



# DEPARTMENT OF CITY PLANNING

## APPEAL RECOMMENDATION REPORT

### City Planning Commission

**Date:** August 8, 2024  
**Time:** After 8:30 a.m.\*  
**Place:** Los Angeles City Hall  
Council Chamber, Room 340  
200 North Spring Street  
Los Angeles, CA 90012

This meeting may be available virtually, in hybrid format. Please check the meeting agenda (available at the link below) approximately 72 hours before the meeting for additional information or contact [cpc@lacity.org](mailto:cpc@lacity.org).

<https://planning.lacity.org/about/commissions-boards-hearings>

**Public Hearing:** Required  
**Appeal Status:** Not further appealable.  
**Expiration Date:** August 8, 2024  
**Multiple Approval:** No

**Case No.:** DIR-2023-7360-TOC-HCA-1A  
**CEQA No.:** ENV-2023-7361-CE  
**Related Cases:** N/A  
**Council No.:** 10 – Hutt  
**Plan Area:** Wilshire

**Certified NC:** P.I.C.O.  
**Zone:** [Q]R3-1-O

**Applicant:** Efraim Barazani  
Liv Lux Properties 5, LLC

**Applicant's Representative:** Aaron Belliston,  
BMR  
Enterprises

**Appellants:** Steven Kallmeyer &  
Yuchuan Chen

**Appellant's Representative:** N/A

**PROJECT LOCATION:** 1551 and 1557 South Hi Point Street

**PROPOSED PROJECT:** The proposed project involves the demolition of two existing single-family homes the construction, use, and maintenance of a new six-story residential building, 57 feet, in height, containing a total of 38 dwelling units with four (4) units reserved for Extremely Low Income Households. The proposed development will contain approximately 54,393 square feet of floor area, equating to a total floor area ratio (FAR) of approximately 4.32:1. The proposed building's residential units will consist of four (4) one-bedroom units, 29 two-bedroom units, and five (5) three-bedroom units. The project will have one (1) subterranean parking level that will contain a total of 46 vehicle parking stalls and will provide a total of 44 bicycle parking stalls including, 40 long-term, and four (4) short-term parking stalls.

**APPEAL:** An appeal of the April 22, 2024, Planning Director's Determination which:

1. **Determined** based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;

2. **Approved with Conditions** a 70 percent increase in density, consistent with the provisions of the Transit Oriented Communities (TOC) Affordable Housing Incentive Program along with the following two (2) Additional incentives for a qualifying Tier 3 project totaling 38 dwelling units, reserving four (4) units reserved for Extremely Low Income (ELI) Household occupancy, for a period of 55 years:
  - a. **Height.** To permit an increase in building height by two additional stories, up to 22 additional feet;
  - b. **Yards/Setbacks.** To permit up to a 30 percent reduction in the northerly and southerly side yard setbacks; and
3. **Adopted** the attached Findings and Conditions of Approval.

**RECOMMENDED ACTIONS:**

- 1) **Deny** the appeal;
- 2) **Determine** based on the whole of the administrative record, that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
- 3) **Sustain** the Planning Director's Determination to conditionally approve the TOC Affordable Housing Incentive Program request to allow a 70 percent increase in density consistent with the provisions of the Transit Oriented Communities (TOC) Affordable Housing Incentive Program along with the following two (2) incentives for a Tier 3 project totaling 38 dwelling units, reserving four (4) units for Extremely Low Income (ELI) Households for a period of 55 years:
  - a. **Height.** To permit an increase in building height by two additional stories, up to 22 additional feet;
  - b. **Yards/Setbacks.** To permit up to a 30 percent reduction in the northerly and southerly side yard setbacks; and
- 4) **Adopt** the Planning Director's Conditions of Approval and Findings.

VINCENT P. BERTONI, AICP  
Director of Planning



Heather Bleemers  
Senior City Planner

**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 272, 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.

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## PROJECT ANALYSIS

### PROJECT BACKGROUND

The subject site is located on two contiguous parcels (16,998 square feet in area) on the southeast block of Hi Point Street. It is located within the Wilshire Community Plan with a Medium Residential land use designation and all parcels are zoned [Q]R3-1-O. The site is further located within a Transit Priority Area and a Tier 3 TOC.

The proposed project is a six-story residential development with one level of subterranean parking and includes 38 residential units, 4,211 square feet of open space, 46 parking spaces for residential use (19 required), and 44 long-term and short-term bicycle parking spaces. Eighteen percent (4 units) will be deed-restricted affordable units for Extremely Low-Income Households. The project proposes a total of 54,393 square-foot square feet of floor area on an 16,999 square-foot lot for a Floor Area Ratio (F.A.R.) of up to 4.5:1 (4.32:1 proposed). The proposed project unit mix includes four one-bedroom units, 29 two-bedroom units, and five three-bedroom units.

Pursuant to the Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines), the proposed Tier 3 project is eligible for Base Incentives and three (3) Additional Incentives. As Base Incentives, the project is eligible to (1) increase the maximum allowable number of dwelling units permitted by 70 percent and (2) provide residential automobile parking at a ratio of 0.5 spaces per unit. The project is requesting the two Additional Incentives for a 22-foot increase in height and a 30 percent reduction in two side yards.

### PROJECT SUMMARY

The proposed project involves the demolition of two existing single-family homes the construction, use, and maintenance of a new six-story residential building, 57 feet, in height, containing a total of 38 dwelling units with four (4) units reserved for Extremely Low Income Households. The proposed development will contain approximately 54,393 square feet of floor area, equating to a total floor area ratio (FAR) of approximately 4.32:1. The proposed building's residential units will consist of four (4) one-bedroom units, 29 two-bedroom units, and five (5) three-bedroom units. The project will have one (1) subterranean parking level that will contain a total of 46 vehicle parking stalls and will provide a total of 44 bicycle parking stalls including, 40 long-term, and four (4) short-term parking stalls. The project will provide 4, 411 square feet of open space consisting of private balconies, recreation rooms, and rear yard.

### APPEAL SCOPE

Two appeals were filed on May 1 and May 2, 2024, that challenge the Director of Planning's determination on April 22, 2024, to conditionally approve a TOC Affordable Housing Incentive Program request, pursuant to LAMC Section 12.22 A.31, with a Class 32 Categorical Exemption to CEQA under Case No. ENV-2023-7361-CE as the environmental clearance for the project. The appellants are abutting property owners who are appealing the determination in its entirety. As the case involves a TOC request, the appellate body is the City Planning Commission; the decision of the City Planning Commission is not further appealable.

### APPROVED ACTIONS

On April 22, 2024, the Director of Planning took the following actions:

1. **Determined** based on the whole of the administrative record, that the Project is exempt from

the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15332 (Class 32), and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;

2. **Approved with Conditions** a 72 percent increase in density, consistent with the provisions of the Transit Oriented Communities (TOC) Affordable Housing Incentive Program along with the following two (2) Additional incentives for a qualifying Tier 3 project totaling 38 dwelling units, including four (4) units reserved for Extremely Low Income (ELI) Household occupancy, for a period of 55 years:
  - a. **Height.** Increase of 22 feet to a maximum of 57 feet;
  - b. **Side Yard Setbacks.** Up to a 30 percent reduction in the required two side yard setbacks to permit a minimum of 6'3 3/4" in lieu of the minimum 9 feet, as otherwise required, and
3. **Adopted** the attached Findings and Conditions of Approval.

## APPEAL ANALYSIS

Appeal 1 – Steven Kallmeyer and Jeffrey Peters

Appeal 2 – Yuchuan Chen

Both appeals contain the same appeal points as outlined below:

### Setbacks

One of the primary concerns is the proposed reduction of the project's northerly and southerly side yard setbacks. The appellants argue that the request for a 30 percent reduction of the minimum required side yard setbacks from 9 feet to 6 feet 3 3/4 inches places the building too close to their residences. The appellants cite concerns with a reduction in privacy and lighting, increase in potential noise, and well as visual disturbances.

### Height

Additionally, the appellants take issue with project's proposed building height, and are requesting denial of the Additional Incentive allowing for a height increase of up to 22 feet to accommodate two additional stories. The appellants argue that the height increase is a significant deviation from the neighborhood's height restrictions, which primarily consists of single- and multi-family dwellings ranging from one to four stories in height, and would disrupt the area's character and skyline. Such a substantial increase in building height would not only overshadow surrounding properties, but also diminish the quality of life for residents in the vicinity and for the appellants' own properties in particular.

### State Density Bonus Required Findings

Lastly, the appellants argue that the requested Additional Incentives, if granted, will have a specific adverse impacts upon public health and safety and the physical environment, as well as impose financial hardships on the surrounding property owners. The appellants argue that the proposed project with its requested deviations will likely reduce the market value of their homes.

## RESPONSES TO APPEAL POINTS

### Height and Setbacks

Measure JJJ was approved on November 8, 2016, establishing LAMC Section 12.22 A.31 and the TOC Program. The Measure required the Department of City Planning to create eligibility standards, incentives, and other necessary components for prospective Housing Developments located within a one-half mile radius of a Major Transit Stop. Under the TOC Program, TOC Guidelines were established structuring the levels of incentives, including those pertaining to setbacks, height, and open space, based on the quality and proximity of a transit stop. The two Additional Incentives that provide relief from height and yard setback requirements have been granted as a result of the project meeting all eligibility requirements for the TOC Affordable Housing Incentive Program. Under the TOC Affordable Housing Incentive Program, three (3) Additional Incentives may be granted for projects that include at least 11 percent of the base units for Extremely Low Income Households, at least 15 percent of the base units for Extremely Low Income Households, at least 30 percent of the base units for Lower Income Households, or at least 30 percent of the base units for persons and families of Moderate Income in a common interest development.

The project meets the TOC Guideline requirements of providing at least 15 percent of the base units for Extremely Low Income Households in exchange for being granted the additional incentives. The project is setting aside four (4) units for Extremely Low Income Households, which equates to 18 percent of the base units permitted through the underlying zoning of the site. As such, the project meets the eligibility requirements for both on-site restricted affordable units and Base and Additional Incentives. As the two (2) Additional Incentives, the project is requesting 1) an increase in building height by two additional stories, up to 22 additional feet; and 2) a 30 percent reduction in the northerly and southerly side yard setbacks. The granted incentives will allow the developer to expand the building footprint and increase the building height which in turn, will allow for the construction of more dwelling units, including affordable units, while remaining in compliance with all other applicable zoning regulations.

### Findings

The Department understands that the language within the finding can be confusing given that it is written in the negative – “*The Incentive will have a specific adverse impact upon public health and safety or the physical environment...*” Pursuant to California Government Code Section 65915 (d)(1)(B), it is the burden of the City to prove that the incentive would have an adverse, unavoidable impact for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to the specified income level household. In other words, the onerous is on the City to prove that the incentives would result in an adverse impact on the health/safety, physical environment or historic resources with no feasible mitigation. As explained in the findings of approval, there is no evidence that there will be a specific adverse impact associated with the approval of the incentives.

### CONCLUSION

For all of the reasons stated herein, and in the findings of the Director’s Determination, the proposed project complies with all applicable provisions of the TOC Affordable Housing Incentive Program and CEQA. Planning has evaluated the proposed project and determined that it qualifies for the three requested Additional Incentives under the TOC Affordable Housing Incentive Program. Although the applicant’s arguments for appeal have been considered, Planning maintains that the required findings and imposed conditions of the Director’s Determination are valid and that the appeal arguments are not grounds for reversal of any portion of the approval.

Therefore, it is recommended that the City Planning Commission affirm that the project is categorically exempt from CEQA, deny the appeal of the Director's Determination, and sustain the Director's Determination for the approval of a TOC Affordable Housing Incentive Program request for a project totaling 38 dwelling units, as described herein.