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DIRECTOR'S DETERMINATION

April 20, 2020

Applicant/Owner

Venice Wave LP
1600 Venice LLC
11601 Santa Monica Boulevard
Los Angeles, CA 90025

Representatives

Don Toletino
Venice Wave LP
11601 Santa Monica Boulevard
Los Angeles, CA 90025

Case No.: DIR-2019-4920-TOC

CEQA: ENV-2019-4921-CE

Related Cases: PAR-2019-3781-TOC

Location: 1600-1614 East Venice
Boulevard

Council District: 11 – Bonin

Neighborhood Council: Venice

Community Plan Area: Venice

Land Use Designation: High Medium Residential

Zone: [Q]R4-1XL

Legal Description: Lots 1, 2, & 3, Block 10,
Walgrove Tract

Last Day to File an Appeal: May 5, 2020

Pursuant to the Los Angeles Municipal Code (LAMC) Section 12.22 A.31, as the designee of the Director of Planning, I hereby:

Determine, based on the whole of the administrative record, that the project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332 (Class 32 Urban In-Fill Development), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies; and

Approve with Conditions a Transit Oriented Communities (TOC) Affordable Housing Incentive Program Compliance Review for a qualifying Tier 2 project, totaling 77 dwelling units, reserving 7 units for Extremely Low Income Household occupancy for a period of 55 years, with the following Base and Additional Incentives:

Base Incentives

- a. **Residential Density.** A 60 percent increase in the maximum density to permit a total of 77 dwelling units, in lieu of 48 units as otherwise permitted by the R4 base density; and
- b. **Floor Area Ratio (FAR).** A maximum FAR of 4.35:1, in lieu of the 3:1 as otherwise permitted by LAMC Section 12.21.1 A.1; and

- c. **Parking.** Reduced residential parking requirements to permit 0.5 parking spaces per bedroom; and

Additional Incentives

- d. **Yards/Setback.** A reduced front yard setback of 5 feet, in lieu of the 15 feet otherwise required by LAMC Section 12.11; and
- e. **Height.** An increase of 11 feet to allow a maximum height of 41 feet, in lieu of the 30 feet otherwise permitted by LAMC Section 12.21.1 A.1.

The project approval is based upon the attached Findings, and subject to the attached Conditions of Approval:

CONDITIONS OF APPROVAL

Transit Oriented Communities Conditions

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, 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 77 residential dwelling units.
3. **Affordable Units.** A minimum of seven (7) dwelling units, or 9 percent of the 77 total units, shall be reserved for Extremely Low Income households as defined in Section 50106 of the California Health and Safety Code. The Transit Oriented Communities Affordable Housing Incentive Program Guidelines also requires a Housing Development to 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.
4. **Changes in Restricted Units.** Deviations that increase the number of restricted affordable units, or that change the composition of units or parking numbers, shall be consistent with LAMC Section 12.22 A.31 and comply with the Transit Oriented Communities Affordable Housing Incentive Program Guidelines adopted by the City Planning Commission.
5. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute and record a covenant and agreement running with the land to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA). The covenant shall bind the owner to reserve seven (7) units available to Extremely Low Income Households for rental as determined to be affordable to such households by HCIDLA for a period of 55 years. 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 TOC Guidelines and any monitoring requirements established by the HCIDLA. Refer to the TOC Affordable Housing Incentive Program and Housing Replacement (AB 2556 Determination) Background sections of this determination.
6. **Floor Area Ratio (FAR).** The project shall be limited to a maximum FAR as shown in "Exhibit A".
7. **Automobile Parking.** The project qualifies for reduced parking requirements in accordance with LAMC 12.22 A.31 and the TOC Guidelines as a mixed-income project within one half mile of a major transit stop to which the project has unobstructed access. Under AB 744, parking requirements are based upon the number and type of dwelling units proposed. The project requires a minimum of 43 residential parking spaces for the 77 proposed dwelling units containing 85 bedrooms, based on a rate of 0.5 parking spaces per bedroom. Forty-three (43) parking spaces are proposed onsite for the proposed residential use, all located in the subterranean parking level.

8. **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), or the applicant selects another Parking Option (including Bicycle Parking Ordinance) 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 recalculated by the Department of Building and Safety, based upon the ratios set forth ratios set forth in the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines).
9. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC Section 12.21 A.16.
10. **Additional Incentives.** In accordance with LAMC Section 12.22 A.31 and the TOC Guidelines, the following Additional Incentives (Tier 2) are requested:
 - a. **Yards/Setback.** The project shall be permitted a reduced front yard setback of 5 feet.
 - b. **Height.** The project shall be permitted an increase of 11 feet in building height, equal to a maximum building height of 41 feet.

[Q] Conditions (Ordinance No. 169,327)

11. **Tenants.** Prior to the issuance of a building permit or demolition permit, all tenants of an existing multi-unit residential building located on a lot where a project will be located shall be given a minimum 60-day written notice of termination of tenancy.

Administrative Conditions

12. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building and Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building and 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 and 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.
13. **Notations on Plans.** Plans submitted to the Department of Building and 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.
14. **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.
15. **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.
16. **Department of Building and 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 and 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 and 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.

17. **Condition Compliance.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
18. Prior to the issuance of any permits relative to this matter, 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 (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 Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file
19. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day 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.
20. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assign. The agreement must be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
21. **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 of, in whole or in part, 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.

BACKGROUND

The project site consists of three (3) contiguous lots located at 1600-1614 East Venice Boulevard, within the Venice Community Plan. The subject lots are zoned [Q]R4-1XL with a General Plan land use designation of High Medium Residential. The site is located within the Los Angeles Coastal Transportation Corridor Specific Plan area and the Livable Boulevards Streetscape Plan area. Pursuant to Ordinance No. 169,327, the project is also subject to [Q] Qualified Permanent Conditions of Approval ([Q] conditions). Venice High School is located approximately 200 feet to the northeast.

The site is rectangular-shaped and flat, with a lot a total lot area of 17,891 square feet, to be reduced to 17,443 square feet after street dedications. The site occupies the southeasterly corner of Venice Boulevard and Glencoe Avenue, with a 138-foot frontage along Venice Boulevard and a 130-foot frontage along Glencoe Avenue. Pursuant to LAMC Section 12.37, the Bureau of Engineering requires the applicant to provide various street improvements along with the following street dedications: a 20-foot corner radius dedication at the corner of Venice Boulevard and Glencoe Avenue and a 2.5-foot dedication along the alley.

The subject property is located in an area with a mix of single- and multi-family dwellings. A multi-family residence abuts the property to the northeast. To the south of the property is a single-family neighborhood, zoned R1V2. Immediately across Venice Boulevard is a multi-family structure, and immediately across Glencoe Avenue is a duplex. The site is bound to the northwest by Venice Boulevard, to the southwest by Glencoe Avenue, and to the southeast by an alleyway.

At present, the property is developed with a 2-unit apartment, a 3-unit apartment, and a 4-unit apartment. According to a determination issued by the Los Angeles Housing and Community Investment Department (HCIDLA) on June 11, 2019, nine (9) units are subject to replacement under AB 2556 (formerly AB 2222).

The project proposes the demolition of three existing residential structures, and the construction of a 41-foot tall, four-story, 49,948 square-foot, multi-family structure over one level of subterranean parking, containing a total of 77 dwelling units, reserving 7 dwelling units (9 percent of the total units) for Extreme Low Income households for 55 years. The project proposes a total of 43 vehicular parking spaces and 82 bicycle parking spaces (72 long-term, 10 short-term). The project will grade and export 8,800 cubic yards of earth. Access to the proposed subterranean parking level will be located along the rear alleyway. Two pedestrian entrances are proposed: one at the rear alley and one on the corner of Venice Boulevard and Glencoe Avenue.

Pursuant to LAMC Section 12.22 A.31 and the TOC Guidelines, the applicant requests a Transit Oriented Communities Compliance Review. The subject property is located within a Tier 2 TOC Affordable Housing Incentive Area, qualified by its proximity to the intersection of two Major Transit Stops, Venice Boulevard and Lincoln Boulevard. Specifically, the site is within 1,500 feet from Metro Bus Line 33 and Rapid Line 733 and Santa Monica Rapid Line 3. As such, the project is located on a site that qualifies for the TOC Tier 2 Incentives.

The project is eligible for Base Incentives and three Additional Incentives. The Base Incentives include (1) a 60 percent increase in the maximum dwelling units allowed, (2) a 45 percent increase in FAR, and (3) reduced parking requirements to permit 0.5 parking spaces per bedroom. The applicant also requests two Additional Incentive: a reduced front yard setback of 5 feet along Venice Boulevard, and an 11-foot increase in the maximum allowable height, equal to a maximum building height of 41 feet.

For the purpose of calculating density, the property has a total lot area of 18,922 square feet. The R4 Zone allows residential projects to utilize a density of 400 square feet per dwelling unit. Although the subject property is permitted 47 dwelling units by right, the base density for this project is 48 units, rounded up pursuant to the TOC Guidelines. The project is located in a Tier 2 Incentive Area and therefore is eligible for a 60 percent increase in allowable density so long as 9 percent of the total units are set aside for Extremely Low Income households. With an increase of 60 percent, the maximum allowable density for the subject project is 77 dwelling units. The project proposes 77 units, of which 7 units will be set aside for Extremely Low Income households. The proposed building contains a total of 49,948 square feet of floor area, subject to a buildable area of 13,724 square feet; the resulting Floor Area Ratio (FAR) is 3.64 to 1.

HOUSING REPLACEMENT (AB 2556 DETERMINATION) BACKGROUND

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 AB 2556 (TOC) Determination Letter dated June 11, 2019 and prepared by the Los Angeles Housing and Community Investment Department (HCIDLA), nine (9) units are subject to replacement under AB 2556 (formerly AB 2222). Pursuant to the HUD Comprehensive Housing Affordability Strategy (CHAS) database, seven (7) units need to be replaced with equivalent type affordable units. However, two (2) remaining units presumed to have been occupied by an above-lower income person or household, as permitted by California Government Code Section 65915(c)(3)(C)(ii), the City has opted to require that those units be replaced in compliance with the City's Rent Stabilization Ordinance (RSO).

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. The measure required that the Department adopt a set of TOC Guidelines, which establishes incentives for residential and mixed-use projects located within ½ mile of a major transit stop. Major transit stops are defined under existing State law.

The TOC Affordable Housing Incentive Program Guidelines (TOC Guidelines), released on 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 less than 1,500 feet from Venice Boulevard and Glencoe Avenue, the intersection of a Santa Monica Rapid Bus line 3, with a service interval of approximately 13.12

minutes, and regular Metro Bus line 33 and Rapid line 733, with a service interval of approximately 12.7 minutes. As such, the site qualifies as a Tier 2 TOC Affordable Housing Incentive Area.

TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM ELIGIBILITY REQUIREMENTS

To be an eligible TOC Housing Development, a project must meet the Eligibility criteria set forth in Section IV of the 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 Tier 2. Tier 2 requires at least 9 percent of the 77 total units, or 7 units, to be set aside for Extremely Low Income Households. The project reserves 7 units for Extremely Low Income Households and, 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.*

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 project site is located less than 1,500 feet from the intersection of a Santa Monica Rapid Bus line 3 with a service interval of approximately 13.12 minutes and regular Metro Bus line 33 and Rapid line 733 with a service interval of approximately 12.7 minutes. 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.*

A determination dated June 11, 2019 from the Los Angeles Housing and Community Investment Department (HCIDLA) states that nine (9) dwelling units are subject to replacement under Assembly Bill (AB) 2556. Pursuant to HCIDLA's AB 2556 Determination, seven (7) units shall be replaced with equivalent bedroom type, with three (3) units restricted to Extremely Low Income Households, two (2) units restricted to Very Low Income Households, and two (2) units to Low Income Households. For the two (2) remaining units presume to have been occupied by an above-low income person or

household, as permitted by California Government Code Section 65915(c)(3)(C)(ii), the City has opted to require that those units be replaced in compliance with the City's Rent Stabilization Ordinance (RSO).

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 eligible for two Additional Incentives. The applicant elects to utilize two Additional Incentives: a reduced front yard setback of 5 feet along Venice Boulevard, and an 11-foot increase in the maximum allowable height, equal to a maximum building height of 41 feet. At least 7 percent shall be set aside for Extremely Low Income Households; the project sets aside 9 percent for Extremely Low Income Households. As such, the project meets the eligibility requirement for up to two 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 Additional Incentives beyond those permitted in exchange for reserving 7 dwelling 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 three contiguous lots, all of which qualify for the TOC Tier 2 Incentives.

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 elected to utilize a 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 is not considered a 100% Affordable Housing Project. As such, this eligibility requirement does not apply.

FINDINGS

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 LAMC Section 12.22 A.25(g)(2), the Director shall approve a transit oriented communities review with additional requested incentives unless the Director finds that 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 find that the requested incentives are not required 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.

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 increase the height of the mixed-use building so that affordable housing units can be constructed and the overall space dedicated to residential uses is increased. These incentives support the applicant's decision to reserve seven (7) units for Extremely Low Income Households.

Yards/Setback. The project is located within the R4 zone and is required to provide a 15-foot front yard setback on Venice Boulevard. The requested yard incentive allows the project to be designed with a reduced front yard setback of 5 feet along Venice Boulevard. Front yard reductions are limited to no more than the average of the front yards of adjoining buildings along the same street frontage; if the project is located on a corner lot or adjacent to a vacant lot, the front yard setback may align with the façade of the adjoining building along the same front lot line. Without the yard incentive, the project's floor area would be reduced by approximately 5,000 square feet, resulting in a decrease of 16 units. With the yard incentive, the project is able to include more residential floor area for dwelling units reserved for Extremely Low Households.

Height. The project is subject to the 1XL height district, which limits height to 30 feet. The requested height incentive allows an increase of 11 feet in building height, equal to a maximum building height of 41 feet. Although the underlying zone does not limit the number of stories, the project is limited by building height. Utilization of the height incentive enables the construction of an additional level, and thus facilitates the addition of approximately 21 units. The additional units support the applicant's decision to reserve seven (7) units for Extremely Low Income Households.

The use of the Incentives result in design and construction efficiencies, which in turn makes the inclusion of affordable units more financially feasible. The Additional Incentives requested for this project are part of a broader list of TOC On-Menu Additional

Incentives that have been pre-evaluated and deemed effective in providing applicants with greater flexibility to construct mixed-income developments. The project reserves at least 7 percent of the total units for Extremely Low Income Households and, as such, qualifies for up to two Additional Incentives.

2. **Pursuant to LAMC Section 12.22 A.25(g)(2), the Director shall approve a transit oriented communities review with additional requested incentives unless the Director finds that the 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 and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Very Low, Low, and Moderate Income households. Inconsistency with the zoning ordinance or the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.**

There is no evidence that the proposed incentive will have a specific adverse impact upon public health and safety or the physical environment. 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 finding that there is no evidence in the record that the proposed incentives will have a specific adverse impact is further supported by the CEQA findings. The findings to deny an incentive under Density Bonus Law are not equivalent to the findings for determining the existence of a significant unavoidable impact under CEQA. However, under a number of CEQA impact thresholds, the City is required to analyze whether any environmental changes caused by the project have the possibility to result in health and safety impacts. For example, CEQA Guidelines Section 15065(a)(4), provides that the City is required to find a project will have a significant impact on the environment and require an EIR if the environmental effects of a project will cause a substantial adverse effect on human beings. The proposed project and potential impacts were analyzed in accordance with the State CEQA Statute and Guidelines and the City's L.A. CEQA Thresholds Guide. Analysis of the proposed project determined that the project is Categorically Exempt from environmental review pursuant to Article 19, Class 32 of the State CEQA Statute and Guidelines. Furthermore, the project was evaluated against the exceptions to use of Categorical Exemptions pursuant to Section 15300.2 of the State CEQA Statute and Guidelines and determined that none of the exceptions apply to the proposed project. Therefore, there is no substantial evidence that the proposed project will have a specific adverse impact upon public health and safety or the environment, or on any real property that is listed in the California Register of Historical Resources.

ENVIRONMENTAL REVIEW FINDINGS

3. As the designee of the Director of Planning, I have determined, based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to State CEQA Guidelines, Article 19, Section 15332 (Class 32) and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

The project consists of the demolition of three existing residential structures, and the construction of a 41-foot tall, four-story, 49,948 square-foot, multi-family structure over one level of subterranean parking, containing a total of 77 dwelling units, reserving 7 dwelling units (9 percent of the total units) for Extreme Low Income households for 55 years. The project provides a total of 43 vehicular parking spaces and 82 bicycle parking spaces (72

long-term, 10 short-term). The project will grade and export 8,800 cubic yards of earth. The project is an in-fill development and qualifies for the Class 32 Categorical Exemption.

CEQA Determination – Class 32 Categorical Exemption Applies

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.**

The site currently is developed with a 3-unit apartment building, a 4-unit apartment building, and a 2-unit apartment building. The site is zoned [Q]R4-1XL and has a General Plan Land Use designation of High Medium Residential. The project proposes the construction of a three-story residential building containing 77 dwelling units. As proposed, the project is conformance with the General Plan Zoning and Land Use designation.

- b) **The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.**

The subject site is wholly within the City of Los Angeles. Lots surrounding the subject site are developed with multi-family buildings and single-family residences.

- c) **The project site has no value as a habitat for endangered, rare, or threatened species.**

The site is not a wildland area, and is not inhabited by endangered, rare, or threatened species. The area around the site is highly urbanized and surrounded by commercial and residential uses. NavigateLA shows that the subject site is not located in a Significant Ecological Area.

- d) **Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.**

The project will be subject to Regulatory Compliance Measures (RCMs), which require compliance with the City of Los Angeles Noise Ordinance for pollutant discharge, dewatering, and stormwater mitigations; and Best Management Practices for stormwater runoff. More specifically, RCMs include but are not limited to:

- **Regulatory Compliance Measure RC-AQ-1 (Demolition, Grading and Construction Activities): Compliance with provisions of the SCAQMD District Rule 403.** The project shall comply with all applicable standards of the Southern California Air Quality Management District, including the following provisions of District Rule 403:
 - All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.
 - The construction area shall be kept sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind.

- All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), to prevent excessive amounts of dust.
 - All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
 - All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
 - General contractors shall maintain and operate construction equipment to minimize exhaust emissions.
 - Trucks having no current hauling activity shall not idle but be turned off.
- **Regulatory Compliance Measure RC-GEO-1 (Seismic):** The design and construction of the project shall conform to the California Building Code seismic standards as approved by the Department of Building and Safety.
 - **Regulatory Compliance Measure RC-NO-1 (Demolition, Grading, and Construction Activities):** The project shall comply with the City of Los Angeles Noise Ordinance and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.

These RCMs will reduce any potential impacts on noise and water quality to less than significant. The creation of noise is limited to certain decibels, restricted to specific hours. A Noise Impact Analysis, prepared by Cadence Environmental, dated September 25, 2019, determined that the proposed development would not exceed the limits stated in the Noise Ordinance. Regarding traffic and air quality impacts, DOT staff determined that the project requires a traffic assessment study. A traffic study dated September 3, 2019 was prepared by Overland Traffic Consultants. The Department of Transportation (LADOT) issued a Traffic Assessment, dated February 4, 2020, indicating the project would generate a net increase of 341 trips. The Traffic Assessment included a VMT analysis that determined the project would not have a significant transportation impact under any of the above thresholds.

The project will not conflict with any adopted policies, plans, or programs regarding public transit, bicycle facilities, or pedestrian facilities. Therefore, the project will not have any significant impacts to traffic. Likewise, air quality will not worsen as a result of the proposed project. 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 Air Quality Impact Analysis prepared by Cadence Environmental Consultants, dated September 24, 2019, concluded the project would not result in impacts to air quality. Regarding water quality, the proposed project will utilize existing municipal water sources through the Department of Water and Power (LADWP). The project is subject to the City's Low Impact Development Ordinance (Ordinance 181,889), which requires the capture and retention of storm water through onsite filtration and treatment. As such, the project has been designed to meet the City's Low Impact Development (LID) requirements.

e) The site can be adequately served by all required utilities and public services.

The project site will be adequately served by all public utilities and services given that the property is located in an urban tract with water supply, sewage and waste disposal infrastructure, and power lines installed. Venice Boulevard and Glencoe Avenue are improved with existing utilities that service the lots in the area. Both can be accessed

by emergency vehicles. The project includes a street dedication to widen the pedestrian right-of-way. The project will also repair and replace any broken or off-grade asphalt, sidewalk, curb, or gutter. The project shall comply with any street light requirements required by the Bureau of Street Lighting. The proposed project will not result in significant impacts on the capacity of existing utilities and services.

The project is a transit-oriented, infill development on a site within an urbanized area and meets the criteria outlined above. Therefore the project qualifies for a Class 32 Categorical Exemption.

Furthermore, the Exceptions outlined in the State CEQA Guidelines Section 15300.2 do not apply to the project:

- a) **Cumulative Impact.** There is not a succession of known projects of the same type located in the same place as the subject project. No comparable pending projects (TOC or Density Bonus) have been identified within a 500-foot radius of the subject site. One TOC project located approximately 0.33 miles away at 1015 East Venice Boulevard (DIR-2017-4421-TOC) was approved on September 7, 2018. Another TOC project, located at 1808-1816 South Lincoln Boulevard (DIR-2019-1133-TOC), was approved on February 20, 2020. Since these projects qualify for a Class 32 Categorical Exemption and are subject to Regulatory Compliance Measures, no cumulative impacts are anticipated. Further, the proposed 77-unit residence does not exceed thresholds identified for impacts to the area (i.e. traffic, noise, etc.) and will not result in significant cumulative impacts.
- b) **Significant Effect Due to Unusual Circumstances.** A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The project proposes a multi-family building in an area zoned and designated for such use. Adjacent lots are developed with multi- and single-family residences. No unusual circumstances are present or foreseeable.
- c) **Scenic Highways.** The project site is not located on or near a designated state scenic highway. The only State Scenic Highway within the City of Los Angeles is the Topanga Canton State Scenic Highway, State Route 27, which travels through a portion of Topanga State Park.
- d) **Hazardous Waste Sites.** The project site is not identified as a hazardous waste site or is on any list compiled pursuant to Section 65962.5 of the Government Code.
- e) **Historical Resources.** 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. The site was not found to be a potential historic resource based on the City's HistoricPlacesLA website or SurveyLA, the citywide survey of Los Angeles. The City does not treat the site as a historic resource. Based on this, the project will not result in a substantial adverse change to the significance of a historic resource.

The project is determined to be categorically exempt and does not require mitigation or monitoring measures; no alternatives of the project were evaluated. An appropriate environmental clearance has been granted.

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 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.

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.

VIOLATIONS OF THESE CONDITIONS

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.

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 \$2,500 or by imprisonment in the County Jail for a period of not more than six months, or by both a fine and imprisonment."

APPEAL PERIOD - EFFECTIVE DATE

The Determination in this matter will become effective and final fifteen (15) days after the date of mailing of the Notice of Director's Determination 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. All appeals must be filed on the prescribed forms, accompanied by the required fee, a copy of this Determination, and received and receipted at any one of the Development Services Center 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 <http://planning.lacity.org>. Development Services Center of the Department of City Planning are located at:

**Downtown Metro
Public Counter**
201 N. Figueroa St., 4th Floor
Los Angeles, CA 90012
(213) 482-7077

**San Fernando Valley
Public Counter**
6262 Van Nuys Blvd.,
2nd Floor
Los Angeles, CA 91401
(818) 374-5050

**West Los Angeles
Public Counter**
1828 Sawtelle Blvd.,
2nd Floor
Los Angeles, CA 90025
(310) 231-2901

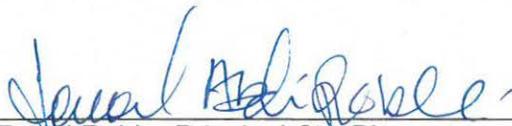
Only an applicant or any owner or tenant of a property abutting, across the street or alley from, or having a common corner with the subject property can appeal this Density Bonus Compliance Review Determination. Per the Density Bonus Provision of State Law (Government Code Section §65915) the Density 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.

Verification of condition compliance with building plans and/or building permit applications are done at any Development Services Center of the Department of City Planning. 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 through the Department of City Planning website at <http://planning.lacity.org> or by calling (213) 482-7077, (818) 374-5050, or (310) 213-2901. The applicant is further advised to notify any consultant of this requirement as well.

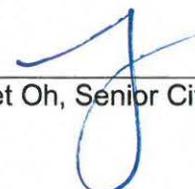
The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedures Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the 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.

VINCENT P. BERTONI, AICP
Director of Planning

Approved by:


Faisal Roble, Principal City Planner

Reviewed by:


Juliet Oh, Senior City Planner

Prepared by:


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