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

April 20, 2021

Applicant/Owner

Erwin One, LLC (O)
6029 Bristol Parkway, Unit 200
Culver City, CA 90230

Representative

Heather Lee
Ketter & Associates
12650 Riverside Drive, Unit 100
Studio City, CA 91607

John Friedman (Architect)
Ketter & Associates
12650 Riverside Drive, Unit 100
Studio City, CA 91607

Case No. DIR-2020-7352-TOC-HCA

CEQA: ENV-2020-7353-CE

Location: 6555 -6561 W. Franklin Ave.

Council District: 4 –Raman

Neighborhood Council: Hollywood Hills West

Community Plan Area: Hollywood

Land Use Designation: High Medium Residential

Zone: [Q]R4-1

Legal Description: Tract RE-SUBDIVISION OF
BLOCKS 10 AND 11
HOLLYWOOD OCEAN VIEW
TRACT, Map Reference M B 2-
78, Block 1 Lot FR 7, Arb (Lot
Cut Reference) 2

**Last Day to File an
Appeal:**

May 5, 2021

DETERMINATION – Transit Oriented Communities Affordable Housing Incentive Program

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

1. **Determine** based on the whole of the administrative record, that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332, Article 19 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Approve with Conditions** a seventy (70) percent increase in density, a fifty (50) percent increase in Floor Area Ratio (FAR) resulting in a 4.5:1 FAR, and parking

incentive to allow 0.5 spaces per bedroom, and consistent with the provisions of the Transit Oriented Communities Affordable Housing Incentive Program along with the following three (3) incentives for a qualifying Tier 3 project totaling 28 dwelling units, reserving three (3) units for Extremely Low Income (ELI) households for a period of 55 years:

- a. **North and South Side Yard Setbacks.** A 30 percent reduction in required side yard setbacks, allowing the provision of 6-foot 3-inch north and south side yard setbacks in lieu of the required 9-foot side yard setbacks in the [Q]R4-1VL Zone;
- b. **Rear Yard Setback.** A 30 percent reduction in required rear yard setback, allowing the provision of 12-foot 7-inch rear yard setback in lieu of the required 18-foot side yard setback in the [Q]R4-1VL Zone; and
- c. **Height.** An increase in height allow 65-feet 9 inches in lieu of 45-feet.

3. Adopt the attached Findings.

The approval is subject to the following terms and conditions:

CONDITIONS OF APPROVAL

Pursuant to the Los Angeles Municipal Code (LAMC) Sections 12.22-A.31 the following conditions are hereby imposed upon the use of the subject property:

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the Applicant, stamped "Exhibit A," and attached to the subject case file. Minor deviations may be allowed in order to comply with the provisions of the Los Angeles Municipal Code or the project conditions. Changes beyond minor deviations required by other City Departments or the LAMC may not be made without prior review by the Department of City Planning, Expedited Processing Section, and written approval by the Director of Planning. Each change shall be identified and justified in writing.
2. **Base Incentives.**
 - a. **Residential Density.** The project shall be limited to a maximum density of 28 units, including on-site Restricted Affordable Units, equal to a maximum density increase of 70%.
 - b. **Floor Area Ratio (FAR).** The project is permitted to have an FAR of 4.5:1.
 - c. **Parking.**
 - i. **Automotive Parking.** Automobile parking shall be provided consistent with LAMC Section 12.22-A,31. The proposed development, a Tier 3 project, shall not be required to exceed 0.5 automobile parking spaces per unit.
 - ii. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC Section 12.21-A,16. In the event that the number of On-Site Restricted Affordable Units should increase or the composition of such units should change, then no modification of this determination shall be necessary and the number of bicycle parking spaces shall be re-calculated consistent with LAMC Section 12.21-A,16. The additional

options to further reduce automobile parking through bicycle parking replacement in LAMC 12.21-A, 4 shall not apply.

- iii. **Rounding.** If a total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.
- iv. **Unbundling.** Required parking may be sold or rented separately from the units, with the exception of all Restricted Affordable Units which shall include any required parking in the base rent or sales price, as verified by HCIDLA.

3. **Additional Incentives.**

a. **North Side Yard Setbacks, South Side Yard Setbacks, and Open Space.**

- i. **Side Yards (North and South Sides).** A 6-foot 9-inch north side yard shall be permitted in lieu of the minimum 9 feet otherwise required in the [Q]R4-1VL Zone;
 - ii. **Rear Yards.** 12-foot 7-inch rear yard shall be permitted in lieu of the minimum 18 feet otherwise required in the [Q]R4-1VL Zone; and
 - iii. **Height.** An increase in height to allow a maximum building height of 65-feet, 9-inches in lieu of the maximum 45-feet otherwise allowed.
4. **Affordable Units.** Pursuant to Section IV.1.d of the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines), the applicant shall provide a minimum of 8% of the total number of units to be reserved for Extremely Low Income households (ELI) as defined by Section 50106 of the California Health and Safety Code.
5. **Changes in On-site Restricted Units.** Deviations that increase the number of On-site Restricted Units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22-A.31 and the project's AB 2556 Determination, dated August 12, 2020.
6. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the HCIDLA to make three (3) units for Extremely Low Income (ELI) 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 reserved on-site Restricted 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, dated August 12, 2020. 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 Density Bonus Legislation Background section of this determination.

Design Conformance Conditions

7. **Maintenance.** The subject property (including all trash storage areas, associated parking facilities, walkways, common open space and exterior walls along the property lines) shall

be maintained in an attractive condition and shall be kept free of trash and debris. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.

8. **Landscaping.** All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped, including an automatic irrigation system, and maintained in accordance with a landscape plan prepared by a licensed landscape architect or licensed architect, and submitted for approval to the Department of City Planning. The project shall indicate landscape points for the project equivalent to 10% more than otherwise required by LAMC 12.40 and Landscape Ordinance Guidelines. Landscaping shall be installed with drought tolerant, native landscaping. Mediterranean and other local climate-friendly plants may be used alongside native species.
9. **Building Materials.** The proposed structure's building façades shall be in substantial compliance with **Exhibit A**.
10. **Mechanical Equipment.** All mechanical equipment on the roof shall be screened from view. The transformer, if located in the front yard, shall be screened with landscaping or a green wall on all exposed sides.
11. **Trash.** All trash collection and storage areas shall be located on-site and not visible from the public-right-of-way.
 - a. Trash receptacles shall be enclosed and/or covered at all times.
 - b. Trash/recycling containers shall be locked when not in use.
12. **Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source does not illuminate adjacent residential properties or the public right-of-way, nor the above night skies.

Administrative Conditions

13. **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.
14. **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.
15. **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.

16. **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.
17. **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.
18. **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.
19. **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.
20. **Enforcement.** Compliance with and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
21. **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.
22. **Expedited Processing Section Fee.** Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
23. **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.

PROJECT BACKGROUND

The project site is a rectangular-shaped site comprised of one parcel comprised of one lot zoned [Q]R4-1VL and consisting of approximately 9,644 square feet (0.22 acre). The property currently has two single family dwellings. The project sits on the northwest corner of Franklin Avenue and Whitley Avenue. The street frontage along Whitley Avenue (the designated front) is 90 feet, while the street frontage along Franklin Avenue (the designated side) is 108 feet. Approximately 10,800 cubic yards of soil and debris will be moved.

The project involves the construction, use, and maintenance of a residential building with a total of 28 units (including three (3) units for Extremely Low Income (ELI) households and a total floor area of approximately 26,428 square feet for an approximate Floor Area Ratio (FAR) of 4.5:1. The building is proposed to be 69-feet, 9-inches in height, built to six stories plus a roof deck. The measurement of building height may exclude roof structures and equipment as defined by Section 12.21.1 of the LAMC. The proposed project will have one level of at-grade parking and one level of subterranean parking containing 17 automobile parking spaces and 31 bicycle stalls. The proposed unit mix consists of 8 studio units, 4 one-bedroom units, and 16 two-bedroom units. The building provides a total of 3,304 square feet of open space comprised of 1,300 square feet of private open space and 2,004 square feet of common open space, including a roof deck.

Zoning:

The project site is located within the Hollywood Community Plan Area. The adopted Hollywood Community Plan designates the project site for High Medium Residential land use with corresponding zone of [Q]R4-1VL.

The project site is located within a Hillside area and a Special Grading Area (BOE Basic Grid Map A-13372). The project proposes the grading and export of more than 10,800 cubic yards, and as such, requires a Haul Route from the Los Angeles Department of Building and Safety.

Surrounding Properties:

The subject property is located in a highly urbanized area, approximately seven (7) miles northwest of downtown Los Angeles. The subject site is located on the northwest corner of Franklin Avenue and Whitley Avenue. The land use and zoning surrounding the subject site reflects a mix of single-family and multi-family uses (zoned [Q]R4-1VL, [Q]R4-2). Therefore, the subject site is substantially surrounded by urban uses. The subject property is located approximately 1,270 feet east of Highland Avenue and approximately 1,280 feet north of Hollywood Boulevard. Properties along Highland Avenue are zoned [Q]R5, [Q]R4, [Q]C2, and improved with commercial uses. Properties along Hollywood Boulevard are zoned [Q]C4, and are improved with commercial uses. There are multiple major bus routes running along Highland Avenue and Hollywood Boulevard. Several local busses serve the area.

Abutting Streets:

Franklin Avenue, abutting the property to the south of the project site, is an Avenue II Modified street, dedicated to a right-of-way width of 55 feet along the street frontage, and improved with asphalt roadway and concrete curb, gutter, and sidewalk.

Whitley Avenue, abutting the property to the west of the project site, is a collector street, dedicated to a right-of-way width of 60 feet along the street frontage, and improved with asphalt roadway and concrete curb, gutter, and sidewalk.

Transit Oriented Communities (TOC) Guidelines, Tier 3 Eligibility:

On September 22, 2017, the Transit Oriented Communities (TOC) Guidelines became effective. On February 26, 2018 the TOC guidelines were amended with Technical Clarifications. The TOC Guidelines establish a tier-based system with varying development bonuses and incentives based on a project's distance from different types of transit. The subject property is located within 2,640 feet of a Major Transit Stop. The project site is located on Franklin Avenue and served by the Metro Red Line (Hollywood and Highland Station). Additionally, the subject property is located approximately 1,270 feet east of Highland Avenue and approximately 1,280 feet north of Hollywood Boulevard which provide local bus service for the area.

The subject property is therefore located in Tier 3 of the Transit Oriented Communities Affordable Housing Incentive Program and is eligible for Tier 3 incentives. Per Section IV of the Transit Oriented Communities Guidelines, Tier 3 projects are eligible for the Base Incentives as well as up to three Additional Incentives if the project reserves at least 11% of the base units for Extremely Low Income Households, at least 15% of the base units for Very Low Income Households, or at least 30% of the base units for Low Income Households. The project will set aside 11% of the base units for Extremely Low Income Households and is therefore eligible for three Additional Incentives.

The project involves a Transit Oriented Communities Request to permit 17 base units and 11 additional units through the Transit Oriented Communities Program, for a total of 28 units. As Base Incentives, the project is eligible to (1) increase the maximum allowable number of dwelling units permitted by 70% (2) increase the maximum allowable Floor Area Ratio (FAR) by 50%, and (3) provide a maximum of 0.5 parking spaces per unit. The project is requesting three Additional Incentives as follows: (1) a 30 percent reduction in required north and south side yard setbacks; (2) a 30 percent reduction in required rear yard setback AND; (3) an increase in height from 45-feet to 65-feet 9-inches.

Density Allowed By-Right

As previously mentioned, the project site is within the [Q]R4-1VL Zone, which allows for the following base density:

Zone	Lot Size (Lot Size Area)	Minimum Area per Dwelling Unit	Base Density Allowed (Lot Size/Minimum Area per Dwelling Unit)
[Q]R4-1	9,664 square feet	600 square feet	16.1
Total Base Density:			17 units (rounded up)

Table 1. The base density allowed for the proposed project is 17 units.

Pursuant to the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines), the project is eligible for Base Incentives and up to three (3) Additional Incentives.

Density Allowed with Increase

By setting aside 11% of the project's total number of units for Extremely Low Income Households, the project is eligible for a 70% density increase for a maximum density of 29 units. The following table shows the computation:

Zone	Total Base Density	Density Increase	Total Density Allowed (Total Base Density x Density Increase)
[Q]R4-1	17 units (rounded up)	70% (1.7)	28.9 units
Maximum Density Allowed:			29 units (rounded up)

Table 2 - The total (maximum) density allowed for the proposed project is 29 units.

The applicant is proposing a density of 28 residential units, which is below the maximum allowable density permitted through the TOC Guidelines in exchange for providing the on-site restricted affordable units. As such, the applicant is proposing a 70% percent density increase per the TOC Guidelines.

In accordance with TOC guidelines, the project qualifies for Tier 3 Base Incentives for setting aside eight percent (0.08%) of the total project units ($28 \text{ units} \times 0.08 = 2.24 = 3 \text{ units}$ – rounded up) for Extremely Low Income Households. Additionally, in accordance with TOC regulations of LAMC Section 12.22-A.31, the project qualifies for up to three (3) Additional Incentives for setting aside at least eleven percent (11%) of the base density ($17 \text{ units} \times 0.11 = 1.87 = 2 \text{ units}$ – rounded up) for Extremely Low Income Households. The applicant is providing 3 units for Extremely Low Income Households. The following table shows the computation:

Total Project Units	Qualification for Tier 3 Base Incentives (set aside 8% of the total number of units in the final project for Extremely Low Income Households)	Qualification for Three (3) Additional Incentives (set aside 11% of Base Density Allowed for Extremely Low Income Households)
28 units	$28 \times 0.08 = 2.24 = 3 \text{ units}$ (rounded up)	$17 \times 0.11 = 1.87 = 2 \text{ units}$ (rounded up)

Table 3 - In order to qualify for Tier 1 Base Incentives, the project must set aside three units in the final project for Extremely Low Income Households.

HOUSING REPLACEMENT (AB 2556 DETERMINATION)

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

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 August 12, 2020, indicates that the proposed development shall provide at least 2 replacement units of equivalent type, with at least one (1) unit restricted to Extremely Low Income Households, and one (1) unit restricted to Very Low Income Households. However, the project is setting aside three (3) units for restricted affordable housing for Extremely Low Income Households, which exceeds the requirements pursuant to AB 2556. This is reflected in the Conditions of Approval. Refer to the Transit Oriented Communities Affordable Housing Incentive Program Project 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 Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines). A Housing Development located within a TOC Affordable Housing Incentive Area shall be eligible for TOC Incentives if it meets all of the following requirements, which it does:

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

The project site is located within a Tier 3 Transit Oriented Communities Affordable Housing Incentive Area. As part of the proposed residential development, the project is required to reserve one unit for Extremely Low Income Households and one unit for Very Low Income Household. The project will provide 3 replacement dwelling units for Extremely Low Income Households, which equates to over 8 percent of the 28 dwelling units proposed as part of the Housing Development. 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 subject property is located less than 2,640 feet of a Major Transit Stop. The project site is located on the corner of Franklin Avenue and Whitley Avenue and is served by the Metro Red Line station at Hollywood Boulevard (Hollywood and Highland) and Highland Avenue. Additionally, the subject property is located approximately 1,270 feet east of Highland Avenue and approximately 1,280 feet north of Hollywood Boulevard which provide local bus service for the area. 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 August 12, 2020, indicates that the proposed development shall provide at least 2 replacement units of equivalent type, with at least one (1) unit restricted to Extremely Low Income Households, and one (1) unit restricted to Very Low Income Households. However, the project is setting aside three (3) units for restricted affordable housing for Extremely Low Income Households, which exceeds the requirements pursuant to AB 2556. This is reflected in the Conditions of Approval. 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 residential 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), 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 requesting three(3) Additional Incentives for a 30 percent reduction in required north and south side yard setbacks; a 30 percent reduction in required rear yard setback and; an increase in height from 45-feet to 65-feet 9-inches in exchange for reserving at least 11 percent of the base units for Extremely Low Income Households. The project is setting aside three(3) units for Extremely Low Income Households, which equates to more than 11 percent of the 17 base units permitted through the underlying zoning of the site. 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 any additional incentives beyond the three permitted in exchange for reserving at least 11 percent of the base units for Extremely Low Income Households. The project is setting aside three (3) units for Extremely Low Income Households, which equates to more than 11 percent of the 17 base units permitted through the underlying zoning of the site. As such, the project need not adhere to the labor standards required in LAMC Section 11.5.11; this eligibility requirement does not apply.

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

The proposed development will be located on one lot which is located within a Tier 3 Transit Oriented Communities Affordable Housing Incentive Area. As such, the project is requesting the TOC Incentives that correspond to Tier 3.

- 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. It is not eligible for or seeking an increase in Tier. As such, this eligibility requirement does not apply.

10. **Design Conformance.** *Projects seeking to obtain Additional Incentives shall be subject to any applicable design guidelines, including any Community Plan design guidelines, Specific Plan design guidelines and/or Citywide Design Guidelines and may be subject to conditions to meet design performance. The conditions shall not preclude the ability to construct the building with the residential density permitted by Section VI.*

The project seeks three Additional Incentives and therefore has been conditioned to conform to the Citywide Design Guidelines, including, but not limited to maintaining the site attractive at all times (free of trash, debris, and graffiti), providing sufficient landscaping on site, providing a minimum of three different materials on the building façade, screening off all mechanical equipment and transformers, and the provision of outdoor lighting with shielding such that the light source does not illuminate adjacent residential properties or the public right-of-way, nor the above night skies.

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 Affordable Housing Incentive Program project application in accordance with the procedures outlined in LAMC Section 12.22-A,25(g).

- a. **Pursuant to Section 12.22 A.25(g)(2)(i)(c) of the LAMC and Section 65915(e) of the California Government Code, the Commission shall approve a density bonus and requested incentive(s) unless the Commission finds that:**

The incentives do not result in identifiable and actual cost reductions 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 extremely low, very low, and lower 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 Transit Oriented Communities Guidelines were pre-evaluated at the time the Transit Oriented Communities Affordable Housing Incentive Program Ordinance was adopted to include relief mechanisms that minimize restrictions on the size of the project. As such, the Director will always arrive at the conclusion that the incentives are required to provide for affordable housing costs because the incentives by their nature increase the scale of the project.

Additional Incentives:

North and South Side Yard Setbacks. A 30 percent reduction in required side yard setbacks, allowing the provision of 6-foot 3-inch north and south side yard setbacks in lieu of the required 9-foot side yard setbacks in the [Q]R4-1VL Zone;
Rear Yard Setback. A 30 percent reduction in required rear yard setback, allowing the provision of 12-foot 7-inch rear yard setback in lieu of the required 18-foot side yard setback in the [Q]R4-1VL Zone; and
Height. An increase in height allow 65-feet 9 inches in lieu of 45-feet.

The additional incentives are expressed in the Menu of Incentives in the Transit Oriented Communities Guidelines. The Menu of Incentives in the Transit Oriented Communities Guidelines permit exceptions to zoning requirements that result in building design or construction efficiencies that facilitate affordable housing costs. The three requested incentives for reduced yards and reduced open space allows the project to increase the overall space dedicated to residential use, thereby allowing for the provision of affordable residential units. These incentives support the applicant's decision to reserve three (3) units as affordable housing units reserved for Extremely Low Income Households.

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

There is no evidence that the proposed incentive will have a specific adverse impact upon public health and safety or the physical environment, or any real property that is listed in the California Register of Historical Resources. A "specific adverse impact" is defined as "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22 A.25(b)). The project does not involve a contributing structure in a designated Historic Preservation Overlay Zone or on the City of Los Angeles list of Historical-Cultural Monuments. According to ZIMAS, the project site is located within a Hillside area and a Special Grading Area (BOE Basic Grid Map A-13372). Since the project is located within a Special Grading Area, the project will be required to undergo review and approval by the Los Angeles Building and Safety Department, Grading Division. The project is not located on a substandard street or a Very High Fire Hazard Severity Zone. The project is required to comply with all other pertinent regulations including those governing construction, use, and maintenance, and will not create any significant direct impacts on public health and safety. Therefore, there is no substantial evidence that the proposed project, and thus the requested incentive, will have a specific adverse impact on the physical environment, on public health and safety or the physical environment, or on any Historical Resource.

ADDITIONAL MANDATORY FINDINGS

2. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located outside of a flood zone.
3. It has been determined based on the whole of the administrative record that the project is exempt from CEQA pursuant to State CEQA Guidelines, 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 proposed project qualifies for a Class 32 Categorical Exemption because it conforms to the definition of "In-fill Projects". The project can be characterized as in-fill development within urban areas for the purpose of qualifying for Class 32 Categorical Exemption as a result of meeting five established conditions and if it is not subject to an Exception that would disqualify it. The Categorical Exception document prepared by Department of City Planning dated March 17, 2021 and attached to the subject case file provides the full analysis and justification for project conformance with the definition of a Class 32 Categorical Exemption.

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 and amended on February 26, 2018 with Technical Clarifications, establish a tier-based system with varying development bonuses and incentives based on a project's distance from different types of transit. The largest bonuses are reserved for those areas in the closest proximity to significant rail stops or the intersection of major bus rapid transit lines. Required affordability levels are increased incrementally in each higher tier. The incentives provided in the TOC Guidelines describe the range of bonuses from particular zoning standards that applicants may select.

TIME LIMIT – OBSERVANCE OF CONDITIONS

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

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

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

Section 11.00 of the LAMC states in part (m): "It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code shall be guilty of a misdemeanor unless that violation or failure is declared in that section to be an infraction. An infraction shall be tried and be punishable as provided in Section 19.6 of the Penal Code and the provisions of this section. Any violation of this Code that is designated as a misdemeanor may be charged by the City Attorney as either a misdemeanor or an infraction.

Every violation of this determination is punishable as a misdemeanor unless provision is otherwise made, and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both a fine and imprisonment."

TRANSFERABILITY

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

APPEAL PERIOD - EFFECTIVE DATE

The Determination in this matter will become effective after May 5, 2021 unless an appeal there from is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of this Determination, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. Forms are available on-line at www.cityplanning.lacity.org.

Planning Department public offices are located at:

Figueroa Plaza 201 North Figueroa Street, 4 th Floor Los Angeles, CA 90012 (213) 482-7077	Marvin Braude San Fernando Valley Constituent Service Center 6262 Van Nuys Boulevard, Suite 251 Van Nuys, CA 91401 (818) 374-5050	West Los Angeles Development Services Center 1828 Sawtelle Boulevard, 2nd Floor Los Angeles, CA 90025 (310) 231-2901
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Pursuant to LAMC Section 12.22 A.25(g)(2)(i)(f), only an applicant, abutting property owners, and abutting tenants can appeal this Determination. Per the Density Bonus Provision

of State Law (Government Code Section §65915) the Density Bonus increase in units above the base density zone limits, increase in FAR, and the appurtenant parking reductions are not a discretionary action and therefore cannot be appealed. Only the requested incentives are appealable. Per Sections 12.22 A.25 and 12.22 A.31 of the LAMC, appeals of Transit Oriented Communities Affordable Housing Incentive Program cases are heard by the City Planning Commission.

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

VINCENT P. BERTONI, AICP
Director of Planning

Approved by:



Heather Bleemers, Senior City Planner

Prepared by:



Kevin Golden, City Planner

Attachments:
Exhibit A: Architectural Plans