeal points are grouped for staff response.

¹ The appeal application received from David Maman (dated August 26, 2020) is for part of the decision of the Director, specifically for the number of units, height of the building, setbacks, and parking which are described in Conditions 2, 6, 8, and 17, respectively.

APPEAL POINT 1: HEIGHT / MASSING

Appeal Point 1-A: *This small neighborhood consist [sic] of 25 lots which includes about 100 units, with buildings ranging from 1 to 3 stories in height, approximately 35 feet, the proposed project is 78 feet in height.*

The setback reduction and the increase of the height of the building will also impact the buildings abutting the property.

Staff Response: As provided in the Director's Determination (Exhibit C) and Project Background above, the project site is located in the Palms – Mar Vista – Del Rey Community Plan, which designates the site for Low Medium Residential land uses with a zoning designation of RD1.5-1 with Height District No. 1. The site's zoning would allow a base density of 11 dwelling units, building height of 45 feet, with a maximum 3:1 FAR by-right. The site's RD1.5 Zone would also require front and rear yard setbacks of 15 feet pursuant to LAMC Section 12.09.1 B.3.

The applicant has requested three (3) On-Menu Incentives under the Density Bonus / Affordable Housing Incentive Program pursuant to LAMC Section 12.22 A.25 to allow:

1. **Floor Area Ratio.** A 35% increase to the allowable Floor Area Ratio (FAR) to allow a FAR of 4.05:1 in lieu of the otherwise allowed 3:1 FAR;
2. **Yard/Setback.** A 20% decrease in the required rear yard setback to allow 12 feet in lieu of the otherwise required 15 feet; and
3. **Open Space.** A 20% decrease from the open space requirement to allow 5,240 square feet in lieu of the otherwise required 6,550 square feet.

In addition, the site is within one-half mile of a Major Transit Stop² as defined in subdivision (b) of Section 21155 of the Public Resources Code, which is located at the entrance to the Bundy Station of the Metro Exposition Line, as identified in the Affordable Housing Referral Form dated April 22, 2020. The site is approximately 2,525 feet away from the entrance to the Bundy Station of the Metro Exposition Line. Assembly Bill 1763 (AB 1763) amended Section 65915 of the Government Code, Density Bonuses and Other Incentives, and went into effect on January 1, 2020. AB 1763 includes additional allowances for 100% affordable housing projects that utilize the Density Bonus Program. All 100% affordable housing projects may request up to four incentives in lieu of three incentives. Projects that are located within one-half mile of a Major Transit Stop are exempt from any maximum controls on density. Therefore, pursuant to California Government Code 65915(f)(3)(D)(ii), the project shall receive a 455% increase to density because the project is not subject to any maximum controls on density. In addition, projects that are located within one-half mile of a Major Transit Stop shall receive a height increase of up to three additional stories, or 33 feet. Therefore, pursuant to California Government Code Section 65915(d)(2)(D), the project shall receive a height increase of 33 feet because the project is located within one-half mile of a Major Transit Stop.

Under the Density Bonus / Affordable Housing Incentives Program, LAMC Section 12.22 A.25, and the findings required therein, the Commission must approve a Density Bonus and requested incentives unless the Commission makes a finding based on substantial evidence that the

² "Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. This also includes major transit stops that are included in the applicable regional transportation plan.

incentives do not result in identifiable and actual cost reductions to provide for affordable housing costs. The record does not contain substantial evidence that would allow the Commission to deny the incentive by making a finding that the requested incentives are not necessary to provide for affordable housing costs per State Law. The California Health & Safety Code Sections 50052.5 and 50053 define formulas for calculating affordable housing costs for Very Low, Low, and Moderate Income Households. Section 50052.5 addresses owner-occupied housing and Section 50053 addresses rental households. Affordable housing costs are a calculation of residential rent or ownership pricing not to exceed 25 percent gross income based on area median income thresholds dependent on affordability levels.

The list of incentives in LAMC Section 12.22 A.25 was pre-evaluated at the time the Density Bonus Ordinance was adopted to include types of relief that minimize restrictions on the size of the project. As such, the Director will always arrive at the conclusion that the on-menu incentives are required to provide for affordable housing costs because the incentives by their nature increase the scale of the project. The requested incentives, an increase in FAR, a decrease in the rear yard setback, and a decrease in open space, are expressed in the Menu of Incentives per LAMC Section 12.22 A.25(f) and, as such, permit exceptions to zoning requirements that result in building design or construction efficiencies that provide for affordable housing costs. The requested incentives allow the developer to expand the building envelope so the additional units can be constructed and the overall space dedicated to residential uses is increased. These incentives support the applicant's decision to set aside 32 Very Low Income Supportive Housing units and 28 Low Income dwelling units for 55 years.

APPEAL POINT 2: PARKING / TRAFFIC / TRANSIT

Appeal Point 2-A: *The parking is very limited in the neighborhood, taking under consideration that this is not a highly commuted street, with the additional number of units and a major reduction of parking requirements they are creating a very difficult living environment for the entire neighborhood.*

The approval of this project doesn't take the impact on the neighborhood and its residing tenants under consideration.

Staff Response: As provided under Appeal Point 1, the site is within one-half mile of a Major Transit Stop as defined in subdivision (b) of Section 21155 of the Public Resources Code, which is located at the entrance to the Bundy Station of the Metro Exposition Line, as identified in the Affordable Housing Referral Form dated April 22, 2020. Therefore, the site is within a Transit Priority Area³ as defined by Public Resources Code Section 21099.

Assembly Bill 1763 (AB 1763) amended Section 65915 of the California Government Code, Density Bonuses and Other Incentives, and went into effect on January 1, 2020. The bill includes additional allowances for 100% affordable housing projects that utilize the Density Bonus Program. Pursuant to California Government Code Section 65915, an applicant may request that a city not impose any minimum vehicular parking requirement for supportive housing projects, as defined in Section 50675.14 of the Health and Safety Code. Therefore, pursuant to California Government Section 65915(p)(4) and Assembly Bill 1763, as a supportive housing project, the project is permitted to eliminate any minimum vehicular parking requirement. The project is providing 12 parking spaces as provided in Exhibit "A". Therefore, the project is exceeding the parking required by state law.

³ "Transit priority area" means an area within one-half mile of a major transit stop that is existing or planned.

In addition, Senate Bill 743 and Public Resources Code Section 21099(d)(1) precludes a lead agency from finding that a project will result in parking impacts when a project is located within a Transit Priority Area. Therefore, as the project is located in a Transit Priority Area, parking impacts are statutorily determined to not be significant.

APPEAL POINT 3: NUMBER OF UNITS

Appeal Point 3-A: *The proposed project includes 3 lots with 61 units which is more than 60% of the entire neighborhood.*

Staff Response: As provided under Appeal Points 1 and 2, the site is within one-half mile of a Major Transit Stop⁴ as defined in subdivision (b) of Section 21155 of the Public Resources Code, which is located at the entrance to the Bundy Station of the Metro Exposition Line, as identified in the Affordable Housing Referral Form dated April 22, 2020.

Assembly Bill 1763 (AB 1763) amended Section 65915 of the California Government Code, Density Bonuses and Other Incentives, and went into effect on January 1, 2020. The bill includes additional allowances for 100% affordable housing projects that utilize the Density Bonus Program. Projects that are located within one-half mile of a Major Transit Stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, may receive a waiver from any maximum controls in density. Therefore, pursuant to California Government Code Section 65915(f)(3)(D)(ii) and Assembly Bill 1763, the project is not subject to any maximum controls on density which means the applicant may develop 61 units.

CONCLUSION

In consideration of the foregoing, it is submitted that the Director of Planning acted reasonably in approving Case No. DIR-2020-2956-DB-PSH-SIP-PHP. Upon in-depth review and analysis of the issues raised by the appellant for the proposed project at 2444 South Barry Avenue, no errors or abuse of discretion by the Director of Planning or his/her designees were found in regards to the appeal points raised. For the reasons stated herein, and as provided in the Findings in the Director's Determination, the proposed project does comply with the applicable provisions of the Density Bonus Affordable Housing Incentive Program and the California Environmental Quality Act. The appeal of the Director's Determination cannot be substantiated and therefore should be denied.

Staff recommends that the City Planning Commission deny the appeal; sustain the Director of Planning's Determination approving a Density Bonus Affordable Housing Incentive Program for a project totaling 61 dwelling units, reserving 32 units for Very Low Income Supportive Housing and 28 units for Low Income Household occupancy for a period of 55 years, with the incentives for an increase in the Floor Area Ratio ("FAR"), a reduction in the rear yard setback, and a decrease of the open space requirement; determine, based on the whole of the administrative record, that the Project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 65651 and Public Resources Code Section 21080(b)(1) and 21080; and adopt the Director of Planning's Conditions of Approval, Findings, and Exhibit "A".

⁴ "Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. This also includes major transit stops that are included in the applicable regional transportation plan.