



T 510.836.4200  
F 510.836.4205

1939 Harrison Street, Ste. 150  
Oakland, CA 94612

www.lozeaudrury.com  
Amalia@lozeaudrury.com

February 13, 2023

*Via Email*

Polonia Majas, City Planning Associate  
City of Los Angeles  
Department of City Planning  
201 N. Figueroa Street  
Los Angeles, CA 90012  
[Polonia.majas@lacity.org](mailto:Polonia.majas@lacity.org)

**Re: Comment on Final Environmental Impact Report, 8th Grand and Hope Project (SCH 2019050010; ENV-2017-506-EIR)  
Hearing Officer Hearing: February 15, 2023**

Dear Ms. Majas:

I am writing on behalf of **Supporters Alliance for Environmental Responsibility (“SAFER”)** regarding the Final Environmental Impact Report (“FEIR”) prepared for the 8th Grand and Hope Project (SCH 2019050010), including all actions related or referring to the proposed construction of a 50-story mixed-use development comprised of 580 residential dwelling units and up to 7,499 square feet of ground floor commercial/retail/restaurant space, located at 754 S. Hope Street and 609 and 625 W. 8th Street in the City of Los Angeles (“Project”).

After reviewing the EIR, we conclude that the EIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project’s impacts. SAFER requests that the Hearing Officer recommend to the Planning Commission that staff be directed to address these shortcomings in a revised environmental impact report (“REIR”) and recirculate the REIR prior to considering approvals for the Project.

This comment has been prepared with the assistance of indoor air quality expert Francis “Bud” Offermann (Exhibit A). We incorporate the Offermann comments herein by reference.

### **PROJECT DESCRIPTION**

The proposed Project would include construction of a 50-story mixed-use development with 580 residential units and up to 7,499 square feet of ground floor commercial/ retail/ restaurant space on a 34,679-square-foot site. It would also include 636 vehicle parking spaces on three subterranean levels, eight above-grade levels, and four spaces

on the ground floor. An existing surface parking lot and four-story parking structure will have to be demolished.

The Project site is bounded by parking structures to the north, a business/commercial development to the west, a mixed-use development to the east which includes a residential complex, and various office/commercial buildings and residential developments to the south. The project has a General Plan land use designation of Regional Center Commercial and is zoned by the Los Angeles Municipal Code as C2-4D (Commercial, Height District No. 4). The EIR identified 74 potential related development projects within a half-mile of the site.

The construction of the Project is anticipated to last 36 months and be complete by 2025. The applicants are seeking a Transfer of Floor Area Rights, Site Plan Review findings, several zone variances, approval of a Vesting Tentative Tract Map, two Specific Plan Project Permit Adjustments, a Development Tree Planting Requirement In-Lieu Fee, and two Zoning Administrator's Interpretations.

## LEGAL BACKGROUND

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") (except in certain limited circumstances). (*See, e.g.* Pub. Res. Code § 21100). The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652). "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109).

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 CCR § 15002(a)(1)). "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'"

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all feasible mitigation measures. (14 CCR § 15002(a)(2) and (3); *see also, Berkeley Jets*, 91 Cal.App.4th at pp. 1344, 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564). If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." (PRC § 21081; 14 CCR § 15092(b)(2)(A) & (B)). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and

concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 732).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position. A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” (*Berkeley Jets*, 91 Cal. App. 4th at 1355). As the court stated in *Berkeley Jets*:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.” (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946.)

More recently, the California Supreme Court has emphasized that:

When reviewing whether a discussion is sufficient to satisfy CEQA, a court must be satisfied that the EIR (1) includes sufficient detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues the proposed project raises [citation omitted], and (2) makes a reasonable effort to substantively connect a project's air quality impacts to likely health consequences.

(*Sierra Club v. Cty. of Fresno* (2018) 6 Cal.5th 502, 510 (2018)). “Whether or not the alleged inadequacy is the complete omission of a required discussion or a patently inadequate one-paragraph discussion devoid of analysis, the reviewing court must decide whether the EIR serves its purpose as an informational document.” (*Id.* at 516). Although an agency has discretion to decide the manner of discussing potentially significant effects in an EIR, “a reviewing court must determine whether the discussion of a potentially significant effect is sufficient or insufficient, i.e., whether the EIR comports with its intended function of including ‘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.’” (*Id.*). “The determination whether a discussion is sufficient is not solely a matter of discerning whether there is substantial evidence to support the agency’s factual conclusions.” (*Id.*). Whether a discussion of a potential impact is sufficient “presents a mixed question of law and fact. As such, it is generally subject to independent review. However, underlying factual determinations—including, for example, an agency’s decision as to which methodologies to employ for analyzing an environmental effect—may warrant deference.” (*Id.*). As the Court emphasized:

[W]hether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question. A conclusory discussion of an environmental impact that an EIR deems significant can be determined by a court to be inadequate as an informational document without reference to substantial evidence.

(*Id.* at 514.) The EIR prepared by the City here is inadequate for the reasons set forth below.

## DISCUSSION

### **I. There is Substantial Evidence that the Project May Have a Significant Health Risk Impact from Indoor Air Quality Impacts which the EIR Failed to Analyze.**

Certified Industrial Hygienist, Francis “Bud” Offermann, PE, CIH, has conducted a review of the proposed Project and relevant documents regarding the Project’s indoor air emissions. Indoor Environmental Engineering Comments (February 7, 2023). Mr. Offermann concludes that it is likely that the Project will expose residents and commercial employees of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is a leading expert on indoor air quality and has published extensively on the topic. Mr. Offermann’s expert comments and curriculum vitae are attached as Exhibit A.

Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, and hotels contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states, “[t]he primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.” (Ex. A, p. 2-3).

Formaldehyde is a known human carcinogen. Mr. Offermann states that future residents of the Project would be exposed to a 120 in one million cancer risk, and commercial employees of the Project would be exposed to a 17.7 in one million risk, *even assuming* all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. (*Id.* at 4-5). This potential exposure level exceeds the SCAQMD CEQA significance threshold for airborne cancer risk of 10 per million.

Mr. Offermann identifies mitigation measures that are available to reduce these significant health risks, including the installation of air filters and a requirement that the applicant use only composite wood materials (e.g. hardwood plywood, medium density

fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins or ultra-low emitting formaldehyde (ULEF) resins in the buildings' interiors. (*Id.* at 12-13). These significant environmental impacts should be analyzed in a Revised EIR and mitigation measures should be imposed to reduce the risk of formaldehyde exposure.

## **II. The EIR's Statement of Overriding Considerations Fails to Consider Whether the Project Provides Employment Opportunities for Highly Skilled Workers.**

The EIR concludes that the Project will have significant, unmitigated environmental impacts, particularly in the area of noise. As a result, the City has adopted a statement of overriding considerations. Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a "statement of overriding considerations" finding that, because of the project's overriding benefits, it is approving the project despite its environmental harm. (14 CCR §15043; PRC §21081(B); *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1222). A statement of overriding considerations expresses the "larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like." (*Concerned Citizens of South Central LA v. Los Angeles Unif. Sch. Dist.* (1994) 24 Cal.App.4th 826, 847).

A statement of overriding considerations must be supported by substantial evidence in the record. (14 CCR §15093(b); *Sierra Club v. Contra Costa Co.* (1992) 10 Cal.App.4th 1212, 1223). The agency must make "a fully informed and publicly disclosed" decision that "specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project." (14 CCR §15043(b)). As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515).

Key among the findings that the lead agency *must* make is that:

"Specific economic, legal, social, technological, or other considerations, including ***the provision of employment opportunities for highly trained workers***, make infeasible the mitigation measures or alternatives identified in the environmental impact report...[and that those] benefits of the project outweigh the significant effects on the environment."

(PRC §21081(a)(3), (b)).

Thus, the City must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project, and the economic benefits including "the provision of employment opportunities for highly trained workers" created. The EIR and its supporting documents fails to consider or mention whether the Project is

providing employment opportunities for highly trained workers. A revised EIR and Statement of Overriding Considerations is required to provide this information.

### **CONCLUSION**

For the foregoing reasons, SAFER believes that the EIR is wholly inadequate. SAFER urges the Hearing Officer to refrain from recommending certification of the FEIR or recommending approval of the Project in order to allow staff additional time to address the concerns raised herein. Thank you for considering our comments and please include this letter in the record of proceedings for this project.

Sincerely,

A handwritten signature in black ink that reads "Amalia Bowley Fuentes". The signature is written in a cursive, flowing style.

Amalia Bowley Fuentes  
Lozeau Drury LLP



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

**Related Code Section:** Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

**Purpose:** This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

**A. APPELLATE BODY/CASE INFORMATION**

**1. APPELLATE BODY**

- Area Planning Commission     City Planning Commission     City Council     Director of Planning
- Zoning Administrator

Regarding Case Number: VTT-74876-CN (CEQA No.: ENV-2017-506-EIR)

Project Address: 754 South Hope Street and 609 - 625 West 8th Street

Final Date to Appeal: 06/05/2023

**2. APPELLANT**

- Appellant Identity:** (check all that apply)
- Representative     Property Owner
  - Applicant     Operator of the Use/Site

Person, other than the Applicant, Owner or Operator claiming to be aggrieved  
Supporters Alliance for Environmental Responsibility

- Person affected by the determination made by the **Department of Building and Safety**
- Representative     Owner     Aggrieved Party
- Applicant     Operator

**3. APPELLANT INFORMATION**

Appellant's Name: Supporters Alliance for Environmental Responsibility

Company/Organization: Lozeau Drury LLP (representing Appellant)

Mailing Address: 1939 Harrison Street, Suite 150

City: Oakland    State: CA    Zip: 94612

Telephone: (510) 836-4200    E-mail: richard@lozeaudrury.com

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?

- Self     Other: \_\_\_\_\_

b. Is the appeal being filed to support the original applicant's position?     Yes     No

**4. REPRESENTATIVE/AGENT INFORMATION**

Representative/Agent name (if applicable): Amalia Bowley Fuentes

Company: Lozeau Drury LLP

Mailing Address: 1939 Harrison Street, Suite 150

City: Oakland State: CA Zip: 94612

Telephone: (510) 836-4200 E-mail: amalia@lozeaudrury.com

**5. JUSTIFICATION/REASON FOR APPEAL**

a. Is the entire decision, or only parts of it being appealed?  Entire  Part

b. Are specific conditions of approval being appealed?  Yes  No

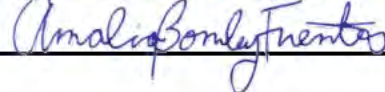
If Yes, list the condition number(s) here: All conditions

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

**6. APPLICANT'S AFFIDAVIT**

I certify that the statements contained in this application are complete and true:

Appellant Signature:  Date: 6/2/2023

**GENERAL APPEAL FILING REQUIREMENTS**

**B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES**

**1. Appeal Documents**

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates) Each case being appealed is required to provide three (3) sets of the listed documents.

- Appeal Application (form CP-7769)
- Justification/Reason for Appeal
- Copies of Original Determination Letter

**b. Electronic Copy**

Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

**c. Appeal Fee**

- Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
- Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

**d. Notice Requirement**

- Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
- Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.



## **Justification/Reason for Appeal**

8<sup>th</sup>, Grand and Hope Project

VTT-74876-CN; ENV-2017-506-EIR

### **I. REASON FOR THE APPEAL**

Supporters Alliance for Environmental Responsibility (“SAFER”) appeals the Advisory Agency’s approval of the Vesting Tentative Tract Map (VTT-74876-CN) for the 8th, Grand and Hope Project (CPC-2017-505-TDR-ZV-SPPA-DD-SPR; ENV-2017-506-EIR) (“Project”). The Vesting Tentative Tract Map approval is invalid because it is based upon incorrect findings. In particular, the Environmental Impact Report (“EIR”) prepared for the Project fails to comply with the California Environmental Quality Act (“CEQA”). The City of Los Angeles (“City”) must set aside all Project approvals and circulate a revised EIR prior to considering approvals for the Project.

### **II. SPECIFICALLY THE POINTS AT ISSUE**

Specifically, for the reasons described in the attached comment letter dated February 13, 2023, the EIR fails to adequately analyze the Project’s environmental impacts and fails to impose all feasible mitigation measures to reduce the Project’s impacts including, but not limited to, impacts to air quality. A revised EIR must be prepared to remedy these issues.

Because the EIR prepared for the Project fails to comply with CEQA, the approval of the Project’s Vesting Tentative Tract Map was in error. Proper CEQA review must be complete *before* the City approves the Project’s entitlements. (*Orinda Ass’n. v. Bd. of Supervisors* (1986) 182 Cal.App.3d 1145, 1171 [“No agency may approve a project subject to CEQA until the entire CEQA process is completed and the overall project is lawfully approved.”].) Additionally, by failing to properly conduct environmental review under CEQA, the City lacks substantial evidence to support its findings for the Vesting Tentative Tract Map approvals. The City must fully comply with CEQA prior to *any approvals* in furtherance of the Project.

### **III. HOW YOU ARE AGGRIEVED BY THE DECISION**

Members of appellant Supporters Alliance for Environmental Responsibility (“SAFER”) live and/or work in the vicinity of the proposed Project. They breathe the air, suffer traffic congestion, and will suffer other environmental impacts of the Project unless it is properly mitigated.

### **IV. WHY YOU BELIEVE THE DECISION-MAKER ERRED OR ABUSED THEIR DISCRETION**

The Advisory Agency adopted the EIR and approved a Vesting Tentative Tract Map for the Project despite a lack of substantial evidence that impacts would be less than significant and a failure to impose all feasible mitigation measures to reduce the Project’s impacts. The Department of City Planning should therefore have prepared a revised EIR and recirculated the revised document prior to consideration of approvals for the Project. The City is not permitted to make any approvals in furtherance of the Project until the EIR’s deficiencies are remedied.