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Subject: The Silverstein Law Firm | Comments and Objections to City Planning Commission for Hollywood Center Project; Case Nos. ENV-2018-2116-EIR, CPC-2018-2114-DB-MCUP-SPR, CPC-2018-2115-DA, and VTT-82152; SCH 2018051002
Attachments: 10-5-20 [SCAN] Comments and Objections to City Planning Commission (CPC).PDF

Dear Ms. Nguyen:

Please include the attached in the record of the above-referenced matter.

As we have requested in prior correspondence, all links provided in objection letters that we and others have submitted must be accessed and printed by City staff, and included both in the materials provided to decisionmakers and the administrative record. The City is already required to do so by law, but in an abundance of caution, we have also made written requests for same.

Thank you.

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October 5, 2020

VIA EMAIL vince.bertoni@lacity.org;
mindy.nguyen@lacity.org;
cpc@lacity.org

President and Planning Commissioners
Los Angeles City Planning Commission
City of Los Angeles, Department of City Planning
221 North Figueroa Street
Los Angeles, CA 90012

Re: Comments and Objections to City Planning Commission for Hollywood Center Project; Case Nos. ENV-2018-2116-EIR, CPC-2018-2114-DB-MCUP-SPR, CPC-2018-2115-DA, and VTT-82152; SCH 2018051002

Honorable Planning Commissioners:

This firm and the undersigned represent StopTheMillenniumHollywood.com. Please keep this office on the list of interested persons to receive timely notice of all hearings, votes and determinations related to the proposed Hollywood Center Project (“Project”).¹ Please include this letter in the Project’s administrative record.

Pursuant to Public Resources Code Section 21167(f), please provide a copy of each and every notice issued by the City in connection with this Project. We adopt and incorporate by reference all Project objections raised by all others during the environmental review and land use entitlement processes for the Project.

We submit these objections to the Project and in support of our appeal of the Advisory Agency’s Letter of Determination. We ask that the Planning Commission carefully review these and all other objections, grant our appeal, and deny the Project’s applications and its FEIR.

¹ Unless otherwise specified, “Project” refers generally to the original Project in the Draft EIR and Alternative 8.

I. THE OFF-MENU INCENTIVES VIOLATE STATE DENSITY BONUS LAW.

A. The Off-Menu Incentive for a 160% Increase in FAR Exceeds the Scope of a Valid Concession or Incentive.

The Project utilizes Off-Menu Density Bonus incentives to increase floor area ratio (“FAR”) from 3.0 to 1 to over 7.81 to 1 – *a 160% increase in FAR*² – on the basis that the astronomical FAR increase is necessary to provide for affordable rents.

A significant portion of the Project’s FAR bonus is simply a windfall to the developer far out of proportion to a legitimate FAR increase. This can be demonstrated analytically by comparing the FAR increases and affordable set-aside requirements for On-Menu Density Bonus, Transit Oriented Communities³ (“TOC”), the Value Capture Ordinance⁴ and the City’s history of processing Off-Menu Density Bonus incentives for FAR increases. Among scores of similar approvals, the Project stands out as a singular exception; comparable FAR approvals have been granted through Off-Menu incentives only for 100-percent affordable housing developments. Yet the Project, which provides only a small fraction of its Floor Area to affordable housing (between six and eight percent), requests to increase permitted Floor Area by 160%. Approval of this gratuitous windfall would violate State Density Bonus Law.⁵

² Total purported Project Floor Area (1,401,403 square feet) plus area of covered balconies excluded from FAR calculations (168,320) equals 1,569,723. 1,569,723 divided by 200,900 = 7.81 to 1 FAR.

³ TOC Guidelines are attached as **Exhibit 1**. This analysis presents a comparison of TOC FAR increases to demonstrate the outrageousness of the Project’s FAR increase, but does not concede the validity of the TOC program or the TOC Guidelines.

⁴ Neither State Density Bonus Law nor TOC permits a development to claim an incrementally greater bonus in exchange for a greater affordable set-aside than required. Rather, an applicant who wishes to measure its requested relief against a greater affordable set-aside than required must use another local program such as the City’s Value Add Ordinance. *See* Gov. Code §§ 65915(d)(1)(A) and 65915(c).

⁵ Gov. Code § 65915.

The purpose of Density Bonus Law is to supersede local zoning only to the extent justified to incentivize affordable housing production. Density Bonus Law requires proportionality between the scale of a development bonus and the amount of affordable housing in a development. Accordingly, Density Bonus Law requires that a “concession or incentive” must be denied if it “does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).”⁶ This finding is the primary legal guardrail preventing abuse of Density Bonus Law. Its manifest purpose is to establish a theoretical ceiling on the scope of a concession or incentive. To the extent a concession or incentive provides for affordable housing costs by accommodating reasonable and proportionate incentives for affordable housing production, this finding is satisfied. However, to the extent relief provides a windfall to a politically-connected applicant merely because it can procedurally request an arbitrarily high FAR increase (as long as the Councilmember approves), approval of the full incentive would violate Density Bonus Law and ultimately interfere with the City’s constitutionally-guaranteed ability to enforce local zoning ordinances.

The Project is a prime example of abusive development meant to be curtailed by the legally required finding in Section 65915(k). Initially, the Project entitlements were filed as a Zone and Height District Change because the Project’s value proposition was fundamentally legislative in nature: that exceptional FAR should be permitted at the Project Site because it is in central Hollywood near transit and because the Project provides some purported public benefits. After this office commented that Measure JJJ incentives cannot exceed the 6 to 1 FAR limit in the Hollywood Redevelopment Plan, the Applicant re-filed as an Off-Menu Density Bonus case with entirely different legal findings focused solely on whether the full extent of the incentive provides for affordable housing. At the same time, the Applicant *reduced* the amount of affordable housing it committed to by clarifying that no Extremely Low Income (“ELI”) units were guaranteed.

The validity of a concession or incentive is a purely analytical inquiry relating the *scope of affordable housing required* with the *scope of relief requested*. This question is the heart of Density Bonus approvals because applicants can request theoretically unlimited development bonuses while providing the legal minimum affordable set-aside. Conceivably, the City could justify a broad array of concessions or incentives given the

⁶ Pub. Res. Code § 65915(k).

subjective nature of the analysis. However, the City itself has established procedures that function as bookends defining the lower and upper bounds of a valid concession or incentive. The On-Menu Density Bonus and TOC processes operate as lower bounds because the 35 percent and 55 percent FAR increases were purportedly evaluated by the City during adoption. Below the lower bound, the City has already analyzed the scope of FAR increase and determined it is proportionate to the required affordable housing.

The Project would allegedly provide 133 senior units averaging 932 square feet each, comprising a total of 124,066 square feet of affordable units. In exchange, the Project requests approval of a 7.81 to 1 FAR permitting 1,569,029 square feet of luxury residential and commercial floor area. The Project's affordable component constitutes barely eight percent of Project Floor Area, yet it purports to justify 61 percent of the Project's total FAR.⁷ For Alternative 8, the Project's affordable component shrinks considerably, but the Project FAR remains unchanged. Alternative 8 provides an average of only 612 square feet per unit, totaling only 102,211 square feet of affordable units – barely six percent of Project Floor Area.⁸

As applied to the Project, the On-Menu Density Bonus procedures allow a 35 percent FAR increase (to 4.05 to 1) FAR with 111 units set aside for **Very Low Income** (“VLI”) households. Proportionately increasing this bonus to account for the Project's 133 VLI units would justify only a 41 percent FAR increase (to 4.8 to 1). TOC procedures allow a 55 percent FAR increase (to 4.65 to 1) but require 111 **Extremely Low Income** units. Crucially, the applicant is permitted to charge significantly higher rents for VLI units compared to ELI units; a one-bedroom ELI unit can only be rented for \$397 per month, but a one-bedroom VLI unit can be rented for up to \$662 – 66% more rent per unit. Moreover, the Project does not commit to providing a single ELI unit. Even if the TOC FAR bonus were scaled up to assume 133 ELI units, its procedures would justify only a 66% increase in FAR (to 5.5 to 1).⁹ The Project's FAR bonus is many times larger than incentives contemplated by the Density Bonus and TOC procedures. An increase from the currently-permitted 3 to 1 FAR to the Project's gargantuan 7.81 to 1 FAR is a **160 percent increase**.

⁷ $124,066 / 1,569,029 = 0.079$. $(7.8 - 3 = 4.8) / 7.8 = 0.66$.

⁸ $102,211 / 1,569,029 = 0.065$.

⁹ $133/111 = 1.19$ percent increase. $1.35 \times 1.19 = 1.60 = 60\%$ increase for Density Bonus. $1.55 \times 1.19 = 1.84 = 84\%$ increase for TOC. $3 \times 1.6 = 4.8 : 1$ FAR for Density Bonus. $3 \times 1.84 = 5.52 : 1$ FAR for TOC.

The City's Value Capture Ordinance contemplates precisely these scenarios, where an applicant requests a greater FAR increase than permitted by On-Menu Density Bonus or TOC. The purpose of the Value Capture Ordinance was to "establish a nexus between certain discretionary land use entitlements and affordable housing."¹⁰ The Value Capture Ordinance authorizes FAR increases, but also includes a calculation requiring additional affordable housing for each percentage increase in FAR. It specifically amended CUP procedures to require additional affordable housing for large increases in FAR, finding that "the proposed ordinance would require affordable housing *that is proportional to the density or floor area increase requested.*"¹¹ As applied to the Project, the Value Capture Ordinance would allow a maximum FAR of 6 to 1 but could not exceed Hollywood Redevelopment Plan limitations. In exchange for a 100 percent increase in FAR, from 3 to 1 to 6 to 1, the Project would need to set aside 553 of its 1,005 dwelling units for Very Low Income households.¹² In other words, the Project provides barely *one quarter* of the affordable housing according to the City's recent ordinance *specifically intended to adjust affordability requirements to FAR increases.*

Nor is the Project's 160-percent FAR bonus consistent with prior Off-Menu Density Bonus incentives approved by the City. This office has reviewed all Off-Menu Density Bonus applications filed since January 1, 2019, a summary of which is attached as **Exhibit 3**. Of the 57 cases filed, 19 have been approved for increases in FAR. As demonstrated in Table 1, the only developments with FAR increases remotely close to the

¹⁰ City Planning Recommendation Report regarding CPC-2017-2022-CA, p. 1. Available at: <https://planning.lacity.org/ordinances/docs/ValueCapture/StaffRpt.pdf> [As we have requested in prior correspondence, all links provided in objection letters that we and others have submitted must be accessed and printed by City staff, and included both in the materials provided to decisionmakers and the administrative record. The City is already required to do so by law, but in an abundance of caution, we have also made written requests for same.]

¹¹ Id. at 3; emphasis added.

¹² LAMC § 12.24-V.1 creates a conditional use process allowing FAR increases. An FAR increase from 3 to 1 to 6 to 1 is a 100 percent increase. LAMC § 12.24-V.1 requires additional affordable units calculated by LAMC § 12.24-U.26(a)(1), with a percentage increase in FAR considered the same as a percentage increase in density. After providing the base 11% VLI units, a 100% increase in density would require an additional 40 percent Very Low Income units ($100/2.5 = 40$). Thus, 55 percent of the Project's base density of 1,005 dwelling units would need to be set aside for VLI households. $0.55 \times 1,005 = 552.75$, rounded up. Please note that we do not accept the premise of the CUP density increase, but analyze it for purpose of illustration of the excessive nature of the request.

Project's requested 160 percent bonus are entirely affordable housing developments. For developments providing the minimum required affordable set-aside, the largest FAR increase was 82 percent – barely half the Project's FAR increase – and the average FAR increase was just 45 percent.

The table below compares the FAR the Project Site could justify under eight assumptions: (1) development by-right; (2) development utilizing the City's On-Menu Density Bonus process; (3) development utilizing the City's On-Menu Density Bonus process, but with proportionately greater FAR increase to account for 133 VLI units in lieu of 111 VLI units required; (4) development utilizing the City's TOC process; (5) development utilizing the City's TOC process, but with a proportionately greater FAR increase assuming 133 ELI units are provided; (6) development utilizing a CUP for an FAR increase; (7) the average of all developments using the Off-Menu Density Bonus process and providing the minimum affordable set-aside; and (8) the average of all developments using the Off-Menu Density Bonus process for entirely affordable housing developments. The purpose of analyzing all eight scenarios is to clearly demonstrate the egregious extent of the FAR increase. No matter how a proportionate subsidy for the affordable component is determined, the Project's FAR increase is far greater than legally justified.

As shown in the table, the Project's 160-percent FAR increase far exceeds FAR increases authorized by On-Menu Density Bonus and TOC procedures, even if those procedures allowed proportionately greater FAR in exchange for greater affordable units. In a clear illustration of the Project's abuse of the Density Bonus process, the Project's FAR increase even exceeds the maximum increase authorized by the City's Value Capture Ordinance, which would require 553 VLI units to achieve a 6 to 1 FAR. The only developments for which the City approved comparable FAR increases were 100% affordable housing developments with market-rate managers units.

| <u>Comparison of Project FAR By Procedure and Affordable Set-Aside¹³</u> | | | | |
|--|--|------------------|-------------------------|-------------------|
| | Assumed Process | Bonus FAR | Total FAR | Affordable |
| 1 | By-right | - | 3 to 1 | - |
| 2 | On-Menu Density Bonus | 35% | 4.05 to 1 ¹⁴ | 111 VLI |
| 3 | On-Menu Density Bonus <i>(Proportionately increasing FAR bonus)</i> | 41% | 4.8 to 1 | 133 VLI |
| 4 | TOC Tier 4 | 55% | 4.65 to 1 ¹⁵ | 111 ELI |
| 5 | TOC Tier 4 <i>(Proportionately increasing FAR bonus)¹⁶</i> | 66% | 5.5 to 1 | 133 ELI |
| 6 | CUP for FAR Increase | 100% | 6 to 1 ¹⁷ | 553 VLI |
| 7 | Off Menu Density Bonus: <i>Average of developments providing minimum affordable set-aside</i> | 45% | 4.35 to 1 | 111 VLI |
| 8 | Off Menu Density Bonus: <i>Average of developments providing 100% affordable housing</i> | 110% | 6.3 to 1 | 100% affordable |
| | Project | 160% | 7.81 to 1 | 133 VLI |

Based on the comparison above:

- The Project requests 62% greater FAR than the On-Menu Density Bonus process would justify if its FAR bonuses scaled proportionately.¹⁸

¹³ Measure JJJ approvals are legislative zone changes that do not require a finding that development bonuses provide for affordable housing. Thus, Measure JJJ Zone and Height District Changes are not included in this chart for comparison purposes.

¹⁴ LAMC § 12.22-A.25(f)(4)(i).

¹⁵ TOC Guidelines Section V.1(b)(iv).

¹⁶ As noted above, the 66% FAR increase would be justified in theory only if all affordable units were reserved for ELI households.

¹⁷ Limited by Hollywood Redevelopment Plan.

¹⁸ $7.81 / 4.8 = 1.62$.

- The Project requests 42% greater FAR than the TOC process would justify if its FAR bonuses scaled proportionately, yet the Project doesn't commit to providing ELI units as required by TOC.¹⁹
- The Project requests greater FAR than permitted under the City's Value Capture Ordinance, which was specifically drafted to require affordable set-asides proportionate to development bonuses, yet it provides barely one-quarter of the required affordable units for the requested bonus.
- The Project requests a 79% greater FAR bonus than the average mixed-income Off-Menu Density Bonus project.²⁰
- The Project requests a 23% greater FAR bonus than the average 100% affordable housing development.²¹

Therefore, the extent of the FAR increase is wildly beyond the scope of an incentive needed to incentivize the production of affordable housing. The Project's Off-Menu incentive to allow an astronomical FAR of 7.81 to 1 does not satisfy the legally required findings of Density Bonus Law.

II. THE PROJECT VIOLATES CALIFORNIA REDEVELOPMENT LAW.

A. The Project Cannot Exceed the 6 to 1 FAR Limit in the Hollywood Redevelopment Plan.

State Density Bonus Law requires that a concession or incentive be denied if it would be "contrary to state or federal law."²² Here, Hollywood Redevelopment Plan Section 506.2.3 allows a maximum FAR of 4.5 to 1, but allows a development bonus to 6 to 1 FAR if a project includes certain public benefits, including affordable housing for low income housing per Redevelopment Plan Goal 9.²³ Hollywood Redevelopment Plan

¹⁹ $7.81 / 5.5 = 1.42.$

²⁰ $7.81 / 4.5 = 1.79.$

²¹ $7.81 / 6.3 = 1.23.$

²² Gov. Code § 65915(d)(1)(C).

²³ Hollywood Redevelopment Plan § 506.2.3 and Goal 9 are attached as **Exhibit 2**.

Section 506.2.3 is in harmony with Government Code Section 65915 because the Redevelopment Plan already provides a detailed procedure to allow a development to request additional FAR. Therefore, there is no conflict between Section 506.2.3 and Density Bonus Law, and the concessions or incentives must operate within the boundaries of the Hollywood Redevelopment Plan. The Project must request approval to exceed 4.5 to 1 FAR and cannot exceed 6 to 1 FAR in any case.

B. The Project Fails to Include Redevelopment Plan Compliance Review.

The City's ordinance setting forth procedures for reviewing plans under the purported authority transferred from CRA/LA became effective on November 11, 2019.²⁴ LAMC § 11.5.14 requires Redevelopment Plan Compliance Review for all developments in Redevelopment Project Areas in the City. The Applicant initially relied on purported vested rights from the Vesting Tentative Tract Map to assert that no Redevelopment Plan Compliance Review application was needed, but has since filed for new entitlements and the City has required a new map for Alternative 8.²⁵ The City's failure to require an application for Redevelopment Plan Compliance Review prior to approval violates the LAMC and the Hollywood Redevelopment Plan.

III. THE EIR CONTINUES TO VIOLATE CEQA.

A. The Project Description in the DEIR Was So Fundamentally Unstable, Vague and Misleading it Precluded Informed Participation.

1. The Project Description is Fatally Flawed From its Conception Because the DEIR Misled the Public Regarding the True FAR of the Project and Thereby Tainted and Impaired Informed Public Participation.

The Project's newly-disclosed entitlement requests an off-menu Density Bonus incentive to exclude the floor area of any residential balconies and terraces. As articulated in our earlier comments on the EIR, the single most important number in the Project Description – Floor Area Ratio – is a farce. Rather than the merely outrageous

²⁴ Ordinance No. 186,325, effective 11/11/2019. The legality of that purported transfer is currently subject to separate litigation, as shown in our June 1, 2020 comment letter and exhibits, incorporated herein by reference.

²⁵ Gov. Code § 66498.3(a); LAMC § 17.15-B.1(a).

6.973 to 1 FAR disclosed in the EIR, the actual FAR under applicable regulations is a shocking 7.81 to 1, equivalent to 168,320 square feet of Floor Area. The FEIR compares its blatant misrepresentation of FAR to the City's purported authority to approve an "On Menu Incentive" to calculate lot area prior to dedications pursuant to LAMC Section 12.22-A.25(f)(7), but this comparison proves the point: the City's Affordable Housing Referral Form requires a clear disclosure of density permitted prior to and after dedications.

The FEIR provides no equivalent good-faith disclosure in this case, instead, doubling down on its misrepresentations of Project FAR. The FEIR states that it "clearly identifies the Project's 6.973:1 FAR" and maximum Floor Area of 1,401,453 square feet. As stated in Footnote (c) of DEIR Table II-4, these very numbers exclude 168,320 square feet of Floor Area that qualifies as Floor Area under existing law, but is excluded from the FAR calculations used to reach the purported FAR of 6.973 to 1:

Pursuant to the incentive requested under LAMC Section 11.5.11(e), Project FAR numbers, unless otherwise specified, exclude residential balconies. The gross area of these balconies is approximately 78,120 sf on the West Site and approximately 90,200 sf on the East Site.

The FEIR fails to respond to the core allegation in our prior comment IND-8I-17-18: that the incentive itself is framed in a manner intended to mislead the public. Why ask for *two separate incentives addressing Floor Area* (first, to reach 6.973 to 1, and second to exclude balconies), when the same substantive outcome could be reached by requesting *a single incentive to allow 7.810 to 1 FAR*? It is apparent there is no legitimate basis for this request in professional planning practice. Fundamentally, the Project Description itself must disclose an accurate FAR of the Project that the public can understand in relation to currently applicable zoning laws and definitions. A buried table with a column calculating Building Code Building Area is not a substitute for accurate disclosure of FAR because the public does not regularly review developments according to Building Code area calculations, and because those numbers are not presented as a ratio to lot area. The transparent intent of the request is to reduce the extent of the true FAR increase that was disclosed to the public.

As the Court observed in Stophemillenniumhollywood.com, the "informative quality" of environmental forecasts in an EIR is no defense to omitting relevant information. The omission of relevant information is prejudicial regardless of whether a

different outcome would have resulted if the public agency had complied with those provisions. The EIR's persistent and baseless failure to recognize the FAR as calculated under current law has impaired the public's right and ability to participate in the environmental review process.

2. **The FEIR Concedes the Extremely Low Income Units were Illusory, Rendering the Affordable Component of the Project Unstable.**

The DEIR materially misled the public regarding the affordability level of the senior units. After our prior comment letter noted that the Applicant had not committed to providing an ELI, the applicant "clarified" that no ELI units would be required. This is both a material change in the Project Description and significant new information that requires re-circulation.

The shifting level of affordability is directly related to the Applicant's decision to abandon its Measure JJJ application and pursue a Density Bonus case instead. Whereas Measure JJJ includes an affordability tier for ELI, Density Bonus law does not. With the new entitlement strategy, the Applicant was presented with a convenient justification to abandon the ELI component.

3. **The FEIR Continues to Misrepresent Outdoor Theaters as a Permitted Use.**

The FEIR asserts that the Project would include a "performance area" with an elevated stage accommodating up to 350 attendees for events twice daily, yet bizarrely asserts this use is not an outdoor "theater" for zoning code purposes. The LAMC contemplates outdoor areas for public performances, but those uses are only permitted by-right when located in the Open Space Zone and do not exceed 200 attendees. (LAMC § 12.04.05-B(1)(a)(i).) The LAMC further contemplates parks and playgrounds on private property, but these terms do not reasonably encompass the use described in the DEIR, which is unambiguously an outdoor theater. The FEIR's perversion of language masks the reality that the Project cannot legally provide the much-touted outdoor theater as a public benefit. The Project's outdoor theater is plainly in violation of the LAMC and cannot be promised as a public benefit without materially misleading the public.

4. **The DEIR and FEIR Fail to Explain the Significance of the C2 Zone Change and its Removal**

The originally requested Zone Change to C2 has been a mystery since the publication of the DEIR. As our prior letter noted, the DEIR failed to comply with CEQA's mandates in that it omitted an explanation of the requested approvals. When pressed to explain the origin of the C2 Zone Change, the FEIR attempted to brush the issue to the side by asserting that the Project no longer requests a Zone Change to the C2 Zone, but instead utilizes the Density Bonus process.

Not only does this response concede that the Project's entitlement requests have been a moving target, it fails to address the question of why the C2 Zone Change was included in the entitlement request in the DEIR. The FEIR misleadingly states that the Density Bonus incentives address the relief obtained through the C2 Zone Change, but this is a transparently false statement: the Project requests three Off-Menu Incentives related to FAR, balconies and averaging. If the C2 Zone Change did not address any of these three issues – and it obviously does not – it necessarily implies that the Project has changed to no longer require this relief.

Zone changes from C4 to C2 are becoming routine in the City to take advantage of ZAI 1808, which purports to allow virtually unlimited outdoor dining and alcohol consumption in the C2 Zone but not C4 Zone. Yet, the DEIR and FEIR must downplay the extent of alcohol service to maintain the façade that the Project bears any semblance to responsible planning. The FEIR's failure to account for the C2 Zone change after repeated requests for clarification reeks of bad faith: Does the Applicant not recall why they paid tens of thousands of dollars in application fees for this entitlement? Does the City routinely publish DEIRs with entitlement requests it cannot explain? The mysterious C2 Zone Change is emblematic of the unstable Project Description, erratically shifting from one inexplicable and incomprehensible entitlement request to another.

5. **Numerous Moving Parts Render the Project a Moving Target and Vitiating the EIR as a Vehicle of Public Participation.**

In addition to the issues identified above, the DEIR included an East Site Hotel Option which sent the public on a wild goose chase fact-checking the analysis for the Hotel Option, including trip generation, utility demand, public service demand. The FEIR has abandoned the East Site Hotel Option and asserted that this fact responds to the numerous comments objecting to the multiplicity of Project permutations. However, this

City Planning Commission
City of Los Angeles, Department of City Planning
October 5, 2020
Page 13

reply is not responsive: regardless of whether the Hotel Option is pursued in the FEIR, CEQA requires that the Project Description shall be accurate, stable and finite beginning in the DEIR. These moving parts vitiate the EIR process as a vehicle for intelligent public participation and draw a red herring across the path of public participation.

6. The DEIR Must be Recirculated with the Full Text of the Development Agreement.

Informed public participation in reviewing the DEIR required access to the Development Agreement. Without an understanding of the value proposition of the Project, the public is not able to make a threshold decision of whether, or how vociferously, to participate in the CEQA process, and has been denied access to what, presumably, will be used by the City Council to later issue any statement of overriding considerations. Keeping this critical piece of the puzzle secret throughout the process to date is a violation of law. Recirculation is required because the community must holistically understand the Project to evaluate its environmental impacts in context. Regardless of its terms, the Development Agreement will include significant new information requiring recirculation.

IV. CONCLUSION.

For the reasons set forth herein, our appeal should be granted, and the Project's applications and FEIR rejected.

Very truly yours,

/s/ Robert P. Silverstein

ROBERT P. SILVERSTEIN

FOR

THE SILVERSTEIN LAW FIRM, APC

RPS:vl
Encls.

The Silverstein Law Firm

October 5, 2020

**Comments and Objections to City Planning Commission for Hollywood
Center Project; Case Nos. ENV-2018-2116-EIR, CPC-2018-2114-DB-
MCUP-SPR, CPC-2018-2115-DA, and VTT-82152; SCH 2018051002**

EXHIBIT 1

**DEPARTMENT OF
CITY PLANNING**

CITY PLANNING COMMISSION

DAVID H. J. AMBROZ
PRESIDENT

RENEE DAKE WILSON
VICE-PRESIDENT

CAROLINE CHOE
VAHID KHORSAND
JOHN W. MACK
SAMANTHA MILLMAN
MARC MITCHELL
VERONICA PADILLA-CAMPOS
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CASE NO. CPC-2017-1914-MS

February 26, 2018

**TECHNICAL CLARIFICATIONS TO THE TRANSIT ORIENTED COMMUNITIES
AFFORDABLE HOUSING INCENTIVE PROGRAM GUIDELINES (TOC GUIDELINES)**

The Transit Oriented Communities Affordable Housing Incentive Guidelines (TOC Guidelines) developed pursuant to Measure JJJ was released on September 22, 2017. Since that time, several technical clarifications have been identified. The Department has updated the TOC Guidelines to reflect these clarifications. All changes are listed in the Activity Log of the Guidelines.

If you have any questions, please do not hesitate to contact Matthew Glesne of the Department of City Planning at (213) 978-2666 or matthew.glesne@lacity.org.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

VBP:KJK:MG:CH:mn

Attachment: TOC Guidelines

Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines)

Implementing Section 6 of Measure JJJ, approved by the voters in November 2016, and added
to Los Angeles Municipal Code 12.22 A.31

Effective September 22, 2017
Revised February 26, 2018

Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines)

ACTIVITY LOG

1. February 16, 2018 Technical Clarifications (No Change to Policies)

| <u>Section No.</u> | <u>Change</u> |
|---------------------|---|
| III.3 Chart 1 | Clarified applicability of Rapid Bus intersections to Tier 4 |
| IV.1(a-d) | Added the word “or” between affordability percentages for clarity |
| VI.1(b) | Clarified allowable floor area ratio incentive |
| VII.1(a)(ii)1 and 2 | Clarified applicability of yard incentive |
| VII.1(g)(4) | Revised formatting to clarify height exception |

Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines)

I. SCOPE AND PURPOSE.

Pursuant to the voter-approved Measure JJJ, Los Angeles Municipal Code (LAMC) 12.22 A.31 was added to create the Transit Oriented Communities (TOC) Affordable Housing Incentive Program (TOC Program). The Measure requires the Department of City Planning to create TOC Affordable Housing Incentive Program Guidelines (TOC Guidelines) for all Housing Developments located within a one-half mile radius of a Major Transit Stop.

These Guidelines provide the eligibility standards, incentives, and other necessary components of the TOC Program consistent with LAMC 12.22 A.31. In cases where Base or Additional Incentives are permitted, they shall be based off the otherwise allowable development standards for the property found in a zoning ordinance, Specific Plan, Community Plan Implementation Overlay (CPIO), overlay district, or other local condition, law, policy, resolution, or regulation (unless the TOC incentives have been amended per Section III.3). The Guidelines may be modified by the Director with recommendation by the City Planning Commission.

II. DEFINITIONS

1. **Eligible Housing Development** is a Housing Development that includes On-Site Restricted Affordable Units at a rate that meets or exceeds the minimum requirements to satisfy the TOC Incentives and as set forth in Section IV of the Guidelines.
2. **Extremely Low-Income Households** is defined in Section 50106 of the California Health and Safety Code.
3. **Housing Development** is defined as the construction of five or more new residential dwelling units, the addition of five or more residential dwelling units to an existing building or buildings, the remodeling of a building or buildings containing five or more residential dwelling units, including a mixed use development containing residential dwelling units.
4. **Lower Income Households** is defined in Section 50079.5 of the California Health and Safety Code.
5. **On-Site Restricted Affordable Unit** shall mean a residential unit for which rental or mortgage amounts are restricted so as to be affordable to and occupied by Extremely Low, Very Low or Lower income households, as determined by the Housing and Community Investment Department.

6. **Major Transit Stop** is a site containing a rail station or the intersection of two or more bus routes with a service interval of 15 minutes or less during the morning and afternoon peak commute periods. The stations or bus routes may be existing, under construction or included in the most recent Southern California Association of Governments (SCAG) Regional Transportation Plan (RTP).
7. **Very Low-Income Households** is defined in Section 50105 of the California Health and Safety Code.

III. TOC AFFORDABLE HOUSING INCENTIVE AREA

1. Each one-half mile radius (2,640 feet) around a Major Transit Stop, as defined in subdivision (b) of Section 21155 of the California Public Resources Code, and provided in Section II of these Guidelines, shall constitute a unique TOC Affordable Housing Incentive Area.
2. Each lot in a TOC Affordable Housing Incentive Area shall be determined to be in a specific Tier (1-4) based on the shortest distance between any point on the lot and a qualified Major Transit Stop, as shown in Chart 1 and Map 1 below. The applicant shall be responsible for providing documentation showing that the location qualifies as a Major Transit Stop and for providing a radius map showing the distance to the Major Transit Stop. Establishment of the appropriate Tier shall take place at the time an application is accepted and the Tier is verified by the City.
3. The TOC Incentives and the required percentages for On-Site Restricted Affordable Units may be adjusted for an individual TOC Affordable Housing Incentive Area through a Community Plan update, Transit Neighborhood Plan, or Specific Plan, provided that the required percentages to receive a development bonus for On-Site Restricted Affordable Units may not be reduced below the percentages set forth in LAMC Section 12.22 A.31(b)(1).

Chart 1. TOC Affordable Housing Incentive Area Tiers

| Type of Major Transit Stop | Tier 1 (Low) | Tier 2 (Medium) | Tier 3 (High) | Tier 4 (Regional) |
|--|---------------------------------------|-----------------|---------------|--|
| | Distance to Major Transit Stop | | | |
| Two Regular Buses (intersection of 2 non Rapid Bus* lines, each w/ at least 15 min. average peak headways) | 750 - 2640 ft. | < 750 ft. | - | - |
| Regular plus Rapid Bus* (intersection of a Regular Bus and Rapid Bus line) | 1500 – 2640 ft. | 750 – <1500 ft. | < 750 ft. | - |
| Two Rapid Buses* (intersection of two Rapid Bus lines) | - | 1500-2640 ft. | < 1500 ft. | - |
| Metrolink Rail Stations | 1500 – 2640 ft. | 750 – <1500 ft. | < 750 ft. | - |
| Metro Rail Stations | - | - | ≤ 2640 ft. | < 750 ft. from intersection with another rail line or a Rapid Bus* |

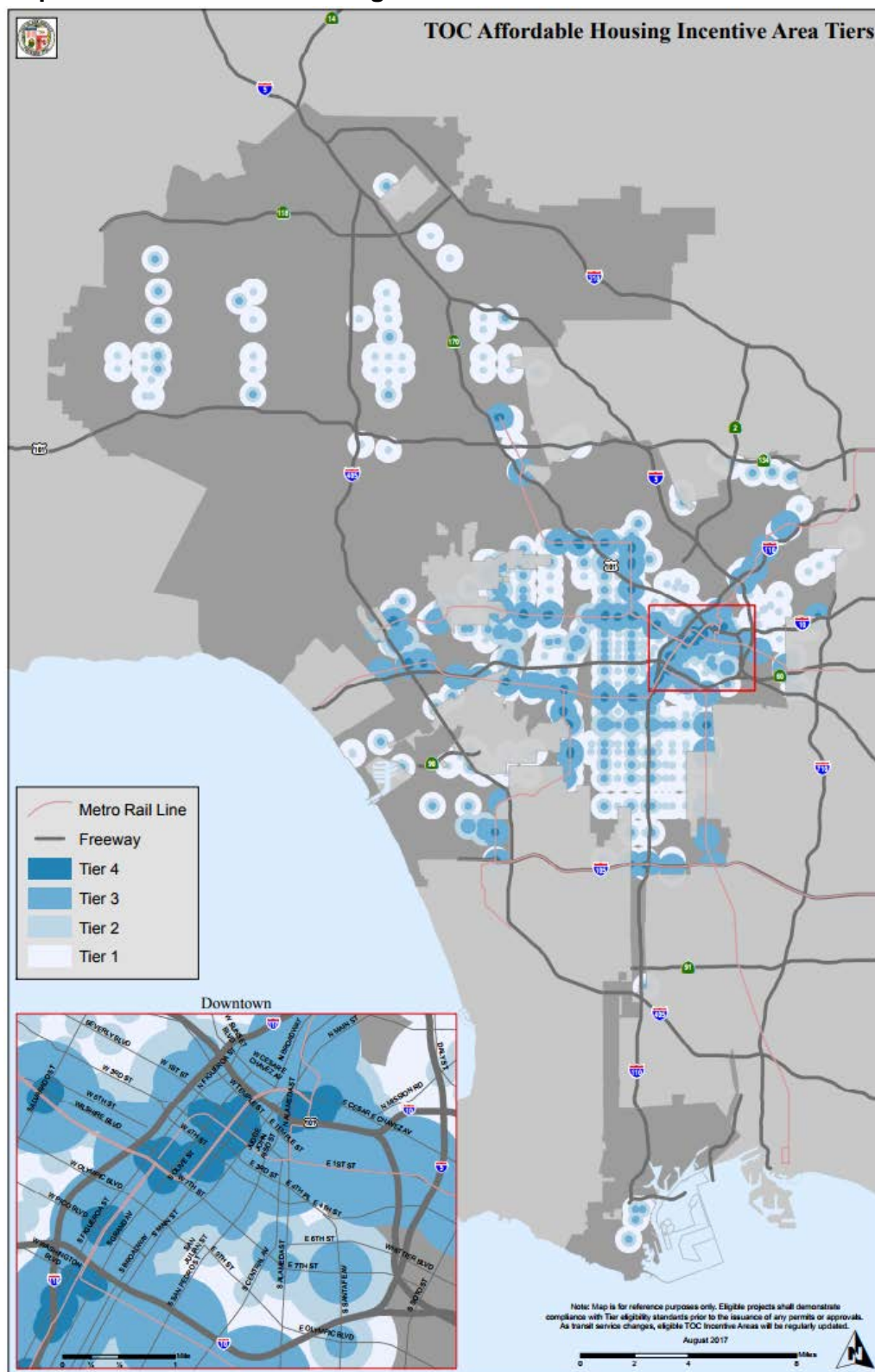
Notes:

To be an eligible TOC Housing Development, the project must meet the Eligibility criteria in Section IV, including being located within one-half mile of a Major Transit Stop. In the case of bus stops, this always requires an intersection of two bus routes. An intersection of two bus lines is defined as the midpoint of the street intersection where two or more eligible bus routes meet or cross, and passengers have the direct ability to transfer on foot. This does not include bus routes that travel along the same street. For Tier 4, an intersection between a rail station and an eligible Rapid Bus line is defined as either the rail station entrance(s) or the Rapid Bus stop when the bus stop is within 660 feet of a rail station entrance and can be accessed by foot.

Distance is measured from the closest point on any lot to the entrance(s) of a rail transit station (including elevators and stairways), or the middle of the street intersection of two or more bus routes with a service interval of 15 minutes or less during the morning and afternoon peak commute periods. Please see Appendix A for additional information on how to calculate the 15 minute service interval. In the case of a Tier 4 Major Transit Stop, the distance will be measured from the closest point on any lot to the closer of either the entrance of the rail transit station or the bus stop. If no entrance information is known for a station that is under construction, then the distance will be measured from the center of the platform of the station.

*Rapid Bus is a higher quality bus service that may include several key attributes, including dedicated bus lanes, branded vehicles and stations, high frequency, limited stops at major intersections, intelligent transportation systems, and possible off-board fare collection and/or all door boarding. It includes, but is not limited to, Metro Bus Rapid Transit lines, Metro Rapid 700 lines, Metro Orange and Silver Lines, Big Blue Rapid lines and the Rapid 6 Culver City bus.

Map 1. TOC Affordable Housing Incentive Area Tiers



Note: Map is for reference purposes only. Please see the ZIMAS online mapping system for parcel level Tier information. However, confirmation of the correct Tier shall take place at the time a TOC application is accepted by the Department of City Planning. As transit service changes, eligible TOC Incentive Areas may be modified.

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- IV. ELIGIBILITY.** A Housing Development located within a TOC Affordable Housing Incentive Area shall be eligible for TOC Incentives if it meets all of the following requirements:
1. **On-Site Restricted Affordable Units.** In each Tier, a Housing Development shall provide On-Site Restricted Affordable Units at a rate of at least the minimum percentages described below. The minimum number of On-Site Restricted Affordable Units shall be calculated based upon the total number of units in the final project.
 - a. Tier 1 - 8% of the total number of dwelling units shall be affordable to Extremely Low Income (ELI) income households, or 11% of the total number of dwelling units shall be affordable to Very Low (VL) income households, or 20% of the total number of dwelling units shall be affordable to Lower Income households.
 - b. Tier 2 - 9% ELI, or 12% VL or 21% Lower.
 - c. Tier 3 - 10% ELI, or 14% VL or 23% Lower.
 - d. Tier 4 - 11% ELI, or 15% VL or 25% Lower.
 2. **Major Transit Stop.** A Housing Development shall be located on a lot, any portion of which must be located within 2,640 feet of a Major Transit Stop, as defined in Section II of these Guidelines according to the procedures in Section III.2 above.
 3. **Housing Replacement.** A Housing Development must meet any applicable housing replacement requirements of California Government Code Section 65915(c)(3), as verified by the Department of Housing and Community Investment (HCIDLA) prior to the issuance of any building permit. Replacement housing units required per this section may also count towards other On-Site Restricted Affordable Units requirements.
 4. **Other Density or Development Bonus Provisions.** A Housing Development shall not seek and receive a density or development bonus under the provisions of California Government Code Section 65915 (state Density Bonus law) or any other State or local program that provides development bonuses. This includes any development bonus or other incentive granting additional residential units or floor area provided through a General Plan Amendment, Zone Change, Height District Change, or any affordable housing development bonus in a Transit Neighborhood Plan, Community Plan Implementation Overlay (CPIO), Specific Plan, or overlay district.
 5. **Base Incentives and Additional Incentives.** All Eligible Housing Developments are eligible to receive the Base Incentives listed in Section VI. Up to three Additional Incentives listed in Section VII may be granted based upon the affordability requirements described below. For the purposes of this section below “base units” refers to the maximum allowable density allowed by the zoning, prior to any density increase provided through these Guidelines. The affordable housing units required per this section may also count towards the On-Site Restricted Affordable Units requirement in Section IV.1 above (except Moderate Income units).

- a. One Additional Incentive may be granted for projects that include at least 4% of the base units for Extremely Low Income Households, at least 5% of the base units for Very Low Income Households, at least 10% of the base units for Lower Income Households, or at least 10% of the base units for persons and families of Moderate Income in a common interest development.
- b. Two Additional Incentives may be granted for projects that include at least 7% of the base units for Extremely Low Income Households, at least 10% of the base units for Very Low Income Households, at least 20% of the base units for Lower Income Households, or at least 20% of the base units for persons and families of Moderate Income in a common interest development.
- c. Three Additional Incentives may be granted for projects that include at least 11% of the base units for Extremely Low Income Households, at least 15% of the base units for Very Low Income Households, at least 30% of the base units for Lower Income Households, or at least 30% of the base units for persons and families of Moderate Income in a common interest development.

6. **Projects Adhering to Labor Standards.** Projects that adhere to the labor standards required in LAMC 11.5.11 may be granted two Additional Incentives from the menu in Section VII of these Guidelines (for a total of up to five Additional Incentives).

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

8. **Request for a Lower Tier.** Even though an applicant may be eligible for a certain Tier, they may choose to select a Lower Tier by providing the percentage of On-Site Restricted Affordable Housing units required for any lower Tier and be limited to the Incentives available for the lower Tier.

9. **100% Affordable Housing Projects.** Buildings that are Eligible Housing Developments that consist of 100% On-Site Restricted Affordable units, exclusive of a building manager's unit or units shall, for purposes of these Guidelines, be eligible for one increase in Tier than otherwise would be provided.

V. **APPLICATION AND APPROVALS.** Applications for TOC Incentives shall follow the density bonus procedures outlined in Los Angeles Municipal Code Section 12.22 A.25(g).

1. **Procedures.**

- a. **Projects Requesting only Base Incentives (Residential Density and Parking).** Projects receiving only Base Incentives shall be reviewed ministerially by the Department of Building and Safety per LAMC 12.22 A.25(g)(1).

- b. **Projects Requesting Additional Incentives.** Projects requesting Additional Incentives shall be reviewed by the Department of City Planning per the procedures in LAMC 12.22 A.25(g)(2).

2. Calculations.

- a. **Rounding of Fractional Numbers.** Any numbers regarding parking, number of units (including base density), number of affordable units, or number of replacement housing units that result in a fraction shall be rounded up to the next whole number.
 - b. **Site Plan Review Threshold.** The threshold for a project triggering the Site Plan Review requirements of LAMC 16.05 shall be based on the number of units that would be permitted prior to any density increase from Section VI 1(a) of these Guidelines.
3. **Multiple Approvals.** When the application is filed as part of a project requiring multiple City Planning discretionary approvals, the initial decision maker shall be as set forth in Section 12.36 of this Code; and when the application is filed in conjunction with a subdivision and no other approval, the Advisory Agency shall be the initial decision maker. The decision shall include a separate section clearly labeled "TOC Affordable Housing Incentive Program Determination."
4. **Design Conformance.** Projects seeking to obtain Additional Incentives shall be subject to any applicable design guidelines, including any Community Plan design guidelines, Specific Plan design guidelines and/or Citywide Design Guidelines and may be subject to conditions to meet design performance. The conditions shall not preclude the ability to construct the building with the residential density permitted by Section VI.

VI. BASE INCENTIVES.

- 1. **Residential Density.** An Eligible Housing Development shall be granted a residential density increase as follows:
 - a. **Increase in Number of Dwelling Units.** In each Tier, the maximum increase in the otherwise maximum allowable number of dwelling units permitted under the applicable zoning ordinance shall be as follows:
 - i. Tier 1 – 50%
 - ii. Tier 2 – 60%
 - iii. Tier 3 – 70%
 - iv. Tier 4 – 80%
 - v. **Exception.** In the "RD" Restricted Density Multiple Family zone (RD Zone), the maximum increase shall be limited to the amounts listed below:

1. Tier 1 – 35%
2. Tier 2 – 35%
3. Tier 3 – 40%
4. Tier 4 – 45%

- b. **Floor Area Ratio (FAR).** In each Tier, the maximum increase in the allowable FAR permitted shall be equal to the following, provided that any additional floor area provided through this section is utilized only by residential uses:
- i. Tier 1 – Percentage increase of up to 40%, or an FAR increase resulting in at least a 2.75:1 FAR in commercial zones, whichever is greater.
 - ii. Tier 2 – Percentage increase of up to 45%, or an FAR increase resulting in at least a 3.25:1 FAR in commercial zones, whichever is greater.
 - iii. Tier 3 – Percentage increase of up to 50%, or an FAR increase resulting in at least a 3.75:1 FAR in commercial zones, whichever is greater.
 - iv. Tier 4 – Percentage increase of up to 55%, or an FAR increase resulting in at least a 4.25:1 FAR in commercial zones, whichever is greater.
 - v. **Exceptions**
 1. In the RD Zone or a Specific Plan or overlay district that regulates residential FAR, the maximum FAR increase shall be limited to 45%.
 2. If the allowable base FAR is less than 1.25:1 then the maximum FAR allowed per this section is limited to 2.75:1.
 3. In the Greater Downtown Housing Incentive Area, the maximum FAR increase shall be limited to 40%, with the total floor area of a residential building or residential portion of a building being calculated per the definition in LAMC 12.22 A.29(c)(1).

Note: For the purpose of applying this incentive, commercial zones include Hybrid Industrial zones, Commercial Manufacturing zones and any defined area in a Specific Plan or overlay district that allows for both commercial uses and residential uses.

2. **Automobile Parking.**

- a. **Residential Minimum Parking Requirements.**
- i. Tiers 1-3 - Required automobile parking for all residential units in an Eligible Housing Development (not just the restricted affordable units), inclusive of disabled and required guest parking, where applicable, shall be as follows:
 1. For an Eligible Housing Development, required parking for all residential units shall not exceed 0.5 spaces per bedroom.
 2. For an Eligible Housing Development that consists of 100% On-Site Restricted Affordable units, exclusive of a manager's unit or

units, there shall be no required parking for all residential units in the Eligible Housing Development.

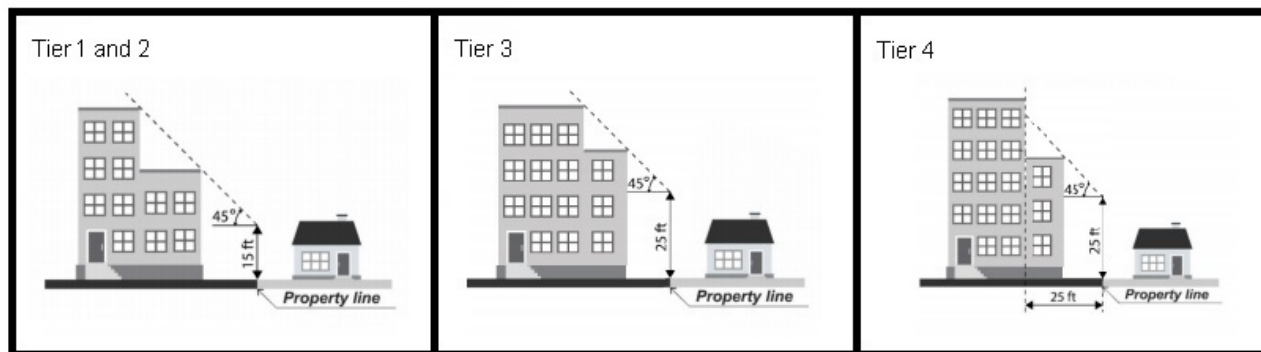
3. Tier 2 - Regardless of the number of bedrooms in each unit, parking for all residential units in an Eligible Housing Development shall not be required to exceed 1 space per unit;
 4. Tier 3 - Required parking for all residential units in an Eligible Housing Development shall not exceed 0.5 spaces per unit;
 - ii. Tier 4 – No required parking for residential units in an Eligible Housing Development.
- b. **Rounding.** If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.
- c. **Unbundling.** Required parking may be sold or rented separately from the units, with the exception of all Restricted Affordable Units which shall include any required parking in the base rent or sales price, as verified by HCIDLA.
- d. **Bicycle Parking.** The bicycle parking requirements in LAMC 12.21 A.16 apply. The additional options to further reduce automobile parking through bicycle parking replacement in LAMC 12.21 A.4 do not apply to TOC projects.
- e. **Nonresidential Parking.** A mixed-use project may reduce the nonresidential automobile parking requirement for any ground-floor nonresidential use as follows:
- i. Tier 1 – Up to a 10% reduction in the nonresidential parking requirement
 - ii. Tier 2 – Up to a 20% reduction in the nonresidential parking requirement
 - iii. Tier 3 – Up to a 30% reduction in the nonresidential parking requirement
 - iv. Tier 4 – Up to a 40% reduction in the nonresidential parking requirement
- f. **Consistency.** Parking reductions offered for Eligible Housing Developments shall always be consistent or greater than those in California Government Code Section 65915(p).

VII. ADDITIONAL INCENTIVES. In addition to the Base Incentives above, an Eligible Housing Development may be granted Additional Incentives by following the procedures in LAMC 12.22 A.25(g)(2).

1. **Menu of Incentives.** The Additional Incentives are defined below. The percentage of increase or decrease in the development standards may vary by Tier as follows, and shall be used in lieu of those listed in LAMC 12.22 A.25(f):

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- a. **Yard/Setback.** Eligible Housing Developments may request a reduction in the otherwise required yards/setbacks as follows:
 - i. **Commercial Zones.** In any Commercial zone, Eligible Housing Developments may utilize any or all of the yard requirements for the RAS3 zone per LAMC 12.10.5.
 - ii. **Residential Zones:** Eligible Housing Developments in Residential zones may utilize a reduction in the front, rear or side yards as follows:
 1. **Front Yards:** Front yard reductions are limited to no more than the average of the front yards of adjoining buildings along the same street frontage. Or, if located on a corner lot or adjacent to a vacant lot, the front yard setback may align with the façade of the adjoining building along the same front lot line. If there are no adjoining buildings, no reduction is permitted. In Tier 3 and Tier 4, the front yard reduction may be paired with one other individual yard reduction, per subsection 2 below, which will require the use of only one incentive.
 2. **Side and Rear Yards:**
 - a. Tier 1 - Up to a 25% decrease in the required width or depth of one individual yard or setback.
 - b. Tier 2 - Up to a 30% decrease in the required width or depth of one individual yard or setback.
 - c. Tier 3 - Up to a 30% decrease in the required width or depth of two individual yards or setbacks.
 - d. Tier 4 - Up to a 35% decrease in the required width or depth of two individual yards or setbacks.
 - iii. **Exception.** Yard reductions may not be applied along any property line that abuts an R1 or more restrictive residential zoned property.
 - b. **Open Space.** See LAMC 12.22 A.25(f)(6)
 - i. Tiers 1 & 2 - Up to a 20% decrease in required open space
 - ii. Tiers 3 & 4 - Up to a 25% decrease in required open space
 - c. **Lot Coverage.** See LAMC 12.22 A.25(f)(2)
 - i. Tiers 1 & 2 - Up to a 25% increase in maximum lot coverage
 - ii. Tiers 3 & 4 - Up to a 35% increase in maximum lot coverage
 - d. **Lot Width.** See LAMC 12.22 A.25(f)(3)
 - i. All Tiers - Up to a 25% decrease in required minimum lot width
 - e. **Averaging of Floor Area Ratio, Density, Parking or Open Space, and permitting Vehicular Access.** See LAMC 12.22 A.25(f)(8)
 - f. **Density Calculation.** See LAMC 12.22 A.25(f)(7)

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- g. **Height.** For Eligible Housing Developments that have a residential use which occupies more than 50% of the total floor area within a building, the applicable Total Height and Transitional Height standards below count as one Incentive. This increase in height shall be applicable to an Eligible Housing Development over the entire parcel regardless of the number of underlying height limits.
- i. **Total Height.** In any zone in which height or number of stories is limited, this height increase shall permit a maximum of:
 1. Tier 1 and 2 – One additional story up to 11 additional feet
 2. Tier 3 – Two additional stories up to 22 additional feet
 3. Tier 4 – Three additional stories up to 33 additional feet
 4. **Exception.** Notwithstanding subsections 2 and 3 above, projects located on lots with a height limit of 45 feet or less, or located within a Specific Plan or overlay district that regulates height, shall require any height increases over 11 feet to be stepped-back at least 15 feet from the exterior face of the Ground Floor of the building located along any street frontage.
 - ii. **Transitional Height.** An Eligible Housing Development may select the following transitional height requirements in lieu of those found in LAMC 12.21.1 A.10, or any applicable transitional height limits in a in a Specific Plan, including any requirements for reduced building heights when a building is adjoining a more restrictive zone:
 1. Tiers 1 and 2 - The building height limit shall be stepped-back at a 45 degree angle as measured from a horizontal plane originating 15 feet above grade at the property line of the adjoining lot in the RW1 Zone or more restrictive residential zone or Specific Plan subarea (see Diagram 1 below).
 2. Tier 3 – The building height limit shall be stepped-back at a 45 degree angle as measured from a horizontal plane originating 25 feet above grade at the property line of the adjoining lot in the RW1 Zone or more restrictive zone or Specific Plan subarea (see Diagram 1 below).
 3. Tier 4 – Within the first 25 feet of the property line abutting or across the street or alley from the RW1 or more restrictive zone the building height limit shall be stepped-back at a 45 degree angle as measured from a horizontal plane originating 25 feet above grade at the property line of the adjoining lot in the more restrictive zone or Specific Plan subarea (see Diagram 1 below).

Diagram 1. Transitional Height Incentive

- h. **Public Facilities (PF) Zones.** In lieu of the requirement in LAMC 12.24 U.21, a joint public and private development that qualifies as an Eligible Housing Development may include the uses and area standards permitted in the least restrictive adjoining zone. The phrase “adjoining zone” refers to the zones of properties abutting, across the street or alley from, or having a common corner with, the subject property.

- VIII. COVENANT.** Prior to issuance of a Building Permit for any Eligible Housing Development, a covenant acceptable to the Department of Housing and Community Investment (HCIDLA) shall be recorded with the Los Angeles County Recorder, guaranteeing that the affordability criteria will be observed for at least 55 years from the issuance of the Certificate of Occupancy or a longer period of time if required by the construction or mortgage financing assistance program, government requirement, mortgage assistance program, or rental subsidy program.
- IX. FEES.** A TOC project requesting Additional Incentives is subject to the same Department of City Planning fees as an Application for a Density Bonus including a request for one or more Incentives included in the Menu of Incentives pursuant to LAMC 19.01 O. See Section [19.01](#) V. for multiple applications.

Appendix A: Methodology for Determining Major Transit Stops

Definition of Major Transit Stop:

A site containing a rail station or the intersection of two or more bus routes with a service interval of 15 minutes or less during the morning and afternoon peak commute periods. The stations or bus routes may be existing, under construction or included in the most recent SCAG Southern California Association of Governments (SCAG) Regional Transportation Plan (RTP).

SCAG and OPR Methodology:

Peak Periods are considered to be between 6:00 to 9:00 AM and 3:00 to 7:00 PM. Bus routes must have a service frequency of 15 minutes or less for the entire duration of the peak hour periods.

To determine the eligibility of the bus line, the average number of minutes per trip for each direction is calculated separately. If one or both directions fail to meet the 15 minute frequency limit, the entire bus line is ineligible for a Major Transit Stop.

- The total number of trips from the point of origin during peak hours (Monday to Friday) is used. A trip is included if its median time falls within the peak hour.
- To calculate the median time, the time at trip origin is subtracted from the time at arrival at final station, divided by two, and then added to origin time.
For example: Origin time 5:42 AM, Arrival time 6:22 AM
Total trip time = 40 Minutes (6:22 AM – 5:42 AM)
Median trip time = 40 Minutes/2 + 5:42 AM, or 6:02 AM
- The total peak hour time is then divide by the number of trips for the average number of minutes per trip.

Below is a sample calculation based on the 750 Metro Rapid Bus Line (see schedule on Page 16):

Eastbound Trips for 750

During the morning peak hours between 6:00 AM to 9:00 AM, there is a total of 12 Eastbound trips.

The trip originating from Warner Center at 5:42 AM is the first eligible trip with an arrival time at 6:22 AM. This is calculated by dividing the total trip time of 40 minutes by two and adding the 20 minutes to the trip origination time at 5:42 AM, resulting in a median trip time that falls within peak hours at 6:02 AM (not shown in bus schedule).

The trip originating from Warner Center at 8:29 AM is the last eligible trip, with the median time at 8:57 AM.

During the afternoon peak hours between 3:00 PM and 7: PM, there is a total of 16 Eastbound trips.

With 28 total Eastbound trips during the 420 peak hour minutes, the average frequency of the 750 bus line is 15 minutes.

Westbound Trips for 750

Looking at the Westbound trips, there are 11 trips and 15 trips in the AM and PM peak hours respectively. This results in an average frequency of 16.15 minutes.

Result

Despite the Eastbound portion of the 750 Metro Rapid Bus Line meeting the 15 minute frequency as required by a Major Transit Stop, the Westbound portion, with an average frequency of 16.15 minutes, fails to meet that criteria. Therefore, the 750 Metro Rapid Bus Line is ineligible for inclusion in a Major Transit Stop.

Sample Metro Bus Line Schedule with Qualified Peak Hour Trips Boxed in Red

| Monday through Friday | | | | 750 | | | |
|--|------------------|--------------------|--------------------------------|---|--------------------|------------------|--|
| Effective Jun 25 2017 | | | | | | | |
| Eastbound <i>Al Este</i> [Approximate Times / Tiempos Aproximados] | | | | Westbound <i>Al Oeste</i> [Approximate Times / Tiempos Aproximados] | | | |
| WARNER CENTER | TARZANA | SHERMAN OAKS | STUDIO CITY | STUDIO CITY | SHERMAN OAKS | TARZANA | WARNER CENTER |
| 1 | 2 | 3 | 4 | 4 | 3 | 2 | 1 |
| Warner Center Transit Hub (Owensmouth & Erwin) | Ventura & Reseda | Ventura & Van Nuys | Universal/ Studio City Station | Universal/ Studio City Station | Ventura & Van Nuys | Ventura & Reseda | Warner Center Transit Hub (Owensmouth & Erwin) |
| 5:13A | 5:25A | 5:36A | 5:50A | 5:23A | 5:38A | 5:52A | 6:10A |
| 5:28 | 5:40 | 5:51 | 6:06 | 5:45 | 6:00 | 6:14 | 6:32 |
| 5:42 | 5:54 | 6:07 | 6:22 | 6:00 | 6:15 | 6:29 | 6:48 |
| 5:55 | 6:09 | 6:23 | 6:38 | 6:15 | 6:30 | 6:47 | 7:06 |
| 6:09 | 6:23 | 6:39 | 6:54 | 6:30 | 6:46 | 7:04 | 7:25 |
| 6:23 | 6:37 | 6:55 | 7:10 | 6:45 | 7:01 | 7:22 | 7:43 |
| 6:37 | 6:51 | 7:11 | 7:27 | 7:00 | 7:17 | 7:39 | 8:00 |
| 6:50 | 7:05 | 7:27 | 7:44 | 7:15 | 7:32 | 7:54 | 8:15 |
| 7:05 | 7:20 | 7:43 | 8:00 | 7:30 | 7:49 | 8:11 | 8:32 |
| 7:21 | 7:36 | 7:59 | 8:18 | 7:45 | 8:04 | 8:26 | 8:47 |
| 7:35 | 7:52 | 8:15 | 8:34 | 8:00 | 8:19 | 8:41 | 9:02 |
| 7:54 | 8:10 | 8:32 | 8:51 | 8:15 | 8:34 | 8:56 | 9:17 |
| 8:12 | 8:28 | 8:49 | 9:08 | 8:30 | 8:49 | 9:11 | 9:32 |
| 8:29 | 8:45 | 9:06 | 9:25 | 8:45 | 9:04 | 9:26 | 9:47 |
| 8:46 | 9:02 | 9:23 | 9:42 | 9:00 | 9:19 | 9:41 | 10:02 |
| 9:11 | 9:27 | 9:48 | 10:07 | 9:18 | 9:37 | 9:59 | 10:20 |
| 9:41 | 9:57 | 10:18 | 10:37 | 9:40 | 9:59 | 10:18 | 10:39 |
| 10:10 | 10:27 | 10:48 | 11:07 | 10:05 | 10:24 | 10:43 | 11:05 |
| 10:40 | 10:57 | 11:18 | 11:37 | 10:35 | 10:54 | 11:13 | 11:35 |
| 11:10 | 11:27 | 11:48 | 12:07P | 11:04 | 11:24 | 11:43 | 12:06P |
| 11:38 | 11:57 | 12:18P | 12:37 | 11:34 | 11:54 | 12:13P | 12:36 |
| 12:08P | 12:27P | 12:48 | 1:08 | 12:03P | 12:24P | 12:44 | 1:07 |
| 12:35 | 12:54 | 1:15 | 1:35 | 12:33 | 12:54 | 1:14 | 1:37 |
| 1:00 | 1:19 | 1:40 | 2:01 | 1:02 | 1:24 | 1:44 | 2:07 |
| 1:21 | 1:41 | 2:02 | 2:23 | 1:32 | 1:54 | 2:14 | 2:37 |
| 1:46 | 2:06 | 2:27 | 2:48 | 2:01 | 2:24 | 2:44 | 3:08 |
| 1:58 | 2:18 | 2:39 | 3:00 | 2:25 | 2:49 | 3:09 | 3:34 |
| 2:13 | 2:33 | 2:54 | 3:15 | 2:46 | 3:10 | 3:31 | 3:56 |
| 2:27 | 2:47 | 3:09 | 3:30 | 3:00 | 3:25 | 3:46 | 4:11 |
| 2:42 | 3:02 | 3:24 | 3:45 | 3:15 | 3:40 | 4:01 | 4:25 |
| 2:55 | 3:17 | 3:39 | 4:00 | 3:30 | 3:55 | 4:16 | 4:40 |
| — | 3:31 | 3:53 | 4:14 | 3:45 | 4:10 | 4:31 | 4:55 |
| 3:10 | 3:32 | 3:54 | 4:15 | 4:00 | 4:26 | 4:47 | 5:11 |
| 3:25 | 3:47 | 4:09 | 4:30 | 4:15 | 4:41 | 5:02 | 5:26 |
| 3:44 | 4:06 | 4:28 | 4:49 | 4:30 | 4:56 | 5:17 | 5:41 |
| 3:55 | 4:17 | 4:39 | 5:00 | 4:45 | 5:11 | 5:32 | 5:56 |
| 4:10 | 4:32 | 4:54 | 5:15 | 5:00 | 5:26 | 5:48 | 6:12 |
| 4:25 | 4:47 | 5:09 | 5:30 | 5:15 | 5:41 | 6:03 | 6:27 |
| 4:40 | 5:02 | 5:24 | 5:45 | 5:30 | 5:56 | 6:18 | 6:41 |
| 4:55 | 5:17 | 5:39 | 6:00 | 5:45 | 6:11 | 6:33 | 6:56 |
| 5:10 | 5:32 | 5:54 | 6:15 | 6:00 | 6:26 | 6:47 | 7:09 |
| 5:26 | 5:48 | 6:09 | 6:30 | 6:15 | 6:40 | 7:00 | 7:21 |
| 5:41 | 6:03 | 6:24 | 6:45 | 6:35 | 6:58 | 7:17 | 7:38 |
| 5:57 | 6:19 | 6:39 | 7:00 | 6:54 | 7:16 | 7:34 | 7:54 |
| 6:20 | 6:40 | 6:59 | 7:19 | 7:15 | 7:36 | 7:54 | 8:13 |
| 6:42 | 7:01 | 7:19 | 7:39 | 7:40 | 8:01 | 8:19 | 8:38 |
| 7:04 | 7:21 | 7:39 | 7:58 | 8:09 | 8:27 | 8:44 | 9:03 |
| 7:35 | 7:51 | 8:08 | 8:26 | 8:39 | 8:57 | 9:12 | 9:28 |
| 8:10 | 8:25 | 8:42 | 8:58 | 9:10 | 9:27 | 9:42 | 9:58 |

The Silverstein Law Firm

October 5, 2020

**Comments and Objections to City Planning Commission for Hollywood
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MCUP-SPR, CPC-2018-2115-DA, and VTT-82152; SCH 2018051002**

EXHIBIT 2

HOLLYWOOD REDEVELOPMENT PLAN

As First Amended on
May 20, 2003

(Ordinance No. 175236 -- Effective Date: July 12, 2003)

improperly utilized and which could not be accomplished by private enterprise acting alone, without public participation and assistance; and (3) by protecting and promoting sound development and redevelopment of blighted areas and the general welfare of the citizens of the City by remedying such injurious conditions through the employment of appropriate means.

II. 200. PROJECT AREA BOUNDARY AND LEGAL DESCRIPTION

The boundary of the Project Area is shown on the Redevelopment Plan Map attached as Amended Exhibit A.1 and is described in the Legal Description attached as Exhibit B.

III. 300. REDEVELOPMENT PLAN GOALS

1) Encourage the involvement and participation of residents, business persons, property owners, and community organizations in the redevelopment of the community.

2) Preserve and increase employment, and business and investment opportunities through redevelopment programs and, to the greatest extent feasible, promote these opportunities for minorities and women.

3) Promote a balanced community meeting the needs of the residential, commercial, industrial, arts and entertainment sectors.

4) Support and encourage the development of social services with special consideration given to participating in projects involving community based organizations that serve runaways, the homeless, senior citizens and provide child care services and other social services.

5) Improve the quality of the environment, promote a positive image for Hollywood and provide a safe environment through mechanisms such as:

- a) adopting land use standards;
- b) promoting architectural and urban design standards including: standards for height, building setback, continuity of street facade, building materials, and compatibility of new construction with existing structures and concealment of mechanical appurtenances;
- c) promoting landscape criteria and planting programs to ensure additional green space;
- d) encouraging maintenance of the built environment;
- e) promoting sign and billboard standards;

- f) coordinating the provision of high quality public improvements;
- g) promoting rehabilitation and restoration guidelines;
- h) integrate public safety concerns into planning efforts.

6) Support and promote Hollywood as the center of the entertainment industry and a tourist destination through the retention, development and expansion of all sectors of the entertainment industry and the preservation of landmarks related to the entertainment industry.

7) Promote the development of Hollywood Boulevard within the Hollywood commercial core as a unique place which:

- a) reflects Hollywood's position as the entertainment center;
- b) provides facilities for tourists;
- c) contains active retail and entertainment uses at the street level;
- d) provides for residential uses;
- e) is pedestrian oriented;
- f) is a focus for the arts, particularly the performing arts; and
- g) recognizes and reinforces its history and architecture.

8) Promote and encourage the retention and expansion of all segments of the arts community and the support facilities necessary to foster the arts and attract the arts through land use and development policies such as the creation of a theater district.

9) Provide housing choices and increase the supply and improve the quality of housing for all income and age groups, especially for persons with low and moderate incomes; and to provide home ownership opportunities and other housing choices which meet the needs of the resident population.

10) Promote the development of sound residential neighborhoods through mechanisms such as land use, density and design standards, public improvements, property rehabilitation, sensitive in-fill housing, traffic and circulation programming, development of open spaces and other support services necessary to enable residents to live and work in Hollywood.

11) Recognize, promote and support the retention, restoration and appropriate reuse of existing buildings, groupings of buildings and other physical features especially those having significant historic and/or architectural value and ensure that new development is sensitive to these features through land use and development criteria.

506.2.3 Regional Center Commercial Density

Development within the Regional Center Commercial designation shall not exceed the equivalent of an average floor area ratio (F.A.R.) of 4.5:1 for the entire area so designated.

It is the intent of this Plan, however, to focus development within the Regional Center Commercial designation, as hereinafter set forth, in order to provide for economic development and guidance in the orderly development of a high quality commercial, recreational and residential urban environment with an emphasis on entertainment oriented uses. Therefore, development within the Regional Center Commercial designation shall be focused on areas served by adequate transportation facilities and transportation demand management programs. Further it shall reinforce the historical development patterns of the area, stimulate appropriate residential housing and provide transitions compatible with adjacent lower density residential neighborhoods.

Proposed development in excess of 4.5:1 F.A.R. up to but not to exceed 6:1 F.A.R. or such other density may be permitted by future amendments to the Community Plan, on a specific site may be permitted as hereinafter set forth provided that the proposed development furthers the goals and intent of this Plan and the Community Plan and meets objective “a” and at least one other of the following objectives:

a) to concentrate high intensity and/or density development in areas with reasonable proximity or direct access to high capacity transportation facilities or which effectively utilize transportation demand management programs;

b) to provide for new development which compliments the existing buildings in areas having architecturally and/or historically significant structures or to encourage appropriate development in areas that do not have architecturally and/or historically significant buildings.

c) to provide focal points of entertainment, tourist or pedestrian oriented uses in order to create a quality urban environment; and

d) to encourage the development of appropriately designed housing to provide a balance in the community.

e) to provide for substantial, well designed, public open space in the Project Area.

f) to provide social services or facilities for social services which address the community’s needs.

The Agency may permit development in excess of 4.5:1 F.A.R. up to but not to exceed 6:1 F.A.R. or such other density as may be permitted by future amendments to the Community Plan, only if the Agency makes the following findings and determinations:

1. The proposed development conforms with the provisions and goals of the Redevelopment Plan and any applicable Design(s) for Development or requirements of the Hollywood Boulevard District or Hollywood Core Transition District.

2. Permitting the proposed development serves a public purpose objective such as: the provision of additional open space, cultural facilities, public parking, or the rehabilitation of an architecturally or historically significant building.

3. Any adverse environmental effects especially impacts upon the transportation and circulation system of the area caused by proposed development shall be mitigated or are overridden by other social, economic or physical considerations, and statements of findings are made.

No development in excess of 4.5:1 shall be permitted without a binding written agreement with the Agency which ensures that the proposed development will occur in conformity to the Redevelopment Plan and this Section by providing for, among other things, Agency review and approval of all plans and specifications, the compliance with all conditions applicable to development in excess of a 4.5:1 site F.A.R. and the provision of adequate assurances and considerations for the purpose of effectuating the objectives of this Plan.

The Agency shall request from the Planning Commission a determination as to the conformity of the proposed development with the Community Plan. The Planning Commission shall make its determination of conformity within thirty (30) days from the date of the Agency's request. A proposed development shall be deemed in conformance with the Community Plan if the Planning Commission fails to render a determination within thirty (30) days. A determination by the Planning Commission may be appealed to the City Council if such appeal is made within fifteen (15) days of the Planning Commission's determination.

The Agency shall monitor all new development in excess of 50,000 square feet within the Regional Center Commercial designation and make annual reports to the Planning Commission and the City's Department of Transportation on the average floor area ratio,

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EXHIBIT 3

| <u>Off Menu Density Bonus Cases Increasing FAR (2019-2020 Cases)</u> | | | |
|---|-----------------|----------------------|-------------------------|
| <u>100% Affordable Projects Only</u> | | | |
| Case Number | Base FAR | Requested FAR | Percent Increase |
| CPC-2019-7615-DB-CU-SIP | 1.5:1 | 3.8:1 | 153% |
| CPC-2019-7418-DB-SPR | 1.5:1 | 3.29:1 | 119% |
| CPC-2019-6664-DB-CU-SIP | 1.5:1 | 2.7:1 | 80% |
| CPC-2019-6069-CU-DB-CDP-CDO-SPP-MEL-WDI-PHP-1A | 1.5:1 | 3:1 | 100% |
| CPC-2019-5295-DB-CU-SIP | 1.25:1 | 2.73:1 | 118% |
| CPC-2019-4953-DB-CU-PSH-SIP | 3:1 | 4.65:1 | 55% |
| CPC-2019-4441-DB-PUB | 0.49:1 | 0.93:1 | 89% |
| CPC-2019-4298-DB-SPR-SIP | 3:1 | 4.73:1 | 57% |
| CPC-2020-516-DB-PSH-SIP | 1.5:1 | 4.91 | 227% |
| CPC-2020-380-DB-SIP | 1.5:1 | 3.4:1 | 126% |
| CPC-2020-362-DB-SIP | 1.5:1 | 2.28:1 | 52% |
| CPC-2020-2768-DB-SIP | 1.5:1 | 3.5:1 | 133% |
| | | | |
| <i>Average</i> | | | <i>110%</i> |

| <u>Off Menu Density Bonus Cases Increasing FAR (2019-2020 Cases)</u> | | | |
|---|-----------------|----------------------|-------------------------|
| <u>Projects Other Than 100% Affordable</u> | | | |
| Case Number | Base FAR | Requested FAR | Percent Increase |
| CPC-2019-6373-DB-CU-SPR-SIP-PHP | 3:1 | 4.24:1 | 41% |
| CPC-2019-3316-CU-DB | 1.75:1 | 2.25:1 | 28% |
| CPC-2019-2946-CU-DB-SIP | 2:1 | 2.38:1 | 19% |
| CPC-2019-2592-DB-CU-SIP | 1.5:1 | 2.73:1 | 82% |
| CPC-2019-1010-CU-DB | 3:1 | 3.5:1 | 16% |
| CPC-2019-4908-DB-SPR-1A | 1.5:1 | 2.65:1 | 76% |
| CPC-2019-4639-CU-DB-SPE-SPP-SPR-DD-MCUP-PHP | 3:1 | 4.5:1 | 50% |
| | | | |
| <i>Average</i> | | | <i>45%</i> |