

MOTION

Moved by Council Member _____, seconded by Council Member _____, that upon review and consideration of all materials and exhibits of current record relative to Density Bonus Review Case No. PDBP2120753 (“Density Bonus Review Case” or “Project”) for the project site located at 246 North Jackson Street (“Project Site”), and after having conducted a public hearing on the appeal of said matter, pursuant to the Glendale Municipal Code (“GMC”), 1995, and receiving testimony, the City Council of the City of Glendale, California, based upon all of the evidence in the record, hereby **SUSTAINS** the Planning Commission’s decision to sustain the Planning Hearing Officer’s decision **GRANTING WITH CONDITIONS** said Density Bonus Review Case, along with the requested incentives/concessions and waivers, for all of the reasons outlined in the August 15, 2023 staff report from the Director of Community Development, including any attachments thereto and any other evidence presented at the hearing, including any additional Council comments at the hearing, subject to the conditions below and pursuant to the facts and findings as follows:

1. In reviewing, considering and affirming the Class 32 California Environmental Quality Act (CEQA), exemption determination, the City Council adopts and incorporates the findings and analysis contained in Exhibit 1 to the August 15, 2023 staff report from the Director of Community Development, and hereby finds that the Project is categorically exempt from further review CEQA, as it qualifies as a Class 32 In-Fill Development Project per CEQA Guidelines Section 15332, because the Project is consistent with the General Plan and Zoning Code; occurs within city limits on a project site of less than five acres surrounded by urban uses; is on a site with no value as habitat for endangered, rare or threatened species; upon approval would not result in any significant impacts relating to traffic, noise, air quality, or water quality; and can be adequately served by all required utilities and public services.
2. In sustaining the Planning Commission decision to sustain the Planning Hearing Officer decision granting the Density Bonus Review Case, the City Council hereby makes the following findings pursuant to GMC Chapter 30.36 (“City’s Density Bonus

Ordinance”) and California Government Code sections 65915, *et seq.* (“State Density Bonus Law”):

- a. The Project consists of demolition of an existing three-unit multi-family building, and constructing a new 9,760 SF, three-story, 11-unit (with 7 base units and 4 density bonus units) multi-family building on a 7,512 SF lot in the R-1250 Zone (High Density Residential Zone). One unit will be reserved for very low-income households.
- b. The Project is not subject to the City’s Inclusionary Zoning Ordinance per GMC section 30.35, which requires a rental housing development with a base density of eight or more dwelling units to provide fifteen percent of the units as affordable to low-income households. With a base density of seven units, the Project is not subject to this Code section. (GMC §§ 30.35.020(B) & 30.35.030(A)).
- c. Applicant is entitled to a 46.25% density bonus for a total of 11 units. Based on the lot area of 7,512 SF, a total of 7 units (6.01 rounded up) are permitted as the base density. Applicant is providing 14% of the base density as affordable housing for very low income households (14% of 7 = 1), and is therefore entitled to a 46.25% density bonus of four additional units (46.25% of 7 = 3.2 rounded up to 4). This results in a total of 11 units with the density bonus.
- d. One replacement unit at one (1) bedroom is required under State Density Bonus Law ($37\% \times 2 = .74$ (rounded up to 1)). Applicant will reserve Unit 204, a two (2) bedroom unit at 768 square feet, as affordable to very low-income households. Accordingly, Applicant meets and exceeds the replacement obligation through replacement of the existing 1-bedroom unit with a larger 2-bedroom unit.
- e. Per State Density Bonus Law, the City shall not require parking spaces in excess of one-half parking space (inclusive of handicapped and guest parking) per unit if the Project includes at least 11% very low income housing and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the California Public Resources Code and there is unobstructed access to the major transit stop from the housing development. Applicant has demonstrated the Project qualifies for this parking concession because the

Project provides the requisite affordable housing and is located 0.4 miles from the intersection of North Glendale Avenue and East Broadway. The Glendale/Broadway intersection is served by the Beeline Route 4, which runs north/south and east/west between the Glendale Galleria and the Glendale Transportation Center, the central transportation hub for the City of Glendale, and Metro Bus Route 180/181, a regional route running primarily east/west from Pasadena to Hollywood. Both lines have a service interval of less than 15 minutes during peak commute periods. Under this provision, the Project is only required to provide six parking spaces (0.5 space x 11 units). The Project provides 14 parking spaces, which meets and exceeds the parking minimum under State Density Bonus Law.

3. In sustaining the Planning Commission decision to sustain the Planning Hearing Officer decision granting the Density Bonus Review Case, the City Council is unable to make any of the findings to deny the two incentives/concessions requested (as described in detail in the August 15, 2023 staff report from the Director of Community Development related to maximum height/stories and setbacks), and therefore, grants the two incentives/concessions, pursuant to GMC Section 30.36.080(A) because:

- a. *There is no evidence in the record that the incentives/concessions do not result in identifiable and actual cost reductions to provide for affordable housing costs or to provide affordable rents:* The City Council finds that substantial evidence demonstrates the incentives/concessions do result in identifiable and actual cost reductions to provide for affordable housing costs or to provide affordable rents. The requested concessions for additional height/stories and reduced setbacks are required in this case to allow for additional buildable area to provide more units and accommodate the additional density resulting from the grant of the density bonus. For example, absent the setback incentive, the Project would have to pull the building back in all directions, resulting in a much narrower and small building and the loss of 5 units. These additional 5 market rate units are necessary to offset the overall costs per unit for the Project that enable the construction of a subsidized very low income affordable unit. In sum, the

incentives will reduce the costs to Applicant of providing the affordable unit. The cost reductions Applicant will realize will allow the affordable housing costs to be reduced to a point where the development will be economically feasible. The additional height/story and reduced setbacks will allow for the proposed density and appropriately sized apartment units with sufficient on-site parking to ensure Project success with the intended market.

Furthermore, these concessions enable the Project to be economically feasible for the following reasons: (1) to facilitate the proposed design and programming and ensure architectural character that complies with the City's Design Guidelines, including distinct and separate common open spaces with amenities both on the building's ground level and also on the third floor deck, including provision of a required elevator, Applicant is proposing a 37'-6" high building; and the additional height is necessary for the elevator shaft to provide access to the units and to the common open space on the third floor, and the additional building height/stories will enable the construction of additional buildable area to provide more units (density bonus units) that will reduce the overall costs per unit of the Project and thereby make the very low income affordable unit economically feasible; and (2) the reduction in the subterranean parking garage setbacks will enable the construction of a larger garage area and additional parking spaces that will improve the viability and marketability of the Project. The additional parking spaces will enable the Project to better compete with its surrounding development.

Moreover, the two concessions will reduce costs to Applicant of providing an affordable unit by creating cost reductions in allowing the construction of a greater number of units and improving the viability of the Project. The additional units will result in actual and identifiable cost reductions because the additional units will take advantage of construction efficiencies when being built, and will generate rental income to offset the

cost of providing the unit at an affordable rent. Without these concessions, Applicant would not be able to provide the additional affordable unit.

- b. *There is no evidence in the record that the incentives/concessions will have a “specific adverse impact upon public health and safety,” as defined in paragraph (2) of subdivision (d) of California Government Code Section 65589.5, 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 housing development unaffordable to low-income and moderate-income households:* The City Council finds that substantial evidence demonstrates the incentives/concessions will not 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. The City Council finds that the property does not meet any of the eligibility criteria for listing in the National, California, or Glendale Registers and therefore is not considered a historic resource under CEQA. The Project is exempt from CEQA as a Class 32 Infill Exemption and no significant environmental impacts have been identified. The Project is designed to comply with the various sections of the GMC, as administered by different City departments (e.g., Fire, Glendale Water & Power, Public Works, Building & Safety, etc.). Aside from the two incentive/concession requests and waivers, the Project otherwise fully complies with the Zoning Code (GMC Title 30).

Moreover, any Project impacts with respect to increased height/stories and reduced setbacks are mitigated by several factors, such as the fact that the Project is located on a corner lot with two sides adjacent to a street, and one side adjacent to an alley. These public rights-of-way that are open to the sky provide a buffer of air and light and visual massing that mitigates the impact of the three-story building in a typically two-story neighborhood. Furthermore, the building uses several design techniques that reduce the apparent massing and scale of the building, including the

central part of the building which features a two-story massing, a variation in building form and façade planes that break up the massing, and a variety of exterior finish materials to help break up the apparent massing. Finally, the building provides setbacks in excess of code requirement on various sides/floors of the building to help compensate for the reduced setbacks in other areas, particularly on the south side of the building, which is adjacent to a two-story apartment building. The provision of housing and affordable housing benefits the public health and safety, and is consistent with the Glendale General Plan Housing Element goals of providing a wide range of housing types, including affordable housing.

- c. *There is no evidence in the record that the incentives/concessions will be contrary to state or federal law:* The City Council finds that substantial evidence demonstrates the incentives/concessions will not be contrary to state or federal law. The Project complies with State Density Bonus Law, CEQA, and the City's Density Bonus Ordinance, and is designed to comply with the various sections of the GMC as administered by City departments (e.g., Fire, Glendale Water & Power, Public Works, Building & Safety, etc.). The concessions do not require any other discretionary entitlement other than future design review approval. No other known federal or state laws would conflict with granting of the concessions.
- d. In addition to the above incentives/concessions findings, the City Council adopts and incorporates facts, evidence and findings made by the Planning Hearing Officer on July 7, 2022, by the Planning Commission on November 2, 2022, and facts, evidence and findings contained in Exhibit 13 of the August 15, 2023 staff report from the Director of Community Development.

4. In sustaining the Planning Commission decision to sustain the Planning Hearing Officer decision granting the Density Bonus Review Case, the City Council finds that substantial evidence supports the grant of the two requested waivers/modifications (as described in detail in the August 15, 2023 staff report from the Director of Community

Development related to increased floor area and reduced dwelling unit size), and therefore, grants the two waivers/modifications, pursuant to GMC Section 30.36.080(B) because:

a. The application of said development standard(s) will have the effect of physically precluding the construction of the housing development at the density and with the incentives or concessions granted pursuant to this chapter: As to the first requested waiver, Applicant seeks relief from the minimum unit size requirements in GMC section 30.11.050, since the units listed below do not meet the minimum unit size, as follows:

- Unit 102 - 1 bedroom at 574 SF, which is 26 SF (4.33%) less than the minimum 600 SF requirement;
- Unit 103 - 1 bedroom at 574 SF, which is 26 SF (4.33%) less than the minimum 600 SF requirement;
- Unit 202 - 1 bedroom at 574 SF, which is 26 SF (4.33%) less than the minimum 600 SF requirement;
- Unit 203 - 1 bedroom at 574 SF, which is 26 SF (4.33%) less than the minimum 600 SF requirement;
- Unit 204 - 2 bedrooms at 768 SF, which is 32 SF (4.0%) less than the minimum 800 SF requirement;
- Unit 302 - 1 bedroom at 574 SF, which is 26 SF (4.33%) less than the minimum 600 SF requirement;
- Unit 303 - 2 bedrooms at 768 SF, which is 32 SF (4.0%) less than the minimum 800 SF requirement.

The allowed 11-unit density of the Project has been configured by creating six (6) two-bedroom units and five (5) one-bedroom units. If required to comply with minimum unit size requirements of GMC 30.11.050, the Project would have to, at a minimum, provide the following unit sizes:

- Six (6) 800 sq ft. 2-bedroom units (6 x 800)=4,800 sq, ft.
- Five (5) 600 sq. ft. 1-bedroom units (5 x 800) =3,000 sq. ft.
- At a minimum the project would have to consist of 7,800 sq. ft.

The Project's livable area, however, is 194 square feet short of this required minimum. Specifically, some units are larger to be able to provide two-bedroom units; but, seven (7) of them are not and do not meet the minimum size requirements. Since the Project complies with all other Zoning Code development standards, this precludes the Project from adding any additional livable area to meet the City's minimum unit size requirements. In particular:

- The maximum allowable lot coverage for the Project Site is a 50% ratio, and Applicant has proposed a lot coverage of a 49.75% ratio, just shy of it. It is physically impossible to push beyond the current footprint of the proposed project without going over the 50% floor area ratio, and, additional area cannot be borrowed from the landscape and common open space portions of the Project in order to increase the livable areas of the project to meet the minimum unit size requirements of the Code;
- The minimum required landscape area is a 25% ratio, and Applicant has provided a 25% ratio. There is no additional livable area available to meet the minimum unit area requirements of the Code;
- Applicant is providing the minimum required open space areas. There is thus no additional livable area available to be used. In fact, the lot coverage ratio is the governing factor in determining the outline of the ground level floor plan, which in turn determines the boundary of the area that can be utilized for the common open space. Since the project is unable to push beyond its current

footprint without going over the current floor area ratio (already over allowed and subject to additional waiver below), it is physically impossible to allocate additional livable area within the proposed ground level common open space area;

- The Project's setbacks are already at or just below the City's minimum setback requirements (hence the necessity for the requested concession for the Project's setbacks). Therefore, additional livable area cannot be attained by encroaching onto the setbacks. Although, the East setback is greater than the minimum, the East setback area has been utilized in its entirety to satisfy the landscape requirements, the common open space requirements and necessary circulation elements that dictate a second form of exit from the subterranean parking garage. These factors, in addition to the limitations pertaining to the enlargement of the Project's footprint illustrated above, preclude additional livable area to be gained by encroaching onto the common open space portions, the landscape portions, or the circulation portions of the Project in order to meet the minimum unit size requirements of GMC 30.11.050.
- The Glendale Building and Safety Code requires minimum widths and clearances. The interior corridor clearances have been reduced to the bare minimum in order to meet basic ADA clearances, along with other circulation factors necessary in order for the Fire Department to be able to navigate a gurney through the Project. These Building Code requirements, in addition to the limitations illustrated above, prevent allocation of additional livable area in order to meet the minimum unit size requirements.

Moreover, the 26 square feet and 32 square feet unit size deviation for one-bedroom and two-bedroom units, respectively, is inconsequential since the units have functional kitchens and living areas, an above

average-sized bedroom area, a private bathroom, a private washer and dryer and adequate storage/closet area. Without the requested waiver the Project would consist of five (5) studios and six (6) one-bedroom units, which would physically preclude the construction of the housing development at the allowable 11-unit density with the desired unit mix, and with the incentives or concessions. In addition to the increased number of bedrooms, the requested waiver will improve and balance the Project's unit mix, which will help provide a range of housing types which is consistent with the City's Housing Element of the General Plan.

The proposed decrease in the minimum unit size is minor, not exceeding 4.33% less than the minimum requirement. While the units listed above are smaller than the minimum requirements of the GMC, the Project will comply with the various sections of the GMC, as administered by the various City departments (e.g., Fire, Glendale Water & Power, Public Works, Building & Safety, etc.). Moreover, there are similarly sized residential units elsewhere in the City. Additionally, the current trend of urban infill multifamily unit sizes is smaller in footprint compared to units built during the latter part of the 20th century. The requested minimum unit size waiver will provide the creation of a greater number of marketed bedrooms and will allow the very-low-income affordable unit to be a two-bedroom unit versus a one-bedroom unit. Without the waiver it will be physically impossible to build the Project with the proposed unit mix. In sum, the Project's compliance with the City's other development standards leaves no room to spare on the Project Site since the Project is already at the bare minimum in meeting these other standards (including the City's Design Guidelines, and basic Building Code requirements). Adhering to the City's minimum unit size requirements, therefore, will physically preclude the Project from being built as designed – at the density allowed under the State Density Bonus Law, with the requested concessions, and with the desired unit mix.

Applicant is also requesting a waiver to allow an increase in floor area ratio ("FAR") to 1.32 (9,760 sq. ft.) where a maximum FAR of 1.20 (8,904 sq. ft.) is permitted. The requested deviation is minor and consists of only 856 sq. ft. of additional floor area over the allowable limit. For all of the reasons set forth above, the increase in FAR ratio is necessary to allow the Project adequate square footage to be built at the density allowed and to comply with other development standards and other basic Code requirements. In particular, without the requested waiver for FAR, the Project floor area will have to be reduced by 856 square feet, which reduces the number of units from 11 to 9/10. Further, the loss of two units results in the loss of the affordable unit; and, by reducing the Project by 856 square feet, the minimum unit size non-conformity is further exacerbated because the unit size shrinks even further. Furthermore, the increase in FAR to 1.32 from the allowable FAR of 1.20 will provide the necessary building square footage to allow for the desired Project size, for the desired Project unit-mix, and for the desired Project amenities to bring the Project to fruition as envisioned, all while complying with the City's open space, landscaping and other Zoning Code requirements, and with the City's Building and Safety Code. The Project is designed to optimize density with a balanced unit mix consisting of one-bedroom and two-bedroom units within the allowable 11-unit density (with the density bonus) development. The strict application of the FAR development standard would physically preclude the construction of the housing development at the 11-unit density, with the unit mix, and with the incentives or concessions.

- b. The waiver or reduction in development standards will not have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of California Government Code Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact: The Project is exempt from further review under CEQA and no significant environmental impacts have

been identified. The Project is designed to comply with the various sections of the GMC, as administered by different City departments (e.g., Fire, Glendale Water & Power, Public Works, Building & Safety, etc.). Aside from the two incentive/concession requests and waivers, the Project otherwise fully complies with the Zoning Code (GMC Title 30). Further, the provision of additional housing and affordable housing benefits the public health and safety, and is consistent with the General Plan Housing Element goals of providing a wide range of housing types, including affordable housing.

The Project's impact in terms of increased FAR and decreased minimum unit sizes are mitigated by certain factors. The Project is located on a corner lot with two sides adjacent to a street, and one side adjacent to an alley. These public rights-of-way that are open to the sky provide a buffer of air and light and visual massing that mitigates the impact of the building that features a higher than code-allowed FAR. Furthermore, the building uses several design techniques that reduce the apparent massing and scale of the building, including a variation in building form and façade, and a variety of exterior finish materials that help break up the apparent building size. The reduced unit sizes (574 SF instead of 600 SF and 768 SF instead of 800 SF) are 4% less than the required size, a relatively insubstantial amount. Further, there has been increased interest in the housing market for smaller units that lend support to the proposal in order to assist in the provision of affordable housing.

- c. *The waiver or reduction in development standards will not have an adverse impact on any real property that is listed in the California Register of Historical Resources:* Staff research finds that the property does not meet any of the eligibility criteria for listing in the National, California, or Glendale Registers, and therefore, is not considered a historic resource under CEQA. Please see Exhibit 1 (specifically, Attachment A to Exhibit 1) for further information and analysis.

- d. The waiver or reduction in development standards will not be contrary to state or federal law: The waiver or reduction in development standards will not be contrary to state or federal law and do not require any other discretionary entitlement other than future design review approval. The Project complies with CEQA, and the City's Density Bonus Ordinance, and is designed to comply with the various sections of the GMC, as administered by City departments (e.g., Fire, Glendale Water & Power, Public Works, Building & Safety, etc.). No other known federal or state laws would be in conflict with granting of the waiver/reduction.
- e. In addition to the above waiver findings, the City Council adopts and incorporates facts, evidence and findings made by the Planning Hearing Officer on July 7, 2022, by the Planning Commission on November 2, 2022, and facts, evidence and findings contained in Exhibit 13 of the August 15, 2023 staff report from the Director of Community Development.

5. In sustaining the Planning Commission decision to sustain the Planning Hearing Officer decision granting the Density Bonus Review Case, the City Council adopts and incorporates herein by reference all of the conditions of approval set forth in the Planning Hearing Officer Decision Letter, dated July 7, 2022, Exhibit 8 to the August 15, 2023 staff report from the Director of Community Development. In addition to the conditions of approval set forth in the July 7, 2022 Planning Hearing Officer Decision Letter, the City Council approval of the Density Bonus Review Case is also subject to the following additional conditions:

- a. Farzin Maly (Applicant) and/or Artshar LLC (Owner), must apply for and complete the conditional vacation of the existing Street Easement (Instrument No. 2255, Recorded on July 6, 1972 in Book D5520 Pages 963 - 964) and record a new street easement covering the area of the existing Street Easement (to be vacated) together with any additional area required for the construction of a new handicap ramp in compliance with current ADA requirements.

- b. Farzin Maly (Applicant) and Artshar LLC (Owner), and their respective successors, owners by deed, deed-in-lieu of foreclosure, foreclosure or otherwise, and assigns, and/or any real party in interest with an interest in the Project Site named as a party in any suit (hereinafter collectively “the Developer”), agree to and shall defend, indemnify, and hold harmless the City, and each of its agents, officers, council members, commissioners, attorneys, employees and representatives (the “Indemnitees”) from any claim, action or proceeding brought against the City to attack, set aside, void or annul any City land use or California Environmental Quality Act approval for, or related to, the Density Bonus Review Case and/or the Project. The Developer agrees to use legal counsel reasonable acceptable to the City. The foregoing shall include, without limitation, payment of all damages awarded against the Indemnitees, if any, costs of suit, attorney’s fees, and other costs and expenses incurred in connection with such action or proceeding. In the event that a claim, action or proceeding referenced herein is brought, the City shall promptly notify the Developer of the existence of the claim, action or proceeding and will cooperate fully in the defense of such claim, action or proceeding. As used herein, “land use approval” shall refer to decisions of the City approving requests of applicants for planning permits, including, but not limited to, general plan amendments, annexations, zone changes, zoning ordinance text amendments, tentative maps, vesting tentative maps, tentative parcel maps, reversions to acreage, final maps, final modifications or amendments, time extensions, parcel map waivers, lot line adjustments, boundary line adjustments, certificates of compliance, conditional certificates of compliance, design review, development agreements, conditional use permits, conditional use permit modifications, conditional use permit extensions, variances, variance modifications, precise plan of design, specific plans, density bonus review/housing plan applications, sign permits, parking reduction permits, site plans, temporary use permits, any administrative or discretionary permit pertaining to a land use

approval and/or any accompanying California Environmental Quality Act determination(s) pertaining to the type of approval referred to in this section, and any other similar approval.

Vote as follows:

Ayes:

Noes:

Abstain:

Absent: