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Planning and Land Use Management Committee
Los Angeles City Council
c/o Office of the City Clerk
200 N. Spring St., Rm. 365
Los Angeles, CA 90012

Appeal of: CEQA APPEAL OF CASE NO.: ENV-2021-2251-CE.
Project Addresses: 505, 507, 509, 511, and 517 N. Hoover St., Los Angeles CA 90004

Please note the following objections to the Department of City Planning Staff Appeal Recommendation Report for 511 N. Hoover St. (item 8 on the committee's 5/17/2022 agenda).

I. The project is not 40 units.

The project is a co-living development wherein the applicant will individually lease out each of the 195 bedrooms and guest rooms as single units. According to the law, the unit count is therefore 195 units, not 40 as claimed by the city.

The 40 "units" claimed by the developer and approved by the city are actually 195 **furnished** single units, most with full bathrooms and common living space, door locks and maid service. Four "units" are dedicated as affordable in exchange for incentives of 22 feet of additional height, a reduction in Code required parking (from 195 dedicated stalls to 51 unbundled stalls, half of which are tandem); a 30% reduction in the required rear and side yard setbacks, from 15-foot side yard setbacks to 6 feet, and a required 15-foot rear yard setback reduced to 10 ½ feet; and a 25% reduction in the required open space.

Per Los Angeles Municipal Code ("LAMC") Section 12.21.A.1(b): "Whenever a layout within any dwelling unit or guest room is designed with multiple hallway entrances, **multiple toilet and bath facilities** or bar sink installations, so that it can be easily divided into **or used for separate apartments or guestrooms**, the lot area requirements and the automobile parking requirements shall be based upon the highest number of dwelling units or guest rooms obtainable from any such arrangement." (emphasis added throughout)

Yet the Recommendation Report states: "*The project was not determined to be an 'Apartment Hotel' as it does not propose any guest rooms, nor would it provide short-term residency for prospective residents. In addition, the project does not propose any 'Flexible Units' which offer unusual layouts that are comprised of informal spaces and partitions…*" These comments are an incorrect interpretation of the language of LAMC Section 12.21.A.1(b). These comments also show an incorrect assessment of the project.

First, LAMC Section 12.21.A.1(b) does not solely require multiple hallway entrances to determine that a project has flexible units. Multiple toilet and bath facilities and other factors also establish whether the project "can be easily divided into or used for separate apartments or **guestroom**s." As noted on the project plans, of the 40 "units," eight are 3-bedroom units with a "study room," and twenty-six are 5-bedroom units that also come with a "study room." All have multiple full bathrooms and a common kitchen, allowing for individual singles apartments or guestrooms.

Further, as extensively noted in the appeal: 1) the applicant leases his other co-living project, called Common Melrose, by the bedroom as "furnished singles;" and 2) Daniel Pourbaba and Proper Development are partners with the co-living company Common, which recently opened an illegal co-living development at 5460 Fountain Ave. Common has a massive banner on the side of the newly constructed structure advertising the project as leasing out "private bedrooms."

This building received a Certificate of Occupancy from the Los Angeles Department of Building and Safety on October 15, 2021 for 49 apartment units. It originally was presented to the City Planning Commission as a 75-unit, density bonus apartment building, but when the neighbors appealed the Site Plan Review approval, the developer claimed that he had changed the project into a by-right, 49-unit building. LADBS signed off on this lie despite the building plans clearly showing that the project was utilizing flexible units in violation of the LAMC.

The 5460 W. Fountain building consists of 115 bedrooms with full bathrooms that are now being individually leased out as studio units. Therefore the building is a 115-unit residential structure, with flexible units as defined under the LA, yet the underlying zoning does not permit such density.

The layout of the Common Fountain building is no different than the layout for the 511 Hoover building. Yet under planning staff's misinterpretation of LAMC Section 12.21.A.1(b), Common Fountain couldn't be divvied up into a co-living development. Yet it has been subdivided, and is operating illegally as an Apartment Hotel.

Note the below on-line ad for "Common Fountain." Note that the building is leasing out "studio bedrooms" with full baths as individual units of 108-131 sq. ft. each.

Like Common Fountain, the 505 – 517 N. Hoover project is a co-living development. It is not 40 apartment units, but 195 furnished bedroom singles, each leased individually as an apartment hotel with maid service. The planning department application listing the project as 40 units is a scheme to evade zoning laws, affordable housing requirements, and environmental review. The project description for purposes of CEQA review is therefore inaccurate and cannot be relied upon.

Also, the Department of Building and Safety does not re-interpret the determination of the planning department when it comes to unit count, and there is no provision in LAMC 12.21.A.1(b) making LADBS the sole arbitrator of such a determination. The decision of the planning department as to whether or not the project consists of flexible units is therefore final unless overturned by the council under Charter Section 245.

Doublespeak distorts words and phrases in order to conceal the truth. Yet the truth here is obvious: the project is not 40 units, the applicant is improperly gaming the system, and planning staff are helping the applicant to do so.

As a community, we are forced to live with reality, which is an overburdened infrastructure and a diminished quality of life.

II. The project's noise report is inaccurate, did no on-site analysis, has no measurements of on-site ambient noise levels, and is a generalized commentary and not a study.

Planning staff acknowledges in its appeal summary response that the York Engineering noise impact report established the localized significance threshold (LST) for construction-related noise impacts based upon the nearest residential receptor being 83 feet west of the project site. However, this measurement is grossly inaccurate and skewed to mislead the noise impact conclusions, as the nearest residential receptor is in fact located 3 feet south of the project site, at 501-503 N. Hoover St.

Please note the proximity of this residential home, which is constructed almost to the northern property line, to the proposed development (which was granted a reduced side yard setback of only six feet, and an increased height of 22 feet to 67-feet tall).

Google Earth photo above showing the project site at 505 – 517 N. Hoover St. and its proximity to existing residences. The York Engineering Noise and Vibration report inaccurately bases the LST analysis on an 83-foot buffer zone between residences and the project.

Rendering above of the proposed project, which would be 67-feet tall, and have 6-foot side yards and a 10 ½-foot rear yard.

Planning staff claims that the appeal provides no substantial evidence concluding that the project would impose significant noise and vibration impacts onto residential properties adjacent to the project site. This claim is spurious. First, as noted the applicant did not carry out a proper noise and vibration study. Second, CEQA places the burden of environmental investigation on the government rather than the public to gather relevant data in order to determine whether environmental review is necessary, and the city should not be allowed to hide behind its own failure to do so. Third, public participation is an essential part of the CEQA process, and personal observation carries force sufficient to establish "substantial evidence" for purposes of CEQA.

While the evidence submitted in this appeal is primarily the collective observations of multi-generational residents living on and near Hoover St., they may be considered by the courts as substantial evidence. Under Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo (1985) 172 Cal.App.3d 151, 173, 217 Cal.Rptr. 893, the courts have recognized that "an adjacent property owner may testify to…conditions based upon personal knowledge." Under Mejia v. City of Los Angeles (2005) 130 Cal.App.4th 322, 29 Cal. Rptr. 3d 788, "courts have held that the absence of expert studies is not an obstacle because personal observations concerning nontechnical matters may constitute substantial evidence under CEQA."

The 511 Hoover development will have a material impact upon the environment not only through its construction, but also with operation by dramatically increasing the numbers of people scouring the neighborhood for parking, with residents having roof-top parties, and by **the simple act of living in a 67-foot-tall building immediately adjacent to one-story homes.**

III. No CEQA exemption is available to the applicant because the zoning laws are not being lawfully applied.

The city's TOC Guidelines are not lawful on its face because its enactment by voter initiative exceeded the lawful initiative power of the people under the California constitution. Under the California constitution, the people lack the power to pass by initiative what amounts to a detailed administrative protocol on how to administer the existing zoning law; and absent a Charter amendment the TOC law is unlawful on its face (The Park at Cross Creek, LLC. v. City of Malibu (2017) 12 Cal. App.5th 1196). The power to make administrative changes to the zoning law under the Charter rests solely with the City Council.

No CEQA exemption is available because the CEQA exemption grant assumes the zoning laws are being lawfully applied. The TOC law is not lawful on its face.

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A CEQA categorical exemption is inapplicable when the cumulative impact of successive projects of the same type over time is significant. The cumulative impact of the proposed project in conjunction with other developments in the vicinity has not been analyzed. As noted in the appeal, there are numerous TOC/density bonus projects that have been proposed or approved in just the last two years in the East Hollywood area. None of these have been subjected to environmental review.

CITY CHARTER CODE CONFLICTS WITH TOC "GUIDELINES" (Additional)

The TOC cannot be approved because it is inconsistent with the development standards as laid out in the Charter Code. The TOC "Guidelines are subject to the Charter; they do not supplant the Charter. The TOC "Guidelines" recommended by the City Planning Commission were not approved by the City Council, and no application was filed to invoke the mandates of the City Charter.

The City Charter code Sec. 556. General Plan Compliance controls compliance with the City's General Plan. The TOC "Guidelines" never went before members of the City Council - the only legislative body having authority to adopt a recommendation made by the City Planning Commission.

City Charter code Sec. 558. Procedure for Adoption, Amendment or Repeal of Certain Ordinances, Orders and Resolutions.

Measure JJJ does not amend either Charter Section 555 or LAMC Section 11.5.6. To effectuate a change to the general amendment protocol would have required a Charter Amendment and an amendment to LAMC Section 11.5.6.