



May 14, 2018

The Honorable Planning and Land Use Committee
of the City of Los Angeles
200 North Spring Street, Room 350
Los Angeles, CA 90012

Sharon.dickinson@lacity.org

Re: Council File No. 17-0927; ZA-2016-4751-ZAD-CUB-CU; ENV-2016-4752-CE –
Response to Appeal

Dear Chairman Huizar and Honorable Committee Members:

We are writing on behalf of the applicant, Union and Grattan Properties, LLC (the “Applicant”), in support of the project located at 1543 W. Olympic Boulevard, Los Angeles, California 90015 (the “Project”). The Applicant proposes the adaptive reuse of an existing vacant commercial office building into a 200-room business hotel, and the sale and dispensing of a full line of alcoholic beverages in conjunction with a ground floor café and restaurant, a rooftop restaurant and access-cabinets in each of the 200 guest rooms. An appeal is now before you, filed by Michel Ohana (“Appellant”), challenging the above-referenced approval of a Categorical Exemption (“CE”) relative to the adaptive reuse project.

As set forth in greater detail below, the pending CE appeal should be denied for the following reasons:

- Appellant has thoroughly failed to meet its burden of providing substantial evidence that the Zoning Administrator (“ZA”) and Central Area Planning Commission (“APC”) erred or abused their discretion.
- Appellant’s speculative concerns about traffic, noise, and public safety are not supported by any substantial evidence. In addition, the ZA imposed conditions assuring the safe and responsible service of alcohol, including a requirement to provide a detailed security plan approved by LAPD, and to meet with LAPD on a quarterly basis.
- Appellant fails to meet its burden of showing substantial evidence that the APC and ZA erred or abused their discretion or failed to comply when finding that the CE was the adequate environmental clearance for the project. Substantial evidence exists showing that the CE fully complies with CEQA.

1. SUMMARY OF THE APPROVAL AND APPEALS

The Applicant proposes to adaptively re-use the 5-story building built in 1965 into a business hotel. The Project is located in Pico Union just outside of the Downtown Project Area.



The building meets the criteria for adaptive reuse under the Adaptive Reuse Ordinance because the building was constructed before 1974. The Project will include an on-site ground floor restaurant and café, and on-site amenities including meeting rooms and a rooftop deck. The property is located between Downtown Los Angeles and Koreatown, and is an ideal setting for the adaptive reuse of the building into a thoughtful, design-driven business hotel with food and beverage service.

Associate Zoning Administrator, Henry Chu, (“ZA”) carefully considered and approved conditional uses and adopted the Categorical Exemption for the adaptive re-use Project. The ZA approved conditional use permits to allow a hotel within 500 feet of an R zone, and for the service of alcohol in conjunction with the ground floor restaurant and café, a rooftop restaurant, and within access-cabinets in each of the guest rooms. The ZA imposed strict conditions on the operation and adopted a Categorical Exemption (“CE”) concluding that none of the exemptions to a CE applied to the project.

The Appellant appealed the ZA Approval in its entirety (the “**Appellant’s APC Appeal**”). As is Appellant’s pattern and practice when challenging hotel projects, Appellant filed a brief appeal that failed to meet its burden of providing substantial evidence that the ZA erred or abused his discretion in granting the ZA Approval and adopting the CE. Appellant’s APC Appeal did not directly challenge ZA Approval or the CE at all. Although the Appellant’s APC Appeal claimed to challenge the entire decision, it only raised general and unspecified concerns. Nowhere did Appellant’s APC Appeal identify errors in the ZA Approval or the CE.

The APC denied Appellant’s APC Appeal in its entirety—concluding that the Appellant presented no evidence that the Project would result in significant environmental impacts or that the CE was inadequate.

The APC published its written determination on July 24, 2017 (the “**APC Determination**”). Appellant then appealed the CEQA case to City Council.

2. THE APPEAL SHOULD BE DENIED

a. The Appeal Fails to Meet its Burden of Showing the ZA Erred or Abused its Discretion or Failed to Follow the Law

The Area Planning Commission (“APC”) can only overturn the ZA Approval if substantial evidence shows that the ZA erred or abused his discretion or otherwise failed to follow applicable legal requirements. It is the Appellant’s burden to provide such evidence; and the Appellant failed to meet that burden. In this case, the Appellant has entirely failed to address the ZA Approval or the CE, and has entirely failed to provide substantial evidence that the ZA Approval should be overturned.

The Appeal fails to meet its burden of providing substantial evidence that the ZA erred or abused his discretion in granting the ZA Approval and the CE. The Appeal does not directly



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challenge the ZA Approval or the CE at all. Although, the Appeal claims to challenge the entire decision, it only raises general concerns about parking, crime, and public safety. Nowhere does the Appeal identify errors in the ZA Approval or CE. The Appeal merely disagrees with the ZA Approval.

The Appellant is not an individual, unsophisticated and unfamiliar with the municipal process in the City of Los Angeles. To the contrary, the Appellant is an active group that appeals other projects across the city on a regular basis. The APC should not provide Appellant any benefit of the doubt regarding Appellant's failure to provide evidence for its Appeal and its attempt to reserve issues for the hearing.

The APC should apply the legally required standard to the Appeal, and properly conclude that the Appeal is without merit.

b. The Appeal Fails to Meet its Burden of Showing the ZA or APC Erred or Abused its Discretion or Failed to Follow the Law

i. Appellant's Traffic Concerns are Speculative and Unsupported

On September 13, 2017, Weston Pringle with LADOT issued a Department of Transportation Referral Form confirming that the project was exempt from traffic study requirements, due to the existing use office trip credit being greater than the amount of trips generated by the proposed hotel use.

ii. Appellant's Noise Concerns are Speculative and Unsupported

Appellant's speculative concerns about noise are not supported by any relevant evidence. The Appeal speculates without any supporting evidence that the approval of the Project and the conversion from office use to hotel use "will increase the activity level at the site, and therefore will increase the impact of noise on the surrounding community." Despite the lack of evidence, the Appellant speculates that "whereas an office building operates during typical work hours, the hotel will have extended operating hours and will potentially cause more noise." Yet the Appeal presents no evidence whatsoever of any noise impacts from other hotel adaptive reuse projects.

The best evidence that the Project poses no noise concerns is the property line assessment provided by Veneklasen Associates (VA) dated September 25, 2017. The project includes an installation of a rooftop restaurant and garden terrace – whereas the restaurant will be enclosed and the garden terrace will be open to the sky. Both spaces will have amplified background music but live music events are not planned or allowed in the ZA entitlement. VA utilized noise models for the rooftop acoustics and concluded since the ambient noise levels are predominantly a result of traffic noise, the ambient noise will follow the same patterns as traffic noise. The criteria are that the noise from music on the rooftop deck as measured at the neighboring properties shall not

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exceed 70 Dba during the day time and 62 dba during the night time. The amplified sound system is intended for background music and not program audio, voice or live performance. VA concluded that the background music systems are typically set to a level that is well below the allowable limits.

Additionally, more evidence that the Project poses no noise concerns is the absence of any concerns expressed by the Los Angeles Police Department (“LAPD”). The Applicant and the Applicant’s representatives met with LAPD’s Sergeant Min, Officer-in-Charge, of the Rampart Area Vice Unit, to tour the Project site. The LAPD also reviewed the application and the conditions of approval. As a result, the LAPD was satisfied with the noise aspects of the project and did not oppose the application or express any concern regarding the application. The ZA and CLAAPC also cite the Project will be subject to the City of Los Angeles’ regulations for construction, especially noise and dust, and will be subject to the noise ordinance of the City (ZA Approval, Condition #10).

Furthermore, the ZA and CLAAPC imposed conditions assuring the peaceful enjoyment in the vicinity, and the LAPD required a security plan be submitted and reviewed to ensure the hotel operates safely, prevents and mitigates noise or other negative activities. The ZA imposed a condition that the operator shall be responsible for mitigating the potential negative impacts of its operation on surrounding uses, especially noise derived from patron entry and exiting (ZA Approval, Condition #21). If at any time operation of the Project disrupts or interferes with peaceful enjoyment in the vicinity, then the ZA has the right to require a Plan Approval process and impose additional conditions (ZA Approval #12). The ZA required the Applicant to not permit any loitering on the premises or on property adjacent to the premises (ZA Approval, #34). The ZA also imposed a condition limiting any background music or other amplified recorded-music shall not be audible beyond the area under control of the Applicant (ZA Approval, #26).

Clearly, the ZA gave careful consideration to noise concerns and imposed significant conditions and requirements addressing noise prior to approving the Project. In stark contrast to the lack of evidence supporting the Appeal, substantial evidence supports the ZA’s determination to approve the Project.

iii. The Appellant Does Not Refute Any Conditions Required to be Eligible for a Class 32 Categorical Exemption

The Appellant acknowledges the ZA adopted a Categorical Exemption from the environmental review requirements of CEQA under a Class 32 Categorical Exemption (CE) pursuant to Section 15332 of the CEQA Guidelines. Further, the Appellant does not refute any of the conditions required to be eligible for a Class 32 CE. Those conditions include:



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- a. The Project is consistent with the applicable general plan designation and all applicable general plan policies as well as within applicable zoning designation and regulations. CEQA Guidelines Section 15332(a).**

The Project includes the adaptive re-use of the existing commercial office building into a 200-room business hotel located just west of Downtown LA and the Convention Center. The property is located within the Westlake Community Plan which designates the property for Highway Oriented Commercial land uses. The property is zoned C2-1 and is not located within any Specific Plan.

The Project promotes and supports the Westlake Community Plan which provides:

“Recognize, promote, and support the retention, restoration and appropriate reuse of existing buildings, groupings of buildings and other physical features especially those having significant historic and/or architectural value and ensure that new development is sensitive to these features through land use and development criteria.”

A general finding of consistency with the General Plan does not require strict consistency with every policy or with all aspects of the plan. Land use plans attempt to balance a wide range of competing interests, and a project need only be consistent with a plan overall. Consequently, even though a project may deviate from some particular provisions of the plan, the City may still find the project consistent with that plan on an overall basis. Therefore, because the Project would advance a range of planning policies articulated in the Westlake Community Plan, the City may properly conclude that the Project is consistent overall with the General Plan.

- b. The proposed development occurs within city limits on a Project site of no more than five acres substantially surrounded by urban uses. CEQA Guidelines Section 15332(b).**

The Project site is approximately 2.1 acres or 90,855 square feet total for all ten existing lots and is within the Westlake area of the city limits of Los Angeles. The Project site is completely surrounded by established urban uses consisting of commercial and residentially used properties.

- c. The Project has no value as habitat for endangered, rare or threatened species. CEQA Guidelines Section 15332(c).**

No such species have been observed at the Project site or surrounding properties. The Property has been occupied with commercial buildings for decades in a completely developed area. The Property is an established urban development with no natural habitat remaining.

- d. Approval of the Project would not result in any significant effects relating to traffic, noise, air quality, or water quality. CEQA Guidelines Section 15332(d).**

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The Project will add hotel guest rooms and a public restaurant to an existing neighborhood consisting of retail, multi-family and commercial development. The new office space will not create any new significant traffic effects according to the Department of Transportation.

The Appellant claims that a CE for infill development is not an appropriate. However, the Appellant offers no support for its claim. Once a project is determined to qualify for a categorical exemption from CEQA, a party challenging the exemption has the burden of producing evidence supporting an exception. The Appellant's claim that an exception to the Class 32 CE applied here must be supported by substantial evidence.

- e. The site can be adequately served by all required utilities and public services. CEQA Guidelines Section 15332(e).**

All required utilities and public services will be provided with the existing surrounding streets.

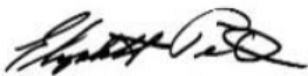
- f. The Project does not meet any of the applicable exceptions to Categorical Exemptions provided in CEQA Guidelines Section 15300.2.**

There are no unusual circumstances that could lead to significant environmental effects. The Project involves the renovation of the commercial office building. There are no scenic resources that could be impacted by the Project. The Project site is not a hazardous waste site.

3. CONCLUSION

Thank you for your careful consideration of the Appeal and of the Project. The Appellant offers no substantial evidence that the ZA or APC erred or abused its discretion in adopting the CE. The Appellant misstates the requirements of CEQA. We respectfully request that you deny the Appeal in its entirety and uphold the thoughtful and thorough ZA Approval and APC Determination.

With respect,



Elizabeth Peterson