



LOS ANGELES CITY PLANNING COMMISSION

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

www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: NOV 05 2018

Case No. DIR-2017-1073-TOC-1A

Council District: 4 – Ryu

CEQA: ENV-2017-1074-CE

Plan Area: Hollywood

Project Site: 1920 – 1922 North Whitley Avenue

Applicant: Brian Prince, B.D.O.G., Inc.
Representative: Warren Techentin, Warren Techentin Architecture

Appellant: Georgeanna Walden, The tenants at 1916-1918 North Whitley Avenue

At its meeting of **October 25, 2018**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following project:

Demolition of an existing triplex; and construction, use, and maintenance of a new five-story, multi-family residential building containing 24 dwelling units, of which 3 units will be set aside for Extremely Low Income Households. The proposed building will be 66 feet, 7 inches in height, as measured from grade to the top of the parapet, and contain approximately 18,605 square feet of floor area. The project will provide a total of 25 automobile parking spaces within a two-level subterranean parking garage, 2 short-term bicycle parking spaces in the front yard, and 24 long-term spaces at the P1 level of the garage. There will be a total of 2,187 square feet of open space.

1. **Determined** based on the whole of the administrative record, that the project is exempt from CEQA pursuant to State CEQA Statute and Guidelines, Article 19, Section 15332 (Urban In-Fill Development), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to State CEQA Statute and Guidelines, Section 15300.2 applies;
2. **Denied** the appeal and **sustained** the Director of Planning's determination to conditionally approve, pursuant to Sections 12.22 A.31 and 12.22 A 25(g) of the Los Angeles Municipal Code (LAMC), a 70-percent increase in density consistent with the provisions of the Transit Oriented Communities (TOC) Affordable Housing Incentive Program for a qualifying Tier 3 project totaling 24 dwelling units, reserving 3 units for Extremely Low Income Household occupancy for a period of 55 years, with the following three Additional Incentives:
 - a. Side Yard. A 29 percent reduction to permit a northerly side yard setback of 5 feet, 8 inches and a 27 percent reduction to permit a southerly side yard setback of 5 feet, 10 inches in lieu of the minimum 8 feet otherwise required;
 - b. Open Space. A 25 percent reduction to permit a minimum 2,006.25 square feet of open space in lieu of the minimum 2,675 square feet otherwise required; and
 - c. Height. A 21-foot, 7-inch (2 stories) increase in height to permit 66 feet, 7 inches of maximum building height in lieu of the maximum 45 feet otherwise permitted.
3. **Adopted** the attached Conditions of Approval, as modified by the Commission including the revised "Exhibit A"; and

4. **Adopted** the attached amended Findings.

The vote proceeded as follows:

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

Vote: 7 – 0



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

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

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

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Modified Conditions of Approval, amended Findings

c: Christina Toy-Lee, Senior City Planner
Mindy Nguyen, City Planner
Nuri Cho, City Planning Associate

CONDITIONS OF APPROVAL
As modified by the City Planning Commission October 25, 2018

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 dated October 25, 2018, and attached to the subject case file. No change to the plans will be made without prior review by the Department of City Planning, Central Project Planning Division, 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 Municipal Code or the project conditions.
2. **Residential Density.** The project shall be limited to a maximum density of 24 residential dwelling units, including On-Site Restricted Affordable Units.
3. **On-Site Restricted Affordable Units.** Three (3) units shall be designated for Extremely Low Income Households, as defined by the Los Angeles Housing and Community Investment Department (HCIDLA) and California Government Code Section 65915(c)(2).
4. **Changes in On-Site Restricted Units.** Deviations that increase the number of restricted affordable units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22 A.31.
5. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA) to make three (3) units available to Extremely Low Income Households 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 set-aside affordable units may be adjusted, consistent with LAMC Section 12.22 A.31, to the satisfaction of HCIDLA, and in consideration of the project's AB 2556 Determination. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant will present a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by the HCIDLA. Refer to the Transit Oriented Communities (TOC) Affordable Housing Incentive Program Background and Housing Replacement (AB 2556 Determination) sections of this determination.
6. **Floor Area Ratio (FAR).** The maximum FAR shall be limited to 3.6:1, or 18,605 square feet.
7. **Automobile Parking.** Automobile parking shall be provided consistent with LAMC Section 12.22 A.31, which permits 0.5 spaces per dwelling unit for a project located in Tier 3 TOC Affordable Housing Incentive Area.
8. **Side Yard.** The project shall provide a side yard of 5 feet, 8 inches along the northerly property line and a side yard of 5 feet, 10 inches along the southerly property line.
9. **Open Space.** The project shall provide a minimum of 2,006.25 square feet of usable open space.

10. **Height.** The project shall be limited to a maximum building height of 66 feet, 7 inches, as measured from grade to the highest point of the roof parapet.

Administrative Conditions

11. **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.
12. **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.
13. **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.
14. **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.
15. **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.
16. **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.
17. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
18. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day that an appeal may be filed), the grant shall be considered null and void. Issuance of a building permit, and the initiation of, and diligent continuation of, construction activity shall constitute utilization for the purposes of this grant.

19. Indemnification and Reimbursement of Litigation Costs.

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out, in whole or in part, of the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

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

“Action” shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

FINDINGS

As amended by the City Planning Commission on October 26, 2018

PROJECT BACKGROUND

The project site consists of a sloped, rectangular-shaped lot with 50 feet of street frontage along the easterly side of Whitley Avenue and a uniform depth of 160 feet, for a total lot size of 8,000 square feet. The project site is located within the Hollywood Community Plan, zoned [Q]R4-1VL, and designated for High Medium Residential land uses. The site is not located within the boundaries of or subject to any specific plan, community design overlay, or interim control ordinance. The site is currently improved with a triplex that was constructed in 1922 and is rent controlled per the Rent Stabilization Ordinance (RSO). The project site is located within the City of Los Angeles Transit Priority Area, Hillside Area, Urban Agriculture Incentive Zone, Very High Fire Hazard Severity Zone, and Bureau of Engineering (BOE) Special Grading Area.

The surrounding properties are zoned [Q]R4-2, [Q]R4-1VL, RD1.5-1XL, [T][Q]R4-1VL-HPOZ and R1-1-HPOZ, and improved with single- and multi-family residential developments. The project site is located approximately 125 feet east of the Whitley Heights Historic Preservation Overlay Zone.

The proposed project is for the demolition of the existing triplex and the construction, use and maintenance of a new five-story, multi-family residential building containing 24 dwelling units, of which three (3) units will be set aside for Extremely Low Income Households, with a two-level subterranean parking garage. The building will have a maximum height of 66 feet, 7 inches and contain 18,605 square feet of floor area for a floor area ratio (FAR) of 3.6:1. The unit mix will be comprised of 15 one-bedroom units, eight (8) two-bedroom units, and a two bedroom unit with a den. There will be 25 automobile parking spaces, 26 bicycle parking spaces (24 long-term and two (2) short-term), and 2,187 square feet of open space comprised of a 465-square-foot ground floor outdoor area in the rear, 1,422-square-foot roof deck, and 300 square feet of private balcony and patio space.

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.

The project site is located within 2,640 feet from the Hollywood/Highland and Hollywood/Vine Metro Red Line Stations, which qualifies the site as Tier 3 of the Transit Oriented Communities (TOC) Affordable Housing Incentive Program (TOC Guidelines).

Pursuant to the TOC Guidelines, the project is eligible for Base Incentives and up to three (3) Additional Incentives for setting aside 21 percent of the base 14 units for Extremely Low Income Households. Base Incentives include: (1) an increase of the maximum allowable number of dwelling units permitted by 70 percent, (2) an increase of the maximum allowable floor area ratio (FAR) by 50 percent; and (3) a reduced automobile parking requirement at a ratio of 0.5 spaces per unit. The applicant requests three (3) Additional Incentives as follows: (1) a 29-percent reduction to permit a northerly side yard of 5 feet, 8 inches and a 27-percent reduction to permit a southerly side yard of 5 feet, 10 inches in lieu of the minimum eight feet otherwise required; (2) a 25-percent reduction to permit minimum 2,006.25 square feet of open space in lieu of the minimum 2,675 square feet otherwise required; and (3) a 21-foot, 7-inch (two stories) increase in height to permit 66 feet, 7 inches of maximum building height in lieu of the maximum 45 feet otherwise permitted.

The project site is zoned [Q]R4-1VL. The "Q" Qualified Classification per Ordinance No. 164,720 limits residential density of the subject property to a maximum of one dwelling unit for each 600 square feet of lot area, which allows a maximum base density of 14 units on an 8,000-square-foot lot. The project is permitted a 70-percent increase in density, which allows a maximum of 24 units. The project proposes a total of 24 units, which is within the maximum density permitted.

The TOC Guidelines allow a 50-percent increase in the maximum 3:1 FAR permitted in the [Q]R4-1VL Zone, thereby allowing a maximum 4.5:1 FAR. The project will contain approximately 18,605 square feet of floor area on a lot with 5,200 square feet of buildable area, which results in a maximum 3.6:1 FAR.

Per the TOC Guidelines, the project containing 24 dwelling units is required to provide a minimum of 12 automobile parking spaces based on a ratio of 0.5 spaces per unit. The project proposes 25 parking spaces, thereby satisfying this requirement.

HOUSING REPLACEMENT (AB 2556 DETERMINATION)

On September 27, 2014, Governor Jerry Brown signed Assembly Bill (AB) 2222, as amended by AB 2556 on August 19, 2016, to amend sections of California's Density Bonus Law (Government Code Section 65915). AB 2556 requires 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.

Pursuant to the Determination made by the Los Angeles Housing and Community Investment Department (HCIDLA) dated June 5, 2017 and email correspondence from HCIDLA dated October 25, 2017, the proposed project will be required to provide two (2) units restricted to Very Low Income Households and one (1) unit restricted to Low Income Households. The three (3) total units required by the HCIDLA Determination are satisfied by the three (3) units proposed to be restricted to Extremely Low Income Households through the TOC Affordable Housing Incentive Program. This is reflected in the Conditions of Approval. Refer to the TOC Affordable Housing Incentive Program Background section of this determination for additional information.

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 TOC 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) 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 TOC Affordable Housing Incentive Area. As part of the proposed development, the project is required to reserve at least 10 percent, or three (3) units, of the total 24 units for Extremely Low Income Households. The project proposes three (3) units restricted to Extremely Low Income Households. 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.*

The project site is located within 2,640 feet from the Hollywood/Highland and Hollywood/Vine Metro Red Line Stations. As such, 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 Los Angeles Housing and Community Investment Department (HCIDLA) dated June 5, 2017 and email correspondence from HCIDLA dated October 25, 2017, the proposed project will be required to provide two (2) units restricted to Very Low Income Households and one (1) unit restricted to Low Income Households. The three (3) total units required by the HCIDLA Determination are satisfied by the three (3) units proposed to be restricted to Extremely Low Income households through the TOC Affordable Housing Incentive Program. As such, 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.*

The project is not seeking any additional 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. As such, 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 the Eligibility Requirement No. 1 above (except Moderate Income units).*
- a. *One Additional Incentive may be granted for projects that include at least 4% of the base units for Extremely Low Income Households, at least 5% of the base units for Very Low Income Households, at least 10% of the base units for Lower Income Households, or at least 10% of the base units for persons and families of Moderate Income in a common interest development.*
 - b. *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.*
 - c. *Three Additional Incentives may be granted for projects that include at least 11% of the base units for Extremely Low Income Households, at least 15% of the base units for Very Low Income Households, at least 30% of the base units for Lower Income Households, or at least 30% of the base units for persons and families of Moderate Income in a common interest development.*

The project is seeking three (3) Additional Incentives for reduced northerly and southerly side yards and open space and increased building height, in exchange for reserving at least 11 percent of the 14 base units for Extremely Low Income Households. The project is setting aside 21 percent, or three (3) units, of the 14 base units for Extremely Low Income Households. As such, the project meets the eligibility requirement for Base and Additional Incentives.

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 two (2) Additional Incentives beyond the three (3) permitted in exchange for reserving at least 11 percent of the base units for Extremely Low Income Households. The project is setting aside 21 percent, or three (3) units, of the 14 base units for Extremely Low Income Households. As such, the project need not adhere to the labor standards required in LAMC Section 11.5.11, and 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 project site consists of one (1) lot, which is located within a Tier 3 TOC Affordable Housing Incentive Area. As such, 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. As such, 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% On-Site Restricted Affordable units. As such, this eligibility requirement does not apply.

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

Pursuant to Section 12.22 A.31(e) of the LAMC, the Director shall review a Transit Oriented Communities (TOC) Affordable Housing Incentive Program project application in accordance with the procedures outlined in LAMC Section 12.22 A.25(g).

1. **Pursuant to Section 12.22 A.25(g) of the LAMC, the Director shall approve a density bonus and requested incentives unless the Director finds that:**
 - a. **The incentives are not required to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units.**

The record does not contain substantial evidence that would allow the Director to make a finding that the requested incentives are not necessary to provide for affordable housing costs per State Law. The California Health & Safety Code Sections 50052.5

and 50053 define formulas for calculating affordable housing costs for Very Low, Low, 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 the TOC Guidelines were pre-evaluated at the time the TOC Affordable Housing Incentive Program 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 following incentives allow the developer to reduce setbacks and open space and increase the building height so that affordable housing units reserved for Extremely Low Income Households can be constructed and the overall space dedicated to residential uses is increased. These incentives support the applicant's decision to reserve three (3) units for Extremely Low Income Households.

Yards: The applicant requests a reduction in the required side yards as follows: (1) a 29-percent reduction to permit a northerly side yard of 5 feet, 8 inches; and (2) a 27-percent reduction to permit a southerly side yard of 5 feet, 10 inches in lieu of the minimum 8 feet otherwise required. These reductions are expressed in the Menu of Incentives in the TOC Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate affordable housing costs.

Open Space: The applicant requests a 25-percent reduction in the minimum open space required to allow 2,006.25 square feet in lieu of 2,675 square feet otherwise required. The requested open space incentive is expressed in the Menu of Incentives in the TOC Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate affordable housing costs. The requested incentive allows the inclusion of affordable housing while still providing usable open space as intended by the Code.

Height: The applicant requests a 21-foot, 7-inch (two stories) increase in maximum building height to permit 66 feet, 7 inches in lieu of the maximum 45 feet otherwise permitted. The requested increase in height is expressed in the Menu of Incentives in the TOC Guidelines which permit exceptions to zoning requirements that result in building design or construction efficiencies that provide for affordable housing costs.

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

There is no substantial evidence in the record that the proposed incentives will have a specific adverse impact. A "specific adverse impact" is defined as, "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written

public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22.A.25(b)). As required by Section 12.22 A.25 (e)(2), the project meets the eligibility criterion that is required for density bonus projects. The project also 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. Therefore, there is no substantial evidence that the proposed incentives will have a specific adverse impact on public health and safety.

ENVIRONMENTAL FINDINGS

On May 11, 2018, the Department of City Planning (DCP) determined that the State CEQA Statute and Guidelines designate the subject project as Categorically Exempt under Class 32 In-Fill Development, Case No. ENV-2017-1074-CE.

A project qualifies for a Class 32 Categorical Exemption if it is developed on an infill site and meets the following criteria:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations;
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- (c) The project site has no value as habitat for endangered, rare or threatened species;
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- (e) The site can be adequately served by all required utilities and public services.

The proposed project is for the demolition of the existing triplex and the construction, use and maintenance of a new five-story multi-family residential building containing 24 dwelling units, of which three (3) units will be set aside for Extremely Low Income Households, with a two-level subterranean parking garage. The building will have a maximum height of 66 feet, 7 inches and contain 18,605 square feet of floor area (FAR) with a 3.6:1 FAR. The unit mix will be comprised of 15 one-bedroom units, eight (8) two-bedroom units, and a two bedroom unit with a den. There will be 25 automobile parking spaces, 26 bicycle parking spaces (24 long-term and two (2) short-term), and 2,187 square feet of open space within a 465-square-foot outdoor area at the rear, 1,422-square-foot roof deck, and 300 square feet of private balcony and patio space.

The site is zoned [Q]R4-1VL and has a General Plan Land Use Designation of High Medium Residential. As shown in the case file, the project is consistent with the applicable Hollywood Community Plan designation and policies and all applicable zoning designations and regulations. The subject site is wholly within the City of Los Angeles, on a site that is approximately 0.2 acres. The surrounding properties are developed with single- and multi-family residential developments. The site is previously disturbed and surrounded by development and therefore is not, and has no value as, a habitat for endangered, rare or threatened species. According to the lot survey prepared by a licensed architect, dated December 7, 2017, there are no trees on the subject property. The project will be subject to Regulatory Compliance Measures (RCMs), which require compliance with the City of Los Angeles Noise Ordinance, pollutant discharge, dewatering, stormwater mitigations; and Best Management Practices for stormwater runoff. These RCMs will ensure the project will not have significant impacts on noise and water. The

proposed project is required to comply with conditions listed in the Los Angeles Department of Building and Safety's Geology and Soils Report Approval Letter Log #102842, or any subsequent amendments thereof. Furthermore, the project does not exceed the threshold criteria established by LADOT for preparing a traffic study. Therefore, the project will not have any significant impacts to traffic. Interim thresholds were developed by DCP staff based on CalEEMod model runs relying on reasonable assumptions, consulting with AQMD staff, and surveying published air quality studies for which criteria air pollutants did not exceed the established SCAQMD construction and operational thresholds. The project site will be adequately served by all public utilities and services given that the construction of a multi-family residential building will be on a site which has been previously developed and is consistent with the General Plan. Therefore, the project meets all of the Criteria for the Class 32.

There are five (5) Exceptions which must be considered in order to find a project exempt under Class 32: (a) Cumulative Impacts; (b) Significant Effect; (c) Scenic Highways; (d) Hazardous Waste Sites; and (e) Historical Resources.

There is not a succession of known projects of the same type and in the same place as the subject project. As mentioned, the project proposes a multi-family residential building containing 24 dwelling units in an area zoned and designated for such development. All surrounding lots are developed with single- and multi-family residential buildings containing up to 206 dwelling units. The project proposes a Floor Area Ratio (FAR) of 3.6:1 in conjunction with the TOC Affordable Housing Incentive Program, which allows a maximum FAR increase of up to 50 percent, allowing a maximum FAR of 4.5:1 in lieu of the 3:1 FAR otherwise permitted by the [Q]R4-1VL Zone, for setting aside three (3) units for Extremely Low Income Households. The proposed building will be five stories in height in an area that is developed with apartment buildings that range in height from two to 12 stories. As such, the proposed building is not unusual for the vicinity of the subject site, and is similar in scope to other existing residential buildings in the area. Thus, there are no unusual circumstances which may lead to a significant effect on the environment. Additionally, the only State Scenic Highway within the City of Los Angeles is the Topanga Canyon State Scenic Highway, State Route 27, which travels through a portion of Topanga State Park. State Route 27 is located approximately 22 miles to the west of the subject property. Therefore, the subject site will not create any impacts within a designated as a state scenic highway. Furthermore, according to Envirostor, the State of California's database of Hazardous Waste Sites, neither the subject site, nor any site in the vicinity, is identified as a hazardous waste site.

The project site is located approximately 125 feet east of the Whitley Heights Historic Preservation Overlay Zone (HPOZ); however, the project site is not located within the Whitley Heights HPOZ or any other HPOZs in the City. The project site has not been identified as a historic resource by local or state agencies, and the project site has not been determined to be eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register; and was not found to be a potential historic resource based on the City's HistoricPlacesLA website or SurveyLA, the citywide survey of Los Angeles. Furthermore, a Phase I Historic Resource Assessment Report was prepared by ASM Affiliates on September 1, 2017, which concluded that the existing triplex is not individually eligible or eligible as a contributor to any historic district or potential historic district or City of Los Angeles Historic-Cultural Monument (HCM), nor as a CEQA-defined historical resource. The Department of City Planning, Office of Historic Resources reviewed and concurred with the analysis and conclusion in the Phase I Historic Resource Assessment Report

on September 7, 2017. Based on this, the project will not result in a substantial adverse change to the significance of a historic resource and this exception does not apply.