




MEMORANDUM - City of Pasadena

DATE: September 12, 2019

TO: Honorable Mayor and City Council

FROM: David M. Reyes, Director of Planning & Community Development Department 

RE: Affordable Housing Concession Permit #11879 (127 & 141 N. Madison Avenue):
Conditions of Approval

The City Council was to consider an appeal of the Board of Zoning Appeal's decision on Affordable Housing Concession Permit (AHCP) #11879 on September 9, 2019. A report with attachments was prepared by staff recommending the City Council uphold the decision of the Board of Zoning Appeals and approve the AHCP. Attachment B (Conditions of Approval) to the staff report included 99 recommended conditions of approval. Seven conditions (numbered 93 to 99) were recommended by staff directly in response to the appeal. On September 9, 2019, the public hearing was continued to September 16, 2019. The staff report remains unchanged, however, based on additional concerns expressed by the appellant, the applicant has agreed to the following three additional conditions (to be numbered 100 to 102) that staff is recommending for Council's consideration:

100. The applicant shall study opportunities for increasing the westerly setback of the subterranean garage from the proposed 7' to 10' and shall present such studies to the Design Commission at Concept Design Review. If the applicant determines to be feasible, the westerly setback of the subterranean garage shall be increased to 10'.
101. The proposed balconies shall be redesigned in a more traditional architectural style and shall be presented to the Design Commission at Concept Design Review.
102. The following shall be maintained through the design review process:
 - The first floor shall maintain a minimum setback of 10' to the westerly property line;
 - The second floor shall maintain a minimum setback of 10' to the westerly property line;
 - The third floor shall maintain a minimum setback of 10' to the westerly property line;
 - The enclosed fourth floor shall maintain a minimum setback of 31'-5" to the westerly property line;
 - The enclosed fifth floor shall maintain a minimum setback of 50'-11" to the westerly property line;
 - The enclosed floor shall maintain a minimum setback of 10' to the easterly property line, with balconies projecting no closer than 6' to the easterly property line;

09/16/2019

Item 6

- The first level of subterranean parking (see condition #100 above) shall maintain a minimum setback of 7' to the westerly property line; and
- No at-grade parking shall be provided.

Along with the three additional conditions, minor revisions have been made to Attachment B (Conditions of Approval) to the September 9, 2019, staff report. Revisions are redlined and attached behind this memorandum.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR
AFFORDABLE HOUSING CONCESSION PERMIT #11879

The applicant or successor in interest shall meet the following conditions:

General

1. The site plan, floor plan, elevations, and building sections submitted for building permits shall substantially conform to plans stamped "Approved at Hearing, September 9¹⁶, 2019," except as modified herein.
2. Because the grant of the Affordable Housing Concession Permit is based on assumptions relating to project cost and construction type, all changes to this project, either during design or construction, shall be submitted to the Zoning Administrator for review and approval. The Zoning Administrator retains the right to require preparation and submittal of a revised project financial analysis reflecting the proposed change(s) and comparing it to the Base Case (i.e., project without the granted concession) as well as payment for such analyses. The Zoning Administrator also has the right to reject a proposed change if it is determined that such a change would modify the project costs such that the granted concession was no longer necessary for the provision of affordable housing. The determination by the Zoning Administrator is appealable pursuant to Zoning Code Section 17.72 (Appeals). Because review of proposed changes may require time to assess, the applicant is advised to submit any proposed changes in a timely manner and shall bear the burden of any delay caused by the review process.
3. The applicant shall comply with all standards of the Zoning Code applicable to the CD-3 zoning district, with the exception of the approved concessions:
 - a. To allow the proposed project to exceed the maximum floor area ratio (FAR). Pursuant to Table 3-9 (Central District Maximum Floor Area Ratio), Zoning Code Section 17.30.040 (CD General Development Standards), the maximum FAR is 1.5. The approved concession allows a maximum FAR of 2.25; and
 - b. To allow the proposed project to exceed the maximum height limit. Pursuant to Table 3-8 (Central District Maximum Height), Zoning Code Section 17.30.040, the maximum height is 50 feet, or 65 feet with height averaging. The approved concession allows a maximum height of 60 feet (no height averaging).
4. This approval allows removal of four protected trees on private property: 1) 13" dbh Brush Cherry tree (*Syzygium paniculatum*); 2) 21" dbh Silver Dollar Eucalyptus tree (*Eucalyptus polyanthemos*); 3) 27" dbh Ribbon Gum tree (*Eucalyptus viminalis*); and 4) 23" dbh Silver Dollar Eucalyptus tree (*Eucalyptus polyanthemos*).

5. The right granted under this application must be enacted within 36 months from the effective date of approval. It shall expire and become void, unless an extension of time is approved in compliance with Zoning Code Section 17.64.040.C (Time Limits and Extensions, Extensions of Time).
6. The applicant or successor in interest shall meet the applicable code requirements of all City Departments.
7. The final decision letter and conditions of approval shall be incorporated in the submitted building plans as part of the building plan check process.
8. The proposed project, Activity Number **PLN2017-00596**, is subject to the Inspection Program by the City. A Final Zoning Inspection is required for your project prior to the issuance of a Certificate of Occupancy or approval of the Final Building Inspection. Contact Jason Van Patten, Current Planning Section, at 626-744-6760 to schedule an inspection appointment time.

Planning Division

9. The applicant or the successor in interest, shall enter an agreement with the Housing Division for the provision of four designated very low income units.
10. This project meets the threshold for state-mandated water-efficient landscaping. Accordingly, the final landscape plans (inclusive of planting and hardscape plans, the planting pallet, drainage plan, and irrigation system plan(s) and specifications), shall be reviewed by Planning Department staff for conformance with the standards and requirements specified within the 2015 California Model Water Efficient Landscape Ordinance (MWELo) prior to the issuance of a building permit. No certificate of occupancy shall be issued until such plans have been deemed compliant with the MWELo and the landscaping has been installed per such approved MWELo-compliant plans to the satisfaction of the department.
11. The applicant or the successor in interest, shall submit a final landscape and irrigation plan, in compliance with Zoning Code Chapter 17.44 (Landscaping) along with plans for a building permit. The plan shall be reviewed and approved to the satisfaction of the Zoning Administrator prior to the issuance of any building or grading permits. Protected trees on private property approved for removal, shall be replaced according to the City's adopted matrix. The landscape plan shall include a mix of plant size and materials. Plant materials shall emphasize drought-tolerant and/or native species. Protected trees on or off the site that are to remain, shall be protected through a tree protection plan. The plan shall be reviewed and approved to the satisfaction of the Zoning Administrator prior to the issuance of any building or grading permits.
12. The applicant or the successor in interest, shall consolidate parcels 5723-015-028 (127 N. Madison Avenue) and 5723-015-028 (141 N. Madison Avenue) through a Tentative Map or a Certificate of Exception application. Recordation of the lot consolidation shall occur prior to building permit issuance.

13. All exterior mechanical equipment shall be architecturally screened from view of the public right-of-way in a manner subject to review and approval by the Zoning Administrator and Design and Historic Preservation staff.
14. Parking required of the project shall comply with Zoning Code Chapter 17.46 (Parking and Loading) and applicable requirements in Section 17.50.340 (Transit-Oriented Development [TOD]).
15. The residential lease agreement shall include a clause notifying the residents that they are living in an urban area and that the noise level may be higher than in a typical residential area. The applicant or its successor in interest shall maintain the signature of the residents confirming the receipt and understanding of this information.
16. If the loading of furniture and household goods for the residential units is to occur on the street, it shall be limited to the hours of 9:00 a.m. to 2:00 p.m. and 7:00 p.m. to 10:00 p.m. on weekdays and 9:00 a.m. to 10:00 p.m. on weekends.
17. Construction hours, allowable workdays, and the phone number of the job superintendent should be clearly posted at all construction entrances to allow surrounding property owners/users to contact the job superintendent if necessary. In the event the City receives a complaint, appropriate corrective actions should be implemented, and a report of the action should be provided to the reporting party.
18. At the Applicant, or successor in interest's expense, and prior to earthmoving activities, a qualified archaeologist (Qualified Archaeologist) meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (U.S. Department of the Interior, 2008) shall conduct cultural resources sensitivity training for all construction personnel. Construction personnel shall be informed of the types of cultural resources that may be encountered, and of the proper procedures to be enacted in the event of an inadvertent discovery of archaeological resources.
19. In the event of the discovery of archaeological materials, the construction foreman shall immediately halt all work activities in the vicinity (within approximately 25 feet) of the discovery until it can be evaluated by a Qualified Archaeologist. After cessation of earthmoving activities, the construction foreman shall immediately contact City of Pasadena Planning & Community Development Department. Work shall not resume until authorized by City of Pasadena Planning & Community Development Department and the Qualified Archaeologist.

If the Qualified Archaeologist determines that the discovery is eligible for listing on the California Register of Historical Resources or is a unique archaeological resource pursuant to Public Resources Code Section 21083.2, preservation in place is the preferred manner of treatment. In the event preservation in place is demonstrated to be infeasible, and data recovery is determined to be the only feasible mitigation option, a detailed Cultural Resources Treatment Plan shall be prepared and implemented by a qualified archaeologist in consultation with City of Pasadena Planning & Community

Development Department at the project proponent's expense. In the unlikely event that archaeological resources of a Native American origin are unearthed during ground-disturbing activities, the qualified archaeologist and the City of Pasadena Planning & Community Development Department shall contact an appropriate Native American representative identified on the NAHC's contact list to consider the need for Native American monitoring and coordination regarding the discovery. Archaeological materials recovered shall be curated at an accredited facility. The report(s) documenting implementation of the Cultural Resources Treatment Plan shall be submitted to City of Pasadena Planning & Community Development Department and SCCIC.

20. The project contractor(s) shall employ industry standard noise minimization strategies, as feasible, when using mechanized construction equipment. The contractor(s) will not use pile drivers, vibratory rollers, pavement breakers, or blasting equipment. The contractor(s) will strive to use other electric equipment if commercially available. The contractor(s) will limit unnecessary idling of equipment on or near the site in accordance with idling limits specified in Title 13 California Code of Regulations (CCR), Section 2485. The contractor(s) will strive to place noisy construction equipment as far from the Project Site edges as practicable. The contractor(s) will equip all construction equipment, fixed or mobile, with properly operating and maintained noise mufflers, consistent with manufacturers' standards.
21. Consistent with the Certified Environmental Impact Report for the City's General Plan, Mitigation Measures 9-3 and 9-4, the applicant will require contractors to comply with a vibration management plan and implement minimum allowable setbacks from vibration sensitive receptors for heavy machinery. The potential vibration conflict areas for new construction for the proposed project are the following:
 - The eastern wall of the northern 2- story office building at Fuller Seminary sits within the very edge of the 11-foot setback zone.
 - The eastern wall of the southern 2- story office building at Fuller Seminary sits within 18-foot setback zone.

For all new construction, the contractor(s) will not use pile drivers, vibratory rollers, pavement breakers, or blasting equipment. For a radius around the Fuller Seminary, the contractor(s) will observe the following minimum allowable setbacks:

- For the Fuller Seminary, the contractor(s) will observe the 3-foot, 11-foot, 18- foot and 20-foot restrictions for small bulldozers, jackhammers, loading trucks, and large bulldozers, respectively.
- Other equipment that may be used on this site beyond the 20-foot restriction zone includes large excavators, large drilling rigs, large bulldozers, large loaders and loading trucks, in addition to small loaders. The excavator to be used will have a 30-foot reach to pull dirt out of the restricted zones.

22. Air conditioners, fans, generators, and related equipment shall be designed to not to exceed the ambient noise levels by more than five (5) dBA at off-site residential uses. Prior to issuance of building permits, the applicant or successor in interest shall provide data of the Director of Planning and Community Development demonstrating that the noise level from heating, ventilation, and air conditioning (HVAC) units, swimming pool equipment, and similar mechanical equipment when measured at the nearest property line would not exceed the ambient noise level by more than five (5) decibels.

23. Consistent with the Certified Environmental Impact Report for the City's General Plan, Mitigation Measures 9-5, the applicant will require contractor(s) to implement the following best management practices to reduce construction noise levels:

- Consider the installation of temporary sound barriers for construction activities immediately adjacent to occupied noise-sensitive structures.
- Equip construction equipment with mufflers.
- Restrict haul routes and construction-related traffic.
- Reduce nonessential idling of construction equipment to no more than five minutes.

The identified best management practices shall be noted on all site plans and/or construction management plans and submitted for verification to the City of Pasadena Planning Division.

Design and Historic Preservation

24. This project requires Design Review by the Design Commission.

Housing and Career Services Department

25. The proposed project does not involve the demolition of dwelling units. Therefore, the City's Tenant Protections Ordinance is not applicable to this project.

26. The proposed 49-unit residential component is required to provide affordable housing in compliance with the City's Inclusionary Housing Requirements and Density Bonus provisions in Zoning Code Chapters 17.42 and 17.43, respectively. Subject to the City's Inclusionary Housing Requirements the applicant would need to restrict 5.40 of the units as affordable ownership housing at the Moderate Income level. The Very Low Income equivalent of 5.40 Moderate Income units is 3 Very Low Income units (2.70 rounded up). The applicant's proposal to provide 4 Very Low Income units to satisfy the Density Bonus affordable housing requirements would also, at the same time, satisfy the Inclusionary Housing Requirements for this project. To reflect the

proposed mix of units in the development, the 4 affordable units would be comprised of 1 one-bedroom unit, and 3 two-bedroom units. As proposed by the applicant, these four (4) Very Low Income units would be operated as rental housing in perpetuity.

27. The affordable units in the project are required to comply with the more restrictive of the Density Bonus and Inclusionary standards as to affordable housing cost and regulatory period.
28. The applicant is required to submit to the Housing Department for approval an executed Inclusionary Housing Agreement, in recordable form, at the time the project enters plan check.

Building & Safety Division

29. Governing Codes: Current Edition of the California Building, Mechanical, Electrical, Plumbing, Energy, and Green Building Standards Codes. The governing edition is based on the date in which the project is submitted to the City for review.
30. Soils Report: Soils report is required for the project (new construction).
31. Shoring: A building permit is required for shoring. Submit plans and documentation for review & approval.
32. Low Impact Development (LID) Plan: This project requires the preparation of a LID Plan to demonstrate stormwater management post-construction. LID Plan shall be prepared by a registered engineer.
33. Building Code Analysis: Document on the plans the Allowable Height & Area, Occupancy Groups, Type of Construction, and Height & Area Increases.
34. Fire Protection: Provide wall & opening protection for exterior walls & openings near property lines. Provide fire separation between different occupancy groups and each unit of 'R' Occupancy.
35. Emergency Escape & Rescue Openings: Basement and each sleeping rooms (bedrooms) below the fourth story above the grade plan shall have at least one operable emergency escape and rescue opening per Section 1030 of Building Code.
36. Means of Egress (Exiting): Provide Occupant Load Calculations, and provide an "Exit Plan". Identify exit separation and travel distance. Once a given level of exit protection is achieved, such level of protection shall not be reduced until arrival at the exit discharge. In this case, it appears the level of protection is reduced after exiting from the stairways.

The exit discharge shall not reenter a building. In this case, it appears the discharge is going under the building (through the "passage").

37. California Disabled Access Requirements: Project to be accessible to the disabled in accordance with Chapter 11A & 118 of the CBC.
38. Permit(s): Separate permits are required for demolition, fire sprinkler, mechanical, electrical, and plumbing.

Department of Transportation

39. The project shall pay the Traffic Reduction and Transportation Improvement Fee (TRTIF) for the project at the time of building permit issuance. The TR-TIF is subject to change based on the current General Fee Schedule.
40. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging & Traffic Management Plan to the Department of Public Works and the Department of Transportation for review and approval. This plan shall show the impact of the various construction stages on the public right-of-way including street occupations, closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site.
41. The plans currently show a 20' wide driveway with a flat area beyond the property line. This flat area should allow exiting vehicles to be properly aligned for the driver to see pedestrians and bicyclists crossing the driveway prior to exiting the property.
42. Views at both sides of the driveway at the property line shall not be obstructed with landscaping, block wall, or non-porous fencing greater than 2.5 feet in height.
43. The plans currently show a 37'-6" driveway width. The driveway width shall be a maximum 26' wide as indicated in the Department of Public Works Standard Plan S-403.
44. Any loading/unloading spaces for both residential and commercial components of this project shall be on-site. DOT will not install an on-street loading zone for the project.
45. Existing on-street parking conditions shall be maintained during and after construction except by permit.
46. The City will not issue permanent, on-street overnight parking permits to the future residents of this project. Future tenants shall be advised of the unavailability of permanent, on-street overnight parking permits by the property management.

Public Works Department

47. No private improvements may be placed within the public right-of-way, including, but not limited to, soldier beams, tie-backs, utility conduits, backflow preventers, transformers, fire sprinkler valve, decorative sidewalk and applicable parade post

holes on Colorado Boulevard per Standard Drawing S-419. Private improvements may only be placed in the public right-of-way by submitting a license agreement, which must be approved by the City. The license agreement application for any private improvement within the public right-of-way shall be submitted to the Department of Public Works for review and shall be approved by the City before any permits are granted. The applicant shall submit the application, plan and processing fee/deposit, associated with processing the license agreement, at least three to four (3-4) months prior to the issuance of any building or demolition permits. An approved license agreement will allow the applicant to install and maintain the private improvements within the public right-of-way with conditions.

A license agreement for shoring requires an indemnity bond in order to guarantee that shoring and tie-backs are free from defect due to faulty material, workmanship and failure. Upon review of the license agreement exhibits, an indemnity bond estimate will be prepared and forwarded to the applicant. The estimated amount is equivalent to the cost of reconstructing the public right of way, including all affected utilities, public facilities, and infrastructures, based on the plane of failure at a 45-degree angle from the lowest point of excavation. The indemnity bond shall be submitted to the City prior to the execution of the agreement and the issuance of any building or demolition permits.

All steel rods in every tie-back unit shall be relieved of all tension and stresses, and any portion of soldier beams and any portion of the tie-backs located be removed entirely from the public right-of-way. A monthly monitoring report stamped and certified by a licensed surveyor shall be submitted to indicate that the deflection from any piles or soldier beams does not exceed one inch. Upon completion of construction, the developer or his contractor shall remove all tie-back rods within the public right-of-way. The removal shall be documented by a report certified by a licensed deputy inspector. The report shall be submitted to the City for review and approval. The applicant will be charged a penalty of \$7,000 for each tie-back rod not removed from the public right-of-way. For temporary tie-backs or shoring, the maximum width of the license area fronting the development frontage(s) shall only extend to the centerline of the public right-of-way.

48. In order to provide sufficient sight distance for pedestrians along Madison Avenue frontage, the proposed driveway ramp to the subterranean garage, from the property line to the first 20 feet west, shall be sloped at 2% or less, unless otherwise reviewed and approved by the Department of Transportation.
49. The applicant shall demolish existing and construct all new public improvements along the subject development frontage of Madison Avenue, including concrete sidewalk per Standard Plan S-421; concrete curb and gutter per Standard Plan S-406. All public improvements shall be completed prior to the issuance of Certificate of Occupancy.
50. Madison Avenue restoration, fronting the subject development, shall be a full width (from gutter to gutter) cold milling and resurfacing of 1.5 inches depth asphalt concrete

roadway. Restoration of asphalt concrete pavement shall be per Standard Plan S-416 and to the satisfaction of the City Engineer. The traffic channelization shall be restored per the Department of Transportation requirements and approval.

51. The proposed development shall connect to the public sewer with one or more new six-inch diameter house sewers laid at a minimum slope of two percent. In accordance with PMC Chapter 13.24.010, house sewer "means that part of the horizontal piping beginning 24 inches from the exterior wall of the building or structure and extending to its connection with the public sewer." The section of house sewers within the public right-of-way - from the property line to the public sewer, or within easement, shall be vitrified clay or cast iron pipe. The house sewer shall meet City Standards as determined by the Department of Public Works, and a permit issued by the Department of Public Works is required for work within the public right-of-way. The construction of all new house sewers shall be completed prior to the issuance of Certificate of Occupancy.
52. The existing street lighting fronting the subject site is substandard. In order to improve pedestrian and traffic safety, the applicant shall replace/renovate two (2) existing street lighting with LED lights, per the City requirements and current standards.
53. Any existing street tree(s) proposed to be removed are subject to the approval of the Urban Forestry Advisory Committee (UFAC).
54. A Tree Protection Zone (TPZ) shall be established for all existing City trees within the scope of a construction project. The TPZ extends from the base of the tree to four (4) radial feet beyond the dripline of a tree and applies to the entirety of the tree - from the roots to the canopy of the tree.

The applicant is prohibited from the following within a designated TPZ: construction vehicle access, construction vehicle operation, staging of materials, and trenching without the consent of the Department of Public Works.

The applicant shall at minimum provide the following within a designated TPZ: mulching, irrigation, and protective fencing.

55. Prior to the issuance of any permit, the applicant shall submit a Preliminary Tree Protection Plan, prepared by a Landscape Architect or certified Arborist, showing the TPZ and all structures, footings, and grading that may impact City trees shall be submitted to the Department of Public Works, for review and approval. Given that each construction project poses unique conditions, it is the responsibility of the applicant to develop a Tree Protection Plan based off the TPZ standards to the extent feasible. The Plan shall conform to the Tree Protection Standards which specifically require showing the locations of all existing trees, their diameters, canopies, whether the tree is a public tree or private tree, as well as any trees to be planted with their canopy at mature size. The final conditions of the Tree Protection Plan shall be approved by the

Forestry Superintendent. A sundry deposit may be required for staff time to review the preliminary plans.

56. Prior to any construction, tree protections including the installation of fencing to protect public trees must be in place. The fencing material shall be chain-link attached to posts inserted into the ground at the edge of the dripline and shall be a minimum of 4' in height. See Standard Plan S-642 – Tree Protection Chain Link Fencing. Fencing shall maintain visual lines of sight in order to avoid vehicle and pedestrian hazards. Fencing shall include a minimum 8.5" x 11" warning sign with the following information: 'Tree Protection Zone'; name and contact information of project owner or authorized representative; 'Please contact the City of Pasadena Citizen Service Center to report any concerns (626) 744-7311'. All protective fencing must be inspected and approved by Public Works prior to the commencement of any construction.
57. All new drive approaches shall be at least seven (7) feet clear of the existing street trees measured from the edge of the trunk closest to the drive approach. All public trees shall be protected and fenced with a posting on the fences advising of the tree protection.
58. Prior to issuance of any permit, the applicant shall submit a valuation assessment report of the existing public tree(s) along the boundary of their project. The report shall be prepared by a registered Arborist and submitted to PNR for review and approval. If it is determined that the applicant has failed to care for any City tree within their Tree Protection Plan, and the health of the tree(s) was critically compromised requiring its removal, the applicant shall be liable for the following costs: assessed value of tree determined by a PNR Arborist using a current ISA assessment methodology; the removal cost determined by PNR; and any applicable infraction or administrative fines determined by Code Compliance.
59. Prior to issuance of any permit, a sundry deposit in the amount of the applicant's total liabilities based on the aforementioned approved report shall be submitted to the City. The sundry deposit is fully refundable, less administrative fees, upon the satisfaction of Public Works prior to the issuance of a Certificate of Occupancy.
60. The applicant shall plant and maintain the officially designated street trees per the City approved master street tree plan, two (2) Southern Magnolia *Magnolia grandiflora* trees on Madison Avenue frontage and install and maintain an irrigation system for the trees. The locations will be finalized in the field by the Department of Public Works. Plans for the irrigation system shall be prepared by a landscape architect registered in the State of California and submitted to the Department of Public Works for review and approval.

Trees planted by the applicant must meet the City's tree stock standards, be inspected by the City, and be planted according to the details provided by the Parks and Natural Resources (PNR) Division. Planting shall include the installation of the following per tree: no less than two tree stakes; one arbor guard; and the use of slow-release

fertilizer tablets. The applicant shall contact PNR (626-744-3880) for tree planting approval, a minimum of two (2) months, prior to the issuance of a Certificate of Occupancy.

Trees planted by the applicant must be irrigated by either an existing or a new irrigation system constructed by the applicant. Plans for the irrigation system shall be prepared by a landscape architect registered in the State of California and submitted to PNR for review and approval. Irrigation facilities (main line, valve, pull box, timer, etc.) must be constructed within private property with the exception of the laterals and bubblers. The lateral shall be a minimum of 18" deep, and no above-ground structures are allowed.

61. Prior to issuance of the Certificate of Occupancy, the applicant shall submit a Tree Guarantee Deposit equal to the cost of all new trees planted to guarantee that newly planted trees are maintained by the applicant for a minimum of three calendar years. Tree maintenance during this period shall include the following: watering no less than once a week; weed removal; reconstruction of tree wells as needed; re-staking as needed; adjustment to grade of any trees that settle; and any other operations needed to assure normal tree growth. The applicant shall replace any newly planted trees which, for any reason, die or whose health is compromised, within the applicant's three-year establishment period. The three-year tree establishment period shall commence on the day that the Certificate of Occupancy is issued. PNR shall inspect all trees planted by the applicant at the end of the three-year establishment period, and if the trees are found to be in good health, the applicant's deposit will be released. If the trees are found to be in poor health, the establishment period may be extended by PNR and the applicant's deposit shall be held accordingly. Said deposit may be included as part of the construction guarantee if applicable, and is subject to partial refund or additional billing.
62. On-site drainage, such as roof drain, area drain and subterranean garage discharge, shall be contained on-site per LA County Regional Water Quality Control Board's current permit.
63. The applicant shall provide storm water drainage plans and obtain approval from the Planning Department and the Department of Public Works prior to issuance of a grading or building permit for this site.
64. The applicant is responsible for the design, preparation of plans and specifications, and construction of all of the conditioned public improvements. Plans for the public improvements shall be prepared by a civil engineer, registered in the State of California. Upon submittal of improvement plans to the Departments of Public Works for review, the applicant will be required to place a deposit with the Department of Public Works to cover the cost of plan checking. The amount of deposit will be based on the current City's General Fee Schedule. Note that the building plans approved by the City's Planning (Building) Department do not constitute approvals for work in the public right-of-way. Separate plans shall be submitted to the Department of Public Works – Engineering Division – at 175 North Garfield Avenue Window 6. The

applicant shall submit the improvement plans and the plan check deposit at least two (2) months prior to the issuance of any building or demolition permits.

65. Past experience has indicated that projects such as this tend to damage the abutting street improvements with the heavy equipment and truck traffic that is necessary during construction. Additionally, the City has had difficulty in requiring developers to maintain a clean and safe site during the construction phase of development. Accordingly, the applicant shall place a \$20,000 deposit with the Department of Public Works prior to the issuance of a building or grading permit. This deposit is subject to refund or additional billing, and is a guarantee that the applicant will keep the site clean and safe, and will make permanent repairs to the abutting street improvements that are damaged, including striping, slurry seal/resurfacing, curb, gutter, and sidewalk, either directly or indirectly, by the construction on this site. The deposit may be used for any charges resulting from damage to street trees and for City personnel to review traffic control plans and maintain traffic control. A processing fee will be charged against the deposit.
66. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging and Traffic Management Plan to the Department of Public Works for review and approval. The template for the Construction Staging and Traffic Management Plan can be obtained from the Department of Public Works webpage at: <https://ww5.cityofpasadena.net/public-works/engineering-and-construction/engineering/forms-and-applications/>. A deposit, based on the General Fee Schedule, is required for plan review and on-going monitoring during construction. This plan shall show the impact of the various construction stages on the public right-of-way and the private street including all street occupations, lane closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site. An occupancy permit shall be obtained from the department for the occupation of any traffic lane, parking lane, parkway, or any other public right-of-way. All lane closures shall be done in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and California Supplement. If the public right-of-way occupation requires a diagram that is not a part of the MUTCD or California Supplement, a separate traffic control plan must be submitted as part of the Construction Staging and Traffic Management Plan to the department for review and approval. No construction truck idling or staging, material storage, or trailer in the public right-of-way.

In addition, prior to the start of construction or the issuance of any permits, the applicant shall conduct a field meeting with an inspector from Department of Public Works for review and approval of construction staging, parking, delivery and storage of materials, final sign-off procedure, and any of the specifics that will affect the public right-of-way. An appointment can be arranged by calling 626-744-4195.

67. In preparation for the New Year Rose Parade and Rose Bowl Game, the Department of Public Works will suspend all works within the public right-of-way during the holiday season in accordance to PMC 12.24.100 and City Policy.

In general, all public streets, sidewalks and parkways shall be free and clear of excavations and other construction related activities during the period of November through January of the following year. Specific dates will vary on an annual basis. Accordingly, contractors will be required to shut down construction operations which would impede traffic and pedestrian movements during these periods unless otherwise authorized by the City Engineer. Any existing excavations shall be backfilled, compacted and temporarily repaved before the beginning of the moratorium period.

The Holiday Moratorium Map, showing the appropriate shutdown period, and corresponding areas in the City, is available at the Department of Public Works Permit Counter (window #6), 175 N. Garfield Avenue, Pasadena, CA 91109, or at the following link: <https://ww5.cityofpasadena.net/public-works/engineering-and-construction/engineering/forms-and-applications/>.

68. All costs associated with these conditions shall be the applicant's responsibility. Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in effect at the time these conditions are met. A processing fee will be charged against all deposits.

In addition to the above conditions, the requirements of the following ordinances may apply to the proposed project:

a) Sewer Facility Charge - Chapter 4.53 of the PMC

The ordinance provides for the sewer facility charge to ensure that new development within the city limits pays its estimated cost for capacity upgrades to the city sewer system, and to ensure financial solvency as the city implements the operational and maintenance practices set forth in the city's master sewer plan generated by additional demand on the system. Based on sewer deficiencies identified in the City's Master Sewer Plan, the applicant may be subject to a Sewer Facility Charge to the City for the project's fair share of the deficiencies. The Sewer Facility Charge is based on the Taxes, Fees and Charges Schedule and will be calculated and collected at the time of Building Permit Issuance.

b) Sidewalk Ordinance - Chapter 12.04 of the Pasadena Municipal Code (PMC)

In accordance with Section 12.04.035, entitled "Abandoned Driveways" of the PMC, the applicant shall close any unused drive approach with standard concrete curb, gutter and sidewalk. In addition, the applicant shall repair any existing or newly damaged curb, gutter and sidewalk along the subject frontage prior to the issuance of a Certificate of Occupancy in accordance with Section 12.04.031, entitled "Inspection required for Permit Clearance" of the PMC.

c) City Trees and Tree Protection Ordinance - Chapter 8.52 of the PMC

The ordinance provides for the protection of specific types of trees on private property as well as all trees on public property. No street trees in the public right-

of-way shall be removed without the approval of the Urban Forestry Advisory Committee.

d) Stormwater Management and Discharge Control Ordinance – Chapter 8.70 of the PMC

This project is subject to the requirements of the City's Storm Water and Urban Runoff Control Regulation Ordinance which implements the requirements of the Regional Water Quality Control Board's Standard Urban Storm Water Mitigation Plan (SUSMP). Prior to the issuance of any demolition, grading or construction permits for this project, the developer shall submit a detailed plan indicating the method of SUSMP compliance. Information on the SUSMP requirements can be obtained from the Permit Center's webpage at: <https://ww5.cityofpasadena.net/planning/permit-center/apply-for-permit/>.

The resolution of the City Council of the City of Pasadena approving the amended stormwater and urban runoff pollution control regulations and repealing resolution No. 8151, can be found at the following link: [http://ww2.cityofpasadena.net/councilagendas/2015%20Agendas/Aug 17 15/AR %2019%20RESOLUTION%20APPROVING%20AMENDED%20STORMWATER %20&%20URBAN%20RUNOFF%20POLLUTION.pdf](http://ww2.cityofpasadena.net/councilagendas/2015%20Agendas/Aug%2017%2015/AR%2019%20RESOLUTION%20APPROVING%20AMENDED%20STORMWATER%20&%20URBAN%20RUNOFF%20POLLUTION.pdf)

e) Residential Impact Fee Ordinance - Chapter 4.17 of the PMC

The ordinance was established to provide funds to mitigate the impact of new residential development on City parks and park and recreational facilities. A copy of the Residential Impact Fee Information Packet is available at the city webpage at: <https://ww5.cityofpasadena.net/public-works/engineering-and-construction/engineering/information-and-reports/>

The Residential Impact Fee is based on the current Taxes, Fees and Charges Schedule (<https://ww5.cityofpasadena.net/finance/fees-tax-schedules/>) and will be calculated and collected at the time of Building Permit Issuance.

The building plans shall include, preferably on the title sheet, a summary of all living units to capture the number of different units; number of bedrooms in each unit; and types of units (Regular, Workforce housing, Skilled nursing unit, Student housing, Residential care facility for the elderly, Affordable Housing). The definitions on the different types of units are available in the abovementioned Residential Impact Fee Information Packet as well as in the Pasadena Municipal Code.

The estimated Residential Impact Fee based on the current tax schedule and the submitted information in the application, dated December 1, 2017, for this project is: \$662,423.25. This amount is a rough estimate and for informational purposes only. The exact amount will be calculated at the time of Building Permit issuance.

f) Construction and Demolition Waste Ordinance, Chapter 8.62 of the PMC

The applicant shall submit the following plan and form which can be obtained from the Permit Center's webpage at: <https://ww5.cityofpasadena.net/public->

works/street-maintenance-waste-management/recycling-resources/construction-and-demolition-debris-recyclers/ and the Recycling Coordinator, (626) 744-7175, for approval prior to the request for a permit:

- a. C & D Recycling & Waste Assessment Plan – Submit plan prior to issuance of the permit. A list of Construction and Demolition Recyclers is included on the waste management application plan form and it can also be obtained from the Recycling Coordinator.
- b. Summary Report with documentation must be submitted prior to final inspection.

A security performance deposit of three percent of the total valuation of the project or \$30,000, whichever is less, is due prior to permit issuance. For Demolition Only projects, the security deposit is \$1 per square foot or \$30,000, whichever is less. This deposit is fully refundable upon compliance with Chapter 8.62 of the PMC. A non-refundable Administrative Review fee is also due prior to permit issuance and the amount is based upon the type of project.

Water & Power Division

69. The applicant shall coordinate exact placement of transformer vault with PWP – Electric Service Planning.
70. Any change in water service will be installed at a total cost to the customer.
71. Water lines are not permitted to cross lot lines to serve adjoining lots without a utility easement; the Pasadena Water Division shall approve all proposed easements.
72. The Water Division will install the service tap, lateral, water meter and designate the distribution main and service tap.
73. All services not in use must be abandoned at the distribution main at the applicable rate.
74. Pursuant to the PWP Water Regulation Section XI 'A water service and meter may be evaluated for its continuing integrity. Should PWP find a service, meter, vault or other appurtenance to be substandard and no longer suitable for continued use, replacement and/or construction of new facilities may be required. PWP may require that a portion or all of the costs of such replacement and/or construction be paid or contracted for by the Applicant or Customer prior to construction.' The property owner is responsible for the replacement cost. All service pipes shall be of suitable capacity as determined by applicable plumbing and fire codes. The minimum sized service installed by PWP is 1-inch.

Cross Connection Requirements for Domestic Services:

75. All city cross-connection prevention policies must be adhered to. The developer is required to provide back-flow protection at all connections whereby the plan arrangement or configuration could potentially contaminate the domestic water system.
76. There shall be no taps between the meter and the backflow assembly.
77. The owner/developer shall provide and install an approved double check valve backflow prevention assembly at each water service if more than one water service serves property. The location of the back-flow prevention assembly shall be above ground within 20-feet of the property line.
78. The property owner is responsible for the back-flow prevention assembly. The assembly will be registered and require an annual test certification. All manufacturer warranties shall be transferred upon installation and certification to the property owner.
79. The owner/developer is responsible for certifying and testing the assembly after installation by a person that possesses a current and valid license, and must be certified by the County of Los Angeles Department of Health Services.
80. The owner/developer shall submit the results of the test to the Water Utility Service Section for approval. Upon approval, the City will maintain domestic water to the property and will automatically register the assembly.
81. All water services shall be protected from cross connections by means of approved backflow prevention techniques and assemblies.
82. An administrative fee of \$194.00 will be charged for each backflow prevention assembly installed.

Cross Connection Requirements for Fire Service:

83. The fire service requires a detector meter and back-flow prevention assembly.
84. The assembly shall be located in a readily accessible location for meter reading, test and maintenance.
85. All fire sprinkler systems require installation of an approved double check valve backflow prevention assembly at the sprinkler lateral off the domestic system.
86. Contract service other than PWP, providing the backflow prevention assembly shall contact the Water Utility Services Section to verify assembly approval or contact the University of Southern California foundation for Cross Connection Control and Hydraulic Research for an approve list of assemblies.

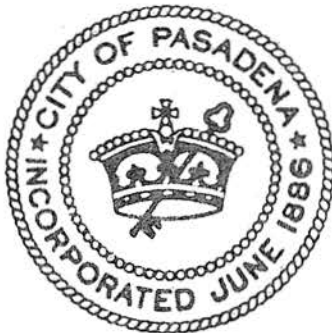
87. All manufacturer warranties shall be transferred upon installation and certification to the property owner. The property owner shall assume ownership of the back-flow prevention assembly. The assembly will be registered and require an annual test certification.
88. If PWP is to provide DCDA for fire service, PWP will install Wilkins, model 450 DA.
89. Choose from one of the below listed options and incorporate into the fire sprinkler plans.
- a. Option 1: Detector meter located on double check detector check assembly (DCDA) outside the structure on private property.
 - g) The Water Division will install the service tap, lateral, DCDA (optional Wilkins, models 350 DA or 450 DA) and designate the distribution main and service tap.
 - h) The location of the back-flow prevention assembly shall be a minimum of 12-inches above grade within 10-feet of the property line, on private property. Reference Water Division Plan Check for certification and registration.
 - b. Option 2: Detector meter located in a vault within the public right of way with a double check valve backflow prevention assembly (DCA) provided and installed inside or outside the building by the owner/developer.
 - The Water Division will install the service tap, lateral, detector water meter and designate the distribution main and service tap.
 - The location of the back-flow prevention assembly shall be a minimum of 12-inches above grade within 20-feet of the property line on private property. Reference Water Division Plan Check for certification and registration.
90. All Other Cross Connection Requirements: The owner/developer is also responsible for additional cross connection requirements for irrigation system, swimming pool and/or spa, boiler / chilled water / cooling tower (using chemical additives), domestic water line at makeup to carbonation system, sewage ejector, decorative water fountain, and makeup water to reverse osmosis filtration equipment.
91. Fire Flow and Fire Hydrants: The Pasadena Fire Department (PFD) has jurisdiction and establishes the requirements for fire protection within the City of Pasadena. PFD must be consulted in this regard. Any cost incidental to providing adequate fire protection for the project must be paid for by the owner/developer.

Board of Zoning Appeals Condition

92. Through the Design Review process, special attention shall be paid to the westerly façade of the project. The westerly massing and façade of the project shall remain be sensitive to the adjacent Ford Place Historic District and associated resources. The color palette shall remain be compatible with the adjacent structures to the west, to the satisfaction of the Zoning Administrator.

City Council Conditions

93. ~~All new and replacement trees identified on t~~The final landscape plan shall be subject to review by ~~the Cityan independent~~ Arborist selected by the City to verify acceptable conditions (appropriate spacing and clearance, planting area, irrigation) are provided for the establishment of the trees, their growth to maturity, and their ability to provide a substantial canopy.
94. The proposed Vibration Management Plan shall be incorporated into the drawings submitted for building permit plan check and shall include vibration monitoring during construction, with specific attention to the Blinn House, and with monitoring reports regularly available to the appellants and the public.
95. The Design Commission, in its review of the Concept Plans, shall pay particular attention to the transition of the proposed project with respect to the Blinn House to ensure the building respects the scale, massing and materials of adjacent buildings and landscape. *Central District Design Guidelines: Building Design 1.3.*
96. The Design Commission, in its review of the Concept Plans, shall pay particular attention to the proposed design to ensure that the project achieves a design that breaks down the scale and massing of larger buildings. *Central District Design Guidelines: Building Design 2.1.*
97. The Design Commission, in its review of the Concept Plans, shall ensure that the design achieves articulated sub-volumes and horizontal regulating lines to provide a visual transition to adjacent structures that are smaller in scale.” *Central District Design Guidelines, Urban Residential 1.3.*
98. The Design Commission shall require that future refinements to the project at the Concept Design Review stage ~~continue to~~ demonstrate a contextual relationship with neighboring structures and sites addressing such elements as building scale, massing, orientation, setbacks, buffering, the arrangement of shared and private open spaces, visibility, privacy, automobile and truck access, impacts of noise and lighting, landscape quality, infrastructure, and aesthetics. *General Plan Land Use Element Policy 4.11.*
99. The Design Commission shall require that future refinements to the project at the Concept Design Review stage ~~continue to~~ demonstrate that the scale and massing of the project provide appropriate transitions in building height and bulk and are sensitive to the physical and visual character of adjoining lower-density neighborhoods. *General Plan Land Use Element Policy 4.12.*



Agenda Report

September 9, 2019

TO: Honorable Mayor and City Council

FROM: Planning & Community Development Department

SUBJECT: APPEAL OF BOARD OF ZONING APPEAL'S DECISION ON AFFORDABLE HOUSING CONCESSION PERMIT #11879 LOCATED AT 127 AND 141 NORTH MADISON AVENUE

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the Environmental Determination that the proposed project is exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15332, Class 32, In-Fill Development Projects) and that there are no features that distinguish this project from others in the exempt class. Therefore, there are no unusual circumstances; and
2. Uphold the Board of Zoning Appeal's decision and approve Affordable Housing Concession Permit #11879.

EXECUTIVE SUMMARY:

The proposed mixed-use project associated with Affordable Housing Concession Permit #11879 has undergone significant modifications in response to issues raised on appeal. The overall height and massing have been reduced, a greater setback is provided to the historic Blinn House property to the west, at grade parking has been eliminated, and the ground floor commercial office component has shrunk.

As a result, the applicant is requesting two affordable housing concessions that would facilitate the construction of a 72,000 square-foot, five-story mixed-use project consisting of 49 residential units (including four units dedicated to "very-low income" households), 2,500 square feet of commercial office, and 87 parking spaces (two levels partially subterranean) on a project site located at 127 and 141 North Madison Avenue. The request specifically includes:

- i. A concession to exceed the maximum floor area ratio (FAR). The applicant proposed a 2.25 FAR where the Zoning Code limits the maximum to 1.5;
- ii. A concession to exceed the maximum height limit. The applicant proposed a building height of 60' (no height averaging) where the Zoning Code limits the maximum to 50 feet, or 65 with height averaging; and
- iii. Private tree removal to allow the removal of four protected trees on private property that would be replaced with trees that emphasizes a tree canopy that is sustainable over the long term in conjunction with Municipal Code Chapter 8.52.075.A (Private property tree removal and landmark tree pruning permits – Issuance).

DISCUSSION:

On July 22, 2019, the City Council was to consider at a noticed public hearing an appeal of the Board of Zoning Appeals' decision of Affordable Housing Concession Permit #11879. The item was placed on the City Council agenda, publicly noticed, and a report was prepared by the staff. Due to time constraints created by preceding agenda items, the City Council directed staff to continue the item to a date uncertain. Subsequent to the continuation, the applicant received feedback from the appellant (group consisting of Pasadena Heritage, the Women's City Club of Pasadena, and the Blinn House Foundation), and in response, submitted revised plans.

The original project, as described in the July 22, 2019, City Council staff report included a request for two affordable housing concessions (2.25 FAR and 62' height) and removal of four protected trees on private property. The requests were to facilitate the construction of a five-story (62 feet tall) mixed-use project consisting of 49 dwelling units (4 "very low-income" units), 72,000 square feet (4,210 square feet of office), and 101 parking spaces (at grade and one level of subterranean parking). The feedback provided by the appellant, that was made available to the staff, expressed the following:

- Move all or most parking underground;
- Move underground parking further from the rear (west) property line away from the Blinn House and use the additional area for new trees;
- Move some units from the upper floors to the ground floor;
- Remove the fifth floor or alternatively set back the fourth floor and reduce the fifth floor;
- Reduce or eliminate the commercial space to reduce parking;
- Arrange courtyard so that it is more visible from the street;
- Preserve new/replacement trees

The revised project continues to include a request for two affordable housing concessions (2.25 FAR and 60' height), and removal of four protected trees on private property. The concessions would facilitate the construction of a five-story (60' tall) mixed-use project consisting of 49 dwelling units (4 "very low-income"), 72,000 square

feet (2,500 square feet of office), and 87 parking spaces (two levels partially subterranean parking). Subsequent to the July 22, 2019, Council meeting, and in response to specific requests made by the appellant, the applicant has proposed the following modifications:

- Reduced the maximum building height from 62' to 60';
- Removed at-grade parking and located all spaces underground;
- Moved the first subterranean level seven feet from the rear (west) property line, and two feet from side (north and south) property lines where originally built to the rear and side property lines;
- Added a partial, second subterranean level (14 spaces) that maintains 62' to the rear (west) property line, and two feet to the side (north and south) property lines;
- Moved nine units from the upper floors (1 unit from the 2nd, 1 unit from the 3rd, 5 units from the 4th, 2 units from the 5th) to the ground floor;
- Reduced the building volume and floor area at the fourth (18,384 sf to 13,231 sf) and fifth floor (12,808 sf to 6,933 sf);
- Expanded the setbacks from the rear (west) property line at the fourth (5' to 10') and fifth floor (6' to 10');
- Reduced the commercial floor area (4,210 square feet to 2,500 square feet) and total parking space count (101 to 87);
- Expanded the central courtyard from 2,806 square feet to 3,507 square feet;
- Expanded visibility into the central courtyard through an additional opening at the 2nd floor frontage;
- Expanded the number of new/replacement trees from 14 to 22 by proposing new trees within the rear (west) setback

The applicant has made significant and meaningful adjustment to the plans associated with the project in response to the concerns raised by the appellant, including adjustments to the overall height and massing, setback from the historic Edmund Blinn House (to the west), removal of at grade parking and revisions to the ground floor commercial space. The revised project also responds contextually with its surroundings.

All new construction on the property is subject to design related goals and policies in the Land Use Element of the General Plan and the Central District Design Guidelines. For projects of this size, the design of the proposed new construction is evaluated through the Design Review process, with the Design Commission being the review authority. One of the main purposes of the Design Review process is to ensure contextual compatibility. In this case, the surrounding context is mixed, but with a strong representation of traditional architectural design. The property is located between two National Register Historic Districts (Ford Place Historic District to the west, and the Pasadena Playhouse Historic District across the street to the east). Within the Ford Place Historic District is the Edmund Blinn House at 160 North Oakland Avenue, which is directly adjacent to the west of the subject property.

The revised project generally responds well to its surrounding context in terms of height, setbacks and its preliminary relationship to the street; however, through the required

Design Review process, the massing of the building should continue to be refined to pursue greater levels of articulation to avoid the appearance of a vertical extrusion of the building footprint, as recommended in the relevant design guidelines. Specifically, the design of the building should carefully respond to the adjacent and nearby lower-scaled existing historic resources and the contemporary architectural style and the design should be further refined to illustrate how the building relates to Pasadena's architectural legacy and climate. Through the Design Review process, the design team should explore ways to create a more site-specific design that reinforces the quality architecture in the context that the project exists. In addition, the aforementioned nearby historic resources should provide a vital architectural context for the proposed building and should be closely examined as the project moves forward to, possibly, glean stylistic and massing cues for the new architecture at the site.

Although the property is not a designated or eligible historic resource or within the boundaries of a Historic District, it is subject to the design related goals and policies in the Land Use Element of the General Plan and the Central District Design Guidelines, which take into account proximity to older and historic buildings and contain specific guidelines to address how new projects should respond to their respective contexts. The Secretary of Interior's Standards for Rehabilitation and Illustrated Guidelines also provide relevant guidance on context sensitive development. In order to achieve the greatest level of contextual compatibility, staff recommends additional conditions of approval that have been incorporated into Attachment B that would require the project address the following at Concept Design Review:

- The Design Commission, in its review of the Concept Plans, shall pay particular attention to the transition of the proposed project with respect to the Blinn House to ensure the building respects the scale, massing and materials of adjacent buildings and landscape. *Central District Design Guidelines: Building Design 1.3*
- The Design Commission, in its review of the Concept Plans, shall pay particular attention to the proposed design to ensure that the project achieves a design that breaks down the scale and massing of larger buildings. *Central District Design Guidelines: Building Design 2.1.*
- The Design Commission, in its review of the Concept Plans, shall ensure that the design achieves articulated sub-volumes and horizontal regulating lines to provide a visual transition to adjacent structures that are smaller in scale." *Central District Design Guidelines, Urban Residential 1.3.*
- The Design Commission shall require that future refinements to the project at the Concept Design Review stage continue to demonstrate a contextual relationship with neighboring structures and sites addressing such elements as building scale, massing, orientation, setbacks, buffering, the arrangement of shared and private open spaces, visibility, privacy, automobile and truck access, impacts of noise and lighting, landscape quality, infrastructure, and aesthetics. *General Plan Land Use Element Policy 4.11.*

- The Design Commission shall require that future refinements to the project at the Concept Design Review stage continue to demonstrate that the scale and massing of the project provide appropriate transitions in building height and bulk and are sensitive to the physical and visual character of adjoining lower-density neighborhoods. *General Plan Land Use Element Policy 4.12.*

Pursuant to Zoning Code Section 17.72.070.B.2 (Processing and Action on Appeals or Calls for Review – Action on appeals or calls for review – Consideration of submitted application, plans, and materials), and because the hearing before the City Council is a de novo hearing (where the City Council has no obligation to honor the prior decisions and has the authority to make an entirely different decision), the City Council may consider revised plans and materials. In this case, the plans and materials do not differ substantially from the materials submitted for the original decision by the Hearing Officer, and subsequently, the Board of Zoning Appeals. The revised project maintains the same FAR, unit count, and number of floors, while incorporating reductions in building height and parking count. The project continues to arrange the residential units around a central courtyard that is located behind a ground-floor commercial office use at the street frontage. New and replacement trees identified on the revised landscape plan adhere to the City's replacement matrix and respond to a finding (#6), necessary for removal. Additionally, the project is designed to comply with all applicable provisions in the Zoning Code, with the exception of the requested concessions for FAR (2.25) and building height (59'11").

Pursuant to California Government Code Section 65915, the City shall grant the concession(s) requested by the applicant unless the City makes a written finding, based upon substantial evidence, of any of the following:

1. The concession or incentive 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);
2. The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households;
3. The concession or incentive would be contrary to state or federal law.

As discussed in the July 22, 2019 City Council staff report, staff concluded that there was no evidence in the record that the original concessions requested for FAR (2.25) and height (62') do not result in identifiable and actual cost reductions; 2) would have a specific, adverse impact (as defined in State law); or 3) would be contrary to state or

federal law. The applicant's revised project with concession requests for FAR (2.25) and height (60') do not change staff's conclusions. There is not sufficient evidence for the City to reject the FAR and height concessions associated with the revised project. To support this conclusion, memorandums discussing financial characteristics and applicability of the California Environmental Quality Act (CEQA) Class 32 In-Fill exemption are included as Attachments C and D, respectively. The memorandums supplement the technical analyses provided as part of the July 22, 2019 City Council staff report.

CONCLUSION:

It is staff's assessment that the applicant has made significant and meaningful changes to the proposed project in response to comments raised on appeal. The changes have resulted in a more compatible project with recommended conditions that would ensure the final design is contextual and relates to the adjacent historic resources.

Staff has also determined that there is no evidence in the record demonstrating that the concessions do not result in identifiable and actual cost reductions to provide for affordable housing costs or that the concessions would have any specific adverse impacts (as defined by State Law) on public health, safety, or the physical environment or on any real property that is listed in the California Register of Historical Resources. The requested concession would be granted consistent with the procedures and requirements established by California Government Code Section 65915 (Density Bonuses and Other Incentives) and would not be contrary to any state or federal laws. Further, the applicant's landscape plan demonstrates replacement trees proposed adhere to the City's replacement matrix. Therefore, the proposed tree removal would satisfy required Finding No. 6. Therefore, staff recommends that the City Council approve the Affordable Housing Concession Permit and Private Tree Removal Permit associated with the revised project, with the findings in Attachment A and the Conditions of Approval in Attachment B.

FISCAL IMPACT:

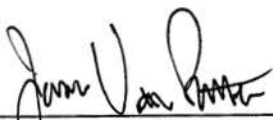
There is no fiscal impact as a result of this action and will not have any indirect or support cost requirements.

Respectfully submitted,



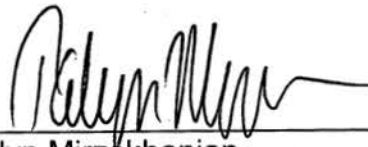
DAVID M. REYES
Director of Planning and Community
Development

Prepared by:



Jason Van Patten
Planner

Reviewed by:



Talyn Mirzakhania
Zoning Administrator

Approved by:



STEVE MERMELL
City Manager

Attachments (7):

- Attachment A – Findings
- Attachment B – Conditions of Approval
- Attachment C – City Council Staff Report dated July 22, 2019
- Attachment D – Appeal Application of Board of Zoning Appeals' Decision dated June 17, 2019
- Attachment E – Financial Analysis Memorandum
- Attachment F – CEQA Memorandum
- Attachment G – Revised Project Plans