



## DEPARTMENT OF CITY PLANNING

### APPEAL RECOMMENDATION REPORT

#### City Planning Commission

**Date:** July 13, 2023  
**Time:** After 8 A.M.  
**Place:** Los Angeles City Hall  
200 N. Spring Street, Room 340  
Los Angeles, CA 90012

The meeting's telephone number and access code access number will be provided no later than 72 hours before the meeting on the meeting agenda published at [Commissions, Boards, and Hearings | Los Angeles City Planning](https://lacity.org/commissions-boards-and-hearings) (lacity.org) and/or by contacting [cpc@lacity.org](mailto:cpc@lacity.org)

**Public Hearing:** February 15, 2023  
**Appeal Status:** Not Further Appealable  
**Expiration Date:** July 14, 2023

**Case No.:** ZA-2021-7053-ZAI-1A  
**CEQA No.:** ENV-2017-506-EIR  
(SCH. No. 2019050010)  
**Related Cases:** VTT-74876-CN-1A and  
CPC-2017-505-TDR-ZV-  
SPPA-DD-SPR  
**Council No.:** 14 – De Leon  
**Plan Area:** Central City  
**Plan Overlay:** Downtown Design Guide  
Project Area  
**Certified NC:** Downtown Los Angeles  
**GPLU:** Regional Commercial  
**Zone:** C2-4D  
**Applicant:** MFA 8th Grand and Hope,  
LLC  
**Representative:** Edgar Khalatian  
Mayer Brown, LLP  
**Appellant:** Richard Becher, for  
Digital Realty

**PROJECT LOCATION:** 754 South Hope Street and 609 – 625 West 8th Street, Los Angeles, CA 90017

**PROPOSED PROJECT:** Construction of a 50-story mixed-use development composed of 580 residential dwelling units and up to 7,499 square feet of ground floor commercial uses on a 34,679 square-foot site. The Project would provide vehicle parking within three subterranean levels and eight above-grade levels. To accommodate the Project, an existing surface parking lot and four-story parking structure would be demolished. The building will have a maximum height of 592 feet, and a Floor Area Ratio (FAR) of 9.25:1 (554,927 square feet) and would require the export of approximately 89,750 cubic yards of soil.

**REQUESTED ACTION:** Appeal of the May 26, 2023, site-specific Zoning Administrator's Interpretation, finding that:

- 1) providing a recorded covenant to maintain 24-hour parking attendant(s) to serve residential parking provided in tandem configuration for multiple dwelling units is compliant with the requirement of Section 12.21 A.5(h) of the Los Angeles Municipal Code (LAMC) to provide accessible parking stalls;
- 2) that building cut-outs functioning as outdoor common open space do not create floor area as defined in LAMC Section 12.03, provided that a covenant is recorded to ensure that covered common open space areas are maintained as common open space for the building's residents; and
- 3) that building cut-outs functioning as outdoor common open space for the development do not count as common open space as defined in LAMC Section 12.21 G.2(a).

**RECOMMENDED ACTIONS:**

1. **Deny** the appeal, sustain the action of the Zoning Administrator, and approve the Zoning Administrator's Interpretation finding that 1) providing a recorded covenant to maintain 24-hour parking attendant(s) to serve residential parking provided in tandem configuration for multiple dwelling units is compliant with the requirement of Section 12.21 A.5(h) of the Los Angeles Municipal Code (LAMC) to provide accessible parking stalls; 2) that building cut-outs functioning as outdoor common open space do not create floor area as defined in LAMC Section 12.03, provided that a covenant is recorded to ensure that covered common open space areas are maintained as common open space for the building's residents; and 3) that building cut-outs functioning as outdoor common open space for development do not count as common open space as defined in LAMC Section 12.21 G.2(a).

VINCENT P. BERTONI, AICP  
Director of Planning



Jonathan A. Hershey, AICP  
Associate Zoning Administrator  
(213) 978-1212

**ADVICE TO PUBLIC:** \*The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the Commission Secretariat, Room 532, City Hall, 200 North Spring Street, Los Angeles, CA 90012 (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent to the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1299.

## TABLE OF CONTENTS

<b>Appeal Analysis .....</b>	<b>A-1</b>
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- Background
- Summary
- Appeal Points and Staff Responses
- Conclusion

### **Exhibits:**

- A – Digital Realty Appeal
- B – ZA-2021-7053-ZAI

## APPEAL ANALYSIS

### **BACKGROUND**

The City Planning Commission considers the appeal of a site-specific Zoning Administrator's Interpretation (ZAI), Case No. ZA-2021-7053-ZAI, as it applies to the construction of a 50-story mixed-use development composed of 580 residential dwelling units and up to 7,499 square feet of ground floor commercial uses on a 34,679 square-foot site. The Project would provide vehicle parking within three subterranean levels and eight above-grade levels. To accommodate the Project, an existing surface parking lot and four-story parking structure would be demolished. The building will have a maximum height of 592 feet, and a Floor Area Ratio (FAR) of 9.25:1 (554,927 square feet) and would require the export of approximately 89,750 cubic yards of soil. The environmental impacts of the Project have been analyzed under Case No. ENV-2017-506-EIR (State Clearinghouse No. 2019050010).

The ZAI was issued in conjunction with Vesting Tentative Tract, Case No. VTT-74876-CN, which has also been appealed before the City Planning Commission. Case No. CPC-2017-505-TDR-ZV-SPPA-DD-SPR is before the City Planning Commission as the initial decision-maker for entitlements for the project.

The Interpretation finds that for the proposed high-rise development, 1) providing a recorded covenant to maintain 24-hour parking attendant(s) to serve residential parking provided in tandem configuration for multiple dwelling units is compliant with the requirement of Section 12.21 A.5(h) of the Los Angeles Municipal Code (LAMC) to provide accessible parking stalls; 2) that building cut-outs functioning as outdoor common open space do not create floor area as defined in LAMC Section 12.03, provided that a covenant is recorded to ensure that covered common open space areas are maintained as common open space for the building's residents; and 3) that building cut-outs functioning as outdoor common open space for development do not count as common open space as defined in LAMC Section 12.21 G.2(a).

### **CEQA**

The appellant argues that the Environmental Impact Report (EIR) adopted in conjunction with the project failed to analyze impacts associated with unspecified "substantial changes to the Project; substantial changes in the surrounding circumstances, such as Digital's proposed development of a data center on its Property adjacent to the MFA parcel; new information of substantial importance; and the potential for more severe significant impacts," and as such should be subject to further California Environmental Quality Act (CEQA) review and public comment.

The issuance of the ZAI is not a "project" as that term is defined by CEQA Guidelines, Section 15378. The ZAI constitutes an administrative activity interpreting the application of existing development regulations within the City's Zoning Code. The "project" is the construction of a 50-story mixed-use development composed of 580 residential dwelling units and up to 7,499 square feet of ground floor commercial uses on a 34,679 square-foot site; it would provide vehicle parking within three subterranean levels and eight above-grade levels. To accommodate the project, an existing surface parking lot and four-story parking structure would be demolished. The building will have a maximum height of 592 feet, and a Floor Area Ratio (FAR) of 9.25:1 (554,927 square feet) and would require the export of approximately 89,750 cubic yards of soil. Nevertheless, the project's impacts were evaluated in the Initial Study and Draft EIR prepared by the City of Los Angeles to support the Final EIR (ENV-2017-506-EIR, State Clearinghouse No. 2019050010) prepared for the 8th, Hope, and Grand Project.

## **Appeal Scope**

Generally, pursuant to LAMC Section 12.21 A.2, appeals of site-specific ZAI's are considered by the Area Planning Commission; however, in this case, because the project requires discretionary actions by the City Planning Commission as the initial decision-maker, the appeal for this matter along with the appeal for the related Vesting Tentative Tract, are brought to the City Planning Commission for consideration.

The appeal analysis and staff responses discussed below pertain only to Case No. ZA-2021-7053-ZAI. The City Planning Commission's decision on this appeal will be the final decision on the matter, and it will not be further appealable.

## **SUMMARY**

On May 26, 2023, the Zoning Administrator issued a Zoning Administrator's Interpretation, finding that 1) providing a recorded covenant to maintain 24-hour parking attendant(s) to serve residential parking provided in tandem configuration for multiple dwelling units is compliant with the requirement of LAMC Section 12.21 A.5(h) to provide accessible parking stalls; 2) that building cut-outs functioning as outdoor common open space do not create floor area as defined in LAMC Section 12.03, provided that a covenant is recorded to ensure that covered common open space areas are maintained as common open space for the building's residents; and 3) that building cut-outs functioning as outdoor common open space counts as common open space as defined in LAMC Section 12.21 G.2(a); all in conjunction with the construction of a 50-story mixed-use development composed of 580 residential dwelling units and up to 7,499 square feet of ground floor commercial uses on a 34,679 square-foot site.

On June 9, 2023, Richard Becher, Digital Realty, filed an appeal of the ZAI. The appeal was filed timely.

The appeal makes several arguments, including inadequacy of the environmental review, lack of evidence to support the findings, failure to establish the need for the interpretation, erroneous process for considering the issues, and failure to consider alternatives.

## **APPEAL POINTS AND STAFF RESPONSE**

The following Appellant's Statements have been quoted from the appellant's appeals justification. The entirety of the appeal has been attached as Exhibit A.

### **1. APPEAL POINT: CEQA analysis is inadequate.**

#### **APPELLANT'S STATEMENT:**

Regarding the ZAI's CEQA determination, the City's ZA determined no supplemental or subsequent CEQA review was required in connection with issuance of the ZAI, adopted environmental findings regarding the same, and determined no additional mitigation measures were required beyond those set forth in the Environmental Impact Report adopted for the Project. These actions are invalid as the City failed to adequately analyze substantial changes to the Project; substantial changes in the surrounding circumstances, such as Digital's proposed development of a data center on its Property adjacent to the MFA parcel; new information of substantial importance; and the potential for more severe significant impacts. For these reasons, Digital requests that the CEQA determination adopted in connection with the ZAI be revised and subject to further public review and comment.

STAFF RESPONSE:

The appellant claims that the Environmental Impact Report (EIR) adopted in conjunction with the project failed to analyze impacts associated with unspecified “substantial changes to the Project; substantial changes in the surrounding circumstances, such as Digital's proposed development of a data center on its Property adjacent to the MFA parcel; new information of substantial importance; and the potential for more severe significant impacts,” and as such should be subject to further CEQA review and public comment.

The issuance of the ZAI is not a “project” as that term is defined by CEQA Guidelines, Section 15378. The ZAI constitutes an administrative activity interpreting the application of existing development regulations within the City's Zoning Code. Nevertheless, the project's impacts were evaluated in the Initial Study and Draft EIR prepared by the City of Los Angeles to support the Final EIR (ENV-2017-506-EIR, State Clearinghouse No. 2019050010) prepared for the 8th, Hope, and Grand Project. Further, it is the appellant's burden to provide more than speculative or unsubstantiated statements of inadequate analysis to justify the revision of the environmental review document.

2. **APPEAL POINT: Lack of findings and evidence to support findings.**

APPELLANT'S STATEMENT:

In issuing the ZAI, the ZA failed to proceed in the manner required by law, failed to support the decision with adequate findings, and failed to support the findings with evidence. (See Code Civ. Proc., § 1094.5(b).) Furthermore, the ZA failed to offer adequate evidence in support of the interpretation set forth in the ZAI.

STAFF RESPONSE:

LAMC Section 12.21 A.2, from which the Zoning Administrator derives their authority to issue Interpretations, provides no further instruction, process, or set of findings to issue an Interpretation. There is no hearing required for consideration or issuance of an Interpretation. There are no other Sections of the LAMC that provide further instruction, process, or set of findings necessary for the preparation and issuance of a ZAI.

Substantial evidence supports the ZAI conclusions. The text contained within the Background and Discussion sections within the ZAI provides the supportive and evidentiary information that underlays the rationale for the determination reached in the Interpretation. The Interpretation does not provide relief or deviation from the regulations of the Zoning Code, it serves as guidance on how the relevant zoning regulations are applied to the project.

3. **APPEAL POINT: Rationale does not establish ambiguity or lack of clarity – tandem parking.**

APPELLANT'S STATEMENT:

In the City, tandem parking is authorized in private garages provided the tandem parking is no more than two cars in depth and each two-car tandem space is allotted to a single unit. (LAMC, § 12.21(A)(5)(h); P/ZC 2002-001 § I(E) (Revised June 28, 2021).) The requirements of the LAMC and those set forth by the Los Angeles Department of Building and Safety in P/ZC 2002-001 regarding parking design are clear. In the context of private garages, both spaces in a tandem parking stall must serve a single unit. The ZAI fails to establish these provisions lack clarity and/or are inconsistent with other parking

requirements related to private garages in the LAMC. As a result, these zoning regulations are not properly the subject of a ZAI.

STAFF RESPONSE:

The appellant claims that LAMC Section 12.21 A.5(h) and the Department of Building and Safety's Information Bulletin, P/ZC 2002-001, clearly requires that tandem parking stalls are to serve a single unit, and that the "ZAI fails to establish these provisions lack clarity and/or are inconsistent with other parking requirements related to private garages".

There is no plain language within the LAMC that disallows a tandem parking stall from serving more than one dwelling unit. LAMC Section 12.21 A.5(h) states, in relevant part: "Each required parking stall within a parking area or garage shall be accessible. Automobiles may be parked in tandem in the following instances: ... In a private garage or private parking area serving a ... multiple or group dwelling, where the tandem parking is not more than two cars in depth".

The LAMC explicitly allows tandem parking configurations in a private parking garage that serves a multiple dwelling, so long as "[e]ach required parking stall ... be accessible". There are no statements prohibiting tandem parking configurations that serve multiple dwelling units if they meet the "accessible" requirement. There is no further expansion on the intent or meaning of "accessible" in this context within the Zoning Code.

LADBS's Information Bulletin, P/ZC 2002-001, since revised as P/ZC 2023-001, effective on January 1, 2023, is an interpretive guide to summarize and assist with implementing the Zoning Code's parking design requirements; this document is not in and of itself a regulatory document. However, it can highlight areas in need of clarification. Section I.E.2. of P/ZC 2023-001 states, in relevant part: "Tandem stalls are permitted in private parking garages and private parking areas provided: At least one parking stall per dwelling unit ... shall be individually and easily accessible." There is no further expansion on the intent of the phrase "individually and easily accessible". In practice, LADBS has interpreted Section 12.21 A.5 to mean that one tandem parking stall can serve only one dwelling unit to satisfy their interpretation of the "accessible" standard.

The ZAI referenced LAMC Section 12.21 A.5(m), which contains the regulations for Mechanical Automobile Lifts and Robotic Parking Structures, as supportive of an interpretation that there are Zoning Code recognized circumstances where a tandem parking configuration that serves multiple dwelling units is acceptable.

The ZAI is appropriate given that there is no guidance as to what constitutes "accessible" parking in the context of LAMC Section 12.21 A.5(h), and "the meaning of the regulation is not clear" (LAMC Section 12.21 A.2). In issuing the ZAI, the Zoning Administrator provided an interpretation that the provision of a 24-hour parking attendant met the "accessible" requirement of LAMC Section 12.21 A.5(h) and could utilize tandem parking stalls that will serve more than one dwelling unit at a time.

4. **APPEAL POINT: Rationale does not establish ambiguity or lack of clarity – common open space.**

APPELLANT'S STATEMENT:

In the City, subject to several limited exceptions, all common open space must "[b]e open to the sky and have no structures that project into the common open space area." (LAMC, § 12.21(G)(2)(a).) The plain meaning of this requirement is clear, all common open space

area must be free from obstruction. Again, the City failed to adequately establish this zoning regulation lacks clarity and/or results in an inconsistency with other LAMC regulations.

STAFF RESPONSE:

The appellant claims that LAMC Section 12.21 G.2(a) clearly requires that “all common open space area must be free from obstruction,” and that the ZAI “failed to adequately establish this zoning regulation lacks clarity and/or results in an inconsistency with other LAMC regulations.” LAMC Section 12.21 G.2(a)(1) states, in relevant part, that common open space “[b]e open to the sky and have no structures that project into the common open space area ...”

The ZAI reflects upon the intent and purpose of the of the requirement for common open space to be “open to the sky” and how in the context of high-rise residential development, meeting the letter of this requirement leads to a practical limitation on the number and types of units within residential development (ZAI, pages 9 and 10). The project could be redesigned with fewer units overall, or a different mix of units with fewer multi-bedroom units, resulting in a lesser open space requirement that could be accommodated within the available “open to the sky” spaces upon the building. In so limiting the project, only to meet common open space requirements given the physical limitations of the site, this would ultimately conflict with the City’s goals for housing production, smart growth, and sustainability.

LAMC Section 12.21 A.2 provides the Zoning Administrator with the authority to “interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.” In this case, Zoning Administrator provided an Interpretation when the meaning of the regulation is unclear as it applies to a specific situation. The meaning of the regulation becomes unclear when the physical size of the lot, in conjunction with the necessary rooftop mechanical equipment of a building, is too small to accommodate the “open to the sky” open space requirements of the number of dwellings allowed to be developed upon that lot. The ZAI balances the City’s goals for providing needed housing with the need to provide the benefits of access to outdoor recreational opportunities, per LAMC Section 12.21 G.1., as it applies to the proposed high-rise residential development.

It should be noted that a new Downtown Los Angeles Community Plan is proposed, along with a host of new zoning designations and regulations for development and use of the property. Though final adoption of the plan and the zoning regulations implementing it are not yet effective (CF 22-0617), covered outdoor common open space will explicitly be allowed to be provided so long as that space is not enclosed. The interpretation provided by the ZAI is consistent with the regulations that will be in place in the near future.

5. **APPEAL POINT: The relief granted should be by Zone Variance or Zone Code amendment, not Interpretation.**

APPELLANT’S STATEMENT:

The purpose of a ZAI is not to facilitate a relaxation of the zoning requirements but rather it is intended to interpret ambiguous requirements. Relief from specific provisions of the City’s zoning regulations is properly addressed through a variance or zoning code amendment, not through a ZAI.

STAFF RESPONSE:



The appellant alleges that the issues should be considered through a Zone Variance or Zone Code amendment process, not through an Interpretation.

LAMC Section 12.21 A.2 limits the authority of the Zoning Administrator to “interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.” It does not grant the authority to issue Variances to deviate from the regulations of the Zone Code.

This ZAI provided interpretations on LAMC Sections 12.21 A.5(h) and 12.21 G.2, as they applied to the project, clarifying that:

1. providing a recorded covenant to maintain 24-hour parking attendant(s) to serve residential parking provided in tandem configuration for multiple dwelling units is compliant with the requirement of LAMC Section 12.21 A.5(h) to provide accessible parking stalls;
2. that building cut-outs functioning as outdoor common open space do not create floor area as defined in LAMC Section 12.03, provided that a covenant is recorded to ensure that covered common open space areas are maintained as common open space for the building’s residents; and
3. that building cut-outs functioning as outdoor common open space counts as common open space as defined in LAMC Section 12.21 G.2(a).

The ZAI lays out the background, discussion, and rationale leading to the conclusions reached in the issued interpretation. The conclusion and findings of the ZAI serve as guidance on how the relevant zoning regulations are applied to the project. The essential requirement of the regulations, the number of parking spaces and the square-footage of the common open space, is maintained. While these regulations apply to development projects citywide, the issues discussed in the ZAI are largely (though not exclusively) a result of the high-rise development that is permitted within the downtown area. These issues are anticipated to be resolved once the new development regulations implementing the Downtown Community Plan become effective, so initiating Zone Code amendments at this time would not be the most effective process by which to consider these issues.

6. **APPEAL POINT: Lack of transportation impact analysis – further CEQA analysis and public review needed.**

**APPELLANT’S STATEMENT:**

As set forth above, the City's zoning regulations provide that any two-car tandem parking stall in a private garage must be allocated to a single unit. The ZAI suggests that this requirement, which applies only in the context of private garages, can be dispensed with because parking configurations in commercial or automated mechanical garages that render at least one of two vehicles inaccessible are allowed provided assistance is available at all times from either an attendant or an automated mechanical system. Such an interpretation fails to address the potential for additional transportation impacts.

When tandem spaces are utilized for residential parking in a development of this size, it is likely that not all spaces will be utilized. For example, some residents of units with access to tandem parking will only use a single space. Thus, a building, like the MFA Tower, could have additional transportation impacts due to its increased number of parking spaces. The ZAI fails to consider this potential outcome and, more importantly, the ZA fails to address

this issue in the context of the CEQA determination made in connection with issuance of the ZAI.

STAFF RESPONSE:

The appellant alleges that because some of the parking spaces will be vacant, the project results in unspecified transportation impacts due to possessing more parking stalls that is necessary to maintain 100 percent parking stall usage.

The project does not propose less than the code-required number of parking spaces for the proposed uses. Including 34 covenanted vehicle parking spaces for an off-site property, a total of 640 parking spaces are proposed, exceeding the minimum by 4 spaces. The number of parking spaces vacant at any time within the building is not anticipated to be any more or less than it would be for another building with similar uses that is more conventionally parked. It is unclear what impact the appellant is alleging in this argument.

The issuance of the ZAI is not a “project” as that term is defined by CEQA Guidelines, Section 15378. The ZAI constitutes an administrative activity interpreting the application of existing development regulations within the City’s Zoning Code. Nevertheless, the project’s impacts were evaluated in the Initial Study and Draft EIR prepared by the City of Los Angeles to support the Final EIR (ENV-2017-506-EIR, State Clearinghouse No. 2019050010) prepared for the 8th, Hope, and Grand Project.

Nevertheless, the EIR analyzed the potential impacts of the project, taking into account an Interpretation to allow the use of tandem parking to serve multiple dwelling units within a single tandem parking stall (ENV-2017-506-EIR, SCH 2019050010, DEIR, Part II, Project Description, Page II-31, first paragraph, last sentence). Further, it is the appellant’s burden to provide more than speculative or unsubstantiated statements of inadequate analysis to justify the revision of the environmental review document.

**7. APPEAL POINT: Failure to consider alternative project design.**

APPELLANT’S STATEMENT:

Repeatedly, the ZAI notes that this determination is appropriate because a failure to allow covered open space to count towards the Project’s open space requirement would result in a project with less residential density or that is “physically infeasible.” (ZAI, p. 9.) The notion, set forth in the ZAI, that the Project would be infeasible or that a reduction in density would be required without the proposed interpretation of the LAMC is unfounded.

STAFF RESPONSE:

The appellant argues that assumptions regarding the common open space regulations’ impact on the project’s density or physical arrangement are unsupported and should not be utilized to justify the conclusion reached.

The requirements of the project and the practical/physical limitations of providing for them were acknowledged in the discussion on the issue (ZAI, pages 8-10, 13). LAMC Section 12.21 G.2 states, in relevant part, that the minimum amount of open space, per dwelling unit, shall be provided in the amount of “100 square feet for each unit having less than three habitable rooms; 125 square feet for each unit having three habitable rooms; and 175 square feet for each unit having more than three habitable rooms.” The project proposes a total of 580 dwelling units, and based on the number and types of dwelling units proposed, 63,600 square feet of open space is required to be provided.

Approximately 8,596 square-feet of the project's 18,700 square feet of common open space is proposed to be provided in outdoor, but covered areas. Project reductions in the number of units or the number of bedrooms per unit in order to meet the open space requirement were considered in the discussion on the issue (ZAI, page 9, paragraph 3).

ZAIs are not about whether there are alternative designs available for a project to satisfy the requirements of the Code, but how those regulations should be applied to the project. In this case, the Zoning Administrator provided an interpretation that given the context of the project, the square-footage provided in covered, outdoor common open space areas satisfies the requirements of LAMC Section 12.21 G.2.

## **CONCLUSION**

In conclusion, the Appellant has failed to demonstrate how the Zoning Administrator erred or abused their discretion in issuing the Zoning Administrator's Interpretation. For the reasons stated herein, and in the discussion of the Zoning Administrator's Interpretation for Tandem Parking, Common Open Space, and Floor Area, the interpretations of City's Zoning Code are a valid and necessary action for the proper land use regulation of development at the project site. Therefore, in consideration of the facts, the Zoning Administrator recommends that the City Planning Commission deny the appeal and sustain the May 26, 2023, Zoning Administrator's Interpretation.

# **EXHIBIT A**

## APPLICATIONS



### APPEAL APPLICATION Instructions and Checklist

#### RELATED CODE SECTION

Refer to the Letter of Determination (LOD) for the subject case to identify the applicable Los Angeles Municipal Code (LAMC) Section for the entitlement and the appeal procedures.

#### PURPOSE

This application is for the appeal of Los Angeles City Planning determinations, as authorized by the LAMC, as well as first-level Building and Safety Appeals.

#### APPELLATE BODY

**Check only one. If unsure of the Appellate Body, check with City Planning staff before submission.**

- ☐ Area Planning Commission (APC)      ☐ City Planning Commission (CPC)      ☐ City Council  
☐ Zoning Administrator (ZA)      ☐ Director of Planning (DIR)

#### CASE INFORMATION

**Case Number:** ZA-2021-7053-ZAI

**Project Address:** 754 S. Hope Street

**Final Date to Appeal:** 6/12/23

#### APPELLANT

**For main entitlement cases, except for Building and Safety Appeals:**

**Check all that apply.**

- ☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved  
☐ Representative      ☐ Property Owner      ☐ Applicant      ☐ Operator of the Use/Site

**For Building and Safety Appeals only:**

**Check all that apply.**

- ☐ Person claiming to be aggrieved by the determination made by **Building and Safety**<sup>1</sup>  
☐ Representative      ☐ Property Owner      ☐ Applicant      ☐ Operator of the Use/Site

<sup>1</sup> Appellants of a Building and Safety Appeal are considered the Applicant and must provide the Noticing Requirements identified on page 4 of this form at the time of filing. Pursuant to LAMC Section 12.26 K, an appeal fee shall be required pursuant to LAMC Section 19.01 B.2.



## APPELLANT INFORMATION

**Appellant Name:** Richard Becher  
**Company/Organization:** Digital Realty  
**Mailing Address:** 365 Main Street  
**City:** San Francisco **State:** CA **Zip Code:** 94105  
**Telephone:** 4156524213 **E-mail:** rbecher@digitalrealty.com

Is the appeal being filed on your behalf or on behalf of another party, organization, or company?

☐ Self ☒ Other: Digital Realty

Is the appeal being filed to support the original applicant's position?

☐ YES ☒ NO

## REPRESENTATIVE / AGENT INFORMATION

**Representative/Agent Name (if applicable):** \_\_\_\_\_

**Company:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip Code:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_

## JUSTIFICATION / REASON FOR APPEAL

Is the decision being appealed in its entirety or in part?

☐ Entire ☒ Part

Are specific Conditions of Approval being appealed?

☒ YES ☐ NO

If Yes, list the Condition Number(s) here: \_\_\_\_\_

On a separate sheet provide the following:

- ☐ Reason(s) for the appeal
- ☐ Specific points at issue
- ☐ How you are aggrieved by the decision
- ☐ How the decision-maker erred or abused their decision

## APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true.

**Appellant Signature:**  **Date:** 6/9/23

## GENERAL NOTES

*A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.*

*The appellate body must act on the appeal within a time period specified in the LAMC Section(s) pertaining to the type of appeal being filed. Los Angeles City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.*

### THIS SECTION FOR CITY PLANNING STAFF USE ONLY

**Base Fee:** \_\_\_\_\_

**Reviewed & Accepted by (DSC Planner):** \_\_\_\_\_

**Receipt No.:** \_\_\_\_\_ **Date :** \_\_\_\_\_

☐ Determination authority notified      ☐ Original receipt and BTC receipt (if original applicant)



## GENERAL APPEAL FILING REQUIREMENTS

If dropping off an appeal at a Development Services Center (DSC), the following items are required. See also additional instructions for specific case types. To file online, visit our [Online Application System \(OAS\)](#).

### APPEAL DOCUMENTS

#### 1. Hard Copy

Provide three sets (one original, two duplicates) of the listed documents for each appeal filed.

- ☐ Appeal Application
- ☐ Justification/Reason for Appeal
- ☐ Copy of Letter of Determination (LOD) for the decision being appealed

#### 2. Electronic Copy

- ☐ Provide an electronic copy of the appeal documents on a USB flash drive. The following items must be saved as individual PDFs and labeled accordingly (e.g., "Appeal Form", "Justification/Reason Statement", or "Original Determination Letter"). No file should exceed 70 MB in size.

#### 3. Appeal Fee

- ☐ *Original Applicant.* The fee charged shall be in accordance with LAMC Section 19.01 B.1(a), or a fee equal to 85% of the original base application fee. Provide a copy of the original application receipt(s) to calculate the fee.
- ☐ *Aggrieved Party.* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(b).

#### 4. Noticing Requirements (Applicant Appeals or Building and Safety Appeals Only)

- ☐ *Copy of Mailing Labels.* All appeals require noticing of the appeal hearing per the applicable LAMC Section(s). Original Applicants must provide noticing per the LAMC for all Applicant appeals. Appellants for BSAs are considered Original Applicants.
- ☐ *BTC Receipt.* Proof of payment by way of a BTC Receipt must be submitted to verify that mailing fees for the appeal hearing notice have been paid by the Applicant to City Planning's mailing contractor (BTC).

See the Mailing Procedures Instructions ([CP-2074](#)) for applicable requirements.



## SPECIFIC CASE TYPES

### ADDITIONAL APPEAL FILING REQUIREMENTS AND / OR LIMITATIONS

#### DENSITY BONUS (DB) / TRANSIT ORIENTED COMMUNITIES (TOC)

Appeal procedures for DB/TOC cases are pursuant to LAMC Section 12.22 A.25(g).

- Off-Menu Incentives or Waiver of Development Standards are not appealable.
- Appeals of On-Menu Density Bonus or Additional Incentives for TOC cases can only be filed by adjacent owners or tenants and is appealable to the City Planning Commission.
- ☐ Provide documentation confirming adjacent owner or tenant status is required (e.g., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, driver's license, bill statement).

#### WAIVER OF DEDICATION AND / OR IMPROVEMENT

Procedures for appeals of Waiver of Dedication and/or Improvements (WDIs) are pursuant to LAMC Section 12.37 I.

- WDIs for by-right projects can only be appealed by the Property Owner.
- If the WDI is part of a larger discretionary project, the applicant may appeal pursuant to the procedures which govern the main entitlement.

#### [VESTING] TENTATIVE TRACT MAP

Procedures for appeals of [Vesting] Tentative Tract Maps are pursuant LAMC Section 17.54 A.

- Appeals must be filed within 10 days of the date of the written determination of the decision-maker.

#### BUILDING AND SAFETY APPEAL

##### First Level Appeal

Procedures for an appeal of a determination by the Los Angeles Department of Building and Safety (LADBS) (i.e., Building and Safety Appeal, or BSA) are pursuant LAMC Section 12.26 K.1.

- The Appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

##### 1. Appeal Fee

- ☐ Appeal fee shall be in accordance with LAMC Section 19.01 B.2 (i.e., the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code, plus surcharges).

##### 2. Noticing Requirement

- ☐ *Copy of Mailing Labels.* All appeals require noticing of the appeal hearing per the applicable LAMC Section(s). Original Applicants must provide noticing per LAMC Section 12.26 K.3. Appellants for BSAs are considered Original Applicants.

- ☐ *BTC Receipt.* Proof of payment by way of a BTC Receipt must be submitted to verify that mailing fees for the appeal hearing notice have been paid by the Applicant to City Planning's mailing contractor (BTC).

See the Mailing Procedures Instructions ([CP-2074](#)) for applicable requirements.

## **Second Level Appeal**

Procedures for a appeal of the Director's Decision on a BSA Appeal are pursuant to LAMC Section 12.26 K.6. The original Appellant or any other aggrieved person may file an appeal to the APC or CPC, as noted in the LOD.

### **1. Appeal Fee**

- ☐ *Original Applicant.* Fees shall be in accordance with the LAMC Section 19.01 B.1(a).

### **2. Noticing Requirement**

- ☐ *Copy of Mailing Labels.* All appeals require noticing of the appeal hearing per the applicable LAMC Section(s). Original Applicants must provide noticing per LAMC Section 12.26 K.7. Appellants for BSAs are considered Original Original Applicants.
- ☐ *BTC Receipt.* Proof of payment by way of a BTC Receipt must be submitted to verify that mailing fees for the appeal hearing notice have been paid by the Applicant to City Planning's mailing contractor (BTC).

See the Mailing Procedures Instructions ([CP-2074](#)) for applicable requirements.

## **NUISANCE ABATEMENT / REVOCATIONS**

Appeal procedures for Nuisance Abatement/Revocations are pursuant to LAMC Section 12.27.1 C.4. Nuisance Abatement/Revocations cases are only appealable to the City Council.

### **1. Appeal Fee**

- ☐ *Applicant (Owner/Operator).* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(a).

For appeals filed by the property owner and/or business owner/operator, or any individuals/agents/representatives/associates affiliated with the property and business, who files the appeal on behalf of the property owner and/or business owner/operator, appeal application fees listed under LAMC Section 19.01 B.1(a) shall be paid, at the time the appeal application is submitted, or the appeal application will not be accepted.

- ☐ *Aggrieved Party.* The fee charged shall be in accordance with the LAMC Section 19.01 B.1(b).





GIP 7th Street LLC  
c/o Digital Realty  
5707 Southwest Parkway  
Building 1, Suite 275  
Austin, Texas 78735

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June 9, 2023

Jonathan A. Hershey, AICP  
Associate Zoning Administrator  
Deputy Advisory Agency  
Office of Zoning Administration  
200 N. Spring Street, Room 763  
Los Angeles, California 90012-4801  
Email: [jonathan.hershey@lacity.org](mailto:jonathan.hershey@lacity.org)

**Re:** Appeal – Case No.: ZA-2021-7053-ZAI & CEQA Determination  
*754 South Hope Street; 609 - 625 West 8th Street, Los Angeles, CA, 90017*

Mr. Hershey:

I write on behalf of Digital Realty Trust, Inc. ("**Digital**"), owner of the property located at 727 S. Grand Avenue, Los Angeles (the "**City**"), California 92651 (the "**Property**"). The Property's southern boundary abuts the site of a 50-story/592-foot ("**ft**") mixed-use development, comprised of 580 residential dwelling units and 7,499 square feet ("**sf**") of commercial floor area (the "**MFA Tower**" or the "**Project**"), proposed by MFA 8<sup>th</sup> Grand and Hope LLC ("**MFA**") for the property at 754 S. Hope Street and 609 and 625 W. 8th Street. On behalf of Digital, I write to appeal the Zoning Administrator's Interpretation ("**ZAI**") issued on May 26, 2023 in connection with the Project.

Regarding the ZAI's CEQA determination, the City's ZA determined no supplemental or subsequent CEQA review was required in connection with issuance of the ZAI, adopted environmental findings regarding the same, and determined no additional mitigation measures were required beyond those set forth in the Environmental Impact Report adopted for the Project. These actions are invalid as the City failed to adequately analyze substantial changes to the Project; substantial changes in the surrounding circumstances, such as Digital's proposed development of a data center on its Property adjacent to the MFA parcel; new information of substantial importance; and the potential for more

severe significant impacts. For these reasons, Digital requests that the CEQA determination adopted in connection with the ZAI be revised and subject to further public review and comment.

Regarding the ZAI itself, the City's Zoning Administrator (the "ZA") determined that (i) providing a recorded covenant to maintain 24-hour parking attendants to serve residential parking provided in tandem configuration for multiple dwelling units is compliant with the requirement of Section 12.21(A)(5)(h) of the Los Angeles Municipal Code ("LAMC") to provide accessible parking stalls and (ii) that building cut-outs functioning as outdoor common open space for development shall not create floor area as defined in LAMC Section 12.03 and shall count as common open space as defined in LAMC Section 12.21(G)(2)(a). (ZAI, p. 1.)

In issuing the ZAI, the ZA failed to proceed in the manner required by law, failed to support the decision with adequate findings, and failed to support the findings with evidence. (*See* Code Civ. Proc., § 1094.5(b).) Furthermore, the ZA failed to offer adequate evidence in support of the interpretation set forth in the ZAI. Outlined below please find a detailed analysis of this Appeal.

#### **I. THE ZONING REGULATIONS AT ISSUE ARE NOT AMBIGUOUS AND ISSUANCE OF A ZAI IS IMPROPER.**

The ZA has authority to interpret the City's zoning regulations "when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation." (LAMC, § 12.21(A)(2).) Issuance of a ZAI is not appropriate where no ambiguity exists. Here the meaning of the regulations at issue is clear and not subject to multiple interpretations.

In the City, tandem parking is authorized in private garages provided the tandem parking is no more than two cars in depth and each two-car tandem space is allotted to a single unit. (LAMC, § 12.21(A)(5)(h); P/ZC 2002-001 § I(E) (Revised June 28, 2021).) The requirements of the LAMC and those set forth by the Los Angeles Department of Building and Safety in P/ZC 2002-001 regarding parking design are clear. In the context of private garages, both spaces in a tandem parking stall must serve a single unit. The ZAI fails to establish these provisions lack clarity and/or are inconsistent with other parking requirements related to private garages in the LAMC. As a result, these zoning regulations are not properly the subject of a ZAI.

In the City, subject to several limited exceptions, all common open space must "[b]e open to the sky and have no structures that project into the common open space area." (LAMC, § 12.21(G)(2)(a).) The plain meaning of this requirement is clear, all common open space area must be free from obstruction. Again, the City failed to adequately establish this zoning regulation lacks clarity and/or results in an inconsistency with other LAMC regulations. The ZAI also cites another interpretation, ZA-2017-4745-ZAI (the "2017 ZAI"), as support for its conclusion that the relevant zoning regulations are ambiguous. While we do not concede the 2017 ZAI discusses the same issue as the one presented here, even if it did that alone is insufficient proof that the necessary degree of ambiguity exists, especially as the 2017 ZAI also fails to establish the proper grounds for issuance of a ZAI. Thus, like the regulations applicable to tandem parking, the zoning regulations applicable to common open space are improperly subject to a ZAI.

Finally, in the context of the open space requirements, the ZAI admits that without this favorable interpretation the Project "would be deficient in meeting its Code obligations for open space." (ZAI, p. 9.) The purpose of a ZAI is not to facilitate a relaxation of the zoning requirements but rather it is intended to interpret ambiguous requirements. Relief from specific provisions of the City's zoning regulations is properly addressed through a variance or zoning code amendment, not through a ZAI.

## **II. THE ZAI FAILS TO CONSIDER TRANSPORTATION IMPACTS RESULTING FROM THE PROPOSED INTERPRETATION OF LAMC SECTION 12.21(A)(5)(h).**

As set forth above, the City's zoning regulations provide that any two-car tandem parking stall in a private garage must be allocated to a single unit. The ZAI suggests that this requirement, which applies only in the context of private garages, can be dispensed with because parking configurations in commercial or automated mechanical garages that render at least one of two vehicles inaccessible are allowed provided assistance is available at all times from either an attendant or an automated mechanical system. Such an interpretation fails to address the potential for additional transportation impacts.

When tandem spaces are utilized for residential parking in a development of this size, it is likely that not all spaces will be utilized. For example, some residents of units with access to tandem parking will only use a single space. Thus, a building, like the MFA Tower, could have additional transportation impacts due to its increased number of parking spaces. The ZAI fails to consider this potential outcome and, more importantly, the ZAI fails to address this issue in the context of the CEQA determination made in connection with issuance of the ZAI.

## **III. THE ZAI FAILS TO CONSIDER ALTERNATIVE APPROACHES FOR SATISFYING THE CITY'S OPEN SPACE REQUIREMENTS.**

The City requires that the Project provide 63,600 sf of open space. (See LAMC, § 12.21(G); ZAI, p. 3.) To satisfy this requirement, the Project includes private balconies (29,000 sf), outdoor common open spaces on landscaped decks (15,358 sf), and interior common open spaces (13,140 sf). This amount of common indoor and outdoor spaces falls short of the 18,700 sf of outdoor common open space required by the LAMC by approximately 3,342 sf.

To address the shortfall in open space, the Project proposes approximately 8,596 sf of covered outdoor open space. Outdoor open space does not, however, count toward required open space. (LAMC, § 12.21(G).) Nevertheless, the ZAI determined that, contrary to the requirement of the LAMC, covered open space included at the Property can be used to satisfy the applicable open space requirements. Repeatedly, the ZAI notes that this determination is appropriate because a failure to allow covered open space to count towards the Project's open space requirement would result in a project with less residential density or that is "physically infeasible." (ZAI, p. 9.) The notion, set forth in the ZAI, that the Project would be infeasible or that a reduction in density would be required without the proposed interpretation of the LAMC is unfounded.

#### IV. CONCLUSION.

Given the analysis set forth above, the ZAI fails to offer adequate evidence in support of its interpretation of the relevant zoning code requirements. Furthermore, a ZAI is not appropriate in this context because the ZA has failed to establish the plain language of the zoning regulations at issue is clear. As a result, we respectfully request reconsideration of this interpretation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard Becher", with a stylized, cursive script.

Richard Becher

Senior Director – Design, Engineering, and  
Construction

Digital Realty

365 Main Street

San Francisco, California 94105

# **EXHIBIT B**

OFFICE OF ZONING ADMINISTRATION  
200 N. SPRING STREET, ROOM 763  
LOS ANGELES, CA 90012-4801  
(213) 978-1318

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**CITY OF LOS ANGELES**  
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**KAREN BASS**  
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May 26, 2023

Last Day to File an Appeal: June 12, 2023

Stuart Morkun (A)(O)  
MFA 8th Grand and Hope LLC,  
a Delaware limited liability company  
725 South Figueroa Street, Ste 1080  
Los Angeles, CA 90017

Edgar Khalatian (R)  
Mayer Brown LLP  
350 South Grand Avenue, 25th Floor  
Los Angeles, CA 90071

CASE NO. ZA-2021-7053-ZAI  
ZONING ADMINISTRATOR'S  
INTERPRETATION – SITE SPECIFIC  
754 South Hope Street and  
609-625 West 8th Street  
Central City Community Plan  
Zone: C2-4D  
C.D: 14  
D.M.: 129A209  
CEQA: ENV-2017-506-EIR,  
SCH No. 2019050010  
Legal Description: Lot FR 7, Block 28,  
Huber Tract; Lot FR A, Tract 802; and  
Arb 1, Lot A, Tract 7904

An applicant, through Edgar Khalatian, Mayer Brown LLP, their representative, has sought clarification regarding the application of certain Zoning Code regulations as it pertains to the 8th, Grand and Hope Project (Project), located at 754 South Hope Street and 609 to 625 West 8th Street in the City of Los Angeles (Site or Project Site), in conjunction with concurrently considered Vesting Tentative Tract No. 74876-CN and Case No. CPC-2017-505-TDR-ZV-SPPA-DD-SPR. This Interpretation finds that for the proposed high-rise development, providing a recorded covenant to maintain 24-hour parking attendant(s) to serve residential parking provided in tandem configuration for multiple dwelling units is compliant with the requirement of Section 12.21 A.5(h) of the Los Angeles Municipal Code (LAMC) to provide accessible parking stalls; and that building cut-outs functioning as outdoor common open space for development shall: (1) not create floor area as defined in LAMC Section 12.03 and (2) shall count as common open space as defined in LAMC Section 12.21-G,2(a).



## **AUTHORITY OF THE ZONING ADMINISTRATOR TO INTERPRET ZONING REGULATIONS**

Section 12.21-A,2 of the Code provides, in pertinent part, as follows:

2. Other Use and Yard Determinations by the Zoning Administrator. (Amended by Ord. No. 177,103, Eff. 12/18/05.) The Zoning Administrator shall have authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

## **BACKGROUND**

### *Project Summary*

According to information submitted by the applicant:

The Project comprises of 580 residential dwelling units and approximately 7,499 square feet of ground floor commercial/retail space ("Project"). The Project's total proposed Floor Area Ratio ("FAR") would be 9.25:1 ... The Project will provide approximately 636 parking stalls for the Project's residential component, inclusive of 34 spaces for an adjacent building located at 611 W. 6th Street per the recorded parking covenant and agreements (PKG-4743, PKG-5261, PKG-5248). Pursuant to the Downtown Business District LAMC Section 12.21 A.4 (i) and Ordinance No.'s 135,901 and 137,036, no parking is required for the Project's retail component because the total square footage is less than 7,500 square feet.

The Project includes eleven levels of parking (three of which will be below-grade and eight above-grade). There are only four parking spaces provided on the ground floor level. Parking for building residents will be located on floors B3, B2, B1 and floors 2 through 9. The garage will be used nearly exclusively by the Project's residential component's residents, with the exception of 34 covenanted stalls for an off-site use. All of the garage levels will be fully attended.

Due to the narrow and constricted nature of the Property, the Project proposes tandem parking at all parking levels, below and above-grade.

In order to provide the required number of parking spaces, the Project proposes tandem parking to be serviced by a 24-hour parking attendant system which will serve the Project's 580 residential units. Parking attendants would serve all level(s) of the parking garage. As most units will have a single stall, parking attendants will be responsible for moving cars with a maximum of 2 maneuvers to retrieve a car. Residents will be able to drive to one of the 3 below-grade levels and leave their car

with an attendant before using one of the tower elevators to reach either the lobby or the level of their unit.

The 8 upper garage levels function similarly to the below grade levels and are laid out primarily for tandem parking ... Approximately 280 stalls or 44% of the Project's parking stalls are laid out in a tandem parking configuration.

Per LAMC Section 12.21-G ... [and] [b]ased on the number of units proposed, the Project is required to provide 63,600 square feet of open space.

To meet the LAMC requirements for residential open space, the Project has incorporated open space amenities throughout the residential tower organized around the concept of stepped massing with multiple outdoor amenity decks located at 3 different elevations within the tower, in a tiered terrace arrangement. The Project's amenities include private balconies, outdoor common open spaces within building cut-outs and on the tiered landscaped decks, as well as interior common open spaces. The Project would provide 65,193 square feet of total open space, including 13,140 square feet of indoor open space, 15,358 square feet of outdoor open space, and 8,596 square feet of outdoor covered open space.

Specifically, the Project would include an indoor and outdoor common open space areas with a pool, gym, spa, yoga and fitness areas, juice bar, barbeque and dining areas, seating, event lawn, and lounge on Level 10, inclusive of 12,383 square feet of common indoor and outdoor open space and 4,302 square feet of open air and covered above common open space ; an indoor 1,208 square-foot fitness/recreation area on Level 11; common indoor and outdoor open space featuring a board room, co-working spaces, kitchen, barbeque and dining areas, and fire pit and seating on Level 21 comprising of 7,121 square feet of indoor and outdoor open space and 3,329 square-feet of outdoor, covered open space; 731 square feet of indoor amenities on Level 22; common indoor and outdoor open space featuring a spa, fire pit and seating, dining areas, bar, and lounges on Level 35, comprising of 5,802 square feet of indoor and outdoor open space and 964 square feet of outdoor, covered open space; and 1,253 square feet of indoor fitness and wellness amenities on Level 36. The total common open space provided as part of the Project totals 37,093 square feet. In addition, although the Greater Downtown Housing Incentive Area eliminates required percentage allocation for common and private open space, 562 of the Project's residential units would provide 28,100 square feet of private balcony space throughout the residential portion of the Project, resulting in 65,193 square feet common and private open space provided as part of the Project.

The common open space elements of the project are provided in a tiered terrace arrangement in several locations throughout the vertical levels of the building. The tower is organized around the concept of stepped massing with multiple amenity decks located at 3 different elevations within the building, one at each step in the massing. Each amenity level provides a mix of outdoor landscaped decks and indoor amenity rooms. Many of the indoor amenity rooms will have large operable doors or

telescoping/folding walls that can be opened to the exterior to take advantage of the enviable Southern California climate during most of the year.

A portion of the amenities located on the 10th, 21st and 35th floors of the tower are located within the 20-foot tall building cut-outs, which are designed as covered open-air areas. The wraparound private balconies for residential units are located on the 3rd through 49th floors, stacked above each other, and are also designed as covered open-air areas.

### *Tandem Parking*

Certain parking regulations in the Code were amended in 2007 (Ordinance No. 179,191, effective November 5, 2007), which, according to the Department of City Planning's recommendation report, are "to increase housing opportunities throughout the City of Los Angeles by eliminating impediments to the design and development of the parking component of housing ... These parking regulation amendments ... will expand housing opportunities for single-family and multiple-family residences while preserving the intended purpose of the parking regulations." The Ordinance implements Framework Element Objective 3.4.3, stating that the City must "[e]stablish incentives for the attraction of growth and development in the districts, centers, and mixed-use boulevards targeted for growth that may include ... [m]odified parking requirements in areas in proximity to transit or other standards that reduce the cost of development ... " and Objective 4.4.1 that states that the City must "[t]ake the following actions in order to increase housing production and capacity ... [s]treamline procedures for securing building permits; inspections, and other clearances needed to construct housing."

LAMC Section 12.21 A.5(h) states:

- (h) Tandem Parking. (Amended by Ord. No. 179,191, Eff. 11/5/07.) Each required parking stall within a parking area or garage shall be accessible. Automobiles may be parked in tandem in the following instances:
  - (1) In a public garage or public parking area, which provides attendants to park vehicles at all times the garage or area is open for use.
  - (2) In a private garage or private parking area serving a one-family dwelling, an apartment house, apartment hotel, hotel, two-family dwelling, or multiple or group dwelling, where the tandem parking is not more than two cars in depth. Tandem parking shall not be allowed in parking areas for recreational vehicles or guest parking.

Parking space accessibility requirements between commercial and residential spaces differ, as do the requirements between parking provided in a public parking lot versus a private one. Commercial parking spaces may be provided in tandem, so long as a parking attendant is provided. Residential uses may utilize a tandem parking configuration, but only for the parking spaces allotted to a single unit, thus ensuring that accessibility through the coordination of the occupants of the same residential unit.

LAMC Sec. 12.21 A.5(m) states:

- (m) Mechanical Automobile Lifts and Robotic Parking Structures. The stacking of two or more automobiles via a mechanical car lift or computerized parking structure is permitted in all zones. The platform of the mechanical lift on which the automobile is first placed shall be individually and easily accessible and shall be placed so that the location of the platform and vehicular access to the platform meet the requirements of paragraphs (a), (b), and (i) of this subdivision. The lift equipment or computerized parking structure shall meet any applicable building, mechanical and electrical code requirements as approved by the Department of Building and Safety. (Added by Ord. No. 179,191, Eff. 11/5/07.)

Referenced paragraphs (a), (b), and (i) of Section 12.21 A.5 regulate parking stall dimensions, parking bay dimensions, and parking stall location.

The Department of Building and Safety has issued an Information Bulletin, P/ZC 2002-001, which provides a general requirement, I.E.1., which states, "Tandem parking stalls are permitted in public garages and public parking areas providing an attendant. A 'Covenant and Agreement to Provide Parking Attendant' will be required.

Where tandem parking is permitted, both attended and unattended tandem parking configurations are allowed. In public parking lots and garages, a parking attendant is required to be utilized to coordinate and make vehicles accessible; in robotic parking structures, this function is performed by a computerized and mechanical system.

#### *Covered Common Open Space*

The open space requirements of the Code were adopted in 1997 (Ordinance No. 171,753, effective on November 17, 1997) in order to "establish reasonable and uniform regulations to provide usable open space" and as a means to fulfill a number of objectives, including objectives relating to outdoor living and recreation, to provide safer play areas for children, to create a more desirable living environment, as well as to provide relief to building massing through reduced lot coverage. These objectives are all in furtherance of Goal 3C of the General Plan Framework: "Multi-family neighborhoods that enhance the quality of life for the City's existing and future residents."

As such, the Code sets standards for open space and differentiates between "private open space" and "common open space". The definition of "common open space", set forth in Section 12.21-G,2(a) of the Code, states that common open space areas must be uncovered and open to the sky:

**COMMON OPEN SPACE:** Common open space shall meet each of the following requirements:

- (1) Be open to the sky and have no structures that project into the common open space area, except as provided in Section 12.22 C.20(b).
- (2) Be readily accessible to all the residents of the site,

- (3) Have a minimum area of 400 sq. ft. with no horizontal dimension less than 15 feet when measured perpendicular from any point on each of the boundaries of the open space area,
- (4) Constitute at least 50% of the total required usable open space in developments built at an R3, RAS3, R4, RAS4, and/or R5 density regardless of the underlying zone.

In addition, the Code states that projects can meet these common open space requirements by offering indoor recreation rooms (not to exceed 25% of the total required usable open space) or providing roof decks in higher residential densities (e.g. R3, RA3, R4, RAS4, and/or R5 densities).

Finally, a site-specific Zoning Administrator's Interpretation (Case No. ZA-2017-4745-ZAI) was issued on February 7, 2020, to a project located at 1045 South Olive Street, providing an interpretation regarding this very issue. In that case, the Zoning Administrator determined that covered common open space could be credited toward the project's overall outdoor common open space requirement.

#### *Covered Open Space Floor Area*

On September 21, 2007, the Chief Zoning Administrator issued a Citywide interpretation (ZA-2007-3430-ZAI) (attached) whose topic was a consideration of covered and uncovered balconies as private open space and addressing the definition of Floor Area. A key purpose of the memorandum was to clarify when these open space areas should be counted as floor area for the purpose of computing a building's floor area ratio. The calculation of a building's floor area ratio is guided, in part, by the definitions of Building and Floor Area as set forth in Section 12.03 of the Code:

**BUILDING.** Any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels or property of any kind.

**FLOOR AREA.** The area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing building-operating equipment or machinery, parking areas with associated driveways and ramps, space for the landing and storage of helicopters, and basement storage areas.

In addition, Sections 12.21.1-A.5 and -A.6 of Code, which are the applicable height district and floor area standards for a Project, further clarify:

**5.** In computing the total floor area within a building, the gross area confined within the exterior walls within a building shall be considered as the floor area of that building, except for the space devoted to bicycle parking, stairways, elevator shafts, light courts, rooms housing mechanical equipment incidental to the operation of buildings, and outdoor eating area of ground floor restaurants

As stated in ZA-2007-3430-ZAI Policy Regarding Open Space and Floor Area:

“Regardless of its size or shape any balcony or deck or portion thereof, covered or uncovered, shall not also create floor area as defined in Section 12.03 of the Los Angeles Municipal Code, or be included in the computation of a building’s floor area ratio pursuant to Section 12.21.1-A,5 of the Code, so long as it: (1) is not recessed but projects beyond the perimeter of the building; (2) remains unenclosed except for the guard rails required by the Building Code; and (3) qualifies as private open space pursuant to Section 12.21-G,2,(b)(2) of the Code.”

LAMC Section 12.21-G,2,(b)(2) of the Code allows private open space to be provided above the first habitable room level “in developments built at an R3, RAS3, R4, RAS4, and/or R5 density regardless of the underlying zone”.

The ZAI further states that:

“A deck or balcony that is not recessed but projects beyond the perimeter of a building is exposed to the elements, and so therefore is not habitable space that intensifies a building's use in the same way that an extra bedroom, bathroom or other habitable room would. A balcony or deck is accessory to the main dwelling unit. In a multi-family residential project it takes the place of a front or back yard. The developer of a multi-family project complying in good faith with the Code's open space provisions should not be penalized for this compliance by having these types of balconies or decks counted against the project's floor area cap. (ZA-2007-3430-ZAI, at p. 3.)

In summary, the policy rationale underlying ZA-2007-3430-ZAI allows development projects to maximize recreational open space by not subjecting such covered private open space areas, with unenclosed perimeters, to Code limitations on Floor Area.

Finally, a site-specific Zoning Administrator’s Interpretation (Case No. ZA-2017-4745-ZAI) was issued on February 7, 2020, to a project located at 1045 South Olive Street, providing an interpretation regarding this very issue. In that case, the Zoning Administrator determined that covered private open space is not considered floor area.

## **DISCUSSION**

### **24-Hour Attended Parking for Multi-Unit Tandem Residential Parking in the 8th, Grand, and Hope Project is Consistent with Requirements for Parking Space Accessibility**

The Applicant requests a Zoning Administrator Interpretation of the LAMC to clarify that a recorded covenant to provide 24-hour parking attendant(s) to serve tandem parking spaces that provide vehicle parking to more than one dwelling unit in the same tandem stall within the 8th, Grand and Hope Project satisfies the parking accessibility requirement of Section 12.21 A.5(h) of the Code.

The Project proposes to provide required parking for 580 residential units, of which 280 stalls, or 44 percent, would be in a tandem configuration. These tandem stalls would be utilized to satisfy the parking needs for more than one dwelling unit per tandem stall, conflicting with the Code requirement that “[e]ach required parking stall within a parking area

or garage shall be accessible.” To comply with the intent of this requirement, the applicant has proposed to provide 24-hour attendant parking to ensure that each dwelling unit is able to have access to their vehicle at all times.

The use of parking attendants in conjunction with tandem parking configurations is presently acceptable to fulfill non-residential parking requirements, contingent upon the recordation of a “Parking Attendant Affidavit”. As technology has progressed, the use of robotic parking structures has been determined to be an acceptable configuration for providing required parking in all zones, including residential use zones. In the case of both attended and robotic parking structures, unrelated private automobiles can be parked in configurations that renders at least one of the two vehicles in a tandem or stacked parking stall independently inaccessible by their owner, except through the assistance of the attendant or an automated mechanical system.

As the city grapples with innovative incentives to promote housing production, novel configurations for the provision of parking stalls need to be considered in conjunction with other parking allowances. Here, the applicant proposes to provide 24-hour attended parking to ensure that each tenant is able to access their vehicle at all times. This would be no different than if the applicant provided all or a portion of the residential parking via an automatic parking system, a configuration already allowed by the LAMC. So long as the applicant records an appropriately worded “Parking Attendant Affidavit” to ensure the provision of 24-hour attended parking, there is no practical purpose to prohibiting the practice.

Covered Common Open Space in the 8th, Grand, and Hope Project is Credited as Common Open Space and is not Considered Floor Area

The Applicant requests a Zoning Administrator Interpretation of the LAMC to clarify that covered exterior open space areas provided within the building cut-outs of the 8th, Grand, and Hope Project are not considered “floor area” regardless of whether they meet the definition of “common open space” due to being covered.

In this instance, the Project is required by Section 12.21-G,2 of the Code to provide a minimum of 63,600 square feet of total of open space, including a maximum of 29,000 square feet of private and 15,900 square feet and indoor common open space; approximately 18,700 square feet of outdoor open space would need to be provided. The Project proposes to provide a total of 65,193 square feet of open space, including 28,100 square feet of private open space, 13,140 square feet of indoor common open space, 8,596 square feet of covered outdoor open space, and 15,358 square feet of outdoor open space. The Project would also provide a dog run and pet amenity area on Level 3 that would not be counted toward open space.

While the project proposes to provide a considerable amount of common indoor and outdoor residential amenity spaces throughout the building, the Project’s outdoor open space is approximately 3,342 square feet short of the approximately 15,900 square feet of uncovered outdoor open space required.

A maximum of 25 percent, or 15,900 square feet, of the Project's overall open space requirement can consist of interior recreation rooms. Similarly, a maximum of 29,000 square feet of private balcony areas may count towards meeting the open space requirement, since the Code sets a limit that a maximum of 50 square feet of any balcony space may be counted. While receiving the maximum allowable credit for interior recreation rooms and private balconies, the Project must therefore provide the remaining 18,700 square foot balance of required open space as "common open space" areas. The Project includes 15,358 square feet of exterior "common open space" at level 10, 21, and 35, and an additional 8,596 square feet of covered open-air areas within building cut-outs located on those same levels of the tower. If these covered open-air spaces within the building cut-outs were to not qualify as "common open space" due to being covered, then the Project would be deficient in meeting its Code obligations for open space.

The Code defines "common open space" as "open to the sky". Given that the Project's lot size is 35,660 square feet after dedications, uncovered "common open space" areas would have to cover 52% of the lot and rooftop areas to meet Code requirements, which is physically infeasible due to competing requirements for mechanical equipment areas, sidewalk easements, and private balconies.

The Project is then either left with reducing the total number of residential units in the Project or reducing the number of bedrooms in each unit. These density reductions would be required only in order to meet the "common open space" requirements, despite the fact that higher residential densities are permitted by the site's zoning and incentivized by the Greater Downtown Housing Incentive Area ordinance. The implications of this definition of "common open space" has therefore resulted in unintended consequences on high-rise development, acting as a disincentive for higher residential densities in the Downtown center. These disincentives were likely not previously considered when the definition was established during a period of low-rise development in Los Angeles.

At the time that these residential open space standards of the Code were created, the preponderance of residential structures were wood frame apartment and condominium buildings of six floors or less, and low-density and mid-rise building development was considerably more prevalent in the City than high-rise development. The requirement that "common open space" areas be open to the sky was intended to meet a number of objectives, such as: reducing lot coverage, providing massing relief, providing building residents access to light and air, and ensuring adequate on-site outdoor areas and amenities. In addition, requiring common open space to be "open to the sky" was also partially intended to prevent the potential illegal conversion of covered open space areas into habitable floor area or additional units, if they were to be enclosed with vertical walls extending from the coverings.

As required by Code, outdoor "common open space" areas for low-density buildings are located at the ground-floor level and have typically been located within the required rear yard setback or within building courtyards. At higher scales and densities, "common open space" areas may additionally be offered on top of stepped-back upper levels of buildings or on building rooftops. While these regulations and design solutions have been appropriate for low-rise and mid-rise developments, the implications of this requirement on high-rise



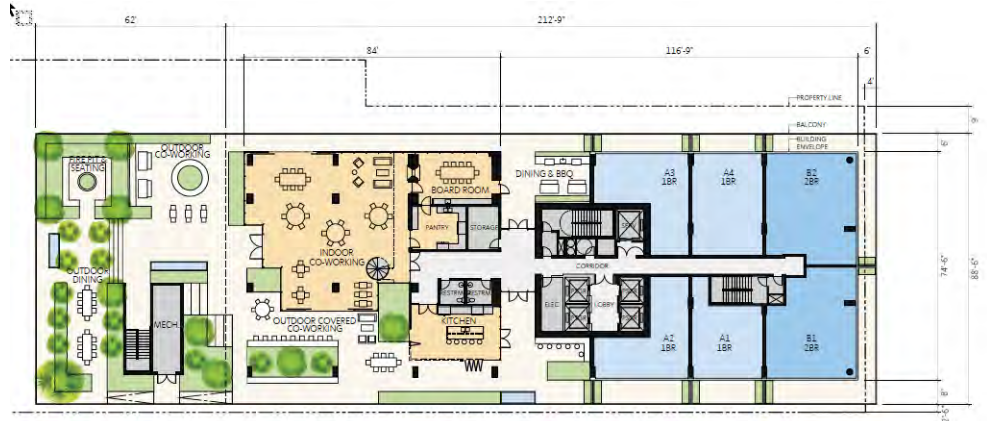
development in the dense urban core has been much more problematic. Due to limited lot sizes and the high density of development, most high-rise towers do not have setback areas or courtyards where open spaces can be provided. Instead, to meet this requirement, outdoor “common open space” areas for high-rise buildings are typically only feasible on podium or tower rooftops. However, uncovered rooftop open spaces are limited to a maximum of the project lot size minus required areas for mechanical equipment and other Code-required spaces, such as areas for solar installation or formerly required helipads for building emergencies. In certain instances, high-density developments which utilize all feasible rooftop areas for open space purposes still do not have sufficient uncovered area to meet the “common open space” minimum size. Therefore, at times, the restriction for requiring that common open space areas be fully uncovered has consequently dictated and limited the allowable density of housing development on downtown or regional center sites. This, in turn, ultimately conflicts with the City’s goals for housing production, smart growth, and sustainability.

Therefore, the 8th, Grand and Hope Project’s open space areas have been uniquely designed in response to the limited lot area and vertical constraints of high-rise development in the downtown urban core. In general, the building has been designed to provide ample amenity spaces for residents and on multiple levels in the tower, including common outdoor open space areas on the 10th, 21st, and 35th levels of the tower, wherever feasible. Each of the exterior open-air, covered, cut-out areas would be unenclosed on two sides, and would allow for residents to recreate and lounge outdoors with covered overhead protections, as shown in Figures 1, 2, 3:

**Figure 1a. Floor Plan – Level 35**



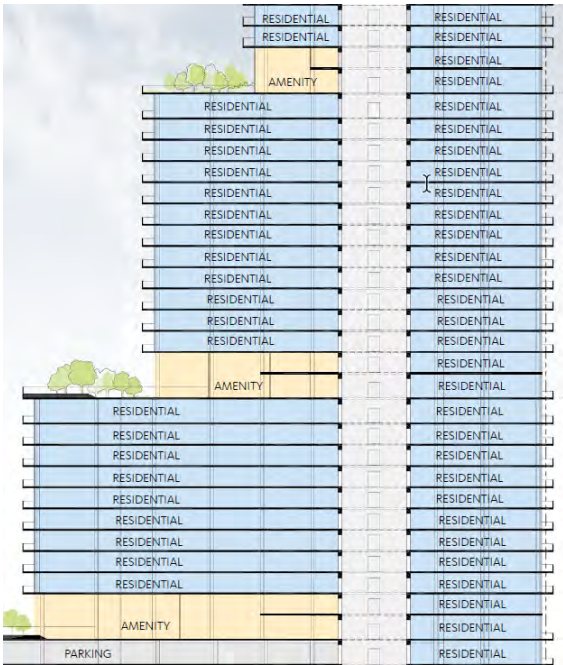
**Figure 1b. Floor Plan – Level 21**



**Figure 1c. Floor Plan – Level 10**



**Figure 2.** Section View of Covered Exterior Open Space Areas



**Figure 3.** Rendering of Covered Exterior Open Space Areas



In projects where opportunities for outdoor space are limited, particularly for infill and high rise/high density development projects such as the subject Project, open space may need to be provided within the footprint of a building, either as partially covered open space or, as with the Project, on rooftops areas and as building cut-outs. Moreover, in many high rise and other large scale projects like the subject Project, out of design decisions or necessity, architectural features are often designed directly over open space areas. In addition to being practical, such features can provide iconic architecture and visual design variation while meeting the purpose of the open space requirements of Code Section 12.21-G.1 by “afford[ing] occupants of multiple residential dwelling units opportunities for outdoor living and recreation,” “improve[ing] the aesthetic quality... by providing relief to the massing of building”, and “provid[ing] a more desirable living environment... by increasing natural light and ventilation”.

As a result of being fully or partially covered, the City has at times taken the position that such open space is excluded from the definition of “common open space” due to not being “open to the sky,” and therefore that such areas should also be considered “floor area”.

However, just because an open space area is covered does not mean the covered open space should automatically be defined as “floor area”. As with balconies, the Project’s open space cutouts are still “exposed to the elements” in that they are open to the sky on two sides, are of significant height, and are certainly “not habitable space that intensifies a building’s use in the same way that an extra bedroom, bathroom or other habitable room would.” (ZA-2007-3430-ZAI, at p.3.) The Project’s open space cut-outs would also be accessory to the Project’s main dwelling units and would provide permanent recreational areas for the Project’s residents and guests in line with General Plan open space policy. As with ZA-2007-3430-ZAI’s determination regarding why balconies should not be counted as floor area, the “developer of a multi-family project complying in good faith with the Code’s open space provisions should not be penalized for this compliance” by having valid non-habitable open space “counted against the project’s floor area cap.” (ZA-2007-3430-ZAI, at p. 3.) Moreover, where open space cut-outs are outside of a building’s exterior walls, as the case with the Project because the open space cut-outs occupy multiple floors and are walled off, they should not be determined to meet the Code definition of “floor area” (LAMC Section 12.03).

The fact that the Project’s open space cut-outs are covered does not detract from their character as open space or render the areas as habitable floor area. Coverings enable the utilization of common open space for recreational purposes in the rain and provide shade during hot weather or for those susceptible to sensitive skin from exposure to the sun. Coverings do not reduce the usable common open space area. Rather, they create more opportunities to use the common open space under different conditions. Therefore, excluding the Project’s building cutouts from its floor area calculation and giving common open space credit to covered open space areas which are open to the sky on two sides is in conformance with the intent of the General Plan and Zoning Code to promote the maximization of open space, particularly for an infill Project where opportunities for providing recreational open space are extremely limited.

In addition, the Downtown Design Guide states that determinations of open space and floor area should be implemented in a manner that maximizes opportunities for resident and public-serving open space, such as on rooftops, balconies, and building cut-out areas, taking into account limitations on developable space that constrain many downtown development projects (Downtown Design Guide, at p.7.) Moreover, conditions of approval related to the Site Plan Review for the Project could ensure that the Project's covered open space cut-out areas are maintained as open space for the building's residents through the recordation of an appropriate "Covenant and Agreement Regarding Maintenance of Building" and conditions relating to the height of wall enclosures at the building's edge.

There is no strong justification for the exclusion of building cut-outs from being credited as "common open space" since such areas satisfy recreational and outdoor living needs while offering protection from the sun and inclement weather. This interpretation would be in line with General Plan policy promoting the creation of ample open space for residents and would not penalize, but would rather credit the Project for a creative solution to providing recreational open space to meet the open space requirement within the limited footprint of the Project Site.

## **DETERMINATION**

The requested Zoning Administrator Interpretations are needed to ensure that the 8th, Grand and Hope Project's residential parking spaces can be provided in tandem parking stalls; that covered open space areas are not counted toward the Project's floor area limitation; and that common open space credit may be received for the building's covered open space areas. Such interpretations are in line with General Plan policy and prior ZAIs. Further, they promote housing and open space solutions for a downtown high rise which are in line with existing City precedent, while at the same time supporting innovative design that will enable a striking new addition to the downtown skyline.

The interpretation to allow required residential parking to be provided in tandem parking stalls is contingent upon the following condition:

The applicant shall, prior to final inspection of the building, record an appropriately worded "Parking Attendant Affidavit", to the satisfaction of the Department of Building and Safety, to ensure the provision of 24-hour attended parking for residents, for as long as tandem parking spaces are utilized to satisfy the parking requirement of more than one dwelling unit per tandem stall.

The interpretation to allow the crediting of covered open space as common open space and discounting the covered open space from the calculated floor area is contingent upon the following condition:

The applicant shall, prior to final inspection of the building, record an appropriately worded "Covenant and Agreement Regarding Maintenance of Building", to the satisfaction of the Department of Building and Safety, to ensure that the project's covered common open space areas are maintained as common open space for the building's residents, along with conditions relating to the maximum height of wall enclosures at the building's edge.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City of Los Angeles (the "City"), as Lead Agency, has evaluated the environmental impacts of the 8th, Grand and Hope Project by preparing an environmental impact report (EIR) (Case Number ENV-2017-506-EIR/State Clearinghouse No. 2019050010). The EIR was prepared in compliance with the California Environmental Quality Act of 1970, Public Resources Code Section 21000 et seq. (CEQA) and the California Code of Regulations Title 14, Division 6, Chapter 3 (the "CEQA Guidelines").

The 8th, Grand and Hope Project EIR, consisting of the Draft EIR and Final EIR, is intended to serve as an informational document for public agency decision-makers and the general public regarding the objectives and impacts of the 8th, Grand and Hope Project, located at 754 South Hope Street and 609 to 625 West 8th Street in the City of Los Angeles. The Project entails the development of a 50-story mixed-use development comprised of 580 residential units and up to 7,499 square feet of ground floor commercial/retail/restaurant space on a 34,679-square-foot site. The Project would provide vehicle parking within three subterranean levels and eight above-grade levels, and on the ground floor. To accommodate the Project, an existing surface parking lot and four-story parking structure would be demolished. Upon completion, the total building floor area would be 554,927 square feet with a maximum height of 592 feet and a Floor Area Ratio (FAR) of approximately 9.25:1.

The Draft EIR was circulated for a 46-day public comment period beginning November 18, 2021, and ending on January 5, 2022. The Final EIR was then distributed on January 20, 2023. The Advisory Agency certified the EIR on May 26, 2023 ("Certified EIR") in conjunction with the approval of the Project (VTT-74531-CN). In connection with the certification of the EIR, the Advisory Agency adopted CEQA findings and a mitigation monitoring program. The Advisory Agency adopted the mitigation monitoring program in the EIR as a condition of approval. All mitigation measures in the previously adopted Mitigation Monitoring Program are imposed on the project through Conditions of Approval of VTT-74876-CN, to mitigate or avoid significant effects of the proposed Project on the environment and to ensure compliance during Project implementation.

## **NO SUPPLEMENTAL OR SUBSEQUENT REVIEW IS REQUIRED**

CEQA and the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Sections 15000-15387) allow the City to rely on the previously certified EIR unless a Subsequent or Supplemental EIR is required. Specifically, CEQA Guidelines Sections 15162 and 15163 require preparation of a Subsequent or Supplemental EIR when an EIR has been previously certified or a negative declaration has previously been adopted and one or more of the following circumstances exist:

- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;



- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

None of the above changes or factors has arisen since the Project approval. There are no substantial changes to the Project, and the Project is substantially the same as the approved Project. No substantial changes have been identified to the surrounding circumstances, and no new information of substantial importance has been identified since the Project. There is no evidence of new or more severe significant impacts, and no new mitigation measures are required for the project.

Accordingly, there is no basis for changing any of the impact conclusions referenced in the certified EIR's CEQA Findings. Similarly, there is no basis for changing any of the mitigation measures referenced in the certified EIR's CEQA Findings, all of which have been implemented as part of the Project's conditions of approval. There is no basis for finding that mitigation measures or alternatives previously rejected as infeasible are instead feasible. There is also no reason to change the determination that the overriding considerations referenced in the certified EIR's CEQA Findings, and each of them considered independently, continue to override the significant and unavoidable impacts of the Project.

Therefore, as the Project was assessed in the previously certified EIR, and pursuant to CEQA Guidelines Section 15162, no supplement or subsequent EIR or subsequent mitigated negative declaration is required for the Project, as the whole of the administrative record demonstrates that no major revisions to the EIR are necessary due to the involvement of new significant environmental effects or a substantial increase in the severity of a previously identified significant effect resulting from changes to the project, changes to circumstances, or the existence of new information. In addition, no addendum is required,

as no changes or additions to the EIR are necessary pursuant to CEQA Guidelines Section 15164.

## **RECORD OF PROCEEDINGS**

The record of proceedings for the decision includes the Record of Proceedings for the original CEQA Findings, including all items included in the case files, as well as all written and oral information submitted at the hearings on this matter. The documents and other materials that constitute the record of proceedings on which the City of Los Angeles' CEQA Findings are based are located at the Department of City Planning, 221 N. Figueroa Street, Suite 1350, Los Angeles, CA 90021. This information is provided in compliance with CEQA Section 21081.6(a)(2).

In addition, copies of the Draft EIR and Final EIR are available on the Department of City Planning's website at <https://planning.lacity.org/development-services/eir> (to locate the documents, search for the environmental case number). The Draft and Final EIR are also available at the following Library Branches:

- Los Angeles Central Library - 630 West Fifth Street, Los Angeles, CA 90071
- Little Tokyo Branch Library - 203 South Los Angeles Street, Los Angeles, CA 90012
- Pico Union Branch Library - 1030 South Alvarado Street, Los Angeles, CA 90006
- Chinatown Branch Library - 639 North Hill Street, Los Angeles, CA 90012
- Echo Park Branch Library - 1410 West Temple Street, Los Angeles, CA 90026
- Felipe de Neve Branch Library - 2820 West 6th Street, Los Angeles, CA 90057

## **APPEAL PERIOD - EFFECTIVE DATE**

Notwithstanding Section 12.21-A,2 of the Code, any appeals shall be heard by the City Planning Commission, as other 8th, Grand and Hope Project entitlements will be heard by the City Planning Commission and not the Area Planning Commission.

This grant is not a permit or license and any permits and/or licenses required by law must be obtained from the proper public agency. If any Condition of this grant is violated or not complied with, then the applicant or their successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Los Angeles Municipal Code (LAMC).

This determination will become effective after the end of appeal period date on the first page of this document, unless an appeal is filed with the Department of City Planning. An appeal application must be submitted and paid for before 4:30 PM (PST) on the final day to appeal the determination. Should the final day fall on a weekend or legal City holiday, the time for filing an appeal shall be extended to 4:30 PM (PST) on the next succeeding working day. Appeals should be filed early to ensure the Development Services Center (DSC) staff has adequate time to review and accept the documents, and to allow appellants time to submit payment.



An appeal may be filed utilizing the following options:

**Online Application System (OAS):** The OAS (<https://planning.lacity.org/oas>) allows entitlement appeals to be submitted entirely electronically by allowing an appellant to fill out and submit an appeal application online directly to City Planning's DSC, and submit fee payment by credit card or e-check.

**Drop off at DSC.** Appeals of this determination can be submitted in-person at the Metro or Van Nuys DSC locations, and payment can be made by credit card or check. City Planning has established drop-off areas at the DSCs with physical boxes where appellants can drop off appeal applications; alternatively, appeal applications can be filed with staff at DSC public counters. Appeal applications must be on the prescribed forms, and accompanied by the required fee and a copy of the determination letter. Appeal applications shall be received by the DSC public counter and paid for on or before the above date or the appeal will not be accepted.

Forms are available online at <http://planning.lacity.org/development-services/forms>. Public offices are located at:

**Metro DSC**

(213) 482-7077  
201 North Figueroa Street  
Los Angeles, CA 90012  
[planning.figcounter@lacity.org](mailto:planning.figcounter@lacity.org)

**Van Nuys DSC**

(818) 374-5050  
6262 Van Nuys Boulevard  
Van Nuys, CA 91401  
[planning.mbc2@lacity.org](mailto:planning.mbc2@lacity.org)

**West Los Angeles DSC**

(CURRENTLY CLOSED)  
(310) 231-2901  
1828 Sawtelle Boulevard  
West Los Angeles, CA 90025  
[planning.westla@lacity.org](mailto:planning.westla@lacity.org)

City Planning staff may follow up with the appellant via email and/or phone if there are any questions or missing materials in the appeal submission, to ensure that the appeal package is complete and meets the applicable LAMC provisions.

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

Verification of condition compliance with building plans and/or building permit applications are done at the City Planning Metro or Valley DSC locations. An in-person or virtual appointment for Condition Clearance can be made through the City's [BuildLA](https://buildla.appointments.lacity.org) portal ([appointments.lacity.org](https://buildla.appointments.lacity.org)). The applicant is further advised to notify any consultant representing you of this requirement as well.



QR Code to Online  
Appeal Filing



QR Code to Forms for In-  
Person Appeal Filing



QR Code to BuildLA  
Appointment Portal for  
Condition Clearance

If you have any questions, please contact Development Services Center staff at (213) 482-7077, (818) 374-5050, or (310) 231-2901.

A handwritten signature in blue ink, reading "Jonathan A. Hershey".

JONATHAN A. HERSHEY, AICP  
Associate Zoning Administrator

JAH:

cc: Councilmember Kevin de Leon  
Fourteenth Council District  
Adjoining Property Owners