

Justification for CEQA Appeal

Env. Case No: ENV-2020-3657-CE

APC Case No. DIR-2020-3656-SPR-1A

Address: 1130 Hope Street, Los Angeles, CA

Appellants: Luma Homeowners Association and Evo Homeowners Association

Justifications for CEQA Appeal

The buildings for Luma Homeowners Association ("Luma") and Evo Homeowners Association ("Evo") are located immediately adjacent to the north and east of the proposed 112 room, 8 story, 106-foot hotel project at 1130 S. Hope Street. ("Hotel Project"). Luma and Evo appealed the Letter of Determination ("LOD") by the Director of Planning to the Central LA Area Planning Commission. ("APC") The APC is the final decision on the matter, and Luma and Evo have timely filed the CEQA Appeal to the City Council.

Luma and Evo provided the Applicant's Noise, GHG and Air Quality studies to the APC, which include: (i) Noise Impact Analysis, dated October 15, 2020, by Urban Crossroads, ("Noise Study"), (ii) Greenhouse Gas Analysis, dated October 19, 2020, by Urban Crossroads ("GHG Study"), and (iii) Air Quality Impact Analysis, dated October 19, 2020, by Urban Crossroads ("Air Quality Study"). These are incorporated herein in their entirety by reference. These reports rely on a Traffic Study by KOA Associates; however, City staff informed us that this was never finalized and did not produce it after several requests. Therefore, the City's actions did not include review of a Traffic Study or assessment

1. The Hotel Project Does Not Qualify for a Class 32 Exemption, And There is Substantial Evidence That An Exception to the Exemption Exists Because the Project Has Significant Environmental Impacts to Noise, Traffic, Air Quality and GHG That Have Not Been Mitigated

(a) Noise Impacts

The Noise Impact Analysis, dated October 15, 2020, by Urban Crossroads, ("Noise Study") fails to evaluate the impact of the operation and construction of the hotel on the closest residential units, fails to consider noise from mechanical rooms and rooftop uses, and fails to utilize the national FWHA noise standards utilized in City EIRs. Because the Hotel Project will have noise impacts, the Applicant cannot use the CEQA exemption, and must prepare an Environmental Impact Report.

First, the Noise Report locates the sensitive receptor locations at the entrance to Luma on Hope Street instead of at the adjacent residential units with balconies and operational windows facing the Hotel Project just 20 feet across the alley. For instance, the report states that the rooftop HVAC, which faces the Luma building, has a noise level of 57.2 dBA from 50 feet (p.26); however, the Noise Report concludes that the noise level would only be 29.5 dBA at the sensitive receptor location R1 at the ground level adjacent to the Luma building on Hope Street. The report does not identify that the window and balconies of residential units on the Luma building are located at the same height of the rooftop HVAC unit, and are located 20 feet away directly across the alley. Therefore, the noise level would exceed 57.2 dBA (the 50 foot distance level), and would exceed 5 dBA above ambient level, which is the threshold for operational noise impacts.

Second, Urban Crossroads does not utilize the standard FHWA noise standards set forth in City's environmental impact reports. The noise levels of construction equipment are listed in FHWA, Roadway Construction Noise Model User's Guide, 2006, Table 1. Instead, Urban Crossroads provides their own standards that they measured without identifying the specific equipment. These noise levels are up to 18 dBA lower than the standard published noise levels for specific pieces of equipment. However, if the Noise Study used the appropriate noise data, and had receptors at the adjacent Luma building, only 20 feet from the construction site, there would be significant noise impacts. With significant noise impacts that cannot be mitigated, the Project would not qualify for a CEQA exemption.

Due to the proximity of the Project to the Luma and Evo buildings, the Project will have Noise Impacts during construction that cannot be mitigated. The Project LOD does not suggest any construction conditions to avoid noise in the alley or to the residential units 20 feet from the Property, which will create significant impact to noise where the neighbors drive, walk their dogs, bicycle, and exit the building. The alley is the primary entrance to the Luma and Evo buildings, and the CEQA exemption does not consider the noise impacts on the families that live there. Specifically, the Project does not include any conditions such as a sound blanket, insulated construction fence, use of shielded or muffled equipment, locating equipment far from residential units, using equipment specific times of day when children are at school, or notifying the neighbors of the use of loud equipment that are all standard construction conditions for Project's near sensitive receptors that will cause construction noise impacts. Therefore, the Project fails to mitigate the significant noise impact.

(b) *Air Quality and GHG Impacts*

The Air Quality Study and Greenhouse Gas Study, both by Urban Crossroads, dated October 19, 2020 have similar flaws, because the sensitive receptors are not located at the closest residential unit to the Hotel Project. In addition, the Air Quality Study fails to evaluate the emissions from the loading dock, accessed from the alley, directly adjacent to the Luma residential building. The Greenhouse Gas Study also uses the wrong screening threshold, 3,000 MTCO₂e/yr, based on thresholds used by the City of Menifee and others, but the City of Los Angeles has not adopted this threshold. In the absence of any adopted quantitative threshold, the significance of the Project's GHG emissions should be evaluated consistent with CEQA Guidelines Section 15064.4(b)(2) by considering whether the Project complies with applicable plans, policies, regulations and requirements adopted to implement a Statewide, regional, or local plan for the reduction or mitigation of GHG emissions, including CARB's 2017 Scoping Plan, SCAG's 2020-2045 RTP/SCS, the City's Green New Deal, and the Los Angeles Green Building Code.

Due to the proximity of the Project to the Luma and Evo buildings, the Project will also have Air Quality and GHG Impacts during construction that cannot be mitigated. The Project LOD does not suggest any construction conditions to avoid dust in the air or construction traffic in the alley that will significantly increase emissions in a confined area. This will create significant impact to air quality and GHG where the neighbors drive, walk their dogs, bicycle, and exist their buildings. The alley is the primary entrance to the Luma and Evo buildings, and the CEQA exemption does not consider the Air Quality and GHG impacts on the families that live there.

(c) ***Traffic Impacts***

The Air Quality Study references a Traffic Impact Study by KOA Associates; however, the City planner confirms that the Applicant has not yet submitted a traffic report or assessment for the Hotel Project. The Traffic Study is necessary to determine if there are traffic impacts, including to the neighborhood intrusion to the alley that serves the Luma and Evo buildings, and whether additional environmental analysis is needed based on these traffic impacts. It should also evaluate queuing for the valet at the front of the building, and provide conditions to ensure it does not block traffic entering or exiting the Luma and Evo buildings.

Due to the proximity of the Project to the Luma and Evo buildings, the Project will also have Traffic Impacts during construction that cannot be mitigated. The Project LOD does not suggest any construction conditions to avoid traffic in the alley, which will create significant impact to traffic where the neighbors drive, walk their dogs, bicycle, and exit their buildings. The alley is the primary entrance to the Luma and Evo building, and the CEQA exemption does not consider the traffic impacts on the families that live there.

(d) ***Cumulative Impacts.***

There are a significant number of existing projects proposed and under construction in the immediate vicinity. The Project has individual impacts to noise, air quality, GHG and Traffic, as described above; therefore it is likely that the impacts of the Hotel Project are individually cumulatively considerable, and there will be cumulative impacts.

2. The Hotel Project Violates CEQA Because It Does Not Have a Stable Finite Project Description.

The description of the project is an indispensable element of both a valid draft EIR and final EIR. (*Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th277, 287, citing *Western Placer Citizens for an Agricultural & Rural Environment v. County of Placer* (2006) 144 Cal.App.4th890, 898.) That project description must be accurate, stable and finite. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) The requirement of an accurate, stable, and finite project description as the sine qua non of an informative and legally sufficient EIR has been reiterated in a number of cases since *County of Inyo*. (See, *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1052 [“This court is among the many which have recognized that a project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally inadequate and misleading”]; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th70, 85—89 [EIR failed as an informal document because the project description was inconsistent and obscure as to the true purpose and scope of the project]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 653 [an EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project], *Stophemillennium.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1)

In this case, the Project described in the project description as part of the CEQA Exemption is not the one approved in the Letter of Determination ("LOD"). First, the LOD Condition 2

identifies the "use" of the subject site as "the uses permitted in the underlying zone." The LOD must identify the Project use, a hotel use, and require a modification of the Site Plan Review and additional environmental review for any change of use. The CEQA exemption did not evaluate any other use for the Property, and so the LOD cannot approve it. Second, LOD Condition 3 limits the total floor area to 46,741 square feet, as shown in Exhibit A, but must also limit the building to 112 hotel rooms, 8 story, and 106-feet in height. The LOD does not limit the density, height or number of stories, and therefore does not provide a finite building envelope in the approval. LOD Condition 4 requires on-site automobile parking in accordance with the LAMC; however, the attached plans in Exhibit A show a building with no parking on site. The Project cannot be in substantial conformance with Exhibit A (as required in LOD Condition 1) and provide on-site parking. The condition must require off-site parking in compliance with the LAMC provisions to permit the Hotel Project approved in Exhibit A.

3. The Hotel Project Violates CEQA Because It Does Not Have Mitigation Measures to Reduce the Significant Impact to Less Than Significant

The Project fails to include any mitigation measures to reduce any significant environmental impact to a less than significant level, or to reduce the impact to the greatest extent feasible. The following mitigation measures and conditions were requested at the Central LA APC hearing for the Project, and should be included in the Project approval:

(a) **Construction.** The Project will cause significant disturbance to the neighboring residential units, especially for those that work at home and have children at home during the day. The conditions of approval do not have any specific analysis or conditions for the construction period. In addition to complying with the City's standard construction requirements, the following construction conditions should be included:

(i) **Noise.** The applicant provided the Noise Study that identified quieter construction equipment and claimed it would not exceed noise thresholds or cause a noise impact. The construction equipment used in the construction of the project must be limited to the specified equipment identified in the study and limited to the maximum sound levels stated in the study. All equipment shall be insulated to the greatest extent possible. All equipment shall be located as far from Evo and Luma's residential units as possible. The contractor shall install a minimum 15 foot height fence with insulation material to reduce the construction noise heard in the alley to the greatest extent possible.

(ii) **Dust.** The contractor shall fully cover and/or water all hauling trucks, even when on site, to avoid dirt and dust in the alley where Luma and Evo residents frequently drive, walk and bicycle.

(iii) **Hours.** The hours of construction shall be limited to 8am to 4pm. Monday through Friday. There shall be no construction work on the weekends or holidays. Any loud construction equipment that may exceed the City's Noise Ordinance thresholds shall be limited to 10am to 2pm daily (during school hours).

(iv) **Alley.** The construction work and equipment shall not block any part of the alley at any time. There are parking and loading spaces adjacent to the alley that are part of the

property of Luma or Evo, and the construction equipment shall never use these areas. The construction and loading equipment shall not block the entrance to the alley on Hope Street or the Evo driveway on Hope Street at any time. Any crane or large equipment not stored on site shall be located on Hope Street in front of the 1130 Hope property, and shall not be located in the alley at any time. The contractor may also not use any of the parking spaces in the alley, because these are on Evo and Luma's property.

(v) **24-hour Contact.** The contractor shall provide Luma and Evo representatives with the phone number of a project manager who will respond to issues or complaints 24-hours per day.

(vi) **TDM Program.** The Project should comply with the provisions of the City's TDM program, which is currently under consideration by the City Council both during construction and operation. This is a regular request of other projects currently in the entitlement process.

(b) **Use.** The hotel rooftop should only be used for quiet passive use. There should be no third party events (such as a private party, wedding or fitness class), and no sale or providing of alcohol for consumption on the roof. The hotel rooftop is only for hotel patrons and their guests. There should be a hotel employee on the roof or regularly monitoring the roof to ensure quiet when guests are present.

(c) **Hours of Use.** The hotel rooftop should be accessible only Monday – Friday from 8am – 10pm, and on the Friday/Saturday from 8am – 11pm.

(d) **Design.** The rooftop area that is accessible to guests should be designed to be fully enclosed by the elevator/stair, mechanical rooms, and foliage on all sides to reduce the noise and visibility into the surrounding residential units to maintain as much privacy as possible. There shall be a minimum 6 foot wall enclosing the roof on all sides.

(e) **Light.** There shall be no use of strobe lights or any lights that shine into residential windows from the hotel rooftop at any time.

(f) **Mechanical Rooms.** All mechanical equipment on the roof shall be fully enclosed in a mechanical room. The mechanical equipment shall be fully insulated so that it is not audible outside of the hotel property boundary, including in any of the surrounding residential units. There shall be no vents or exhaust facing any of the residential units across the alley for any mechanical equipment in the hotel.

(g) **Valet.** The hotel shall provide a valet 24-hours a day when guests are dropping off or being picked up to manage the queue of guests and rideshare drivers.

(h) **Signage.** The hotel shall have clear signage that no drivers shall park to block the alley or the Evo driveway at any time, even temporarily.

(i) **Striping.** The applicant shall coordinate with DOT and BOE to provide striping on Hope Street in front of the Evo driveway to state that it should remain clear.

(j) **TDM.** The applicant shall prepare a TDM plan that includes information regarding valet and accessing the off-site lot for guests.

(k) **Metro passes.** The hotel shall provide metro passes and bicycles/scooters to encourage alternative modes of transportation.

(l) **Parking.** Condition No. 4 of the approval states that the project parking will be on-site, but the parking description states that there are 2 on-site parking spaces, 22 parking spaces within 750 feet, and 4 spaces replaced with 16 bicycle spaces. The approval should clarify that only two parking spaces are on site, and that the remaining parking spaces will be off-site. In the event that additional parking is placed on site in the final design, this should not increase the height of the building by adding a parking level.

(m) **Employees.** The applicant's representative stated that the hotel is a low-service hotel with few employees. This is of specific concern in the South Park neighborhood where other hotel and short term stay units were the site of drug sales and parties. The hotel shall be required to maintain a security guard 24 hours per day to maintain safety for hotel guests and nearby residents. In addition, at least one other employee shall be on site at all times to respond to guest calls, neighbor calls, and to monitor the drop off and valet at the front. During the day, the hotel shall have sufficient employees at peak hours to check in guests and respond to guest calls while maintaining a valet to monitor the car queue at all times. The condition of approval should require at least a security guard and valet/employee at all times.

(n) **Noise.** Hotels are much more likely to have loud parties and guests that do not consider their residential neighbors. The hotel should have policies to limit guest noise, especially not permitting loud parties in the rooms or on the roof, and requiring guests to be quiet while waiting for rideshare or entering the building at night. There should be no noise audible from the hotel at any time in the residential units of Luma and Evo.

(o) **Light.** All lights on the project, including any signage, shall be shielded and shall not shine any light into the neighboring residences. There shall be no digital signage or neon signage on the project.

(p) **Design.** The Project shall include four facades that are designed with varying materials, color, textures and articulation and that have design interest. The Project shall not include any flat façades without architectural interest that will cause noise to reverberate, especially adjacent to the alley and facing residential units. The conditions of approval should also limit the building to the design shown in Exhibit A of the approval, including "A maximum height of eight stories and 106 feet in height, and a total floor area of 46,741 square feet, and a maximum FAR of 6:1 with a maximum 112 hotel guest rooms." If the project is revised in the future, a new Site Plan Review should be required. The conditions of approval must require substantial compliance with the drawings attached as Exhibit A.

(q) **Use/Density.** The conditions of approval state that the project allows any use permitted in the zone. However, this does not provide a finite project description as required under CEQA. Therefore, the use must be identified as a hotel use only, and any change would require modification of the Site Plan Review approval. The hotel includes 112 guest rooms, however, the

prior approval only permitted 44 guest rooms. The small site would better accommodate less guest rooms, even if the zoning does not limit the guest room density.

(r) ***Setback.*** The Evo HOA owns the empty lot to the south of the 1130 Hope property, which is used as the driveway entrance to the Evo parking garage. Evo intends to develop the property in the future, and can build commercial building with no lot line setbacks. The hotel design includes only a 5 foot setback from the south property line for all hotel rooms facing this direction. When Evo completes their project, the hotel rooms will be looking at a wall only five feet away without any Fire Department access. The conditions of approval should either require a greater setback or confirm that the applicant understands these rooms will be blocked because they face a side lot line.

(s) ***24-hour Neighbor Access.*** The hotel manager shall provide a contact number so that the residents can contact the manager directly 24-hours a day in case of any issues.