

Call for Review of
Affordable Housing Concession Permit #11869
253 S. Los Robles Avenue

City Council

July 22, 2019





Timeline: May 9, 2017 to July 22, 2019

Planning & Community Development Department

- Before the City Council is a call for review of a decision made by the Board of Zoning Appeals.
 - > **May 9, 2017** – Application for AHCP #11869 submitted to the City.
 - > **November 7, 2018** – Hearing Officer hearing held, during which the Hearing Officer approved AHCP #11869.
 - > **November 15, 2018** – Madison Heights Neighborhood Association submitted an appeal application.
 - > **February 6, 2019** – BoZA conducted a public hearing on this item and voted to continue the hearing to a date uncertain.
 - > **April 3, 2019** – BoZA held the continued hearing, during which the Board voted (3-0) to approve AHCP #11869.
 - > **April 8, 2019** – Mayor Tornek submitted a request for a call for review of the Board’s decision.
 - > **April 29, 2019** – City Council voted to approve the call for review.
- The hearing before the City Council is a de novo hearing where the Council has no obligation to honor the prior decision and has the authority to make an entirely different decision.



Requested Entitlement: AHCP

Planning & Community Development Department

Affordable Housing Concession Permit #11869:

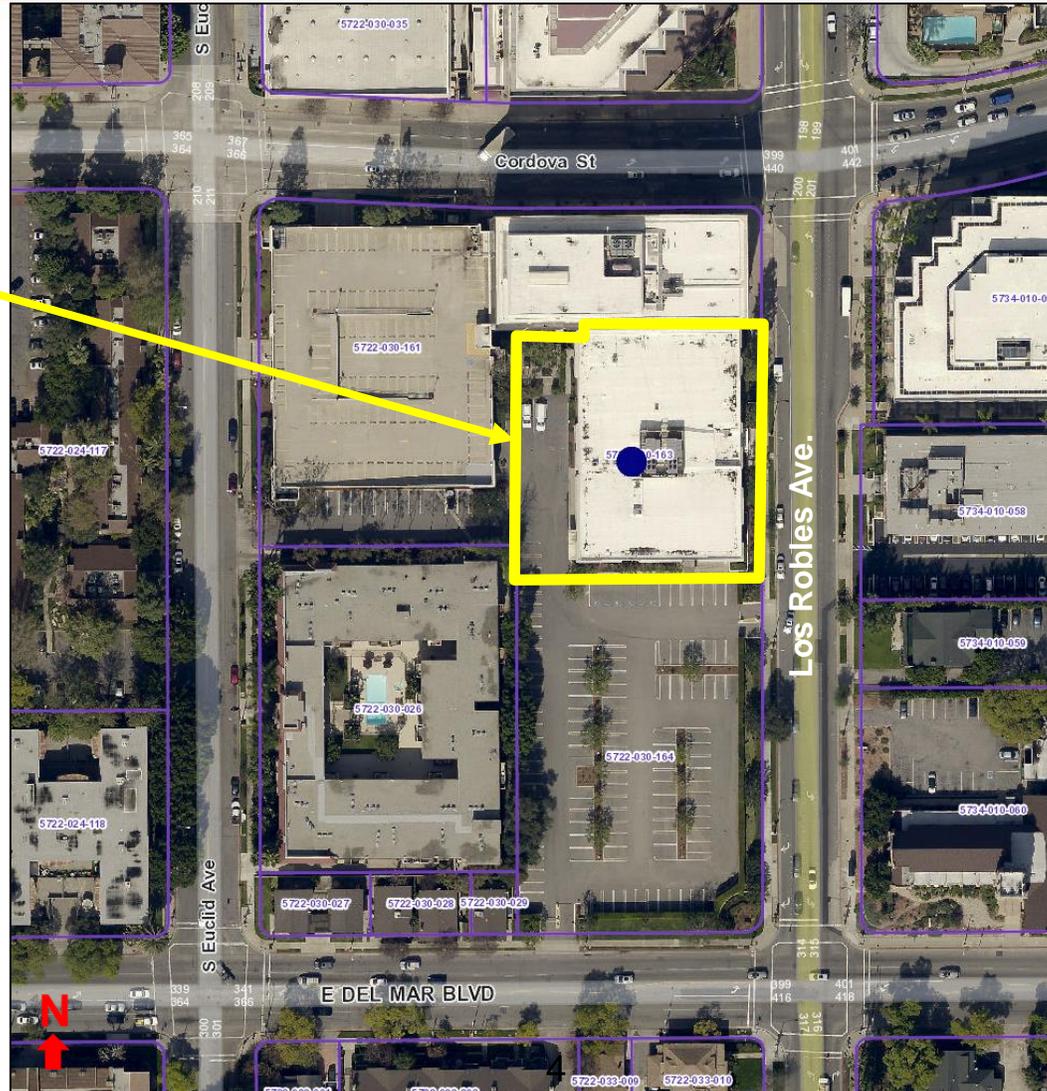
- > A request for two affordable housing concessions to facilitate construction of a new 94,165 square-foot, six-story multi-family residential (condominium) building
- > 92 residential units (including eight “very low income” units)
- > 131 parking spaces in a three-level subterranean garage
- > Existing 2-story, 43,544 sq.ft. office building would be demolished to accommodate the project
- > The project proposes to remove one of three protected trees: the protected on-site Canary Pine. (Replacement Req. = 8/24-inch boxes or 4/36-inch boxes. Proposed Replacement = 4/36-inch boxes)



Location Map

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Project Site



PASADENA



Subject Site (from South)

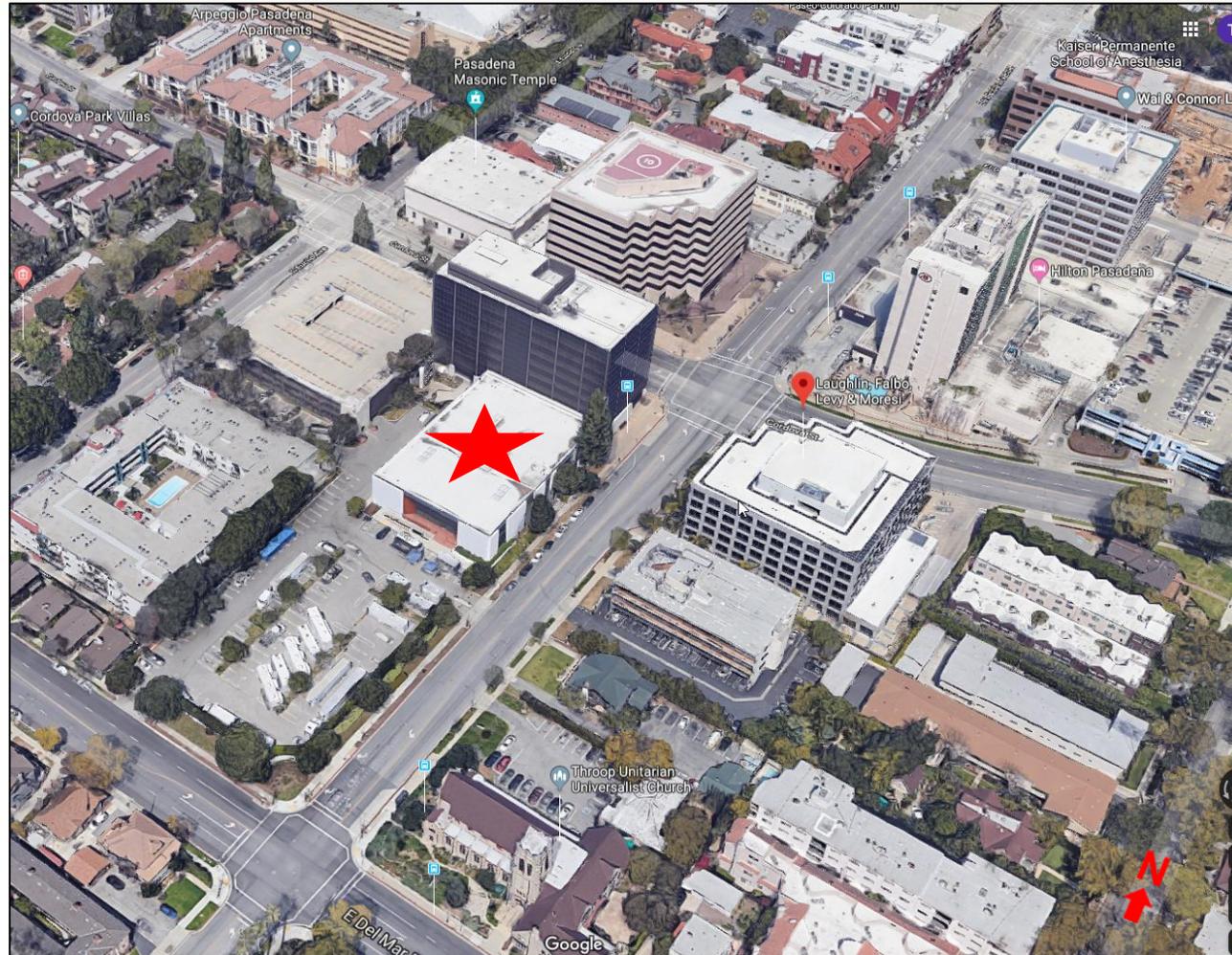
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Site Context

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Project Renderings

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West & South
Elevations



South & East
Elevations

South & East
Elevations



East & North
Elevations

PASADENA



Height Context (adjacent to site)

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Height Context (surrounding area)

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**Proposed
Project
Height:
Max 80 ft.**



State Density Bonus Law

Planning & Community Development Department

- Pursuant to CA Government Code 65915, a local jurisdiction shall grant an applicant an increase in the number of units permitted on the site, without discretionary approval, when a specified percentage of units are designated as affordable units.
- State Law allows for an applicant to request incentives or concessions to development regulations that may be required in order to build the affordable units:
 - Reduction in site development standards or modifications of zoning requirements that result in “identifiable and actual cost reductions to provide for affordable housing”
 - Can request 1, 2 or 3 concessions depending on percentage of affordable units provided in the project.



State Law Findings for Concessions

Planning & Community Development Department

Concessions can only be denied if the City finds, based upon substantial evidence, that:

1. The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs.
2. The concession or incentive would have a specific, adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources.
3. The concession or incentive would be contrary to state or federal law.



Requested Concessions

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By dedicating 8 of the allowed base units (71 units) for very low-income households, the applicant is eligible for a 35% density bonus; granting them the ability to build up to 96 total residential units. The project proposes 92 total units. Per State law, the applicant can seek two concessions. This project requests:

1. To allow the proposed building to exceed the maximum allowed floor area ratio. The maximum allowed floor area ratio is 2.25 for the site. The applicant is requesting to increase the floor area ratio to 2.65; and
2. To allow the proposed building to exceed the maximum allowed height. The maximum building height allowed for the site is 60 feet (75 feet when height averaging is applied). The applicant is requesting a maximum building height of 80 feet.



State Law Findings for Concessions (1 of 3)

Planning & Community Development Department

Concessions can only be denied if the City finds, based upon substantial evidence, that:

1. The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs.

There is no evidence in the record to demonstrate that the concessions do not result in identifiable and actual cost reductions to provide for affordable housing costs. Furthermore, KMA determined that the cost associated with providing eight very-low income units is estimated at \$4,469,000. Comparatively, the proposed density bonus and the FAR and height concessions generate a net cost of \$5,578,000. Thus, the effective cost to provide eight very-low income units is approximately \$1,109,000. The Developer's proposal meets the requirements imposed by the City's Density Bonus Ordinance as well as the California Government Code, Section 65915 (Density Bonus) to qualify for the concessions.



State Law Findings for Concessions (2 of 3)

Planning & Community Development Department

2. The concession or incentive would have a specific, adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources.

There is no evidence in the record to demonstrate 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.



State Law Findings for Concessions (3 of 3)

Planning & Community Development Department

2. The concession or incentive would be contrary to state or federal law.

The requested concession will be granted consistent with the procedures and requirements established by California Government Code Section 65915 (Density Bonuses and Other Incentives) and will not be contrary to any federal laws.



Financial Analysis

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- KMA reviewed and prepared a density bonus analysis that analyzed the following development scenarios:
 - Base Case Scenario – 71 market-rate condominium units with 97 parking spaces in a two-level subterranean garage, in compliance with all current zoning requirements; and
 - Proposed Project Scenario (the project) – 92 residential units with 131 parking spaces in a three-level subterranean garage, plus two concessions to allow an increase in building height and FAR.
- The analysis shows the effective cost to provide eight very-low income units is approximately \$1,109,000.
- KMA concludes that the Developer's proposal meets the requirements imposed by the City and State.



Purpose of CEQA and Types of CEQA Review

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- Before taking discretionary action to approve or undertake a project, CEQA requires government agencies to consider the environmental consequences of that project
- The typical levels of CEQA review are:
 - > Exemption: projects of specific types and sizes have been exempt by the State Legislature (includes statutory and categorical exemptions)
 - > Negative Declaration/Mitigated Negative Declaration: projects that are not exempt from CEQA, but would not result in a significant and unavoidable environmental impact
 - > Environmental Impact Report: required for projects that would result in a significant and unavoidable environmental impact



Categorical Exemptions from CEQA

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- The Legislature has identified 33 “classes” of projects that are categorically exempt from CEQA
- In-fill Development Projects are one class of categorically exempt projects (Class 32)
- There are six exceptions to the use of categorical exemptions. We have received comments regarding two such exceptions for this project:
 - > Cumulative Impact: exemptions “are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.”
 - > Historical Resources: exemptions “shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.”



CEQA Class 32 Exemption

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Class 32 consists of projects characterized as in-fill development meeting the following:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. *Project is consistent with General Plan and Zoning per analysis in staff report.*
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. *Project site is 0.82 acres and surrounded by urban uses.*
- c. The project site has no value as habitat for endangered, rare or threatened species. *Project site is developed and has no native plant communities.*
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. *Technical studies concluded that project would not result in such impacts. Studies also included a Historic Resource Assessment.*
- e. The site can be adequately served by all required utilities and public services. *All such utilities and services are in place.*



Traffic Impact Analysis

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- Traffic analyses prepared by DOT concluded that:
 - > The project is not expected to exceed adopted street segment and intersection caps; and that the project does not cause a significant impact.
 - > The pedestrian environment received an indicator score of “average.” No conditions of approval are required when the score is “average” or higher. The bicycle environment received an indicator score of “low”, for which DOT included Conditions of Approval intended to improve the bicycle environment.
 - > The project’s incremental VMT per capita change does not exceed the adopted threshold of significance under the VMT per capita of 22.6.
 - > The project’s incremental VT per capita does not exceed the adopted threshold of significance under the VT per capita of 2.8.
 - > Thus, the project does not cause any significant impacts as it relates to VMT or VT.



Air Quality & Greenhouse Gas Emissions Analysis

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- Air Quality and Greenhouse Gas (GHG) Emissions Analyses for the project site were prepared by ESA.
- Per ESA's analysis, the project would have no impacts or would have less than significant impacts for all Project-related air quality and greenhouse gas emissions.
- Recognizing that there are approved projects directly to the north and south of the project site, ESA also analyzed cumulative air quality impacts (construction and operational) cumulative impacts related to the three projects would be less than significant.
- As it relates to air quality and greenhouse gas emissions, there would be no adverse impact on public health, public safety, or the physical environment and the proposal complies with the requirements needed to make the findings to be granted a concession.



Noise & Vibration Analysis

Planning & Community Development Department

- A noise and vibration analysis was prepared for the project, which found:
 - > Construction of the Project would not exceed the City's construction noise standards.
 - > Operation of the Project would not exceed the City's traffic or operational stationary source noise standards.
 - > The Project would not result in the generation of excessive groundborne vibration or groundborne noise levels from construction or operational activities.



Noise & Vibration Analysis (cont.)

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- **Details of the Noise Analysis:**
 - > A change in sound level of 3 dB is considered “just perceptible”
 - > To increase traffic noise by 3 dB requires a doubling of traffic volume
 - > Project would generate 535 daily trips, which is compared to the existing traffic volume on surrounding streets:
 - Los Robles between Cordova and Del Mar = 15,634 ADT
 - Cordova between Euclid and Los Robles = 9,219 ADT
 - Del Mar between Marengo and Los Robles = 19,347 ADT
 - > Project’s greatest impact on traffic noise would be 0.1 dBA, which is orders of magnitude below the level discernable to the human ear
 - > With cumulative projects considered, the greatest impact on traffic noise would be 0.2 dBA



Historical Resources Assessment

Planning & Community Development Department

- A Cultural Resources Assessment was prepared for the proposed Project, which found:
 - > The proposed Project would have no direct impacts on historical resources. The existing building onsite is not a historical resource:
 - It is not associated with the lives of persons important in our past
 - It does not embody the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values:
 - ❖ Built in 1970 in the Late Modernism style
 - ❖ Significant alterations to the building occurred in 1981 (8-story annex obscuring north façade) and 2014 (south and west elevations, including the main building entrance, were completely altered in a different style)
 - ❖ Architect, Peter J. Holdstock, is not an acknowledged master architect (while he may have been prolific, he is not well-known and his work is not included in important architectural guides). Moreover, the subject building is a modest example of Holdstock's work.
 - Does not retain integrity of design, setting, materials, workmanship, feeling, or association



Historical Resources Assessment (cont.)

Planning & Community Development Department

- With regard to nearby historic resources, the Cultural Resources Assessment found:
 - > Four historic resources in vicinity with direct views of the site: Throop Church, Masonic Temple, 324 S. Euclid, and 272 Los Robles
 - > Setting has already been highly altered by the presence of other multi-family developments built in the 1970s-1980s
 - > Development of another multi-story building would not adversely affect their integrity of setting
 - > Project would not materially impair the significance or integrity of historical resources in the Project vicinity
 - > Project would not cause a substantial adverse change in the significance of any historical resources



General Plan Consistency

Planning & Community Development Department

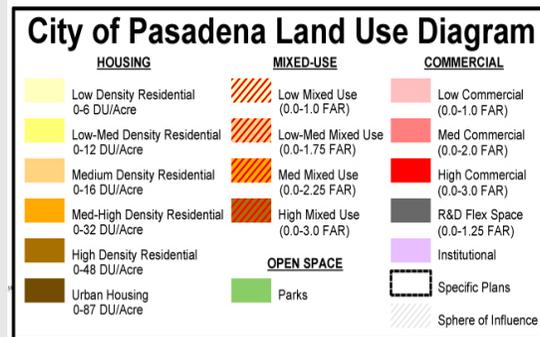
Goals and Policies

A goal is a general expression of community values and direction, expressed as ends and not actions.

A policy is a specific statement that guides decision-making and helps implement a general plan's vision.

Land Use Diagram

A map designating the type, intensity, and general distribution of uses of land for housing, business, industry, open space, and other uses.



Zoning & Regulations

Are a rule or measure establishing a level of quality or quantity that must be complied with or satisfied.

Goals and policies are not regulations - there are intended to guide decision-making and the direction of future development.



General Plan Consistency

Planning & Community Development Department

- No single project implements all General Plan policies
- General Plan policies are implemented in a variety of ways
 - > Zoning Code/Specific Plans
 - > Capital Improvements
 - > Processes (i.e., design review)
 - > Other regulations (i.e., tree protection ordinance)
- A project that complies with the codes and/or processes is inherently consistent with applicable General Plan policies
- In addition, staff highlights key applicable policies and provides further analysis to demonstrate General Plan consistency



General Plan Consistency

Planning & Community Development Department

GENERAL PLAN DESIGNATION: Medium Mixed Use (0.0 – 2.25 FAR)

ZONING DESIGNATION: CD-2 (Central District, Civic Center/Midtown sub-district)

- LUE Policy 1.1 (Basic Growth Policy)
- LUE Policy 1.2 (Targeted Growth)
- LUE Policy 1.7 (Coordination of Capital Facilities, Infrastructure, Land Use, and Economic Development)
- LUE Policy 4.12 (Transitions in Scale)
- LUE Policy 2.1 (Housing Choices)
- LUE Policy 21.1 (Adequate and Affordable Housing)
- LUE Policy 21.2 (Equitable Distribution of Affordable Housing)
- LUE Policy 31.1 (Focus Growth)
- LUE Policy 31.3 (Del Mar, Memorial Park, and Lake Transit Villages)
- NE Policies 2 a-c; 7 b,c,d



Staff Recommendation

Planning & Community Development Department

1. Adopt the Environmental Determination that the proposed project is exempt from environmental review pursuant the guidelines of CEQA Section §15332, Class 32, In-Fill Development Projects recognizing that there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances;
2. Uphold the Board of Zoning Appeals' decision and approve Affordable Housing Concession Permit #11869.

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City Council

July 22, 2019





Appellant's Bases for Appeal (Appeal of HO Decision)

Planning & Community Development Department

- Incorrect CEQA determination;
- The required findings cannot be made;
- Project is inconsistent with the City's General Plan;
- Significant errors and omissions in the record;
- Hearing Officer failed to consider evidence;
- Lack of substantial evidence; and
- Hearing Officer's decision is arbitrary and capricious.



Responses to Appeal

Planning & Community Development Department

- *Incorrect CEQA determination*
 - The building is not an eligible historic resource on the National, State, or local levels.
 - The project would not affect the integrity of nearby historic resources or districts, and would not, in any way, affect the ability of those resources to convey their significance.
 - There are no unusual circumstances.



Photo of South Façade from 2011

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Responses to Appeal

Planning & Community Development Department

- *Incorrect CEQA determination (cont'd)*
 - Cumulative impacts were analyzed
 - Prior subdivision has no bearing on whether or not the project qualifies for this exemption.



Responses to Appeal

Planning & Community Development Department

- *Project is inconsistent with the City's General Plan*
 - With the project and the cumulative projects currently entitled and proposed, the noise level is only 0.3 dBA CNEL higher than that predicted in the General Plan EIR, which is well below the humanly perceptible change in noise (1 dBA in laboratory conditions). The anticipated noise levels in the General Plan EIR were the results of the City's best possible analysis at the programmatic level for build out of the General Plan; they do not represent, nor were they ever intended to be a maximum noise level allowed.
 - Project is consistent with multiple General Plan policies and objectives



Responses to Appeal

Planning & Community Development Department

- *The required findings cannot be made*
 - Staff found that the three findings required for an AHCP can be made
- *Significant errors and omissions in the record, Hearing Officer failed to consider evidence, lack of substantial evidence, Hearing Officer's decision is arbitrary and capricious*
 - The Hearing Officer was provided with a detailed staff report, in addition to multiple technical studies prepared by the City's consultants for his review prior to the hearing date. Staff also delivered an oral presentation regarding the project at the hearing. Furthermore, the Hearing Officer reviewed all correspondence received at or prior to the hearing before arriving at his decision. Public noticing for the project was provided pursuant to the requirements in the Municipal Code



State Density Bonus Law

Planning & Community Development Department

Definition of “Specific, Adverse Impact”:

Cal. Gov. Code 65589.5: a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.



General Plan Consistency

Planning & Community Development Department

The proposed project is consistent with policies of the General Plan related to sustainable growth, housing affordability, and Central District vitality. By proposing new infill development on an underutilized commercial property in the Central District, the project is consistent with Policy 1.2 (Targeted Growth), the goal of which is to target growth and new construction in infill areas and away from Pasadena's residential neighborhoods and open spaces. By proposing a multi-family residential project inclusive of 92 residential units, with a mix of market rate and very low-income residential units, the project is consistent with: Policy 2.1 (Housing Choices), and Policy 21.1 (Adequate and Affordable Housing), which encourage providing opportunities for a full range of housing affordability levels; as well as Policy 21.2 (Equitable Distribution of Affordable Housing), which encourages the equitable distribution of affordable housing throughout the City, consistent with the goals of the Housing Element. By proposing development in the Central District and within a half a mile of the Del Mar Metro Gold Line station, the project is consistent with: Policy 31.1 (Focus Growth), which encourages development in the Central District and in proximity to Metro Gold Line stations to support economic vitality; and Policy 31.3 (Del Mar, Memorial Park, and Lake Transit Villages), which encourages concentration of higher intensity, multi-family housing development near these Metro Gold Line stations, supporting Metro Gold Line ridership. For the reasons provided herein, the proposed project is consistent with the goals and policies of the City's General Plan.



AHCP #11869

Planning & Community Development Department

Ground Floor Plan



PASADENA



AHCP #11869

Planning & Community Development Department

Floors 2-5



PASADENA



AHCP #11869

Planning & Community Development Department

6th Floor Plan





AHCP #11869 – East Elevation

Planning & Community Development Department

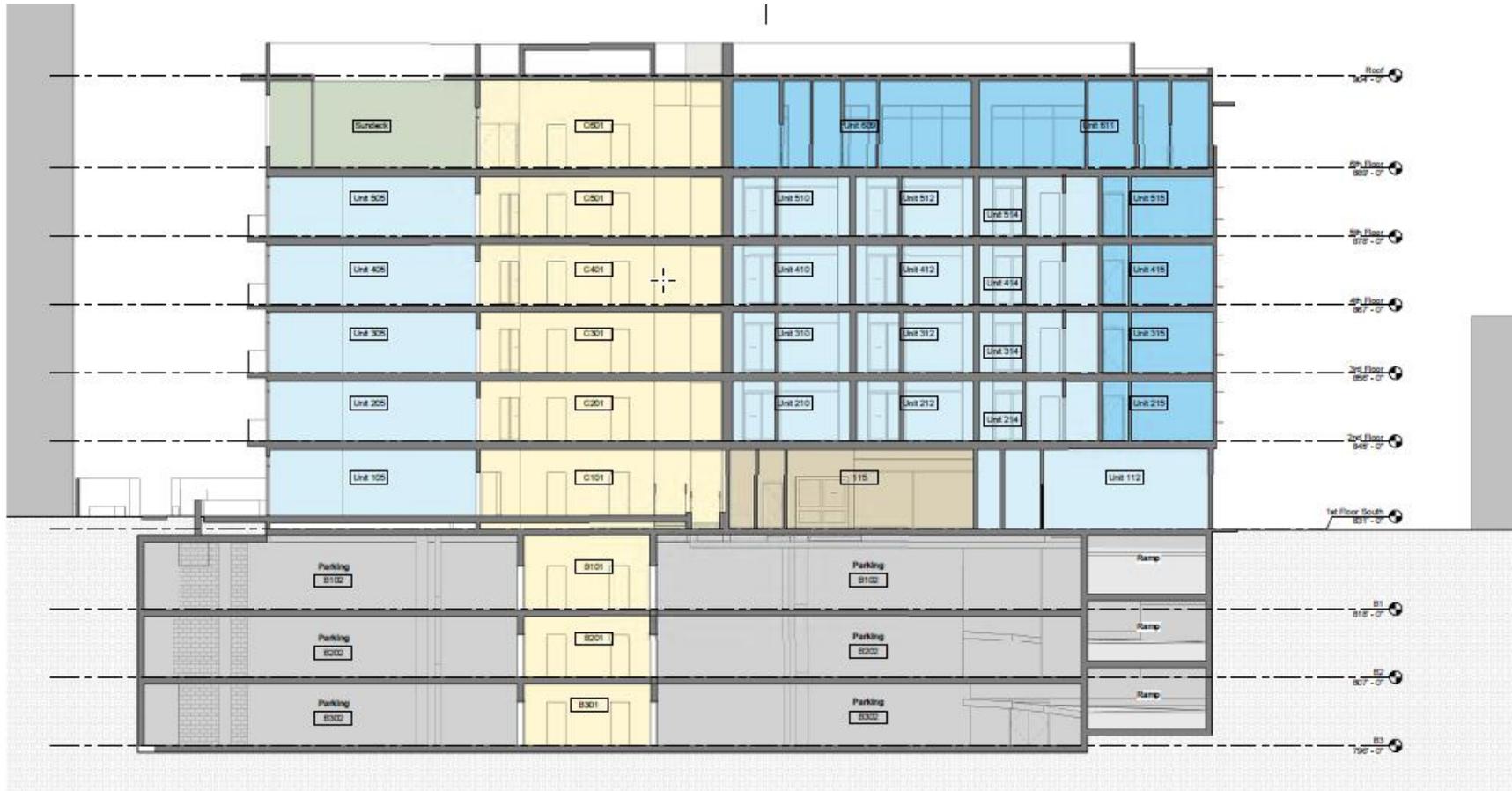


PASADENA



AHCP #11869

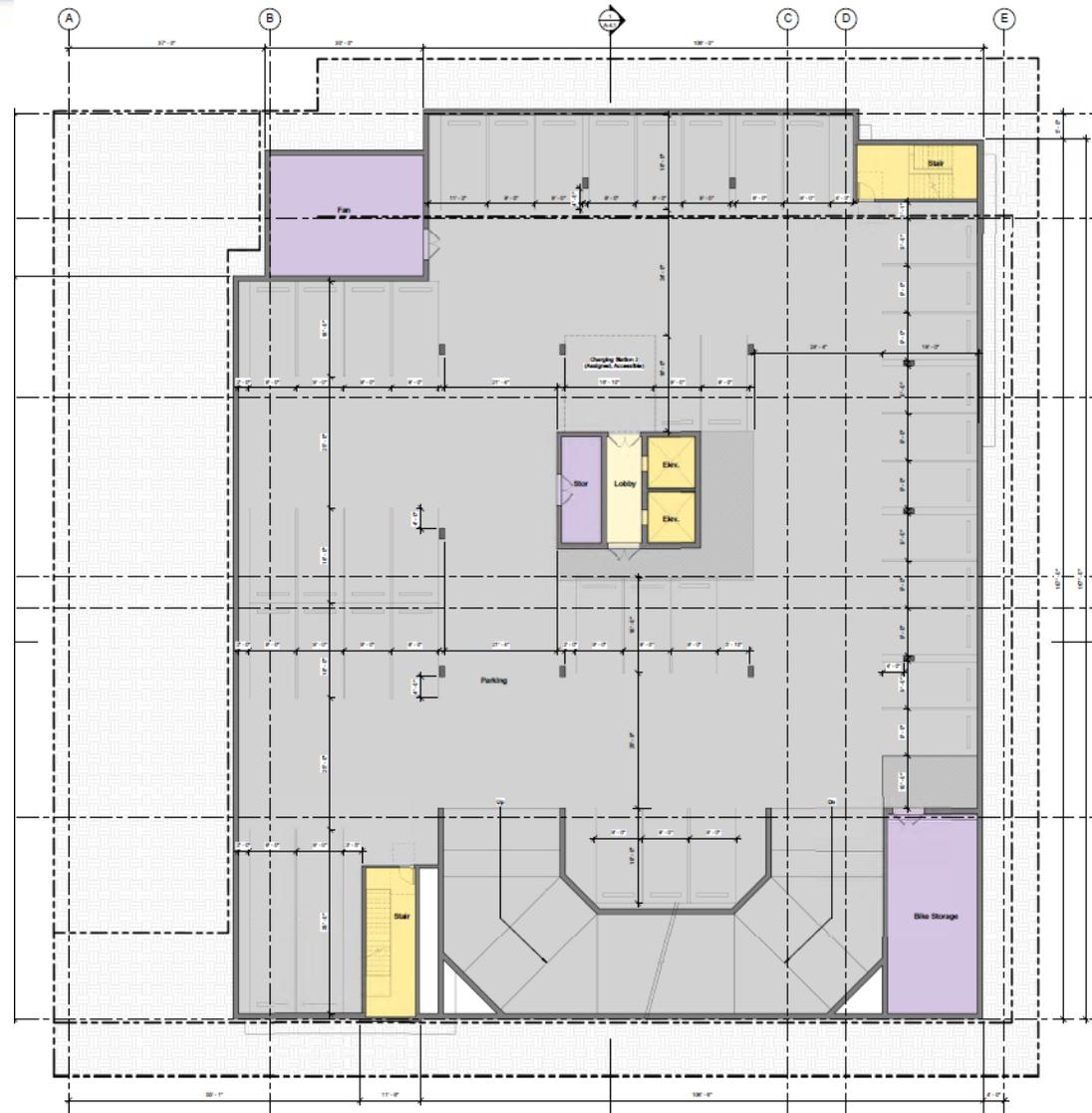
Planning & Community Development Department





AHCP #11869

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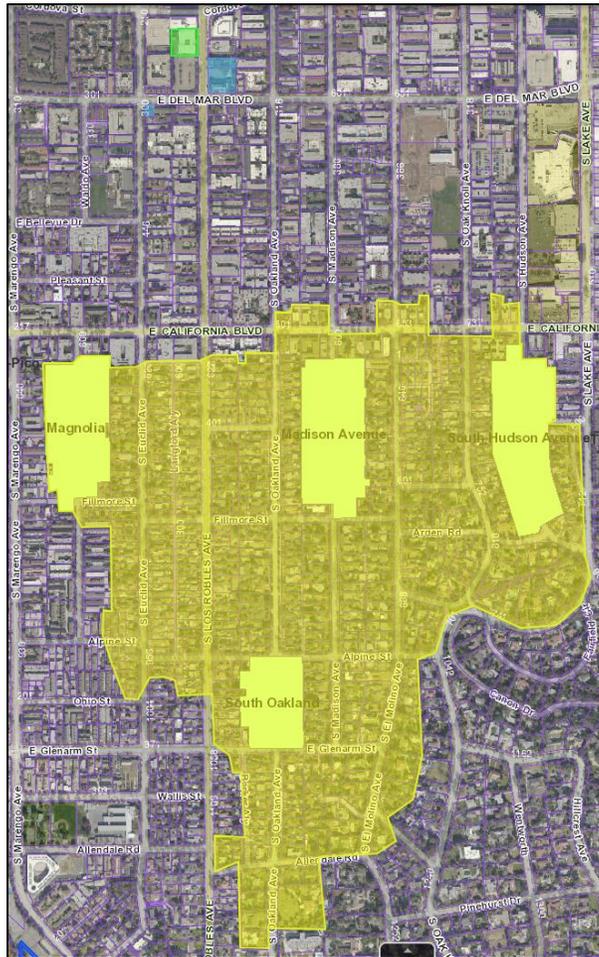


PASADENA



Potential Landmark District

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Noise and Vibration Analysis

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- A Noise and Vibration Analysis was prepared for the project site to determine potential noise and vibration impacts as they relate to the proposed construction activities (short term impacts) and to the operational characteristics (long term impacts) of the use.
- During construction, maximum construction noise levels would not exceed the City's Noise Ordinance thresholds of 85 weighted dBA at 100'.
- Vibration generated by the project's construction equipment would not be expected to generate strongly perceptible levels of vibration at the nearest uses and would result in less than significant impacts related to vibration annoyance and structural damage.



Noise and Vibration Analysis (cont'd)

Planning & Community Development Department

- Threshold of significance for operational noise, established in the City's Noise Ordinance, prohibits the making of noise that exceeds the ambient noise levels at the property line of any property by more than 5 dBA.
- Existing traffic-related ambient noise level ranges from 67.2 to 68.9 dBA. Project-related traffic would result in increases no greater than 0.1 dBA.
- Project would increase the ambient noise levels a negligible amount above existing conditions.



Noise and Vibration Analysis (cont'd)

Planning & Community Development Department

- Given the adjacency of two approved projects, 245 South Los Robles Avenue (131-unit mixed-use building to the north) and the 399 East Del Mar Boulevard (a 55-unit multi-family residential building to the south), cumulative noise and vibration impacts were analyzed.
- The combined construction noise level would be approximately 80 dBA at 100 feet, which would be less than the 85 dBA at 100 feet threshold.
- The cumulative traffic noise level increase would be much less than 3 dBA and, therefore, cumulative traffic noise impacts would be less than significant.
- Man-made vibration issues are usually confined to short distances from the source (i.e., 50 feet or less). Due to the rapid attenuation characteristics of ground-borne vibration, there is no expected potential for cumulative construction- or operational-period impacts with respect to ground-borne vibration from related projects.



Noise and Vibration Analysis (cont'd)

Planning & Community Development Department

- ESA prepared a Technical Memorandum that expands upon the operational traffic noise analysis for the project by analyzing additional roadway segments in the project vicinity for the following scenarios: existing; existing plus project; and existing plus project plus related projects.
- Incorporates traffic data supplied from DOT and includes portions of Los Robles Avenue (from Colorado Boulevard to south of California Boulevard), Del Mar Boulevard (east and west of Los Robles Avenue), and California Boulevard (east and west of Los Robles Avenue).



Noise and Vibration Analysis (cont'd)

Planning & Community Development Department

- Additional analysis concluded that operation of the project would not result in a substantial increase in project-related traffic noise levels over existing traffic noise levels.
- The increase in noise level would be 0.1 dBA CNEL, which would be less than the significance threshold of a 5 dBA CNEL increase or the most stringent significance threshold of a 3 dBA CNEL increase to or within the “normally unacceptable” community noise and land use noise compatibility category.
- When considering cumulative related projects, the project plus related projects would generate an increase in roadway noise levels much less than 1 dBA. The maximum noise level increase would be 0.2 dBA CNEL, which would be less than the significance threshold of a 5 dBA CNEL.



Historic Resource Assessment

Planning & Community Development Department

- There are no known or identified historic resources on the subject site.
- At the prior hearings, project opponents argued that the existing office building on the property is an eligible historic resource.
- The City's DHP staff evaluated the subject site and existing building upon initial receipt of the application and determined that the building is not an eligible historic resource.
- Sapphos Environmental, at the request of the applicant, studied the eligibility of the building as a historic resource and concluded that the building is not eligible as a historic resource on the federal, state or local levels.



Historic Resource Assessment (cont'd)

Planning & Community Development Department

- In response to the opponents' claims, ESA prepared an extensive Historic Resource Assessment and CEQA Impacts Analysis.
- The building on the subject property was evaluated under the following historical and architectural themes: Corporate Modernism: Late Modernism (1969-1990).
- Based on the analysis presented in the Assessment, including the subject property's historical association, architectural style, and property type, the subject property is not individually significant under the applicable federal, state, and local criteria nor is it eligible as a contributor to a potential historic district.
- Therefore, the property is not considered a historical resource pursuant to CEQA.