

PLANNING COMMISSION MOTIONMOTION

Moved by Planning Commissioner Shahbazian. seconded by Planning Commissioner Minassian that upon review and consideration of all materials and exhibits of current record relative to Density Bonus Review Case No. PDBP2120753 for the project site located at 246 North Jackson Street, and after having conducted a public hearing on the appeal of said matter, the Planning Commission hereby **SUSTAINS** the Planning Hearing Officer's decision **GRANTING WITH CONDITIONS** the requested Density Bonus Review application, along with the requested incentives/concessions and waivers, in accord with the findings and conditions set forth in the Planning Hearing Officer's decision letter of July 7, 2022, attached as Exhibit 8 to the report to the Planning Commission dated November 2, 2022 ("PHO Decision Letter"). In sustaining the decision of the Planning Hearing Officer and granting the approval, the Planning Commission adopts and incorporates herein by reference the findings contained in the PHO Decision Letter. The Planning Commission decision granting the Density Bonus Review application is further subject to the conditions of approval set forth in the PHO Decision Letter.

In addition to the conditions of approval set forth in the PHO Decision Letter, the Planning Commission's approval for the Density Bonus Review application is also subject to the following conditions:

- (1) Applicant 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.
- (2) 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 "Indemnities") 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 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 City, 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

Ayes: Chraghchian, Fuentes, Minassian, Shahbazian, Lee
Noes: None
Absent: None
Abstain: None