Attachment 23

Additional Correspondence Received from the Public

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TELEPHONE (213) 236-9720
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Via Email

November 3, 2016

Beverly Hills City Council
City of Beverly Hills
c/o Andre Sahakian
455 North Rexford Drive
Beverly Hills, CA 90210
asahakian@beverlyhills.org

Re: 9900 Wilshire Boulevard (One Beverly Hills) Comments to City Council

Dear Council:

This office represents The Belvedere Hotel Partnership. Please include this letter and the enclosed Exhibit 1 consisting of Appeal Petition and its attached Exhibits A-C as part of the City Council hearing regarding the above referenced project currently set for November 7, 2016 and continuing thereafter, if necessary. This letter constitutes a request to appear and be heard at said City Council hearing. Please also make this letter and the enclosures part of the official public record.

We call your attention to the enclosed column released by the Los Angeles Times on November 1, 2016. The column suggests the City of Beverly Hills is negotiating a financial deal regarding the referenced project without public scrutiny or comment. Certainly, the inducements mentioned were not considered by the Planning Commission at the many public hearings. The obvious question presented is why would a developer be willing to pay the City so much if the approvals sought were appropriate in the first place? The lack of transparency with respect to this proposed development agreement is extremely concerning. At a minimum, the reported actions suggest the City is trading dollars for good planning.

The City Council is urged not to approve this project and its related reports, including the SEIR, studies and agreements until all impacts, including traffic, circulation, emergency services and the like have been addressed and adequately mitigated and the public has had an opportunity to review, analyze, and comment upon the project as presented in its entirety.

Very truly yours,

John S. Peterson

JSP:cl

Column Beverly Hills squeezes Chinese hotel builder for big bucks instead of offering a handout

Architect Richard Meier's design for a $1-billion condo and retail complex in Beverly Hills, near the Beverly Hilton Hotel. Plans call for reducing the number of condominiums in the project and adding a luxury hotel. (Wanda Group)

By **Michael Hiltzik**

NOVEMBER 1, 2016, 1:25 PM

The tradition in real estate development in recent years has gone something like this: Developer proposes mega-project, developer claims project will transform city into something great, city gives developer millions in tax abatements and other handouts to make the deal happen.

Beverly Hills may just have turned the payout spigot the other way. In a tentative deal announced late last week, the Chinese firm Wanda Group agreed to increase its fees to the city by more than a half-billion dollars over 30 years to win approval of a luxury condo-hotel project near the corner of Wilshire and Santa Monica boulevards.

Everyone involved in the negotiations expresses satisfaction with the terms. "This is by far the best development agreement ever negotiated for Beverly Hills, and possibly the richest development agreement per square foot negotiated anywhere by a municipality," said Mayor John Mirisch, who reached the agreement as one of two members of the city's ad hoc committee examining the project.

His colleague on the committee, Councilwoman Lili Bosse, agrees. And Rohan a'Beckett, Wanda's manager at the project, calls the deal "an agreement on the numbers that works for both of us."

> **"We're lucky that we don't have to seek people out to come here. Beverly Hills is still a city where people want to do business.**
>
> — Beverly Hills Council member Lili Bosse

But it still has local real estate observers scratching their heads. "This is the first time anything like this has ever been done," Alan X. Reay, president of the Irvine hotel brokerage Atlas Hospitality, told me. "It's unprecedented."

It also involves a project embroiled in controversy. The Wanda development is a neighbor of a hotel and condo proposal at the site of the Beverly Hilton Hotel, which is the focus of a measure on the Nov. 8 city ballot. The measure was placed on the ballot by Beny Alagem, the Hilton's owner, in order to bypass the city planning process by appealing directly to voters for their approval.

Wanda has funded the opposition campaign. Mirisch has been critical of Alagem for attempting to circumvent city planners and the council, but he has said he's "neutral" on the Wanda project.

The terms are still subject to approval by the Beverly Hills City Council, which will launch a three-day round of hearings on the development Monday. The terms include a doubling of the up-front payment from Wanda to the city from $30 million to $60 million; a quadrupling of environmental mitigation and sustainability fees to 1.25% from 0.45% of the sale of any portion of the development, including the condos, and an additional 2% of any subsequent sale; and hotel occupancy surcharge of 5%, on top of the city's statutory transient occupancy tax of 14%.

The city says it expects the terms to yield $820 million in revenue over 30 years, an increase of $560 million over the previous terms. The 5% occupancy surcharge, according to Mirisch, isn't mandated by city ordinance but has been applied by negotiation to two recent hotel projects, the Montage and the Waldorf Astoria, which will open early next year as part of the Hilton development.

Wanda already had city approval for an earlier version of its project, but opted to build a luxury hotel in place of some condos. The revision won the approval of the city's Planning Commission earlier this month, but still required approval by the City Council.

Mirisch has been a critic of municipalities that offer lucrative tax abatements and other handouts to attract real estate developers. In July, Anaheim approved a lavish 20-year rebate of city taxes to Walt Disney Co. and other developers for luxury hotels to serve Disneyland, despite a lack of evidence that Disneyland hotels could be built anywhere else or needed subsidies.

Beverly Hills may be one of the few cities in California that can demand concessions from builders.

"We're lucky that we don't have to seek people out to come here," Bosse says. "Beverly Hills is still a city where people want to do business."

Whether the stiff terms will harbor unanticipated costs for the Wanda project is difficult to gauge. The transfer fee will raise the price of the development condos above what comparable units might fetch. The higher hotel occupancy fee will also force room rates above older competing hotels that charge guests only the statutory 14%.

"You could argue that it's a competitive disadvantage," Reay says, though that might not matter much as long as the economy thrives and demand for Beverly Hills lodgings remains strong. "What if we get into a market where things slow down and people look more closely at rates?" Individual rates may not matter much, he says, but "it will definitely add up if you're doing a major event, like a wedding."

Keep up to date with Michael Hiltzik. Follow @hiltzikm on Twitter, see his Facebook page, or email michael.hiltzik@latimes.com.

Return to Michael Hiltzik's blog.

Exhibit 1

APPEAL PETITIONS MUST BE FILED WITH THE CITY CLERK'S OFFICE WITHIN 14 CALENDAR DAYS AFTER THE DATE OF THE DECISION

APPEAL TO _____ COMMISSION OR CITY COUNCIL

*PLEASE TYPE OR PRINT CLEARLY IN **BLACK INK***

November 1, 2016
Date

In accordance with the appeals procedure as authorized by the provisions of the Beverly Hills Municipal Code, the undersigned hereby appeals from the decision of Planning Commission (Official, Board or Commission involved) rendered on October 19, 2016; which decision consisted of: The grounds submitted for this appeal are as follows: ***(WARNING: State all grounds for appeal. Describe how decision is inconsistent with law. Use extra paper if necessary.)***

On October 19, 2016, the Beverly Hills Planning Commission voted to recommend that the Beverly Hills City Council adopt Amendments to the 9900 Wilshire Specific Plan and associated Development Agreement to allow luxury residential condominiums, a luxury boutique hotel, public gardens, and ancillary commercial uses and to make a recommendation under CEQA.

Peterson Law Group, PC, on behalf of The Belvedere Hotel Partnership appeals this recommendation for the reasons stated in Exhibit A, Exhibit B, and Exhibit C attached hereto and incorporated by this reference.

Exhibit A is Peterson Law Group's comment letter to the City Council dated November 1, 2016.

Exhibit B is Peterson Law Group's comment letter to the Planning Commission dated May 31, 2016.

Exhibit C is Peterson Law Group's comment letter to the Planning Commission dated September 19, 2016.

The undersigned discussed the decision being appealed with:

Planning Commission Hearings on 5/12/16; 8/23/16; 9/19/16; 10/19/16
(Department Head(s) Involved) Date

It is requested that written notice of the time and place for the hearing on this appeal before the City Council be sent to: jsp@petersonlawgroup.com; swt@petersonlawgroup.com

Peterson Law Group c/o John S. Peterson 655 West 5th Street, Suite 2800, Los Angeles, CA 90071
Name Address

RECEIVED
CITY OF BEVERLY HILLS
2016 NOV -2 P 3:43
CITY CLERK'S OFFICE

Signature of appealing party John S. Peterson, Attorney for The Belvedere Hotel Partnership

655 West 5th Street, Suite 2800, Los Angeles, CA 90071
Address

(213) 236-9720; (213) 236-9724
Telephone Number & Fax Number

Fee Paid _____ (For City Clerk's use) DATE RECEIVED

LOG NO. _____ Written Notice mailed to appellant:

Copies to: City Council, City Manager, City Attorney, _____
Involved Department

EXHIBIT 1

EXHIBIT A

PETERSON LAW GROUP
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November 1, 2016

Beverly Hills City Council
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210

Re: 9900 Wilshire Boulevard (One Beverly Hills) Appeal to City Council

Dear Councilmembers,

This office represents The Belvedere Hotel Partnership ("Belvedere") and this letter is submitted on Belvedere's behalf. Belvedere appeals the recommendation of the Beverly Hills Planning Commission to adopt the Supplemental Environmental Impact Report ("SEIR) and Amendments to the 9900 Wilshire Specific Plan and associated Development Agreement to allow luxury residential condominiums, a luxury boutique hotel, public gardens, and ancillary commercial uses (the "Amendments") at 9900 Wilshire Boulevard (the "Property"). Exhibit B and Exhibit C to the Appeal Petition outline Belvedere's grounds for appeal. The appeal is also based on the following grounds:

Beverly Hills City Council adopted the 9900 Wilshire Project Specific Plan and associated entitlements on April 8, 2009. Pursuant to Beverly Hills Municipal Code ("BHMC"), "the failure to exercise any right granted by the original approval within the time limit provided, or any extension thereof, shall constitute an abandonment of the original approval and all rights conveyed by the approval shall lapse and expire." BHMC 10-3-207(A). Furthermore, no approval may "be extended beyond five (5) years after the initial action granting the original approval." BHMC 10-3-207(A). Here, the City approved and entitled the 9900 Wilshire Project more than ***seven and a half years ago***. We have not found evidence of further extensions despite our review of the City's responses to our PRA request for the entire file. The City Council should not approve the Amendments or the SEIR at this time because the 9900 Wilshire Specific Plan and associated Development Agreement have expired. The Environmental Impact Report ("EIR") for the project is a nullity as it is a document without a project. It is incumbent on the City to have notified the project developer and the public that the project entitlements had expired. The project proponent must file an entirely new plan and obtain a new Environmental Impact Report for its proposed project.

Assuming, for argument's sake, that the City Council determines that the project entitlements have not lapsed, there are additional reasons why the Amendments cannot be approved. In addition to the reasons outlined in Exhibits B and C, the Amendments result in a much more intensive use of water. The extended drought that we now know to exist was not considered in the EIR. The difference in baseline warrants an entirely new analysis. The City claims this will not have a significant impact on the environment. The City has been placing stringent water restrictions and conservation requirements on its residents and business owners. There is a clear disconnect between its treatment of existing residents and business owners and treatment of the applicant in the SEIR. Beverly Hills residents and business owners should not be expected to suffer while the City encourages major development without properly analyzing and mitigating development impacts.

As we have stated throughout this process, the Amendments proposed by the project proponent are for a substantially revamped project that requires a new EIR and all associated environmental studies, including greenhouse gas emissions and utilities. Not only is this a new project under CEQA, but it is a new project under the Beverly Hills Municipal Code - the entitlements for the previously approved project having expired. The current attempt to push this project through is an attempt to circumvent CEQA. The City is doing its citizens a disservice by approving this project without full and complete environmental analysis. The project must be treated as a new project and follow the proper development procedures as required by law. The SEIR should not be approved by the City.

Very truly yours,

John S. Peterson

JSP:swt

EXHIBIT B

PETERSON LAW GROUP
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TELEPHONE (213) 236-9720
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Via E-mail and Facsimile

May 31, 2016

Community Development Department
City of Beverly Hills
Attn: Andre Sahakian, Associate Planner
455 North Rexford Drive
Beverly Hills, CA 90210
asahakian@beverlyhills.org
(310) 858-5966

Re: Comments on the Draft SEIR for 9900 Wilshire Boulevard (One Beverly Hills) Project

Dear Mr. Sahakian,

This office has been engaged by The Belvedere Hotel Partnership ("Belvedere") to respond to the Draft Supplemental Environmental Impact Report ("SEIR") prepared by the City of Beverly Hills ("City") for the 9900 Wilshire Boulevard (One Beverly Hills) Project ("Proposed Project").

Belvedere has assembled a consultant team consisting of traffic engineers, land use professionals, and noise experts to review the SEIR. The conclusions of traffic engineer William Kunzman, P.E., of Kunzman and Associates ("Kunzman") are attached hereto as **Exhibit "A"**. The conclusions of land use consultant Jim Ries of Craig Lawson & Co., LLC ("Lawson") are attached hereto as **Exhibit "B"**. The conclusions of senior noise consultant Aaron Betit of Acentech ("Acentech") are attached hereto as **Exhibit "C"**. Belvedere hereby incorporates each of these conclusions and opinions into this comment letter.

As discussed below, the Proposed Project is a substantially different project from the Approved Project. These substantial changes mandate a new EIR. Not only has the project changed, but the circumstances surrounding the project have changed substantially. Taking this into account, an entirely new EIR is required.

SEIR Comments:

A. The Proposed Project is a New Project that Requires a New EIR.

The Proposed Project is an alteration of the approved 9900 Wilshire Project for which the City of Beverly Hills certified a Final Environmental Impact Report ("FEIR") in April 2008 (the "Approved Project"). The City adopted the 9900 Wilshire Specific Plan in April 2008 and subsequently approved a modification to the Specific Plan in December 2012. Currently, the Approved Project includes 235 residential units, 16,456 square feet of commercial/retail space in a two story building along the north side of Santa Monica Blvd., and 876 on-site parking spaces.

The Proposed Project would include 193 residential units; a 134 room hotel; 7,942 sf consisting of a main ballroom and three meeting rooms with pre-function space and ancillary facilities; food and beverage facilities including a VIP function room, an all-day dining restaurant, a fine dining restaurant, and a roof-top bar, totaling approximately 16,057 sf; 1,600 sf of outdoor dining space; 1,907 sf lobby lounge; 14,435 sf spa and fitness facility; and 2,484 sf hotel boutique shop – totaling 204,291 square feet of intensified use. Site access for the Proposed Project will include a hotel motor court and separate residential parking access.

When compared to the existing entitlements, the Proposed Project is essentially "tearing down" 42 residential units and building a 134 room hotel with associated hotel amenities, including ballrooms, meeting rooms, spas, fitness centers, restaurants, and a roof-top bar. In any other situation there is no question a new EIR would be required.

The City states that the SEIR has been prepared pursuant to Section 15163 of the CEQA Guidelines, which outlines the requirements for a supplement to an EIR. SEIR, p. 22. Section 15163 states:

> (a) The lead or responsible agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:
>
> > (2) ***Only minor additions or changes*** would be necessary to make the previous EIR adequately apply to the project in the changed situation. (emphasis added).

On May 12, 2016, staff presented a summary of the Supplemental EIR to the Beverly Hills Planning Commission ("May 12 Hearing"). Staff cited the above referenced code section regarding minor changes to support the use of a supplemental EIR, concluding that "based on the fact that this project is a change to a previously approved project, we went ahead and prepared a supplemental EIR to study it." In Section 1.4 of the SEIR, the City concludes "the Proposed Project is similar to the Approved Project originally entitled in 2008 and last modified in 2012; therefore, the City has determined that a Supplemental EIR (SEIR) is the appropriate CEQA approach." SEIR, p. 22. No analysis is provided as

to how the City has reached this conclusion. There is no mention of how the Proposed Project results in only minor changes or additions to the previous EIR.

None of the changes and intensified uses to the Proposed Project is minor. Not only has the Proposed Project changed dramatically, but so has the environment in which the Proposed Project will be built. The construction timetable for the Proposed Project has ***almost doubled*** from 24 months to 42 months. While the square footage of the Approved Project and Proposed Project are similar, nothing else about the two projects can be described as similar. Nor can the City reasonably conclude that only minor additions or changes are proposed given the intensified use.

The Proposed Project includes an intensification of use and numerous new land uses – a hotel with ballrooms, meeting rooms, spas, fitness centers; restaurants; and a roof-top bar – in addition to revised site access. These are not minor changes. A hotel is not a condo project and restaurants and a roof-top bar are not retail space. Moreover, it is our understanding that the Wanda Group intends to make the hotel portion of the Proposed Project an entertainment hub – hosting industry events, movie premieres, and awards shows. This type of intensified activity is a far cry from residential condos. The traffic and noise that will be associated with this type of activity cannot be ignored.

Implementation of the currently Proposed Project would involve the adoption of an amendment to the 9900 Wilshire Specific Plan to ensure that the Project would comply with the standards and regulations associated with permitted uses and parking, including allowing a hotel use within the Specific Plan area, which is currently prohibited. Other proposed amendments would involve:

- Increasing the amount of allowable open air dining space from 600 feet to 1,600 square feet
- Revisions to site access
- Eliminating the following items from the list of LEED features to be incorporate into the Project
    - Limiting the development footprint to approximately 1/3 of the Project site
    - The recycling of building materials such as asphalt, metals, glass, and concrete from demolition site work. SEIR, p. 141.

These amendments further emphasize the fact that this is a new project, not a project that can be analyzed with a supplemental EIR. Amending the Specific Plan would require adding an entirely new, intensified use to the Approved Project – a hotel use. Outdoor dining space would almost triple, and site access would have to be revised. Additionally, LEED features of the project would be eliminated, making the Proposed Project less environmentally friendly than the Approved Project.

Many new projects have arisen in the vicinity of the Proposed Project since 2008. The cumulative impacts of these projects, combined with the Proposed Project, are ignored. A comparison of Table 4.0-1 Related Projects – City of Beverly Hills, Table 4.0-2 Related Projects – City of Los Angeles, Table 4.0-3 Related Projects – City of West Hollywood, and Table 3.3-1 –Related Projects Added to the Traffic Analysis from the Draft EIR and Final EIR with Table 3.3-1 – Cumulative Projects (collectively attached hereto as **Exhibit "D"**) in the SEIR is telling. According to these tables, 28 new planned or pending projects have arisen since the FEIR was issued in 2008. 10 Projects that were planned or pending in 2008 are still planned or pending today.

Traffic, which was already critical, has increased since 2008. A comparison of Table 4.11-4 in DEIR and Table 4.5-2 in SEIR (collectively attached hereto as **Exhibit "E"**) illustrates that Levels of Service from 2006-2007 to Existing (2015) have gotten worse at almost every measured intersection.

Noise has increased since 2008. A comparison of Table 4.8-3 Monitored Noise in DEIR and Table 4.4-1 Monitored Noise in SEIR (collectively attached hereto as **Exhibit "F"**) illustrates that every monitored site has increased in Community Noise Level Equivalents ("CNEL") since the FEIR except for Site 4. Site 4 is the only monitored site that has slightly changed. This further illustrates that the environmental circumstances in the area of Beverly Hills have changed.

In sum, the City is avoiding its obligation to perform a new environmental study by stating the two projects are similar. However, too much has changed since 2008 for these projects to be labelled similar; both in the scope and intensity of the Proposed Project and in the surrounding area in Beverly Hills. The Proposed Project will result in new significant impacts and also contains a substantial increase in the severity of previously identified impacts. The Proposed Project is a new project and requires a new EIR. The baseline for this analysis must be the existing physical operational conditions, not the level of operations previously approved eight years ago in 2008.

B. Deficiencies in the SEIR's Land Use Analysis.

We submit the attached **Exhibit "B"** analyzing the deficiencies of the SEIR's land use analysis. Highlight of this analysis, and additional comments, are below.

A hotel use is not a residential use and commercial/retail use. Moreover, a hotel use is not permitted within the 9900 Wilshire Specific Plan. As Lawson points out, "a use not specifically permitted with a use list of a Specific Plan is prohibited." Lawson, p. 1. However, the SEIR contends that a use that is not specifically prohibited must be permitted. This is an unsupported conclusion. "If this logic was carried to its extreme there would be no limit to the types of uses permitted and one could question why a Specific Plan was even implemented." Lawson, p. 1. A hotel use requires an amendment to the Specific Plan.

According the 9900 Specific Plan adopted for the Approved Project, one goal is "(e) to redevelop the Specific Plan Area in a manner that does not substantially increase the traffic impacts and related operational air quality and noise impacts associated with the Existing Building." SEIR, pp. 115-116. The Existing Building was a quiet department store; so quiet that it closed down. Condos and a hotel with a rooftop bar and multiple restaurants will increase the traffic impacts and the noise impacts compared to the previously existing Robinson-May department store.

In addition, Specific Land Use goals and policies include:

- LU 12 Business Districts Adjoining Residential Neighborhoods. Compatible relationships between commercial districts and corridors adjoining residential neighborhoods, assuring that the integrity, character, and quality of both commercial and residential areas are protected and public safety and quality are maintained. Table 4.3-2. SEIR, p. 128.

- LU 12.1 Function and Operational Comparability. Require that retail, office, entertainment, and other businesses abutting residential neighborhoods be managed to assure that businesses do not create an unreasonable and detrimental impact on neighborhoods with respect to safety, privacy, noise, and quality of life by regulating hours of operation, truck deliveries, internal noise, staff parking and on-site loitering, trash storage, and pick-up and other similar business activities. Table 4.3-2. SEIR, p. 128.

The SEIR states that the Proposed Project is potentially consistent with these goals and policies because "similar to the Approved Project, the Proposed Project design orients outdoor activity areas, vehicular entrances, and loading areas toward the south, away from residential neighborhoods to the north of the site across Wilshire Boulevard. The Project is not expected to create public safety or quality of life issues for nearby residential neighborhoods." This sweeping statement ignores the hotel and residential areas to the south and the cumulative impacts of the Proposed Project and the other projects in the immediate vicinity

The Beverly Hilton and Waldorf Astoria Projects are 50 feet away from the Proposed Project. The cumulative land use impacts of two hotel properties 50 feet away from each other, especially considering that both properties intend to be "entertainment hubs" suitable for events attending by thousands of people, cannot be understated. These two projects alone will add 5 new towers to the Beverly Hills neighborhood. The substantial increase in density and change in land use will destroy the integrity of the neighborhood and have an unreasonable and detrimental impact on the neighborhood, contrary to the Land Use Goals 12 and 12.1. Together, these projects and their intended uses will turn this section of Beverly Hills into an area reminiscent of the Las Vegas Strip

Table 2-3 of the SEIR (attached hereto as **Exhibit "G"**) compares the Approved Project and the Proposed Project. The table highlights in bold the fact that the Proposed Project will

result in 42 less residential units. What the table does not highlight in bold is the addition of 134 hotel rooms. Nor does the table illustrate the net increase in units on the property. The Proposed Project will result in 193 residential units and 134 hotel rooms versus the Approved Project's 235 residential units. This results in a ***net increase*** of 92 units on the property. The SEIR does not address whether the loss of 42 residential units is the equivalent to the gain of 134 hotel rooms or how the net increase of 92 units is analyzed in the SEIR. The SEIR must address these changes in order to determine the effects on land use of the property.

Table 2-3 also highlights in bold the loss of 188,435 square feet of residential area and the loss of 15,858 square feet of commercial area. The table does not highlight in bold that all of this lost square footage is regained in hotel area. Nor does the table illustrate that the net square footage change is zero.

Land Use Element (LU) Policy 15 and LU 15.1 of the General Plan discuss the need for projects to generate high-paying jobs. Hotel jobs are not considered to be high-paying jobs and the project does not meet this objective of the General Plan. The SEIR needs to analyze this deficiency. Lawson, p. 2.

Circulation (CIR) Element Policy 6 and 6.7 of the General Plan discuss the need to reduce reliance on the single occupant motor vehicle. For both policies, the SEIR concludes these policies are not applicable to the project, but it provides no analysis substantiating that conclusion. In fact, by converting this project from a mainly residential project known to generate fewer trips compared to most uses, to one with more commercial uses, this project should provide a robust trip reduction program. Lawson, p. 2.

CIR Policy 8 and 8.5 of the General Plan also promote trip reduction strategies by mandating bikeways and bike amenities. The SEIR notes the project is potentially consistent because the project would provide bike lanes. There is no evidence of such lanes on the plans in the SEIR. There do not appear to be any of the related facilities considered important by the Circulation Element to incentivize bike usage such as rental bikes for hotel guests. Lawson, p. 2.

Housing Element Policy 2 of the General Plan outlines the need to provide a variety of housing types and adequate affordable housing supply. The project does not provide any deed restricted affordable units creating an inconsistency with this policy. By offering no affordable units and adding in the hotel component, the City is actually moving further away from compliance with its General Plan's housing, economic and circulation goals. Lawson, p. 2.

Lawson also illustrates the traffic implications of the failure of the SEIR to address the change in and intensification of land use (hotel and restaurant) on traffic. As Lawson points out "the modification of this project from a mainly residential project to one that includes a significant commercial component changes the trip rates and patterns generated by this site." Lawson concludes a new traffic study must be done and "must use *current trip rates by use*, update traffic counts of area intersections, consider a current related-projects list, and analyze the impacts of the City of Los Angeles' recently approved Bike Plan and Mobility Element."

Additionally, the SEIR must analyze the staging area for limousines during events. Lawson, p. 3.

Finally, hotels use significantly more water than the residential uses assumed in the original EIR. The SEIR needs to fully analyze the impact of this increased water uses and implement state of the art mitigation measures. Lawson, p. 3.

C. Deficiencies in the SEIR's Traffic/Transportation Analysis.

We submit the attached **Exhibit "A"** comparing the DEIR and SEIR's traffic analysis. Highlight of this analysis, and additional comments, are below.

The SEIR describes a 5-month excavation timeline wherein haul trucks would be required to haul dirt from the Project site to designated landfills. The staging area for these haul trucks is located on Sepulveda Boulevard, north and south of Wilshire Boulevard. The incoming haul truck route would be eastbound on Wilshire Boulevard. The outgoing haul truck route would be westbound on Santa Monica Boulevard. Both of these routes require large haul trucks to travel 2.5 miles along two of the busiest, most congested roads in Los Angeles. Not only this, but the staging area is directly adjacent to the on and off ramps to the 405 freeway, notorious for its traffic backups at all hours of the day. The SEIR estimates the total number of trucks required to access the site during the excavation process could be as many as 162 trucks per day for up to 5 months, or 300 trucks per day for up to 2.5 months. SEIR, p. 48. It defies logic how this many trucks will be able to travel the 2.5 mile each way along two of the busiest roads in Los Angeles. The traffic implications of these additional truck trips are catastrophic, especially considering many of the major intersections along both the incoming and outgoing truck haul routes are already rated E or F.

Belvedere hired an objective traffic consultant, Kunzman, to review the SEIR and FEIR. Kunzman points out that many of the analyses conducted by the City's traffic consultants were done correctly. However, they find several deficiencies in the traffic analysis. Kunzman opined that "it is my professional opinion that (1) nearly doubling the haul period, (2) more than doubling the export tonnage, and (3) increasing the tons per week or truck loads per week by a factor of 1.23 **is a significant traffic impact**. Kunzman, p. 2. Kunzman went on to state that "given the extra-ordinarily high amount of traffic in this location, the construction impacts in terms of trucks hauling material from the site, are significant in both 2007 and 2016, and the change between 2007 and 2016 is also significant." Kunzman, p. 2.

Additionally, Kunzman pointed out that the traffic study failed to properly assess hotel traffic at the Beverly Hilton and the Proposed Project. The SEIR's traffic study fails to account for a portion of trip generation as a result of the hotel use. The traffic study used the Beverly Hilton as its source for typical hotel traffic trip generation in the area. However, at the time of the traffic counts at the Beverly Hilton, only a portion of the Beverly Hilton was operational. As Kunzman points out, "at the time of the existing traffic counts in 2015/2016 were made, ***only a fraction of the hotel complex was in operation***. The vehicle trips associated with the fraction of

the hotel that was not in operation when the traffic counts were made has not been accounted for...The fact that the 9876 Wilshire Boulevard project has not fully been accounted for as other future development in the area in the 2016 Report, **the traffic analysis is deficient**. This unaccounted for hotel expansion will probably cause a significant impact." Kunzman, p. 6. Not only does this skew the results of traffic in the area from the Hilton, but it skews the projected traffic generation for the hotel use at the Proposed Project.

The SEIR in essence concludes that there is no significant traffic impact because the intersections studied are mostly E's and F's, and therefore cannot get any worse. "Without the Proposed Project the 9 of 11 study intersections would be operating at a LOS [level of service] of E or F in Year 2020 for at least one of the peak periods. In comparison, with the Project in Place in 2020, some intersections would experience slight decreases in V/C, while other intersections would experience slight increases." SEIR, p. 200. Given the fact that the traffic counts conducted in the SEIR are skewed, this is an inappropriate conclusion. The City must account for all of the traffic generated by the Beverly Hilton and Proposed hotel use at their full operational capacities. This will likely lead to an increase in traffic at all measured intersections.

While a traffic impact may not be significant on its own, considered in the cumulative with the current levels of service in the vicinity of the Proposed Project, the impact can be significant. As discussed in *Practice Under the California Environmental Quality Act*, "in some cases, a project-specific impact will be insignificant, but a related cumulative impact is significant even though the project specific impact is not, when, for example a new project will contribute a relatively small amount of traffic to an intersection, but the intersection is already operating at an unacceptable level of service." CEB. Practice Under the California Environmental Quality Act. §13.39. Here, the City has failed to analyze the cumulative traffic impacts of the Beverly Hilton Project and the Proposed Project. CEQA requires these impacts to be considered.

Finally, the City must analyze the proposed motor court and its potential to cause traffic to back up onto Santa Monica Blvd. as it relates to the 9900 Wilshire Project. If the Proposed Project is to be hosting events with thousands of people, backup onto Santa Monica Blvd. is inevitable. Mitigation measures should be adopted to handle this potential traffic nightmare. In addition, the SEIR should address mitigation measures with respect to potential road closures due to special events.

D. Deficiencies in the SEIR's Noise Analysis.

We submit the attached **Exhibit "C"** analyzing the deficiencies of the SEIR's noise analysis. Highlight of this analysis, and additional comments, are below.

The SEIR concludes "the most common source of noise in the Project site vicinity is traffic on surrounding roads such as Wilshire, Santa Monica, and Merv Griffin Way. Motor vehicle noise is of concern because it is characterized by a high number of individual events, which often create sustained noise levels. Ambient noise levels would be expected to be highest

during the daytime and rush hour unless congestion slows speeds substantially." Yet, to determine ambient noise levels, the City's noise analysts took ten 15-minute noise measurements between 11:00 a.m. and 1:00 p.m. (daytime) and 11:00 p.m. and 2 a.m. (nighttime) at the Project site on February 24, 25, and 29, 2016. Clearly these time intervals do not reflect rush hour traffic noise. As Acentech concludes, "since the metric used to evaluate an impact is a 24-hour noise metric, to provide an accurate evaluation of the ambient noise environment, 24 to 48 hour noise measurements should have been conducted." Acentech, p. 1.

The monitored levels in the DEIR and SEIR breakdown as follows:

Table 4.8-3 Monitored Noise in DEIR (CNEL):
Site 1: 72.1
Site 2: 72.5
Site 3: 68.6
Site 4: 79.5
Site 5: 59.2
(DEIR, p. 4.8-9)

Table 4.4-1 Monitored Noise in SEIR (CNEL):
Site 1: 75.1
Site 2: 80.3
Site 3: 74
Site 4: 75.2
Site 5: 82.2
(SEIR, p. 146)

There are problems with these results, as Acentech explains. Even so, all of these levels are above the threshold for "normally unacceptable" Community Noise Level Equivalent ("CNEL") of 70. Four out of five of them are above the "clearly unacceptable" CNEL for residential and residential multiple family. Two out of five are above the "clearly unacceptable" for transient lodging, schools, libraries, churches, hospitals, and nursing homes.

In order to downplay the monitored results, the SEIR instead uses modeled results to compare the Approved Project with the Proposed Project. Table 4.4-7 (attached hereto as **Exhibit "H"**) uses modeled traffic noise rather than actual measured traffic noise, which is higher. SEIR, p. 159. Table 4.4-8 (attached hereto as **Exhibit "H"**) concludes no significant impact based on lower model numbers rather than actual monitored numbers. SEIR, p. 160. Even more confounding, the SEIR states "because modeled noise only predicts traffic-generated noise and does not take into account other noise events during noise measurement such as car horns, airplanes flying overhead, and human voices, modeled noise was somewhat lower than the measured noise levels at the same locations. Nonetheless, the noise levels at the measurement locations indicate that the model is an appropriate tool for determining existing and future noise levels for this area." This is a sweeping conclusion that lacks foundation; in fact, the monitored results undermine it entirely. As Acentech concludes "using a noise model to document the ambient noise environment rather than using actual measurements cannot be considered the 'worst case' scenario for evaluating the existing noise environment." Acentech, p. 2.

The SEIR fails to include long term noise measurements. Acentech concludes this is "a significant shortcoming of the analysis." Acentech, p. 2. Additionally, the SEIR fails to consider effects of long term noise on Sensitive Receptors 4 and 5. These receptors are "likely

to be exposed to noise generated from activities on the rooftop of the new project, and construction as the project progresses upward." Acentech, p. 2. Mitigation measures need to be put in place for these sensitive receptors.

The analysis of the rooftop bar and outdoor dining area's potential noise impacts is lacking. As Mr. Betit points out "the evaluation references noise levels report for outdoor dining in Marina Del Rey. This analysis is not included with the Appendix...[c]onsequently, there are no specific details to understand what assumptions were made." Acentech, p. 4. In addition, there is no discussion of whether or not amplified music, live or programmed, will be permitted at the Proposed Project. Nor is there an evaluation of special events at the dining area or rooftop bar.

At the May 12 Hearing, it was mentioned that truck hauling may be considered at night in order to mitigate traffic issues. While this may make sense as a traffic mitigation measure, if the City intends to direct nighttime hauling, the noise from such hauling must be analyzed, especially with respect to the impacts on nearby residences and hotels. At this time, "there is no evaluation of noise impact due to nighttime/evening hauling. If the project intends to use night hours to remove dirt from the site, it is necessary to include an analysis of this impact in the noise technical report." Acentech, p. 4.

Finally, the staging area on Sepulveda has not been analyzed at all. CEQA requires analysis at all areas of the Proposed Project. Idling trucks will create a noise impact at that location, and "idling haul trucks could generate enough noise to trigger a significant impact." Acentech, p. 4. The City of Beverly Hills cannot omit this analysis just because the staging area is located in the City of Los Angeles.

E. Other Deficiencies in the SEIR's Analysis.

i. Population

As the SEIR mentions, the current population of Beverly Hills is 34,833. Beverly Hills housing consists of 16,433 estimated units; with an average household size of 2.33 persons per unit (California Department of Finance, 2015). SEIR, p. 55. The Proposed Project, adding 450 residents, would cause the citywide population to exceed SCAG's 2020 population forecast (35,000), but population growth associated with the Project would be within SCAG's 2035 population forecast (36,300). SEIR, p. 219. Yet again, the SEIR is only looking at the Proposed Project in isolation. There are many other residential projects ongoing in the City of Beverly Hills, including:

- Beverly Hilton (120 condos)
- 9908 Santa Monica (27 Condos)
- 250 North Crescent Drive (8 condos)
- 9262 Burton Way (23 condos)
- 450-460 North Palm Drive (35 condos)

- 154-168 North La Peer Drive (16 condos)
- 425 North Palm Drive (20 condos)
- 332 North Oakhurst Drive (31 condos)
- 305-239 South Elm Drive (30 condos)
- 8600 Wilshire (21 Apartments, 4 Townhouses)
- 9200 Wilshire (53 condos)

This will result in 388 new residential units and 904 new residents (388 x 2.33 persons per unit), bringing the total population to 36,187. This will bring the total population in the next few years to almost exceed population forecasts for 2035, almost 20 years ahead of schedule. The cumulative impacts of population growth and the increases in traffic, noise, use of resources, and other environmental impacts that go hand in hand with population growth must be analyzed.

ii. Fugitive Dust

Two major construction projects occurring within 50 feet of one another have potential to cause fugitive dust problems. This can affect neighbors use and enjoyment of their property, as well as the health of neighboring school children and residents.

F. Deficiencies in the SEIR's Cumulative Impacts Analysis.

The SEIR only addresses cumulative impacts when discussing temporary construction impacts. Specifically, it addresses mitigation measures for construction related noise and traffic. It also finds that construction related noise and traffic are significant unavoidable impacts.

The SEIR states that "cumulative construction-related traffic impacts could occur as a result of simultaneous construction of the Beverly Hilton Revitalization Plan project, the reconstruction of Santa Monica Boulevard and the Proposed Project, since construction schedules will likely overlap." SEIR, p. 205. Mitigation Measure TRAF-9 requires coordination between the City of Beverly Hills, The Beverly Hilton Revitalization Plan, and the applicant for the Proposed Project to mitigate construction-related impacts. These mitigation measures must be enforced.

The SEIR concludes that Project construction would coincide with other planned and pending construction projects in the area, including projects such as the Beverly Hilton Revitalization Plan and 9908 Santa Monica Boulevard project that are within 1-2 blocks of the Proposed Project. Project construction could also overlap with the Santa Monica Boulevard Reconstruction Project. Ongoing, planned, and pending construction projects, in tandem with the Proposed Project would create significant temporary cumulative construction noise and vibration impacts, and the Project's contribution to these would be considerable. This significant cumulative impact is similar to what was identified in the 2008 FEIR, but the Project would involve an additional 18 months of construction activity beyond the 24 months associated with the approved Project. This is a significant unavoidable impact, but is temporary. Mitigation

NOISE-4 requires coordination with other projects to reduce noise and vibration as feasible. SEIR, pp. 164-165.

In addressing the cumulative impacts with respect to land use and planning, the SEIR states "pending and approved development in the cities of Beverly Hills and Los Angeles would consist of multi-family dwelling units and commercial/retail development in the vicinity of the Project Site. Planned cumulative development would incrementally increase overall development intensity throughout the area, while incrementally reducing the amount of undeveloped land. However, similar to the Proposed Project, ***land use and policy consistency impacts associated with individual projects would be addressed on a case-by-case basis to determine consistence with applicable plans and policies, and cumulative significant impacts would not occur.*** Moreover, because the Proposed Project's impacts related to land use compatibility and consistency with local plans and goals would be less than significant with mitigation...***the Project's contribution to cumulative land use impacts would not be cumulatively considered.***" SEIR, p. 142. (emphasis added).

This circular conclusion defies logic. If projects are analyzed individually on a case-by-case basis, obviously it is impossible for a finding that cumulative significant impacts would occur because they are not being evaluated as they "increase by successive additions" or "accumulate." CEQA defines cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." 14 Cal Code Regs § 15355. The individual effects may be changes resulting from a single project or more than one project. 14 Cal Code Regs § 15355(a). Cumulative impacts may result from individually minor but collectively significant projects taking place over a period of time. 14 Cal Code Regs § 15355(b). The cumulative impact from several projects is the change in the environmental that results from the incremental effect on the projects when added to other past, present, and probable future projects. 14 Cal Code Regs § 15065(a)(3), 15130(b)(1)(A), 15335(b).

The conclusion that "the Project's contribution to cumulative land use impacts would not be cumulatively considered" sums up the failings of the SEIR: it refuses to acknowledge the cumulative impacts of the Proposed Project, other than cumulative construction impacts, as required by CEQA.

As a comparison of the tables in Exhibit D illustrate, 28 new planned or pending projects have arisen since the FEIR was issued in 2008. 10 Projects that were planned or pending in 2008 are still planned or pending today. These projects include:

- 257 North Canon Drive (15.899 KSF retail shopping center, 26.196 KSF office, 1.8 restaurant)
- 246 North Canon Drive (7.1 KSF Restaurant)
- 250 North Crescent Drive (8 Condominiums)
- 9262 Burton Way (23 Condominiums)
- 325 North Maple Drive (7.8 KSF Post Office, 3.7 KSF Retail, & 88.5 KSF Creative Office)

- 450-460 North Palm Drive (35 Condominiums)
- 154-168 North La Peer Drive (16 Condominiums)
- 425 North Palm Drive (20 Condominiums)
- 8955 Olympic Boulevard (19.8 KSF Automobile Sales)
- 9212 Olympic Boulevard (13.3KSF Office, 1 KSF Fast Food w/o Drive Thru, & 4.7 KSF Variety Store)
- 332 North Oakhurst Drive (31 Condominiums)
- 305-239 South Elm Drive (30 Condominiums)
- 9908 South Santa Monica Boulevard (27 Condominiums)
- 207 South Robertson Boulevard (1.7 KSF Office)
- 9000 Wilshire Boulevard (31.7 KSF Office)
- 8600 Wilshire Boulevard (21 Apartments, 4 Townhouses, 2.9 KSF Medical Office & 1.9 KSF Retail)
- 8767 Wilshire Boulevard (21 KSF General Office, 34 KSF Medical-Dental office, 3 KSF restaurant, 15.5 KSF Automobile Sales, 1.5 KSF Pharmacy-Drug Store without Drive-Through Window)
- 9200 Wilshire Boulevard (53 Condominiums, 5.6 KSF Quality Restaurant, & 8.4 KSF Retail)
- 9230 Wilshire Boulevard (Jim Falk Lexus Project 150.3 KSF Automobile Sales)
- 9876 Wilshire Boulevard (120 Condominiums, 522 Hotel Rooms, & 12.3 KSF Restaurant)
- 121 San Vicente Boulevard (35 KSF Medical-Dental Office Building)
- 8816 Beverly Boulevard (Mixed-Use)
- 623 La Peer Drive (La Peer Hotel)
- 645 Robertson Boulevard (Hotel, Restaurant, & Retail)
- 9001 Santa Monica Boulevard (Mixed-Use)
- 9040, 9060, 9080, 9098 Santa Monica boulevard (Mixed-Use)
- 10131 Constellation Boulevard (483 Condominiums)
- 10250 West Santa Monica Boulevard (West Century City-New Century Plan Project)
- 9786 West Pico Boulevard (Museum of Tolerance Expansion to add 13.5 KSF of Cultural Space)
- 9760 West Pico Boulevard (YULA Boys High School Expansion)
- 2025 South Avenue of the Stars (Century Plaza Mixed Use Development – 293 Condominiums, 91 KSF Retail, 100 KSF Office, Hotel)
- 10330 West Bellwood Avenue (Bellwood Avenue Senior Care & 24 KSF Medical Office Project, 158 Condominiums)
- 10000 West Santa Monica Boulevard (283 Condominiums)
- 10250 West Santa Monica Boulevard (71.7 KSF New Retail & Renovation of the Century City (Westfield Shopping Center)
- 1950 South Avenue of the Stars (Century City Center Project – 72.5 KSF Office)
- 888 South Devon Avenue (32 Apartments)
- 300 South Wetherly Drive (140 Condominiums)

- 8723 West Alden Drive (Cedars-Sinai Medical Center Project-West Tower (New medical building with 100 hospital beds)

Apparently missing from these projects and therefore from the analysis are the cumulative impacts of MTA's Purple Line extension. The Purple Line Project contemplates two stations and major construction in the vicinity of the Proposed Project. These are not minor or insignificant changes. The surroundings of the Proposed Project have changed significantly since 2008, and are continuing to change. Each of these projects needs to be considered on a cumulative basis in a new EIR.

The Beverly Hilton Project in August 2007 included the addition of 120 dwelling units and the demolition/loss of 47 hotel rooms, 13,030 square feet of non-hotel office, and 1,804 square feet of hotel support. This is the project that was considered in the FEIR. Since then, it is unclear what the Beverly Hilton/Waldorf Astoria Tower project is going to entail. The owner and developer have changed plans multiple times. At this time, we are informed and believe they are attempting to get approval for a 26 story, 375 foot tall tower via ballot initiative in November. A Public Records Act request to the City of Beverly Hills regarding entitlements and planning documents for 9876 Wilshire Blvd. (The Beverly Hilton) resulted in nothing other than documents stemming from the 2008 approval of the Beverly Hills Specific Plan. As Planning Commission Vice Chair Shooshani raised at the May 12 Hearing, the unknowns at the Beverly Hilton/Waldorf Astoria make it difficult to look at the cumulative impacts with respect to these next door projects. Yet CEQA requires this cumulative impacts analysis for this project, regardless of the uncertainties surrounding the Beverly Hilton/Waldorf Astoria Tower project.

We urge you to consider the ramifications of the Proposed Project, coupled with the cumulative impacts resulting from currently planned or on-going projects in the Beverly Hills and Los Angeles area. The Proposed Project should be treated as a new project requiring a new EIR. Too much has changed since the 2008 FEIR, and the baseline conditions should reflect actual, current conditions, not hypothetical conditions from modeling and analysis over eight years ago. A new EIR is required to protect the community from the unintended consequences of deficient analysis.

Very truly yours,

John S. Peterson

JSP:swt

EXHIBIT A

KUNZMAN ASSOCIATES
TRAFFIC ENGINEERING AND
TRANSPORTATION PLANNING

May 20, 2016

Mr. John S. Peterson
Peterson Law Group PC
633 West 5th Street, Suite 2800
Los Angeles, California 90071

Dear Mr. Peterson:

Introduction

This letter report evaluates two traffic analyses for a project on the west side of the intersection of Wilshire Boulevard and Santa Monica Boulevard in the City of Beverly Hills. Immediately adjacent the intersection is the Hilton/Waldorf Hotel site, and just west of there is the subject project site. The subject property was formerly the Robinsons May department store, and is now a dirt lot.

The first report is dated 2007 and is entitled Traffic Study for 9900 Wilshire Project, and will be herein referred to as the "2007 Report."

The second report is dated 2016 and entitled One Beverly Hills Transportation Impact Study Report, and will be referred to herein as the "2016 Report."

Assignment

Kunzman Associates assignment is to evaluate the two traffic studies and determine their adequacy.

The 2007 Report was included in an approved Environmental Impact Report (EIR).

The 2016 Report is a supplement to the 2007 Report EIR, and addresses a different land use for the proposed project.

Findings

1. The two traffic studies used similar methodologies, and in general the methodologies are consistent with good traffic engineering practice.

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2. The land use for the subject project changed from condominiums, retail, and restaurant in the 2007 Report, to condominiums, hotel, restaurant and bar in the 2016 Report. Generally, a previous EIR traffic study can be supplemented by a newer traffic study as long as the changes in land use are relatively non-significant. Otherwise, the original EIR traffic study needs to be revised, and a new EIR prepared. Whether the change in land use in this case is relatively non-significant is a determination to be made, not by a traffic engineer, but by the governmental agency, subject to California Environmental Quality Act laws.

3. The 2007 Report assumed that between 5,625 and 8,250 cubic yards of material would be hauled via trucks from the site, for an average of 6,938 cubic yards. The 2007 Report assumed 5 to 6 weeks of hauling export. The average tons per week exported would be 1,261.5 (6,983/5.5).

4. The 2016 Report assumed that between 16,125 and 17,415 cubic yards of material would be exported from the site, for an average of 16,770 cubic yards. The 2016 Report assumed 2.5 months (approximately 10.8 weeks) of hauling export. The average tons per week would be 1,552.8 (16,770/10.8).

5. On a time basis, the export is 1.95 times as long in the 2016 Report as in the 2007 Report. On a tonnage basis, the export is 2.4 times as much in the 2016 Report as in the 2007 Report. On a tons per week basis the export is 1.23 times as much as in the 2016 Report as in the 2007 Report. The 1.23 times as much tons per week directly translates to 1.23 times as many truck loads per week. It is my professional opinion that (1) nearly doubling the haul period, (2) more than doubling the export tonnage, and (3) increasing the tons per week or truck loads per week by a factor of 1.23 is a significant traffic impact. If this was a rural location the impact might not be significant to traffic operations. However, given the extra-ordinarily high amount of traffic in this location, the construction impacts in terms of trucks hauling material from the site, are significant in both 2007 and 2016, and the change between 2007 and 2016 is also significant.

.6. The 2016 Report did not include as another development's traffic the additional traffic which will be added by the expansion of the Hilton/Waldorf site. The existing hotel was accounted for in the 2015/2016 traffic counts; however, no additional traffic was added for the expansion which is now under construction. Google historic aerial photographs clearly show that the expansion area was in the process of demolition and/or new construction before the 2015/2016 traffic counts were made.

2007 Traffic Impact Analysis

2007 Findings: Overall the study methodology, assumptions, and procedures appear to be appropriate. In general, there are no issues with the integrity of this analysis. Typically, a traffic impact analysis has a one year shelf life

because of the way traffic changes with time. The 2007 Report is now 9 years old, and the traffic counts are quite old.

2007 Study Area Intersections: The study area intersections are more than appropriate for the potential new vehicle trips associated with the proposed project. The study area intersections were scoped with City Staff and approved before the study was conducted.

2007 Existing Intersection Geometrics: Current intersection geometry has been compared to the intersection geometry assumed in the 2007 Report analysis. The current intersection geometry appear to be equal to or greater than what was assumed in the 2007 Report traffic impact analysis. The findings in the analysis are assumed to be appropriate and potentially conservative.

2007 Traffic Counts: The traffic counts were current at the time of completion of the 2007 Report traffic impact analysis. Traffic counts were made during the appropriate times of day and days of the week. Counts of the Robinsons May were conducted before it closed, and those counts were added to the 2006/2007 traffic counts to determine the existing traffic 'base line' counts. To these base line counts, other development and proposed project traffic were added to determine future traffic conditions.

2007 Level of Service Methodology and Parameters: The Level of Service methodologies and parameters appear to be appropriate. It appears a small error was made on the input of some of the analysis work sheets. A random test was conducted and typically the volume to capacity ratios stated in the traffic impact analysis are the same or 0.001 higher. This is not a significant difference.

2007 Trip Generation: Project trip generation methodology was approved by City Staff. The Institute of Transportation Engineers trip generation rates were used for retail and food uses. The condos were believed to pose a non-typical trip generation rate. A trip generation rate was calculated based on counts of similar condos within the area at six locations. The trip generation rates used are reasonable.

There appears to be a minor error in the Saturday trip generation calculations. This minor error is not expected to significantly change the findings of the traffic impact analysis.

A trip generation validation was conducted by Kunzman Associates for the study. It appears that when the minor error is corrected and if the special condo trip generation rates were not used, the trip generation for the proposed project is projected to be slightly higher than expressed in the study. There is not expected to be any significant changes to the findings of the traffic impact analysis because of the potential increase in trip generation.

2007 Trip Distribution: The trip distribution appears to be reasonable and it was been approved by the City Staff before the study was conducted.

2007 Other Developments: The appropriate agencies were contacted to determine the other developments within the study area. The included other developments appear to be appropriate for this analysis.

2007 Construction Traffic: Basic mitigation measures associated with construction traffic have been considered in the analysis. These measures attempt to minimize construction traffic impacts by reducing construction traffic during the peak hours, reducing traffic lane and sidewalk closures, and providing flagmen when a disruption in traffic might occur.

The projected duration of the project is 24 months.

The 2007 Report assumed that between 5,625 and 8,250 cubic yards of material would be hauled via trucks from the site, for an average of 6,938 cubic yards. The 2007 Report assumed 5 to 6 weeks of hauling export. The average tons per week exported would be 1,261.5 (6,983/5.5).

2007 Conclusions: Overall the traffic study methodology, assumptions, and procedures appear to be appropriate. In general, there are no issues with the integrity of the 2007 Report analysis.

2016 Traffic Impact Analysis

Next the 2016 Report will be discussed as a stand alone report. After that the 2007 Report and the 2016 Report will be compared.

2016 Findings: Overall the study methodology, assumptions, and procedures appear to be appropriate.

In general, there are no issues with the integrity of this analysis, except for the fact that the 9876 Wilshire Boulevard project has not been fully accounted for in the 2016 Report traffic analysis.

The previously approved project (condos, retail, and restaurant), and the proposed project (condos, hotel, restaurant, and bar) are assumed to be the equivalent from a land use point of view.

Typically a traffic impact analysis has a one year shelf life. This 2016 Report traffic analysis has new counts which are less than one year old.

2016 Study Area Intersections: The study area intersections are more than appropriate for the potential new vehicle trips associated with the proposed project. The study area intersections were scoped with City Staff and approved before the study was conducted.

2016 Existing Intersection Geometrics: Current intersection geometry has been compared to the intersection geometry assumed in the 2016 Report analysis. The current intersection geometry appear to be equal or greater than what was assumed in the 2016 Report traffic impact analysis. The findings in the analysis are assumed to be appropriate and potentially conservative.

2016 Traffic Counts: The traffic counts were current at the time of completion of the 2016 Report traffic impact analysis. Traffic counts were made during the appropriate times of day and days of the week. The projected trip generation and distribution of the previously approved traffic impact analysis were added to the existing traffic counts to create the base line traffic conditions. This is a reasonable approach on this unique traffic impact analysis.

2016 Level of Service Methodology and Parameters: The Level of Service methodologies and parameters appear to be appropriate. It appears a small error was made on the input of some of the analysis work sheets. A random test was conducted and typically the volume to capacity ratios stated in the traffic impact analysis are the same or 0.001 higher. This is not expected to make a significant difference.

2016 Trip Generation: Project trip generation methodology was approved by City Staff. The Institute of Transportation Engineers trip generation rates were used for the spa and bar. The condos were believed to pose a non-typical trip generation rate. A trip generation rate was calculated based on counts of similar condos within the area at six locations. The hotel was believed to pose a non-typical trip generation rate. A trip generation rate was calculated based on counts of the Beverly Hilton. The restaurants were believed to pose a non-typical trip generation rate. A trip generation rate was calculated based on counts at three similar restaurants within the study area.

There appears to be a minor error in the Saturday trip generation calculations. This minor error is not expected to significantly change the findings of the traffic impact analysis.

A trip generation validation was conducted for the study by Kunzman Associates. It appears that when the minor error was corrected and if the special condo, hotel, and restaurant trip generation rates were not used, the trip generation for the proposed project is projected to be higher than expressed in the study. This could potentially cause a significant change to the findings of the traffic impact analysis because of the potential increase in trip generation.

2016 Trip Distribution: The trip distribution appears to be reasonable and it has been approved by the City Staff before the study was conducted.

2016 Other Developments: The appropriate agency's were contacted to determine the other developments within the study area. The included other developments appears to be appropriate for this analysis, except as noted below.

It appears that when the existing 2015/2016 traffic counts were conducted, that the 9876 Wilshire Boulevard project (Hilton/Waldorf) was being constructed. That project consisted of removing the east part of the existing Hilton/Waldorf hotel complex and then reconstructing new development in the part of the hotel complex that was removed. It appears that only the trip generation from the part of the hotel site that was still functioning in 2015/2016 was accounted for, and that the new part under construction was not added in as a cumulative project. This new part of the Hilton/Waldorf site is a cumulative project. Google historic aerial photographs clearly show that the expansion area was in the process of demolition and/or new construction before the 2015/2016 traffic counts were made. The expansion site was not occupied when the counts were made, and is still under construction in May, 2016.

At the time of the existing traffic counts in 2015/2016 were made, only a fraction of the hotel complex was in operation. The vehicle trips associated with the fraction of the hotel that was not in operation during when the traffic counts were made has not been accounted for. This issue is likely to have a significant impact on the traffic impact analysis.

2016 Construction Traffic: Basic mitigation measures associated with construction traffic have been considered in the analysis. These measures attempt to minimize construction impacts by reducing construction traffic during the peak hours, reducing traffic lane and sidewalk closures, and providing flagmen when a disruption in traffic might occur.

It appears that from a traffic impact point of view, all the phases of construction in the previously approved study will be similar to the proposed project, except that the 2016 proposed project is projected to generate about 2.4 times as many trucks than assumed in the previously approved study during the excavation of the subterranean parking garage.

The projected duration of the project is 31.5 to 34 months. This is approximately 37 percent longer than the previously approved project.

The 2016 Report assumed that between 16,125 and 17,415 cubic yards of material would be exported from the site, for an average of 16,770 cubic yards. The 2016 Report assumed 2.5 months (approximately 10.8 weeks) of hauling export. The average tons per week would be 1,552.8 (16,770/10.8).

2017 Conclusions: Overall the study methodology, assumptions, and procedures appear to be appropriate. In general, there are no issues with the integrity of this analysis except as noted below.

The fact that the 9876 Wilshire Boulevard project has not fully been accounted for as other future development in the area in the 2016 Report, the traffic analysis is deficient. This unaccounted for hotel expansion will probably cause a significant traffic impact.

2007 Report and 2016 Report Traffic Analyses Compared

Overall the 2007 study methodology, assumptions, and procedures appear to be appropriate. In general, there are no issues with the integrity of the 2007 Report traffic analysis.

Overall the 2016 study methodology, assumptions, and procedures appear to be appropriate. In general, there are no issues with the integrity of this analysis, except as noted below.

The fact that the 9876 Wilshire Boulevard project has not fully been accounted for in the analysis as other future development is a deficiency in the 2016 Report.

The previously approved project (condos, retail, and restaurant), and the proposed project (condos, hotel, restaurant, and bar) are apparently assumed to be non-significant from a California Environmental Quality Act point of view. This is a call for others to make as to whether it is a significant or non-significant change in the project.

According to the California Environmental Quality Act, the approved 2007 Environmental Impact Report would need to be updated and not supplemented if the project has significantly changed. A non-significant change might be the quantity of a land use fluctuating a little, or maybe proposed residential condos being converted to residential apartments. A significant change might be houses converting to retail. In this case, the approved project consisted of residential condo, retail, and restaurant land uses, but the proposed project consists of residential condo, hotel, restaurant, and bar land uses.

The increase in truck trips associated with the excavation of the parking garage between what was anticipated in the 2007 Report and what is anticipated now in the 2016 Report is significant in the author's viewpoint. On a time basis, the export is 1.95 times as long in the 2016 Report as in the 2007 Report. On a tonnage basis, the export is 2.4 times as much in the 2016 Report as in the 2007 Report. On a tons per week basis the export is 1.23 times as much as in the 2016 Report as in the 2007 Report. The 1.23 times as much tons per week directly translates to 1.23 times as many truck loads per week. It is my professional opinion that (1) nearly doubling the haul period, (2) more than doubling the export tonnage, and (3) increasing the tons per week or truck loads per week by a factor of 1.23 is a significant traffic impact. If this was a rural location the impact might not be significant to traffic operations. However, given the extra-ordinarily high amount of traffic in this location, the construction impacts in terms of trucks hauling material from the site, are significant in both 2007 and 2016, and the ***change*** between 2007 and 2016 is also significant.

The firm of Kunzman Associates is pleased to submit this letter report.

William Kunzman

William Kunzman, P.E.
Principal
Professional Registration
Expiration Date 3-31-2018

9120

EXHIBIT B

Craig Lawson & Co., LLC
Land Use Consultants

May 31, 2016

John Peterson
Peterson Law Group PC
19800 MacArthur Boulevard, Suite 290
Irvine, California 92612

Regarding: Review of the Draft Supplemental Environmental Impact Report for the 9900 Wilshire Boulevard (One Beverly Hills) Project (SCH2006071107)

Dear Mr. Peterson

At your request, Craig Lawson & Co., LLC (CLC) reviewed the Draft Supplemental Environmental Impact Report for the 9900 Wilshire Boulevard (One Beverly Hills) Project (SEIR). CLC is a land use consulting firm, founded in 1999, which specializes in zoning research, land use analysis, and entitlement processing for development projects in the Los Angeles region.

EXECUTIVE SUMMARY

After our review we have concerns about the proposed project and the accompanying environmental analysis which leads us to believe the document is inadequate. In general, we are concerned that the hotel use is not permitted by the Specific Plan and we feel it must be amended to address this violation. Our review also highlights the project is inconsistent with key provisions of the General Plan. Finally, we will highlight areas, outside of our scope and expertise, which we feel require a more detail review.

Use of Land

One of the key items we found is that the Hotel use is not permitted within the Specific Plan. A review of the Section 4.2 of the Specific Plan provides a list of the permitted use allowed within its boundaries and hotel is not included. Specific Plans by nature provide more specificity related to uses, floor areas, heights, density and design criteria. It has always been our experience that a use not specifically permitted within a use list of a Specific Plan is prohibited. The SEIR document contends that if the use is not specifically prohibited than it must be permitted. If this logic was carried to its extreme there would be no limit to the types of uses permitted and one could question why a Specific Plan was even implemented. The introduction of the hotel use requires an amendment to the Specific Plan.

General Plan Consistency

The project is inconsistent with various policies of the General Plan and those inconsistencies need further require further analysis.

- Land Use Element (LU) policy 15 and LU 15.1discusses the need for projects to generate high paying jobs. Unless there are specific wage policies implemented within existing City regulations regarding paying living wages, hotel jobs are not considered to be high-paying jobs and the project does not meet this objective of the General Plan. The SEIR needs to analyze this deficiency. These low wages also have a negative relationship to the General Plans trip reduction goals by generating jobs for employees that cannot afford to live in the area.

- Circulation (CIR) Element policy 6 and 6.7: Discusses the need to reduce reliance on the single occupant motor vehicle. For both policies, the SEIR concludes these policies are not applicable to the project, but it provides no analysis substantiating that conclusion. In fact, by converting this project from a mainly residential project, known to generate fewer trips compared to most uses, to one with more commercial uses, this project should provide a robust trip reduction program. There are numerous trip reduction strategies, such as transit passes, employee parking pricing, bike facilities and the even creation of affordable housing for employees, which would bring the City and project in compliance with the goals of the Circulation Element. Until this is done the SEIR needs to provide evidence these policies are not applicable or important.

- CIR 8 and 8.5 also promotes the trip reduction strategies by mandating bikeways and bike amenities. The SEIR notes that the project is potentially consistent because the project would provide bike lanes. There is no evidence of such lanes on the plans in the SEIR. Safe bike routes need to be designed into the project from the onset. Additionally, there do not appear to be any of the related facilities considered important by the Circulation Element to incentivize bike usage such as rental bikes for hotel guests, bike racks to secure bikes, or shower facilities for employees. Without these bike lanes or bike amenities, the project is not consistent with the General Plan and the SEIR needs to analyze the impact of this inconsistency.

- Housing Element (HE) policy 2 outlines the need to provide a variety of housing types and adequate affordable housing supply. The project does not provide any deed restricted affordable units creating an inconsistency with this policy. By offering no affordable units and adding in the hotel component, the City is actually moving further away from compliance with its General Plan's housing, economic and circulation goals. Ironically, a mixed use project, such as this, is perfectly suited to

address all of these goals. Unfortunately, the project chooses not address any of these concerns seriously and creates conflicts with the City's General Plan.

Other Impact Areas

- Traffic: The modification of this project from a mainly residential project to one that includes a significant commercial component changes the trip rates and patterns generated by this site. Not only is the revised project adding Hotel guests to the site, but it also includes amenities, restaurants, spas, banquet facilities and a bar, open to the general public which are known to generate significant amounts of trips. It is likely these amenities will host special events including weddings and holiday parties. Consequently, the Traffic Study needs be redone. The new Traffic Study needs to use current trip rates by use, update to traffic counts of area intersections, consider a current related projects list and analysis the impacts of the City of Los Angeles' recently approved Bike Plan and Mobility Element. Additionally, the SEIR discusses the need for a limo drop off point on site, but is silent on where those limos will stage during events.

- Conservation: Hotels use significantly more water than the residential uses assumed in the original EIR. Mitigating the impact of this increased water use is more important than ever as Southern California endures another year of drought conditions. The SEIR discuses that the project will be designed to LEED Silver standards which are just barely above Code requirements. There is no commitment to certification would assure stringent environmental designs are used in the construction. The project SEIR needs to fully analyze the impact of this increased water uses and implement state of the art mitigation measures.

This concludes CLC comments regarding the SEIR document. Please feel free to contact me if you have any questions regarding this.

Sincerely

Jim Ries

Jim Ries

Senior Vice President

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EXHIBIT C

ACENTECH

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Los Angeles, CA 90017
213.280.4235

May 27, 2016

Stacy W. Thomsen
19800 MacArthur Boulevard, Suite 290
Irvine, California 92612

Subject Review of SEIR for 9900 Wilshire Boulevard
Acentech Project No. P627651

Stacy:

Acentech has reviewed the noise section of the SEIR published for the 9900 Wilshire Boulevard project. This letter summary documents our thoughts and concerns with the analysis provided by this section of the SEIR.

CONCERNS WITH THE REPORTED AMBIENT ENVIRONMENT

The report indicates that "typically, Leq is summed over a one-hour period." The report continues to discuss additional metrics including CNEL and Ldn metrics that are "commonly used" to define the ambient noise environment in environmental impact analysis. However, to define the existing ambient noise level the report states that Rincon Consultants only used noise measurements that have a duration of 15 minutes. Since the metric used to evaluate an impact is a 24-hour noise metric, to provide an accurate evaluation of the ambient noise environment, 24 to 48-hour noise measurements should have been conducted.

The report repeatedly refers to 10 15 minute measurements. However, Appendix C documents 13 measurements.

When reviewing the noise measurements included in Appendix C, the duration of the noise measurements is significantly less. The table below documents the duration for each measurement reported in the appendix:

Table 1 Comparison of Start and Stop Times Reported in Appendix C

Measurement #	Start Time	End Time	Reported Duration
1	9:04:12	9:05:36	0:01:24
2	9:22:07	9:23:31	0:01:24
3	9:39:54	9:41:18	0:01:24
4	11:27:42	11:29:06	0:01:24
5	11:46:52	11:48:16	0:01:24
6	12:06:36	12:08:00	0:01:24
7	12:28:59	12:30:23	0:01:24
8	12:07:42	12:09:05	0:01:23
9	23:56:44	23:58:08	0:01:24
10	0:13:44	0:15:08	0:01:24
11	0:31:40	0:33:04	0:01:24

Measurement #	Start Time	End Time	Reported Duration
12	1:14:50	1:16:14	0:01:24
13	0:56:43	0:58:07	0:01:24

It is speculated additional data is available, and that only the first sheet of the measurement is reported. However, a start and end time of the measurement should be reported in the detailed data to ensure the measurements actually extend the duration indicated in the report. 30 minutes out of a day should not be considered sufficient for documenting an ambient noise level.

The data indicates the sound meter has a range of operation. Because of this, both an Lmax (the loudest noise level) and an Lmin (the quietest noise level) should be reported to ensure the levels measured were within the range the meter was set to. The first three measurements appear to have had the measurement set in the wrong range. The range documented is 70 – 130, while the quietest reported levels in the data provided are 67.4, 63.8, and 61.1 dB respectively. This could result in the measured average noise level being artificially high.

Rather than document actual ambient noise levels, the report uses a Transportation Impact Study's average daily trips and generates a noise model using DOT's TNM. Since ADTs are not provided in hourly increments, rather an average over the entire day, using a noise model to document the ambient noise environment rather than using actual measurements cannot be considered the "worst case" scenario for evaluating the existing noise environment. To provide the most accurate assessment of the ambient noise environment, as indicated above 24 hour or 48 hour measurements should be conducted close to the noise sensitive receptors evaluated. In addition, the BHMC clearly defines ambient noise as "The all-encompassing noise associated with a given environment, usually being composite sounds of with many sources from various distances."

Table 4.4-1 is misleading. The report clearly states that Leq is typically measured in hourly intervals. It then reports a "daytime" and "night time" Leq levels. These are not an average of the noise level over the entire day period, or over the entire night period, rather they are 15-minute measurements conducted at times in the day and night. While there is a note at the bottom of the table indicating they are estimated levels, the table should instead clearly state "Estimated CNEL". It should also clearly state 15-minute measurement conducted between the hours of 7AM and 7PM and 15-minute measurement conducted between the hours of 7PM and 7AM.

While the report indicates the manufacturer of the sound level meter, the model type is not indicated. Extech manufactures a variety of sound level meters. Some are not even capable of meeting tolerance levels published by nationally accepted standards. The measurement model number should be clearly indicated in the report to ensure proper measurements have been collected.

Table 4.4-2 documents "Existing Traffic-Generated Noise". This title is misleading as it is calculated traffic-generated noise, not "existing". Detailed calculations are not provided. Appendix C does not provide what ADTs are used, nor does it indicate what road segments are used in the traffic noise model. It also has "no barriers"

Not including long term noise measurements for the project is a significant short coming of the analysis. In addition to this, every location that the ambient noise level is documented, is not close to the indicated noise sensitive receptors. While noise modeling and measurement location 1 is close to the Single Family Residences to the north of the project site, neither location 4 or 5 can be considered accurate representations of "Multi-Family Residences" or "Beverly Hills High School" to the south. These areas are shielded from the traffic noise on Wilshire Boulevard and on Santa Monica Boulevard, but are likely to be exposed to noise generated from activities on the rooftop of the new project, and construction as the project progresses upward.

REGULATION SETTING

It is the understanding of Acentech haul trucks are likely to be staged in the City of Los Angeles to avoid excessive noise. No discussion of the City of Los Angeles is included in the Regulatory Setting discussion.

Page 148 of the report discusses construction noise limits from the City of Beverly Hills. "Section 5-1-205 of the BHMC prohibits construction activity between the hours of 6:00PM and 8:00AM Monday through Friday and prohibits construction activity on Sundays and on public holidays." This statement is incorrect. The time duration limit for construction activity should be applied Monday through Saturday, with construction being prohibited on Saturday within 500 feet of residential communities. An after-hours construction permit can be issued to allow this, but a permit shouldn't exempt the indication a significant impact to noise sensitive receptors.

The report goes on to indicate "the Project site is within 100 feet of single family residences to the north and multi-family residences 400 feet to the south. Therefore, construction work within these residential areas would be prohibited on Saturdays, or have to adhere to conditions of any after-hours construction permit issued for the Project." This statement is incorrect. The northern half of the project site is within 500 feet of residential units. Additionally, any entrance or exit of the project site along Wilshire or Santa Monica would be within 500 feet of residential buildings. Consequently, the entire project site would be prohibited from construction activities on Saturday.

The report appears to imply the project may apply for after-hours construction permits. "construction work...would be prohibited...or have to adhere to conditions of any after-hours construction permit.." If the schedule of the project requires after hours permits to complete construction, this must be evaluated in the noise technical report. There is no indicate in the report of any sort of after-hours analysis for construction activities.

CONSTRUCTION NOISE ANALYSIS

The construction noise analysis indicates the analysis does "not account for the presence of intervening structures or topography, which could reduce the noise levels at receptor locations." It also indicates "...it is unlikely that all the equipment contained on site would operate simultaneously or continuously throughout the work day" and concludes "the noise levels presented represent a conservative, reasonable worst-case estimate..." It is agreed the analysis does anticipate a worst case scenario. However, this should not allow for an argument of "it won't be as bad as we are reporting". While it is the prerogative of the project to evaluate a worst case scenario, if significance thresholds are triggered, the reported anticipated levels are the levels that must be considered. Evaluating a "worst case" scenario as "it won't be this loud", is not evaluating a worst case scenario at all, rather it is a significant deficiency in the evaluation because it is not reporting accurate anticipated levels. The report repeatedly implies while these levels are "worst case" we should evaluate them as such and consequently asks the planning commission to judge the noise levels as less than what is being reported.

Page 149 of the report states "to determine ambient noise levels at nearby sensitive receptors, Rincon Consultants, Inc. took ten 15-minute noise measurements between 11:00 a.m. and 1 p.m. (daytime) and 11:00 p.m. and 2:00 a.m. (nighttime). This statement is misleading. These measurements do not allow Rincon to determine the ambient noise levels. The required process for evaluating environmental noise is to use a 24-hour sound metric (CNEL or Ldn). 15 minute samples at two points in the day are far from allowing anyone to determine a 24-hour noise level. Even using the phrasing "to estimate ambient noise levels" for 30 minutes out of a 24-hour period would be difficult to argue.

The same quoted statement above calls the sensitive receptors "nearby". The noise measurements and calculations conducted for this report at the south of the project are at the edge of the proposed Project's property. The sensitive receptors are a residential property 400 feet from the project, and a school 800 feet south of the project. It is likely the ambient noise level is being reported as overly loud as these areas are separated from the evaluated noise sources (Wilshire and Santa Monica Boulevards) by rows of buildings. It should be expected that this will significantly reduce the ambient noise levels at these locations. However, these areas may not be shielded from some construction activities, and have the possibility of not being

shielded by rooftop activities during day to day operation. This is not discussed in the report and constitutes a significant short coming in the acoustical analysis.

Page 149 claims because the road way noise for existing traffic along "local" roadways do not include shielding it can be considered "...a conservative estimate of the noise levels...". This is not correct. There are some areas where shielding will actually reduce the existing ambient noise level for some of the noise sensitive receptors. Reporting existing noise levels due to roadway noise as higher than anticipated would result in under reporting the impact, not in a conservative estimate.

On page 152 the report indicates the proposed project would result in an increase in the severity of the significant and unavoidable impact for construction activities. However, it also indicates its construction noise analysis is inaccurately calculated. If a significant impact is anticipated based on the noise evaluation, and the noise evaluation is using levels that are by its own admission are likely not accurate, it stands to reason a more accurate analysis is called for. A more detailed acoustical model, that includes barriers, construction equipment scheduling, sound mitigating techniques should be required. Acknowledging a significant impact should not allow the project to avoid using acoustical mitigation to attempt to reduce the impact of the project.

Page 153 paragraph four provides a long list of reasons the construction noise analysis is deficient. A deficient noise analysis should not be a reason to consider a reported impact as "possibly not as bad as it is reported" as the report appears to imply. Rather, it should be considered a deficiency in the report. If a report indicates a significant impact is triggered, the impact must be evaluated on the reported significance. If an exception to a significant impact is granted, it should be based on evaluating noise levels that are closer to anticipated noise levels. With a significant impact indicated there is no clear reason why the analysis does not take into account "barriers that may further attenuate the noise" or include operation of equipment "due to site and equipment limitations". For this reason alone, a more detailed and accurate construction noise impact analysis should be required.

The report continues on to indicate a noise barrier is required on page 155 by Mitigation Measure NOISE-1 from the 2008 FEIR. Why are the effects of this barrier not included in the construction noise analysis?

There is no evaluation of noise impact due to nighttime/evening hauling trucks. If the project intends to use night hours to remove dirt from the site, it is necessary to include an analysis of this impact in the noise technical report.

Page 153 documents a requirement of up to 300 truck trips per day, yet there is no indication of where these trucks will be staged. Depending on the location of the staging area, idling haul trucks could generate enough noise to trigger a significant impact, and should be included in the construction noise analysis. NOISE-4 of the 2008 FEIR requires coordination of any off-site staging areas. Since off-site staging areas are anticipated, these areas must be identified and analyzed for noise impacts.

OPERATIONAL NOISE ANALYSIS

Page 150 of the report discusses anticipated noise levels of the rooftop bar and outdoor dining area. The evaluation references noise levels reported for outdoor dining in Marina Del Rey. This analysis is not included with the Appendix and is not readily available for review. Consequently, there are no specific details to understand what assumptions were made. What are the specifics of the Cheesecake Factory Analysis? How many people were anticipated to be conversing at any given time? Is there outside program music? Are there wind or sound barriers included in the analysis? Provided no amplified music, live or programmed is played in the outdoor dining area this assessment may be appropriate for the outdoor dining area. However, noise levels generated by bars cannot be considered the same as dinning. Conversation levels, and activities in a bar setting are generally louder than would be anticipated in a dinning situation.

There appears to be no evaluation of special events at the dining area or rooftop bar. It is anticipated as a condition of the permit, it will be stipulated that special events are not permissible and these areas will only be used as a restaurant and bar without any amplification what-so-ever.

CONFUSION OF RECEPTOR AND MEASUREMENT LOCATION

The analysis indicates several noise sensitive receptors. However, all tables that report noise levels are not at the noise sensitive receptors' locations, rather than are at measurement locations, which are mostly on the project site. The reported existing noise levels are based off calculations, and very short term noise levels. However, in addition to this, the analysis assumes locations that are 400 feet and 800 feet from the closest analyzed areas will have the same existing ambient noise level, and resultant operational noise levels. A simple review of the aerial photograph labeled "Sensitive Noise Receptors Noise Measurement Locations" shows this isn't the case. Because of this, the adjacent noise sensitive receptors cannot be considered evaluated. Rather, noise impacts to the project site itself appears to be the only areas considered.

This summarizes our comments on the SEIR. Please feel free to give me a call should anything be unclear.

Sincerely,
Acentech Incorporated

Aaron Bétit
Senior Consultant

EXHIBIT D

Table 4.0-1
Related Projects – City of Beverly Hills

Map No.	Location (Address)	Size	Description
BH-1	9261 Alden Drive	16,065 sf	Synagogue
BH-2	202-240 N. Beverly Drive 203-241 N. Canon Drive	27,000 sf 214 rooms 25 du	Retail/Restaurant Hotel Condominium
BH-3	231 N. Beverly Drive	145,800 sf 22,500 sf 7,500 sf	Total Building Retail Restaurant
BH-4	8800 Burton Way	14,570 sf	Retail/Office
BH-5	257 N. Canon Drive	40,000 sf 15,000 sf 5,000 sf	Office Retail Restaurant
BH-6	338 N. Canon Drive	11,900 sf	Commercial/Retail
BH-7	469 N. Crescent Drive	34,000 sf	Cultural Center
BH-8	400 Foothill Road	53,000 sf	Commercial
BH-9	50 N. La Cienega Boulevard	14,000 sf	Medical Office
BH-10	9001 Olympic Boulevard	39,700 sf	Commercial
BH-11	8536 Wilshire Boulevard	24,890 sf	Medical Office/Retail
BH-12	8600 Wilshire Boulevard	41,500 sf 4,800 sf 21 du	Total Building Retail Residential
BH-13	8601 Wilshire Boulevard	37 du	Apartment
BH-14	8767 Wilshire Boulevard	60,856 sf 11,260 sf 3,000 sf	Office Retail Restaurant
BH-15	9844 Wilshire Boulevard	95,000 sf	Commercial
BH-16	9200 Wilshire Boulevard	8,400 sf 5,600 sf 53 du	Retail Restaurant Residential
BH-17	9590 Wilshire Boulevard	12,000 sf 60 du	Commercial Residential
BH-18	9754 Wilshire Boulevard	24,566 sf 7,977 sf	Office Medical Office
BH-19	9876 Wilshire Boulevard	-13,030 sf -1,804 sf -47 rooms 120 du	Non-Hotel Office Hotel Support Hotel Residential
BH-20	317-325 S. Elm Drive	25 du	Residential
BH-21	225 S. Hamilton	27 du	Residential
BH-22	156-168 N. La Peer Drive	16 du	Residential
BH-23	129S. Linden Drive	76 du	Senior Congregation
BH-24	140-144S. Oakhurst Drive	11 du	Condominium

sf = square feet
du = dwelling unit
Note: List prepared in December 2006

Table 4.0-2
Related Projects – City of Los Angeles

Map No.	Location (Address)	Size	Description
LA-1	2055 Avenue of the Stars	145 du	Condominium
LA-2	2000 Avenue of the Stars	778,947 sf 483 du	Commercial Condominium
LA-3	10131 Constellation Avenue	483 du	Condominium
LA-4	860S. Devon Avenue	19 du	Condominium
LA-5	100 N. La Cienega Boulevard	316,279 sf 38,739 sf 177 du 62 du	Retail Restaurant Apartment Condominium
LA-6	6120W. Pico Boulevard	7,929 sf	Retail
LA-7	8525 W. Pico Boulevard	11,327 sf 39 du	Retail Apartment
LA-8	9051 W. Pico Boulevard	42,000 sf	Private School
LA-9	9760W. Pico Boulevard	22,000 sf	Private School Addition
LA-10	10201 W. Pico Boulevard	360,000 sf	Studio Expansion
LA-11	1042-1062S. Robertson Boulevard	38,240 sf	School Expansion
LA-12	10250 Santa Monica Boulevard	71,000 sf	Retail
LA-13	6298 W. 3rd Street	300 du	Apartment
LA-14	6411 Wilshire Boulevard	130 du	Apartment
LA-15	10250 Wilshire Boulevard	35 du	Condominium
LA-16	10000 Santa Monica Boulevard	300 du	Condominium
LA-17	11000 Wilshire Boulevard	937,000 sf	Office

sf = square feet
du = dwelling unit
Note: List prepared in December 2006

Table 4.0-3
Related Projects – City of West Hollywood

Map No.	Location (Address)	Size	Description
WH-1	1200 Alta Loma Road	40 rooms	Hotel (addition)
WH-2	8900 Beverly Boulevard	39,178 sf	Commercial
WH-3	Beverly Boulevard/Doheny Drive	94,000 sf	Retail
WH-4	1041 N. Formosa Avenue	748 stalls	Parking Structure
WH-5	1140 N. Formosa Avenue	11 du	Condominium
WH-6	901 Hancock Avenue	12,500 sf 3,200 sf 40 du	Retail/Commercial Restaurant Residential
WH-7	1351 Havenhurst Drive	12 du	Condominium
WH-8	1433 Havenhurst Drive	24 du	Apartment
WH-9	1342 N. Hayworth Avenue	16 du	Apartment

Map No.	Location (Address)	Size	Description
WH-10	8465 Holloway Drive	42,814 sf 4,619 sf 20 rooms 16 du	Total Building Restaurant/Bar Hotel Condominium
WH-11	310 Huntley Drive	170 seats	Private School
WH-12	723 Huntley Drive	28 seats	Child Care (1,293 sf)
WH-13	825 N. Kings Road	18 du	Condominium
WH-14	329 N. La Cienega Boulevard	140 seats	Private School
WH-15	1136-1142 N. La Cienega Boulevard	16 du	Condominium
WH-16	1037-1051 N. Laurel Avenue	20 du	Condominium
WH-17	1343 N. Laurel Avenue	35 du	Affordable Senior Housing
WH-18	8525 Melrose Avenue	9,206 sf	Commercial
WH-19	8687 Melrose Avenue	400,000 sf	Office
WH-20	8750 Melrose Avenue	120,000 sf	Medical Office
WH-21	9061 Nemo Street	9,990 sf 1 du	Retail and Office Residential
WH-22	9062 Nemo Street	20,105 sf 4 du	Retail Residential
WH-23	8121 Norton Avenue	16 du	Condominium
WH-24	1220 N. Orange Grove Avenue	12 du	Condominium
WH-25	312 N. Robertson Boulevard	8,865 sf	Retail
WH-26	365 N. San Vicente Boulevard	135 du 42 du	Condominium Affordable Senior Housing
WH-27	8120 Santa Monica Boulevard	13,830 sf 28 du	Retail Residential
WH-28	8989 Santa Monica Boulevard	70,000 sf	Commercial
WH-29	9040 Santa Monica Boulevard	71,000 sf 327,000 sf 191 du	Commercial Self Storage Condominium
WH-30	8760 Shoreham Drive	12 du	Condominium
WH-31	8788 Shoreham Drive	15 du	Condominium
WH-32	8305 W. Sunset Boulevard	2,972 sf 10,300 sf	Retail Restaurant
WH-33	8430 W. Sunset Boulevard	35,000 sf 138 du	Retail/Restaurant Residential
WH-34	8474-8544 W. Sunset Boulevard	39,440 sf 296 rooms 189 du	Retail/Restaurant Hotel Residential
WH-35	8849 W. Sunset Boulevard	7,726 sf	Retail
WH-36	8873 W. Sunset Boulevard	9,995 sf	Retail
WH-37	8950-8970 W. Sunset Boulevard	196 rooms 4 du	Hotel Residential
WH-38	841-851 Westmount Drive	16 du	Condominium
WH-39	914 Wetherly Drive	2 du 26 du	Condominium Senior Housing

sf = square feet
du = dwelling unit
Note: List prepared in December 2006

public, landscaped, linear parkway along the north side of Wilshire Boulevard. Located south of the site are Santa Monica Boulevard and a former railroad right-of-way. The property immediately south of the former railroad right-of-way includes a privately owned surface parking lot, an automotive repair shop, one- and two-story small retail shops and office buildings, and a four-story medical clinic. Located east of the Project site are Merv Griffin Way and the eight-story, 95-foot-tall (to the roofline) Beverly Hilton, the existing above-ground parking structure fronting Santa Monica Boulevard, and ancillary hotel uses. Located west of the Project site are the Union 76 Gas Station, the Los Angeles Country Club, and the community of Westwood in the City of Los Angeles.

3.3 CUMULATIVE PROJECTS SETTING

In addition to the specific impacts of individual projects, CEQA requires SEIRs to consider potential cumulative impacts. CEQA defines "cumulative impacts" as two or more individual impacts that, when considered together, are substantial or will compound other environmental impacts. Cumulative impacts are the combined changes in the environment that result from the incremental impact of development of the Proposed Project and other nearby projects. For example, traffic impacts of two nearby projects may be insignificant when analyzed separately, but could have a significant impact when analyzed together. Cumulative impact analysis allows the SEIR to provide a reasonable forecast of future environmental conditions and can more accurately gauge the effects of a series of projects.

CEQA requires cumulative impact analysis in EIRs to consider either a list of planned and pending projects that may contribute to cumulative effects or a forecast of future development potential. Currently planned and pending projects in Beverly Hills and surrounding areas including the City of Los Angeles are listed in Table 3-1. These projects are considered in the cumulative analyses in Section 4.0, *Environmental Impact Analysis.*

In addition to the projects listed in Table 3-1, the Santa Monica Boulevard Reconstruction project is currently underway. The project design includes reconstructing the roadway and upgrading the century-old drainage system between Doheny Drive and Wilshire Boulevard. This project is also being considered in the cumulative analyses for Section 4.0.

Table 3–1
Cumulative Projects

Project Name/Location	Description of Project[1]
257 North Canon Drive	15.899 KSF retail shopping center, 26.196 KSF office, 1.8 restaurant
246 North Canon Drive	7.1 KSF Restaurant
250 North Crescent Drive	8 Condominiums
9262 Burton Way	23 Condominiums
325 North Maple Drive	7.8 KSF Post Office, 3.7 KSF Retail, & 88.5 KSF Creative Office
450-460 North Palm Drive	35 Condominiums
154-168 North La Peer Drive	16 Condominiums
425 North Palm Drive	20 Condominiums
8955 Olympic Boulevard	19.8 KSF Automobile Sales

Table 3–1
Cumulative Projects

Project Name/Location	Description of Project[1]
9212 Olympic Boulevard	13.3 KSF Office, 1 KSF Fast Food w/o Drive Thru, & 4.7 KSF Variety Store
332 North Oakhurst Drive	31 Condominiums
305-239 South Elm Drive	30 Condominiums
9908 South Santa Monica Boulevard	27 Condominiums
207 South Robertson Boulevard	1.7 KSF Office
9000 Wilshire Boulevard	31.7 KSF Office
8600 Wilshire Boulevard	21 Apartments, 4 Townhouses, 2.9 KSF Medical Office & 1.9 KSF Retail
8767 Wilshire Boulevard	21 KSF General Office, 34 KSF Medical-Dental Office, 3 KSF Restaurant, 15.5 KSF Automobile Sales, 1.5 KSF Pharmacy-Drug Store without Drive-Through Window
9200 Wilshire Boulevard	53 Condominiums, 5.6 KSF Quality Restaurant, & 8.4 KSF Retail
9230 Wilshire Boulevard	Jim Falk Lexus Project 150.3 KSF Automobile Sales
9876 Wilshire Boulevard	120 Condominiums, 522 Hotel Rooms, & 12.3 KSF Restaurant
121 San Vicente Boulevard	35 KSF Medical-Dental Office Building
8816 Beverly Boulevard	Mixed-Use
623 La Peer Drive	La Peer Hotel
645 Robertson Boulevard	Hotel, Restaurant, & Retail
9001 Santa Monica Boulevard	Mixed-Use
9040, 9060, 9080, 9098 Santa Monica Boulevard	Mixed-Use
10131 Constellation Boulevard	483 Condominiums
10250 West Santa Monica Boulevard	West Century City - New Century Plan Project
9786 West Pico Boulevard	Museum of Tolerance Expansion to add 13.5 KSF of Cultural Space
9760 West Pico Boulevard	YULA Boys High School Expansion
2025 South Avenue of the Stars	Century Plaza Mixed Use Development – 293 Condominiums, 91 KSF Retail, 100 KSF Office, Hotel
10330 West Bellwood Avenue	Bellwood Avenue Senior Care & 24 KSF Medical Office Project, 158 Condominiums
10000 West Santa Monica Boulevard	283 Condominiums
10250 West Santa Monica Boulevard	71.7 KSF New Retail & Renovation of the Century City (Westfield) Shopping Center
1950 South Avenue of the Stars	Century City Center Project – 72.5 KSF Office
888 South Devon Avenue	32 Apartments
300 South Wetherly Drive	140 Condominiums
8723 West Alden Drive	Cedars-Sinai Medical Center Project - West Tower (New medical building with 100 hospital beds)

[1] *Cumulative project details, including trip generation numbers, were provided by the Cities of Los Angeles and West Hollywood for the Traffic Impact Study (see Appendix D).*

KSF = 1,000 square feet

EXHIBIT E

Table 4.11-4
Level of Service (LOS) Existing (2006-2007) Traffic Conditions[1]

Intersection	AM Peak Hour		Midday Peak Hour		PM Peak Hour		Saturday Midday Peak Hour	
	ICU/Delay[2]	LOS	ICU/Delay[2]	LOS	ICU/Delay[2]	LOS	ICU/Delay[2]	LOS
Santa Monica Boulevard North & Beverly Drive	0.904	E	0.875	D	0.859	D	0.831	D
Santa Monica Boulevard North & Wilshire Boulevard	1.128	F	0.988	E	0.959	E	0.954	E
Santa Monica Boulevard South & Beverly Drive	0.846	D	0.752	C	0.868	D	0.683	B
Santa Monica Boulevard South & Wilshire Boulevard	0.850	D	0.797	C	0.813	D	0.740	C
Santa Monica Boulevard North & Merv Griffin Way[2]	36.3	E	>50	F	>50	F	28.4	D
Wilshire Boulevard & Beverly Drive	0.724	C	0.753	C	0.784	C	0.732	C
Wilshire Boulevard & Merv Griffin Way	1.003	F	0.890	D	1.225	F	0.756	C
Santa Monica Boulevard North & South Crossover	0.638	B	0.584	A	0.656	B	0.455	A
Santa Monica Boulevard & Century Park East	0.698	B	0.673	B	0.697	B	0.498	A
Sunset Boulevard & Whittier Drive	0.831	D	0.730	C	0.843	D	0.588	A

Source: Fehr and Peers

1 *Includes traffic from Robinsons-May store operations prior to closure.*

2 *V/C ratio for signalized intersections based on application of ICU Methodology. LOS for side-street stop controlled intersections based on 2000 Highway Capacity Manual methodology.*

Table 4.5-2
Existing (2015) Intersection Level of Service

Intersection	Control	Peak Hour	Existing (2015)	
			V/C or Delay	LOS[1, 2]
1. Santa Monica Blvd North & Beverly Dr.	Signal	AM	0.908	E
		MD	0.920	E
		PM	0.923	E
		WKND	0.897	D
2. Santa Monica Blvd North & Wilshire Blvd	Signal	AM	1.139	F
		MD	0.994	E
		PM	1.059	F
		WKND	0.946	E
3. Santa Monica Blvd South & Beverly Dr.	Signal	AM	0.854	D
		MD	0.784	C
		PM	0.885	D
		WKND	0.673	B
4. Santa Monica Blvd South & Wilshire Blvd	Signal	AM	0.944	E
		MD	0.809	D
		PM	0.895	D
		WKND	0.688	B
5. Santa Monica Blvd North & Merv Griffin Way[3, 4]	SSSC	AM	> 50	F
		MD	> 50	F
		PM	> 50	F
		WKND	> 50	F
6. Beverly Drive & Wilshire Blvd	Signal	AM	0.896	D
		MD	0.805	D
		PM	0.968	E
		WKND	0.751	C
7. Whittier Drive/Merv Griffin Way & Wilshire Blvd	Signal	AM	1.179	F
		MD	0.900	D
		PM	1.290	F
		WKND	0.879	D
8. Santa Monica Blvd & Crossover	Signal	AM	0.925	E
		MD	0.682	B
		PM	0.762	C
		WKND	0.598	A

EXHIBIT F

Table 4.8-3
Monitored Noise Levels

Site	Location	CNEL
1	El Rodeo School at Wilshire Boulevard and Whittier Boulevard	72.1
2	Northern project boundary along Wilshire Boulevard	72.5
3	Eastern project boundary along Merv Griffin Way	68.6
4	Western side of parking structure adjacent to golf course	79.5
5	Southern project boundary along Santa Monica Boulevard	59.2

Source: Impact Sciences, Inc.
Note: All values are in dB(A).

4.8.4 REGULATORY SETTING

Applicable Plans and Policies

City of Beverly Hills Noise Element

As required by state law, the City of Beverly Hills adopted a Noise Element as a part of the City's General Plan. As adopted in November of 1975, and amended in 1980, the City's Noise Element was established for two main goals: (1) to guide decision makers relative to policy matters associated with noise and "noise pollution," and (2) to provide decision makers and the public with accurate data on noise within the jurisdiction. To help meet the two goals discussed above, the Noise Element also contains five objectives, which are listed below.

- To reduce noise from motor vehicles;
- To insure that future modes of transportation or new versions of existing modes meet acceptable noise levels;
- To provide a basis for noise evaluations which might be needed in conjunction with land use and construction matters and environmental impact reports/studies;
- To create a greater awareness of noise-associated problems among the public and elected officials and to provide guidance as to how they might be resolved; and
- To work jointly with appropriate agencies and/or jurisdictions to mitigate any noise problems in Beverly Hills.

average daily trip (ADT) rates and peak hour trips (see Appendix D). Using the trip data, existing traffic-generated noise levels along these segments were estimated using the U.S. Department of Transportation, Federal Highway Administration's (FHWA) Traffic Noise Model Version 2.5 (FHWA, 2004). Table 4.4–2 shows the estimated current traffic noise levels at existing sensitive receptors near the Project site.

Table 4.4–1
Noise Measurement Results

Measurement Location	Measurement Location	Distance to Nearest Sensitive Receptor	Distance from Centerline of Nearest Roadway	Sample Time	Day-time Leq (dBA)	Night-time Leq (dBA)	CNEL[1]
1	Northwest Corner of Wilshire and Whittier	100 ft (to El Rodeo School)	55 ft	11:27 a.m. - 11:42 a.m. 11:56 p.m. - 12:11 a.m.	74.7	66.3	75.1
2	Northern Project site boundary on Wilshire	180 ft (Beverly Hilton)	36 ft	11:46 a.m. - 12:01 p.m. 12:13 a.m. - 12:28 a.m.	76.9	73.0	80.3
3	Eastern Project site boundary on Merv Griffin Way	50 ft (Beverly Hilton)	50 ft	12:06 p.m. - 12:21 p.m. 12:31 a.m. - 12:46 a.m.	70.0	66.9	74
4	Southwestern Project site boundary near golf course	630 ft (Beverly Hilton	40 ft	12:28 p.m. - 12:43 p.m. 1:14 a.m. – 1:29 a.m.	73.0	67.5	75.2
5	Southern Project site boundary on Santa Monica near Merv Griffin	340 ft (Beverly Hilton)	40 ft	12:07 p.m. - 12:22 p.m. 12:56 a.m. – 1:11 a.m.	79.5	74.7	82.2

All measurements were taken using Extech sound level meter.
Refer to the Appendix C for noise monitoring data sheets
[1] *CNEL estimated assuming daytime Leq occurred from 7 AM to 7 PM and nighttime Leq occurred from 7 PM to 7 AM.*

EXHIBIT G

Table 2–3
Comparison of the Approved Project and Proposed Project

Use	Approved Project	Proposed Project	Change from Approved Project
Residential			
Unit Types			
Efficiencies	0	0	0
1 Bedroom	35	41	+6
2 Bedrooms	106	67	-39
3 Bedrooms	62	22	-40
3 Bedrooms with Den	0	36	+36
4 Bedrooms	19	15	-4
4 Bedrooms with Den	0	0	–
Townhouse (2 Bedroom)	0	5	+5
Penthouse (5 or more bedrooms)	13	7	-6
Total Residential Units	***235***	***193***	***-42***
Residential Floor Area			
North Residential Building	327,448 SF	324,429 SF	-3,019 SF
South Residential Building	486,408 SF	341,009 SF	-145,399 SF
Other Residential Spaces	71,802 SF	31,785 SF	-40,017 SF
Total Residential Area	***885,658 SF***	***697,223 SF***	***-188,435 SF***
Commercial			
Retail	11,656 SF	0 SF[1]	-11,656
Restaurant	4,200 SF	0 SF	-4,200
Outdoor Dining (not counted in commercial floor area)	600 SF	1,600 SF	+1,000
Total Commercial Area	***15,856 SF***	***0 SF***	***-15,856***
Hotel			
Hotel Rooms	0	134	+134
Hotel Floor Area			
Hotel Rooms		95,921 SF	+95,921 SF
Restaurant/Lounge/Bar	0	16,057 SF	+16,057 SF
Hotel Shops	0	2,484 SF	+2,484 SF
Ballroom/Meeting Rooms		7,942 SF	+7,942 SF
Amenity, Storage, BOH		65,545 SF	+65,545 SF
Spa & Fitness		14,435 SF	+14,435 Sf
Hotel & Lobby Lounge	0	1,907 SF	+1,907 SF
Total	0	204,291 SF	+204,291 SF

[1] *The hotel includes restaurants and shops under the Proposed Project.*
SF = square feet

EXHIBIT H

Table 4.4–7
Pre-Project and Post-Project Traffic Noise

Receptor Number	Receptor Location	Projected Noise Level (dBA CNEL)[a]		
		Existing	Existing Plus Approved Project	Existing Plus Proposed Project
1[b]	Northwest Corner of Wilshire and Whittier	74.3	74.5	74.3
2	Northern Project site boundary on Wilshire	74.4	74.5	74.1
3[c]	Eastern Project site boundary on Merv Griffin Way	74.9	75.1	75.0
4	Southwestern Project site boundary near golf course	78.2	78.3	78.6
5	Southern Project site boundary on Santa Monica near Merv Griffin	76.6	76.7	77.5

Modeled noise reflects modeled estimates based on traffic from roadways as determined in the Traffic Impact Study. Refer to Appendix D for the traffic study and Appendix C for the estimates from the FHWA Traffic Noise Model Version 2.5.

[a] *See Table 4.4-4. Note that the thresholds are based on CNEL, but the noise modeling was conducted based on PM peak hour traffic. According to the FHWA, peak hour volumes are assumed to be 10 percent of average daily volumes. Therefore, PM peak hour traffic was converted to ADT by multiplying by 10.*

[b] *Receptor 1 is reflective of noise levels at the nearest residential sensitive receptor and El Rodeo School.*

[c] *Receptor 3 is reflective of noise levels at the nearest sensitive receptor, the Beverly Hilton Hotel.*

Combined Onsite and Offsite Operational Impacts. Combined noise levels produced by roadway noise, rooftop mounted equipment, the outdoor dining area, and the rooftop bar were calculated at each of the five receptor locations. Noise associated with operation of the parking structure and loading dock area would not be audible offsite because both are enclosed; therefore, neither were included in the combined operational noise impact calculations. Noise levels at receptor locations account for noise attenuation due to distance, including the height of the rooftop mounted equipment and rooftop bar. Noise levels in CNEL for each individual source of noise is shown in Appendix C. Noise levels from each individual source of noise were combined to calculate ambient noise levels of each of the five noise receptor locations for the Existing, Existing Plus Approved Project, and Existing Plus Proposed Project scenarios. Results are shown and compared below in Table 4.4–8.

The greatest change in noise level between the Existing Plus Approved Project and Existing Plus Proposed Project is 0.9 dBA CNEL, which occurs at Receptor 5, the location nearest where the outdoor dining areas would be located. This 0.9 dBA CNEL increase in noise level is due to both the addition of the outdoor dining areas and rooftop ventilation, as well as an increase in traffic along Santa Monica Boulevard. However, this increase would not exceed the City Noise Element threshold of 1 dBA and would not affect noise-sensitive uses such as residences. As discussed above, a 3 dBA change in community noise levels is noticeable, while 1-2 dBA changes generally are not perceived. A noise increase of 0.9 dBA CNEL would not be audible in an environment exposed to noise levels exceeding 77.0 dBA CNEL. Additionally, as shown in Table 4.4–8, the Proposed Project would reduce noise levels by up to 0.2 dBA CNEL at sensitive receptor locations, El Rodeo School and residences to the north (represented by Receptor 1) and at the Beverly Hilton Hotel (represented by Receptor 3).

Table 4.4–8
Combined Operational Noise Plus Traffic Noise Impacts (CNEL)

Receptor Number	Receptor Location	Projected Noise Level (dBA CNEL)			Change in Noise Level (Proposed–Approved) [3] – [2]	Significance Threshold (dBA CNEL)	Significant?
		Existing [1]	Existing Plus Approved Project [2]	Existing Plus Proposed Project [3]			
1[1]	Northwest Corner of Wilshire and Whittier	74.3	74.5	74.3	-0.2	1	No
2	Northern Project site boundary on Wilshire	74.4	74.6	74.2	-0.4	1	No
3[2]	Eastern Project site boundary on Merv Griffin Way	74.9	75.2	75.1	-0.1	1	No
4	Southwestern Project site boundary near golf course	78.2	78.3	78.6	0.3	1	No
5	Southern Project site boundary on Santa Monica near Merv Griffin	76.6	76.8	77.7	0.9	1	No

[1] *Receptor 1 is reflective of noise levels at the nearest residential sensitive receptor and El Rodeo School.*
[2] *Receptor 3 is reflective of noise levels at the nearest sensitive receptor, the Beverly Hilton Hotel.*

Operation of the outdoor dining area, rooftop bar, and rooftop ventilation systems combined with potential increases in traffic noise would not significantly alter ambient noise levels in the area or exceed City Noise Element thresholds. No other new facilities associated with Proposed Project would be expected to generate noise beyond that associated with the Approved Project and identified in the 2008 FEIR. Finally, per Conditional of Approval #5 for the Approved Project and in adherence to Beverly Hills Municipal Code Section 5-1-201, the Proposed Project would not include sound amplifying equipment in the outdoor dining areas and amplified music from within the restaurant would not be audible from the exterior between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. of the following day at or beyond the property line. Impacts would be less than significant.

Mitigation Measures. No mitigation is necessary because the Proposed Project would not generate significant long-term noise increases due to onsite operations and increased traffic.

Significance After Mitigation. Impacts of the Proposed Project would be less than significant without mitigation.

EXHIBIT C

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September 19, 2016

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Re: 9900 Wilshire Boulevard (One Beverly Hills) Special Planning Commission Meeting

Dear Commissioners,

This office represents The Belvedere Hotel Partnership. Please consider this letter as part of the Special Planning Commission hearing regarding the above referenced project on September 19, 2016. Please make this letter part of the official record.

The Staff Report published on the afternoon of Friday, September 16, 2016 attaches eight (8) new or supplemental assessments with respect to the 9900 Wilshire Boulevard (One Beverly Hills) Project (the "Proposed Project"), including:

- Loading Dock Operational Noise Memo
- Supplemental Transportation Data
- Revised Loading Dock Entrance Design
- Parking Demand Analysis
- Valet vs. Self-Parking Survey
- Simultaneous Events Assessment
- Limousine and Ride Share Staging Diagrams
- Draft Project Conditions (with changes)

Given this new set of information, we request that the Planning Commission allow the public, including our client, time to digest this new information and provide thoughtful comments. The unorthodox nature in which the CEQA analysis for this Proposed Project is being conducted leaves the public with very little time to respond to the new information the City continues to develop and incorporate into its analysis on short notice.

In addition, the *ad hoc* nature of this environmental review is perpetuated by and premised upon flawed studies. As we stated in several prior letters to the City, the traffic analysis in the SEIR is deficient. Specifically relevant here, as our traffic expert stated in his analysis attached to our May 31, 2016 comment letter, the traffic analysis in the SEIR used insufficient trip counts from the Beverly Hilton to determine typical hotel traffic trip generation. At the time the traffic counts were conducted, only a portion of the Beverly Hilton was operational. This skews the results of the projected traffic generation for the hotel use at the Proposed Project and also the traffic counts at the Beverly Hilton. Yet, the Simultaneous Events Assessment (Appendix "I" to the Staff report) relies upon this traffic study in its determination that hypothetical "simultaneous events" at the Proposed Project and Beverly Hilton will have no significant traffic impact. The use of this study is further skewing the assessment of the environmental impacts of the Proposed Project.

Without limitation to all prior concerns raised by us and others, we reiterate our prior emphasis that a new EIR should be conducted for this Project. A new EIR is required to protect the community from the unintended consequences of flawed analysis. At the very least, the community must be given an opportunity to respond meaningfully to the new information provided by the City. We respectfully request the Planning Commission postpone its adoption of the Final SEIR and schedule a new hearing to allow the public time to review, analyze, and comment upon the new information the City published last Friday.

Very truly yours,

John S. Peterson

JSP:swt