Communication from Public

Name:	Noel Weiss
Date Submitted:	02/25/2021 10:39 AM
Council File No:	20-0603
Comments for Public Posting:	Please see attached letter to Council dated February 24, 2021 in support of the pending appeal to the CEQA exemption granted by Planning to the Lexington 1 and Lexington 2 projects.

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February 24, 2021

MEMBERS OF THE LOS ANGELES CITY COUNCIL **Via Email**
Los Angeles City Hall
200 North Spring Street
Los Angeles, California 90012

RE: *COUNCIL FILE NOS. 20-0603 & 20-0603-S1; ENV-2019-5389-CE; ENV-2019-7068-CE*

PROJECT SITES: 5817-5823 West Lexington Avenue (Lexingon 1); 5808-5812 West Lexington Avenue (Lexington 2)

Dear Councilmembers:

This letter is intended to supplement the appeal by my client and others of the CEQA exemption which is currently before the Council following the PLUM Committee's rejection, on December 8, 2020, of their appeal. This Council continues to exhibit a pattern and practice of avoiding its responsibilities to act timely on these CEQA appeals; all to the prejudice of everyone involved.

There is a serious affordable housing crisis in this City. In this case, the means chosen to confront the crisis is to greatly enrich an out-of-state developer who has chosen Los Angeles to roll out its $100 Million "rent-by-the bed" *Apartment **Hotel**/Residential **Hotel*** development concept and business model[1]. These dollars

[1] The term "*Apartment Hotel*" is a legal term of art. It is defined in LAMC §12.03 as "a residential building designed or used for both two or more *dwelling units* and six or more guest rooms or suites of rooms." "*Guest Room*" and "*Dwelling Unit*" are also a legal terms of art. A "*guest room*" is "any habitable room except a kitchen, designed or used for occupancy by one or more persons and ***not*** in a *dwelling unit*". (LAMC §12.03). A "*dwelling unit*", on the other hand, is "a group of two or more rooms, one of which is a kitchen, designed for occupancy by ***one*** *family* ***for*** living ***and sleeping purposes***." (LAMC §12.03). A "*family*" is defined under LAMC §12.03 as "one or more persons living together in a *dwelling unit* with ***common access to,*** and common use of ***all living***,

are blinding the Mayor and his Planning Department to the point where any and all semblance of critical (intellectually honest) thinking has been completely suspended. Ignoring state and local laws where the result is the artificial inflation of underlying land values will not promote more affordable housing. Why?

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kitchen, and eating ***areas*** within the *dwelling unit*." "All living areas" includes bedrooms. This was the ruling in the case of *Chun vs. Del Cid* (2019) 34 Cal. App. 5th 806, where the court held that "common access to ***all living*** areas" meant and included equal access ***all bedrooms*** within the *dwelling unit.* By definition, that cannot be the case with "*guest rooms*" which are rented out separately to individuals who are given ***exclusive use of the bedroom*** and the bed (a classic "rent-by-the bed" business model scenario). In the *Chun* case, the Court of Appeal held that the owner of a single-family dwelling which had been internally sub-divided into four *guest rooms* separately and exclusively rented out to individuals (not related by blood, household income or economic circumstance) who occupied those *guest rooms* as their primary residence, was not entitled to the "single-family home" exemption under the City's rent control laws. This meant that the occupants of those *guest rooms* were entitled to all of the benefits and protections of the City's rent control law. The same circumstance obtains here. The applicants' business model and design implements a "*rent-by-the-bed*" concept involving 82 *guest rooms* (Lexington 1) and 95 *guest rooms* (Lexington 2) where each of these *Apartment/ Residential Hotels* are sub-divided into aggregate groupings 3-6 bedrooms (Lexington 2) and 1-6 bedrooms (Lexington 1) (each to be individually rented out). The circle of deception and deflection is completed by falsely labeling these bedroom groupings as "units" (not "dwelling units"; "units"); 21 "units" for Lexington 1, and 17 "units" for Lexington 2. The problem? The word "unit" is not defined anywhere in state or local law. That includes the state density bonus law; the City's implementation of the state density bonus law; the City's TOC (Transit Oriented Communities Affordable Housing Program) law; the City's rent control law; or the City's zoning law (including the development standards incorporated into the City's zoning law). The City's density bonus implementation ordinance (LAMC §12.22(A)(25)(b)) does, however, define "*Residential Hotel*" as a "building containing six or more *Guest Rooms*. . .which are intended or designed to be used, rented, or hired out to be occupied, or are occupied ***for sleeping purposes*** by [non-transient guests. . . [as the guest's primary residence]. . . " Under this definition, both Lexington 1 and Lexington 2 are clearly "*Residential Hotels*". They can also be considered "*Apartment Hotels*" as defined under LAMC §12.03. Under the City's zoning code, hotels are ***not*** permitted in residential zones. They are only permitted in commercial zones (CR or C-1). These "aggregate groupings" of *guest rooms* cannot, by definition, be considered "*dwelling units*" because each "*guest room*" is to be individually rented for the resident/tenant's ***exclusive use***; which use is to be combined with a non-exclusive use right to the common areas of the enclosed residential air space (i.e. kitchen, patio, living room, dining room, and in some cases, bathroom).

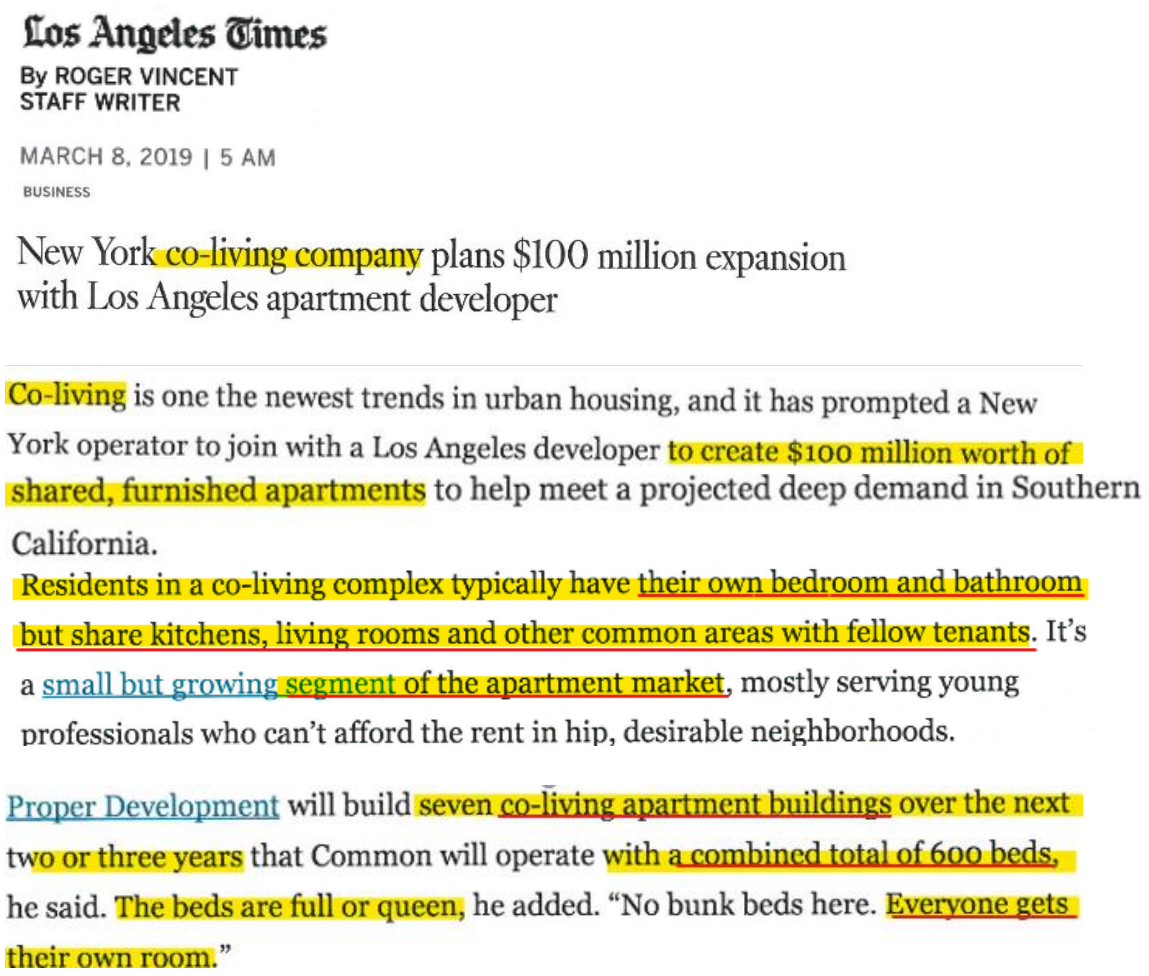
Because a core component of housing costs is land value. Bending or ignoring the rules for a wealthy special interest developer produces less affordable housing, not more. Land prices are speculatively bid up in anticipation of reaping a profit on the land use entitlement grants and the attendant developments. Many more than four very low affordable units can be developed on these Lexington 1 and Lexington 2 parcels, whether the parcels are developed separately or combined for development; all within a much smaller building envelope - one that is more consistent and compatible with the character and scale of this West Lexington R-3 residential neighborhood.

The CEQA exemption granted by the Planning Department is not available to this developer for either of the Lexington 1 or Lexington 2 developments (considered one "project" for CEQA purposes) because (i) each development constitutes a *hotel use* in a residentially zoned neighborhood, and thus is not consistent with the zoning (or permitted use); (ii) each development must, by law, undergo "s*ite plan review*" under LAMC §16.05(C)(b) because each project contemplates more than 50 *guest rooms*; (iii) each development, even with the TOC incentives (Lexington 2) or density bonus incentives (Lexington 1) exceeds the number of guest rooms allowed under either; (iv) the use of merged parcels in the absence of either a *reversion to acreage* (new parcel map) or a "*notice of merger*" (mandated under the California Subdivision Map Act) violates state law; (v) a transportation study is mandated (and was not done) because of the 'illusion-delusion' created by the substitution of the (legally meaningless) term "unit" for either "*dwelling unit*" or "*guest room*". Labeling these *guest room* groupings as a "unit" disguises the fact that close to 200 people are going to be residing in these *guest rooms* as their permanent residence. That fact supports the obvious conclusion of their being a a vast increase in auto use from the single-family and duplex uses to which the properties were previously put; well in excess of the 250 vehicle trips needed to trigger a traffic study.

Lexington 1 and Lexington 2 are not simple "in-fill" developments. Each is an *Apartment/Residential Hotel development* masquerading as two separate apartment developments. Neither can legally be considered an "apartment" because with the exception of the two very low-income affordable households, the 'rent-by-the-bed' "co-living" operational business model does not allow for any use as a "*dwelling unit*" (legally defined). Finally, (vi) each development exceeds the level of density otherwise permitted under the Hollywood Redevelopment Plan.

*The Developer's "Co-Living" Business Model – "**Renting-by-the-Bed**" – The newest in Apartment/Residential **Hotels**. . . . Using the pretense of providing a pitifully small amount of affordable housing as a subterfuge to profit off the backs of the community while destroying the character and scale of the portion the West Lexington Avenue Community directly impacted by the Lexington 1 and Lexington 2 developments.*

Here, in the developer's own words, is how its business model is described. The quote is from a report in the Los Angeles Times dated March 8, 2019:



Los Angeles Times

By ROGER VINCENT
STAFF WRITER

MARCH 8, 2019 | 5 AM

BUSINESS

New York co-living company plans $100 million expansion with Los Angeles apartment developer

Co-living is one the newest trends in urban housing, and it has prompted a New York operator to join with a Los Angeles developer to create $100 million worth of shared, furnished apartments to help meet a projected deep demand in Southern California.

Residents in a co-living complex typically have their own bedroom and bathroom but share kitchens, living rooms and other common areas with fellow tenants. It's a small but growing segment of the apartment market, mostly serving young professionals who can't afford the rent in hip, desirable neighborhoods.

Proper Development will build seven co-living apartment buildings over the next two or three years that Common will operate with a combined total of 600 beds, he said. The beds are full or queen, he added. "No bunk beds here. Everyone gets their own room."

[**Note:** This equates to 85 beds per "apartment" building (600 beds/7 buildings = 85.7 beds per building; roughly in line with the number of beds to be rented out in the Lexington 1 (82 beds) and Lexington 2 (95 beds) developments (considered one combined "project" for CEQA purposes)).]

The article continues with a quote from Daniel Pourbaba:

> "The urgency to develop market rate housing at accessible price points is tremendous," said Daniel Pourbaba, founder of Proper Development.

[**Note**: Anything here about *affordable housing*? Nope. The clear business objective is stated to be to develop "market rate" housing at "accessible price points" using the "co-living" rent-by-the-bed" business model. The use of the density bonus and TOC incentives are a complete ruse. They are phony; intended solely to enable a greater concentration of beds to be individually rented out as part of an unpermitted *hotel use* in a residential neighborhood. In this case, that involves two massive 56 foot tall, 5 story structures, each consisting of roughly 30,000 sq. feet of building on two merged lots of 7,500 sq. ft. per lot. (The building size of Lexington 1 is 29,138 sq. ft. (occupying two 7,500 sq. ft. lots (parcels - total: 15,000 sq. ft.). Lexington 2 is a 30,436 sq. ft. structure on a 15,000 sq. foot (combined) lot).[2] How much affordable housing is provided? Next to nil; carving out of each *Resident/Apartment Hotel* an embarrassing low 2 very

[2] This raises another question as to the legality of combining (merging) the two adjacent 7,500 sq. foot legal parcels on which each of the Lexington 1 and Lexington 2 developments will rest. In violation of the state law mandate, the City of Los Angeles has ***never*** passed the implementing ordinance prescribing the procedure by which contiguous lots are to be merged (California Government Code §66451.10 et. seq. (California Subdivision Map Act – Article 1.5 of the California Government Code)). State law also provides for a protocol allowing for the merging of separate legal parcels by way of a *reversion to acreage* (Government Code §66499.11 to §66499.20.3). This state law has also been purposely ignored here. Public hearings would be required in either instance; and if there is one thing the Department of Planning under this Mayor (and City Attorney) wish to ignore it is public hearings. This is another reason why the CEQA exemption is not available here. Lexington 1 and Lexington 2 require the merger of two contiguous (otherwise) legally subdivided parcels. To get around the state mandate, the City's practice is to use a "Lot-Tie Agreement" as a substitute for either (i) approving a new parcel map as part of a *reversion to acreage*, or (ii) processing a "*notice of merger*". The use of a "Lot-Tie Agreement" is not something state law contemplates or authorizes. This willful indifference to state law further renders the CEQA exemption inapplicable to both the Lexington 1 and Lexington 2 developments.

low-income *dwelling units* for Lexington 1 and 2 very low income *dwelling units* for Lexington 2 (total four).]

The "Project": *Lexington 1* (the development of two adjacent 7,500 sq. ft. parcels located at 5817 West Lexington Avenue and 5823 West Lexington Avenue; and *Lexington 2* (the development of two adjacent 7,500 sq. ft. parcels located at 5806 Lexington Avenue and 5812 West Lexington Avenue.

For CEQA purposes, the "project" includes the development and use of the Lexington 1 and Lexington 2 properties as follows: Each occupies adjoining 7,500 sq. foot legal parcels. Each building is five stories and 56 feet high. Each is designed to effectuate the developer's rent-by-the-bed "co-living" business model (which for the reasons herein stated, the appellants contend are *Apartment/Residential Hotels* – See Footnote 1).

a. *Lexington 1* is to be constructed on two adjacent legal parcels located at *5817 West Lexington Avenue* and *5823 West Lexington Avenue*. No provision has been made to legally combine these two parcels into one legal parcel (another reason the CEQA exemption is not available). The size of the *Lexington 1* structure is 29,129 sq. ft. It is slated to occupy a combined lot equal to 15,000 sq. ft. *Lexington 1* is to contain a total of 82 bedrooms subdivided into 21 separate aggregated residential spatial groupings (which the developer and planning deceptively label as "units"). Appellants contend these 82 bedrooms are *guest rooms* because each bedroom is to be rented out "by-the-bed" to separate individuals for their exclusive use as their primary residence. The tenants of these *guest rooms* are also given the non-exclusive common use right to the non-sleeping areas of the grouping configuration; all as part of a co-living arrangement and business model. These separately rented beds and bedrooms are guest rooms under the City's zoning law (LAMC §12.03). This was the ruling in *Chun vs. Del Cid* (2019) 34 Cal. App. 5th 806 – holding that bedrooms ***exclusively*** and separately rented to individuals unrelated by blood or economic ties in a single-family home are considered "*guest rooms*" whose individual tenancies are protected under the LA City Rent Control Law (i.e. the landlord is not protected by the single-family home exemption because the single-family home ceases to be used as aa single-family home when the use of the bedrooms and beds are sub-divided into *guest rooms* for the exclusive use of tenants as their permanent residence). That is precisely the business model being employed here in this 'rent-by-the-bed' "co-living" business and social model.

A screen-shot of the Google Map, *circa* 2017, of the two parcels which are to be combined to enable the construction and use of the *Lexington 1 Apartment/ Residential Hotel* (82 *guest rooms*; where 2 of those *guest rooms* will likely be turned into separate "*dwelling units*" (i.e. as one-bedroom apartments) in order to facilitate the provision of the two very low-income affordable residential units rented out to very low income "households" in consideration for the City's approval of this massive *Apartment/Residential Hotel*. Lexington 1 was granted a density bonus allowing for 21 "dwelling units". However, the "co-living" 'rent-by-the-bed' business model does not allow for or contemplate 21 "*dwelling units*" (as defined by LAMC §12.03). It contemplates 82 "*guest rooms*"; so there is a disconnect between the land use entitlement granted (21 *dwelling units*) and the intended use (82 *guest rooms* as comprising an *Apartment/Residential Hotel*). This divergence disqualifies the Lexington 1 project from making use of the CEQA exemption since (i) the contemplated hotel use is inconsistent with the R-3 zoning (hotel uses are permitted only in commercial (non-residential) zones); and because the development and use of 82 *guest rooms* as an *Apartment/Residential Hotel* mandates a site plan review under LAMC §16.05(C). Where the plans and purpose clearly contemplate the design and use of *guest rooms*, but the land use entitlement grant speaks of the provision of "*dwelling units*", it is inaccurate to say, as Planning has done here, that the Lexington 1 project is consistent with all applicable zoning laws, designations, and policies.

Google Map, *circa 2017*, of the **5817-5823** W. Lexington Avenue (**Lexington 1**) parcels. There are separate addresses for each lot to be merged. Outlined in **blue** is the **5823-5821**

West Lexington Avenue parcel) (two addresses); outlined in **red** is the **5819-5817** W. Lexington Avenue legal parcel) (two addresses). These two separate legal parcels are being merged to enable the Lexington 1 development; but without requiring a new parcel map (*reversion to acreage*) or a formal "notice of merger". Use of a "lot-tie agreement" (expected to be used here) is not contemplated under the California Subdivision Map Act; another reason the CEQA exemption does not apply. The City cannot continue to ignore state law mandating the protocol to be followed when legal lots are merged to facilitate development.

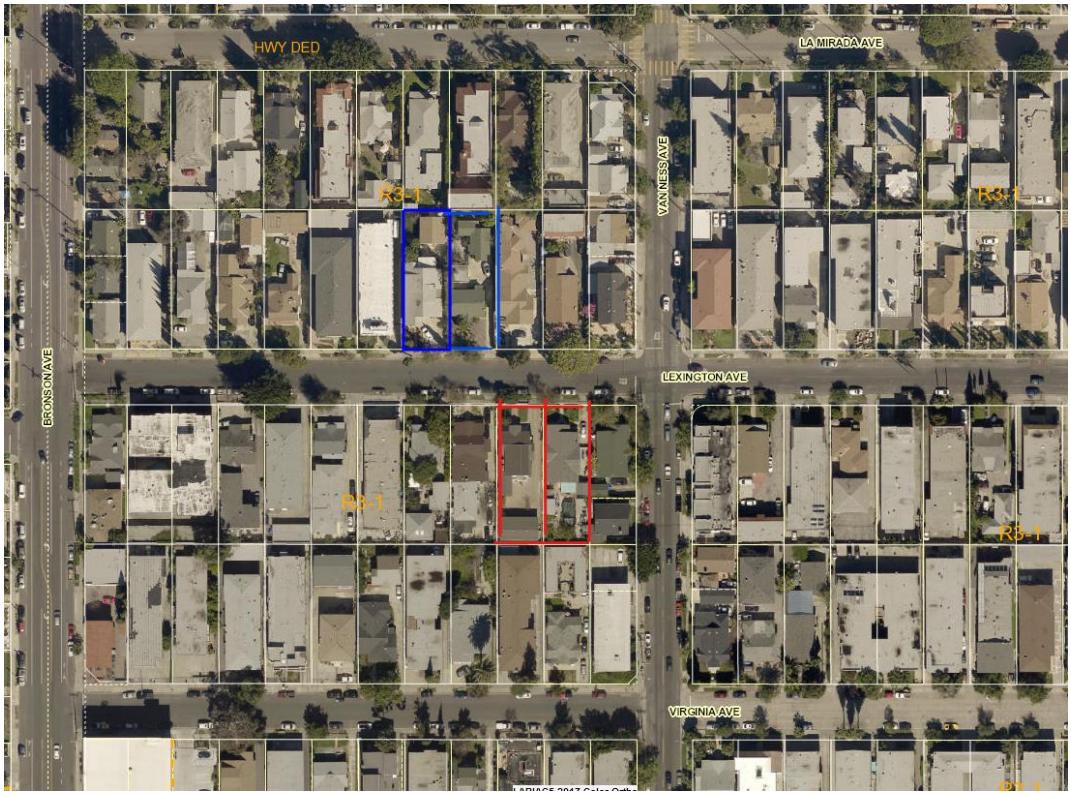
b. *Lexington 2* is to be constructed on two adjacent legal parcels located at *5806 West Lexington Avenue* and *5812 West Lexington Avenue*. No provision has been made to legally combine these two parcels into one legal parcel (another reason the CEQA exemption is not available). The size of the *Lexington 2* structure is 30,436 sq. ft. It is slated to straddle two adjacent 7,500 sq. ft. legal lots (total 15,000 sq. ft.) *Lexington 2* is to contain a total of 95 bedrooms subdivided into 17 separate aggregated groupings (which the developer and planning deceptively label as "units"). Appellants contend these 95 bedrooms are *guest rooms* because each bedroom is to be rented out "by-the-bed" to separate individuals for their exclusive use as their primary residence. The tenants of these *guest rooms* are also given the non-exclusive right to make use of the non-sleeping areas of the grouping configuration; all as part of a co-living arrangement and business model. These separately rented beds and bedrooms are *guest rooms* under the City's zoning law (LAMC §12.03). They are not "*dwelling units*". This was the ruling in *Chun vs. Del Cid* (2019) 34 Cal. App. 5th 806 – holding that bedrooms exclusively rented to individuals who are unrelated (either by blood or economic tie) in a single-family home are to be considered "*guest rooms*" whose individual tenancies are protected under the LA City Rent Control Law (i.e. the landlord in that case was ***not*** protected by the single-family home exemption because the single-family home ceased to be used as a single-family home when the use of four of the bedrooms and beds in the home were sub-divided into *guest rooms* for the exclusive use of tenants as their primary residence notwithstanding that the tenants (occupants of the bedrooms exclusively rented to them) had a right to make use of the other common areas of the single family residence apart from the other bedrooms used by others in the home.

Set out below is the Google Map, *circa* 2017, of the two parcels which are to be merged to facilitate the construction and use of the *Lexington 2 Apartment/ Residential Hotel* (95 *guest rooms*; where 2 of those *guest room spatial* aggregations will likely be turned into separate "*dwelling units*"; in this case, as

three-bedroom apartments in order to facilitate the provision of the two very low-income affordable residential units to be rented out to very low income "households" in consideration for the City's approval of this massive *Apartment/Residential Hotel*. Lexington 2 was granted development incentives under the City's TOC law (which incorporates the City's density bonus implementation ordinance). Instead of using the term "*dwelling units*", the entitlement granted the developer the right to develop 17 "residential units". Given that the "co-living" 'rent-by-the-bed' business model does not allow for or contemplate 21 "*dwelling units*" (as defined by LAMC §12.03), but instead contemplates 95 individual "*guest rooms*" whose use is exclusive to each tenant renting each bed and bedroom (to the exclusion of the other *guest room* tenants); there is a disconnect between the land use entitlement granted (labeled as 17 "residential units") and the intended use (95 *guest rooms*). This divergence disqualifies the Lexington 2 project from making use of the CEQA exemption since (i) the contemplated hotel use is inconsistent with the R-3 zoning (hotel uses are permitted only in commercial (non-residential) zones); and (ii) because 95 *guest rooms* are being developed, a site plan review is mandated under LAMC §16.05(C). Where the plans and purpose clearly contemplate the design and use of *guest rooms*, but the land use entitlement grant speaks of the provision of "residential units", it is inaccurate to say, as Planning has done here, that the Lexington 2 project is consistent with all applicable zoning laws, designations, and policies.

Google Map (circa 2017) of the **5806-5812 West Lexington Avenue** (**Lexington 2**) project. **5812 West Lexington Avenue** is outlined in **Blue**; **5806** West Lexington is outlined in **Red**.

Finally, here is the Google Map, *circa* 2017, depicting both the *Lexington 1* (**5817-5823 W. Lexington Avenue**) project parcels (outlined in **Blue),** and the *Lexington 2* (**5806-5812 W. Lexington Avenue**) project parcels (outlined in Red). This aids in giving perspective to why these *Apartment/Residential Hotel* projects are so disparate to the character and scale of the surrounding neighborhood and why they are inconsistent with the City's zoning laws and development standards. In short, why the CEQA exemption does not apply and why this appeal should be granted.



Google Map, *circa* 2017, of both Lexington parcels. **5817-5823 W. Lexington** (**Lexington 1**) is outlined in **Blue**; **5806-5812 W. Lexington** (**Lexington 2**) is outlined in **Red.**

Detailed Discussion of Why the CEQA Exemption is not Available

There is no lawfully authorized "project" until (i) there has been a valid and proper CEQA work-up; or (ii) a valid CEQA exemption granted. There has been no valid CEQA work-up; and there is no valid CEQA exemption for the reasons noted above and expanded upon below.

(a) Commercial Hotel Use in Residential Zone is not permitted. Thus, the CEQA Exemption is not available.

Both the *Lexington 1* and *Lexington 2* developments are *Apartment Hotel*s (aka *Residential Hotels*) A hotel use is not permitted in a residential zone. Given that both are designed and intended as hotel uses, it cannot be said that their development in a residential zone is proper under the City's zoning laws. A CEQA exemption is only available when the development is consistent with the allowed and permitted uses under the City's zoning code. If the developer wishes to bring this "co-living" 'rent-by-the-bed' concept to Los Angeles, then the developer needs to find and purchase a commercially zoned lot. Dumping a 5-story/56 foot tall *Apartment/Residential Hotel* into a residential neighborhood is not a legal option; irrespective of whether or not these groupings of *guest rooms* are erroneously labeled as "units" in order to make it appear these developments conform to the City's zoning laws. They do not. Use of the legally meaningless term "unit" to describe a spatial configuration of *guest rooms* does not cause what is an *Apartment/Residential Hotel* to morph an Apartment containing separate legally recognized and defined "*dwelling units*".

Here are the legally relevant definitions:

First from LAMC §12.03:

APARTMENT HOTEL. A residential building designed ***or*** used for both ***two*** or more ***dwelling units*** ***and*** ***six*** or more ***guest rooms*** or ***suites of rooms.*** **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

DWELLING UNIT. A group of ***two*** or more ***rooms***, one of which is a kitchen, ***designed*** for occupancy by ***one family*** for living and sleeping purposes. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

FAMILY. One or more persons ***living together*** ***in a dwelling unit,*** with common access to, and common use of ***all*** living, kitchen, and eating areas ***within the dwelling unit***. **(Amended by Ord. No. 177,325, Eff. 3/18/06.)**

GUEST ROOM. Any habitable room except a kitchen, designed ***or*** used for occupancy by one or more persons ***and not in a dwelling unit***. **(Added by Ord. No. 107,884, Eff. 9/23/56.)**

APARTMENT. Same as dwelling unit. **(Added by Ord. No. 107,884, Eff. 9/23/56.)**

Next from the City's density bonus implementation ordinance (LAMC §12.22(A)(25)(b):

Residential Hotel - ***any building containing six or more Guest Rooms or Efficiency Dwelling Units***, which are intended or designed to be used, or are used, rented, or hired out to be occupied, or are occupied for sleeping purposes by guests, ***so long as the Guest Rooms or Efficiency Dwelling Units are also the primary residence of those guests***, but not including any building containing six or more Guest Rooms or Efficiency Dwelling Units, which is primarily used by transient guests who do not occupy that building as their primary residence.

Residential Unit - a ***dwelling unit*** or joint living ***and*** work quarters; a mobilehome, as defined in California Health and Safety Code Section 18008; a mobile home lot in a mobilehome park, as defined in California Health and Safety Code Section 18214; ***or a Guest Room*** or Efficiency Dwelling Unit in a Residential Hotel.

Note the definition of a "*residential unit*" is framed in the alternative. A "*residential unit*" can be either a "*dwelling unit*" ***or*** a "*guest room"*, ***or*** some combination, depending on the building's design and intended use. It should be clear that true apartment properties are not designed, developed and rented in spatial configurations where individual dwelling units contain 5 and 6 bedrooms as is the case with the Lexington 2 project where 14 of the 17 spatial configurations contain 6 separate bedrooms grouped in (roughly) 1,800 sq. foot configurations. As noted above, the developer's business model is to rent each bedroom separately where the tenant has exclusive use of the bed and bedroom rented (like a hotel), where the bedroom is fully furnished (like in a hotel), where there co-extensive use of the common (non-bedroom) areas (like in a hotel), which are cleaned regularly by a cleaning crew hired by the owner (just like a hotel). In short, each "*guest room*" constitutes a separate "*residential unit*" in a "*residential hotel*". Because the Lexington 1 and Lexington 2 buildings contain six or more "*guest rooms*", leased to individuals who intend to make use of those "*guest rooms*" as their primary residence, the Lexington 1 and Lexington 2 projects are "*residential hotels*" under the foregoing definition.

Reprinted below is the zoning matrix summary which details the permitted uses in the commercial and residential zones. A hotel use is only allowed in commercial zones.

DEPARTMENT OF CITY PLANNING
GENERALIZED SUMMARY OF ZONING REGULATIONS
Updated March 2020

Table 1 – General Development Standards

Zone	Use	Maximum Height		Required Yards			Minimum Area		Min. Lot Width	Parking Required
		Stories	Feet	Front	Side	Rear	Per Lot	Per Dwelling Unit		
C1	Limited Commercial Local Retail Stores < 100,000 sq-ft, Offices or Businesses, Hotels, Hospitals and/or Clinics, Parking Areas, CR Uses except for Churches, Schools, Museums, R3 Uses	Unlimited (9)			For corner lots, lots adjacent to A or R Zone, or residential uses: 10% lot width; 5 ft max; 3 ft min; +1 ft for each story over 2nd, up to 16	For residential uses or abutting A or R Zone: 15 ft; +1 ft for each story over 3rd: 20 ft max	Same as R3 Zone for residential uses; otherwise none			
Commercial										
CR	Limited Commercial Banks, Clubs, Hotels, Churches, Schools, Business and Professional Colleges, Child Care, Parking Areas, Offices, R4 Uses	6 (9)	75 ft (9)	10 ft min	For corner lots: 10% lot width;10 ft max; 5 ft min For lots adj. to A or R zone or for residential uses: 10% lot width; 5 ft max; 3 ft min For other lots: not required	15 ft min; +1 ft for each story over 3rd	Same as R4 for residential uses; otherwise none		50 ft for residential uses; otherwise none	See separate parking handout Bicycle Parking pursuant to Sec. 12.21 A.16 of the LAMC

The zoning matrix (summary) for R-3 zones is reproduced below. Note the difference between the allowed degree of density depending on whether the category of use is as to be as a "*dwelling unit*" (***800 sq. feet*** per *dwelling unit*), or a "*guest room*" (where the allowed density is ***500 sq. feet*** per *guest room.* The term "unit" is not used; nor should it be because it has no legal significance. The density calculation for hotels constructed and used in the C-1 and CR commercial zone is the same as that for R-3 zones – 500 sq. feet per *guest room*).

DEPARTMENT OF CITY PLANNING
GENERALIZED SUMMARY OF ZONING REGULATIONS
Updated March 2020

Table 1 – General Development Standards

Zone	Use	Maximum Height		Required Yards			Minimum Area		Min. Lot Width	Parking Required
		Stories	Feet	Front	Side	Rear	Per Lot	Per Dwelling Unit		
R3	Multiple Dwelling R2 Uses, Apartment Houses, Multiple Dwellings, Child Care (20 max)			15 ft; 10 ft for key lots	5 ft; 10% lot width when lot width is < 50 ft; 3 ft min; +1 ft for each story over 2nd, not to exceed 16 ft	15 ft	5,000 sq-ft	800 sq-ft; 500 sq-ft per guest room	50 ft	Same as RD Zones
RAS3	Residential/Accessory			5 ft, or average	Zero ft for ground	15 ft adjacent		800 sq-ft; 200		

Why is the word "unit" not used in the matrix? Because the term "unit" is not a legally defined term anywhere in state or local law. It has zero legal significance.[3]

[3] This distinction between "*guest room*" and "*dwelling unit*" is of critical importance here. Why? Because at a density of 500 sq. feet per *guest room* permitted under the zoning code for projects incorporating the use of *guest rooms*, the base total number of *guest rooms* permitted would be 30 (15,000 sq. ft of lot area/500 square feet per *guest room* = 30 guest rooms). Even with the density concession of 1.6 times contemplated

The developers and the Planning Department are purposely using a term "unit" for the purpose of rigging the process and protocol so that via a contrived artificial analysis, what would otherwise be prohibited (a massive hotel built and operated in an R-3 zone) is somehow permissible and thus unlawfully allowing for a CEQA exemption to obtain.

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under the TOC (assuming such a concession is lawful; a contention which the community disputes because the voters, when voting for Measure JJJ never thought they were allowing 56 foot high/5-story *Apartment Hotels* in their neighborhood), the maximum number of permitted guest rooms is 48. As noted herein, Lexington 1 has *82 guest rooms* (where each bed and each bedroom (furnished) is leased to separate individuals for each person's exclusive use as his or her primary residence (part of the "co-living" business model). Lexington 2 has *95 guest rooms* leased out under the same business model. These numbers far exceed the permitted density under any conceivable scenario. Each "*guest room*" constitutes a "*residential unit*" as defined under the City's density bonus implementation law; and each building is a "*residential hotel*" as defined under the City's density bonus implementation law. Lexington 1 and Lexington 2 are also each an "*Apartment Hotel*" under the City's zoning law (LAMC §12.03). So the City's approval of "17 *residential units*" for the Lexington 2 development under the TOC law is rendered problematic because it contradicts the plans approved by the CPC. Those plans detail not 17 "residential units" but 82 "*guest rooms*" with each "*guest room*" constituting a separate "*residential unit*" as defined under LAMC §12.22(A)(25)(b) (the City's density bonus implementation Ordinance); used (it is contended) unlawfully by Planning in implementing the TOC law without formal City Council approval). The density bonus approval on Lexington 1 is for "21 *"dwelling units"*. This too is problematic because Lexington 1 contains no "*dwelling units*" as per the plans and intended co-living/rent-by-the-bed business model given how LAMC §12.03 defines the term "*dwelling unit*". Because each bedroom will be rented out separately ***by-the-bed***, under the developer's "co-living" business model, under the ruling of *Chun vs. Del Cid* (2019) 34 Cal. App. 5th 806, each bed and bedroom separately leased out for the (non-transient) tenant's ***exclusive*** use as his or her residence constitutes a separate "*guest room*". The reason? Under the City's zoning code (LAMC §12.03), the non-transient tenant's exclusive use of the bed and bedroom is, by definition, exclusive to that tenant. Consequently, there is no "*dwelling unit*" created out of the aggregate spatial grouping of *guest rooms* because the sleeping quarters (beds and bedrooms) separately and individually rented out are ***not*** made available for use to any of the other occupants of the designated residential air space the developer conveniently (and intellectually dishonestly) labels a "unit". The misleading labeling of a spatial grouping of *guest rooms* (separately and exclusively rented out) as a "unit" when there is and will never be a "*family*" occupying the "unit" is legally infirm. Falsely labeling what is a "guest room" as a generic "unit" (leading one to think of a traditional apartment "unit") does not turn what is a legal "guest room" or a collective set of adjacent "guest rooms" into one "*dwelling unit*".

(b) The Developer's Response – A Non-Response.

The developer, in its counsel's letter to the PLUM Committee, dated December 4, 2020, did not directly respond other than to say that there are no "unusual circumstances" present here. Here is a quote from the letter:

> Appellants have failed to meet their burden of proof regarding either the unusual circumstances or cumulative impacts exception to the in-fill exemption from CEQA, the in-fill exemption holds and the Director's Determination that the project is exempt from CEQA challenge. The project is consistent with CEQA.s' arguments related to any exceptions to the in-fill CEQA exemption or any analysis of alleged environmental impacts under CEQA are incorrect, without merit, lack substantial evidence and do not present a sufficient basis for granting the appeal.

This is obviously conclusory and non-responsive. It is an "unusual circumstance" when a 5-story/56' tall residential hotel is foisted on a community in direct contravention of the zoning limitations; namely that a hotel use is not permitted in an R-3 zone.

With respect to the use (or more accurately misuse) of the legally meaningless term "unit" to describe what is a spatial grouping of guest rooms in a building constructed to be used as a "*residential hotel*", the developer's response simply reiterates the delusion-illusion that these two Residential/Apartment Hotels are really just a combined 38 "units" (not "dwelling units"; but the misnomer "units")

> B. The Project Underwent Proper Site Plan Review
>
> Appellants continue to erroneously argue that the 38 units to be built at 5817-5823 and 5806-5812 Lexington Avenue require a Site Plan review in accordance with LAMC §16.05(C)(l)(b) which requires a site plan review for projects of more than 50 units. This code section refers to units that have multiple entrances from a single hallway. This is not the case with this project. Moreover, the units at the project do not have bar sinks. Finally, multiple bathrooms are common in most apartment units.
>
> Multiple bathrooms are common in most apartment units. However multiple Kitchens are not. "Dwelling Unit is defined by LAMC 12.03 as: "**DWELLING UNIT:** A group of two or more rooms, **one of which is a kitchen,** designed for occupancy by one family for living and sleeping purposes. **(Amended by Ord. No. 107,884, Eff. 9/23/56.) (Emphasis added).** Appellants' argument falls flat when we recognize that only (1) one kitchen exists for each Dwelling Unit.

The argument is made in the context of whether site plan review for the Lexington 1 and Lexington 2 projects is mandated. The point is that the developer simply deflects and intellectually defaults by putting forth the straw man argument that what are described as generic "units" are really "*dwelling units*" because the bedrooms have multiple entrances from a single hallway. The legal definition of "*dwelling unit*" is then cited; while ignoring the core component that definition: namely that for there to be a "*dwelling unit*" there must be a "family" occupying the ***entire*** "*dwelling unit*" (***including*** the bedrooms); which, under the *Chun vs. Del Cid* case referenced above, simply cannot occur in this instance. It is an impossibility here because each guest room is to be rented out 'by-the-bed' for the tenant's sole and ***exclusive use*** as his or her primary residence. Possessing non-exclusive use rights to other common areas of the "unit" (loosely stated) does not turn what is a "*residential hotel*" (defined under the City's density bonus implementation ordinance cited above) or an "*apartment hotel*" (defined under the City's zoning code cited above) into a "*dwelling unit*". Stated another way, a "hotel (*guest room*) use" is not converted into an "apartment (*dwelling unit*) use" because access to each *guest room* exists from a single hallway.[4]

(c) Planning's Response – To deflect and take refuge in the same straw-man argument.

Here is Planning's response; first as to Lexington 1. Planning creates the straw-man argument that the "*guest rooms*" are really just "flexible units". Based on that asymmetrical-dissonant contention, Planning then goes on adopt the false conclusion that because these "guest rooms" are not designed as "flexible units" (given that the design does not "propose" multiple hallway entrances to each room), the project use is consistent with the R-3 zoning. As noted, this is just a

[4] The developer's contention that site plan review is not necessary is countered later in this letter. In sum, it boils down to the fact that the plain language of LAMC §16.05(C) speaks in the alternative; namely, that site plan review is mandated where either of three alternative conditions exist: (i) there are 50 or more *dwelling units* to be developed; ***or*** (ii) there are 50 or more *guest rooms* to be developed; ***or*** (iii) the combination of *guest rooms* and *dwelling units* to be developed exceeds 50. Condition (ii) is clearly met. To the extent that the promised housing for the four very low income households will consist of four "dwelling units" sub-divided out from the other guest rooms, condition (iii) is satisfied.

giant deflection because Lexington 1 is a "*residential hotel*" (as defined under the City's density bonus implementation law) and an "*apartment hotel*" (as defined under the City's zoning code) because the building contains more than 6 "*guest rooms*" (as defined in LAMC §12.03), and the use of each "*guest room*" as his or her primary residence is to be exclusive to each tenant, consistent with the developer's 'rent-by-the-bed' "co-living" business model. In fact,

Lexington 1 is to have 82 "*guest rooms*" in the face of a zoning code which allows a maximum base number of 30 "*guest rooms*" (15,000 sq. ft. land area/500 sq. ft. allowed per "*guest room*").

4. Inconsistent with Density Limitations (Appeal No. 2)

Appeal Comment:

The appellant states that the density proposed is inconsistent with the R3 Zone and limitation of the CRA. Furthermore, the dwelling units are in fact considered Flexible Units and should be subject to such provisions.

Staff Response:

The project is for a 21-unit, multi-family dwelling. Based upon the 15,000 square-foot site, and the density allowed by the R3-1 Zone of 800 square feet per dwelling unit, the project has a base density of 19 units. By setting aside 7% of the base density, or two (2) units, for Very Low Income Households, the project is entitled to a 25% bonus which would permit a the maximum of 24 units. As such, the 21-unit project complies with the R3 Zone along with the Affordable Housing Incentives - Density Bonus provisions.

Furthermore, as the proposed project is pursuant is the City's Density Bonus ordinance, which was enacted pursuant to the State's Density Bonus/Affordable Housing Incentives Program, the Community Redevelopment Agency's density limitations are not applicable.

Pursuant to LAMC Section 12.21-A, Flexible Units are dwelling units or guest rooms designed with multiple hall way entrances, multiple toilet and bath facilities, or bar sink installations, so that it can be easily divided into or used for separate apartment or guest rooms, the lot area requirements and automobile parking requirements shall be based upon the highest possible number of dwelling units or guest rooms obtainable from such an arrangement.

The project design includes a residential lobby and parking at the ground level with residential dwelling units located at levels two though five. As shown within the Exhibit C, the unit entrances are all oriented towards the center of the building. Levels three through five include unit entrances via a hallway that overlooks the open to sky courtyard on the second level. Much of the perimeter of the units are open to above/below with the exception of the one entrance proposed for each unit. Concerning the second level, planter boxes are located along the majority of the perimeter of each unit as part of the open space programming. The project as designed, does not propose multiple hallway entrances that would allow it to be easily divided into separate units or guest rooms.

In the event the Los Angeles Department of Building and Safety determines that such units are in fact flexible units, such increase in the number of dwelling units would not be permitted

Therefore, the Director of Planning did not err in approving the Density Bonus.

With respect to the Lexington 2 project, Planning makes the same contention which, as noted, is a pure deflection and straw-man argument which fails to address the clear intended use of the building as a "*residential hotel*" containing six or more "*guest rooms*". In fact, Lexington 2 contains 95 "*guest rooms*" (which is more than the definitional minimum of 6 *guest rooms* needed to qualify as a "*residential hotel*" under the City's density bonus implementation law (15,000 sq. ft (land area)/500 sq. ft (allowed per guest room) equals 30 allowed "*guest rooms*".

2. **Site Plan Review**

Appeal Comment:

The appellant contends that the project is a 94-unit project and therefore Site Plan Review is required.

Staff Response:

The proposed project includes the demolition of the two (2) existing single-family structures with associated accessory structures and the construction, use and maintenance of a five-story, 56-foot tall, 17-unit multi-family dwelling. The building will be constructed with four (4) residential levels over one (1) at-grade parking level. The project will provide a total of 25 automobile parking spaces.

As discussed above, the project is not considered to have Flexible Units and only results in a maximum of 17 new dwelling units. Therefore, because the development is proposing only 17 dwelling units which is under the threshold of resulting in an increase of 50 or more dwelling units, the project does not require a Site Plan Review.

Therefore, the Director of Planning did not err in approving the Transit Oriented Communities Affordable Housing Incentive Program.

Here in addition to repeating the flexible unit deflection argument, Planning flatly misstates both the appellants' contention and the fact that 17 "*dwelling units*" are being proposed.

Firstly, appellants contention is that the project has 95 "*guest rooms*" ***not*** 94 "*dwelling units*". Having failed to properly characterize appellants' contention, Planning then is free to ignore the core question: Is the Lexington 2 building a "*residential hotel*" because it contains more than six "*guest rooms*"? For the

reasons noted above, the answer is yes. The same can be said in response to the question of whether the Lexington 2 building (and Lexington 1 also for that matter) constitutes an "*apartment hotel*" under LAMC §12.03. For the reasons noted above (that each bedroom to be rented out ***exclusively*** and separately to individual tenants as their primary residence who collectively are not part of a "family" (as defined) with other co-living tenant/occupants (given the ***exclusive*** use of the beds and bedrooms possessed by each tenant) each bed and bedroom is legally considered to be a "*guest room*" under the law and thus is considered a separate "*residential unit*" under the city's density bonus implementation ordinance (LAMC §12.22(A)(25)(b)); and it is this criteria which is utilized by Planning (without formal City Council consent) when applying the TOC law; the sole exception being the two "*dwelling units*" reserved for the very-low income households.

Secondly, Planning falsely labels these 17 "units" as "*dwelling units*". They are not. Why? Because each bed and bedroom is to be rented out individually and reserved for the tenant's exclusive residential use, thereby making each bedroom a separate "*guest room*". By definition, a "*guest room*" or grouping of "*guest rooms*" within a given area of air space cannot be considered a "*dwelling unit*". They are mutually exclusive categories. What we have here are individual "*guest rooms*" placed next to each other (except where there is just an isolated one-bedroom design configuration) within a spatial grouping of other "*guest rooms*", rented to un-related individuals (i.e. non-families) who will occupy each "guest room" as his or her primary residence; with each "*guest room*" constituting its own "residential unit" for purposes of the law (as that term is defined in the City's density bonus implementation law (quoted above). The only way each of these 17 (mislabeled) "units" can be considered a separate "*dwelling unit*" is if all of the occupants of the "*dwelling unit*" were a "family" (i.e. had the right to occupy the beds and bedrooms contained within the air space of the "*dwelling unit*"). As noted above, that is not the case here because the developer's business model is to rent exclusively 'by-the-bed' as part of a "co-living" business and social model. Legally, a "*dwelling unit*" cannot co-exist in such a scenario because of the ***exclusive*** nature of the bedroom use contemplated.

Moreover, while Planning describes the 17 units as "*dwelling units*", the actual land use entitlement condition set out in the conditions of approval under the TOC land use entitlement grant were for "17 *residential units*". There is a big difference given the legal definitions noted above of what is a "*dwelling unit"* (which cannot be a "*guest room*") versus what is a "*residential unit*" (which can be a "guest

room"). Here is the actual wording of the land use entitlement grant set out in the Letter of Determination dated September 22, 2020. Planning does not say that the grant is for 17 "*dwelling units*"; Planning says the land use entitlement grant is for 17 "*residential units*". So the land use entitlement grant is completely at odds with Planning's purported justification.

2. **Base Incentives.**

   a. **Residential Density**. The project shall be limited to a maximum density of 17 residential units, including On-site Restricted Affordable Units.

As noted above, this creates a gross inconsistency between the plans, as approved, which show 95 "*guest rooms*" and the actual conditions of approval (17 "*residential units*"; which in this case, means 17 "*guest rooms*" given that "*residential unit"* in this context cannot and therefore does not mean the same as "*dwelling unit*" (again because of how the beds and bedrooms are to be used: exclusively by non-familial tenants as their primary residence, with a non-exclusive right to use of the common areas of the residential air space).

So the response of Planning and the developer is a non-response; straw-man argument. The intended use of these buildings is as a hotel (be it a "residential hotel" or an "apartment hotel". The projects massively over-densify the neighborhood; the over-densification is completely at odds with the density limits set out in the zoning code; and the use is completely inconsistent with the use limits prescribed for R-3 zoned areas in that a hotel use is not permitted in a residential zone.

Therefore, the CEQA exemption does not apply because the intended use and density both contravene the City's zoning code, including the density bonus additions thereto, as well as the development standards incorporated into the City's zoning code.

(d) Site Plan Review is Mandated but was not Done for either Lexington 1 or Lexington 2.

The administrative site plan review mandate set out in LAMC §16.05(C)(1)(b) reads ***in the alternative*** as follows:

SEC. 16.05. SITE PLAN REVIEW.
(Renumbered and amended by Ord. No. 166,127, Eff. 9/23/90, Oper. 10/13/90.)

A. Purpose. The purposes of site plan review are to promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare ***by ensuring that development projects are properly related to their sites, surrounding properties***, traffic circulation, sewers, ***other*** infrastructure and ***environmental setting***; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City's environmental review process, ***or on surrounding properties by reason of inadequate site planning or improvements***.

C. Requirements.

1. **Site Plan Review. (Amended by Ord. No. 184,827, Eff. 3/24/17.)** ***No grading permit***, foundation permit, ***building permit, or use of land permit shall be issued for any of the following development projects unless a site plan approval has first been obtained pursuant to this section***. This provision shall apply to individual projects for which permits are sought and also to the cumulative sum of related or successive permits which are part of a larger project, such as piecemeal additions to a building, or multiple buildings on a lot, as determined by the Director.

(b) ***Any development project which creates***, or results in an increase of, ***50 or more*** dwelling units ***or guest rooms***, or combination thereof.

The Lexington 1 project creates 82 "*guest rooms*"; and the Lexington 2 project creates 95 "*guest rooms*". Even assuming four of these "guest rooms" are set aside as "*dwelling units*" for the very low income households as contemplated, the combination of "*dwelling units*" and "*guest rooms*" exceeds the 50 "guest room" threshold which triggers the site plan review mandate. There was no site plan review undertaken here. Therefore, the CEQA exemption is not available because the protocol attendant to the lawful application of the City's zoning code was not observed.

The explanation of Planning and the Developer, as noted above, is not legally accurate because the "co-living" 'rent-by-the-bed' business and social model to be implemented by these projects cannot be reconciled with the legal definitions of

"*guest room*" and "*dwelling unit*". What the developer and planning refer to as a "unit" (never legally defined anywhere in the law (including the state density bonus law) is really a grouping of "*guest rooms*" (as defined in LAMC §12.03) each of which is to be utilized as a separate "*residential unit*" (as defined in

LAMC §12.22(A)(25)(b)) by individuals who are not considered "family" (as legally defined by LAMC §12.03), as their primary residence; all within the residential air space as designed and built to create what the developer describes as a "co-living" social living experience.

At some point, the City Council may choose to change the law. But until that day arrives, public hearings as part of large out-of-scale residential developments must occur. Because they did not occur in either instance involving the Lexington 1 and Lexington 2 projects, no CEQA exemption exists for either development.

(e) The legal number of "guest rooms" allowed under the zoning laws for each parcel is exceeded by both the Lexington 1 and Lexington 2 projects.

As noted above, the density limits under the City's zoning code limit the number of *guest rooms* on a 15,000 sq. foot parcel to 30 (15,000 sq. ft./500 sq. ft. per *guest room*). Lexington 1 has 82 "*guest rooms*"; while Lexington 2 has 95 "guest rooms". Therefore, because the zoning code's density limits have been exceeded, it cannot be said that either development is the kind of "in-fill" development undertaken consistent with the City's zoning code and the development standards incorporated therein. As such, no CEQA exemption can apply in either instance.

Even if the density enhancements of state and local law are applied, they are limited to a factor of 1.6 times the base density permitted. That means in each instance, there can be a maximum of 48 "guest rooms" permitted (roughly half the number sought by these developers). (30 *guest rooms* allowed x 1.6 enhancement) + 30 *guest rooms* = 48 *guest rooms* (max)). This number of *guest rooms* should easily fit within the height and FAR limits of the City's zoning law. There is no need to plant a 5'-5-story structure next to residential homes and low-level apartment buildings, even assuming a *residential/apartment hotel* use was legal in an R-3 zone (which it is not).

Moreover, it is equally as likely that many more than four affordable "guest rooms" can be provided here under the developer's "co-living" 'rent-by-the-bed'

business model. Either way, and all ways, the implementation of a CEQA exemption in this factual context has zero legal justification.

(f) Parcels are being merged to develop the Lexington 1 and Lexington 2 projects without complying with state law.

Both developments are intended to straddle property lines. Two legal parcels are being *de facto* merged into one legal parcel to accommodate each development. The California Subdivision Map Act specifies the protocol to be utilized in such a circumstance. The merger can occur by way of a "*reversion to acreage*" under Government Code §66400.11- §66499.20.3). That involves the preparation and approval of a new parcel map – not done in this instance – another public protection (due process) protocol ignored by City Planning. People bought homes and tenants have rented apartments (real "dwelling units"; not the phony generic "units" foisted upon the public in this instance) in this area in reliance on the fact that the zoning laws and the environmental laws will be respected and enforced. Ignoring those laws by granting a CEQA exemption for either of these *Residential/ Apartment Hotel* developments is not lawful or proper.

The City could also, after a public hearing, record a "*notice of merger*" contemplated under Article 1.5 of the California Subdivision Map Act (California Government Code §66451.10, et. seq.). That option, however, has also not been employed here because the City, contrary to state law mandate, has never created a procedure for such to occur. Instead, what the City does is to have the developer sign a "lot-tie agreement"; an alternative not contemplated under state law; and which runs directly counter to the state law mandate. The City should not be able to pick and choose which laws it will follow and which it will ignore. '

Most certainly, the merger of two 7,500 sq. foot legal parcels without so much as a public hearing on whether it is appropriate and proper to a new parcel map to be adopted cannot be said to be ordinary or the result of some kind of the kind of regular "in-fill" development which justifies the granting of a CEQA exemption.

(g) A transportation study is warranted because these developments, when considered together, will result in more than 250 daily vehicle trips.

Here are the DOT (Department of Transportation) threshold study requirements. They are triggered by a net increase of 250 or more daily vehicle trips.

DOT THRESHHOLD STUDY REQUIREMENTS – FROM DOT TRANSPORTATION ASSESSMENT GUIDE

1.3 INITIAL STEPS

Upon receipt of an application for discretionary action, LADOT will prepare an initial assessment of the development project to determine if a transportation assessment is required. A Development Project is defined as any proposed land use project that changes the use within an existing structure, creates an addition to an existing structure, or new construction, which includes any occupied floor area. For transportation infrastructure projects for which a transportation analysis is required (e.g., lane reconfiguration, roadway improvement, transit project, etc.), v to Sections **2.3**, **3.3**, and **3.5** of these Guidelines for recommended transportation analysis methods.

The City requires the preparation and submission of a transportation assessment for Development Projects or Transportation Projects that meet the following criteria:

- If the Development Project is estimated to generate a net increase of 250 or more daily vehicle trips and requires discretionary action, a transportation assessment for a Development Project is required.
- If a Transportation Project is likely to either: (1) induce additional vehicle miles traveled by increasing vehicle capacity; or (2) reduce roadway through-lane capacity on a street that exceeds 750 vehicles per hour per lane for at least two (2) consecutive hours in a 24-hour period after the project is completed, a transportation assessment is generally required.
- A transportation assessment is required by City ordinance or regulation.

As noted above, these projects are hotel projects because the combined total of *guest rooms* in both buildings is 177 *guest rooms* to be occupied exclusively by tenants who rent-by-the-bed (except for the 4 *dwelling units* to be set aside for the very low income households selected to occupy the properties).

Previously, these properties were used as single-family homes or duplexes. They will now be occupied by at least 177 individuals. As per the screen-shot below, the Daily Person Trip Generation Table shows that tenants engaged in home-based work generate 2.1 daily person trips; while tenants engaged in non-home-based work generate 3.4 daily person vehicle trips.

Therefore, using an average of 2.75 trips per “household” (in this instance a “household” is defined as each individual renter(s) of each bed or bedroom (*guest room* used exclusively by the tenant as his or her primary residence), the combined projects will generate 486.75 daily vehicle trips. This is far in excess of the 250 daily vehicle trip threshhold to trigger a DOT traffic study.

TABLE 7 DAILY PERSON TRIP GENERATION – LOS ANGELES COUNTY

Purpose	City of Los Angeles Model		2016 SCAG RTP/SCS Model	
	Trips per Household	Percent of Trips	Trips per Household	Percent of Trips
HBW	2.1	18%	1.9	18%
HBNW	6.0	52%	5.7	53%
NHB	3.4	29%	3.1	29%
TOTAL	11.4	100%	10.7	100%

The home-based non-work (HBNW) category includes HBSC, HBCU, HBSH, HBSR, HBSP, and HBO trips. The non-home-based (NHB) category includes WBO and OBO trips. The overall trip generation in the City of Los Angeles model is approximately seven percent greater than the trip generation in the 2016 SCAG RTP/SCS model. The number of person trips was slightly increased in order to validate the transit ridership and vehicle assignment models, while still maintaining consistency with the regional model. The distribution of trips by purpose is consistent with the SCAG model.

This is apart from the under-parked quality of both developments combined given that under the LADBS parking guidelines (screen-shot below), for the Lexington 1 project (82 *guest rooms*), the required number of parking spaces is 52[5]. The number of actual parking spaces to be provided? 29. The same story obtains for Lexington 2 (95 *guest rooms*). The number of parking spaces required? 60[6] The number of actual parking spaces to be provided? 25.

How many of the "co-living' tenants residing at Lexington 1 or Lexington 2 will take the bus? That is precisely the reason for a traffic study. It is also the reason why a CEQA exemption is not available to either project. The traffic issues are an important part of a CEQA work-up.

Planning's response is just to retreat back into the fiction that both projects combined consist of 34 "units". For the reasons noted above, the combined projects are designed for and will create 177 "*guest rooms*" as that term is defined in LAMC §12.03. Neither project is an "*apartment*" as defined by the zoning code, as interpreted by the Court of Appeal in *Chun vs. Del Cid* (2019) 34 Cal. App. 5th 806. Both projects are "*Apartment Hotels*" as defined by LAMC §12.03 and

[5] The first 30 guestrooms require 30 spaces; the next 30 require 15 spaces; and the next 22 require 7 spaces. (30 = 15 + 22 = 52 spaces).
[6] 30 (first 30 *guest rooms*), + 15 (next 30 *guest rooms*) + 15 (last 35 *guest rooms*) = 60 parking spaces.

"*Residential Hotels*" as defined by LAMC §12.22(A)(25)(b) (the City's density bonus implementation law).

Neither is entitled to a CEQA exemption.

CITY LA DBS DEPARTMENT OF BUILDING AND SAFETY

INFORMATION BULLETIN / PUBLIC - BUILDING CODE
REFERENCE NO.: Effective: 09-30-2003
DOCUMENT NO.: P/ZC 2020-011 Revised: 04-15-2020

SUMMARY OF PARKING REGULATIONS Please be aware that areas located within Specific Plans, Interim Control Ordinances, or special districts may have different parking requirements than provided in this Information Bulletin.

SECTION 12.21A.4(a) and (b) – Use of Building (or portions of)**	Ratio (spaces/sq ft or unit)
1. One-Family Dwelling (SFD) or group of one family dwellings	2 (on-site only)
2. Apartment or Two-Family Dwelling (Duplex)	
a. units > 3 habitable rooms (such as a typical 2 bedroom unit)	2 (on-site only)
b. units = 3 habitable rooms (such as a typical 1 bedroom unit)	1.5 (on-site only)
c. units < 3 habitable rooms (such as a typical single unit)	1 (on-site only)
3. Hotel, Motel, Boarding House or Dormitory[7] including accessory facilities	
a. first 30 guestrooms / a suite in a Hotel	1
b. next 30 guestrooms / a suite in a Hotel	One half
c. remaining guestrooms / a suite in a Hotel	One third
d. Multi-purposes assembly room >750 sq ft inside a hotel or motel	1 per 35 sq. ft. or 1 per 5 fixed seats
e. Restaurants > 750 sq.ft and not intended for hotel guests	1 per 100 sq. ft.

(h) The projects are inconsistent with the Hollywood Community Plan

For the reasons noted in the appeals, both projects are inconsistent with the provisions of the Hollywood Community Plan. Those arguments do not need to be reiterated here. Suffice it to say that the Hollywood Community Plan does not contemplate this kind of overly dense, under-parked, hotel use in this residentially zoned area of Hollywood.

For the reasons stated herein, as well as the reasons noted in the appeal, this City Council needs to grant the appeal and vote to deny any CEQA exemption to either the Lexington 1 or the Lexington 2 projects. The rules and protocol are being ignored. The check and balance on the process working competently and consistently is this City Council. If this developer wishes to import this "co-living" 'rent-by-the-bed' business and social model to Los Angeles, then the developer needs to follow the rules. In this case, that means purchasing commercially-zoned properties where such projects can legally be developed and operated. In so doing, it would also be appropriate to avoid gaming or rigging the system in the manner employed in this instance – using the affordable housing laws as a ruse to plant a

5-story/56' tall "residential/apartment hotel" in an residentially zoned neighborhood.

Zero legal justification exists to allow for any CEQA exemption for these projects.

Thank you for your consideration of the points and issues raised in this letter.

Respectfully submitted,

NOEL WEISS

NW: nww
0224-L1. CC