



Agenda Report

July 22, 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:

On January 16, 2019, the Hearing Officer considered, at its regularly noticed public hearing, Affordable Housing Concession Permit #11879. The applicant requested two affordable housing concessions and private tree removal to 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), 4,210 square feet of commercial office, and 101 parking spaces. The request included:

- 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 62 feet (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.

Staff recommended the Hearing Officer approve Affordable Housing Concession Permit #11879. Staff assessed, based on the analyses, that the findings necessary for approving the Affordable Housing Concession Permit and Private Tree Removal Permit could be made. Staff concluded that the development resulting from the requested concessions was not expected to result in any adverse impacts to neighboring uses. It was demonstrated that the concessions result in identifiable and actual cost reductions to provide for affordable housing costs. It was also shown that the project would not have a specific adverse impact on health or safety, or on the physical environment, and would not have an adverse impact on a property listed on the California Register of Historic Places. Finally, staff demonstrated that the required findings could be made for the removal of protected trees. At the conclusion of the public hearing, and after public testimony, the Hearing Officer adopted the environmental determination and approved Affordable Housing Concession Permit #11879.

On January 28, 2019, Erika Foy submitted an appeal application to the Board of Zoning Appeals citing disagreement with the decision of the Hearing Officer. On April 3, 2019, the Board of Zoning Appeals conducted a noticed public hearing on this item and voted to continue the hearing to a date uncertain. The continued hearing was noticed and held on June 5, 2019, during which the Board of Zoning Appeals voted (3-0) to adopt the environmental determination and approve AHCP #11879.

On June 17, 2019, a group consisting of Pasadena Heritage, the Women's City Club of Pasadena, and the Blinn House Foundation, submitted an appeal application to the City Council. Staff recommends that the City Council uphold the Board of Zoning Appeals' June 5, 2019, decision, approving Affordable Housing Concession Permit #11879 based on the findings in Attachment A.

BACKGROUND:

The applicant, Mike Balian, submitted an Affordable Housing Concession Permit application to facilitate the construction of a mixed-use project. An existing four-story building (Madison Professional Building) and surface parking lot would be demolished and replaced by the project. The mixed-use project would include:

- 49 dwelling units (45 market rate units for sale, 4 "very low-income" units for rent)
- 5-stories (62 feet tall)
- 72,000 square feet
- 4,210 commercial square feet (office)
- 101 parking spaces (at grade and one level of subterranean parking)

The subject site is located in the Central District Specific Plan, Walnut Housing subdistrict (CD-3) zoning district, which permits mixed-use projects by-right. The maximum residential density allowed is 48 dwelling units per acre, or 36 units based on

a site area of 32,000 square feet. To achieve the proposed density of 49 units, the applicant applied State-mandated density bonus provisions in the Zoning Code. The provisions allow for an increase in the unit count without discretionary approval, provided a percentage of the units are dedicated for affordable households (i.e. very low-income, low-income, moderate-income). The four very low-income units proposed represent more than 11 percent of the base 36 units. Pursuant to Table 4-3 (Increase in Allowable Density for Very Low-Income Units), Zoning Code Section 17.43.040 (Density Bonus Allowance), the percentage of very low-income units proposed qualifies the project for a 35 percent density bonus, or 49 total units. The applicant's proposal includes 49 units, and complies.

Consistent with California State Law (Government Code Section 65915), and Zoning Code Section 17.43.050 (Concessions and Other Incentives), applicants that use density bonus provisions may request one or more concessions or other incentives through an Affordable Housing Concession Permit (AHCP) application. Since the proposal dedicates at least 10 percent of the units (10% of base 36-unit density) to very low-income households, the applicant is eligible to request two concessions. The request includes the following:

- i. A concession to exceed the maximum FAR. The applicant proposes a 2.25 FAR where Table 3-9 (Central District Maximum Floor Area Ratio), Zoning Code Section 17.30.040 (CD General Development Standards) limits the maximum FAR to 1.5; and
- ii. A concession to exceed the maximum height limit. The applicant proposes a building height of 62 feet (no height averaging) where Table 3-8 (Central District Maximum Height), Zoning Code Section 17.30.040 limits the maximum to 50 feet, or 65 feet with height averaging.

Along with the requested concessions, the applicant filed applications to remove four protected trees on private property:

- iii. A 13" diameter-at-breast height (DBH) Brush Cherry tree (*Syzygium paniculatum*);
- iv. A 21" DBH Silver Dollar Gum tree (*Eucalyptus polyanthemos*);
- v. A 27" DBH Ribbon Gum tree (*Eucalyptus viminalis*); and
- vi. A 23" DBH Silver Dollar Gum tree (*Eucalyptus polyanthemos*).

No other concessions or waivers are proposed. The applicant intends to comply with all other applicable development standards required by the Zoning Code, including but not limited to setbacks, parking, and open space. A final review of project compliance would occur during the plan check process, prior to the issuance of a Building Permit. The project is also subject to Design Review by the Design Commission. On October 10,

2017, the applicant completed the first stage of Design Review (Preliminary Consultation). The Design Commission provided the applicant with preliminary comments associated with the preliminary design. Two additional stages of Design Review (Concept Design Review and Final Design Review) would follow this AHCP request, if approved.

Hearing Officer Public Hearing

On January 16, 2019, the Hearing Officer considered at a noticed public hearing the Affordable Housing Concession Permit application. Staff presented the project and recommended that the Hearing Officer adopt the environmental determination and approve Affordable Housing Concession Permit #11879.

At the hearing, the applicant provided an overview of the project. During public testimony, members of the public spoke in opposition. At the conclusion of public testimony, the Hearing Officer approved Affordable Housing Concession Permit #11879 as recommended by staff. This decision was based on the findings and the conditions of approval included in Attachment C (Hearing Officer Decision Letter dated January 23, 2019). Prior to reaching this decision, and in advance of the hearing date, the Hearing Officer was provided with a staff report and several technical studies. This included a financial analysis that concluded there was not sufficient evidence to reject the requested concessions. To supplement the decision, the Hearing Officer provided an addendum with explanation for approval of the Affordable Housing Concession Permit (Attachment D).

Board of Zoning Appeal's Public Hearing

On January 28, 2019, Erika Foy submitted an appeal application to the Board of Zoning Appeals.

On April 3, 2019, the Board of Zoning Appeals considered at a noticed public hearing, an appeal of the Hearing Officer's decision to approve Affordable Housing Concession Permit #11879. A response to each of the appellant's claims was provided to the Board of Zoning appeals as a component of the April 3, 2019, Board of Zoning Appeals staff report. Staff presented the project and recommended that the Board of Zoning Appeals adopt the environmental determination and approve Affordable Housing Concession Permit #11879. At the hearing, the applicant spoke in favor of the project. During public testimony, the appellant, along with members of the public spoke in opposition. At the conclusion of the meeting, and after considering public testimony, the Board of Zoning Appeals voted to continue the hearing to a date uncertain in order to obtain additional information. During public testimony, discussion focused on the applicability of the California Environmental Quality Act's Class 32 Categorical Exemption and whether the project size would have a substantial adverse impact on the adjacent historic districts and associated resources, in particular the Blinn House at 160 North Oakland Avenue. At the conclusion of the hearing, the Board of Zoning Appeals requested a line-of-sight drawing showing the project in relation to the Blinn House as viewed from the

intersection of Oakland Avenue and Ford Place (to the west). The Board of Zoning Appeals also requested the City present an overview of the Class 32 Categorical Exemption and exceptions and the applicability of the Exemption to the proposed project.

On June 5, 2019, the continued item was considered at a noticed public hearing. Staff presented the project and recommended that the Board of Zoning Appeals adopt the environmental determination and approve Affordable Housing Concession Permit #11879. Per the Board's request, the staff's presentation included an architectural line-of-sight exhibit, and photo renderings of the project within the context of the surrounding development (Attachment M). These items were also provided as part of the June 5, 2019, Board of Zoning Appeals staff report. The staff also presented an overview of the Class 32 exemption and exceptions and explained how the exemption applied to the project. The appellant spoke in opposition of the project while the applicant spoke in favor. Members of the public who spoke expressed both opposition and support of the project. At the conclusion of the meeting, and after hearing public testimony, the Board of Zoning Appeals motioned to uphold the Hearing Officer's decision to adopt the environmental determination and to approve Affordable Housing Concession Permit #11879. That motion resulted in a 3-0 vote by the three members present. Prior to reaching this decision, and in advance of the hearing date, the Board was provided with a staff report and several technical studies. This included a financial analysis (Attachment G) that concluded there was not sufficient evidence to reject the requested concessions. It also included a Class 32 Summary Report (Attachment I) that evaluated the project's consistency with the requirements for a Class 32 exemption. The report concluded that the project is eligible for a Class 32 Categorical Exemption pursuant to the State CEQA Guidelines §15332.

On June 17, 2019, a group consisting of Pasadena Heritage, the Women's City Club of Pasadena, and the Blinn House Foundation, submitted an appeal application (Attachment F) to the City Council. 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.

APPEAL OF BOARD OF ZONING APPEALS DECISION:

The appellant has cited the following reasons for the appeal of the Board of Zoning Appeals' decision:

- CEQA determination is incorrect;
- Concessions will have adverse impacts on historic resources;
- KMA financial analysis is incorrect;
- Significant tree impacts;
- Required findings cannot be made;
- Significant errors and omissions;
- Board of Zoning Appeals' decision failed to consider evidence;
- Board of Zoning Appeals' decision not supported by substantial evidence;

- Board of Zoning Appeals' decision is arbitrary and capricious;
- General Plan inconsistency;
- Zoning inconsistency;
- Project does not qualify for infill CEQA exemption due to exception; and
- Finding for tree removal permit cannot be made

Responses to the Appeal:

CEQA Determination is Incorrect

The appellant reasons the Class 32 CEQA (In-Fill Development Projects) exemption is not applicable based on the following:

CLAIM: The proposed project will cause a substantial adverse change in the significance of [Ford Place Historic District inclusive of Edmund Blinn House and Pasadena Playhouse Historic District inclusive of Scottish Rite Cathedral] historic resources. The mass, height and location on site of the proposed project will cause the project to loom over, dominate and overwhelm these resources with such impacts as to alter their historic setting and cultural landscape, historic character, and historic context, including, but not limited to, impacting sightlines and light and shade/shadow impacts. The Madison Professional Building, which is slated for demolition as part of the project, in fact, is identified on Page 55 of the ESA Cultural Resources Assessment as an Historical Resource under CEQA. The ESA Cultural Resources Assessment then concludes that the Madison Professional Building is not eligible for any sort of historic listing, which conclusion is incomplete and in error.

RESPONSE: The City's review of the project included a cultural resource assessment prepared by environmental consulting firm ESA. The cultural resource assessment identified seven previously recorded historic architectural resources within 0.25-mile of the site. An additional 12 historic resources were also identified within 0.25-mile following a search of the City's California Historical Resources Inventory Database. Identified resources within the study area include the Ford Place Historic District, Pasadena Playhouse Historic District, Edmund Blinn House (contributing resource to Ford Place Historic District and individually designated), and Scottish Rite Cathedral (contributing resource to Pasadena Playhouse Historic District), all specifically named by the appellant in the appeal. The subject property and/or improvements were not identified as a resource.

Due to the site's proximity to the identified resources, ESA conducted an impact analysis. The purpose was to determine if the proposed project would result in a substantial material change to the integrity of historical resources outside the project site such that the resources' significance would be materially impaired, which is the CEQA threshold for determining significant impacts (ie. would it still be eligible following construction and operation of the project? Would it still be able to convey the historical significance?) The analysis explains that the National Register and California Register recognize a property's integrity through seven aspects or qualities: location, design,

setting, materials, workmanship, feeling, and association. Eligible properties should retain several, if not most, of these aspects. Both Registers require that a resource retain sufficient integrity to convey its significance, and the property must retain the essential physical features that enable it to convey its historical identity.

ESA concluded that the proposed project would not constitute a substantial adverse change to the Ford Place Historic District resource resulting in it no longer being able to convey its significance; it would still be an eligible resource. The Ford Place Historic District, is significant architecturally for its distinctive examples of intact period architectural styles that have a common relationship of site plan, scale and materials. The proposed project would not alter any of the character-defining features identified in the nomination of the Ford Place Historic District and would remain an eligible resource. The Blinn House is significant because it is an example of Chicago architect George Washington Maher's residential work on the west coast and is an example of Prairie School architecture, a Midwestern style that is not commonly found in the Pasadena area. ESA concluded the proposed project would not result in a substantial adverse change to the Blinn House, and would not materially impact its integrity. The Scottish Rite Cathedral and the Playhouse Historic District are further away from the project site and would not be indirectly impacted by the project because primary views would not be impacted. As such, ESA concluded that no impacts are anticipated to historical resources.

In regards to the appellant's discussion that the Blinn house is fragile, ESA's Noise Technical Report (Attachment I) considered noise and vibration impacts to the historic buildings located on the Fuller Theological Seminary campus directly west of the project site (inclusive of the Blinn House property). The study applied the most stringent vibration threshold, which is 0.12 inches-per-second PPV (peak particle velocity). The peak level represents the maximum instantaneous peak of the vibration signal. Vibrations can be measured in the vertical, horizontal longitudinal, or horizontal transverse directions. Ground vibrations are most often greatest and can damage buildings, when they propagate in the vertical direction. Therefore, the analysis of ground-borne vibration associated with the project was evaluated in the vertical direction. The 0.12 PPV threshold applies to extremely fragile historic buildings, ruins, and ancient monuments. Noise and vibration impacts to sensitive receptors, including the historic buildings located on the Fuller Theological Seminary campus directly west of the project site (inclusive of the Blinn House property) would be less than significant. Notwithstanding, a condition of approval was included requiring adherence to a vibration management plan, which includes: 1) no use of vibratory rollers, pile drivers, pavement breakers, or blasting; and 2) the project will observe the 3', 11', 18' and 20' restrictions for small bulldozers, jackhammers, loading trucks, and large bulldozers respectively measured from nearest structures in Ford Place.

ESA's cultural resource assessment also evaluated the Madison Professional Building for listing in the National Register, California Register, and local designation. The evaluation found that the Madison Professional Building does not meet the definition of a historical resource as outlined in CEQA and does not satisfy the eligibility criteria for

listing on the National Register, California Register, or locally. Page 55 of the ESA report states, “the Madison Professional Building was evaluated for listing in the National Register, California Register, and for local designation and is recommended not eligible. As such, it does not qualify as a historical resource under CEQA and the project would not result in a direct impact to historical resources. Any typographical errors were corrected. This determination is consistent with the City’s Design and Historic Preservation staff, who also determined that the existing building is not an eligible resource.

CLAIM: There is substantial evidence that the proposed project involves “unusual circumstances,” and that there is a reasonable probability that these circumstances will cause, or have caused, a significant environmental impact requiring environmental review. Such “unusual circumstances” here include:

- Two National Register Districts abutting a development site on several sides is a highly unusual circumstance;
- The Ford Historic District use is not urban in character; and
- There is a Historical Resource on the Project site identified by ESA in its Cultural Resources Assessment. An identified Historical Resource [Madison Professional Building] caught in such a vise between two National Register Historic Districts is a highly unusual circumstance.

RESPONSE: There are 20 national register historic districts in the City of Pasadena. Like many properties in the City, the subject site is located between, adjacent, or abutting one of these historic districts. The presence of historic districts abutting a development site is not an unusual circumstance in the City of Pasadena. The City regularly, as a normal course of practice, reviews and processes applications for new development in the vicinity of historic districts.

Since the beginning of 2018, three nearby projects abutting historic districts received discretionary approvals for development. This includes the Union Street Court Project at 635 East Union Street, the Olivewood North project at 535 East Union Street, and the Olivewood South project at 54 North Oakland Avenue. The Union Street Court Project received approvals for a 50-foot tall, 40-unit project that included removal of three protected trees on private property. Olivewood North received approval for a 65-foot tall, 86-unit project that included a density bonus in excess of 35 percent, two affordable housing concessions (exceed FAR and height), and removal of five protected trees on private property. Olivewood South received approval for a 65-foot tall, 55-unit project, authorizing a density bonus in excess of 35 percent, two affordable housing concessions (exceed FAR and height), and removal of one protected tree on private property.

The Ford Place and/or Pasadena Playhouse Historic Districts abut the three nearby projects, the same as the subject property. The abutting westerly property (Olivewood North) also retains the same lot depth from Madison Avenue as the subject property. Therefore, the location of the subject site could not represent an “unusual

circumstance,” let alone a circumstance creating an environmental risk that does not generally exist for other in-fill projects.

The claim that the Ford Historic District use is not urban in character does not explain an unusual circumstance. The Ford Place Historic District is not a use, but rather a collection of structures and buildings that predominantly functions as a private degree granting academic institution (Fuller Theological Seminary). Further, the Madison Professional Building is not a historic resource and was not found to be eligible for listing as explained prior. Considering several sites in the City, adjoin or are located between National Register Historic Districts, the subject condition cannot represent an unusual circumstance.

CLAIM: The project site is not substantially surrounded by urban uses; the immediately adjacent Ford Place Historic District is not urban in current use and character.

RESPONSE: The Class 32 exemption consists of projects characterized as in-fill development meeting five conditions. One condition requires that the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. Pursuant to CEQA (Public Resources Code Section 21072) a “qualified urban use” means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. The existing use of the site is a qualified urban use and the adjacent Ford Place Historic District consists of qualified urban uses (e.g. use and function includes a private degree granting academic institution, clubhouse, etc.) as defined by CEQA. Other surrounding properties in the vicinity are improved with residential developments, office, and religious facilities, all urban uses. Additionally, CEQA defines an “urbanized area” as an incorporated city that has a population of at least 100,000 persons (Public Resources Code Section 21071). Pasadena’s population exceeds 100,000 persons, and therefore is an urbanized area.

CLAIM: The project is inconsistent with a number of General Plan Land Use Element Goals and Policies and a number of Central District Specific Plan Objectives, Goals and Design Concepts.

RESPONSE: The “Analysis” section of this report describes the project’s consistency with the General Plan in detail. Policies raised by the appellant that speak to project design (eg. context, scale, massing, transitions, character, modulation, form, urban design, etc.) are evaluated during the required Design Review process. Consistency with applicable design related policies is required for Design Review approval. Further, the project complies with all applicable requirements in the Zoning Code (inclusive of the Central District Specific Plan) with the exception of the requested concessions. In general, CEQA requires consistency, not conformity with every policy in the General Plan. No project is expected, nor will they meet every goal or policy. The General Plan contains a variety of policies intended to implement competing development goals and objectives. Upon evaluation of each project, staff must weigh and balance the various policies of the General Plan in determining consistency.

CLAIM: The ESA noise and vibration analysis fails completely to consider, analyze and mitigate potential significant vibration and noise impacts, including on a cumulative basis, of the proposed project during construction and an ongoing operational basis, on the sensitive historical resources in the Ford Place Historic District. Of particular concern is the Blinn House property.

RESPONSE: ESA evaluated the construction and operational noise and vibration impacts to noise sensitive receptors based on applicable standards and thresholds (Appendix G of State CEQA Guidelines). This included an evaluation of cumulative construction, operation, and ground-borne vibration impacts. The Ford Place Historic District inclusive of the Blinn House were specifically identified in the analysis (denoted R3) as a sensitive receptor location and analyzed (Figure 3: Noise Measurement Locations and Sensitive Receptor Locations Nearest to the Project Site).

As explained in the prior response, the analysis found that anticipated noise and vibration impacts from construction and project operations on the structures west of the project site (inclusive of the Blinn House property) would be less than significant. On a cumulative basis, construction noise, operational noise, and ground-borne vibration impacts were also found to be less than significant. As for the cumulative impact discussion, it accounted for the Union Street Court project at 635 East Union Street, the Olivewood North project at 535 East Union Street and the Olivewood South project at 54 North Oakland Avenue.

Adverse Impact on Historic Resources

CLAIM: The requested project concessions will have adverse impacts on historic resources listed on the National and California Registers, and, therefore, required finding number two cannot be made.

RESPONSE: To reject the concession based on finding two would require demonstration of a specific, adverse impact as defined in State law. The appellant does not provide any evidence of an adverse impact based on objective, identified written public health or safety standards, policies, or conditions. Further, 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.

Financial Analysis

The appellant claims the financial analysis prepared by Keyser Marston Associates, Inc (KMA) is in error, inaccurate and incomplete through four general points.

CLAIM: There is an obvious mistake on Pages 2 and 6 of Attachment 1. The analyst accords the same percentage weight to the costs associated with the site area for residential for both scenarios. In fact, the correct percentage for the first scenario is 97 percent, which reduces the total construction cost in this scenario to \$474,000, or the

same construction cost in the second scenario. Thus, the concession does not result in the identifiable and actual cost reduction required under the applicable Government Code section.

RESPONSE: KMA associated the costs between the residential and office components based on the relative site area allocated to each component. The resulting allocation was 92 percent to the residential component and eight percent to the office component. KMA provided an addendum (Attachment H) further explaining the rationale. In addition, the methodology used is a reasonable approach to evaluate cost reductions allowed by Density Bonus Law. Moreover, the appellant does not explain how they arrived at 97 percent or substantiate how that is more correct than what was used in the analysis.

CLAIM: KMA has been inconsistent about including or excluding the “construction cost” of Pasadena's In Lieu fee in its analyses for the City of Pasadena. In this case, when measured consistently with other projects and excluding the “construction cost” of the In Lieu fee (since the applicant could meet the inclusionary housing provisions on site), the cost in Scenario 1 drops to about \$450,000, much less than building the larger project.

RESPONSE: The KMA addendum provides a detailed explanation of why including the in-lieu fee in the Base Case Scenario, as suggested by the appellant, would inaccurately twice-impose the City's affordable housing requirements on the proposed project.

CLAIM: There is a misstatement on Page 10 of the KMA Financial analysis that says “It is likely that the only way to physically accommodate this additional area (granted by the FAR concession, necessary to house the additional 35% bonus density on the site) is to grant the Height Concession being requested by the applicant. This is a blanket statement made by an econometrician unfamiliar with land use planning, and is categorically false.

RESPONSE: The City cannot physically preclude the construction of a project meeting the densities or with the concessions or incentives permitted by State Density Bonus Law. The applicant has agreed to construct a development meeting the requirements of the Density Bonus Law. According to KMA's analysis, the units in the proposed project fall within the range of the unit mix and unit sizes found in new construction projects in the vicinity. Requiring that the applicant construct the density-bonus-qualifying project and adhere to the City's height limit (when concessions result in identifiable and actual cost reductions to provide for affordable housing costs) may hinder the development. If disapproved, the applicant could potentially claim that the City's action rendered the proposed density bonus project financially infeasible.

CLAIM: The biggest inadequacy of the KMA Financial Analysis is the use of bad and incorrect sales “comp” data. The numbers simply do not add up to KMA's findings. Last, the assertion that the \$314,000 difference in magnitude is in error, and is not insignificant.

RESPONSE: The appellant does not specify how the data is bad or incorrect. KMA explains in their analysis that the \$314,000 value created by the proposed density bonus and the requested concessions represents 1.2 percent of the project's estimated construction cost. While the appellant disagrees with KMA's assessment that the figure is insignificant, no explanation is given why \$314,000 is a significant figure. As explained in the addendum, comparable data used by KMA was based on a search of closed sales for condominiums located in zip codes 91101, 91105, and 91106.

Significant tree impacts

CLAIM: The proposed project's subterranean garage will severely damage or kill a minimum of 16 offsite, mature trees on adjacent properties, including, but not limited to, significant trees located within the Ford Place Historic District. CEQA Mitigation measures are required to protect these offsite adjacent trees.

RESPONSE: The arborist report prepared by Carlberg Associates identifies four protected trees offsite within the vicinity of the project site (three to the south, one to the north). All other trees identified offsite do not meet the criteria for protection pursuant to the City's tree protection ordinance, Municipal Code Chapter 8.52 (City Trees and Tree Protection Ordinance). Offsite trees on private property that do not qualify for protection are not protected by the City. Instead, protection or agreed upon removal is between private property owners. With that said, the Board of Zoning Appeals adopted a condition of approval (Attachment E, Condition #11) requiring the applicant submit a tree protection plan in order to preserve protected trees on- and off-site.

CEQA mitigation measures do not apply because staff's analysis, and the Board of Zoning Appeals' decision, determined the project is exempt from CEQA. Therefore, there is no applicable mitigation. Additionally, the appellant's assumptions do not consider prior circumstances or afford the applicant an opportunity to demonstrate protection. Protected trees identified to the south were previously approved for removal and the applicant's plan shows the subterranean garage set away from the protected trees to the north.

Required findings cannot be made

CLAIM: Findings 1, 2 and 3 cannot be made.

RESPONSE: It is staff's position that the findings can be made and has provided an analysis as well as responses based on several technical reports. The Board of Zoning Appeals determined that the findings could be made in approving the application. Staff has provided responses to findings in Attachment A.

Significant errors and omissions

CLAIM: The decision of the Board of Zoning Appeals is invalid in that the record includes numerous and significant errors, omissions, inaccuracies, contradictions and

inconsistencies in the description and analyses of the proposed project, and, in applying and executing proper administrative procedures to the proposed project.

RESPONSE: The appellant does not specify what is in error, omitted, inaccurate, or inconsistent, or where procedures were not executed or applied properly. The Board of Zoning Appeals was provided with a detailed staff report, in addition to technical studies prepared by the City's consultants for review prior to the hearing date. Public noticing of the project was provided pursuant to the requirements in the Municipal Code.

Board of Zoning Appeals' decision failed to consider evidence

CLAIM: The Board of Zoning Appeals' decision ignored and failed to consider significant, substantial and relevant evidence submitted concerning the proposed project.

RESPONSE: The appellant does not specify what the Board of Zoning Appeals failed to consider. The Board of Zoning Appeals was provided with a detailed staff report, in addition to technical studies prepared by the City's consultants for review prior to the hearing date. The Board of Zoning Appeals considered public comment and written correspondence.

Board of Zoning Appeals' decision not supported by substantial evidence

CLAIM: The Board of Zoning Appeals' decision is not supported by substantial evidence.

RESPONSE: The appellant does not substantiate this claim. The Board of Zoning Appeals was provided with a detailed staff report, in addition to technical studies prepared by the City's consultants for review prior to the hearing date.

Board of Zoning Appeals' decision is arbitrary and capricious

CLAIM: The Board of Zoning Appeals' decision is arbitrary and capricious and is in error, and, constitutes a breach of both administrative discretion and quasi-judicial procedure and process.

RESPONSE: The appellant does not specify how the Board of Zoning Appeals is in error, or breached procedure and process. As stated, the Board of Zoning Appeals was provided with a detailed staff report, in addition to technical studies prepared by the City's consultants for review prior to the hearing date. Staff delivered an oral presentation at the April 3rd and June 5th hearings. The Board of Zoning Appeals reviewed all correspondence received before arriving at a decision.

General Plan inconsistency

CLAIM: In order to be eligible for a Class 32 Exemption, the project must be consistent with all applicable General Plan policies. We find that the project is not consistent with

multiple principles and policies in Pasadena's General Plan, and also Pasadena's Central District Specific Plan policy (which is incorporated in Pasadena's Zoning Code).

RESPONSE: Refer to the General Plan consistency-related response provided in this staff report on page 9.

Zoning inconsistency

CLAIM: Figure 3-9 in the Pasadena Municipal Code sets maximum FARs for parcels within the Central District. Condition A of CEQA §15332 mandates that the project be consistent with applicable zoning designation and regulation. As proposed, the project does not comply with this mandate. This project exceeds the maximum allowable FAR and therefore should not be granted a Class 32 Categorical Exemption.

RESPONSE: If the AHCP is approved, the project would exceed the standard for FAR. However, Density Bonus law has exempted the project from complying with this specific development standard. The requested AHCP renders this standard inapplicable to the project as confirmed by the *Wollmer v City of Berkeley* CEQA case. Since the standard for FAR is not applicable, it cannot itself prevent application of the Class 32 exemption.

Project does not qualify for infill CEQA exemption due to exception

CLAIM: We do not believe that the project qualifies for the "Infill" CEQA exemption due to its impact on historic resources [specifically 15300.2. Exceptions (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource]. A categorical exemption cannot lawfully be used if there is even so much as a fair argument.

RESPONSE: As provided in a prior response, a Cultural Resource Assessment determined that the proposed project would not cause a substantial adverse change in the significance of any historical resources. All nearby resources would remain eligible for inclusion in their respective registers of historical resources. Noise and vibration impacts to the historic buildings located on the Fuller Theological Seminary campus directly west of the project site (inclusive of the Blinn House property) would be less than significant. There is no evidence in the record that demonstrates the project would result in a substantial adverse change in the significance of a historical resource as defined in CEQA. While the staff remains sensitive to the concerns raised by the appellant regarding the adjacent historic resources, the analysis concluded the adjacent historic resources would still be eligible following construction and operation of the project, and would they still be able to convey their historical significance. The presence of a taller building on-site would not constitute a substantial adverse change to the resources resulting in them no longer being able to convey their significance.

The appellant asserts that there is a "fair argument" that the project would cause a substantial adverse change in the significance of a historical resource. However, the appellant presents no substantial evidence to support such a fair argument, nor does such substantial evidence exist in the record, as is required by CEQA. Pursuant to

CEQA Guidelines Section 15384, substantial evidence consists of facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence (CEQA Guidelines Section 15384). The appellant notes several factors that indicate that the project may have some level of impact on nearby historical resources (e.g., construction vibrations and changes in setting), but does not indicate how any such impacts would result in the substantial adverse change in the significance of a historical resource. As noted above, the City has considered all such potential physical changes and has concluded, based on detailed analysis in the record, that all historical resources would remain eligible for designation on their respective registers/repositories of historical resources after the project is implemented and that the project would not materially impair the significance of any historical resources. In coming to this conclusion, the City also considered the potential fragility of the Blinn House. (The appellant notes that previous surveys have found the structure to be fragile and in need of repair, but no such surveys have been provided to the City or specifically cited.) To ensure the potential fragility of the Blinn House was taken into account, the City applied the most stringent vibration standard to the analysis--0.12 PPV which applies to extremely fragile historic buildings, ruins, and ancient monuments.

The appellant indicates the Secretary of the Interior's Standards for Rehabilitation serves as the key measure for whether the proposed project will cause a significant adverse effect on historic resources. These standards pertain to historic buildings, and do not apply, because the Madison Professional Building is not historic. They further do not apply to non-historic properties adjacent to historic properties.

Finding for tree removal permit cannot be made

CLAIM: Disagree that tree canopies would be sustainable over the long term. A tree removal permit would effectively be permitting the replacement of mature trees with trees that would never reach full maturity and provide appropriate canopies.

RESPONSE: The landscape plan that identifies replacement tree species and location was prepared by a professional landscape architect. The species of *Ginkgo Biloba* and *Hymenosporum Flavum* visible from the street were selected because they are narrow reaching, upright trees that can survive close to the building for the long term. There was a stated desire from the applicant for the trees to interact with the building's form. Other trees proposed in the courtyard would be provided with adequate soil depth and a properly designed sub-structure to allow for long term survival according to the landscape architect.

ANALYSIS:

Affordable Housing Concession Permit - FAR and Height

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 described below, there is no evidence in the record of any of the above.

Financial Analysis

To assess the project for the first finding, the City forwarded the project's financial information to its financial consultant, Keyser Marston Associates (KMA) for analysis. KMA reviewed and prepared a density bonus analysis that analyzed the following development scenarios:

1. Base Case Scenario – 36 market rate condominium units, 4,210 square feet of net leasable office (6,002 square feet gross building area), and 77 parking spaces in compliance with zoning requirements; and
2. Proposed Project Scenario – 45 market rate condominiums, four very-low income rental units, 4,210 square feet of net leasable office (6,002 square feet gross building area), 101 parking spaces, and concessions for building height and FAR.

KMA determined that the net cost associated with providing four very-low income units is estimated at \$2,615,000. The requested density bonus and concessions is valued at \$2,929,000. The value created by the proposed density bonus and the two identified concessions is estimated to exceed the net cost associated with providing four very-low income units by \$314,000. This represents approximately 1.2 percent of the proposed project's estimated construction costs. KMA concluded that a difference of this

magnitude can be considered insignificant. In their analysis, KMA concludes that there is not sufficient evidence for the City to reject the height and FAR concessions requests under the financial evidence requirement parameters imposed by California Government Code Section 65915(d)(1)(A).

Project Impacts

State law defines a “specific, adverse impact” as 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 (Government Code 65589.5). To reject the concession based on the second finding would require demonstration of a specific, adverse impact as defined in State law. To demonstrate that the proposal would not have a specific adverse impact on public health, public safety, or the physical environment, and would not have an adverse impact on a property that is listed in the California Register of Historical Resources, the following analyses were undertaken:

- Traffic Impact Analysis

The Department of Transportation (DOT) prepared a Traffic Impact Analysis for the project. The study evaluated the project with 53 units, four more than the less intensive 49-unit AHCP proposal. The study considered the effect the project would have on existing neighborhood traffic volumes along the street segment of Madison Avenue between Walnut Street and Union Street and intersections within the vicinity of the project (Madison Avenue at Walnut Street and Madison Avenue at Union Street). A field observational survey was also conducted along Madison Avenue between Walnut Street and Union Street to document existing pedestrian and bicycle quality conditions. This is recognized as the Pedestrian Environmental Quality Index (PEQI) and Bicycle Environmental Quality Index (BEQI). Vehicle traffic features (i.e., number of lanes, vehicle speed, etc.) as well as street quality features (i.e., sidewalk widths and impediments, driveway cuts, land use characteristics, etc.) were collected for the east and west sides of the street. Environmental quality of non-vehicular modes must be improved when assessment of project study street segments and intersections reveal less than average conditions. DOT also conducted a separate analysis (referred to as the CEQA Evaluation) of the City’s five vehicular and multimodal performance measures that assess accessibility of different modes of travel when evaluating a project’s impact, as well as the project’s transportation impact to its community using adopted transportation performance measures that relate to vehicle miles traveled (VMT), vehicle trips (VT), proximity and quality of the bicycle network, proximity and quality of the transit network, and pedestrian accessibility.

The analyses concluded that the project is not expected to exceed adopted intersection caps or street segment caps and that there should be adequate transit capacity to have no significant transit impacts. The resulting PEQI score adjacent to the project is “high”

while the BEQI score is “average.” Therefore, the project would not cause a significant impact on the existing bicycle network or access to transit facilities. Further, the analyses determined that the project would not exceed the City’s significance thresholds for Vehicle Miles Traveled (VMT) per Capita, or Vehicle Trips (VT) per capita. It was also determined that the project would not cause a significant impact on the existing bicycle network, existing transit network, or proximity and quality of the pedestrian environment. Since the 49-unit AHCP project is less intensive than the 53-units studied, the analysis remains applicable.

As it relates to vehicular traffic, there would be no adverse impact on public health, public safety, or the physical environment.

- Noise and Vibration Analysis

Environmental Science Associates (ESA) conducted an acoustical study to evaluate the potential noise and vibration impacts associated with construction activities, surface transportation, and other aspects of project construction and operations that have the potential to impact noise sensitive land uses. The purpose of the report was to quantify the existing ambient noise environment at the project site and evaluate the construction (short term) and operational (long term) noise and vibration impacts to noise sensitive receptors (i.e., residential uses) based on applicable standards and thresholds. ESA concluded:

- i. Construction of the project would not exceed the City’s construction noise standards. Thus, the Project would not result in a substantial temporary or periodic increase in noise, and impacts would be less than significant;
- ii. Operation of the project would not exceed the City’s traffic or operational stationary source noise standards. Thus, the project would not result in a substantial permanent increase in ambient noise levels in the vicinity of the project above levels existing without the project, and impacts would be less than significant; and
- iii. The project would not result in the generation of excessive ground-borne vibration or ground-borne noise levels from construction or operational activities. Thus, the project would result in a less-than-significant impact from ground-borne vibration and ground-borne noise.

During on-site construction of the project, ESA found that construction activity would not generate noise levels in excess of the City’s Noise Ordinance of 85 weighted decibals (dBA) at 100 feet. They also determined that delivery and soil hauling truck trips, and construction worker trips that would occur throughout the construction period, would not substantially contribute to an increase in existing roadway noise levels. Construction related activity would be expected to only occur during the hours of 7:00 a.m. to 7:00 p.m. in compliance with the City’s Noise Ordinance. As such, the project would not exceed the significance thresholds. Construction noise impacts, haul truck noise

impacts, and construction worker trip noise would be less than significant, or result in a less than significant impact.

Long term operational impacts of the project would be generated by fixed mechanical equipment (heating, ventilation and air conditioning units within building and on rooftop) and automobile movements within the at-grade and subterranean parking facility. Refuse collection and project related traffic would also generate noise. Through general industry standard best practices and project design features, ESA found that operation of rooftop mechanical equipment would not exceed the City's thresholds of significance, and impacts would be less than significant. Noise level from parking structure activity would be approximately 42 dBA at 50 feet, below the measured ambient noise levels of 92 dBA. Therefore, impacts would be less than significant.

Project traffic noise levels would be generally similar to the existing traffic noise levels because the project would not generate substantially different traffic volumes compared to existing conditions. The proposed project's peak morning and afternoon traffic volumes would be essentially the same as existing conditions, with only a difference of four fewer trips in the morning and three additional trips in the afternoon. The estimated operational traffic noise levels would increase substantially less than the 3 dBA threshold, considered normally unacceptable. The existing traffic noise level is estimated at 57.8 dBA. Traffic noise level with the project is estimated at 58 dBA, and increase of 0.2 dBA. Therefore, impacts were found to be less than significant.

Construction equipment that may generate construction vibration and operational vibration that may spread through the ground were also found to be less than significant. The nearest vibration-sensitive receptors to the project site are located to the west on the Fuller Theological Seminary campus (inclusive of the Blinn House property) and the building directly north at 155 North Madison Avenue. The closest sensitive receptors (to the west) are considered historical and are located within the Ford Place Historic District. The sensitive receptors to the west are assumed to be Class IV, which are very sensitive to vibration and have a significance threshold of 0.12-inch-per-second. The sensitive receptor to the north is considered a Class III building with a vibration threshold of 0.2 inch-per-second. Based on their analysis, ESA concluded that none of the anticipated vibration levels would exceed the 0.12-inch-per-second significance threshold at the closest historical buildings. Notwithstanding, the analysis considers the projects implementation of general industry standard best practices to minimize noise and vibration impacts, including the applicant's vibration management plan, which includes: 1) no use of vibratory rollers, pile drivers, pavement breakers, or blasting; and 2) the project will observe the 3', 11', 18' and 20' restrictions for small bulldozers, jackhammers, loading trucks, and large bulldozers respectively measured from nearest structures in Ford Place.

Operational vibration such as air handling units, condenser units, and exhaust fans as well as passenger vehicle circulation within the proposed parking area would generate ground-borne vibration up to 0.005 inch-per-second. This is significantly lower than the

threshold of 0.4 inch-per-second. Therefore, impacts were found to be less than significant.

Cumulative construction impacts could occur when multiple construction projects are occurring simultaneously with the proposed project. There are three planned projects that are near the project site to the south and southeast. The Union Street Court project at 635 Union Street would be a 40-unit mixed-use building located approximately 300 feet to the southeast of the proposed Project. The Olivewood North project at 535 Union Street would be an 86-unit mixed-use building located approximately 135 feet to the south of the proposed project. The Olivewood South project at 54 North Oakland Avenue would be a 55-unit mixed-use building located approximately 360 feet to the south of the proposed Project. Concurrent noise impacts could occur if the projects were being constructed on overlapping schedules. The City's noise threshold for construction is 85 dBA at 100 feet for each piece of equipment. As a conservative approach for this cumulative construction noise analysis, this threshold of 85 dBA at 100 feet was applied to the aggregate noise from concurrent construction activities for the proposed project and the three nearby projects (i.e., multiple pieces of construction equipment operating simultaneously on separate but adjacent sites). ESA found that cumulative construction noise levels would be intermittent, temporary, and would cease at the end of the respective project construction periods. It is not likely that maximum construction noise impacts from related projects would occur simultaneously as the proposed project since construction noise levels vary from day to day depending on the construction activity performed that day and its location on the development site. Although there would be an increase in temporary ambient sound levels, each construction project would be expected to comply with the City's Noise Ordinance with construction equipment operating between the hours of 7:00 A.M. to 7:00 P.M. Monday through Friday, and 8:00 A.M. to 5:00 P.M. on Saturday. As a result, the project's contribution to cumulative construction impacts would not be cumulatively considerable, and impacts would be less than significant.

Operational cumulative noise impacts would occur primarily as a result of increased traffic on local roadways due to operation of the project and cumulative projects, as traffic is the greatest source of operational noise in the project area. ESA found that the traffic noise increase from the three related projects is estimated to be up to a maximum of 1 dBA. A change in noise level of 1 dBA is not perceptible by the human ear in a non-controlled environment, such as in an urban environment. Therefore, when the related projects' traffic noise levels are combined with the proposed project's traffic noise levels, the cumulative traffic noise level increase would be less than 3 dBA, and, therefore, cumulative traffic noise impacts would be less than significant. The analysis also concluded that cumulative stationary source noise impacts related to stationary noise sources (i.e., fixed mechanical equipment, parking structure, and loading dock), would be less than significant.

Finally, ESA found that there is no expected potential for cumulative construction- or operational-period impacts with respect to ground-borne vibration from related projects. Per ESA's analysis, ground-borne vibration generated by man-made activities

attenuates rapidly with distance from the source of the vibration. Man-made vibration issues are, therefore, usually confined to short distances from the source (i.e., 50 feet or less). Therefore, cumulative vibration impacts would be less than significant. Therefore, as it relates to noise and vibration, there will 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.

- Air Quality Analysis

ESA conducted an air quality assessment to evaluate the potential air quality impacts associated with construction activities, mobile sources, building energy demand, and other aspects of project construction and operations that have the potential to generate criteria air pollutant emissions. The purpose was to evaluate the construction and operational criteria air pollutant emissions associated with project development and the potential for regional and localized air quality impacts based on applicable standards and thresholds. ESA concluded:

- i. The incremental increase in emissions from construction and operation of the project would not exceed the regional daily emission thresholds set forth by the South Coast Air Quality Management District (SCAQMD). Thus, the project would not result in a regional violation of applicable air quality standards or jeopardize the timely attainment of such standards in the South Coast Air Basin (the Air Basin).
- ii. The incremental increase in on-site emissions from construction and operation of the project would not exceed the localized significance thresholds set forth by the SCAQMD. Thus, the Project would not result in a localized violation of applicable air quality standards or expose off-site receptors to substantial levels of regulated air contaminants.
- iii. Emissions from the increase in traffic due to operation of the project would not have a significant impact upon 1-hour or 8-hour local carbon monoxide (CO) concentrations due to mobile source emissions.
- iv. Project construction and operations would not result in significant levels of odors.
- v. The project would be consistent with air quality policies set forth by the City of Pasadena, the SCAQMD, and the Southern California Association of Governments (SCAG).
- vi. The project would not result in a significant cumulative air quality impact.

Construction emissions generated through the use of heavy-duty construction equipment, worker and haul truck trips, and vehicle trips and operational emissions from vehicle trips were found to be less than significant. Construction-related daily emissions for the criteria and precursor pollutants (VOC, NOX, CO, SOX, PM10, and PM2.5)

would be below the SCAQMD thresholds of significance. ESA's calculations include appropriate dust control measures required to be implemented during each phase of development, as required by SCAQMD. Therefore, with respect to regional emissions from construction activities, impacts would be less than significant. The increase in operational-related daily emissions for the criteria and precursor pollutants (VOC, NOX, CO, SOX, PM10, and PM2.5) would be substantially below the SCAQMD thresholds of significance. Therefore, with respect to regional emissions from project operation, impacts would be less than significant.

Recognizing that there are three planned projects adjacent to the project site, ESA analyzed cumulative air quality impacts (construction and operational). ESA determined that the project's contribution to cumulatively significant construction impacts to air quality would not be cumulatively considerable, and cumulative impacts would be less than significant for regional and localized criteria pollutants during construction. They also found that the project would not exceed the SCAQMD regional daily significance thresholds. Therefore, the project's incremental contribution to long-term emissions, considered together with cumulative projects, would not be cumulatively considerable, and, therefore, the cumulative impact of the project would be less than significant. Therefore, per ESA's analysis as it relates to air quality, 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.

- Greenhouse Gas (GHG) Emission Analysis

ESA conducted a GHG emissions assessment to quantify the potential GHG emissions associated with construction activities, mobile sources, building energy demand, and other aspects of project construction and operations that have the potential to generate GHG emissions. The purpose was to evaluate the project's consistency with the City of Pasadena's Climate Action Plan (CAP). ESA concluded:

- i. The project will be designed to meet the California Green Building Standards (CALGreen) Code, as adopted and amended by the City of Pasadena, through the incorporation of green building techniques and other sustainability features, including those within the City of Pasadena Green Building Code, where applicable. GHG emissions associated with the project would be consistent with the applicable portions of the City of Pasadena's qualified CAP as the project would meet the applicable GHG per service population efficiency target. Thus, the project's GHG emissions would be consistent with regulatory schemes intended to reduce GHG emissions.
- ii. The project would be consistent with local regulations for reducing GHG emissions in accordance with the City of Pasadena's qualified CAP. Therefore, the project would be consistent with applicable plans, policies and regulations adopted for the purpose of reducing GHG emissions.

- iii. The project would implement green building measures that would reduce the project's direct and indirect GHG emissions.

ESA found that the project's consistency with applicable regulatory plans and policies to reduce GHG emissions demonstrate that the project would substantially comply with or exceed the GHG reduction actions and strategies outlined in the City of Pasadena CAP and Green Building Code. The project would also incorporate characteristics that would achieve reductions in vehicle miles traveled (VMT), as it is sited in a location that is well-served by multi-modal transportation choices. In addition, the project's GHG efficiency would be below the GHG efficiency threshold provided in the Climate Action Plan. ESA calculated the project's GHG efficiency in its opening year at 4.37 metric tons per year per service person, where the threshold is 4.56 metric tons per year per service person. Therefore, as it relates to GHG emissions, there will 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.

- Cultural Resource Assessment

ESA conducted a cultural resource analysis. Historical resources are identified in the area, including the Ford Place Historic District (NR #10000496), Playhouse Historic District (NR#94000462), Edmund Blinn House (NR #01000329), and the Scottish Rite Cathedral (contributor to the Playhouse Historic District). Indirect impacts were analyzed to determine if the proposed project would result in a substantial adverse change to the integrity of adjacent historical resources such that the resources significance would be materially impaired, which is the CEQA threshold for determining significant impacts. CEQA requires an analysis of any project that may result in a "substantial adverse change" to a "historical resource." Section 15064.5 of the CEQA Guidelines provides that "substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." As such, ESA conducted an impact analysis. The purpose was to determine if the proposed project would result in a substantial material change to the integrity of historical resources outside the project site such that the resources' significance would be materially impaired, which is the CEQA threshold for determining significant impacts (ie. would it still be eligible following construction and operation of the project? Would it still be able to convey the historical significance?)

The analysis explains that the National Register and California Register recognize a property's integrity through seven aspects or qualities: location, design, setting, materials, workmanship, feeling, and association. Eligible properties should retain several, if not most, of these aspects. Both Registers require that a resource retain sufficient integrity to convey its significance, and the property must retain the essential physical features that enable it to convey its historical identity. ESA concluded that the proposed project would not constitute a substantial adverse change to the Ford Place Historic District resource resulting in it no longer being able to convey its significance. It would still be an eligible resource. The Ford Place Historic District, is significant

architecturally for its distinctive examples of intact period architectural styles that have a common relationship of site plan, scale and materials. The proposed project would not alter any of the character-defining features identified in the nomination of the Ford Place Historic District and it would remain an eligible resource. The Blinn House is significant because it is an example of Chicago architect George Washington Maher's residential work on the west coast and is an example of Prairie School architecture, a Midwestern style that is not commonly found in the Pasadena area. ESA concluded the proposed project would not result in a substantial adverse change to the Blinn House, and would not materially impact its integrity. The Scottish Rite Cathedral and the Playhouse Historic District are further away from the project site and would not be indirectly impacted by the project because primary views would not be impacted. As such, ESA concluded that no impacts are anticipated to historical resources.

The existing building on the subject property (Madison Professional Building) was also evaluated for listing in the National Register, California Register, and for local designation, and is not eligible. As such, it does not qualify as historical resources under CEQA and the project would not result in a direct impact to historical resources. To address discovery of archeological resources that may be underneath the existing building that will be demolished, ESA recommended the project adhere to mitigation measures in the City's General Plan related to cultural resources (ie. halt work until discovery evaluated by Registered Professional Archaeologist, testing, data recovery, sensitivity training, etc.).

Therefore, per ESA's analysis as it relates to historic resources, and with the incorporation of recommendations, there would be no adverse impact on a property listed on the California Register of Historic Places. Based on the analysis, 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 and Federal Laws

The requested concession will be granted consistent with the procedures and requirements established by California Government Code Sections 65915 (Density Bonuses and Other Incentives) and will not be contrary to any federal laws. Based on the analysis above, staff believes that the three required findings to approve the requested Affordable Housing Concession Permit can be made.

Private Tree Removal and Tree Protection Ordinance

The applicant has requested the removal of four protected trees on private property in conjunction with the proposed mixed-use project.

Protected Trees Planned for Removal

#	Genus & Species	Common Name	DBH	Height	Protection Size
4	<i>Syzygium paniculatum</i>	Brush Cherry	13"	35'	12"
8	<i>Eucalyptus polyanthemos</i>	Silver Dollar Eucalyptus	21"	40'	19"
9	<i>Eucalyptus viminalis</i>	Ribbon Gum	27"	50'	19"
13	<i>Eucalyptus polyanthemos</i>	Silver Dollar Eucalyptus	23"	40'	19"

The City's Tree Protection Ordinance protects several specimen and native tree species that meet minimum sizes (diameter-at-breast height) established for each particular species. Tree #4 is a protected specimen tree that exceeds the minimum protection size. Trees #8, #9, and #13 are mature trees that exceed the minimum protection size. A mature tree is an otherwise non-protected tree with a diameter-at-breast-height (DBH) of 19 inches or greater. The City Council may approve private tree removal permits if one of six findings can be made for each tree planned for removal, pursuant to Municipal Code Section 8.52.075 (Private property tree removal and landmark tree pruning permits, Issuance):

- 1) *There is a public benefit as defined in Section 8.52.024(R), or a public health, safety or welfare benefit, to the injury or removal that outweighs the protection of the specific tree; or*
- 2) *The present condition of the tree is such that it is not reasonably likely to survive; or*
- 3) *There is an objective feature of the tree that makes the tree not suitable for the protections of this chapter; or*
- 4) *There would be a substantial hardship to a private property owner in the enjoyment and use of real property if the injury or removal is not permitted; or*
- 5) *To not permit injury to or removal of a tree would constitute a taking of the underlying real property; or*
- 6) *The project, as defined in Section 17.12.020, includes a landscape design plan that emphasizes a tree canopy that is sustainable over the long term by adhering to the replacement matrix adopted by resolution of the city council and included in the associated administrative guidelines.*

The applicant has responded to finding six for each tree as part of the application. Finding six, requires the applicant to provide replacement trees according to the City's matrix and a landscape design plan that emphasizes a tree canopy that is sustainable over the long term. The applicant provided a tree report prepared by Certified Arborist Cy Carlberg, and a landscape design plan prepared by Carter Romanek Landscape Architects that adheres to the replacement matrix.

Replacement Matrix

Diameter at Breast Height of Removed Tree	Number and Size of Replacement Trees
8-12 inches	4 – 15 gallons; or 2 – 24 inch box
13-18 inches	8 – 15 gallon; or 4 – 24 inch box; or 2 – 36 inch box
19-36 inches	8 – 24 inch box; or 4 – 36 inch box
37+ inches	12 – 24 inch box; or 8 – 36 inch box

Pursuant to the matrix, protected specimen trees must be replaced with specimen or native trees on the list, while mature trees must be replaced at one-half the corresponding ratio (species is not restricted).

The landscape design plan indicates all replacement trees will be of a 36-inch box size. In total, fourteen new trees are proposed as replacement where a minimum of eight, 36-inch box trees would meet the requirement (two 36" box per tree removed). Replacement includes three *Olea Europaea*, six *Ginkgo Biloba*, three *Hymenosporum Flavum*, and two *Podocarpus Elongatus* trees. The replacement trees would be spread throughout the site adjacent to the building, open walkways and within the central courtyard. *Ginkgo Biloba* trees are proposed along the east elevation within a 10-foot wide in-ground planter bed between the front of the building and the front property line. *Hymenosporum Flavum* trees would be located in the main passage leading into the courtyard. The central courtyard would feature *Podocarpus Elongatus* and *Olea Europaea* trees. The species of *Ginkgo Biloba* and *Hymenosporum Flavum* visible from the street were selected because they are narrow spreading, upright reaching trees that can survive close to the building for the long term. There was a desire from the applicant for the trees to interact with the building's form. Trees planted in the courtyard and entry passage would be located above subterranean parking. The landscape concept is intended to provide adequate soil volume and soil depth that in the opinion of the landscape architect, would allow the trees to perform as well as trees planted in natural soil, and survive for the long term.

Based on the variety of trees and locations proposed in the landscape design plan, it is staff's position that the trees and their canopies would be sustainable over the long term. The applicant demonstrates through the plan that trees provided adhere to the City's replacement matrix. Therefore, the proposal would satisfy finding six. A condition of approval is included in Attachment B requiring the applicant to submit a final landscape plan to be approved by the Zoning Administrator prior to the issuance of a building or grading permit for this project. The plan would be reviewed to verify consistency with the plan presented as part of this AHCP, and finding six.

General Plan Consistency

The project site is designated Medium Mixed Use (0.0-2.25 FAR, 0-87 du/acre) on the Land Use Diagram in the Land Use Element of the General Plan. Development is characterized by shared open spaces, extensive landscaping, small to medium separations between buildings, and shared driveways and parking. Sites may be exclusively commercial or exclusively residential, or with buildings vertically integrating housing with non-residential uses. The proposed mixed-use project consisting of residential units and commercial office is within the floor area ratio and density prescribed in the General Plan, consistent with the applicable designation. In addition, the project is consistent with goals and policies of the General Plan related to mixed-use corridors and villages, 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. The proposal will provide a higher density development in an urban core setting and in close proximity to transit that provides for the needs of existing and future residents and businesses, ensures the effective provision of public services, and makes efficient use of land, energy, and infrastructure.

By proposing a residential component inclusive of 49 residential units, with a mix of market rate and very low-income units, the project is consistent with Policies 2.1 (Housing Choices), 2.5 (Mixed Use), 21.1 (Adequate and Affordable Housing), and 21.2 (Equitable Distribution of Affordable Housing). Policies 2.1 and 21.1 encourage providing opportunities for a full range of housing affordability levels. Policy 2.5 emphasizes the creation of opportunities for development projects that mix housing with commercial uses to enable Pasadena's residents to live close to businesses and employment, increasing non-auto travel, and interact socially. Policy 21.2 encourages the equitable distribution of affordable housing throughout the City, consistent with the goals of the Housing Element. In addition, the proposed project would add to the customer base helping to sustain the economic vitality of Pasadena's commercial land uses and provide additional opportunities for residents to live close to businesses and employment and interact socially.

By proposing a mixed-use project with centrally located courtyard in the Central District and within a half a mile of the Lake and Memorial Gold Line stations, the project is consistent with Goal 28 (Places to Live, Work, Shop, and Recreate), Policies 31.1 (Focus Growth) and 31.3 (Del Mar, Memorial Park, and Lake Transit Villages). Goal 28 emphasizes diversity of well-designed corridors and villages containing an integrated mix of commercial uses and/or housing that enable Pasadena's residents to live close to businesses, services, and employment, reduce automobile use, and actively engage and enhance pedestrian activity. Policy 31.1 encourages development in the Central District and in proximity to Metro Gold Line stations to support economic vitality. Policy 31.3 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.

ENVIRONMENTAL ANALYSIS:

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (CEQA) Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15332, Class 32, In-Fill Development Projects, and there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Section 15332 specifically exempts from environmental review infill development where: 1) 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; 2) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; 3) the project site has no value as habitat for endangered, rare or threatened species; 4) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and 5) the site can be adequately served by all required utilities and public services.

In this case, the project meets the minimum requirements to qualify as an in-fill project under CEQA and no exceptions to the exemption apply. The project is consistent with the General Plan designation Medium-Mixed Use (0.0-2.25 FAR / 0-87 du/acre) and applicable policies as discussed above; the mixed-use project with residential units and ground floor commercial office is permitted by right within the CD-3 zoning district; and the project complies with the applicable development standards, with the exception of the requested concessions. The project site is 32,000 square feet (less than five acres) and surrounded by other commercial and residential uses. The project site is located in an urbanized area, has been previously developed and graded, and currently contains a multi-story building and a surface parking lot; therefore, it does not contain habitat for endangered, rare or threatened species. A CEQA-focused traffic impact analysis, noise analysis, air quality analysis, and greenhouse gas emissions analysis were prepared for the project, which determined that there would be no project-related or cumulative impacts. A cultural resources assessment determined that project would have no direct impacts on historical resources, and would not cause a substantial adverse change in the significance of any historical resources. All nearby resources would remain eligible for inclusion in their respective registers of historical resources. The project site is located in an urban area where utilities and public services can be adequately served. The site is currently served by the Pasadena Department of Water and Power (water and electricity), Department of Public Works (solid waste collection and sewer services), SoCal Gas (natural gas services), Pasadena Fire Department (fire protection) and the Pasadena Police Department (police protection). The project would not adversely affect underground aquifers, drainage patterns, or surface water quality. Furthermore, there are no unusual circumstances that distinguish this project from others in the exempt class.

CONCLUSION:

It is staff's assessment, based on the analysis above, that the findings necessary for approving Affordable Housing Concession Permit #11879 can be made in the affirmative (Attachment A). As conditioned, it is not expected that the development resulting from the requested concession would result in any adverse impacts to neighboring uses. It was demonstrated that the concessions are required in order for the designated units to be affordable. It was also shown that the project would not have a specific adverse impact (as defined in State law) on health or safety, or on the physical environment, and would not have an adverse impact on a property listed on the California Register of Historic Places. Further, the applicant's landscape plan demonstrates replacement trees proposed adhere to the City's replacement matrix. Therefore, the proposed tree removal would satisfy finding six. Therefore, staff recommends that the City Council uphold the Board of Zoning Appeals' decision to approve the applications 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:



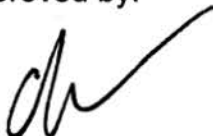
Jason Van Patten
Planner

Reviewed by:



Talyn Mirzakhonian
Zoning Administrator

Approved by:



SM STEVE MERMELL NICHOLAS G. RODRIGUEZ
City Manager Assistant City Manager

Attachments: (14)

- Attachment A – Specific Findings
- Attachment B – Conditions of Approval
- Attachment C – Hearing Officer Decision Letter dated January 23, 2019
- Attachment D – Hearing Officer Addendum
- Attachment E – Board of Zoning Appeals Decision Letter dated June 10, 2019
- Attachment F – Appeal Application of Board of Zoning Appeals' Decision dated June 17, 2019
- Attachment G – KMA Financial Analysis
- Attachment H – KMA Addendum
- Attachment I – ESA Class 32 Summary Report (with Noise and Air Technical Reports)
- Attachment J – ESA GHG Technical Report (report only)
- Attachment K – ESA Cultural Resources Assessment (report only)
- Attachment L – Transportation Impact Analysis prepared by the Department of Transportation
- Attachment M – Line of Sight Exhibit and Photo Renderings
- Attachment N – Project Plans