

Attachment 5

Further Revisions to Responses to Comments

**FURTHER REVISIONS TO
RESPONSES TO COMMENTS
for
9900 WILSHIRE PROJECT**

Prepared for:

The City of Beverly Hills
Community Development Department (Planning Department)
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Beverly Hills, CA 90210

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March 2008

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FURTHER REVISIONS TO RESPONSES TO COMMENTS

INTRODUCTION

Throughout hearings on the 9900 Wilshire Project, the Planning Commission and the City Council have received additional public comments pertaining to the analysis included in the Final EIR. Included within this document are responses to comments for two additional comment letters submitted to the City of Beverly Hills City Council on March 11, 2008, as well as revisions to original responses to comments resulting from subsequent modifications requested by the Planning Commission and/or the City Council.

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March 11, 2008

VIA HAND DELIVERY

The Honorable City Council
of the City of Beverly Hills
City Hall – 455 N. Rexford Dr., 3rd Floor
Beverly Hills, CA 90210

Re: Los Angeles Country Club/9900 Wilshire Boulevard Project (Scheduled for the March 11, 2008 City Council Meeting)

Dear Councilmembers:

We represent the Los Angeles Country Club ("LACC"), located at 10101 Wilshire Boulevard. Project Lotus, LLC ("Developer") is seeking various discretionary approvals, including a General Plan amendment and zone change, to develop two condominium towers of up to 205 feet in height (the "Project") directly adjacent to LACC's entire western boundary. As stated in our prior letters to the Planning Department and Planning Commission (see Exhibit A attached hereto), LACC is not opposed to the Project. As currently proposed, however, the Project will significantly and adversely impact the LACC.

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We are writing on behalf of our client to respectfully request that the City Council make minor modifications to the proposed Project as described in Section A below to reduce these impacts. We are also writing to set forth our concerns regarding the adequacy of the Project EIR and the Project's consistency with the Beverly Hills General Plan.

A. There are Feasible Alternatives to the Project that Meet All of the Project Objectives and Would Reduce Significant Impact on the LACC.

LACC proposed to the City Planning Commission feasible alternatives to the Project that would reduce many of the significant impacts and address many of the LACC's concerns. The first alternative involves locating the South Tower further to the east to increase the setback between the Project and the golf course. (See Exhibit B.) The other involves reversing the orientation of the South Tower so that this building will be set back further at certain points to allow additional sunlight to fall on the golf course from the southeast. (See Exhibit C). As a result of prior City Planning Commission

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actions, proposed loft units located along Merv Griffin Way were removed from the Project. This provides the opportunity to shift the two towers to the center of the site.

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Under either of these alternatives, the height, number of dwelling units, total floor area and amount of open space would remain as currently proposed. Therefore, both alternatives would meet the Project objectives as fully as the currently proposed Project. Moreover, both alternatives would reduce long term shade and shadow, aesthetic, and land use compatibility impacts to the LACC identified in the attachments to this letter and in our prior correspondence. Therefore, the City Council should approve one of these feasible alternatives instead of the proposed Project.

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B. The Project EIR is Fundamentally Flawed and Inadequate under the California Environmental Quality Act.

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We previously provided extensive written comments on the Project's Draft Environmental Impact Report ("DEIR") and just recently received a copy of the Project's Final Environmental Impact Report ("FEIR"). Our comments to the FEIR are summarized in the legal memorandum attached as Exhibit D.

We were dismayed to see that the FEIR fails to address adequately many of our comments and does not include the additional analysis necessary to fully and fairly disclose the full extent of the Project's significant impacts on LACC and the wider community. Therefore, LACC has retained the following technical experts to provide some of the missing key information to assure that the City Council has a complete record before it: Michael Hurdzan of Hurdzan/Fry Golf Course Design, Inc. (shade/shadow turf impacts); Arthur Kassan, P.E. (traffic); Bill Piazza, Air Quality Dynamics (air quality); and JoAnn Hadfield and Karen Gully of The Planning Center (other environmental issues). Copies of their technical letters are attached as Exhibits E, F, G and H respectively.

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C. The Project as Proposed is Inconsistent with the General Plan and Cannot be Approved.

The Project would introduce residential land uses where none currently exist, substantially increase development density, and substantially increase building heights on the Project site. As the FEIR admits, the Project would not be consistent with General Plan Land Use Element Objectives 3, Areas of Transitional Conflict, and 4, Scale of the City, or with Land Use Element development criteria for Commercial Areas recommending compatibility between commercial and residential areas. By demolishing the Robinson's May building, the Project would also be in conflict with goals related to landmark preservation in the General Plan Land Use Conservation Element. Therefore, the FEIR concedes: "Impacts from inconsistency with the Land Use Element and the Conservation Element would be significant and unavoidable." FEIR, page 2.0-30. Such inconsistency would also result in significant and unavoidable cumulative impacts. FEIR, page 2.0-31.

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No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan. California Government Code Section 65454. Moreover, as a general law city, the City's zoning must be consistent with its General Plan. Government Code Section 65860. In addition, the legislative body (in this case the City Council) cannot approve a development agreement unless it finds that the provisions of the agreement are consistent with the general plan and applicable specific plan. Government Code Section 65867.5(b).

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The Developer is seeking City Council approval of a specific plan, zone change, and development agreement. Under the foregoing state law requirements, to grant these entitlements the City Council must expressly adopt findings that the Project is consistent with the City's General Plan. The FEIR conclusively shows that the Project is inconsistent with at least three key goals and objectives of the General Plan. The City Council, therefore, cannot make the legally required findings. Therefore, the Project as proposed must be denied.

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Thank you for your consideration.

Very truly yours,



Mark Armbruster

cc: Los Angeles Country Club

City Manager

City Attorney

City Planning Department

EXHIBIT A: Letters from Armbruster & Goldsmith to the Planning Department and
Planning Commission

SEP 21 2007

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September 21, 2007

VIA FACSIMILE AND HAND DELIVERY

Ms. Donna Jerex
Planning Division
Community Development Department
455 N. Rexford Dr., Room G-40
Beverly Hills, CA 90210

Re: 9900 Wilshire Boulevard Project

Dear Ms. Jerex:

We represent the Los Angeles Country Club ("LACC"), located at 10101 Wilshire Boulevard, which abuts the above-mentioned mixed-use project along its entire western boundary. The proposed project would replace the vacant Robinsons-May Company Store ("Robinsons-May") with 252 luxury condominiums and approximately 20,000 sq. ft. of retail space (the "Project"). We are writing on behalf of LACC to provide our preliminary comments to Draft Environmental Impact Report SCH 2006071107 ("DEIR"). Given the time constraints in reviewing the document, which is several hundred pages long, we are unable to complete a review of the DEIR by independent technical experts at this time. We therefore reserve the right to submit additional comments when such review is complete.

By way of background, I am a land use lawyer with over 25 years of experience in processing entitlements in the Los Angeles area, including the City of Beverly Hills ("City"). I have personally been involved in the preparation of a number of EIRs and mitigated negative declarations recently for projects on Wilshire Boulevard in the Westwood area, located a short distance from the Project site. Furthermore, my office is located on Wilshire Boulevard in Westwood, and I pass the Project site regularly traveling to and from my office. My personal observations provide the basis for a number of the comments set forth below.

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A. GENERAL COMMENTS

As a preliminary matter, we wish to stress that LACC is not opposed to development of the Project site. However, all potential impacts on LACC and other properties in the vicinity must be fully disclosed and mitigated to the fullest extent feasible. We do not believe the DEIR does this.

CEQA Guidelines Section 15088.5 requires that a lead agency recirculate an EIR when significant new information is added to the EIR after public notice for public review of the DEIR, but prior to certification. Significant new information requiring recirculation includes a disclosure showing that: (1) a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance; (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project proponents decline to adopt it; and/or (4) the DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

For the reasons set forth below, we do not believe that the DEIR fully discloses all potential impacts of the Project and, therefore, the DEIR must be revised to disclose and analyze these impacts fully and recirculated again for public comment.

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B. TRAFFIC IMPACTS

1. Project Traffic Generation. The DEIR's traffic analysis is fatally deficient in that it grossly understates Project traffic. The analysis takes a credit for the prior operation of the Robinsons-May store, which was discontinued in March of 2006. This improper credit impermissibly masks Project impacts. CEQA requires an analysis of existing conditions, not theoretical ones. The EIR must acknowledge that there are no existing trips from the long vacant building.

The traffic counts used to determine existing conditions for study area roadways were taken in December 2006 and January 2007, after the Robinsons-May had been closed for nine months. Thus, traffic from the Robinsons-May Store was not reflected in these counts. By nonetheless taking a credit for these trips, the analysis has in effect created a distorted baseline. In fact, the L.A. Superior Court recently invalidated the environmental analysis for the Beverly Connection project for taking a similar credit for discontinued uses (See Beverly Wilshire Homeowners Assn., Inc. v. City of Los Angeles, Case No. BS104217). In order to take the credit, the analysis should have added the Robinsons-May traffic to the existing conditions, just as the 231-265 Beverly Dr. EIR.

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The DEIR asserts that the credit is appropriate because the department store building could be reopened at any time without any required City approvals (*See p. 4.11-25*). We understand that the City previously revoked the Certificate of Occupancy ("C of O") for the Robinsons-May building, thus terminating any ability to reoccupy the building with retail uses without new discretionary City approvals.¹ Furthermore, when occupied, the building was legally non-conforming as to height. The City's revocation of the C of O terminated the legal non-conforming status, and any future occupancy of the building would require a variance. Therefore, the site is the functional equivalent of a vacant lot.

The building is in a deteriorated and blighted condition and is functionally obsolete. This explains why Robinson-May chose to abandon what has been widely recognized as one of the best retail locations in the region, if not the country. Following revocation of the C of O, the required renovations needed to bring the building back to an occupiable condition would be treated as new construction that would trigger development plan review under Beverly Hills Municipal Code (BHMC) Section 10-3-3100. At a minimum, the needed renovations would require architectural review, which is a discretionary action subject to CEQA.

The analysis also used an improperly low traffic generation rate for the condominium portion of the project (3.55/du daily, .28/unit a.m. peak, and .33/unit p.m. peak). This rate was based on trip counts at a group of six mostly older condominium buildings in the area. This sample is far too small to be reliable.

Nor are most of the condominium buildings cited in the EIR truly comparable. The Project will contain very large, ultra-luxury units. Such large units are more likely to be occupied by multiple drivers. Furthermore, it is likely that the affluent owners of the units will employ regular domestic personnel and other help who will generate additional vehicle trips. It is also apparent that the Project will employ numerous individuals for concierge service, valet parking, landscaping, cleaning, and maintenance. For this reason, both the City of Los Angeles and City of Beverly Hills have used much higher trip generation rates for recently-approved new ultra-high end condominium projects. For example, the EIR for the condominium project at 10250 Wilshire and the EIR for the 9200 Wilshire project recently certified by the City of Beverly Hills used ITE Code 230 to assess trip generation. There is no basis for using trip generation rates that are lower than those used by both cities for the other nearby new luxury condominium projects.

2. Existing Conditions. The EIR for the 231-265 Beverly Dr. project shows that existing conditions at the critical intersections of Wilshire Boulevard and Santa Monica Boulevard North and South are far worse than shown in the 9900 Wilshire EIR.

¹ Letter from City of Beverly Hills Building Official, George Chavez, to Mr. Arnold Rosenstein, dated December 18, 2006, indicates that the Robinsons-May C of O had been revoked.

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For example, the V/C ratio for the p.m. peak hour is .813 (LOS D) in the 9900 Wilshire EIR, but 1.423 (LOS F) in the 231-265 Beverly Dr. EIR. Anyone who has traveled through this extremely congested intersection knows that the 231-265 Beverly Dr. EIR is accurate. The 9900 Wilshire traffic study (but curiously not the EIR itself) acknowledges this discrepancy and states that additional analysis will be performed using the higher volumes from the 231-265 Beverly Dr. EIR; however, this additional analysis was apparently either not undertaken or was excluded from the 9900 Wilshire EIR. This analysis should be included in the revised DEIR, which must be recirculated for public comment.

3. Failure to Study Essential Intersections and Street Segments. The DEIR analyzes traffic patterns at nine nearby intersections expected to be impacted the most by Project traffic. However, no intersection or roadway segment on Wilshire Boulevard west of the Project site is considered or analyzed. The DEIR omits such analysis despite its own acknowledgement that Wilshire Boulevard and Santa Monica Boulevard would each "be used equally since both routes provide an equally direct route to the project site (See p. 4.11-27)." Although the Project may generate an equal number of trips on Santa Monica Boulevard as on Wilshire Boulevard, each route has its own level of ambient congestion unrelated to the Project. Therefore, the impact of the Project on traffic congestion on Wilshire Boulevard west of the Project should have been analyzed. The DEIR's failure to do so is a material omission in its analysis.

Additionally, the DEIR fails to analyze potential traffic impacts on Carmelita Avenue, a local residential roadway that is frequently used by drivers as a cut-through street when Santa Monica Boulevard, east of the Project site, is heavily congested during peak hours. Whittier Drive and Elevado Street are the only local residential streets that are analyzed in the DEIR—both are subject to similar cut-through traffic; however, because Carmelita Avenue is the closest parallel local street to Santa Monica Boulevard, it is the street most likely to be impacted. The DEIR's failure to analyze this street is another material omission.

4. Cumulative Impacts. The traffic analysis fails to take into account a number of reasonably foreseeable related projects, thereby understating the cumulative traffic impacts of the project and the related projects. Most notably, the DEIR inexplicably omits the massive Westfield Century City Shopping Center expansion, consisting of 361,729 square feet of new retail, 262 condominiums, and 118,000 square feet of office space, that is just down the street and currently undergoing CEQA review. Other missing projects include 10700 Wilshire (64 apartments), 10777 Wilshire (64 condominiums) and 10776 Wilshire (119 condominiums). The cumulative analyses must be revised to take these projects into account.

The DEIR uses an ambient growth rate of one percent per annum. The Project site is located in an area that has seen considerable development over the last few years. City

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of Los Angeles records show that entitlement applications for a total of 266 dwelling units in the Westwood area also have been filed in the last few months. (None of these projects are identified as related projects.) The recent EIRs for the 10131 Constellation Place and St. Regis Hotel site projects, which are located in close proximity to the proposed project, each used an ambient growth rate of 1.5 percent per annum. There is no basis for using a lower rate for the 9900 Wilshire Project. Like the EIRs for other recent luxury condominium projects in the immediate vicinity, the revised cumulative analyses should use an ambient growth factor of 1.5 percent per annum.

5. Methodology. The City of Los Angeles uses the CMA methodology instead of the ICU methodology employed by the City of Beverly Hills. Los Angeles also uses a different threshold of significance which allows a smaller incremental increase in V/C ratios for more congested intersections before project traffic will trigger a significant impact. The traffic analysis should be revised to apply City of Los Angeles' methodology and standards to those intersections that are in whole or in part in that City. This approach would be consistent with recent EIRs prepared by the City of Los Angeles for projects that could impact intersections in Beverly Hills.

The DEIR considers the period of 4:00 to 6:00 as the p.m. peak hour period. However, the project site is located next to Century City. The many lawyers and other professionals who work in Century City tend to work longer hours and leave after 6:00 p.m. Based on personal observation, Santa Monica Boulevard and Wilshire Boulevard are more congested after 6:00. Additional traffic counts should be taken to confirm that the peak ambient conditions do not occur outside the p.m. peak hour period in the DEIR.

6. Assumed Roadway Improvements. In reaching its conclusion that the Project will not result in any significant traffic impacts, the DEIR assumes that certain traffic improvements will be in place when the Project becomes operational. However, these improvements are predicated upon the City's approval and the timely development of the Beverly Hilton Revitalization Plan. If the Beverly Hilton project is denied or delayed, a significant traffic impact would occur as a result of 9900 Wilshire Project trip generation. As there is no assurance that the mitigation will be in place, it is speculative for the DEIR to assume that they will be implemented at all, much less in a timely manner. The traffic analysis must be revised to include only those mitigation measures which are not conditioned upon an uncertain and speculative related project.

7. Construction Impacts. The DEIR fails to analyze the impacts of the 800 daily and 200 peak hour construction trips on the grounds that these trips are fewer than the trips generated by the former Robinsons-May operations. For the reasons set forth above, this is an improper comparison. Also, haul truck traffic is not adequately analyzed.

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Furthermore the DEIR does not analyze the potential traffic impacts of using a construction staging area at the federal government and Veterans Administration sites, located at the intersection of Sepulveda Blvd. and Westwood Blvd., and shuttling the workers to and from the Project site. The intersection of Sepulveda and Wilshire is one of the most congested intersections in the County of Los Angeles, and Sepulveda Blvd. is a primary alternate to the 405 Freeway during all times of the day. Staging construction trucks on Sepulveda will result in a foreseeable significant impact at the intersection. The construction trucks moving through the intersection will significantly impact the peak hour LOS at this intersection.

In addition, it is reasonably foreseeable that construction of the Project will result in peak hour lane closures unless such peak hour lane closures are prohibited. Currently, peak hour lane closures for construction of projects along Wilshire Blvd. in Westwood are not prohibited and morning peak hour traffic is frequently snarled as cranes and construction equipment block traffic lanes. Prohibiting peak-hour lane closures on Santa Monica Blvd. and Wilshire Blvd., is a feasible mitigation measure that will reduce an otherwise significant unavoidable traffic impact.

Also, mitigation measure TRAF-5 (bullet 2) is improper. The mitigation measure includes a loophole in that it is only required "to the maximum extent feasible." CEQA requires mitigation measures to be enforceable and unambiguous. The loophole language renders the mitigation measure unenforceable because there is no reasonable way to determine feasibility. The mitigation measure, by its own terms, raises the possibility that it may not be implemented and the impact will remain unmitigated and significant. The measure must be revised to close the loophole, or the impact must be considered significant.

Moreover, the analysis does not fully consider cumulative construction impacts. While the DEIR considers cumulative impacts from the construction of the Beverly Hilton project, it fails to take into account cumulative impacts from the construction of the other projects in the area, including but not limited to 10131 Constellation, the Westfield Century City Shopping Center and 11000 Wilshire projects. The DEIR must be revised to account for these other projects.

8. Parking Impacts. The DEIR uses trip generation figures for a fully operating Robinsons-May department store to conclude that the Project will have a net decrease in the number of car trips generated by the Project. However, in considering the parking impacts of the Project, the DEIR looks to the present condition of the Project site—as a closed, non-operational department store—to conclude that the Project will have less than significant secondary parking impacts. "Given that few vehicles were parked at the Robinsons-May prior to the placement of the fence, few, if any, vehicles would be displaced as a result of the proposed project. Therefore, secondary parking impacts associated with the project would be less than significant (*See p. 4.11-58*)." The

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DEIR cannot have it both ways. The existing condition of the Project site cannot be a fully operational department store for purposes of the DEIR's traffic analysis and a boarded up building for purposes of the DEIR's parking analysis.

Furthermore, the DEIR only briefly mentions that vehicles were observed parking on the 9900 Wilshire site during the Golden Globes, when after party events were held at both The Hilton Hotel and at the 9900 Wilshire site. The Golden Globe Awards is an event that is held annually at the Beverly Hilton Hotel. It is extremely important to the City of Beverly Hills, bringing international attention and a great deal of additional revenue to the City. The DEIR fails to analyze the impact of removing the parking lot at the Project site, which is available each year for the attendees of this and other events, with respect to whether secondary parking impacts on adjacent local residential streets would result.

9. Traffic Safety. The DEIR concludes that the Project will not have a significant impact on traffic safety because traffic at Santa Monica South/Wilshire Boulevard will increase by a less than the five percent threshold of significance. As discussed above, the DEIR dramatically undercounts both Project and cumulative traffic. Even with its suspect numbers, the DEIR shows that the V/C ratio at this intersection will increase from 0.959 in the p.m. under existing conditions to 1.033 under future without Project conditions, or a 7.4 percent increase. This exceeds the five percent threshold and constitutes a significant cumulative impact. The addition of project traffic to this already significant cumulative impact will be cumulatively considerable.

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An additional safety consideration omitted in the DEIR is that construction activities and haul trucks may adversely impact the health and safety of students attending El Rodeo Elementary School and walking on streets adjacent to the Project site. The DEIR should be revised to include additional mitigation measures to ensure the safety of students. Such measures should include maintaining warning signs and security measures at the construction site to prevent attractive nuisance and routing haul trucks away from the school during school hours and when children are present.

The DEIR includes Traffic Mitigation Measure TRAF-8, which states that the project applicant shall revise the project site plan to increase the curb radius at the driveway on Wilshire Boulevard to allow vehicles traveling 25 to 35 mph to turn safely. This speed seems excessive to safely negotiate a turn. The DEIR must provide substantial evidence that this mitigation measure will not result in increased accident risk, and to explain why a standard deceleration lane is infeasible.

C. ADDITIONAL IMPACT CATEGORIES

1. Views and Aesthetics. The DEIR does not consider view impacts from the LACC property.² To determine whether the Project will have a significant impact related to views, the DEIR considers whether the Project will “obstruct, interrupt or diminish a valued focal or panoramic view.” The DEIR analyzes the aesthetic/visual impact of the Project from eight “viewsheds,” (See p. 4.1.1-14) but does not consider views from LACC property. View and aesthetic impacts are very important to the issue of land use compatibility. Moreover, because the DEIR considers the LACC a sensitive land use with respect to shade and shadow impacts, discussed below, the DEIR should also consider the LACC as a sensitive land use with respect to views. Therefore, a detailed analysis of the potential view blockage from the LACC, including line of site studies, should be included in the DEIR.

In addition, the DEIR provides merely a summary conclusion that there is no significant impact to privacy at LACC (See p. 4.1.1-23). The DEIR’s conclusion is based on the following assumptions: (a) views of LACC property from lower stories of the Project would be obscured by existing 60-foot trees; (b) views of LACC property from the upper floors of the Project would be impaired by the acute viewing angle; and (c) LACC property is a “small portion of the available, panoramic field of view.” Such assumptions do not appear to justify a conclusion that the Project will have no adverse impact on privacy at LACC, and these assumptions must be supported by substantial evidence. .

2. Glare. The DEIR also provides a summary conclusion that there is no significant impact with respect to glare on surrounding properties. The DEIR states that because the building materials proposed for the buildings on the Project site would be low in reflectivity and are intended to minimize glare, Project related glare impacts would be less than significant. However, the DEIR does not include a detailed description of these building materials in order to justify this conclusion.

The DEIR also concludes that “building siting on the project site and setbacks from surrounding roadways would also reduce the potential for glare affecting off-site land uses or activities (See p. 4.1.2-7).” This conclusion is not supported by any evidence and is contradicted by the substantial evidence of common knowledge. The buildings are oriented north-to-south, presenting their reflective broad sides to the east and west. Thus, as the sun rises in the east and travels across the sky to set in the west, the east-facing sides of the buildings will reflect sun throughout the morning and the west-facing sides of the buildings will reflect sun all afternoon. The DEIR does not analyze potential glare impacts specifically on the LACC site, which includes an outdoor use, playing golf, that is particularly sensitive to glare impacts. In addition, glare impacts on golfers playing on

² The LACC invited the Project EIR consultant to view the Project site from LACC, but they declined to do so.

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the course could be felt for quite some distance and at various angles from the Project buildings, regardless of where they are sited. The DEIR is deficient for failing to study potential reflections from the Project at various angles to the golf course.

3. Shade and Shadow. The DEIR fails to adequately account for the opacity of Project buildings. The DEIR's shade and shadow analysis considers LACC's 16th hole a shade/shadow sensitive use. Important to the DEIR's finding of no significant impact with respect to the shade and shadow cast by the Project onto the LACC property is that the "shadows cast by the proposed buildings would substantially overlap with those cast by the existing trees (*See p. 4.1.3-7*)." This is a false comparison. No sunlight can pass through the Project's solid buildings, whereas the sunlight is only filtered through the leaves and branches of the trees. Therefore, although there may be a "substantial overlap" in shadowed area of the LACC property, the shadows are not of equivalent quality. Because the shadows cast by the Proposed project are of a different quality, any overlap cannot be used to justify the DEIR's conclusion of no significance.

The DEIR concludes that the Project would have a maximum 3.46% change in light levels on the affected grass areas (*See p. 4.1.3-17*). However, it is not clear that this analysis adequately accounts for the relative difference in opacity between the existing trees and the Project. Therefore, further justification is required.

The DEIR's shade/shadow analysis incorrectly concludes that the Project will not have adverse impacts on photosynthesis. The DEIR correctly concludes that shadows resulting from the Project will primarily occur in the morning; however, the conclusion that this change in light levels would occur primarily during periods when there is not sufficient light to generate photosynthesis (*See p. 4.1.3-17*) misstates the role of sunlight in the photosynthesis process. In addition to light, photosynthesis requires that dew (moisture) remaining on the grass evaporate before the process can begin. The blockage of light cause by the Project would also prevent the morning dew from evaporating. The shadows cast by the Project will block sunlight and could cause moisture to remain on the grass longer, thus impairing photosynthesis and causing harm to the grass. This would constitute a significant impact to the golf course.

4. Air Quality. The DEIR's air quality analysis concludes that the Project will not result in any significant operational impacts because the net emissions of criteria pollutants would be below the South Coast Air Quality Management District's ("SCAQMD") significance thresholds. As set forth above, the DEIR baseline assumes an unrealistic number of vehicle trips from the Robinson-May store, which is no longer operational. Existing air quality emissions based on vehicle trip pollution generated from Robinsons-May are similarly overstated. Therefore, the DEIR understates operational air quality impacts. The analysis must be revised based on actual project trip numbers and excluding any credit for the Robinsons-May Building.

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The DEIR states that sensitive receptors with respect to air quality impacts include land uses that involve children, the elderly or those who suffer from cardio-respiratory disease. The DEIR identifies nearby residences and the El Rodeo Elementary School as the only sensitive receptors that may be impacted by the Project. The SCAQMD, however, identifies additional sensitive receptors, including parks, playgrounds and athletic facilities. According to the SCAQMD's CEQA Air Quality Handbook, athletes and others who engage in frequent exercise should be given special consideration, and structures that house such people or places where they gather to exercise should also be considered sensitive receptors. Therefore, the LACC should be included as an additional sensitive receptor. As a result, the CO hotspot and local significance thresholds ("LST") analyses found in the DEIR, which analyze impacts on residences and the school only, should be revised to include analyses of potential impacts on the LACC.

The DEIR does not clearly disclose the number and types of equipment which are assumed to be operating onsite during the various construction phases. This critical information must be included in the DEIR.

The DEIR includes only a qualitative analysis of the Project's potential individual impact and cumulative contribution to GHG emissions and global climate change. However, it is not enough that the DEIR includes a list of GHG reduction strategies that may be applied as project design features in order to reduce potential GHG/climate change impacts to less than significant levels. CEQA requires that the lead agency make a good faith, reasoned analysis to quantify impacts. As set forth in the various comment letters submitted by the State Attorney General with regard to a number of EIRs throughout the state, there are existing methodologies and protocols available to quantify GHG emissions. The DEIR must utilize these methodologies and protocols to quantify actual GHG emissions in order to thoroughly disclose potential impacts.

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As set forth above, the DEIR's related project list omits several projects. Therefore, the DEIR understates potential cumulative CO impacts.

5. Biological Resources. The DEIR concludes without any supporting evidence that the Project will have no potential impacts on biological resources. The DEIR summarily concludes that (a) because the Project site is located in an urbanized area of the City of Beverly Hills and that (b) because no threatened/endangered or rare species, wetland habitats or wildlife corridors are known to exist on the site—that no significant impacts are anticipated. The scope of analysis cannot be limited to the Project site only, but must also analyze potential impacts on the LACC site.

There are many trees located on the Project site, and it is reasonable foreseeable that Project construction will significantly impact the urban forest along the Project's westerly boundary. Excavation activities and dewatering of the Project site adjacent to

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the LACC could also result in root damage and/or destruction of the tall mature trees that line the perimeter of the LACC's 16th hole.

The South Course of the LACC, adjacent to the Project site, was created in 1911 and has been maintained as a park-like environment ever since. Over the nearly 100 years since its establishment, the course has become home to a variety of flora and fauna, all of which may be significantly impacted by the Project. The Migratory Bird Treaty Act (16 U.S.C. 701-711) was enacted in 1916 to protect virtually all birds found in the United States, including those found on or near the Project site. The DEIR must consider the potential impacts of Project construction and operation on migratory birds that nest on the LACC site.

6. Geology. The DEIR merely concludes that by complying with the City's dewatering ordinance and other applicable regulations, soil instability would not result from the proposed Project (*See p. 4.4-12*). However, similar to the additional analysis requested to analyze construction impacts on adjacent trees described above, potential impacts related to excavation and dewatering activities during construction of the parking garage adjacent to LACC property must be analyzed to identify any additional significant impacts that may result on the LACC property, including soil settlement, trees and lawn impacts. Additionally, any new mitigation measures that may be required to protect the golf course from ground failure due to dewatering and excavation activities must be identified.

7. Hydrology. The DEIR concludes that because the current Project site is predominantly impervious, implementation of the Project will not create additional impervious surface; therefore, conditions related to stormwater runoff and drainage will remain unchanged and no significant impact will result. However, the DEIR fails to analyze, specifically, how placement of new buildings on the Project site may alter drainage patterns that may cause water to flow onto the LACC property—if any new drainage patterns emerge, the resulting impacts on the LACC must be fully disclosed.

8. Land Use. The DEIR erroneously concludes that the Project is consistent with the zoning (*See p. 4.7-26*) and height designations (*See p. 4.7-27*) of the City of Beverly Hills. The project site is zoned for C-3 (commercial) uses, as defined by the City's Land Use Element and Zoning Ordinance of the General Plan. Uses permitted under the C-3 designation include a wide range of commercial uses, such as restaurants, offices, and retail shops. Residential uses, such as those proposed by the Project, however, are not expressly permitted, and therefore, would not be consistent with the C-3 Zone.

The maximum height allowed within the C-3 zone is 45 feet or three stories, whichever is lower. The two proposed tower buildings located along the western side of the Project site would each be 144 feet, and the two loft buildings located along the eastern side of the Project site would be 48 feet and four stories in height. The proposed

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Project, therefore, clearly does not conform to the height restrictions of the City's Zoning Ordinance and is again not consistent with the City's height restrictions.

The DEIR explains that that the proposed Project would comply with the zoning and height restriction requirements included in the proposed 9900 Wilshire Specific Plan. Once adopted, the Specific Plan would supersede the current C-3 zoning designation for the Project site and allow the project to be constructed in accordance with the Specific Plan. However, the conclusion that the proposed Project would not conflict with zoning and height requirements included in the General Plan or Zoning Ordinance is not tenable because the proposed provisions of the Specific Plan may not be approved, and the ultimate zoning and height restrictions are speculative.

The DEIR also fails to analyze any land use incompatibilities that may result from placing a high-rise residential building with balconies adjacent to a golf course. Errant golf balls that cause harm to people and property adjacent to golf courses are a common problem for golf course owners; the DEIR should analyze whether this risk of harm would result in a significant land use impact, and the DEIR should also identify specific mitigation measures to minimize the risk of errant balls striking windows, balconies and people on the Project site. Moreover, the DEIR must consider the impact on placing tall residential buildings adjacent to landscaped recreational space.

The DEIR correctly concludes that the Project would conflict with two objectives and one development criterion of the Land Use Element of the City's General Plan, resulting in a significant and unavoidable land use impact. By introducing new buildings and land uses that would substantially increase density and building heights on the Project site, the Project would conflict with Land Use Element Objective 3, Areas of Transitional Conflict, and Objective 4, Scale of the City. The Project would also conflict with a development criterion for commercial areas that recommends new development complement the scale and character of adjacent residential areas (*See p. 4.7-18*).

The Project would conflict with a Land Use Element policy and a development criterion, which were not analyzed in the DEIR. These include: a) Policy 1, which provides that "the general land use pattern of Beverly Hills should remain as it is now; and b) a commercial area development criterion which recommends that "retail service commercial establishments which satisfy the needs of neighborhood shoppers should be encouraged, particularly in areas close to residential uses where adequate parking for the commercial uses can be provided." The revised DEIR should disclose these additional conflicts.

9. Noise. The DEIR fails to consider the LACC as a sensitive receptor with respect to noise and vibration impacts. Golfing is an activity that is extremely noise and vibration sensitive. In fact, the recently released Draft EIR for the Autry Center at Griffith Park, a 129,000 sq. ft. museum expansion project, located adjacent to the Griffith

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Ms. Donna Jerex
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Park golf course, considered the golf course as a sensitive receptor. It is readily apparent that the Project will have the potential to result in significant noise and vibration impacts on the LACC. The DEIR must be revised to disclose these impacts and identify feasible mitigation measures, such as noise curtains and other shielding, and prohibiting construction on weekends when the golf courses are used more heavily.

The DEIR fails to consider noise generated by the Project's western access drive. The DEIR Executive Summary describes service and delivery access to the Project, which includes moving trucks and other large delivery trucks delivering furnishings to the residents that would "access the residences along the residential driveway on the western side of the site (*See p. 2.0-44*)." Idling motors and other noise associated with such large delivery trucks are not considered in the DEIR. As these potential noise impacts would occur at the western boundary of the Project site, they would also have an off-site impact on the LACC; the DEIR must analyze this impact and identify feasible mitigation, such as relocating this access drive or prohibiting large trucks.

As noted above, the amount of traffic generated by the Project is substantially understated. Consequently, the DEIR similarly understates Project roadway noise impacts. Furthermore, because the Project's related project list omits several reasonably foreseeable projects, the DEIR's cumulative roadway noise impact analysis is deficient.

The DEIR states that the construction staging area for the Project would be located along Sepulveda Boulevard north and south of Wilshire Boulevard, away from sensitive receptors to the maximum extent feasible. Trucks would be stationed at this location until called upon to export debris from demolition of the existing improvements and for the export of excavated soils. From the queue along Sepulveda Boulevard, trucks would proceed east on Wilshire Boulevard directly to the jobsite. After loading, the trucks would exit the site at the existing service road intersection onto Santa Monica Boulevard, and such a route would be confined to primarily nonresidential streets as designated by the City's commercial vehicle restrictions. Trucks would then proceed west to the 405 Freeway and travel north or south, as necessary (*See p. 4.8-17*). As this assumption is the basis for the DEIR's conclusion that the Project will not result in any significant offsite construction noise impacts, a mitigation measure should be added to ensure that all trucks use this route. Otherwise, the DEIR should be revised to consider potential noise impacts from trucks using other routes. Also, since the staging area is located in the City of Los Angeles, the DEIR must include evidence that the City of Los Angeles will permit such staging.

10. Fire. The impacts of converting commercial uses into residential uses, together with the related projects, will further increase demand for fire services. Because current City zoning and the General Plan do not allow residential uses on the Project site, future projections of City fire service needs may not have considered the possibility of such uses in this area. Future City demand projections and service provision

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requirements, therefore, may not be accurate. The DEIR must be revised to consider this potential impact. In addition, cumulative impacts must be re-evaluated to include the missing related projects data described previously in this letter.

11. Police. The impacts of converting commercial uses into residential uses, together with the related projects, will further increase demand for police services. Because current City zoning and the General Plan do not allow residential uses on the Project site, future projections of City police service needs may not have considered the possibility of such uses in this area. Future City demand projections and service provision requirements, therefore, may not be accurate. The DEIR must be revised to consider this potential impact. In addition, cumulative impacts must be re-evaluated to include the missing related projects data described previously in this letter.

12. Wastewater, Water Supply, Solid Waste, Energy. Each of these impact analyses took credit for the Robinsons-May store when determining baseline conditions. For reasons stated previously, taking this credit is inappropriate. The analyses of these impacts (and any other impact discussion in the DEIR that includes credit for the Robinsons-May store), therefore, understate potential impacts. In addition, the DEIR should be revised to include the missing related projects data described above so as to better reflect true cumulative conditions.

13. Alternatives. CEQA Guidelines Section 15126.6 requires that the DEIR describe a range of reasonable alternatives to the Project which would feasibly attain most of the basic objectives of the Project, but would avoid or substantially lessen any of the significant impacts of the Project, and evaluate the comparative merits of the alternatives. As set forth above, the DEIR understates a number of Project impacts. The alternatives analysis is flawed for failing to take into account these undisclosed impacts.

In order to address the undisclosed impacts set forth above, the DEIR should analyze an alternative to reduce the building heights as in Alternative #6 ("Reconfiguration Alternative"), reduce the Project density as in Alternative #3 ("Reduced Density Alternative") and also include an additional 10 feet of side yard along the LACC property line to buffer the LACC property.

This alternative would reduce potential view and shade/shadow impacts on the LACC by constructing shorter, 60-foot tall buildings, reduce traffic, air quality and noise impacts by building fewer units, and reduce biological resources, geology, air quality, noise, water and land use impacts by providing an adequate buffer between the Project and the LACC.

14. Other Comments. We incorporate by reference herein all other public and agency comments to the DEIR.

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D. CONCLUSION

Pursuant to the provisions of Section 15088.5 of the CEQA Guidelines, we respectfully request that the DEIR be revised to include the additional analysis recommended in this letter and that the DEIR be recirculated once this analysis is completed so that potential Project impacts can be fully disclosed to the public.

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Thank you for your consideration.

Very truly yours,

ARMBRUSTER & GOLDSMITH LLP



Mark Armbruster

cc: O'Malley Miller, Esq.
Ben Howell, Esq.
Dale J. Goldsmith, Esq.
R.J. Comer, Esq.
Jonathan Riker, Esq.

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September 28, 2007

VIA FACSIMILE AND HAND DELIVERY

RECEIVED
CITY OF BEVERLY HILLS

SEP 28 2007

Ms. Donna Jerex
Planning Division
Community Development Department
455 N. Rexford Dr., Room G-40
Beverly Hills, CA 90210

PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

Re: 9900 Wilshire Boulevard Project

Dear Ms. Jerex:

As you know, we represent the Los Angeles Country Club ("LACC"), located at 10101 Wilshire Boulevard, which abuts the above-referenced project along the LACC's entire western boundary. We are writing on behalf of LACC to provide additional comments to the Draft Environmental Impact Report SCH 2006071107 ("DEIR").

Just yesterday, we were surprised and dismayed to discover that, after the close of the public comment period on the DEIR, the project applicant announced at the September 24, 2007 Planning Commission meeting that it was discarding the project described in the DEIR (the "Original Project") in favor of Alternative Five, entitled "Modified Height and Configuration of North/South Buildings," set forth in the DEIR (the "Revised Project"). The Revised Project will have even greater impacts on the LACC than the Original Project. We understand that the City has extended the comment period another five days, presumably to allow additional public comment on these major changes to the Original Project.

The applicant's bait and switch tactics violate the public disclosure requirements which lie at the very heart of the California Environmental Quality Act ("CEQA"). Like the rest of the public, we naturally focused our review of the DEIR on the Original Project, only to find out that this project was in fact a Trojan horse. The applicant's after-the-fact substitution "draws a red herring across the path of public input" (County of Inyo v. City of Los Angeles, 71 Cal.App.3d 185, 198 (1977)), as it will not be possible for the public to provide meaningful input on the actual project in the additional five days allotted. Therefore, the DEIR must be completely revised to reflect the Revised Project and recirculated for public comment.

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A. CEQA Guidelines Section 15088.5 Requires Recirculation.

CEQA Guidelines Section 15088.5 requires that a lead agency recirculate an EIR when significant new information is added to the EIR after public notice for public review of the DEIR, but prior to certification. As used in Section 15088.5, "information" includes "changes in the project." New information added to an EIR is "significant" if the EIR is changed in a way that deprives the public of meaningful opportunity to comment upon a substantial adverse environmental effect of the project, or a feasible way to mitigate or avoid such an effect (including a feasible project alternative). Significant new information requiring recirculation includes a disclosure showing that: (1) a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance; (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project proponents decline to adopt it; and/or (4) the DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

For the reasons set forth herein, the after-the-fact major changes to the Original Project will result in significant impacts not disclosed in the DEIR and/or a substantial increase in the severity of an environmental impact. These changes have rendered the DEIR so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. Accordingly, Section 15088.5 mandates revision and recirculation of the DEIR.

B. The Project Description is Inadequate.

An accurate and stable project description is the *sine qua non* of an informative and legally sufficient EIR. County of Inyo v. City of Los Angeles, *supra*, 71 Cal.App.3d at 192-193. In this case the DEIR describes a project that has been discarded in favor of a more impactful project. As a result, meaningful public input has been precluded. The DEIR must be revised to describe the Revised Project as the proposed project.

C. The DEIR Contains Only a Cursory Analysis of the Revised Project.

Only a minimal description of design specifics for Alternative Five is included in the DEIR, and the DEIR provides a mere summary and conclusory analysis of the potential environmental impacts that may result from this alternative. For example, the DEIR contains no detailed shadow or aesthetic analyses of Alternative 5, even though the South Building would be twenty five percent taller than under the Original Project.

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While this level of analysis may be sufficient for a DEIR alternative, once the applicant made this alternative the proposed project, it must be analyzed in the same level of detail as the Original Project.

D. Alternative 5 Would Result in Greater Environmental Impacts than the Original Project.

The DEIR erroneously concludes, in a summary and conclusory fashion, that the potential environmental impacts associated with the Revised Project (i.e., Alternative Five) would be comparable to those impacts created by the original project (*See p. 8.0-90*). As set forth below, the DEIR understates the true impact of the Original Project, and the impacts of the recently-Revised Project will be even greater.

1. Views and Aesthetics. As set forth in our September 21, 2007 letter, the DEIR does not consider Original Project's view impacts to the LACC property. The LACC invited the applicant onto the LACC property to conduct detailed view studies, but the LACC rejected this invitation. Thus, the DEIR is inadequate for failing to analyze fully the Original Project's aesthetic impacts.

The Revised Project would increase the height and overall mass of the South Building by 25 percent. Thus, the Revised Project will have even greater aesthetic impacts on LACC. The revised DEIR must fully analyze these impacts with detailed view simulations and identify mitigation measures.

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2. Shade and Shadow: Glare. As set forth in our September 21, 2007 letter, the DEIR improperly understates the significant shade and shadow impact of the Original Project by making the false comparison of shadows cast by leafy trees and solid buildings. No sunlight can pass through the Original Project's solid buildings, whereas the sunlight is only filtered through the leaves and branches of the trees. The two types of shadows, therefore, are not of equivalent quality. As set forth in the attached analysis by ArborCom Technologies,¹ the shadows cast by the Original Project would have a significant impact on the grass in the LACC's greens and fairways.

The attached analysis studies the effects on light penetration of existing shadows cast by trees, and contrasts these effects with the effects of combined shadows cast by both trees and the buildings proposed by the Original Project. This analysis confirms that shadows cast by buildings are significantly different than those cast by trees. Furthermore, the analysis concludes that morning light penetration to the tee, fairway and green of the LACC's 16th hole would be significantly diminished by the Original Project. As a result, a significant number of mature trees would need to be removed in order to restore light penetration to sufficient levels (See Arborcom study, p. 7). An additional

¹ Report of Findings and Recommendations Regarding Morning Light Penetration on #16 South Tee, Fairway and Green at Los Angeles Country Club, ArborCom Technologies, Inc., June 2006.

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analysis must also be prepared, under the same methodology, to analyze the potential impacts of shadows cast by the Revised Project.

The DEIR's shade/shadow analysis also incorrectly concludes that the proposed project will not have adverse impacts on photosynthesis.

The golf course is an extremely glare sensitive use. The windows and other building materials of the Original Project would reflect the afternoon sun, especially in the summer. The resulting glare would have a significant impact on golfers. Yet the DEIR failed to analyze this impact.

The Revised Project would increase the height and overall mass of the South Building by 25 percent. Thus, the Revised Project will have even greater shade and shadow, photosynthesis, and glare impacts on LACC. The revised DEIR must fully analyze these impacts with detailed studies and identify mitigation measures.

3. Land Use. As set forth in our September 21, 2007 letter, the DEIR improperly failed to analyze the land use incompatibilities that may result from placing dense high-rise residential buildings with balconies and retail uses adjacent to landscaped open space. Among other things, errant golf balls that cause harm to people and property adjacent to golf courses are a common problem for golf course owners.

The Revised Project includes an even larger building with more balconies adjacent to the course. Thus, the Revised Project will have even greater land use impacts than the Original Project. The revised DEIR must fully analyze these impacts and identify mitigation measures.

4. Noise. As set forth in our September 21, 2007 letter, the DEIR improperly failed to analyze the noise impacts of the Original Project. Golf is a very noise sensitive use, and the noise from the balconies and other elements of the Original Project has the potential to disrupt golfing activities. The DEIR erroneously concludes that the potentially significant noise impacts would be mitigated through compliance with the City's Noise Ordinance, which restricts construction to between the hours of 8:00 a.m. to 6:00 p.m. As this time period is precisely the same as the period of peak golf course activity, the significant impacts on the LACC will remain unmitigated.

The Revised Project includes an even larger building with more balconies adjacent to the course. Thus, the Revised Project will have even greater noise impacts than the Original Project. The revised DEIR must fully analyze these impacts and identify mitigation measures.

5. Cultural/Historic Resource Impacts. The LACC has been in existence since the early 1900's, or longer than the City of Beverly Hills. Over the years the LACC has been used by a number of historically and culturally important figures. It has

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remained a pristine and important oasis of green open space in the midst of an increasingly busy urban area. The DEIR improperly failed to take into account the Original Project's impacts on the LACC's historic setting.

The Revised Project includes an even larger building adjacent to the golf course. Thus, the Revised Project will have even greater impacts on the historic setting than the Original Project. The revised DEIR must fully analyze these impacts and identify mitigation measures

6. Water Supply. Recently a federal court ordered state and federal water project managers to reduce the amount of water pumped from the Sacramento-San Joaquin River Delta to protect the threatened delta smelt from extinction. (NRDC v. Kempthorne, et al., E.D. Cal., 2007) This will reduce the amount of water pumped to Southern California by up to 30 percent (See attached Metropolitan Water District ("MWD") press release), forcing some cities to dramatically cut back on water consumption. We understand that the City of Beverly Hills gets 90 percent of its water from the MWD (*See p. 4.12.1-1*). The revised DEIR must consider the impacts of the reduction MWD water supplies on the availability of water for the Revised Project.

7. Incorporation of Other Comments. We incorporate by reference herein all other public and agency comments to the DEIR.

E. Conclusion

The DEIR must be revised to address the foregoing and recirculated to meet CEQA's public disclosure requirements.

Thank you for your consideration.

Very truly yours,



Mark Armbruster

ARMBRUSTER & GOLDSMITH LLP

cc: O'Malley Miller, Esq.
Ben Howell, Esq.
Dale J. Goldsmith, Esq.
Jonathan Riker, Esq.

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November 13, 2007

VIA FACSIMILE AND HAND DELIVERY

Ms. Donna Jerex
Planning Division
Community Development Department
455 N. Rexford Dr., Room G-40
Beverly Hills, CA 90210

Re: 9900 Wilshire Boulevard Project

Dear Ms. Jerex:

As you know, we represent the Los Angeles Country Club ("LACC"), located at 10101 Wilshire Boulevard, which abuts the above-referenced project along the LACC's entire western boundary. We are writing on behalf of LACC to provide our comments to the Draft Environmental Impact Report Recirculated Air Quality, Noise, and Traffic Sections, SCH 2006071107 (the "Recirculated DEIR").

On Monday, October 29, 2007, we first discovered that the Air Quality, Noise, and Traffic sections of the DEIR, originally circulated from August 8, 2007 until September 28, 2007, had been revised and recirculated for public comment. We understand that the City of Beverly Hills (the "City") requested from the State Clearinghouse a shortened comment period of thirty days for the Recirculated DEIR, beginning on October 12, 2007 and ending on November 13, 2007.¹ Unfortunately, a copy of the Recirculated DEIR was not made available to us until November 6, 2007. Given the time constraints in reviewing the document, we are unable to complete a review of the DEIR by independent technical experts at this time. We therefore reserve the right to submit additional comments when such review is complete. We also incorporate by reference our earlier comment letters respectively dated September 21, 2007 and September 28, 2007 and all other comment letters submitted in this matter.

We appreciate the efforts of the City to partially address the issue of defective traffic counts in the DEIR, raised in our first comment letter to the City, dated September 21, 2007. Unfortunately, the Recirculated DEIR does not address the myriad other

¹ An e-mail correspondence on November 5, 2007, from you to Jonathan Riker of our office confirmed that the public comment period will close on November 13, 2007.

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Ms. Donna Jerex
November 13, 2007
Page 2

deficiencies identified in our prior comment letters. Even with the revisions, therefore, the Recirculated DEIR still fails to meet the letter and spirit of CEQA. It must be substantially revised and recirculated again for additional public comment.

The Recirculated DEIR relies on traffic counts for certain roadway segments taken in June, 2006 that were included in the traffic analysis for the 231-265 North Beverly Drive project. However, these traffic counts were taken over 17 months ago and may not reflect current conditions, as considerable new development has occurred in the project vicinity since the counts were taken. Furthermore, these traffic counts were taken on June 13, June 15, and June 28, 2006. The last day of classes for the Beverly Hills Unified School District was June 15, 2006. In addition, most private schools were on summer break when the counts were taken. Therefore, these traffic counts likely underestimate the actual amount of traffic occurring in the study area on a typical weekday. The Recirculated DEIR's traffic analysis should be further revised using current traffic counts.

In addition, the Recirculated DEIR concludes that although overall traffic volumes increased at certain intersections based on the revised traffic study, the additional analysis in the revised traffic study altered the turning movements at intersections such that certain roadway segments experienced lower average daily trip volumes than previously counted. However, the Recirculated DEIR does not clearly explain which turning movements were altered or why. The traffic analysis must be revised to explain and justify these alterations.

Thank you for your consideration.

Very truly yours,



Mark Armbruster
ARMBRUSTER & GOLDSMITH LLP

cc: O'Malley Miller, Esq.
Ben Howell, Esq.
Dale J. Goldsmith, Esq.
Jonathan Riker, Esq.

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January 24, 2008

VIA HAND DELIVERY

The Honorable Beverly Hills
City Planning Commission
c/o Community Development Department
455 N. Rexford Dr., Room G-40
Beverly Hills, CA 90210

Re: Los Angeles County Club/9900 Wilshire Boulevard

Dear Commissioners:

As you know, we represent the Los Angeles Country Club ("LACC"), located at 10101 Wilshire Boulevard. The LACC abuts the proposed mixed-use project at the above address (the "Project") along its entire western boundary. As set forth in our letter dated September 28, 2007 (copy attached), the DEIR must be recirculated for public comment because the Project applicant made substantial changes to the Project when the Draft Environmental Impact Report ("DEIR") was being circulated for public comment. We recently learned that that applicant has made another substantial change to the Project.

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The City should not tolerate the applicant's continuing "bait and switch" tactics, which violate applicable law and undermine the public's faith in the planning process. For the reasons set forth below and in our prior letter, the DEIR must be revised to reflect the true project and recirculated for public comment.

During a previous Planning Commission meeting on September 24, 2007, the applicant announced that it had discarded the original project described in the DEIR (the "Original Project") in favor of Alternative Five, entitled "Modified Height and Configuration of North/South Buildings," set forth in the DEIR (the "Revised Project"). The FAR for the Revised Project is approximately 2.4:1, which is the same FAR as the Original Project, but greater than the maximum FAR of 2:1 currently permitted on the project site (See DEIR, p. 8.0-75).

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We understand that the recent revisions that the applicant presented to the Planning Commission, increased the FAR to 2.72:1, which substantially exceeds the FAR currently permitted on the site and is a significant change from the Project described in

the DEIR. The resulting additional bulk and mass has the potential to increase the Project's already substantial impacts on the LACC, including but not limited to aesthetic, shade and shadow, and land use compatibility impacts. This clearly constitutes a significant new information mandating recirculation of the DEIR under CEQA Guidelines Section 15088.5.

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The fundamental purpose of CEQA is to obtain meaningful public input on a proposed project and its environmental impacts. CEQA Guidelines Section 15003. An accurate, stable and finite project description is the *sine qua non* of an informative and legally defensible EIR. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199. An inaccurate and continually shifting project description draws the infamous "red herring across the path of public input." *Id.* at 198. Unless the DEIR is revised and recirculated, the public will be deprived of a meaningful opportunity to comment on the Project and its undeniable significant effects.

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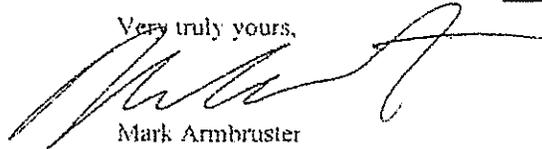
As an additional matter, we had tremendous difficulty obtaining copies of the Draft Specific Plan and Development Agreement, which will be considered by the Planning Commission this evening. Despite requesting these documents from the Planning Department at various times over the past two weeks, we did not receive the documents until two days ago (January 22, 2008). We question whether these documents have received sufficient public scrutiny, and we reserve the right to submit further comments on these documents once we have had adequate time to review them.

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We were also shocked and dismayed to learn, after the fact, that there was an ad hoc committee meeting held today regarding the project. We had verbally requested notice of this meeting but received none. We are concerned that failure to notify the public of this meeting violates due process. To avoid any further violations, we respectfully demand advance notice of all future ad hoc committee meetings.

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Very truly yours,



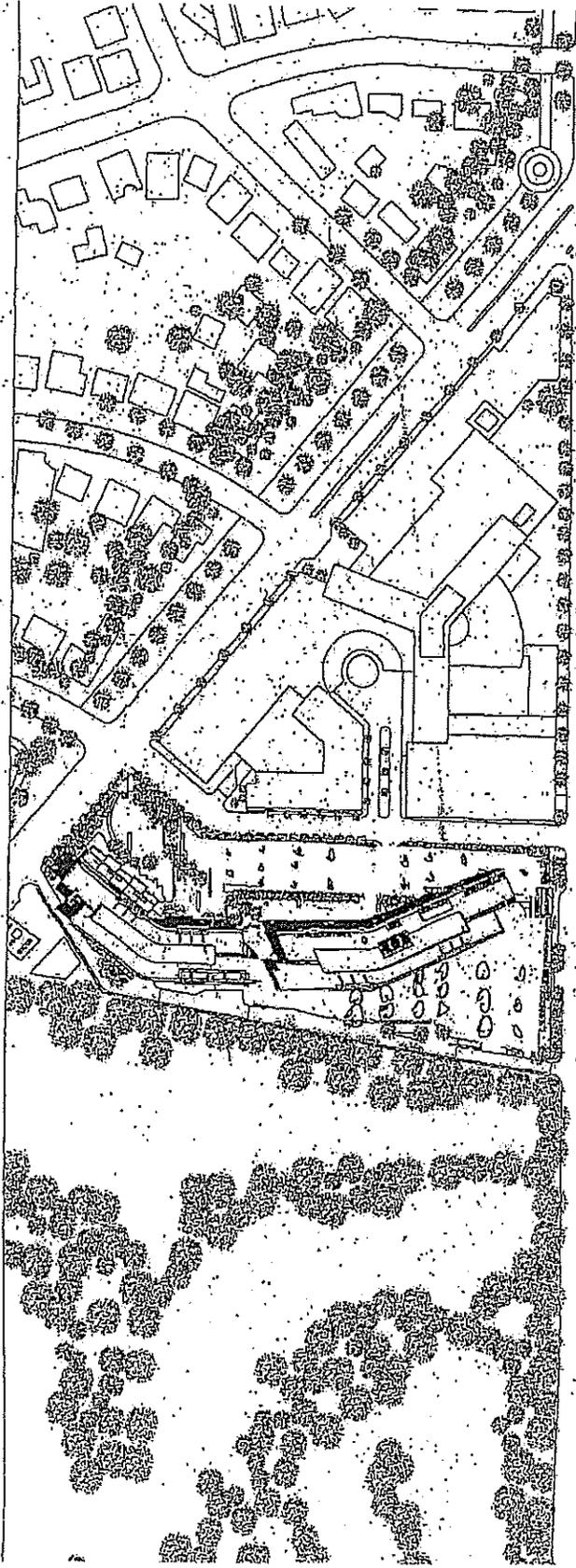
Mark Armbruster

cc: Dale Goldsmith
City Council
City Manager
City Attorney
City Planning Department

EXHIBIT B: Drawing of Proposed Alternative with Increased Setback

EXHIBIT C: Drawing of Proposed Alternative with Reversed Orientation of the South Tower

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RICHARD W.



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EXHIBIT D: Legal Memorandum from Armbruster and Goldsmith

MEMORANDUM

ARMBRUSTER &
GOLDSMITH LLP

DATE: March 11, 2008

TO: VIA HAND DELIVERY
The Honorable City Council
of the City of Beverly Hills

FROM: Mark Armbruster
Dale J. Goldsmith

SUBJECT: Legal Inadequacy of the EIR for the 9900 Wilshire
Project (SCH No. 2006071107)

The following summarizes our comments, provided on behalf of our client Los Angeles County Club ("LACC"), to the Final Environmental Impact Report ("FEIR) for the proposed high rise mixed project (the "Project") at 9900 Wilshire Boulevard, Beverly Hills, California. These comments are in addition to the comments of LACC's team of technical experts which are attached hereto.

D-1

1. The EIR Contains an Inadequate and Misleading Project Description.

The fundamental purpose of the California Environmental Quality Act ("CEQA") is to obtain meaningful public input on a proposed project and its environmental impacts. CEQA Guidelines Section 15003. An accurate, stable and finite project description is the *sine qua non* of an informative and legally defensible EIR. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199. An inaccurate and continually shifting project description draws the infamous "red herring across the path of public input." *Id.* at 198.

D-2

Contrary to the clear requirements of CEQA, the Project description has been in constant flux since the Draft Environmental Impact Report ("DEIR") was released to the public in August, 2007. The Project as described in the DEIR consisted of 252 condominiums in two, 12-story, 144-foot¹ tall condominium towers and a 4-story loft building, including a total of 19,856 square feet of commercial space to be developed at a floor area ratio of 2.4 to 1.

During a City Planning Commission meeting held on September 24, 2007 (before the comment period for the DEIR had closed), the Developer announced that it had discarded the original project described in the DEIR in favor of a revised project

D-3

¹ All building heights in this memorandum are as described in the DEIR and FEIR. The actual height of the South Tower is 205 feet as measured from adjacent grade.

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described as the Alternative 5, "Modified Height and Configuration of North/South Buildings" set forth in the DEIR. Under this alternative, the height of the north condominium tower was decreased from 144 feet to 108 feet, but the height of the south tower increased from 144 to 180 feet. The increased height of the south tower will result in greater impacts to the LACC, including shade and shadow, aesthetics, and land use compatibility.

D-3

In October 2007, the City recirculated the air quality, noise and traffic sections of the DEIR. However, the recirculated DEIR failed to acknowledge the substantial change to the Project description.

Over the last few months, the Project description has continued to change. It has been very difficult to follow these changes, since they were usually announced verbally at the Planning Commission meeting or at the un-noticed Ad Hoc Committee meeting.

According to the City Planning Commission's Resolution to the City Council Recommending Certification of the DEIR (the "Resolution") (pp. 5-6), the current Project being considered by the City Council includes a 185-foot tall (205 feet above grade) South Tower (a 28.5% increase over the original DEIR Project), a 161-foot tall North Tower (an increase of almost 12% over the original DEIR project and over 49% beyond alternative 5), and an FAR of 2.66:1 (an almost 11% increase over both the DEIR project and alternative 5; the increase in mass of the towers is even greater since the floor area of the original loft buildings was incorporated into the towers.) The additional height, bulk, and mass of the current Project before the City Council has the potential to increase the Project's already substantial impacts on the LACC, including but not limited to aesthetic, shade and shadow, and land use compatibility impacts.

D-4

Incredibly, however, the Project description in the FEIR is the exact same as in the Draft EIR. Moreover, none of the analysis in the EIR has been revised to reflect the significantly taller and denser project. This has caused confusion and deprived the public of a meaningful opportunity to comment on the Project and its impacts. The EIR must be revised and recirculated to reflect the actual Project before the City Council.

D-5

2. Taking a Trip Credit for the Long Vacant Robinson's May Department Store Creates a Distorted Baseline that Understates Project Impacts.

The DEIR is fundamentally flawed because it took impermissible credit for the Robinsons-May store when determining baseline conditions. Under CEQA, an EIR's description of the existing physical environmental conditions should be used as the baseline for determining whether impacts are significant. Existing conditions are determined as of the time the notice of preparation ("NOP") is published. CEQA Guidelines Section 15125(a).

D-6

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In this case, the City published the NOP on July 21, 2006. The Robinson's May department store has been vacant since about March 2006. Therefore, the existing conditions at the time of the NOP did not include any trips from the then vacant Robinson's May building. Therefore, the credit for the non-existent use results in an artificially depressed baseline for measuring the Project's traffic, air quality, noise, public service and utilities impacts.

D-6

For example, based on the credit, the EIR's traffic analysis concludes that the project will generate *negative* daily and mid-day, p.m. and weekend trips. However, the project will actually generate a substantial number of new trips that will increase congestion and delay at study intersections and street segments. The taking of the credit for the discontinued Robinson's May use understates both Project trip generation and the future plus project conditions at study intersections and segments.

3. The Traffic Analysis Substantially Undercounts Project Trips.

The analysis also used an improperly low traffic generation rate for the condominium portion of the project (3.55/du daily, .28/unit a.m. peak, and .33/unit p.m. peak). This rate was based on trip counts at a group of six mostly older traditional condominium buildings in the area. These buildings are not comparable to the Project and are therefore not representative of Project trip generation.

D-7

According the Developer's website, the Project will "set a new standard in development and residential living in Beverly Hills." At an FAR of 2.66 to 1, the average size of the 235 units is over 3,900 square feet, with some units as big as 7,500 square feet. Thus, the units will actually be larger than the single family homes to the north across Wilshire Boulevard. Single family homes are typically larger than condominiums and are thus more likely to be occupied by multiple drivers. Empirical data from the Institute of Traffic Engineers shows that single family homes generate 9.57 daily, 0.75 a.m. peak hour and 1.01 p.m. peak hour trips. Given the extraordinary size of the Project units, they more closely resemble single family homes than traditional condominiums. The single family trip generation rate is therefore the appropriate rate.

D-8

Moreover, as set forth in various newspaper articles, the Developer paid \$500 million, or about \$2.13 million per unit, to purchase the Project site. Again, according to the Developer's website, the Project will "be a full service residential development with private elevators to every unit, doormen, concierge and valet services," setting a new standard of luxury. Therefore, the Project units will be affordable to only the super rich. It is likely that the affluent owners of the units will employ large staffs of domestic personnel and other help to look after their huge luxury units. This will result in additional trips not generated by typical condominiums.

D-9

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4. Additional Mitigation is Necessary to Validate the Air Quality Analysis.

As set forth in the technical letter from Air Quality Dynamics, the air quality analysis in the EIR is predicated on construction hours limited to 8:00 a.m. to 4:00 p.m., or only 8 hours, Monday to Friday, with only 2 acres of the site disturbed at any one time. However, page 4.8-26 of the Draft EIR states that Project construction hours would be between 8:00 a.m. to 6:00 p.m. "and may also be performed during extended hours if required." Either a mitigation measure must be provided, limiting the hours to 8:00 a.m. to 4:00 p.m. without exception and limiting the amount of disturbed area to 2 acres per day, or the air quality analysis must be revised to reflect extended construction hours and scope.

D-10

5. The EIR's Air Quality Analysis does not Adequately Address Potential Impacts to the LACC Due to Exposure to NO₂ During Project Construction.

As set forth in the technical letter from Air Quality Dynamics, the results of a subsequent air dispersion analysis of potential construction-related impacts to the LACC indicate that concentrations of NO₂ would exceed California Air Quality Resources Board air quality standards. Because individuals who use or maintain the course would be exposed to such concentrations, there is a potential to aggravate chronic respiratory disease and symptoms in sensitive individuals. Therefore, a significant impact not previously disclosed in the EIR would result. This is significant new information under CEQA Guidelines Section 15088.5, and as a result, the EIR must be revised and recirculated.

D-11

6. The EIR's Water Supply Analysis does not Adequately Address Potential Shortages to the City's Water Supply.

In determining that the Project would result in a less than significant impact on water demand, the EIR did not account for recent court-mandated reductions in the amount of water pumped from the Sacramento-San Joaquin River Delta to protect the endangered delta smelt fish from extinction. As a result of this decision, the Metropolitan Water District ("MWD") estimates that water supplied from the Delta will be reduced by up to 30 percent. In addition, water supply from the Colorado River is reduced due to drought and other factors. The City of Beverly Hills receives 90 percent of its water from the MWD (DEIR, p. 4.12.1-1). Therefore, the current and future reductions in water supply from MWD will have a disproportionately greater impact on the City and render the City's Urban Water Management Plan, which assumes no reduction in MWD supplies, essentially meaningless.

D-12

CEQA requires an EIR to provide substantial evidence of a "reasonable likelihood" that water will be available to supply a project's demands over the long term. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007)

D-13

ARMBRUSTER & GOLDSMITH LLP

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40 Cal.4th 412. To address the above-stated deficiency to Project water supply, the FEIR cites an MWD news release that outlines plans for the MWD to purchase additional water through transfers with Central Valley sellers in California (FEIR, p. 3.1-116). This news release is the primary justification cited in the FEIR to conclude that water impacts will remain unchanged (FEIR, p. 3.1-117). However, citations from an uncorroborated news release do not meet CEQA's exacting requirements to identify water supplies with a "reasonable likelihood" of availability. Even if completely accurate, the news release in no way suggests that all or even a portion of the purchased water will be allocated to Beverly Hills, or would be sufficient to offset reductions in supplies from the Delta. Therefore, the response in the FEIR is inadequate, and the DEIR must be revised to consider the impacts of the reduction of MWD water supplies on the availability of water for the Project.

D-13

EXHIBIT E: Letter from Michael Hurdzan of Hurdzan/Fry Golf Course Design, Inc.



HURDZAN • FRY

Great Golf by Design

March 6, 2008

Mr. Mark Armbruster
Armbruster & Goldsmith, LLP
10940 Wilshire Blvd., Ste 2100
Los Angeles, CA 90024

Re: Review of Shade and Shadow Analysis in the EIR for the 9900 Wilshire Project

Dear Mr. Armbruster:

At your request, I have reviewed the Draft and Final Environmental Impact Report (EIR) and related documents related to the 252 –unit condominium tower project proposed at 9900 Wilshire Boulevard, Beverly Hills, California. The purpose of my review was to determine whether the EIR adequately analyzes the proposed project's shade and shadow impacts on the greens and fairways of the adjacent Los Angeles Country Club. Based on my review of the EIR and related pertinent information, including my familiarity with the Country Club's golf course, it is my expert opinion that the EIR's shade and shadow analysis is deeply flawed and fails to disclose the project's potentially significant shade and shadow impacts on the golf course.

Introduction.

For most people shade and/or shadow mean a reduction in light, but to scientists who study the influences of light, these terms connote complex microclimates that can particularly and variously affect plants growing in them. These distinctions and clarifications are not only important to understand when evaluating EIR and related reports that purport to analyze the shade and shadow impacts that the proposed project at 9900 Wilshire will have on Los Angeles Country Club's 16th hole, but also in accurately assessing the real impacts that should be expected to occur.

Shade and shadow are generic terms to describe diminishment of visible light regimes, and these terms are satisfactory for everyday conversation, but are far too imprecise to permit understanding their influence on living biological systems, especially plants. Photobiologists, and especially plant physiologists, more accurately define shade and shadow by specifying the quantity, quality, total energy, duration, and balance between small segments or wavelengths of electromagnetic energy, both in the visible and invisible ranges. The complexity of relating

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American Society of Golf Course Architects

various permutations of "shade and shadow" to plant response can be a lifetime study. Therefore, I will reduce this discussion to a more basic level to permit folks without extensive knowledge in this area to understand the weaknesses of the information and reports presented so far in the 9900 Wilshire and Los Angeles Country Club situation.

Energy from the sun is electromagnetic energy and it covers a very wide range of frequencies and wavelengths that range from 0.001 nanometer (nm) up to more than a billion nanometers. Our eyes are only sensitive to a small ban of that radiation that occurs between about 400 nm (blue light) and 700 nm (red light) that is called visible light. As children we learn that sunlight passing through a prism reveals the colors that make up that white light, and that is how rainbows are made. That can be represented by the simple graph below. (see figure 1)

Electromagnetic Spectrum

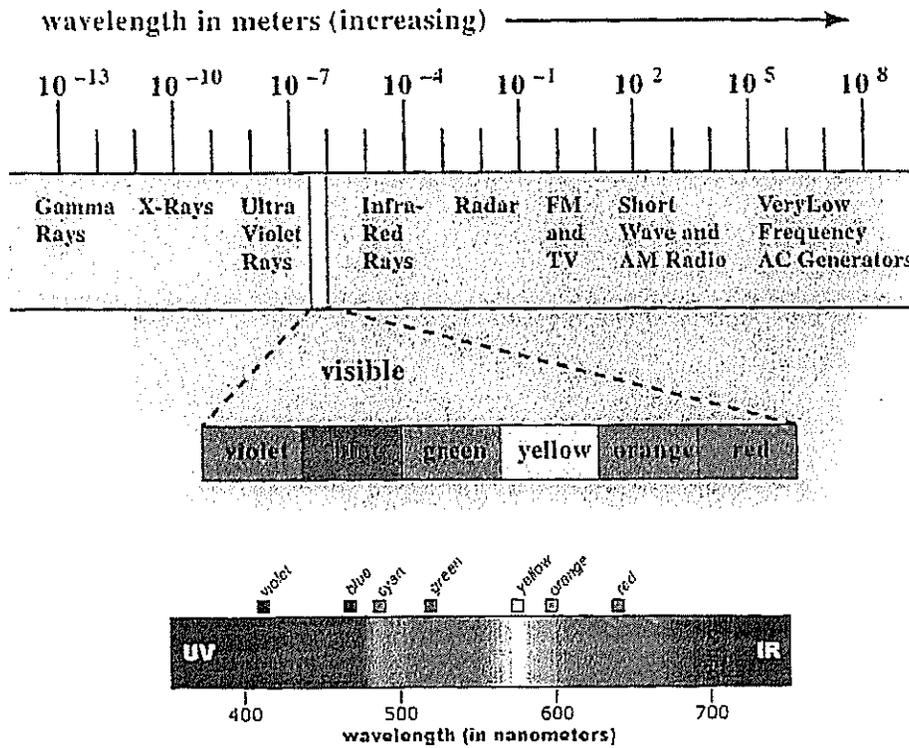


Figure 1
The electromagnetic spectrum showing the small ban of visible white light and its constituent colors and wavelength in nanometers.

Although our eyes are limited to the visible spectrum, plants may be sensitive to a far broader range of electromagnetic energy outside the visible spectrum that can influence plant functions. For example the flowering response was one of the first functions identified as controlled by the length of light and dark periods as well as the ratio of red to infrared light. In fact, recent research is showing the red to far red interaction may be much more important in many more turfgrass functions than previously thought.

Full sunlight is considered a complete spectrum having a rather evenly distributed array of all wavelengths in the visible spectrum. However, various shades and shadows may be made up of selected wavelengths or ratios between various colors as determined the source of shade or shadow and not simply less intense sunlight. For simplicity I have graphed out a relative balance of energy and wavelengths that compose full sunlight, canopy shade from a broadleaf tree, and building shade, which is sometimes called diffuse skylight (see Figure 2).

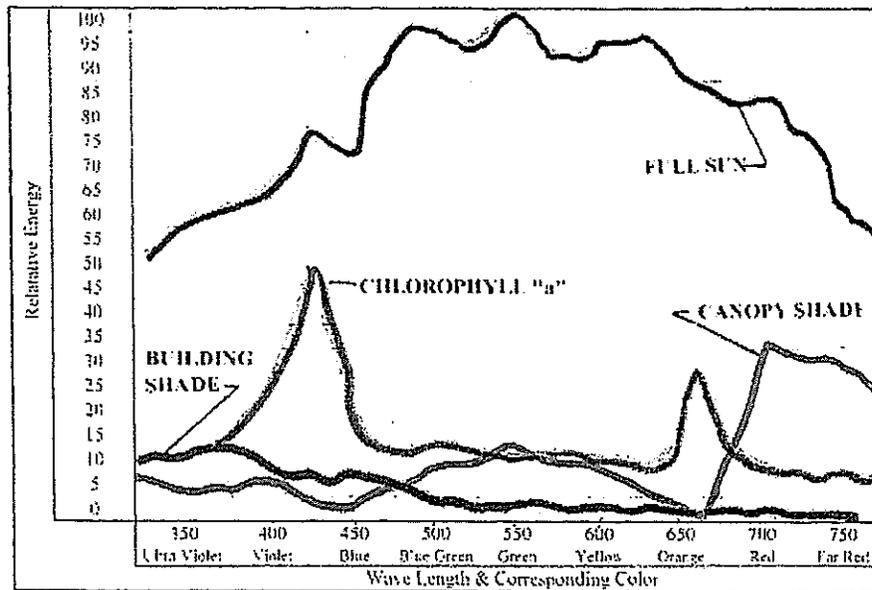


Figure 2
Graph showing relative energy and wavelength distribution between full sun (black and orange), canopy shade (red), building shade (blue-yellow) and the absorption for chlorophyll "a" (green).

Also in Figure 2 is the absorption curve for chlorophyll "a" one of the main receptor pigments in plant photosynthesis. Chlorophyll "a" has two peaks one at 430 nm (blue) and the other 660 nm (red). When we see a green plant we are seeing the absence or reduction of blue and red wavelengths that have been absorbed by the plant while the green wavelengths which are reflected by the plant come to our eyes. (Although photosynthesis is perhaps the most well known plant processes requiring light, plant physiologists know there are many more equally important process that required light or light triggers besides photosynthesis.)

Notice in Figure 2 that sunlight is near 100% relative energy and shade lights are comparatively much lower in energy. Also notice that plant canopy shade has not only more relative energy than building shade but it also has much more red and fared wavelengths, while building shade has more blue and almost no red light. This is significant to the plant and how that plant will grow and develop (see Figure 3).

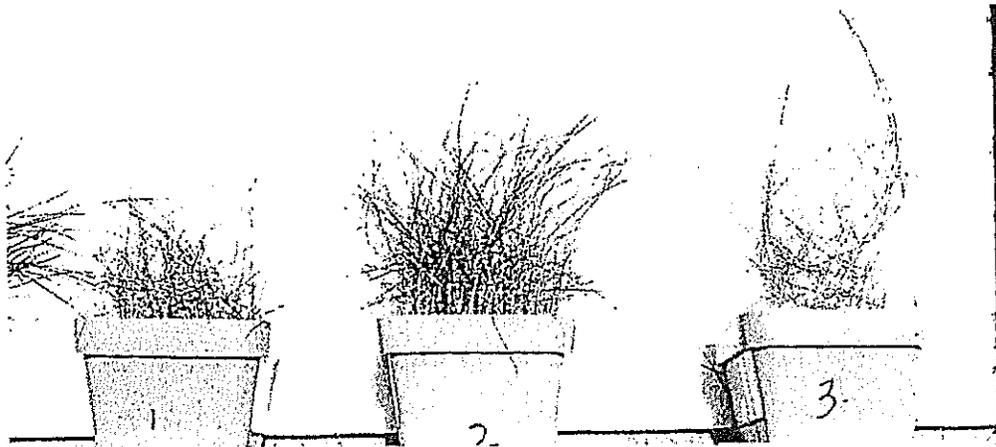


Figure 3

Each of these three samples is of the same genetic material grown in three different light spectrums but of equal total energy, representing canopy shade (#1), full sun (#2), and building shade (#3). Notice the full sun (#2) plants are dense, dark green and vigorously growing to withstand golf course wear, pests, and stresses. Canopy plants (#1) which are thin and lighter green and less able to handle golf course stresses. Building shade plants are thin, spindly, anemic and lack the ability to withstand traffic compared to the other two treatments, and make a very poor turf cover for any use.

The reason is that tree canopy shade is a product of full sunlight that has been reflected, diffused transmitted, absorbed and re-radiated by the tree parts. This is most true of deciduous trees while coniferous or pine trees are more like building shade.

Building shade is only diffuse skylight because the building blocks or reflects all wavelengths of light and allows none to pass. Skylight is sunlight that has been scattered, absorbed and dispersed by water and dust in the air, and since blue wavelength are shorter they are less susceptible to this alteration or absorption than other longer red wavelengths, and we see the blue. This is why the sky looks blue.

Before evaluating the EIR's analysis of shade and shadow impacts of the proposed project at 9900 Wilshire Boulevard on Los Angeles Country Club, one must also realize that various shade microclimates are not just a matter of altered light quality and quantity. These shade microclimates can also have significantly different influences on other important plant growth factors, including air temperature, soil temperature, relative humidity, soil water, dew point, wind direction and strength, all of which acting together and independently have an influence on plant growth. These influences involve another entire field of study called ecology. Some plants and organisms are better adapted or prefer these shade conditions over full sun microclimates. Golf course turf is selected for and prefers full sunlight. Typically golf course turf pests are more readily found in shade than full sun. These include diseases like powdery mildew and rusts, to weeds like Poa annua and mosses, and several insect species.

In summary,

- ❖ Golf course turf does best in full sunlight where it can:
 - Be more photosynthetically active longer each day;
 - Warm up quicker from nighttime cool down;
 - Have drier and hence healthier soil and air conditions;
 - Better to resist pests through natural defenses; and
 - Handle traffic and mowing stress.

- ❖ Plant or deciduous canopy shade:
 - Generally has more radiant energy usable by turf grass than building shade, albeit in lesser quantities than full sun;
 - Is rich in the red and far red wavelengths important to photosynthesis; and
 - More closely resembles the spectral qualities of sunlight as compared to building shade.

- ❖ Building shade is:
 - Generally diffuse skylight and has less useful radiant energy for plants;
 - Concentrated more in the blue/green wavelengths with little or no red and far red wavelengths; and
 - Less valuable for photosynthesis and most other light driven reactions in plants.

❖ Shade environments:

- Warm up slower in the morning than full sun environments;
- Have lower temperatures both in the air and soil;
- Increase the time moisture is on the plant;
- Decrease wind velocities compared to the open;
- Favor turf grass pests over the turf;
- Alter the structure of the plant, making it less wear resistant; and
- Are often characterized by wetter soil and air conditions

Shade and Shadow Diagrams Prepared By Impact Sciences in the Draft EIR

Section 4.1.3 of the Draft EIR includes shade and shadow diagrams that measured shade in an almost generic fashion. These diagrams show only relative patterns of sun and shade, and fail to evaluate specific influences of shade microclimates on the physiology and morphology of plants growing there. Therefore, it is my expert opinion that the shade and shadow analysis in the Draft EIR did not address and has no relevance to the real issue in this matter: the building shade or diffuse skylight that will be caused by the construction of 9900 Wilshire and its impact on the Country Clubs golf course turfgrasses. In addition, the Draft EIR's shade and shadow diagrams assumed the proposed structure at 9900 Wilshire would only be 165 feet high. In fact, the proposed height of the South Tower is approximately 205 feet, as measured from Santa Monica Boulevard, and will cast correspondingly longer shadows.

Page 4.1.3-6 of the Draft EIR cites the following threshold of significance for shade and shadow impacts: "SS-1 Would the project create a new source of shade or shadow which would adversely affect existing shade/shadow sensitive structures or uses?"

In my expert opinion, because the subject EIR failed to consider the spectral quality and quantity of the shade or shadows, and the corresponding negative impacts on other microclimatic factors that influence turfgrass growth, the EIR reached an erroneous conclusion. Considering the physiological and morphological impact of shade, especially building shade on the turf grass, I can only conclude there would be a new source of shade or shadow adversely affecting shade/shadow sensitive structures and uses and therefore a significant impact under the above significance threshold.

LA CEQA Thresholds Guide for Aesthetic and Visual Resources Prepared by the City of Los Angeles, California, 2006.

The significance threshold in the Draft EIR does not include any quantifiable standards to determine an adverse impact. The Final EIR suggests that no such impact exists based on the more quantified standards of the *City of Los Angeles CEQA Thresholds Guide* because the 9900

Wilshire project would not cast shadows on the golf course for more than three hours in the winter. However, the general City of Los Angeles standard does not take into account the spectral quality and quantity of the shade or shadows that result in a significant impact on the golf course. The three hour standard is therefore is not appropriate to measure the true impact on the golf course. The Los Angeles *CEQA Thresholds Guide* itself expressly states that its thresholds are not universal or ironclad indicators of significant impacts. The *Thresholds Guide* provides that because “evaluation practices continue to evolve due to changing regulations, scientific methods, and court decisions, the project evaluator and lead City agency should always use the best information and evaluation methods available, including those from sources other than the *Thresholds Guide*.” Thus, the *Thresholds Guide* itself calls for using the methodology set forth in this letter to analyze shade and shadow impact on the golf course.

Shade and Shadow Study -The Los Angeles Country Club Prepared by Golf Ventures, International, April 2005

This study was headed in the right direction of measuring light impacts on plant growth but failed to produce a valid study because it used an instrument that was called a Quantum Light Meter. While capable of estimating in the visible spectrum, this instrument was not equally sensitive across the visible spectrum and favored the longer or redder wavelengths. The instrument lumped all wavelengths together to yield a combined total energy that ignored the importance of specific wavelengths or the balance between specific wavelengths. To the credit of the manufacturer of the Quantum Light Meter, they make no bones about their product and its weaknesses (see Figure 4 below).

Understanding how quantum meters work

measure photosynthetic energy in light

QUANTUM SENSOR RESPONSE

Spectral response. An ideal quantum sensor would give equal emphasis to all photons between 400 and 700 nm and would exclude photons above and below these wavelengths. The response of such a sensor is shown in the adjacent graph below. The most accurate way to measure this radiation is with a spectroradiometer, which costs over \$15,000. However, quantum meters that approximate the ideal response with filters are commercially available for under \$1000. These meters are accurate to within about $\pm 3\%$ for common light sources.

The spectral response of the Sensor used in Quantum Meters and the Quantum Sensor is shown at right. As the figure indicates, the sensor underestimates the 400 to 500 nm wavelengths (blue light), overestimates the 550-650 wavelengths (yellow and orange light), and has little sensitivity above 650 nm (red light). Fortunately, common light sources are mixtures of colors and the spectral errors offset each other. The sensor measures green light (500-550 nm) accurately, so it can be used to measure the radiation inside and at the bottom of plant canopies.

Contents:
[Quantum Sensor Response](#)
[Electric Light Calibration](#)
[Cosine Response](#)
[Temperature Response](#)
[Long-Term Stability](#)
[Test Results](#)
[Frequently Ask Questions](#)

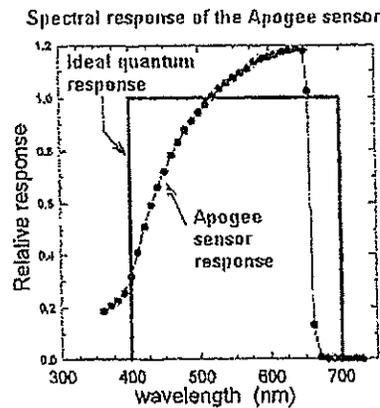


Figure 4

Explanation Taken from Quantum Light Meter Website

As their website states in the second paragraph, "The spectral response of the Sensor used in Quantum Meters and the Quantum Sensor is shown at right. As the figure indicates, the sensor underestimates the 400 to 500 nm wavelengths (blue light), overestimates the 550-650 wavelengths (yellow and orange light), and has little sensitivity above 650 nm (red light).

The peak light absorption for chlorophyll "a" as shown in Figure 2 is at 430 nanometers and again at 660 nanometers. The Quantum Light Meter underestimates light energy near the 430 peak area and misses the 660 peak altogether, as well as the critical far red light at 700 nanometers and up. The point is that the Quantum Light Meter is fine for what it was mostly intended: to measure and balance artificial light levels or under shade cloth in greenhouses and

plant nurseries. However, it is not appropriate to measure small increments of electromagnetic energy that are critical to determining impacts on plant growth. The critical issue is not just the total amount light energy available after construction the proposed 9900 Wilshire buildings, but rather the distribution of spectral energy within that light energy. Therefore, it is my expert opinion the Quantum Light Meter data is not pertinent to determining significant shade and shadow impacts on the golf course.

ArborCom Study Report

The ArborCom Study Report prepared on behalf of the Los Angeles Country Club was not intended to measure the distribution of spectral energy that is critical to determining impacts on the golf course. That study report did, however, acknowledge the extreme importance of morning light penetration compared to shade impacts during other times of the day. Turf specialist and agronomists generally agree the morning shade contributes more heavily to turf stress than other times because of a complex of factors. For example, the morning shaded turfgrass plant is unable to begin light driven growth processes such as photosynthesis until later in the day, thus reducing its ability to maximize its production and storage of energy through carbohydrate production. In contrast, shade adapted weeds with lower minimum light threshold will be less affected by morning shade and can gain an advantage over the turfgrass. In addition, morning shade keeps temperatures depressed longer, thereby retarding the shaded turfgrass plant in its temperature sensitive and critical function, particularly in spring and fall for warm season grasses like the Bermuda grass used at LACC.

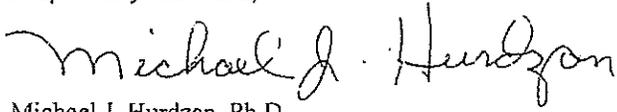
Summary

The EIR for the 9900 Wilshire Project reviewed did not address the impacts of spectral light shifts that the two condominium towers proposed along the east side of the South Course at Los Angeles Country Club, will have on plants growing there. The Sheppard Mullin letter of 13 December 2006 was a good summation of bad information. It is not possible to compare equally tree or canopy shade to building shade, nor the higher elevation microclimate of the 6th hole to the lower elevation microclimate of the 16th hole, nor for GVI (Golf Venture International) to "...conclude that the Project would not have a significant shadow or biological impact on the 16th hole." The reason is that nothing in the EIR or elsewhere in the record measured or addressed the most critical parameters that could be caused by the proposed 9900 Wilshire project. Instead the EIR relied on inaccurate or inappropriate instruments that provided inaccurate data and then tried to draw scientific conclusions.

Any homeowner who has lawn areas both in the shade of trees and the shade of a building knows how much more difficult it is to grow a healthy, wear resistant lawn in the shade of a structure.

I am prepared to discuss the information in this letter in greater detail upon request.

Respectfully submitted,



Michael J. Hurdzan, Ph.D.
Hurdzan/Fry Golf Course Design, Inc.

Enc resume

EXHIBIT F: Letter from Arthur Kassan, P.E.

ARTHUR L. KASSAN, P.E.
Consulting Traffic Engineer

March 10, 2008

Honorable Mayor and Members of the City Council
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

Subject: Proposed 9900 Wilshire Boulevard Project
Environmental Impact Report

Dear Honorable Mayor and Members of the City Council:

On behalf of The Los Angeles Country Club, I have reviewed the following components of the environmental documents for the 9900 Wilshire Project:

- *Draft Environmental Impact Report, Volume I*, particularly "Section 4.11, Transportation, Traffic, Parking, and Circulation" and "Section 8.0, Project Alternatives", August 2007
- *Draft Environmental Impact Report, Volume III – Appendices*, particularly "Appendix 4.11, Traffic Study for 9900 Wilshire Project", August 2007
- *Draft Environmental Impact Report, Recirculated Air Quality, Noise and Traffic, Volume I*, "Section 4.11, Transportation, Traffic, Parking, and Circulation" October 2007
- *Final Environmental Impact Report*, particularly "Section 3.0, Comments and Responses to Comments" and "Section 4.0, Corrections and Additions to the Draft EIR", February 2008

F-1

As an introduction, I am a Registered Traffic Engineer and Registered Civil Engineer in the State of California. I have over 47 years of traffic engineering experience, with the past 38 years as a consultant to developers, cities, and neighborhood organizations. I have participated in the preparation of and the review of several hundred environmental studies for projects throughout California, including within the City of Beverly Hills.

Following are my comments on the 9900 Wilshire Project environmental documents.

1. **Considering their physical proximity and the coincidence of their completion dates, the 9900 Wilshire Project and the Beverly Hilton Revitalization Project should be analyzed as a single project for environmental impact study purposes.**

F-2

Both development sites are within the triangle bounded by Wilshire Boulevard, Santa Monica Boulevard, and the Beverly Hills City Limit. The street separating the two sites, Merv Griffin Way, is a private street with the primary purpose of providing access to the two sites, as if it were an on-site driveway. Each development has the proposed completion date of the year 2012. Therefore, the traffic impacts of the two developments on the surrounding public street network will be as if there was a single development on the entire triangular site. The public driving past the site and observing the construction of the developments and, later, experiencing the traffic impacts of the developments will not be able to distinguish between them and to allocate responsibility to one or the other. The public will

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experience the entire triangle of development as if were a single entity with meaningful traffic impacts.

The City of Los Angeles Department of Transportation, in their letter of November 13, 2007, expressed the following, "However, given that both projects are located immediately adjacent to each other and share the same 2012 build-out year, the traffic impacts of both projects will in effect occur simultaneously. As such, it is LADOT's opinion that additional analysis is warranted to investigate the cumulative impact of these two projects as if they were one." [Final EIR, page 3.1-256]

The City of Beverly Hills thresholds of significance for traffic impacts are incremental project traffic increases that will result in increases to the volume/capacity ratios at signal-controlled intersections of either 0.040 with operations at Level of Service D or of 0.020 with operations at Level of Service E or F. By treating the two projects separately, the incremental increases in volume/capacity ratios for each would be less likely to exceed the significance thresholds. However, if the two projects were properly analyzed as a single combined project, there would certainly be significant impacts at several intersections. Mitigation of the impacts could be the responsibilities of the two developments on a shared basis.

2. The routing of development traffic to and from the north is not consistent with realistic traffic flow patterns.

The DEIR traffic analysts have estimated that drivers leaving the development to head north and drivers approaching the development from the north would use Beverly Drive through the Business Triangle, turning at the Wilshire Boulevard/ Beverly Drive intersection. [DEIR Volume I, Figure 4.11-6, page 4.11-28] Considering the many businesses along Beverly Drive that result in slow-moving traffic, pedestrian crossings, and parking maneuvers, it is unrealistic to assume that a resident of the development will not find it quicker and more efficient to use the Whittier Drive – Elevado Avenue – Beverly Drive route between the site and the north. That route would add a minimum of 7% of the development traffic to Elevado Avenue, west of Beverly Drive, and to Whittier Drive, south of Elevado Avenue.

A revised analysis should be made of the impacts on residential streets – Whittier Drive and Elevado Avenue, in particular – using the more efficient and realistic route.

3. The routings of development traffic to the south and to the east are not realistic.

The traffic analysts have routed traffic leaving the site and heading south by way of Wilshire Boulevard to Beverly Drive. [DEIR Volume I, Figure 4.11-6, page 4.11-28] Most development drivers will wish to avoid the business traffic, pedestrians, and complex traffic signals along Wilshire Boulevard. They will use a more efficient route by way of southbound Spalding Drive from Wilshire Boulevard to the signal-controlled intersection at Olympic Boulevard and then turn left toward Beverly Drive or other north-south streets. On their return toward the development, those drivers will turn from Olympic Boulevard to northbound Linden Drive in order to reach a signal-controlled intersection at Wilshire Boulevard and then turn left toward the development.

F-2

F-3

F-4

In the Draft EIR is a statement that the analysts routed some of the traffic to and from the east along Olympic Boulevard, although the majority of the traffic to and from the east would use Wilshire Boulevard. [DEIR Volume I, page 4.11-27] However, the "Project Trip Distribution" figure shows none of the east-oriented development traffic using Olympic Boulevard, while 7% has been routed by way of Wilshire Boulevard and 11% has been routed by way of Burton Way. [DEIR Volume I, Figure 4.11-6, page 4.11-28] Ignoring Olympic Boulevard as a preferential routing compared with business-lined Wilshire Boulevard is not realistic. It can be forecast that many residents of the development will quickly learn to use the Olympic Boulevard-based route described in the paragraph above.

F-4

A revised EIR traffic study should include analysis of the impacts of development traffic at the Olympic Boulevard/Spalding Drive intersection with the development traffic routes described above.

- 4. The 1% annual traffic growth rate is too low to account for traffic increases due to unspecified future projects and projects outside of the study area that will contribute traffic to the study area streets.**

F-5

Considering the entirety of the growth patterns in the West Los Angeles sub-region that includes Beverly Hills, West Hollywood, and Santa Monica, the City of Los Angeles Department of Transportation has adopted a 2% annual growth rate for analysis of developments in that City. A similar growth rate should be used in this study and other studies of developments within Beverly Hills.

- 5. The proposal to add two lanes to eastbound Wilshire Boulevard on the approach to Santa Monica Boulevard may not be feasible, and without those added lanes, the analysis of impacts will be different from the results in the EIR.**

Currently, the eastbound approach of Wilshire Boulevard, adjacent to the Beverly Hilton site, has a total of four lanes – one left-turn lane, one combination left-turn and through lane, one through lane, and one combination through and right-turn lane.

F-6

The improvement of Wilshire Boulevard is "... proposed as part of the 9900 Wilshire Project or the Beverly Hilton Revitalization Plan, or [is] proposed jointly: ... Reconstruct the Wilshire Boulevard eastbound approach to the Santa Monica Boulevard/Wilshire Boulevard intersection to provide 2 left-turn lanes, 3 through lanes, and a right-turn lane only" [DEIR Volume III, Appendix 4.11, page 42] The approach will be expanded from its current four lanes to six lanes, requiring an additional 24 feet of roadway width, approximately.

The additional roadway width will require dedication or acquisition of street right-of-way from the existing Beverly Hilton site. If the as yet unapproved Beverly Hilton Revitalization Plan does not proceed for any reason, that additional right-of-way would not be available for the widening of Wilshire Boulevard. Therefore, it is not proper for the 9900 Wilshire Project analysis to take credit for the additional lanes in their study of future intersection operations.

If the widening does not occur, it is likely that there will be a significant impact at the Wilshire Boulevard/Santa Monica Boulevard intersection as a result of traffic generated by the 9900 Wilshire Project. A new analysis of that potential condition should be undertaken.

F-6

6. The proposed development driveways will be too narrow to accommodate traffic turning from the two high-volume and high-speed arterial streets.

In addition to Merv Griffin Way as an access to the development, the designers have proposed one driveway along the development's Wilshire Boulevard frontage and two driveways along the Santa Monica Boulevard frontage. The Wilshire Boulevard driveway and one of the Santa Monica Boulevard driveways is proposed to be 25 feet wide; the second Santa Monica Boulevard driveway is proposed to be only 20 feet wide. [DEIR Volume I, page 4.11-51] The traffic study analysts have justified those widths as meeting or exceeding the City's Municipal Code requirements.

The City's Code requirements were apparently not written to be applied to large residential developments taking all of their access on high-volume arterial streets. The Code section is appropriate for smaller developments with low volumes of entering and leaving traffic on local, residential streets. The development of 252 units plus retail and a restaurant with over 900 parking spaces on a single site calls for the exercise of engineering judgment in the design of the driveways. The analysts have recognized the potential safety hazard of turning into the Wilshire Boulevard driveway considering the high speeds on the street, and they have recommended an enlarged turning radius for the driveway curb. [DEIR Volume I, page 4.11-51]

F-7

However, although the analysts state that "all project driveways are in accordance with industry and City standards" [DEIR Volume I, page 4.11-51], they will not meet modern "industry" (that is, traffic engineering) design standards. It has been recognized by observation of actual operations at both narrow (20- to 25-foot) driveways and wide (30-foot) driveways that drivers turning onto streets from narrow driveways tend to align their vehicles toward the middle of the driveway in order to have an efficient and comfortable turning radius onto the street. In doing so, they partially block the driveway entry lane, causing entering drivers to stop in the on-street traffic lane to wait for the exiting driver to complete the turn and vacate the portion of the entry lane. (This can be observed by any driver entering or leaving a narrow driveway and does not require an engineering background.) With a driveway width of 30 feet, the exiting vehicle, even though aligned for the comfortable turn, does not block the entry lane, and the entry turn from the street is made safely and efficiently. (The City of Los Angeles Department of Transportation has generally adopted the requirement for 30-foot wide driveways on arterial streets.)

Each of the three development driveways on the arterial streets should be 30 feet wide.

7. The proposed plan for staging construction trucks along Sepulveda Boulevard at Wilshire Boulevard is inefficient and insensitive.

A. Although it is not clearly stated, it appears that the plan is to park the large construction trucks on the Sepulveda Boulevard roadway, rather than in an off-street facility. [DEIR

F-8

Volume I, page 4.11-40] That will result in impacts to traffic flow along Sepulveda Boulevard as the trucks maneuver into and out of on-street parking spaces. Also, there is no assurance that there will be space available for parking the large number of trucks that will be involved in the construction process, as delineated below.

- B. The intersection of Wilshire Boulevard and Sepulveda Boulevard is 2 ¼ miles from the 9900 Wilshire Project site. Trucks heading to the site will have to travel through the congested Westwood area, where vehicle turning movements and high numbers of pedestrians result in several major intersections that operate at low Levels of Service. The Wilshire Boulevard/Veteran Avenue and the Wilshire Boulevard/Westwood Boulevard intersections, for example, are among the busiest in the United States. Due to their sizes, limited maneuvering abilities, and low acceleration capabilities, large haul trucks have more of an impact than cars on traffic flows. Therefore, it is common traffic engineering practice to adjust truck trips to account for the differences from car trips by adjusting the trucks to "passenger car equivalents" (PCE). In this case a PCE adjustment of 3.0 (i. e., one truck trip equals three passenger car trips) would be appropriate.
- C. The Wilshire Boulevard/Sepulveda Boulevard intersection is within the interchange ramp complex for the San Diego Freeway (I-405). Adding numerous trucks to the traffic flows in the interchange area will increase the already existing congestion and complex maneuvering.
- D. The trucks will pass the numerous high-rise residential buildings along Wilshire Boulevard. Most of those buildings have driveways on Wilshire Boulevard, and the frequent trucks will decrease the safety of turns to and from those driveways. That will be in addition to the noise, fumes, dust, and vibrations of the truck passing through the residential area.
- E. According to the traffic study, during the site excavation period of six weeks, there will be 225 to 275 truckloads per day. [DEIR Volume III, Appendix 4.11, page 53] With all truck movements occurring outside of the commuter traffic peak hours, as implied by the mitigation measures [DEIR Volume I, page 4.11-60], there will be only seven hours during which the haul trucks can operate. On the average, there will be as many as 39 trucks per hour traveling along Wilshire Boulevard from Sepulveda Boulevard to the site, or one truck every 90 seconds from 9 AM to 4 PM, each weekday for at least six weeks. That will have significant *qualitative* impacts on the environment along Wilshire Boulevard, if not quantitative impacts.
- F. The construction truck traffic also has the potential to result in cumulative impacts with other on-going construction projects, including the Beverly Hilton Revitalization Project (discussed in item 11, below) and ongoing projects at Wilshire Boulevard and Comstock Avenue, Wilshire Boulevard and Manning Avenue, 10776 Wilshire Boulevard, and several large projects in Century City. The DEIR should have included a quantitative analysis of those cumulative impacts.

F-8

8. The proposed plan for construction worker off-site parking is not realistic.

Construction workers will have to park off-site during the excavation, shoring, foundation construction, and parking garage construction phases. Those phases will encompass approximately 15 months or 1 ¼ years of the total 2-year construction process, according to the DEIR traffic study [DEIR Volume III, Appendix 4.11, page 53]. During that long period, the developers have proposed that construction workers will park at "... the federal government and Veterans Administration sites in West Los Angeles ..." [DEIR Volume I, page 4.11-40].

The federal government site that is referred to may be the site on the south side of Wilshire Boulevard, west of Veteran Avenue. The Veterans Administration site may be at the medical center west of the freeway. Neither of the sites is specified in the reports.

During the excavation phase, there will be 150 workers on-site. [DEIR Volume III, Appendix 4.11, page 53] Although the analysts assumed that construction workers will travel with 1.25 people per vehicle [DEIR Volume III, Appendix 4.11, page 55], that is an optimistically high assumption and does not reflect typical construction worker travel habits. A more realistic average vehicle ridership would be 1.15 workers per vehicle. Therefore, the workers will need a minimum of 130 parking spaces at the remote parking sites. There is no discussion of the availability of surplus parking spaces at the sites, nor is there confirmation that the spaces will be made available to the contractor and sub-contractors for their employees.

The proposed parking sites are 2 ¼ to 2 ½ miles from the construction site. Although shuttle service is proposed [DEIR Volume I, page 4.11-40], the trip between the parking and construction sites will take 10 to 12 minutes in each direction plus the waiting time for the shuttle. As an example, a worker who just misses the shuttle leaving the remote parking will have to wait for it to travel to the construction site, drop-off the workers, and return to the parking site, a duration of 25 to 30 minutes. Construction workers will not consider that convenient, and they will seek more convenient parking closer to the construction site.

Mitigation Measure MM-TRAF -6, as revised in February 2008, calls for the prohibition of construction worker parking except within "designated areas". [Final EIR, page 4.11-70] However, the allowable parking areas are not designated. Therefore, the residents of the neighborhood north of the development site cannot evaluate the potential effectiveness of the measure. If directed by the City Community Development Director, the contractor will be required to hire a security guard to enforce the parking regulations. Considering the extent of the site frontage along Wilshire Boulevard and Merv Griffin Way, there will be many locations at which resourceful workers will be able to enter the site without being detected by a security guard. It is likely that parking in the neighborhood will be a constant source of impact and concern for the 15-month period until the parking garage can be made available.

F-9

9. The estimates of construction worker traffic are significantly understated leading to an underestimate of the impacts of that traffic.

The analysis assumed that construction workers will travel with 1.25 people per vehicle [DEIR Volume III, Appendix 4.11, page 55]. The analysis refers to a "small percentage of the workers" who "may carpool or travel together" [DEIR Volume III, Appendix 4.11, page 55], but it is 20% of all of the workers, which is not small. That is a high assumption that is not warranted by documented experience, and it does not reflect typical construction worker travel patterns. A more realistic average vehicle ridership would be 1.15 workers per vehicle.

During the building construction and finishing phase of approximately 11 months, there will be 500 workers on-site. [DEIR Volume III, Appendix 4.11, page 55] That many workers will arrive and depart in 435 vehicles, at an average of 1.15 workers per vehicle. The analysts have made the assumption that exactly half of the workers will arrive between 7 and 8 AM, and exactly half will arrive between 8 and 9 AM. Similarly, exactly half of the workers will leave the site between 4 and 5 PM, and exactly half will leave the site between 5 and 6 PM. Those are convenient assumptions for minimizing the results of an impact analysis, but they are unrealistic in the real world of major project construction.

In reality, nearly all of the workers will arrive between 6:30 and 8:00 AM, and nearly all will leave between 3:30 and 5:00 PM. During the peak hours for worker traffic, approximately 75% will arrive or depart. That will be approximately 325 worker vehicles in each peak hour. Concentrating the worker arrivals and departures may result in significant impacts at the study intersections, because those workers will park on-site. A more realistic analysis of worker traffic impacts should be conducted.

10. The traffic impact study should be expanded to include intersections along Wilshire Boulevard that may be impacted by the traffic flows to and from the remote construction worker parking sites and the haul truck staging sites.

Worker parking at the proposed remote locations will be near the Wilshire Boulevard/ Sepulveda Boulevard intersection, and haul trucks staging will be at the same intersection. Considering the volumes of those two components of the construction traffic, the traffic impact study should have included analysis of the potential impacts at that intersection and at several others between the parking/staging sites and the project site, such as Wilshire Boulevard/Westwood Boulevard and Wilshire Boulevard/ Beverly Glen Boulevard.

11. The construction at the 9900 Wilshire Project will be simultaneous with and overlapping the construction at the Beverly Hilton Revitalization Project next door.

All of the concerns discussed above – construction truck staging and travel, construction worker parking, impacts of construction worker traffic – will also apply to the large construction project at the hotel site, because both developments are scheduled to open in the same year. That is another justification for treating the two projects within the triangle as if they were one combined project with impacts to be mitigated. Otherwise, each project will be treated as if the impacts will be not significant and not requiring mitigation. The only

F-10

F-11

F-12

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people who will think differently will be the motorists passing the site or traveling on the nearby street network who won't know or care which development is causing the congestion and hazard that they will be experiencing.

F-12

12. Trucks making deliveries to the residences will park along Merv Griffin Way, although there are no parking areas along the roadway.

Trucks serving the two tallest buildings will park in loading areas along the western perimeter road. However, trucks serving the two four-story loft buildings will have to park in traffic lanes along Merv Griffin Way. [DEIR Volume I, page 4.11-54] Merv Griffin Way has two lanes in each direction, and it will serve traffic from both the 9900 Wilshire Project and the Beverly Hilton Revitalization Project. Removing one traffic lane while one or more trucks are parked for unloading and delivering will result in congestion and potential hazard on the private street.

F-13

According to the analysts, "The parking duration of these vehicles would be short with most deliveries occurring within a several minute time period." [DEIR Volume I, page 4.11-54] That is an optimistic and unrealistic projection. Delivering and installing large items, such as furniture or appliances, will take substantial time. Even small item deliveries will take substantial time, because the driver will have to park, identify and walk to the building entrance, wait for an elevator, travel to the appropriate unit, make the delivery and get any necessary signature, and return to the truck. Even in a four-story building, that will be time-consuming.

13. There is no discussion of the locations and operations of guest parking for the residential units.

There is no description of where the residential guest parking spaces will be in relation to the pedestrian entrances for the buildings. Also, there is no description of the method for residents to permit guests to enter the parking garage.

F-14

Thank you for taking the time to read and consider my comments on the proposed development that will have far-reaching impacts in the two adjacent cities. If you have any questions about my comments, please contact me at your convenience.

Very truly yours,

Arthur L. Kassan, P.E.
Registered Civil Engineer No. C 15563
Registered Traffic Engineer No. TR 152

C: Mr. Kirk Reese, General Manager, The Los Angeles Country Club
Armbruster & Goldsmith LLP

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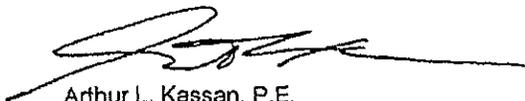
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Very truly yours,



Arthur L. Kassan, P.E.
Registered Civil Engineer No. C 15563
Registered Traffic Engineer No. TR 152

C: Mr. Kirk Reese, General Manager, The Los Angeles Country Club
Armbruster & Goldsmith LLP

EXHIBIT G: Letter from Bill Piazza, Air Quality Dynamics

March 10, 2008

Ambruster and Goldsmith LLP
10940 Wilshire Boulevard, Suite 2100
Los Angeles, California 90024
Attn: Dale J. Goldsmith, Esq.

Re: 9900 Wilshire Project – Analysis of Air Quality Impacts

Mr. Goldsmith:

In response to your request to review available technical documentation associated with the above referenced project and provide comment on our initial review relating to the potential for pollutant emissions associated with construction activities to impact individuals who utilize and/or maintain the golf facilities at the adjoining Los Angeles Country Club (LACC), the following is provided.

To assess air quality related impacts, the applicant utilized the URBEMIS2002 (Version 8.7.0) land use software program to develop daily construction emission estimates. The emissions were based upon an active source area of 1.9875 acres per day for each identified construction phase (i.e., demolition, site grading and building construction). This value represents ¼ of the identified 7.95 acre project footprint. All construction activities were assumed to occur 8 hours per day.

Dispersion model simulations to assess localized air quality impacts were conducted by the applicant and based upon an operational scenario of 5 days per week (i.e., Monday through Friday) from 8:00 a.m. to 4:00 p.m. No weekend days (i.e., Saturday through Sunday) nor alternative hours of operation were considered in the dispersion model exercise. For emissions associated with off-road equipment (e.g., excavators, dozers and loaders), the dispersion model was programmed to account for four discrete source locations which serve to approximate construction activity within a maximum daily disturbed surface area of 1.9875 acres. However, for fugitive dust generation, the model was incorrectly programmed to account for a source area extending across the entire 7.95 acre site.

To accommodate a review of pollutant impacts to LACC occupants, Air Quality Dynamics prepared a subsequent dispersion analysis based upon the original dispersion model files provided by the project applicant. Minor adjustments were made to define the receptor field to encompass approximately 124 acres of the LACC course area and redefine the fugitive dust locations in a manner commensurate with the applicant's source areas for the identified off-road equipment.

For particulates (PM₁₀), the downwind concentration exceeding the South Coast Air Quality Management District's (SCAQMD) Localized Significance Threshold of 10.4 micrograms per

G-1

G-2

cubic meter ($\mu\text{g}/\text{m}^3$) extends across a substantial portion of the LACC course area. Although significant in that regard, due to the transient exposures associated with course activity (i.e., less than a daily exposure duration), predicted particulate concentrations, when added to reported background levels (DEIR Table 4.2-2), are not anticipated to endanger the health of individuals who utilize and/or maintain the course facilities.

G-2

For nitrogen dioxide (NO_2), predicted model concentrations generated from the applicant's source area proximally located within the southeast portion of the project site, when added to background concentrations, produced pollutant concentrations exceeding the California Air Resources Board approved ambient air quality standard of 0.18 parts per million (PPM) for the 1-hour averaging time at a downwind distance of 100 meters (328 feet). This extent encroaches upon various locations within the eastern portion of the LACC facility. Short duration exposures (i.e., up to one hour) may be indicated by individuals who utilize and/or maintain the course facilities. As such, the potential to aggravate chronic respiratory disease and symptoms in sensitive individuals and produce related pulmonary changes may occur.

G-3

For carbon monoxide (CO), predicted concentrations within the LACC facility associated with emissions from each identified source area, when added to background concentrations, did not exceed the ambient air quality standard for the 1 and 8-hour averaging times. As a result, no impacts associated with CO exposure are anticipated.

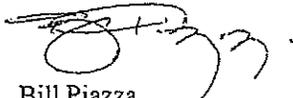
G-4

It is most relevant to note that the air quality analysis was based upon the applicant's identified operational scenario of 5 days per week, 8 hours per day and limited to a daily source area of 1.9875 acres. Operational variations that amend these assumptions were not considered nor provided by the applicant. As such, this operational scenario should serve as a condition of project approval unless supplemental information is provided to assess air quality impacts contrary to the applicant's identified source characterization.

G-5

I trust this narrative provides sufficient information for your immediate use. Per your direction, Air Quality Dynamics will draft a final report to include all relevant technical and supporting documentation. I can be reached at (310) 576-5837 should you have any questions or need additional information.

Sincerely,



Bill Piazza

:bp

Biography

Bill Piazza

Mr. Bill Piazza has more than 20 years of experience in the field of environmental health and safety with particular expertise in both air dispersion modeling and health risk assessments. As an Environmental Assessment Coordinator with the Los Angeles Unified School District, Mr. Piazza completed more than 200 risk and hazard assessment studies. To date, he has characterized and modeled the contaminant emissions of more than 2,000 commercial and industrial operations.

Mr. Piazza has participated in the drafting of several environmental regulations including Public Resources Code Section 21151.8 and Education Code Section 17213 (e.g., SB 352) which require school districts to evaluate the impacts of siting schools within close proximity to facilities that emit toxic air contaminants.

Mr. Piazza has also performed private consultative services to clients such as MCA and Disney Development Companies, the Los Angeles City Department of Water and Power, Communities for a Better Environment, Corporation for Clean Air, Safe Action for the Environment and the Santa Clarita Organization for Planning the Environment. Mr. Piazza has provided services as a subcontractor to other consulting firms to assess the impact of both process and fugitive emissions associated with projects prepared under the auspices of the California Environmental Quality (CEQA) and National Environmental Policy Acts (NEPA).

Mr. Piazza has consulted with members of the Los Angeles, El Segundo, Huntington Park and Rolling Hills Estates city councils, as well as members of the City of Santa Monica Airport Commission, to address issues related to air toxic emissions.

Mr. Piazza has lectured for several health and hazard assessment classes conducted under the auspices of the University of California, Los Angeles and the University of Southern California and made several presentations to the American Industrial Hygiene Association, Southern California Society for Risk Analysis, California's Coalition for Adequate School Housing and Coalition for Clean Air on community-based risk and exposures to both criteria pollutants and toxic air contaminants.

Mr. Piazza participated as a member of the South Coast Air Quality Management District's (SCAQMD) Localized Significance Threshold Working Group which developed an assessment tool to assist lead agencies in the analysis of air pollution impacts at the local scale. Mr. Piazza was also a member of SCAQMD's MATES II external peer review group responsible for evaluating the agency's technical methodology and implementation plan to characterize ambient levels and "hot spot" concentrations of toxic compounds throughout the South Coast Air Basin.

Mr. Piazza additionally participated as a member of the California Air Resources Board's (ARB) Risk Management Subcommittee and Risk Characterization Technical Group responsible for developing statewide assessment methodologies to assess the generation and associated impact of diesel emissions on sensitive receptor populations. Mr. Piazza was also a member of ARB's Community Health Modeling Working Group which was responsible for developing guidelines for the assessment and mitigation of air pollution impacts at the neighborhood scale.

Mr. Piazza's assessment work has also been featured in journal articles published by *Environment and Planning C: Government and Policy* 2002 and the *Journal of Environmental Health*.

EXHIBIT H: Letter from JoAnn Hadfield and Karen Gulley of the Planning Center



Governmental Services
Planning & Urban Design
Environmental Studies
School Facilities Planning

March 11, 2008

Honorable Mayor and Members of the City Council
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

1580 Metro Drive
Costa Mesa, CA 92626
Phone: 714.966.9220
Fax: 714.966.9221
costamesa@planningcenter.com

Subject: 9900 Wilshire Boulevard Project

Honorable Mayor and Members of the City Council:

On behalf of the Los Angeles Country Club (LACC), The Planning Center has conducted a peer review of the environmental documentation, draft Specific Plan, and proposed General Plan Amendment for the 9900 Wilshire Boulevard Project. Our review included components of the following documents:

- *Draft Environmental Impact Report, Volume I, August 2007*
- *Final Environmental Impact Report, February 2008*
- *Agenda Report, Honorable Mayor and City Council, March 11, 2008, including attachments:*
 - 1) Planning Commission Resolution Recommending Certification of the EIR, 2) Commission General Plan and Zoning Amendment Resolution, Findings of Fact, and Statement of Overriding Considerations.
- *Draft 9900 Wilshire Specific Plan, February 21, 2008*

The Planning Center is an environmental and planning firm founded 33 years ago. We have successfully prepared thousands of environmental documents pursuant to CEQA, including numerous EIRs for mixed-use and residential urban infill projects with environmental issues similar to the proposed 9900 Wilshire Boulevard Project. Our Project Manager for the CEQA compliance portion of this review, JoAnn Hadfield, Director of Environmental Services, has an urban planning and civil engineering education and 24 years of environmental experience preparing CEQA compliance documents. Karen Gulley, Director of Design, has over 20 years of experience preparing General Plans and Specific Plans throughout southern California and works with both public and private sector clients.

Based on our review of the proposed project and our experience in site planning, policy and regulatory planning, and CEQA compliance, we offer the following comments for your consideration.

A. SPECIFIC PLAN AND GENERAL PLAN CONSISTENCY COMMENTS

Inadequate General Plan Consistency Analysis in the 9900 Wilshire Specific Plan

A specific plan is a tool for systematic implementation of a city's general plan. The 9900 Wilshire Specific Plan is required by Section 65454 of the Code to be consistent with the General Plan for the City of Beverly Hills. Consistency is to be demonstrated through a General Plan Consistency Analysis that is part of the specific plan. The Draft 9900 Wilshire Specific Plan, dated February 21, 2008, did not provide a comprehensive assessment of compatibility with the General Plan through its goals, policies, and

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H-1

H-2

objectives. It analyzed consistency with a few sections of the Land Use, Open Space, Circulation, and Housing elements, which were deemed "important" to the Specific Plan. There was no consistency analysis provided for the Scenic Highway, Conservation, Noise, Safety, and Seismic Safety elements, and therefore there is no basis in the Specific Plan for demonstrating how it will carry forward and implement those particular General Plan elements.

H-2

Furthermore, the Draft EIR, Section 4.7.4 Regulatory Setting, evaluated four objectives from the Land Use Element that are not considered in the Consistency Analysis. Two of the objectives (Objective 3, Areas of Transitional Conflict, and Objective 4, Scale of the City) are deemed in conflict with the General Plan and are identified as significant, unavoidable impacts after mitigation in the Final EIR. The Draft EIR also identified goals in the Conservation Element that encourage preservation of landmark structures. Since the existing Robinsons-May building has been found to be potentially eligible for listing on the California Register of Historic Places, this should have been addressed in the General Plan Consistency Analysis. Overall, there appear to be many additional General Plan goals, objectives, and other criteria that should have been addressed in a comprehensive, methodical manner within the 9900 Wilshire Specific Plan document.

H-3

H-4

Project Inconsistency with the General Plan

The proposed General Plan Amendment (GPA) seeks to change the land use designation of the property to "Specific Plan" and amend Section 2.2, Commercial Areas, of the General Plan to allow for a variety of land uses and additional building height in designated "gateways to the City, such as the site at 9900 Wilshire Boulevard... A change of use from commercial to residential or mixed use should be allowed only if such uses provide an adequate transition to adjacent single family neighborhoods." While the proposed GPA addresses increasing development intensity in key locations, the project needs to be evaluated for consistency with the entirety of the General Plan. The proposed GPA does not address project conflicts with other General Plan policies, objectives, or development criteria, as identified in the Draft EIR, and therefore the proposed project remains inconsistent with the General Plan. Such areas include:

H-5

Land Use Element Objective 3, Areas of Transitional Conflict, addresses areas of abrupt changes in land use intensity and physical characteristics that may precipitate conflict. Land Use Element Object 4, Scale of the City, addresses maintenance of the existing scale of the City, characterized by residential and commercial buildings that do not overpower or dominate the visitor or resident. The proposed project creates a transitional conflict with all adjacent uses because of its sheer mass in relation to those surrounding uses. Ranging from 108 feet to 205 feet (per Staff Report to City Council dated March 11, 2008), the two towers will form an abrupt wall that extends from Wilshire Boulevard to Santa Monica Boulevard. At its maximum height of 205 feet, the South Tower will exceed the height of the neighboring Wilshire Tower by approximately 110 feet, the El Rodeo School and single-family residences to the north and southeast by at least 175 feet, and the adjacent Los Angeles Country Club golf course by 205 feet. The maximum height of the proposed project also exceeds the current 45-foot height restriction by 160 feet. Under any interpretation, the height of the proposed project is not consistent with the existing scale of the surrounding area, or the City as a whole.

H-6

Furthermore, the Draft EIR identifies other General Plan objectives or development criteria that are applicable to this project from a consistency standpoint. For example, Housing Element Objective 3.1 states, "Maintain the general height and density limits, while permitting selected, limited increases in height or other standards to meeting other objectives, provided such modifications result in development generally compatible with the surrounding area." Although the density of the proposed project appears to be within current density ranges in the Zoning Code, the height and mass do not meet the intent of this objective. It should also be noted that the City's Housing Element for the 1998-2005 RHNA cycle was deemed incomplete by the California Department of Housing and Community Development (HCD) in 2001. The City adopted the Housing Element anyway in 2001 and it is used in the General Plan

H-7

H-8

Consistency Analysis. If the Housing Element is out of compliance with state law, then the General Plan is not in compliance with state law.

H-8

Project Impacts to the Los Angeles Country Club

The setback of the two towers from the LACC varies, but averages approximately 53.3 feet. This minimal setback, given the massiveness of the structures, creates a wall-like effect of units looming down along the entire east boundary of the South Course of the LACC that will negatively impact the aesthetic appeal, privacy, and play conditions of the golf course. For 75 years, the golf course setting of the LACC has provided substantial open space and landscape relief for the City of Los Angeles and the City of Beverly Hills. It provides a unique and valuable resource due to its location and the quality of the landscaped setting, which becomes more valuable overtime as the surrounding area intensifies. The existing Robinsons-May building, at 75 ft., represents a building scale that is compatible with the LACC. The building and former activities associated with the commercial use did not alter the views to and from the course, and did not negatively impact the primary function of the LACC – to provide a quality golf experience. The attached visual simulations of the proposed condominium towers show a stark contrast between the stands of trees and blue sky that currently provide the backdrop to the course. The proposed towers would abruptly terminate the northeastern vistas enjoyed from multiple locations at the LACC. The current backdrop would be superseded or dominated by monolithic structures that appear as though they are on top of the golf course. The recent changes to vary the roof line of the structures do provide some variation in an otherwise repetitive façade, however, the location of the buildings on the site are an invasion to the setting that has been cultivated and maintained for many years. Furthermore, the shade and shadow impacts from the location of the towers at the edge of the property will affect the playability and condition of the 16th hole, as documented in a letter to the Council dated March 6, 2008, by Michael Hurdzan, PhD, of Hurdzan/Fry Golf Course Design, Inc. In addition, because the towers will run along the right side of the 16th fairway, there is the potential for errant golf balls to curve to the right and damage property or residents on the 122 or so balconies overlooking the course. Screens may need to be erected for protection along the golf course property unless the buildings are setback further from the property line.

H-9

As result of the Planning Commission's Action, the 30 units located along Merv Griffin Way were removed from the project. This provides the opportunity to shift the two towers to the center of the site and create open space amenities on both the east and west sides of the property. There are currently no private or public gardens, plazas, or other recreational uses planned on the west side of the project. The ground level functions solely for access to and from the residences and is void of any amenities open space. Private balconies provide visual open space through views of the country club only. A substantial increase in setback would improve the transition from the golf course to the residential towers, reduce the shade and shadow impacts on the golf course, reduce the potential for damage from errant golf balls, and reduce the aesthetic impact of the buildings dominating the golf course. This alternative should be evaluated prior to final action by the City Council.

H-10

In response to the Planning Commission's Action, the applicant has shifted 43 percent of the loft units that fronted Merv Griffin Way to the two towers. The towers now step in height from 9 floors at the north, along Wilshire Boulevard, to 15 floors in the South Tower. The original height of the North Tower was 144 feet and now reaches a maximum of 161 feet. The South Tower was also 144 feet and now reaches a maximum of 205 feet, a 42 percent increase in height from what was analyzed in the Final EIR.

H-11

B. COMMENTS REGARDING CEQA DOCUMENTATION AND PROCESS

General Comments

We have conducted a limited review of Draft EIR, Final EIR, and Agenda Report for the proposed 9900 Wilshire Project to determine compliance with the California Environmental Quality Act (CEQA) as

H-12

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amended through January 1, 2005, and the State CEQA Guidelines as amended through July 27, 2007. Our review focused on the sections for which we have provided detailed comments, and the lack of comments on other topical sections of the EIR, responses to comments included in the FEIR, and Agenda Report items does not imply that we concur with the analysis, conclusions, or findings of these sections.

As detailed in this letter, our comments support the conclusion that pursuant to CEQA Guidelines Section 15088.5, the Draft EIR is inadequate, needs to be revised, and requires recirculation. Under Section 15088.5, recirculation is required when: "new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification." Under this provision, "significant new information" requiring recirculation includes, for example, a disclosure that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Based on our review, the Draft EIR includes fundamental errors and project implementation would likely result in at least one significant impact that has not been categorized as significant in the Draft and Final EIR. Critical flaws include an inappropriate significance threshold for noise impacts (reliance on an ordinance), and the erroneous definition of baseline conditions (assumed operation of Robinson's-May) for quantifying numerous impacts (traffic, services, utilities, etc.). Moreover, since one or more potentially significant impacts were not accurately identified, mitigation has not been formulated for these impacts, and alternatives have not been defined to reduce or eliminate these significant impacts. Additionally, as noted in the Specific Plan and General Plan Comments above, the EIR has failed to analyze project alternatives (such as an increased setback of the buildings along the western project boundary) that would clearly lessen the environmental impacts of the project. Overall, we believe this letter supports criteria No. 4) above, that the "draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded" and the EIR, therefore, needs to be revised, supplemented, and recirculated.

Inadequate Project Description

Proposed General Plan Amendment does not include applicant requested Amendments to Objectives 3 and 4 of the Land Use Element of the General Plan.

As described above under General Plan Consistency comments, inconsistency is a key issue with respect to potential approval of this project. Neither Section 3.0, Project Description, nor Section 4.7, Land Use and Planning, disclose that the applicant is proposing substantial amendments to the language in the General Plan Land Use Element. A disclosure of the proposed amendments is included in the September 21, 2007, Draft EIR comment letter from Jeffer Mangels Butler & Marmaro LLP (JMBM), representing the applicant, Project Lotus, LLC (Lotus). Their recommended language for amending the Land Use Element is included as Attachment A to their letter, although they qualify in their comments (B.1.) that "nevertheless, Lotus intends, in consultation with the City, to modify the Proposed Amendments to ensure consistency with the policies and objectives of the General Plan."

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H-16

H-17

Interestingly, the Final EIR's response to this comment is that "the Draft EIR did not consider the above-mentioned amendments in its analysis, since these amendments, and the project's Specific Plan, have not yet been approved or adopted by the City. However, if such elements are ultimately approved, consistency impacts would be addressed." Both the Amendments and the Specific Plan fundamentally represent components of the project description that need to be defined and evaluated in the EIR. The logic of the response to this comment is irrational. Since the Specific Plan (the actual project) has not been approved or adopted, should it also be evaluated subsequent to approval?

H-17

The proposed amendments to the General Plan must be disclosed to the public and are essential to the project description. It does not appear that these amendments are included in the DEIR Appendices, and also have not been added to Section 4.0, Corrections and Additions to the Final EIR. The project description, therefore, is incomplete, has not been properly evaluated, and meaningful review by the public has been precluded.

H-18

A detailed description of construction phasing, equipment, and scheduling is not provided

Although Table 3.0-3 provides a summary of overall construction phases for the project, it does not provide a list of equipment that will be used. An equipment list by phase is provided later in the EIR, but it does not estimate the number of pieces of equipment by type that will be used. It is typical in an EIR to provide the assumptions on which the technical analyses was conducted (noise, air quality, construction traffic) and also important for the public to understand the scope of construction activities. More important, however, is the Project Description's failure to disclose the days of the week and daily schedule of proposed construction. Based on the noise analysis (as discussed in the following comments), it appears that the applicant intends to extend construction activities beyond the 8:00 AM to 6:00 PM weekday permitted hours in the City's Municipal Ordinance. The anticipated hours and reasons for exceeding these hours should have been disclosed in the project description. For example, it is unclear whether construction activities are proposed on Saturdays and/or Sundays, which are both peak days for golf course use.

H-19

The project description is a moving target. Substantial revisions have been proposed based on Planning Commission workshops and have not been described in the environmental documentation.

The staff report for the City Council public hearing describes a substantially modified project description and concludes that none of the changes affect the significance findings or conclusions in the EIR with respect to the environmentally superior alternative. Based on the draft resolution report, an Additional Project Alternatives analysis of numerous alternatives (Alternatives 5A, 7, 8, 9, and 10) was presented to the Planning Commission on October 29, 2007. By means of the Planning Commission Resolution Recommending Certification of the EIR (Section 10), this report has been incorporated into the Final EIR. It is not, however, included on the City's website where the Final EIR is available for public review. The analysis of the revised project is critical to the public's opportunity to review the environmental impacts of the project and independently conclude that none of these alternatives change the conclusions in the Draft EIR. Without easy access to this report, the public's opportunity for meaningful review of the currently proposed project has been precluded.

H-20

Inappropriate Construction Noise Threshold and Conclusions

The EIR inappropriately relies on the construction hours limitation in the City's noise ordinance to define the significance threshold for construction noise impacts.

Pursuant to *Communities for a Better Environment v. California Resources Agency CBE vs. OPR*, 2002; and *Highland Springs Conference and Training Center v. City of Banning*, 2008, it is inappropriate to rely on an ordinance for a significance threshold.

H-21

The EIR uses the following significance threshold to determine whether the project would result in significant construction noise impacts:

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Noise-1 Would construction activities occurring on the project site result in an increase of 5 dB(A) or more outside the hours permitted by the City's noise ordinance (i.e., between the hours of 6:00 pm and 8:00 pm AM on weekdays, or at anytime on Saturday, Sunday or a public holiday?)

Although it is unclear why the threshold defines a 5 dBA increase as the standard, this threshold is clearly based on the City's noise ordinance. Since impacts have been assessed relative to this threshold, the EIR fails to analyze or disclose the significance of a substantial increase in daytime ambient noise during construction and its impacts on surrounding sensitive uses. In comparison, the typical significance threshold for construction noise used by environmental practitioners is the following CEQA Guidelines Appendix G threshold:

XI, Noise, c) *Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?*

The California Court of Appeals for the Third District issued a decision in *Communities for a Better Environment v. California Resources Agency*, Case No. c)38844 (10/28/02) that invalidated CEQA guidelines Section 15064(h), which permitted lead agencies to rely on adopted environmental standards to determine significance. The Court held that Section 15064 (h) conflicted with CEQA's standard for determining whether to prepare an EIR whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact. The Court struck down the provisions that allowed a lead agency to consider an impact "less than significant" if that impact is consistent with an adopted standard, because this provision subverts the fair argument rule mandated by the statute and relevant case law.

More recently, in a CEQA challenge on a residential project proposed in the City of Banning, the court concluded that the EIR inappropriately relied on compliance with the noise ordinance to conclude that construction noise impacts would be less than significant (*Highland Springs Conference and Training Center, Petitioner v. City of Banning*, Respondent, SCC/Black bench, LLC, Real Party (RIC 460950 master file) (filed Superior Court of California County of Riverside, January 29, 2008). The EIR concluded that "Additionally, the Noise Ordinance excludes control of construction activities during the hours of 7:00 am to 6:00 p.m. Therefore, any noise generated by construction activities during those hours is not considered to have a significant noise impacts." The court concluded that "This reasoning is contrary to law, since nothing in the *Public Resources Code* or the Guidelines permits a public agency to rely upon a local ordinance in order to avoid CEQA analysis of an admitted environmental impact."

Significant noise impacts from daytime construction activities of the 9900 Wilshire Project to sensitive uses including to the adjacent elementary school and single-family residences, is not disclosed. This represents a new significant impact requiring recirculation of the EIR.

The EIR fails to provide a significance threshold relative to daytime construction activities. The project will clearly impact all surrounding land uses in the immediate vicinity, but these impacts are discounted based on permitted construction hours in the ordinance. Table 4.8-5 of the EIR discloses that noise impacts at the school can be anticipated to be approximately 88 dB (based on the disclosure in the paragraph above this table that notes that the school is approximately 100 feet from the site). These activities will be ongoing for two years. If interior classroom levels exceed 55 dBA with windows closed, then the construction activity would result in speech interruption. An 80 dB exterior noise level would exceed the 55 dB interior level based on an assumed 25 dB window attenuation. This would constitute a significant project impact, which the EIR has not disclosed, and for which it has not provided adequate mitigation. The mitigation added in the Final EIR (page 2.0-34) in response to school district concerns only proposes mitigation to address this significant impact during testing periods at the school, approximately one week per semester, as follows:

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H-21

H-22

H-23

Prior to the start of every school year, the applicant shall obtain a schedule of testing periods at El Rodeo School. The applicant shall submit a construction schedule for review and approval by the Community Development Director and the Environmental Monitor that ensures that no construction activity generating the highest noise levels (e.g. demolition and grading) is undertaken during any designated testing period at the school. Such testing periods typically occur for one week per semester, however, the exact dates and times will be determined by the school district.

H-23

Since construction noise impacts are not accurately identified, mitigation measures are too limited, and their effectiveness has not been evaluated. Although not acknowledged in the EIR, the purpose of this mitigation would be to reduce a significant impact. Yet it clearly would not mitigate this impact to a level of less than significant. It is irrational to mitigate noise during major testing days (twice a year), but not mitigate noise during learning periods (the balance of the days), considering that noise will result in speech interruption in the classroom and impair learning for a period of two years.

There is no analysis of construction noise impacts to the LACC golf course.

Primarily because the EIR bases its noise assessment on an erroneous significance threshold, the document completely fails to disclose or analyze construction-related noise impacts to the golf course. The golf course represents a very noise-sensitive land use. Golf is typically played in a very quiet noise environment and requires golfer concentration. The failure to analyze potential construction-related noise impacts to the golf course is a critical omission in the EIR analysis and the failure to disclose such impacts precludes the public and decision makers from meaningful review of the project-related impacts.

H-24

Since the actual hours and days of construction activity are not disclosed in the Project Description, or otherwise readily available, the impacts of potential evening, weekend, and holiday construction activities have not been evaluated.

Since the EIR concludes that the project would result in significant construction-related noise impacts after the permitted hours specified in the noise ordinance, it can be assumed that activities are intended that do not comply with the ordinance. The potential hours of construction activities are not disclosed, and related impacts have not been evaluated. Moreover, the City's findings of fact and overriding considerations should substantiate why construction hours that are not in compliance with the noise ordinance will be allowed and provide appropriate conditions of approval/mitigation measures to limit such occurrences.

H-25

Inaccurate Definition of Baseline Conditions for Analysis

For critical topical analyses, the EIR inappropriately defines baseline conditions to assume current operation of the closed Robinsons-May store. Pursuant to CEQA Guidelines Section 15125, Environmental Setting, (a), "An EIR must include a description of the physical environmental conditions at the time the Notice of Preparation was published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant"

H-26

Operations of the Robinsons-May store were discontinued in March of 2006. The NOP was released on July 21, 2006. Therefore, environmental conditions at the time of release of the NOP did not include the operations of this department store. The analysis of a 'net' impact assuming credit for impacts associated with operation of the vacant Robinsons-May store is a gross error in the EIR. The EIR clearly identifies that this is the methodology that has been performed for several sections including traffic, wastewater, water supply, solid waste, and energy impacts. Moreover, if the Noise and Air Quality operations analyses assumed 'net' traffic trips (ADT) for the basis of the analysis, these impacts have also been underestimated.

In response to this issue, the Final EIR acknowledges that the building "has not been fully occupied since March 2006," but that the site continues to be used for a variety of purposes including short-term retail events, filming activity, and special events (see Final EIR Response 7-3). The Final EIR therefore concludes that "activity has continued on the site even if the building is not fully occupied." We assert that if the building continues to be used for sporadic events, that these events should represent the existing conditions that serve as baseline physical conditions for analysis in the EIR. Clearly, they would not represent the level of regular, daily traffic generation and service demands that the former department store would entail, and for which the EIR has taken credit to reduce actual 9900 Wilshire Project impacts.

H-27

Final EIR Response 7-3 summarizes with the following statement: "Finally, it should also be recognized that the baseline environmental condition should reflect what the community experiences. Prior to its closure, the Robinsons-May store was in operation for over 60 years." This kind of subjective application has no bearing on current conditions and does not comply with CEQA. Clearly, pursuant to CEQA Guidelines Section 15125, the objective, technical analysis for this project should have been based on existing conditions without operation of the Robinsons-May store.

H-28

The analysis should be redone in compliance with CEQA and recirculated in an updated EIR. At minimum, the analysis should be performed and, assuming no new significant impacts, should be incorporated into the Corrections and Additions section of the Final EIR. Without this correction, the EIR is not accurate and is not legally defensible.

H-29

Inadequate and Improper Analysis of Project Impacts to Surrounding Land Uses

The EIR is inconsistent in its definition of sensitive uses and the criteria that constitute significant impacts to these uses.

The Draft EIR concludes that view impacts from the Beverly Hilton Hotel would be significant. In contrast, the EIR does not disclose or evaluate potential view impacts to the LACC golf course. Moreover, the current project, which is much taller than the project described in the Draft and Final EIR would have even greater impacts. Aesthetic impacts due to the mass and scale of the proposed towers would represent a substantial impact to golfers. Because the EIR has categorized the Beverly Hilton as a sensitive use, it defines Alternative 5, in part to minimize this significant impact to Beverly Hilton occupants. If views from adjacent commercial properties are deemed to be significant, the EIR should also have defined and evaluated a project alternative to minimize the view impacts from the golf course.

H-30

No mention of air quality and noise impacts to golf course patrons, particularly construction activities

The EIR does not mention potential construction noise impacts to the golf course. The golf course abuts the property boundary of the proposed project, for which massive construction activities are planned for a duration of at least two years. It is standard practice for EIRs to analyze and quantify the impacts to all the immediate surrounding land uses. It is a critical omission that this EIR does not evaluate these noise impacts, and the oversight has precluded meaningful review of these impacts to the public and decision makers.

H-31

It was beyond our scope of review to analyze air quality impacts. If the same approach was taken as for noise, however, the potential construction-related impact of pollutants that would affect the golf course golfers is not assessed, and should have been included in the analysis.

H-32

Additional Mitigation and a Reasonable Range of Alternatives Needs to be Provided

Based on the previous comments, we believe the project would result in additional, significant impacts for which project alternatives have not been analyzed

H-33

Due to the inappropriate significance threshold, construction noise impacts were not adequately addressed. The EIR concluded a significant, unavoidable impact for activities beyond the hours

permitted by the noise ordinance, and contrary to CEQA requirements did not address substantial impacts to sensitive land uses during daytime hours. Based on the available information, it appears that impacts, particularly to the elementary school, will be significant. If proper analysis determines that impacts are significant, mitigation beyond the afterthought of precluding the noisiest activities to occur during testing (two times a year), needs to be formulated. Similarly, at least one project alternative would need to be formulated to reduce this impact. Alternative construction scheduling (after school hours, weekends, etc.) needs to be considered to reduce this impact.

H-33

Similarly, since the anticipated hours of construction are not disclosed (though a significant impact has been identified noting that activities will not comply with the hours permitted in the ordinance), mitigation and/or alternatives should be formulated with the ability to reduce these significant construction noise impacts. Unless otherwise disclosed, it is not clear whether construction activities are anticipated on Saturdays, Sundays, and holidays and under what conditions. Once disclosed, mitigation and alternatives could be formulated to reduce these impacts.

H-34

Additionally, as noted in a previous comment, since an alternative to minimize view impacts to the Beverly Hilton has been evaluated, it seems appropriate to evaluate an alternative that would reduce the substantial view impacts from the golf course (which have not even been disclosed).

H-35

Finally, given that several topical sections in the EIR erroneously assess the 'net' increase of impacts under the assumption that the Robinsons-May store is still operational, upon correction, the analysis may result in additional, significant impacts. Such impacts will require the formulation of appropriate mitigation measures and/or alternatives to reduce or eliminate the significant impacts.

H-36

Alternatives presented to the Planning Commission on October 29, 2007, should be incorporated into the EIR and more fully described.

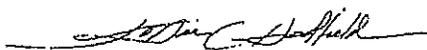
The Additional Project Alternatives presented to the Planning Commission has not been adequately incorporated into the CEQA process and documentation. The analysis of numerous alternatives (Alternatives 5A, 7, 8, 9, and 10) needs to be more fully disclosed to the public. By means of the Planning Commission Resolution Recommending Certification of the EIR (Section 10), this report has been incorporated into the Final EIR. It is not, however, included on the City's website where the Final EIR is available for public review. The Resolution summarily concludes that "while some of these additional variations lessened or eliminated certain environmental impacts, none of these additional alternatives changed conclusions in the Draft EIR regarding the environmentally superior alternative... As such, consideration of these variations does not require recirculation prior to certification of the EIR." We disagree. The considerations of these variations have not been adequately incorporated into the environmental documentation. Moreover, the Final EIR has not been updated to reflect the current, revised project under consideration for approval by the City Council.

H-37

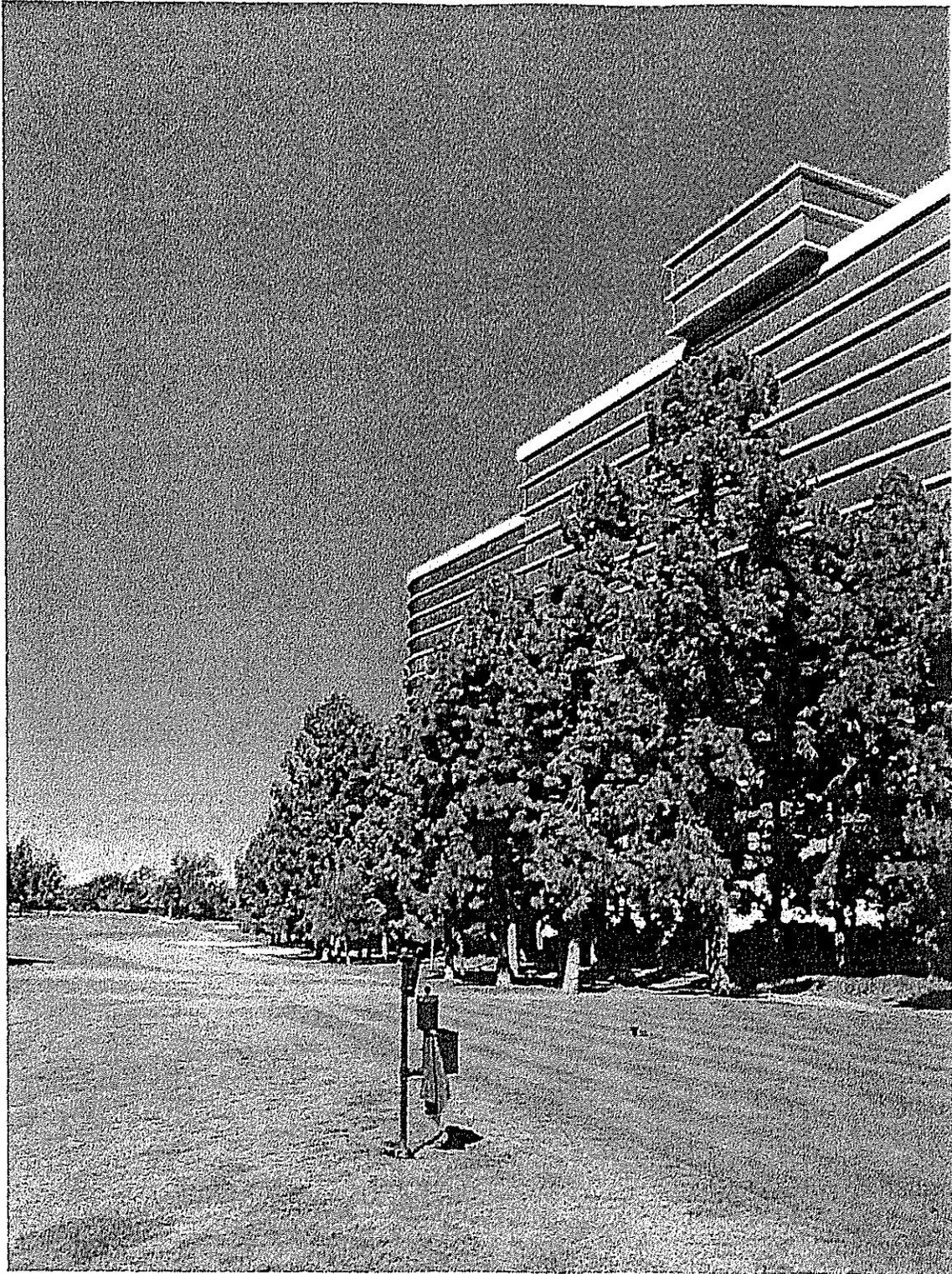
Thank you for your consideration of these issues.

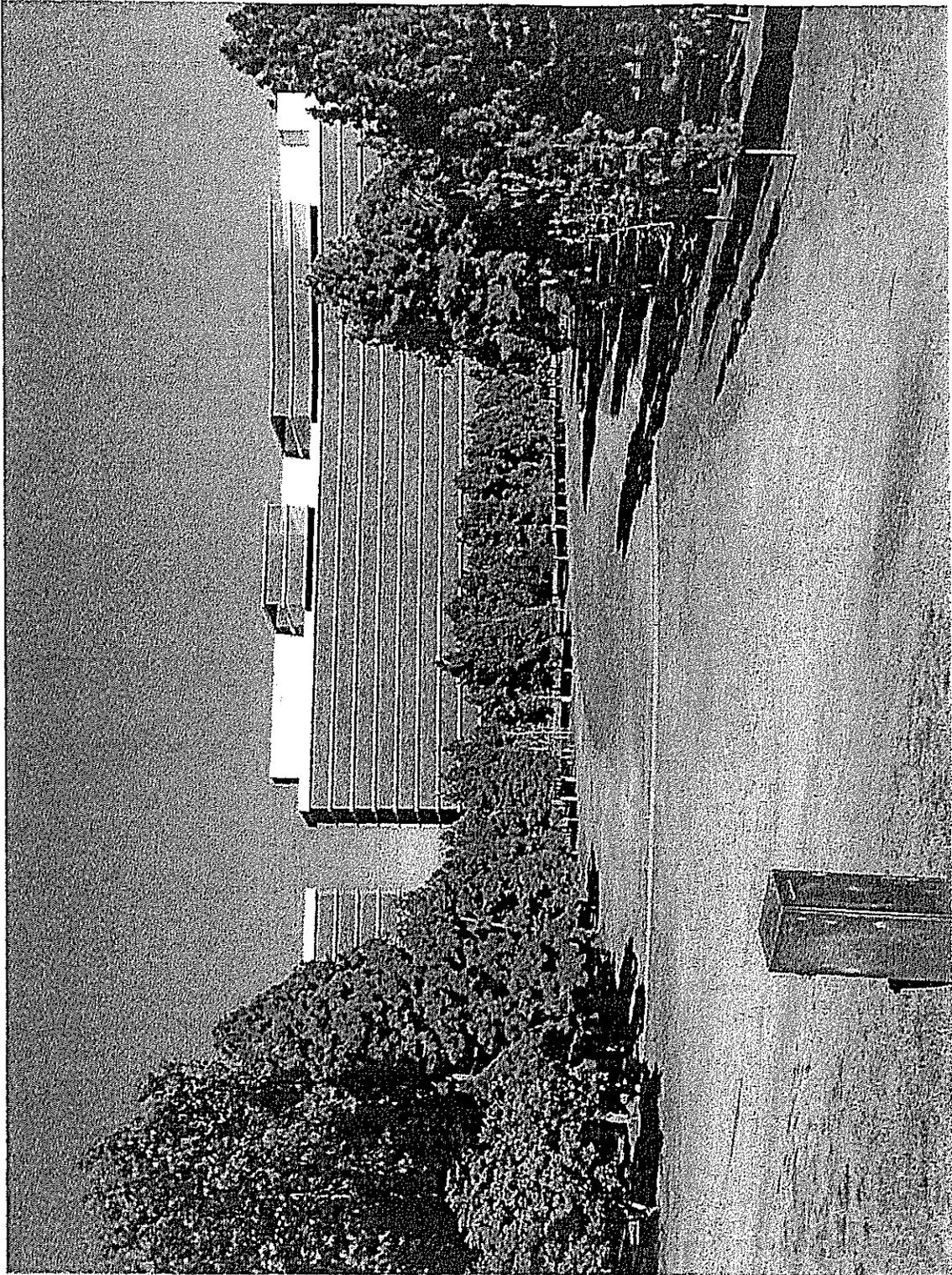
Sincerely,

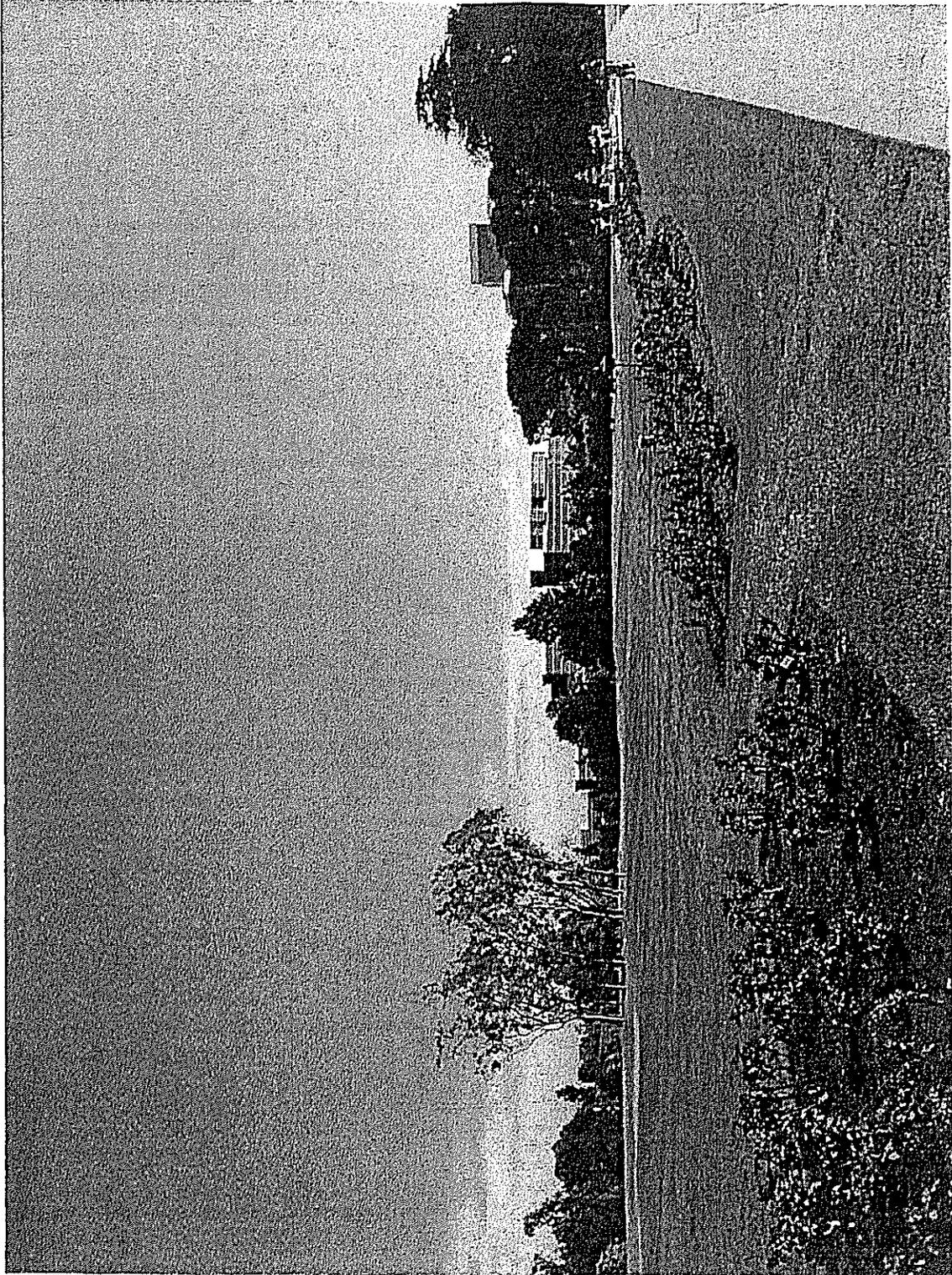
THE PLANNING CENTER

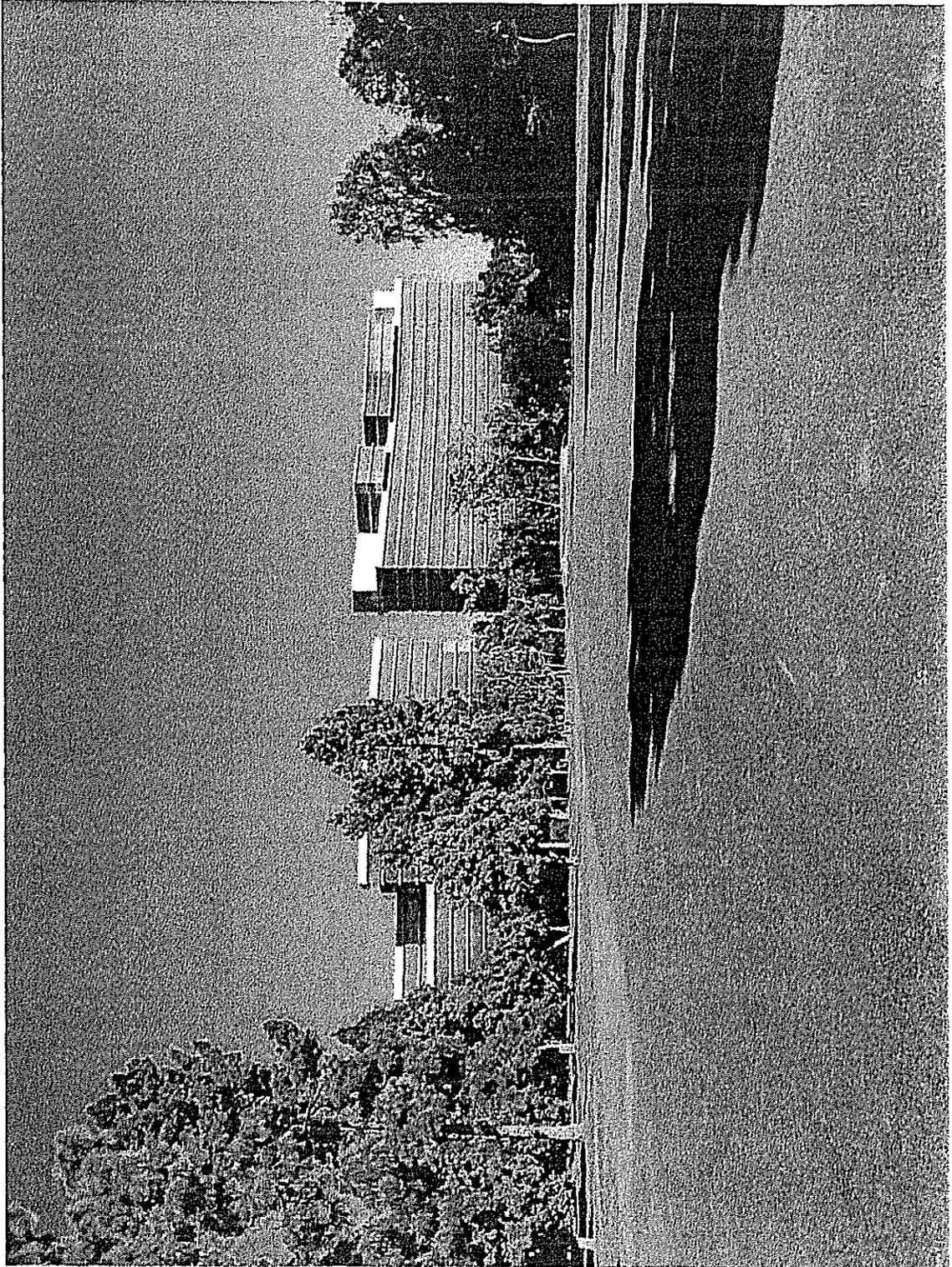

JoAnn C. Hadfield
Director, Environmental Services

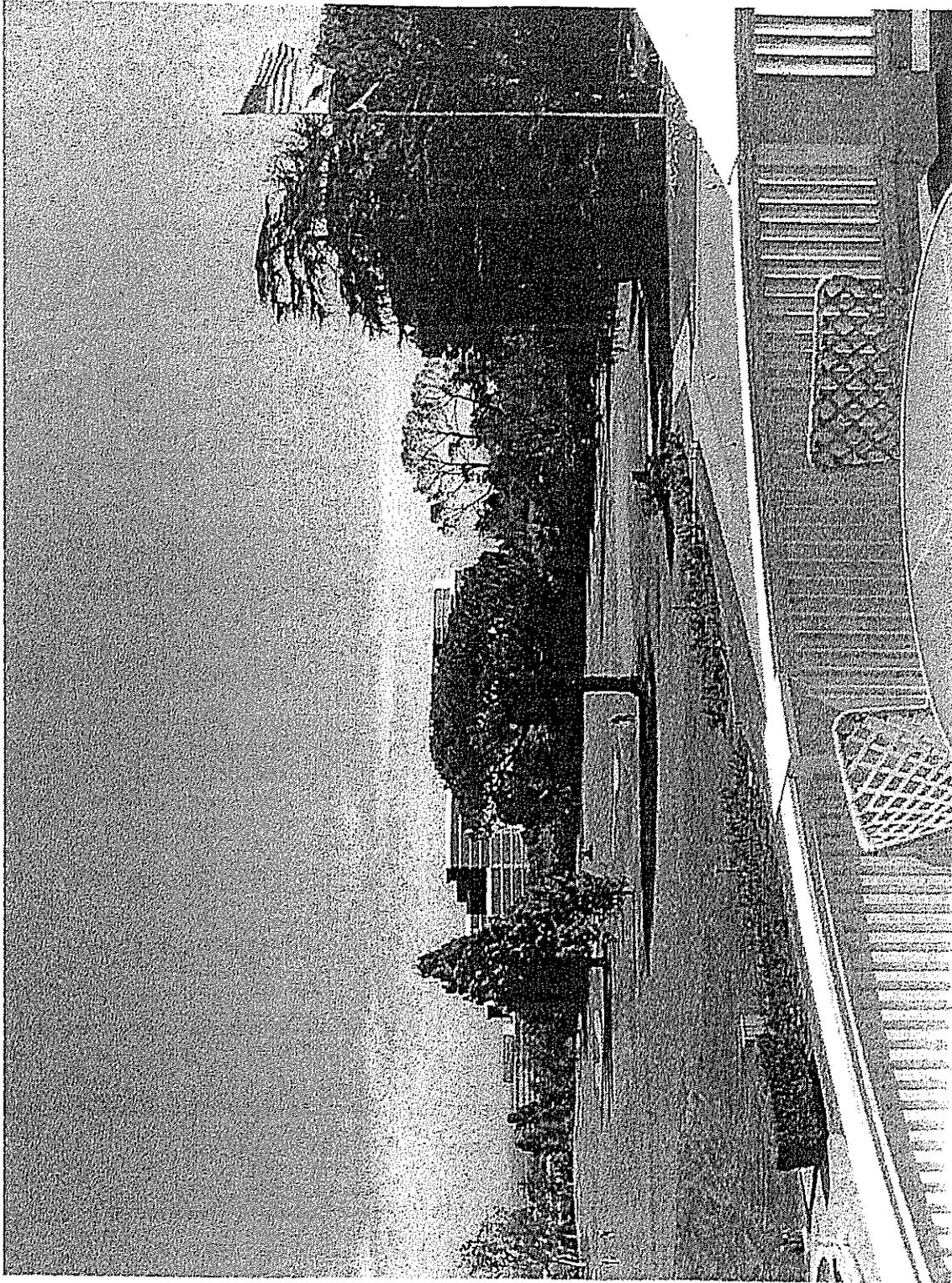

Karen Gulley
Director, Design











Letter No. 60 Armbruster & Goldsmith LLP, Representing Los Angeles Country Club, dated March 11, 2008

Response 60-1

This comment is an introduction to comments that follow. No further response is required.

Response 60-2

The comment addresses two Project alternatives proposed by the Los Angeles Country Club (LACC). Sketches of these alternatives are included as Exhibits B and C to **Letter No. 60**. As stated in the information provided by the Project applicant on March 20, 2008:

"the LACC alternatives are not 'alternatives' as understood under the California Environmental Quality Act (CEQA). True 'alternatives' under CEQA serve to mitigate or lessen significant environmental impacts.... The environmental studies completed for the Project and Revised Project have identified no significant impacts that would be lessened via their proposed alternatives... Because no significant environmental impacts are lessened by the LACC's proposed alternatives, and indeed, certain environmental impacts may even increase, the LACC's alternatives serve no purpose under CEQA." Further, both of the proposed "alternatives" move the structures to the center of the property, which would fail to achieve a key Project objective of preserving two-thirds of the Project site as landscaped gardens and other open space to enhance the visual character of the Project. Buildings located at the center of the Project site would "split the site into marginal and insignificant landscaped areas."

These proposed alternatives are not environmentally superior to the proposed Project and would result in dispersed and less usable open space areas on the Project site.

Response 60-3

Please see **Letter No. 60, Response No. 60-2** above for information regarding the alternatives proposed by the LACC. The commenter suggests that the Project alternatives proposed by the LACC would meet the Project objectives as fully as the currently proposed Project. Both of the LACC-proposed alternatives move the structures to the center of the property, which would fail to achieve a key Project objective of preserving two-thirds of the Project site as landscaped gardens and other open space to enhance the visual character of the Project. Buildings located at the center of the Project site would split the site into marginal and insignificant landscaped areas.

Additionally, in accordance with CEQA, a range of alternatives were analyzed that would decrease impacts relating to aesthetics and land use compatibility to levels of less than significant. These analyses can be found in Section 8.0, Project Alternatives of the Draft EIR.

APPENDIX A

**Letter from JMBM, Dated March 20, 2008, Regarding Project Lotus, LLC's
Response to Los Angeles Country Club and Los Angeles Conservancy.**

Ian M. Forrest
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(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

Ref: 68417-0001

March 20, 2008

VIA E-MAIL & HAND DELIVERY

Members of the City Council (Via Hand Delivery Only)
City of Beverly Hills
455 N. Rexford Dr., Room G-40
Beverly Hills CA 90210

Re: Project Lotus, LLC's Response to Los Angeles Country Club and Los Angeles Conservancy

Honorable Members of the City Council:

In response to the March 11, 2008 letters submitted to the City Council on behalf of the Los Angeles Country Club and by the Los Angeles Conservancy, Project Lotus, LLC, through its counsel submits the following reports, letters, memoranda and responses. Attached please find the following:

- Exhibit A 9900 Wilshire Project DEIR Review of Air Quality Impacts dated 03/20/08 from URS Corp.
- Exhibit B Arboricultural Consulting Report dated 03/07/08 from Cy Carlberg, Registered Consulting Arborist
- Exhibit C Architect Opinion Letter dated 03/18/08 from Michael Palladino, FAIA, Partner, Richard Meier & Partners Architects LLP
- Exhibit D Financial Feasibility of Project Alternatives for Proposed 9900 Wilshire Project dated 03/20/08 from CBRE Consulting
- Exhibit E Shade and Shadow Opinion Letter dated 03/20/08 from William Kent Alkire, II, Agronomist, Golf Ventures International
- Exhibit F Response to Comments on 9900 Wilshire Project EIR Traffic Analysis dated 03/18/08 from Iteris

Members of the City Council
March 20, 2008
Page 2

Exhibit G Recirculated EIR Noise Section Review dated 03/20/08 from
Advanced Engineering Acoustics

Should you have any questions or comments regarding the information contained herein, please contact me directly.

Very truly yours,



IAN M. FORREST
Jeffer, Mangels, Butler & Marmaro LLP

IMF:ls

cc: Roderick J. Wood, City Manager
Vincent P. Bertoni, Director of Community Development
Donna Jerex, Senior Planner
Byron Pope, City Clerk
Laurence S. Wiener, Esq., City Attorney for Beverly Hills
David Snow, Esq., Assistant City Attorney for Beverly Hills
Joyce Parker-Bozylinski, AICP



Memorandum

To: Ian Forrest, Esq., Jeffer, Mangels, Butler & Marmaro LLP

From: Jillian Baker, URS Corp
Shirley Pearson, URS Corp

Date: March 20, 2008

Subject: 9900 Wilshire Project DEIR Review of Air Quality Impacts

Dear Mr. Forrest,

At your request, URS Corporation (URS) reviewed the Air Quality section and supporting technical appendices of the Draft Environmental Impact Report (DEIR) prepared for the 9900 Wilshire project located in the city of Beverly Hills, CA. The 7.95-acre project site is bound by the Los Angeles Country Club and Unocal 76 gas station to the west, Wilshire Boulevard to the north, Merv Griffin Way to the east, and Santa Monica Boulevard to the south. The project site is currently occupied by the vacant 228,000-square foot Robinsons-May department store building and a two-level 956-space parking structure. The project proposes to replace the existing vacant uses with luxury condominiums retail space, which will include retail and restaurant dining uses.

The Air Quality analysis contained in the DEIR estimated the project's short-term construction and long-term operational impacts and compared them to the applicable South Coast Air Quality Management District's (SCAQMD) thresholds in order to determine their significance under CEQA. The sensitive receptors in the immediate project vicinity consist of single-family residences and the El Rodeo Elementary School to the north.

URS reviewed Section 4.2 – Air Quality of the Re-circulated DEIR, the Air Quality revisions in the Final EIR, and supporting technical appendices, which include the URBEMIS2002 Construction Outputs and PM_{2.5} Calculations, and Localized Significance Threshold Analysis.

Based on our review, the analysis contained in the DEIR is consistent with the approved and recommended methodologies of the SCAQMD. Our comments are as follows:

- 1) The DEIR assumed that all the pieces of equipment would be used concurrently on the site for all 8 hours of the day. This is a conservative estimate of the maximum emissions during the one day when all the equipment could be feasibly used concurrently. It is important to note that this maximum daily emission is not representative of the entire construction phase. According to our experience with



comparable projects, this maximum daily emission would only occur for about 20% of the time during construction. All the pieces of equipment would not be used concurrently everyday during the entire construction period. In order to better understand the typical daily emissions, the emissions from demolition were estimated for a typical construction day. Demolition was chosen since the highest construction emissions are from this phase. The results are summarized in Table 1 below.

Table 1 – Comparison of Demolition Unmitigated Emissions

	VOC (lbs/day)	NO _x (lbs/day)	CO (lbs/day)	SO _x (lbs/day)	PM ₁₀ (lbs/day)	PM _{2.5} (lbs/day)
Maximum Daily Emissions (DEIR Table 4.2-11)	23.40	170.24	186.82	0.04	26.14	9.76
Typical Daily Emissions	14.42	107.85	116.19	0.04	23.80	7.49

The project's construction impacts were estimated and the maximum daily emissions were compared to the SCAQMD thresholds. However, this maximum day of construction does not occur all the time and as shown in Table 1, the emissions from a typical construction day are lower than what was reported in the DEIR.

- 2) The estimated unmitigated PM₁₀ emissions during grading are conservative. Instead of using the default values of 10 lbs/day/acre disturbed (Level 1 analysis, URBEMIS program default), the PM₁₀ emissions were estimated based on the anticipated amount of export material excavated from the project site (Level 2 analysis). This resulted in a much higher estimate of PM₁₀ emissions. Prior to mitigation, under the Level 1 analysis, the project's maximum daily estimated PM₁₀ emissions from site grading would be 19.88 lbs, while the Level 2 analysis estimated the maximum daily PM₁₀ emissions to be 267.13 lbs.

The soil to be exported will be taken from throughout the project site. Therefore, it is appropriate to model the entire project site as one area source for PM₁₀ dispersion modeling of localized impacts as was done in the DEIR.

- 3) According to the analysis in the DEIR, the mitigated fugitive dust PM₁₀ emissions from site grading are 85.48 lbs/day, while demolition only produces 20.07 lbs/day. Therefore, it is evident that the majority of PM₁₀ emissions from fugitive dust are produced during site grading. Using SCAQMD approved methodology, the localized impacts from PM₁₀ emissions (both fugitive dust and vehicle exhaust) during demolition are 1.44 µg/m³ to the sensitive receptor and 0.73 µg/m³ to the resident, both of which are less than the SCAQMD threshold of 10.4 µg/m³.



Mr. Ian Forrest
March 20, 2008
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- 4) In an effort to reduce the impacts from PM₁₀ emissions generated by the project, the project applicant has included mitigation measures which are recommended by SCAQMD as Best Available Control Measures in Rule 403. In addition, the project applicant includes off-site monitoring of PM₁₀ emissions, which goes beyond the mitigation requirements of comparable projects.

The majority of the PM₁₀ emissions are estimated to occur from the exporting of excavated materials from the site. Therefore, the following recommended additional measures focus on these activities. These mitigation measures include:

- Stabilize material while loading to reduce fugitive dust emissions
- Maintain a least six inches of freeboard on haul vehicles
- Use tarps or other enclosures on haul truck
- Comply with track-out prevention / mitigation requirements
- Conduct watering as necessary to prevent visible emissions from extending more than 100 feet beyond the active cut area unless the area is inaccessible to watering vehicles due to slope conditions or other safety factors.

- 5) Based on comments received during the public comment period on March 11, we have reviewed the emission from the project site and their potential impact on ambient air. In a letter from Air Quality Dynamics authored by Bill Piazza dated March 10, 2008, there is a statement that their dispersion analysis predicted concentrations of nitrogen dioxide (NO₂) which would exceed California Air Resources Board ambient air quality standard of 0.18 ppm for the 1-hour averaging period at a downwind distance of 100 meters. Our analysis does not confirm this finding during the construction phase or operation phase of the project. Our dispersion analysis found that at a distance of 100 meters from the project site, the maximum NO₂ emissions from project construction would be 0.055 ppm, which when added to the background level of 0.08 ppm, would only total 0.135 ppm, which is below the ambient air quality standard of 0.18 ppm. In our professional opinion, impacts from NO₂ generated during the construction and/or operational phase of the project do not create a localized impact and are less than significant as concluded in the Recirculated DEIR for the project.
- 6) The DEIR estimated the unmitigated operational emissions from project operation by including both area and mobile sources and then accounted for the emissions from existing land uses in order to determine the net emissions for the project. With the exception of VOC emissions, the project operational emissions are estimated to be less than the current land uses. The VOC emissions were estimated to increase by 0.4 pounds per day. For all pollutants, the unmitigated emissions from the project are estimated to be below SCAQMD significance levels for all pollutants without accounting for the current land uses. In other words, even assuming the project site



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was considered a vacant lot which did not generate the traffic and inherent pollutant emissions from the former Robinsons May department store use, in our professional opinion, the introduction of the project would not result in emissions which exceed the SCAQMD thresholds of significance when operational.

- 7) Regardless of the construction schedule for the project (24 months versus 34.25 months), the estimated daily maximum emissions which were used as the basis for significance of air quality impacts would remain unchanged. As shown in the analysis in the DEIR, the maximum construction emissions would occur during demolition and during site grading. The 34.25 month construction period treated all phases of construction as occurring separately. The 24-month schedule is an aggressive schedule in which demolition and site grading would occur separately and prior to building construction. Once construction begins, there are phases within the building construction phase which could occur concurrently, which is where the 34.25 month construction period could be compressed into the 24-month schedule. Furthermore, the project applicant announced a revision to the proposed construction schedule during the Planning Commission review of the project, which will lengthen the construction period to 33 months, which resembles the schedule analyzed in the DEIR. Therefore, in our professional opinion, the analysis in the DEIR accurately evaluates and discusses the potential air quality impacts from project construction.

In conclusion, the DEIR addresses all the potential emissions from the project using conservative methodology. The project also will implement the appropriate Best Available Control Measures for fugitive dust control required by the SCAQMD.

C Y C A R L B E R G

REGISTERED CONSULTING ARBORIST



March 7, 2008

Daniel Green
Project Manager
Gardiner & Theobald, Inc.
421 North Rodeo Drive
Beverly Hills, California 90210

Re: 9900 Wilshire Boulevard, Beverly Hills, California

Dear Mr. Green,

This report is submitted for your review in response to your request for arboricultural consulting services.

BACKGROUND AND ASSIGNMENT

Candy & Candy and Gardiner & Theobald are the development and project managers for the residential development "9900 Wilshire Boulevard" in Beverly Hills. Richard Meier Partners is the architect of record. Construction of a retaining wall is proposed adjacent to approximately 40 Canary Island pine trees (*Pinus canariensis*) located near the east property line of the Los Angeles Country Club (LACC) at 10101 Wilshire Boulevard.

I was retained to evaluate the trees as they pertain to proposed construction and provide guidelines for their protection and continued livelihood. This report is based on my site visits of January 28 and February 28, 2008 and conversations with your design, structural, and civil engineering teams. I did not have access to the LACC property, and based my evaluations on my inspections conducted from a ladder and from the roof at 9900 Wilshire Boulevard.

It is important to note that any information, such as structural defects that would only be obvious by evaluating the trees from the trunk bases, was not able to be collected.

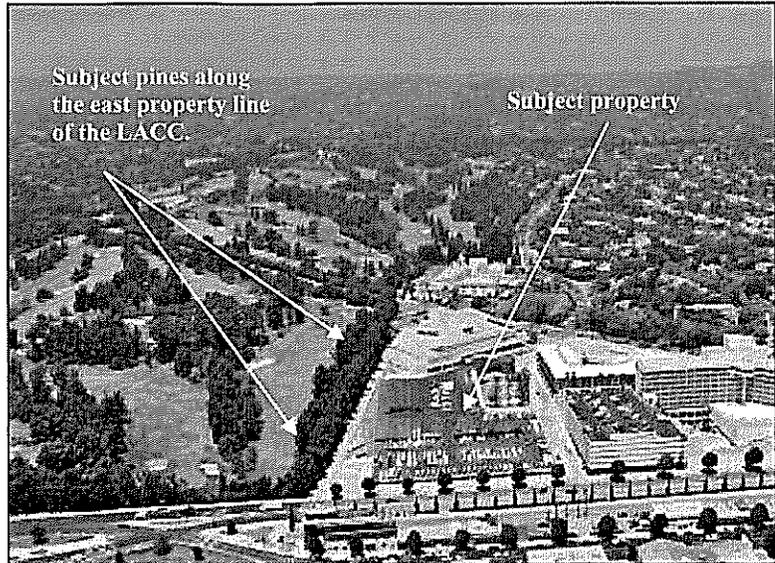
OBSERVATIONS AND DISCUSSION

THE TREES

There are approximately 40 mature Canary Island pine trees that are located between about 12 and 14 feet from the east property line of the LACC. A second row of about 15 pines are located approximately 20 feet behind the first row. Trunk diameters,

approximated at 4.5 above grade, range between 12 and 24 inches. According to historical records, the pines were planted in 1915.

Based on a limited visual inspection from the adjacent 9900 Wilshire Boulevard property, all trees appear to be healthy, are for the most part well-maintained, and are irrigated by spray heads that water the golf course turfgrass. A few trees contain broken branches, a few lean noticeably over the subject property, and a few have narrow branch angles that may increase their failure potential. Closer physical inspection of the trees is recommended to determine their structural integrity and confirm their physiological health.



Canary Island pines, native to the Canary Islands, are well suited to our southern California climate and soils. They are long-lived (50-150 years), and have a fast growth rate to 50-80 feet in height with a 20-35 feet canopy spread. They are resistant to oak root fungus, Texas root rot and Verticillium wilt, but are susceptible to aphids, bark beetles, spider mites, Phytophthora root rot, sooty mold and pitch canker. Most of these pest and diseases are held in check by proper management and irrigation. Canary Island pines are considered relatively drought tolerant when established.

The trees are separated from the subject property by a six-foot tall concrete wall. This wall will likely be removed and replaced with an approximate 18-foot high concrete wall. The existing grade on the LACC property, particularly the grade against the tree trunks, will not be modified.

The trees are separated from the subject property by a six-foot tall concrete wall. This wall will likely be removed and replaced with an approximate 18-foot high concrete wall. The existing grade on the LACC property, particularly the grade against the tree trunks, will not be modified.

FAILURE POTENTIAL

Canary Island pines rarely fail if properly maintained by judicious pruning. Branches break when they become weight-laden or branch angle connections are narrow and fused together. Photographs 'I' and 'J' illustrate these kinds of structural problems on the subject trees.

ROOT BIOLOGY

Trees rely on roots for anchorage, uptake of water and dissolved nutrients, and storage of food reserves. The vision that a tree's root system mirrors its above-ground shape is a myth. We now understand that trees have an intricate web of large, supportive roots near the trunk, smaller, rope-like roots for nutrient storage and transport, and even smaller absorptive roots that can reach long distances.

Depending on the tree species, soil conditions, amount of oxygen, and surrounding hardscape, roots can extend considerable distances from their trunks. Roots from the subject pines, at approximately 12 feet from the retaining wall, undoubtedly follow the

wall to the east and west. At 12 feet from the trunks, the roots adjacent to the wall are expected to be less than four inches in diameter—not roots responsible for tree stability.

CONSTRUCTION IMPACTS

The grade of the drive on the west edge of the subject property will be altered and in some areas, raised by about eight feet. The existing 12' x 12' City of Los Angeles Metropolitan Water District culvert may be replaced as part of proposed construction.

A new wall may be built to the west, leaving the existing wall in place, or the wall may be removed and replaced. The replacement of the wall is clearly the most sensitive construction activity. While roots of the subject pine trees are likely confined to the LACC's property, the east sides of the root zones undoubtedly run along the existing concrete wall. It is unlikely that any roots have traveled under the wall and are present on the subject property. I did not observe any cracks or other disturbances to the wall.

ON-SITE AND CITY RIGHT-OF-WAY TREES

There are seven Indian laurel fig trees (*Ficus microcarpa*) and a number of Mexican fan palms (*Washingtonia robusta*) within the Santa Monica and Wilshire Boulevards city rights-of-way. They will be protected in place during the construction process. A number of on-site trees, including weeping fig (*Ficus benjamina*), jacaranda (*Jacaranda mimosifolia*), evergreen pear (*Pyrus kawakamii*), olive (*Olea europaea*), king palm (*Archontophoenix cunninghamiana*), naked coral tree (*Erythrina coralloides*), and Canary Island pine (*Pinus canariensis*), will likely need to be removed to accommodate demolition of the existing structures.

CONCLUSION AND RECOMMENDATIONS

CONSTRUCTION PRECAUTIONS

If the wall is removed, the soil face will need to be protected from erosion until the new wall is formed and poured. Typically a burlap cover, kept moist, is adequate to protect sensitive roots from sunburn and drying. If the soil is found to be unnecessarily sandy and the soil face begins to erode and fall away from the roots, a temporary shoring system will need to be installed. I recommend that the new wall be constructed as soon as possible after the existing wall is demolished.

Pruning of some of the lower branches from the trees is recommended to accommodate construction of the new wall. Ideally, this pruning should take place in the winter months of January and February.

Disturbance of the soil and modification of the grade on the subject property is unlikely to result in damage of roots of the subject trees.

CONSTRUCTION MONITORING

I recommend that the demolition of the wall, excavation of soil adjacent to the LACC, and any construction pruning be monitored by a qualified consulting arborist. If possible, the project arborist should also meet with LACC staff to assure them that the trees will be preserved and protected according to Best Management Practices and current industry standards.

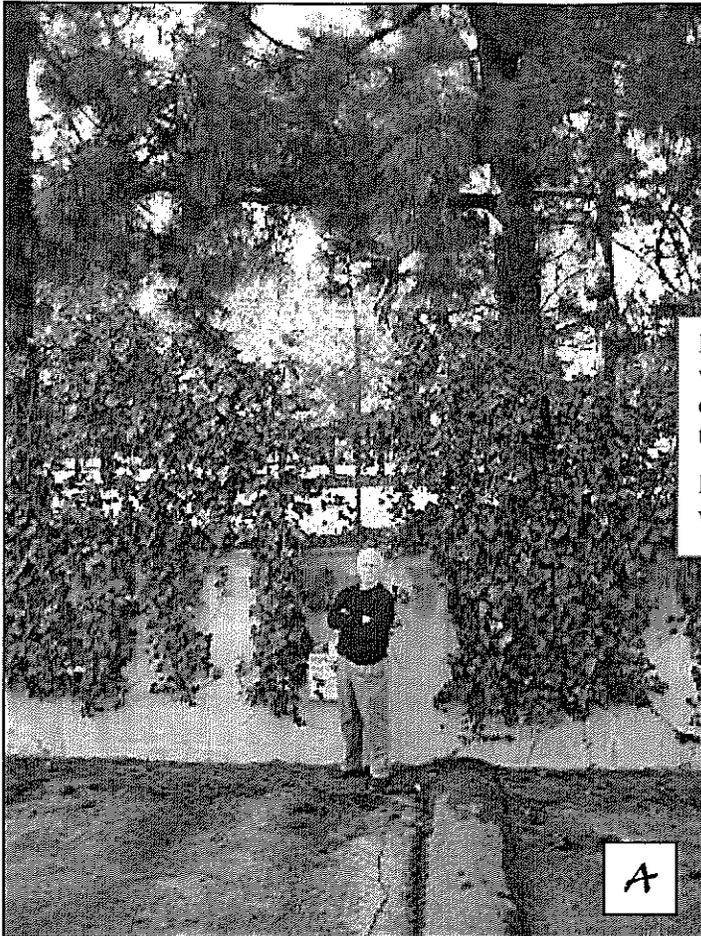
I look forward to working with you toward the continued health and protection of the trees at the LACC.

Please feel welcome to call if you have any immediate questions or concerns.

Very truly yours,

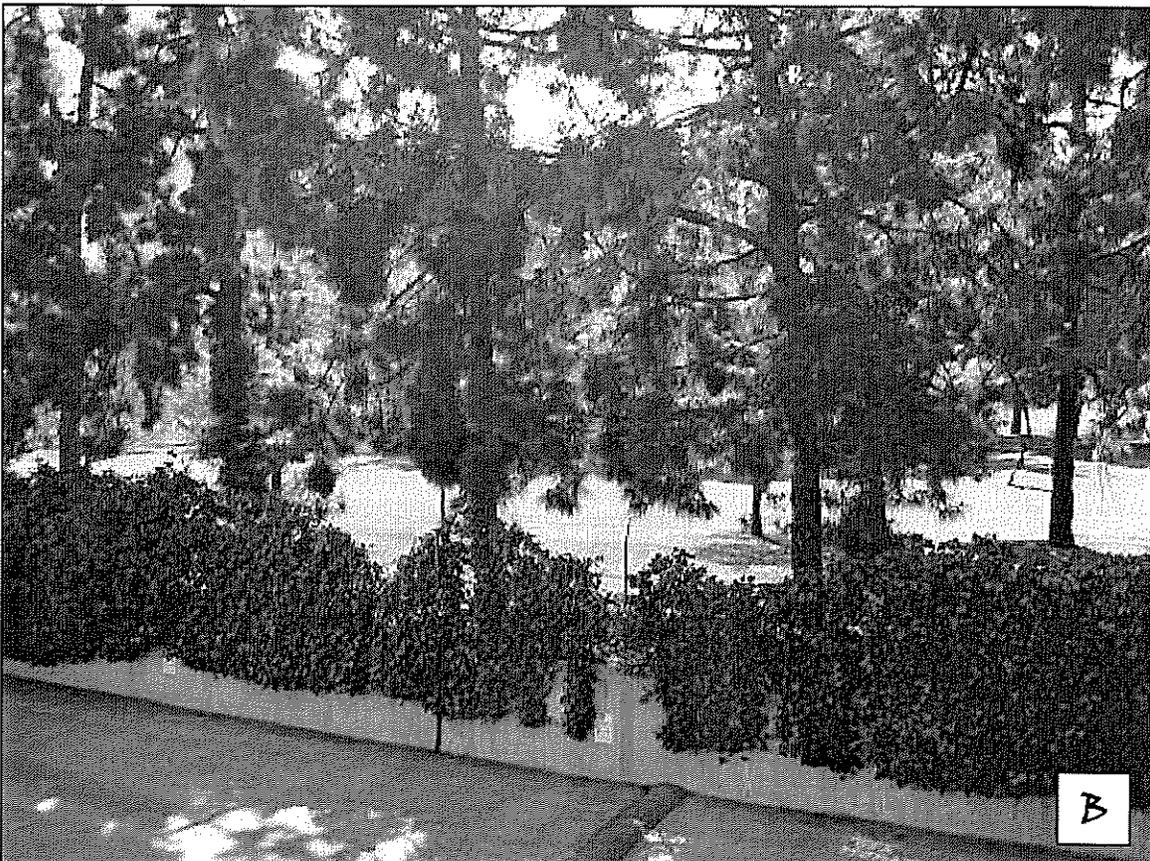
A handwritten signature in black ink, appearing to read 'Cy Carlberg', with a long, sweeping flourish extending to the right.

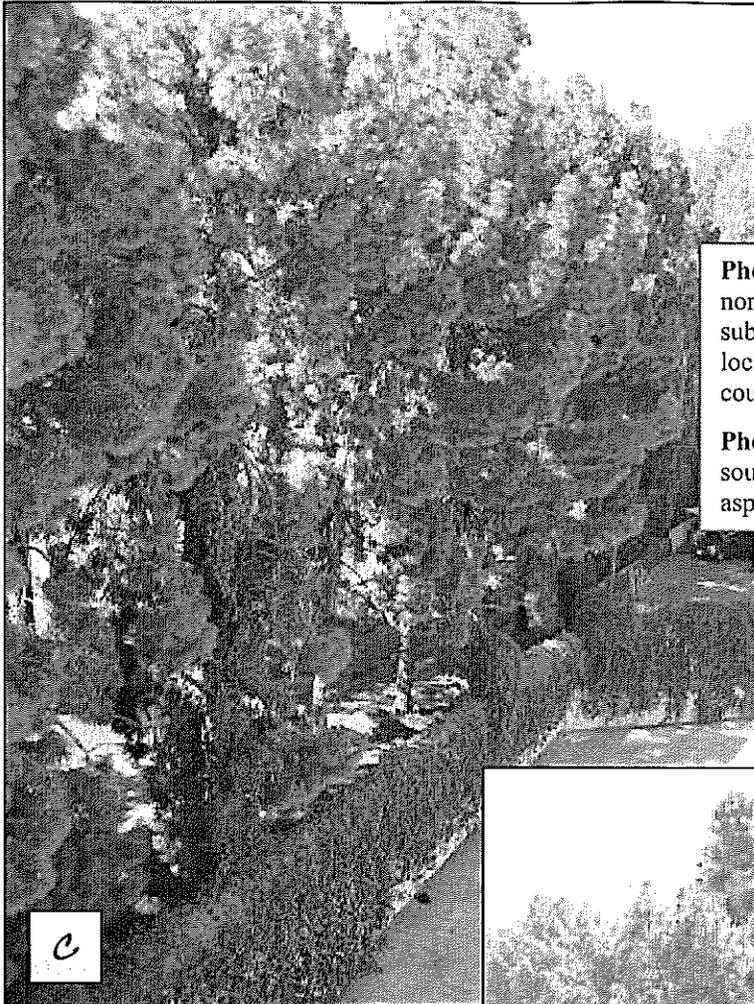
Cy Carlberg
Registered Consulting Arborist



Photograph 'A': Facing west, showing the proximity of the wall to the subject trees.

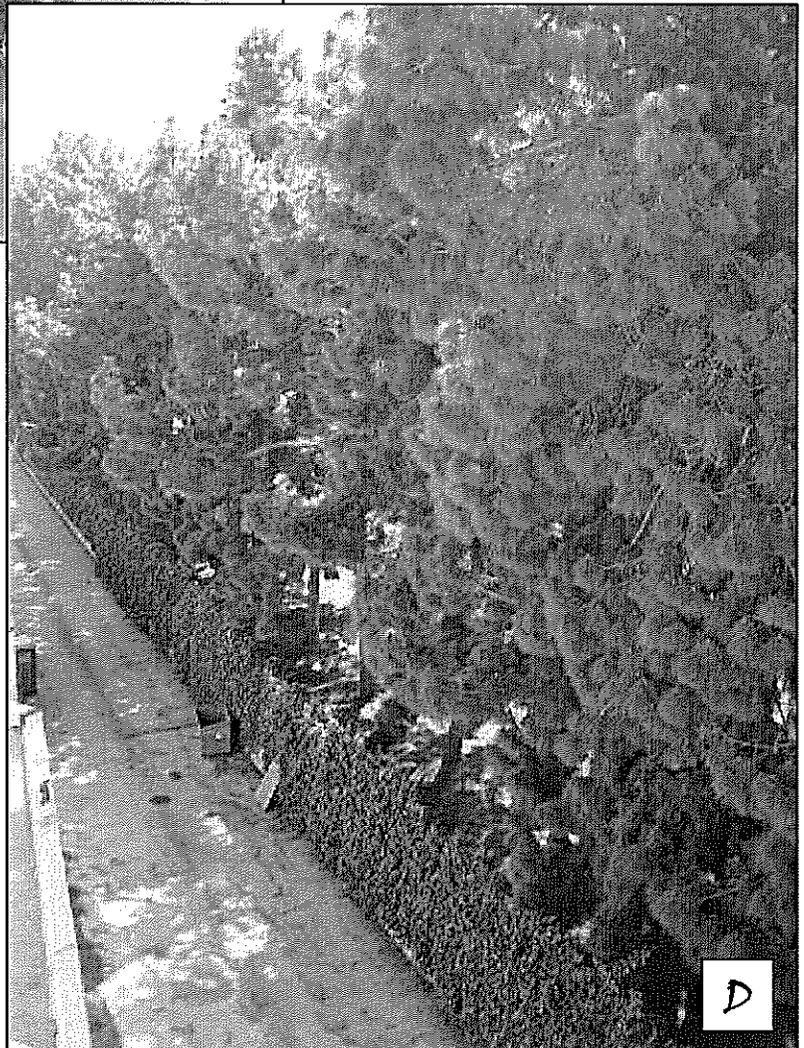
Photograph 'B': Facing west, showing site context.

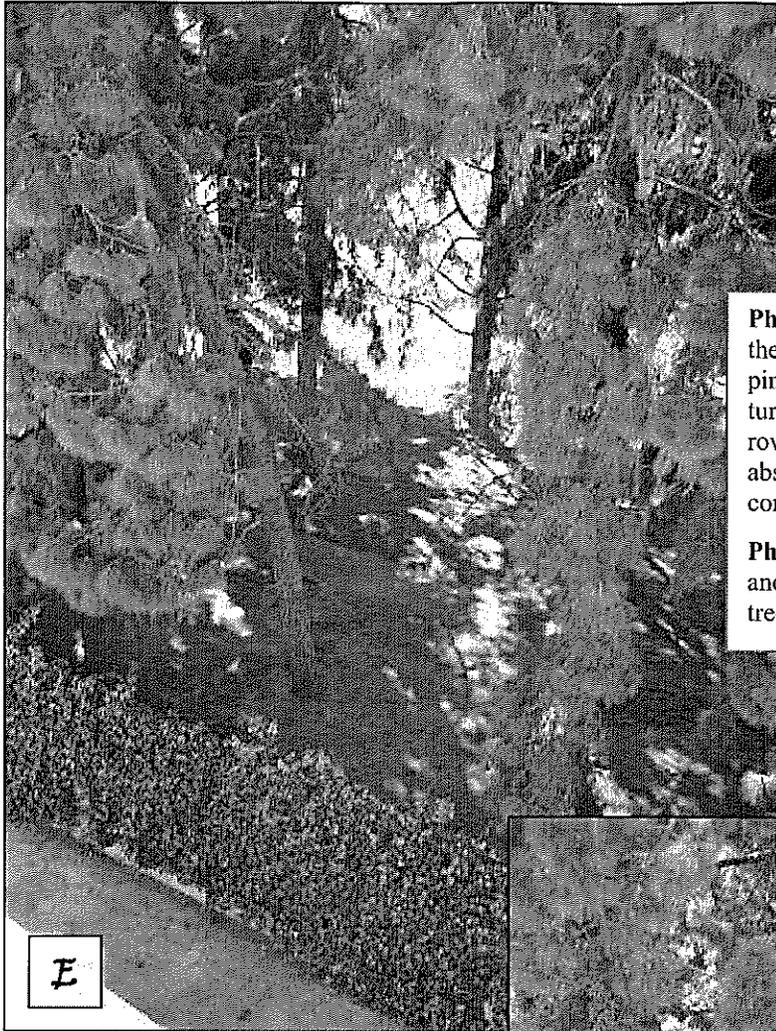




Photograph 'C': Facing northwest, showing the subject trees and their location on the LACC golf course.

Photograph 'D': Facing southwest, showing another aspect.

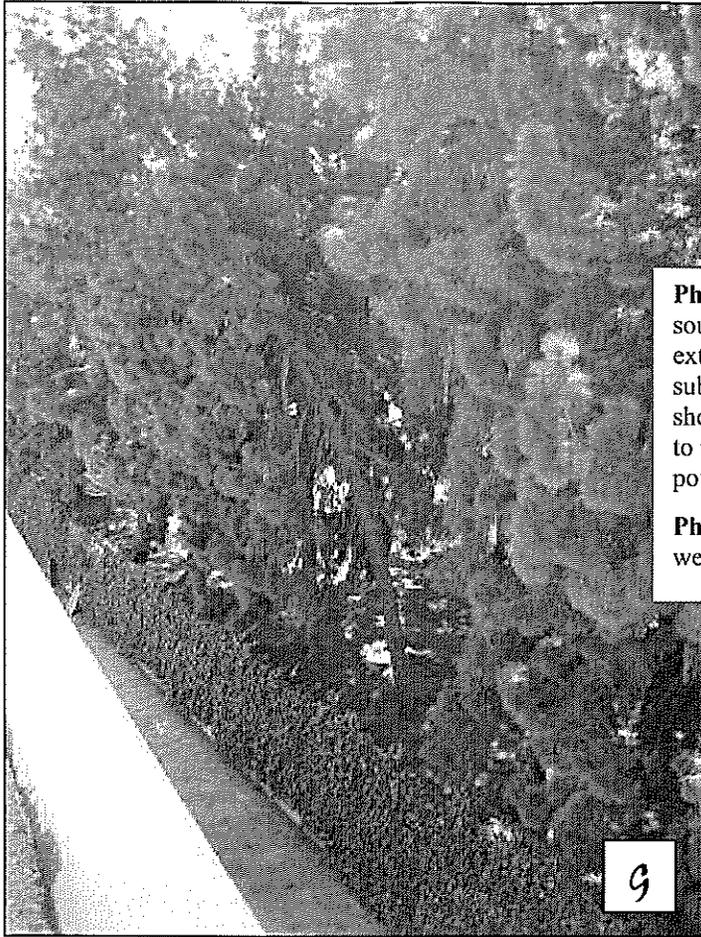




Photograph 'E': Showing the first and second rows of pines. Note the lack of turfgrass under the first row—this may indicate absence of irrigation in this corridor.

Photograph 'F': Showing another aspect of the subject trees.

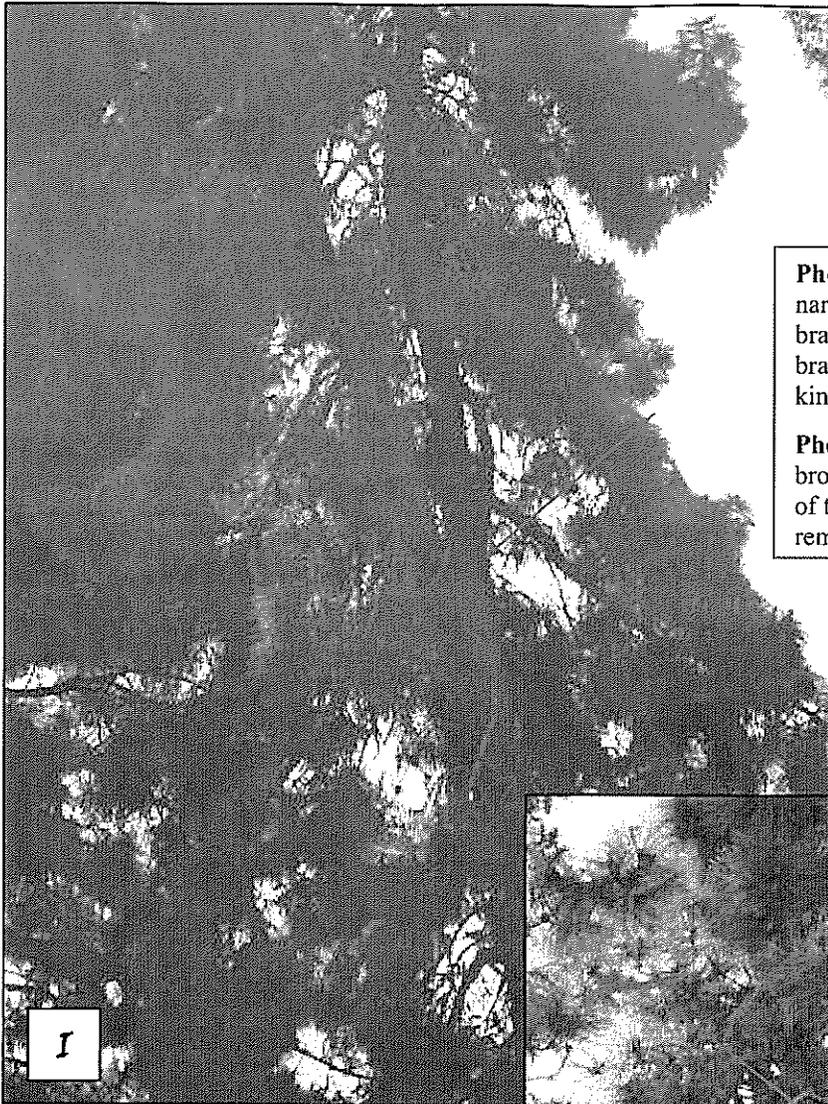




Photograph 'G': Facing southwest, showing the extreme lean of one of the subject trees. Ideally, the tree should be lightened in weight to reduce the failure potential.

Photograph 'H': Facing west, showing site context.





Photograph 'I': Showing a narrow angle between two branches. Sometimes branches split apart at this kind of union.

Photograph 'J': Showing a broken branch lodged in one of the pines. It should be removed.



CY CARLBERG

387 North Baldwin Avenue, Sierra Madre, California 91024
(626) 355-0271 (P) ■ (626) 355-0284 (F)
oakgirl@dslextreme.com

- Education** B.S., Landscape Architecture, California State Polytechnic University, Pomona, 1985
Graduate, Arboricultural Consulting Academy, American Society of Consulting Arborists,
Chicago, Illinois, February 2002
- Experience** Consulting Arborist, 1998-present
Manager of Grounds Services, California Institute of Technology, Pasadena, 1992-1998
Director of Grounds, Scripps College, Claremont, 1988-1992
- Certificates** Certified Arborist (#WE-0575A), International Society of Arboriculture, 1990
Registered Consulting Arborist (#405), American Society of Consulting Arborists, 2002
Certified Urban Forester (#113), California Urban Forests Council, 2004

Areas of Expertise

Ms. Carlberg is experienced in the following areas of tree management and preservation:

- Tree inventory and risk assessment
- Evaluation of trees for preservation
- Tree protection on construction sites
- Pest and disease identification
- Guidelines for oak preservation
- Selection of appropriate tree species
- Planting, pruning, and maintenance specifications

Previous Consulting Experience

Ms. Carlberg has overseen residential and commercial construction projects to prevent damage to protected and specimen trees. She has twenty-five years of experience in arboriculture and horticulture and has performed tree health evaluation and risk assessment for government agencies, cities, school districts, and colleges. Representative clients include:

- The Los Angeles Zoo
- Walt Disney Concert Hall Gardens
- The Art Center College of Design
- The City of Beverly Hills
- The City of Claremont
- The City of Pasadena
- The City of La Cañada Flintridge
- The City of Los Angeles
- The City of Santa Monica
- Rancho Santa Ana Botanic Gardens, Claremont
- Scripps College, Claremont
- Claremont McKenna College
- Pomona College, Claremont
- Harvey Mudd College, Claremont
- The Claremont Unified School District
- The Los Angeles Department of Water and Power
- The Long Beach Unified School District (over 20,000 trees)

Ms. Carlberg serves with the following national, state, and community professional organizations:

- California Urban Forests Council, Board Member, 1995-2005
- Tree Advisory Commission, City of Sierra Madre, Chair, 1999-2003
- American Society of Consulting Arborists Academy, Faculty Member, 2003-2005
- Pasadena Urban Forestry Advisory Commission, Member, 1994-1996

Richard Meier & Partners
Architects LLP

18 March 2008

Mr. Ian M. Forrest
Associate
Jeffer, Mangels, Butler & Marmaro LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067

Dear Mr. Forrest:

At your request, I have written the following in direct response to certain assertions made in the March 11, 2008 letters submitted to the Beverly Hills City Council regarding the proposed development of the 9900 Wilshire Boulevard site (the Project) from the Los Angeles Conservancy (the Conservancy) and on behalf of the Los Angeles Country Club (LACC).

I am a Partner in the architectural firm of Richard Meier & Partners Architects LLP (RMP), named for Pritzker Prize-winning architect Richard Meier. RMP is responsible for the architectural design and planning of the Project, and is responsible for the design of the Project as revised and recommended for City Council approval by the Beverly Hills Planning Commission. RMP is known both nationally and internationally as one of the world's premier design and architectural firms.

Collectively, RMP has over 17 licensed architects, and a staff of more than 100, with offices in Los Angeles and New York City. Our firm has designed more than 100 structures world-wide. Locally, RMP has designed what are considered some of Southern California's most iconic structures, including the Getty Center, the Eli and Edythe Broad Art Center at the University of California Los Angeles campus, and the Museum of Television & Radio in Beverly Hills, California.

I have personally been a practicing architect for over 30 years. As a Principal Designer of Richard Meier & Partners since 1979, I have worked closely with Richard Meier on many award-winning projects located throughout the world, including The Getty Center; the Decorative Arts Museum in Frankfurt, Germany; the High Museum in Atlanta; the San Jose City Hall in San Jose, California. I have also served as Project Designer and Project Architect for many private residences constructed throughout the United States and overseas.

Appointed Partner in 1985, I moved to Los Angeles in 1986 to open Richard Meier & Partners' west coast office. Since that time, as Design Partner, I have been responsible for institutional and residential projects in the U.S., Asia and Europe.

I earned a Bachelor of Architecture degree from Virginia Polytechnic Institute in 1977 and a Masters in Architecture from Harvard University Graduate School of Design in 1979. I am a Registered Architect in California, New York and Pennsylvania. I was awarded the prestigious Rome Prize for the year 2000 - 2001 and the 2005 Gold Medal from the American Institute of Architects Los Angeles, and was elevated to Fellowship in the AIA in 2008.

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18 March 2008
Page Two

I note the following as based upon my experience, and the collective experience of RMP as experts in the fields of architecture, site planning and building design.

LACC Design Alternatives

The following is in response to the LACC's proposed design "alternatives" submitted as Exhibits B and C to their March 11, 2008 letter.

Preliminarily, I would note that the design for 9900 Wilshire has been developed over four years in collaboration with multiple stakeholders. Input was sought from all neighbors, including the LACC, Beverly Hilton, members of the public, local homeowners, and business persons. The building scale, proportions and position have been refined in direct response to the extraordinary site, the context and the southern California climate. The design is sensitive to the goals and concerns of our neighbors and to the City of Beverly Hills. The revised project design also meets the goals of Candy & Candy to build sustainable, state of the art, full service luxury condominium residences.

The LACC alternatives are not "alternatives" as understood under CEQA

I would note further that the proposed design alternatives are not true "alternatives" as they are contemplated under the California Environmental Quality Act (CEQA). True "alternatives" under CEQA serve to mitigate or lessen significant environmental impacts. The environmental studies completed for the Project and Revised Project have identified no significant impacts that would be lessened via their proposed alternatives. Specifically, I understand that the Revised Project will not cause shading impacts at the LACC and will not interfere with current quality and density of the golf course turf.

Because no significant environmental impacts are lessened by the LACC's proposed alternatives, and indeed, certain environmental impacts may even increase, the LACC's alternatives serve no purpose under CEQA. One of the significant impacts noted by the EIR is the impacts to the westward views from the Beverly Hilton. Both LACC alternatives move the South Building closer to the Beverly Hilton, which would likely exacerbate this impact, rather than mitigate it.

The LACC Alternatives are ill-advised.

It is clear Exhibits B and C were developed without the advice of a professional architect, planner, engineer, or landscape architect. In my professional opinion, the alternatives proposed by the LACC are not "alternatives," in this sense. Exhibits B and C are merely manipulations of the architecture that RMP has developed over four years.

The architectural and design flaws inherent in both of the suggested LACC Alternatives include:

- Both of the proposed alternatives move the architecture to the "center of the property." This approach would be a planning error in that it would destroy the site's potential and make it impossible to develop meaningful open space and gardens. If centered on the

property, the building will split the site into marginal and insignificant landscaped areas. In essence, the opportunities for the expansive gardens and green areas, which is a goal of 9900 Wilshire development, would be lost. This may be in the interest of the LACC, but it is certainly not in the interest of 9900 Wilshire or the City of Beverly Hills.

- Both proposed alternatives position 9900 Wilshire residences in too close proximity to the existing Hilton Hotel and to the proposed Hilton Hotel development at Merv Griffin Way. As mentioned previously, movement of the South Building as proposed by the LACC may actually increase the aesthetic impacts as felt by the Beverly Hilton.
- Both of the proposed alternatives will make an efficient parking garage impossible due to structural shear walls that will intrude into the parking plans.

Moreover, in addition to the design flaws noted above, Alternative C is furthermore flawed in that:

- Alternate Exhibit C blocks midday direct south light from reaching the public and private landscape along Merv Griffin Way.
- Alternate Exhibit C directs the views from 9900 Wilshire residences toward the sensitive area of single family residences north of Wilshire Boulevard.
- Alternative Exhibit C eliminates direct sunlight to many 9900 Wilshire residences during the winter months.
- Alternative Exhibit C juxtaposes an angled south wall of the residence building to the intersection of Santa Monica Boulevard and Merv Griffin Way and represents poor planning and a complete disregard for the context. This intersection is planned with a restaurant and outdoor seating. The proposed alternative Exhibit C will compromise the scale and quality of light and space that are important for retail that utilizes outdoor space.

LACC Simulations of the Visual Presence of the Revised Project

The following comments are related to the simulations provided by the LACC to represent the image of the architecture as seen from the LACC:

The images provided by the LACC misrepresent the architecture as solid and opaque. As proposed in the Revised Project, the West Building elevation of 9900 Wilshire is layered with cantilevered balconies and terraces designed to create depth, scale and texture through façade treatment. The glazing is clear, transparent glass. The architecture does not utilize the dark tinted and mirror glass products that are common to Century City.

Because the façade treatment is misrepresented in the LACC simulations, I can only assume the height and width are also misrepresented. There are certainly positions on the golf course property where 9900 Wilshire development will be visible. There are many more locations where it will not be seen due to the dense landscape and golf course planning. The simulations

Mr. Ian M. Forrest
18 March 2008
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prepared by the LACC do not represent the context, in that Century City is conveniently missing from all simulations.

Accommodation of Delivery Vehicles

As explained to the entire Planning Commission in response to an inquiry by Commissioner Reims, most delivery vehicles will service the site through the parking garage accessed from Merv Griffin Way and Santa Monica Boulevard. Two loading docks are available. The first loading dock is adjacent to the commercial retail zone where restaurant and retail deliveries and trash would be handled through back of house areas. The second loading dock would accept deliveries for the residential components of the project. These deliveries are directly received by a back of house attendant in a security room. From there, the goods will be delivered using hand dollies or smaller onsite vehicles as necessary, through back of house hallways to building service elevators. Delivery trucks utilizing the underground loading docks will exit via Santa Monica Boulevard or Merv Griffin Way.

Two van loading and unloading areas off of the residential access road are planned for furniture delivery and other deliveries requiring an extended stationary period. Delivered items would be dollied to the adjacent freight/service elevators. Delivery vehicles will not park along Merv Griffin Way for any loading or unloading.

Conclusion

I would be happy to elaborate more fully on any of the points made herein during the City Council hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Palladino", with a stylized flourish at the end.

Michael Palladino FAIA
Partner

cc: Allan Alexander
Jim Crawford
Michael Gruber

March 20, 2008

Attn: Ian M. Forrest
Jeffer, Mangels, Butler & Marmaro LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90403

Re: Hurdzan/Fry March 6, 2008 Report

Dear Mr. Forrest:

At your request I, as president of Golf Ventures International (GVI), report author and project leader of this study, have written this letter in order to address the issues raised in the March 6, 2008 Letter of Hurdzan/Fry, which reviewed the shade and shadow analysis in the Environmental Impact Report (EIR) for the 9900 Wilshire Project. Mr. Hurdzan's letter implies that the EIR for the 9900 Wilshire Project is deficient or contains erroneous conclusions because (1) it did not address the "spectral light shifts" allegedly caused by the development of the condominium towers and (2) it allegedly "relied upon inaccurate or inappropriate instruments that provided inaccurate data..."

Relevant to any shade and shadow impacts at the Los Angeles Country Club (LACC), I understand that the original project has been revised such that: (1) the North Building will start at 108 feet at its northernmost point (with all heights measured against the datum), stepping up towards the south to 137 feet, 149 feet, and then 161 feet; (2) the North Building will be set back 79.5 feet from the LACC; (3) the South Building will start at 161 feet at its northernmost point, stepping up towards the south to 180 and 185 feet; and (4) the South Building will be set back 40 feet from the LACC. The shade which will be cast by the revised project is as described in the *Revised Shade and Shadow Analysis* prepared by Richard Meier & Partners and attached hereto as Exhibit A.

In my professional opinion and based upon my 37 years of experience in the care and management of golf courses, the shade and shadow analysis contained within the EIR is appropriate and accurately describes and evaluates the potential impacts of the shade/shadow from the revised project of shade on the LACC's 16th hole. The turf along eastern border of the LACC golf course will not be significantly impacted by the development of the project and the turf along that border should continue to grow similar to its current quality and density.

SUMMARY OF PROFESSIONAL EXPERIENCE

I have grown up around and concerned myself with the care and maintenance of turf and later golf courses since my childhood. My father owned a sod farm and plant nursery where I worked prior to my first job at a golf course over 37 years ago. I hold degrees in Soil Science, Plant Science and Turf Management. During my 37 years of experience, I have managed over 5 golf courses and run two companies devoted to supporting companies evaluating the environmental impacts upon and from golf courses. I have worked in a wide variety of climates and circumstances throughout the United States, Europe, South and Central America and the Pacific

region. Since GVI's founding, it has provided services to over 220 golf courses, domestically and abroad.

PROFESSIONAL OPINION AND RESPONSE TO THE ASSERTIONS OF MICHAEL HURDZAN

Mr. Hurdzan is correct to point out that: (1) visible light can indeed be classified into a spectrum of different wavelengths (which we see as the colors of a rainbow); and (2) plants reflect and absorb the different wavelengths of light in different ways. However, regardless of this, in my professional opinion the project would not result in significant new shade or shadow cover of the 16th hole which would adversely impact the quality or density of the turf in the area.

The use of the QUANTUM Light Meter is appropriate and sufficiently accurate under the facts at hand

Regarding GVI's use of a QUANTUM light meter, I would note that it is a standard instrument used by many field researchers and other professional golf course managers and consultants interested in monitoring photosynthetic light in field conditions. The QUANTUM meter is sufficiently accurate to "measure and balance artificial light levels or under shade cloth in greenhouses and plant nurseries", as noted on page 8 of the Hurdzan letter, and likewise, provides a sufficiently accurate account of required light levels for photosynthesis in the vicinity of the LACC golf course.

As noted in Figure 4 of Mr. Hurdzan's letter, "common light sources are mixtures of colors and the spectral errors [of the QUANTUM meter] offset each other." This is because photosynthesis is driven by the *full spectrum of visible light* (generally, wavelengths between 400 and 700 nm), not *only* red or far red light as implied by Hurdzan (this is why green plants still grow indoors even when not exposed to direct sunlight).

In my professional opinion, a QUANTUM light meter is sufficiently accurate and its use appropriate to measure light for the purpose of the project's EIR.

The EIR's conclusions of no significant impact are correct and the project will not significantly impact the LACC's ability to continue to maintain turf to current levels of quality

More importantly however, because of the conditions of the site, existing mature vegetation and the shade it produces, as well as the natural patterns of sunlight, the use of a more sensitive meter would *not* change the conclusions of the EIR or GVI's previous analysis. Neither the originally proposed project or the now revised project would constitute a significant impact, which is defined in the EIR as shading of a single land use or segment of a linear land use for 3 hours or more after 9:00 AM.

In addition to the lack of significant impact, it is my professional opinion that the project will not significantly impact the LACC's ability to continue to maintain turf to current levels of quality and density. While the shadows cast by the revised Southern Tower will be longer, as with the

originally proposed project, the shadows cast after 9:35 AM will either not fall on the turf, or will largely overlap with the existing shade patterns cast by the mature pine trees along the western border of the LACC property (please refer to the photos and observations regarding the morning shade patterns as contained within the *GVI Shade and Shadow Study for the Los Angeles Country Club*, pages 12 through 28.) On page 4 of Mr. Hurdzan's letter, he states that shade from "coniferous or pine trees are more like building shade." The mature trees along the western border of the LACC property are, in fact, pine trees and already cast a building-like shade. These trees do not generate "plant or deciduous canopy shade" as noted by Mr. Hurdzan on page 5 of his letter, which is allegedly "rich in red and far red wavelengths important to photosynthesis."

In my professional opinion, and apparently that of Mr. Hurdzan, the shade generated by these existing pine trees is similar to the shade that would be generated by the project's buildings. To the extent the project's building shade overlaps with the shade generated by the existing trees, the project will not impact the development of the Bermuda grass along the 16th hole any more than the existing conditions (Pine tree vegetation). The figure on page 3 of the Hurdzan letter and any testimony alleging the difference between canopy tree shade and building shade is moot - overlapping shade impacts from the project will be similar to the shade impacts generated by the existing pine trees.

As stated in our original report, with most of the hole in full sunlight by 9:35 AM, and with the majority of any shading that does occur happening before 9:00 AM when there is not sufficient light, due to the existing pine tree shade, to initiate photosynthesis anyway, the project will not significantly impact the ability of the golf course management staff to continue to maintain turf at the current levels of quality and density.

CONCLUSION

In my professional opinion, the EIR's conclusion of no significant shade/shadow impact is correct and the project will not significantly impact the LACC's ability to continue to maintain the turf along the 16th hole to current levels of quality.

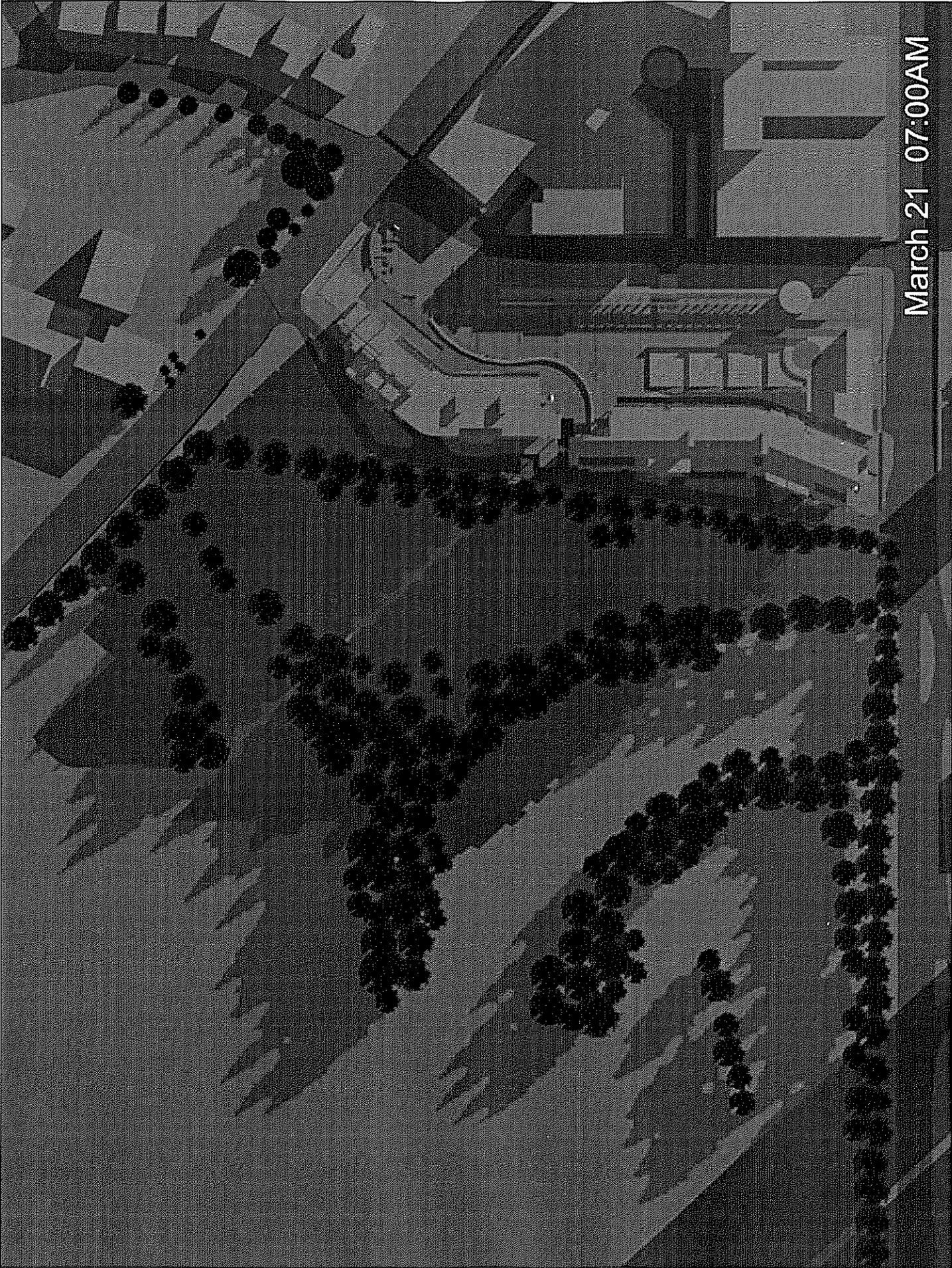
Sincerely,

William Kent Alkire, II
Agronomist
Golf Ventures International

cc: Allan Alexander
Tim Simpson

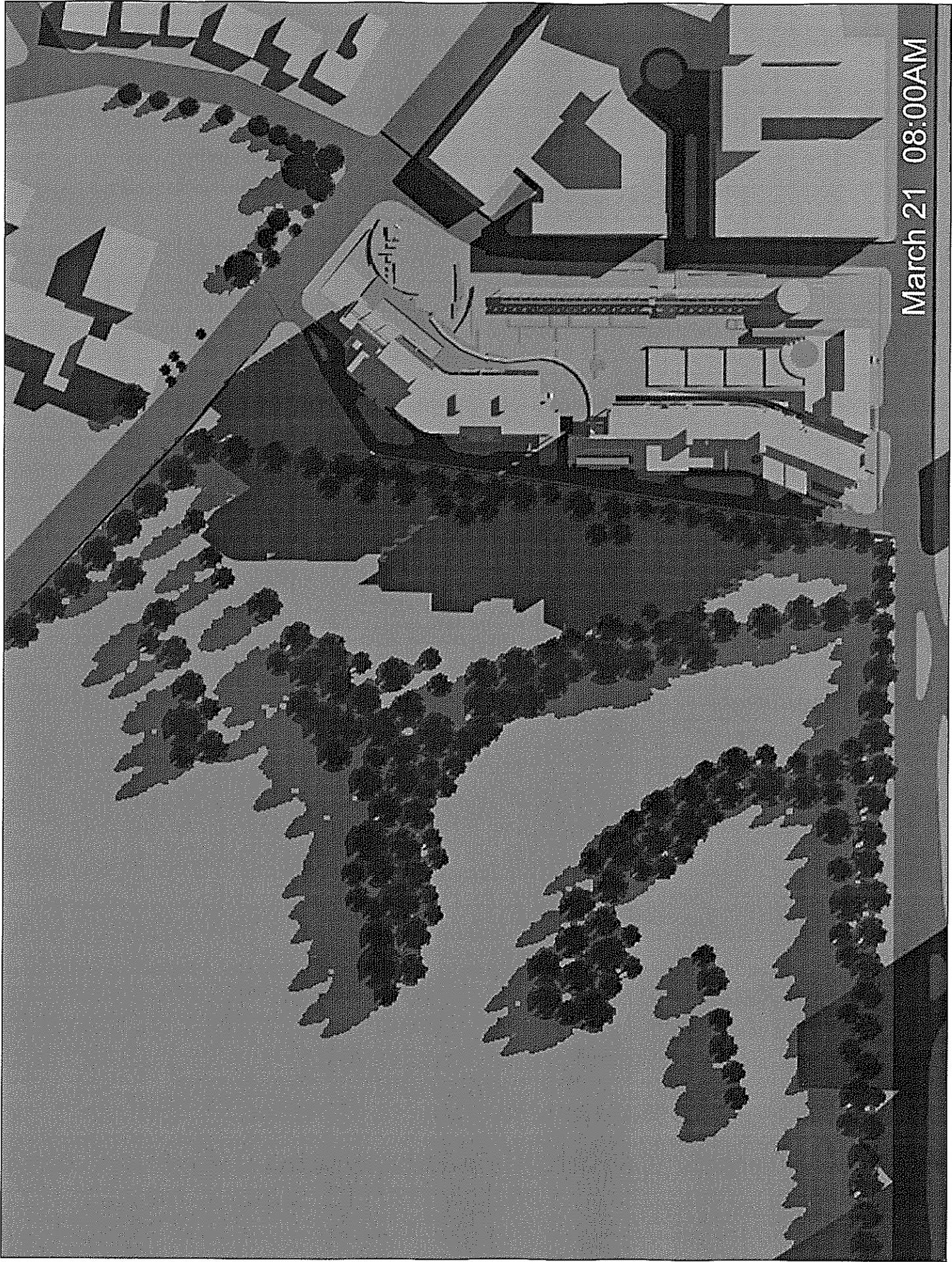
Exhibit A

Revised Shade and Shadow Analysis prepared by Richard Meier & Partners

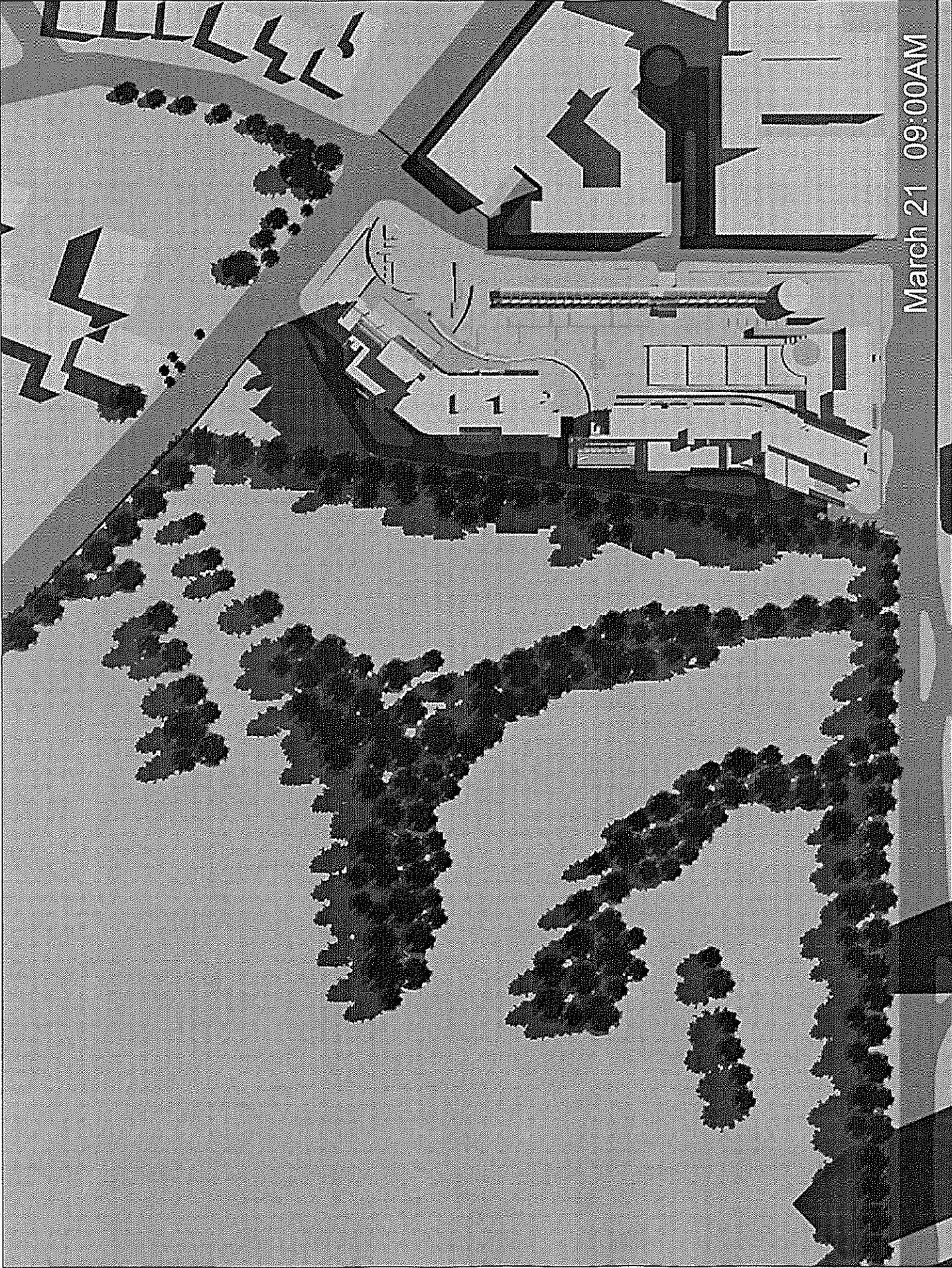


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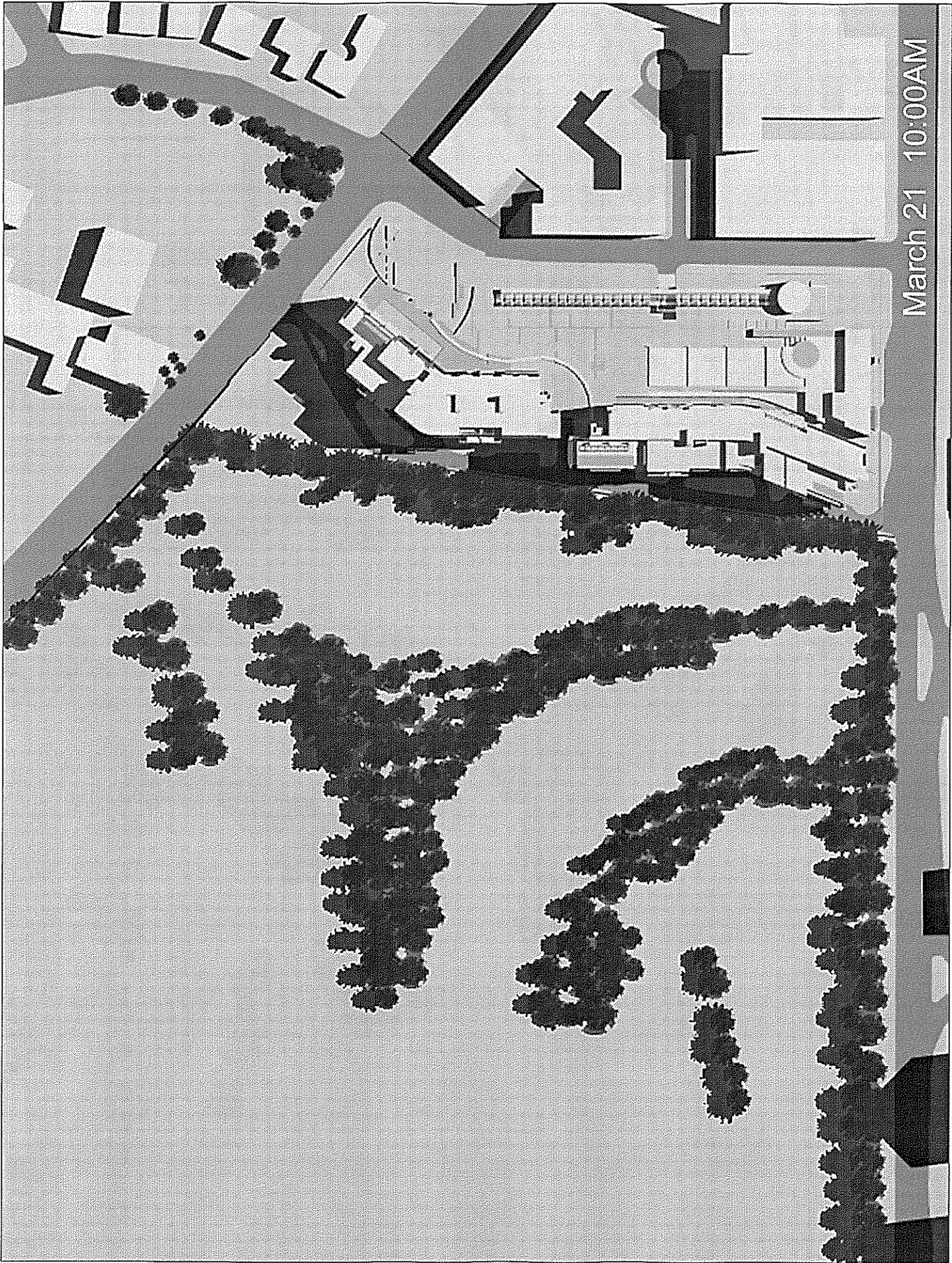


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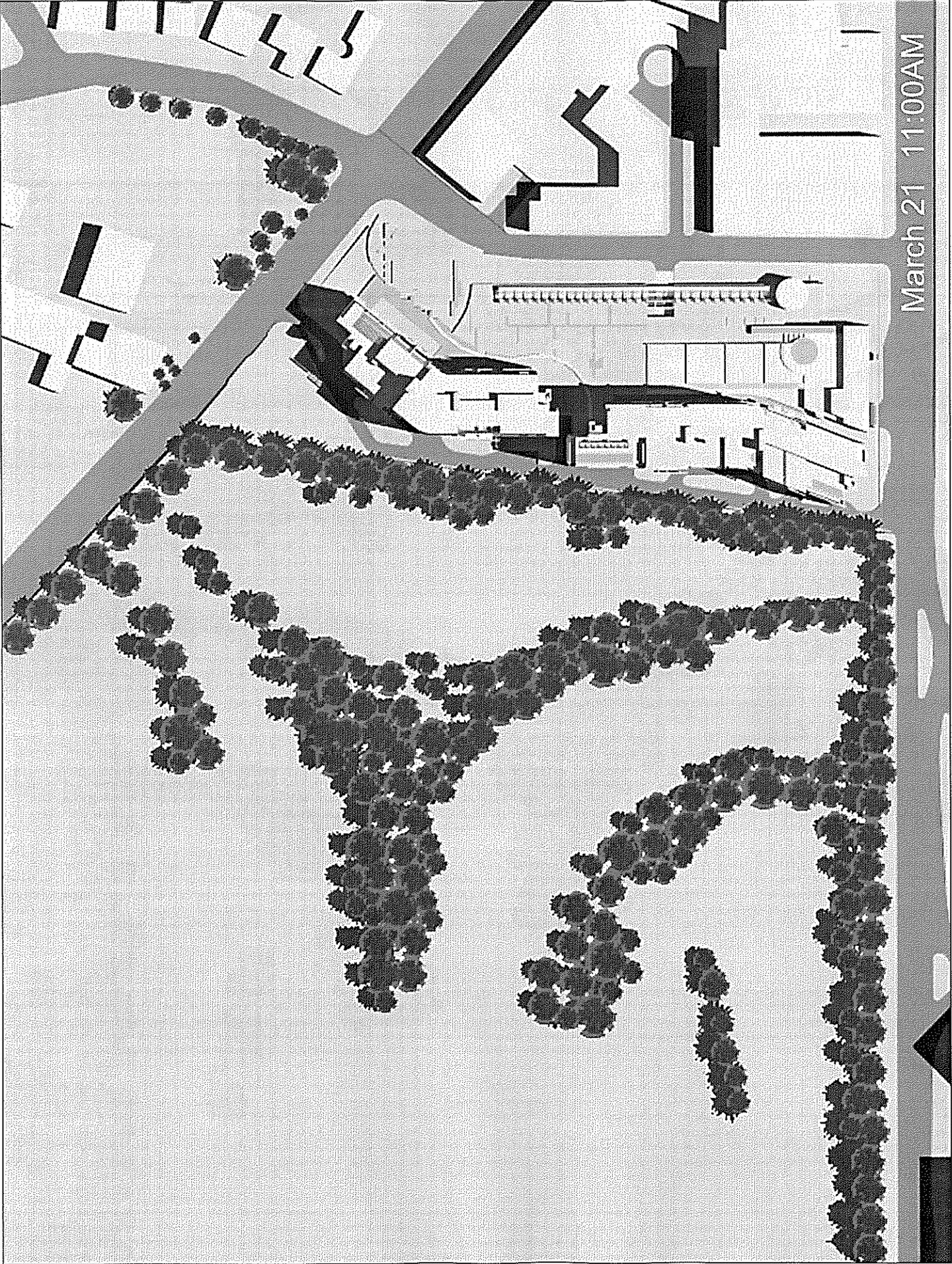


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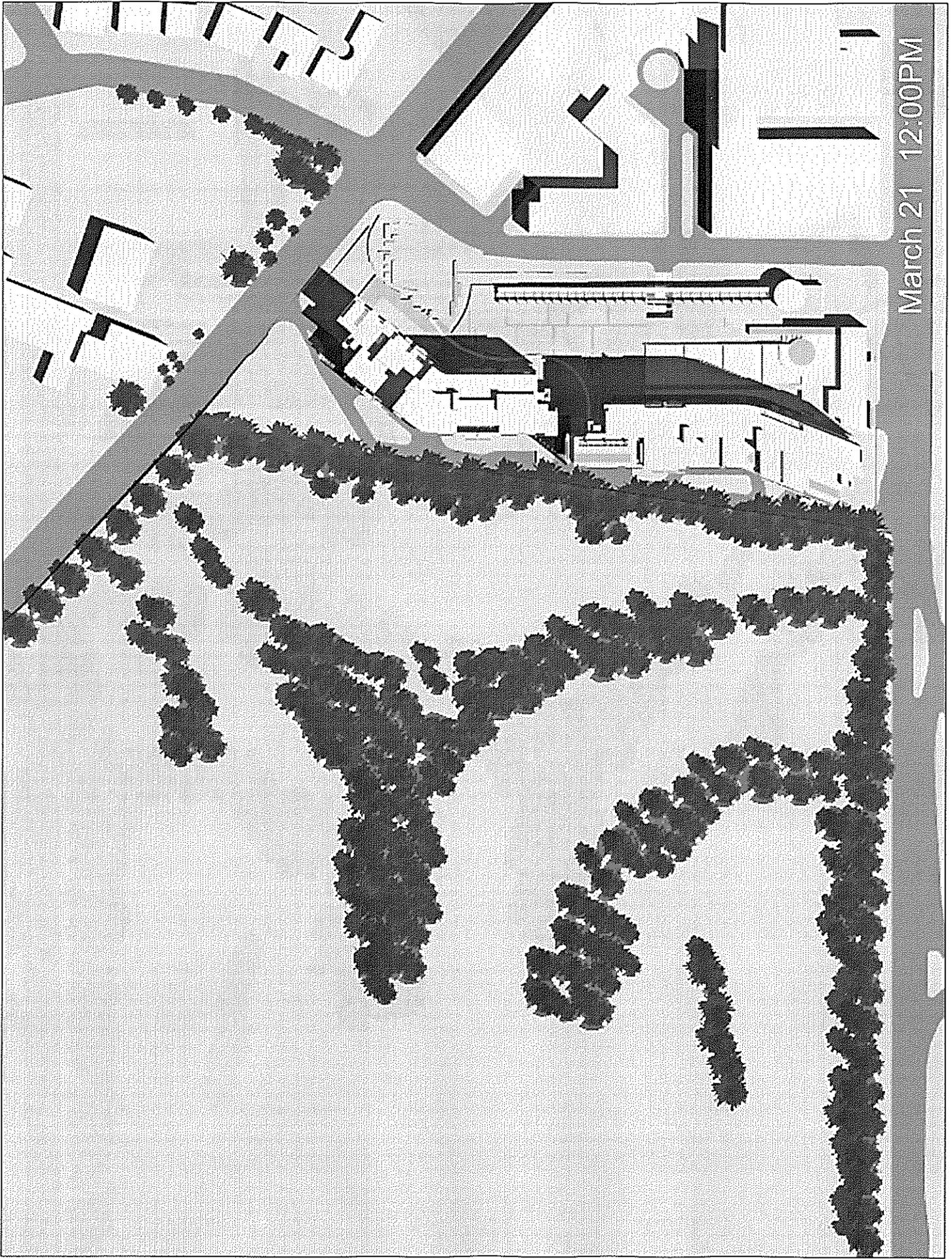




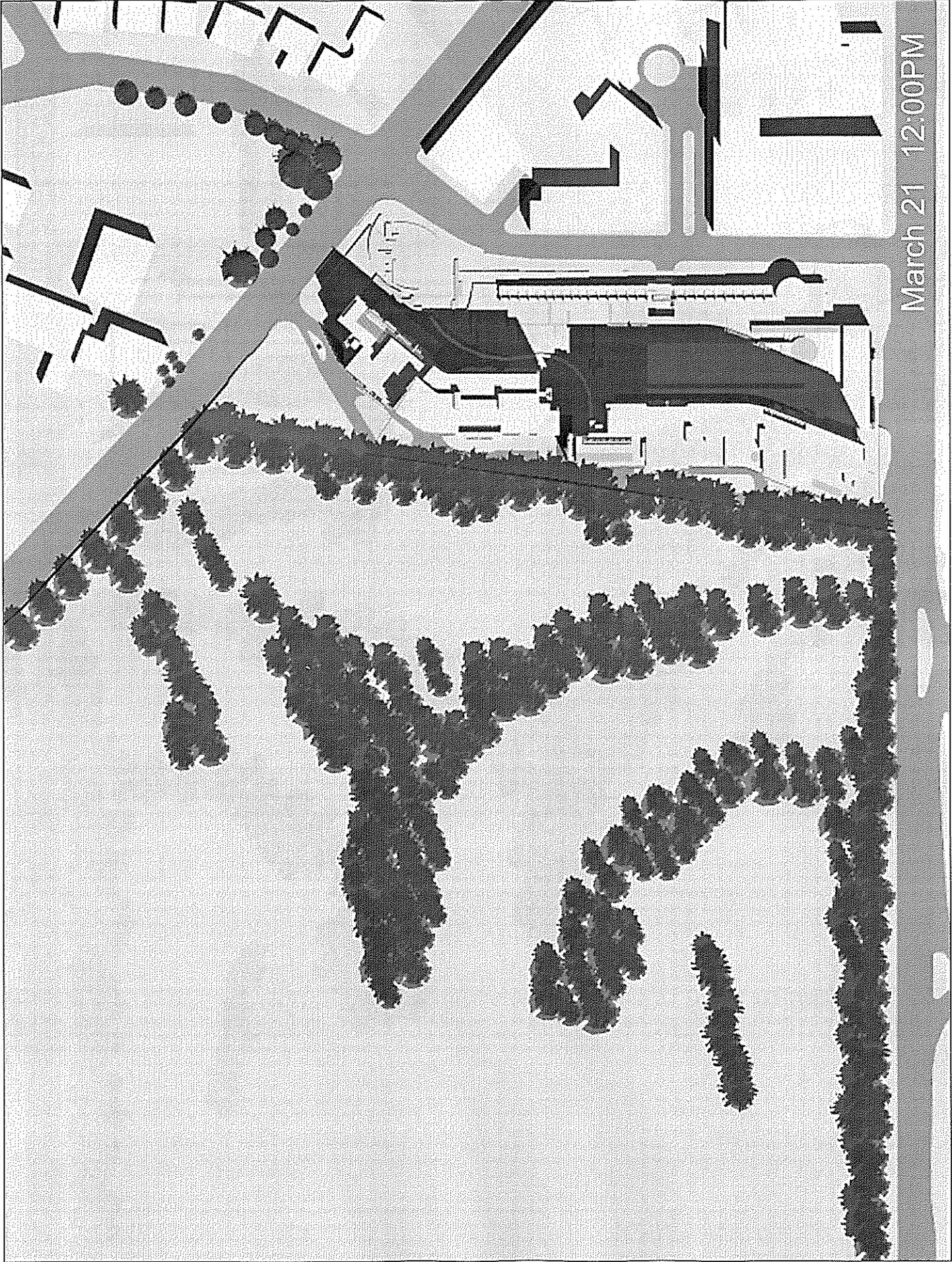
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March 21 11:00AM

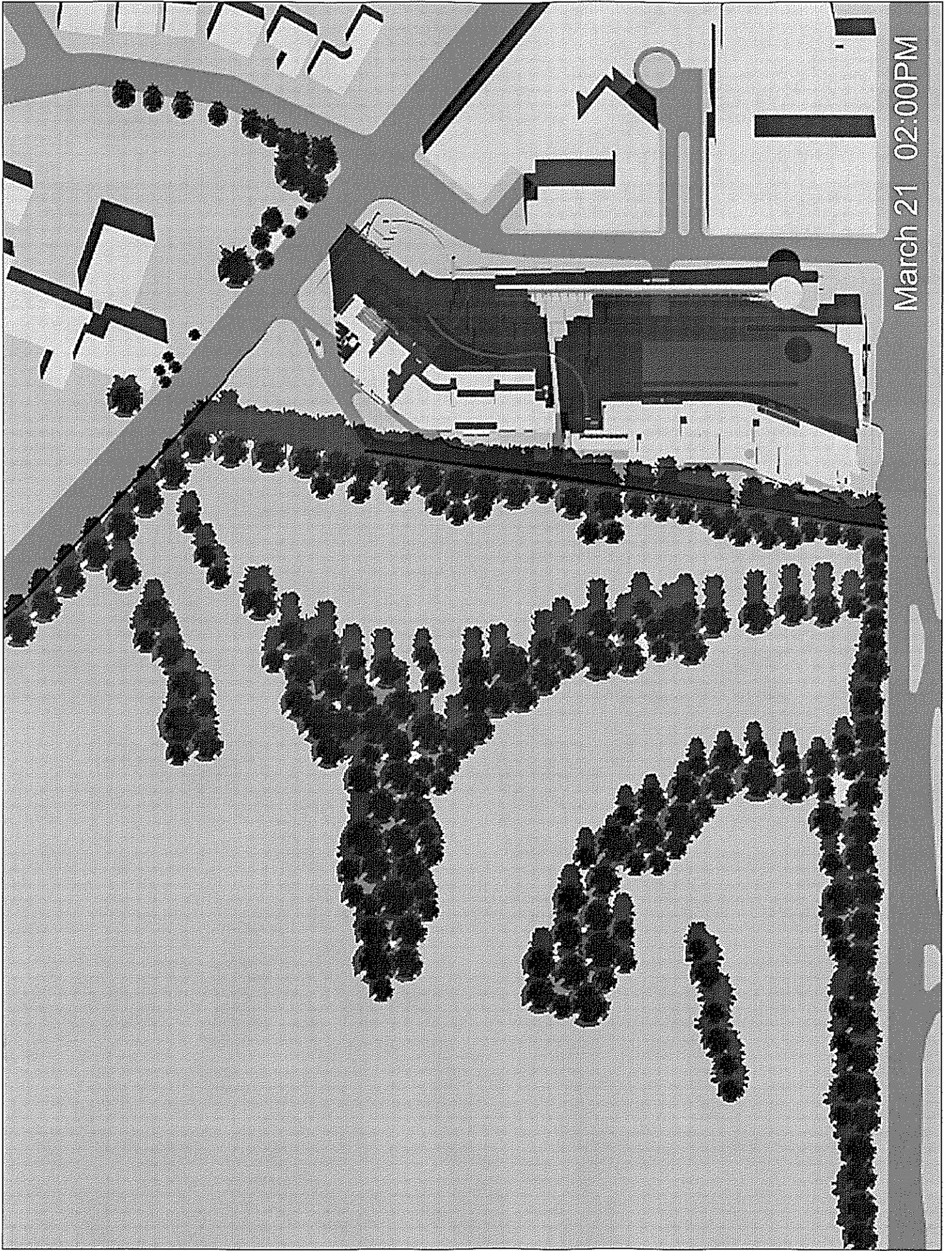


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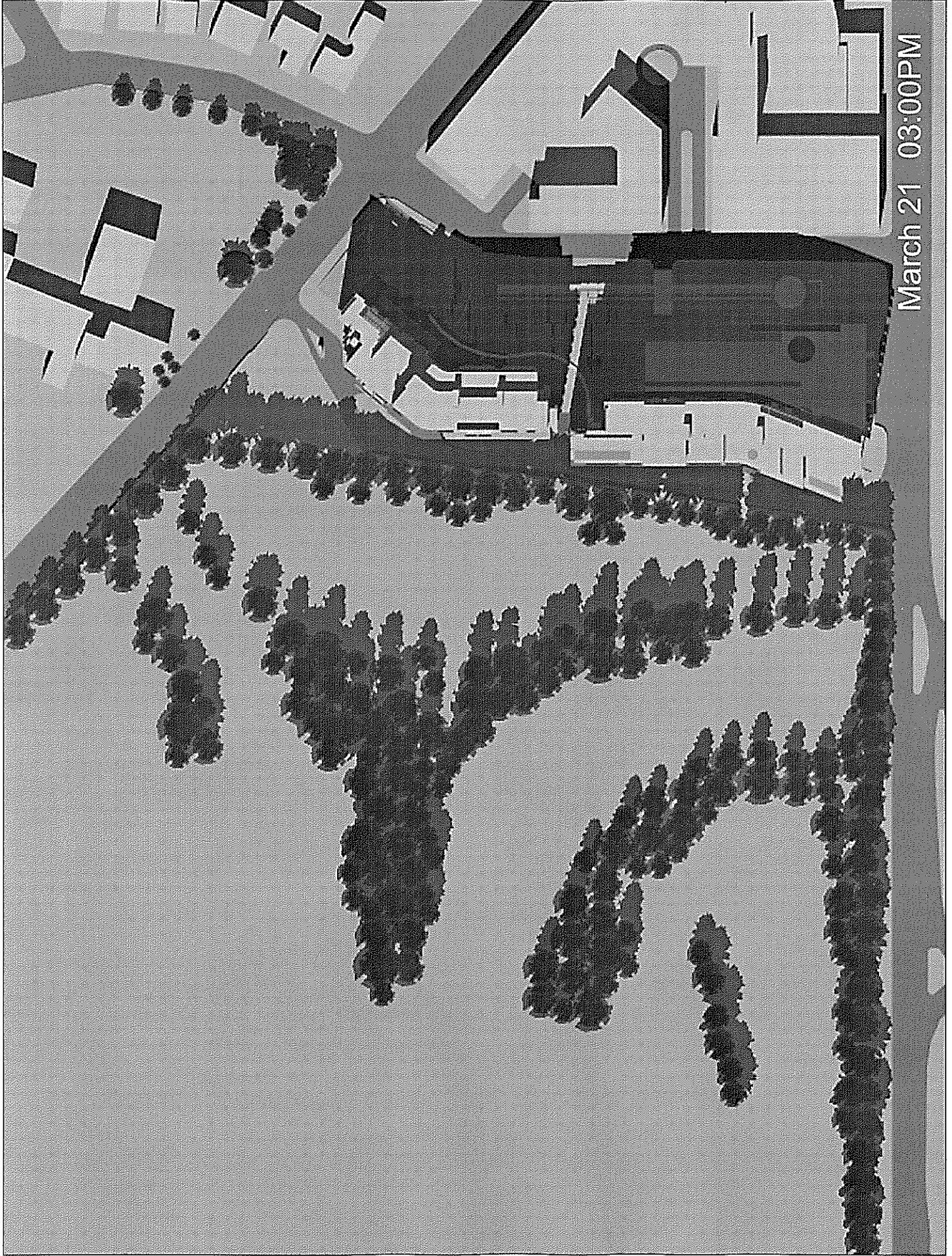


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March 21 03:00PM

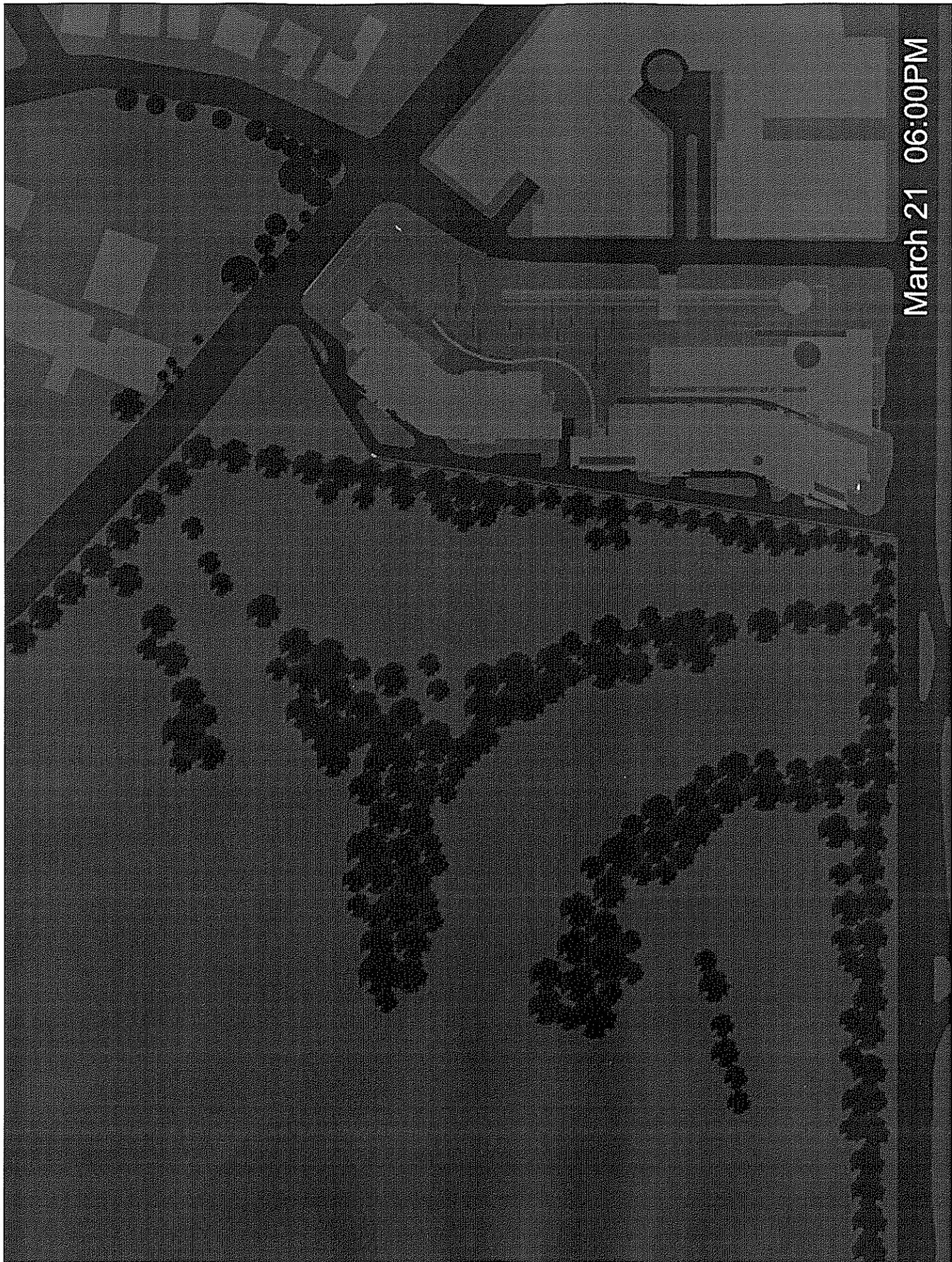


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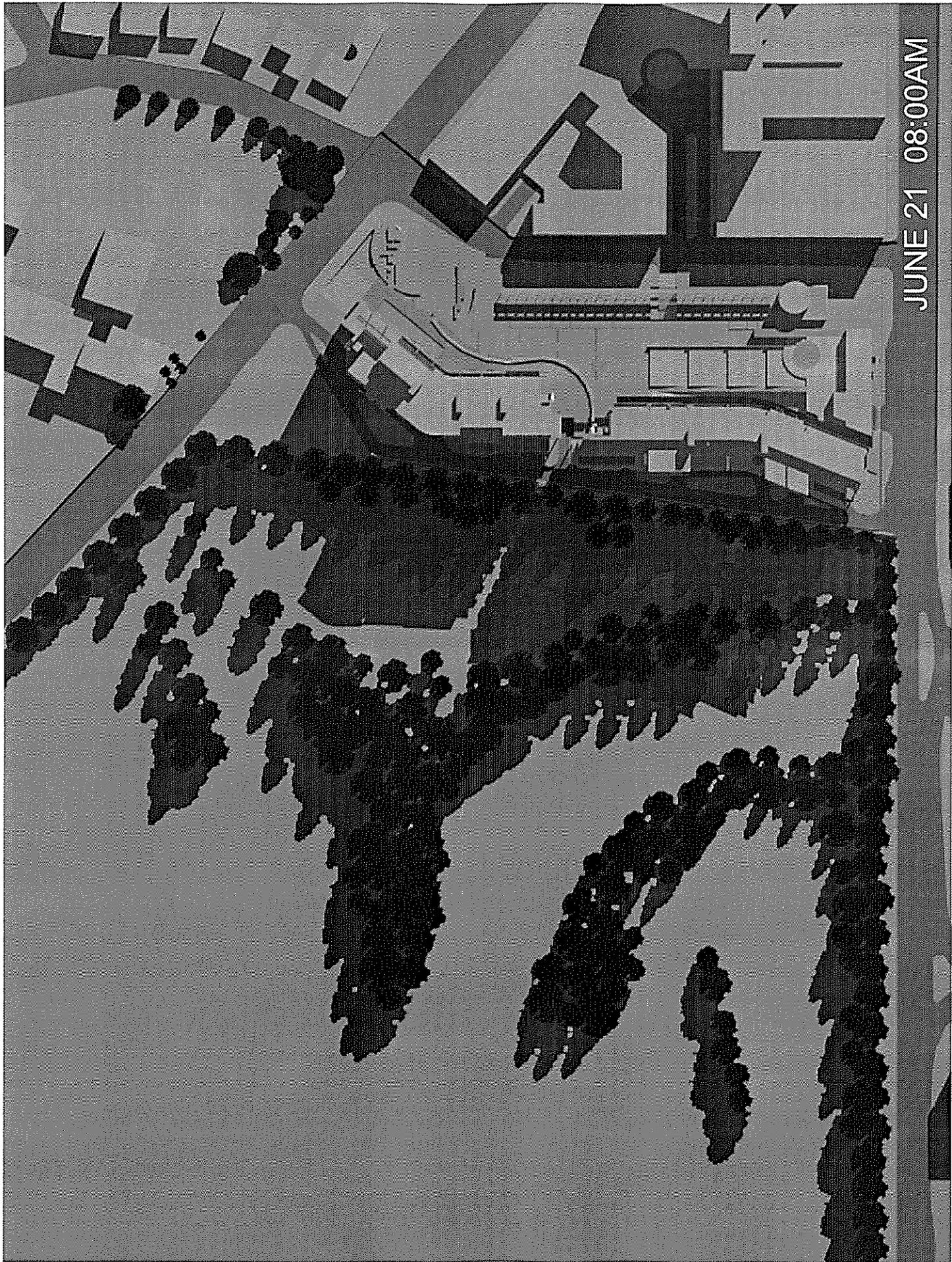


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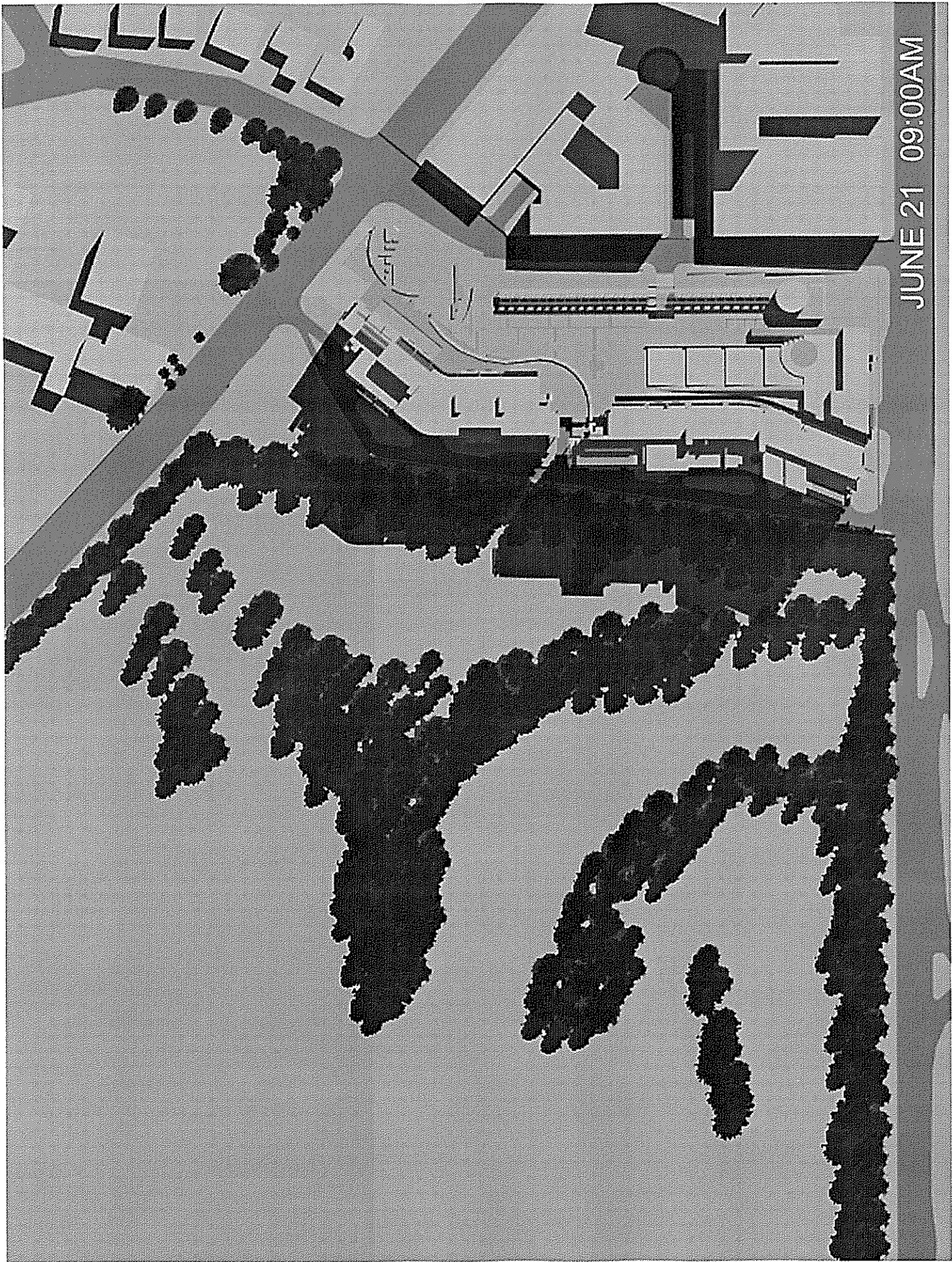


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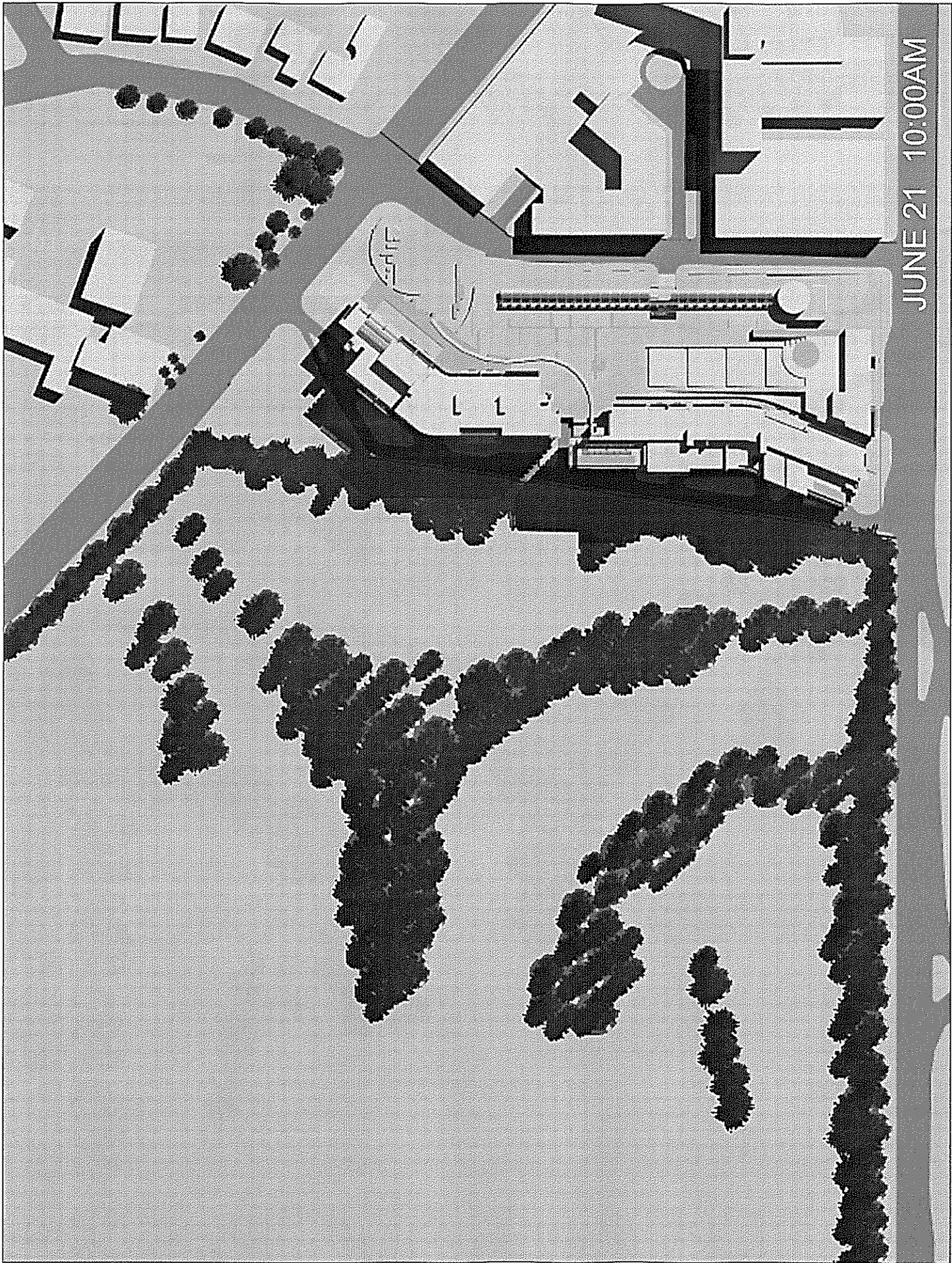


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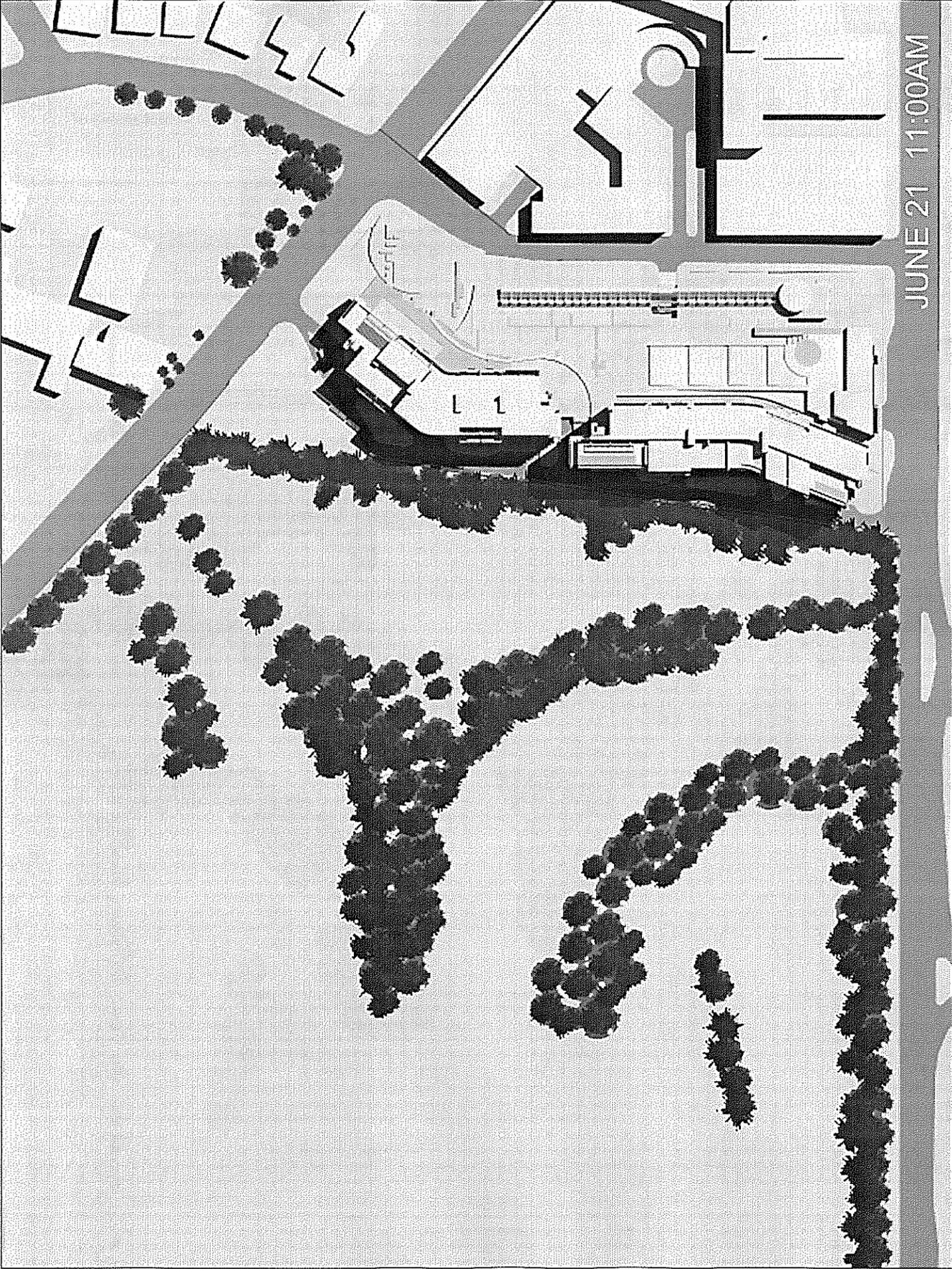


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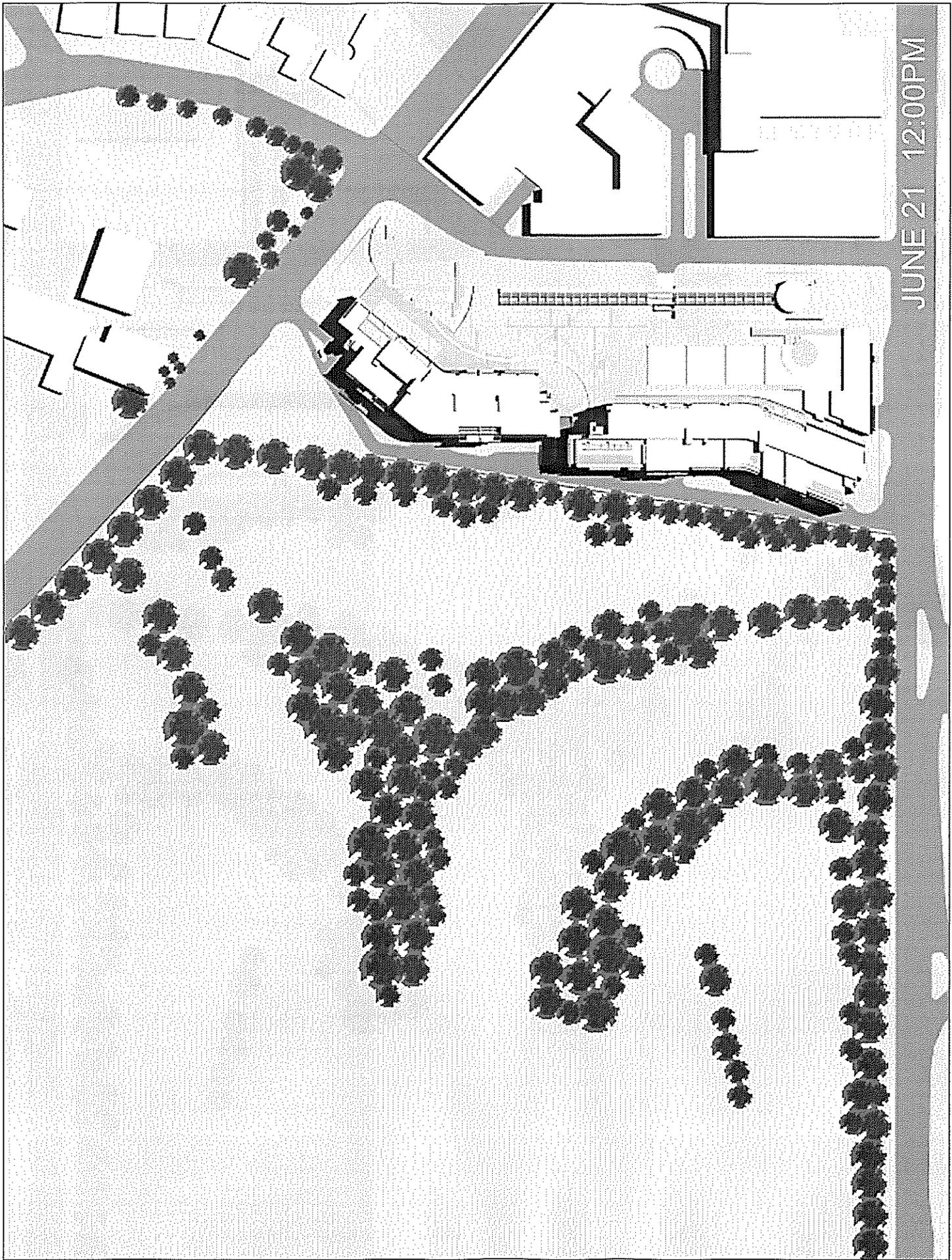


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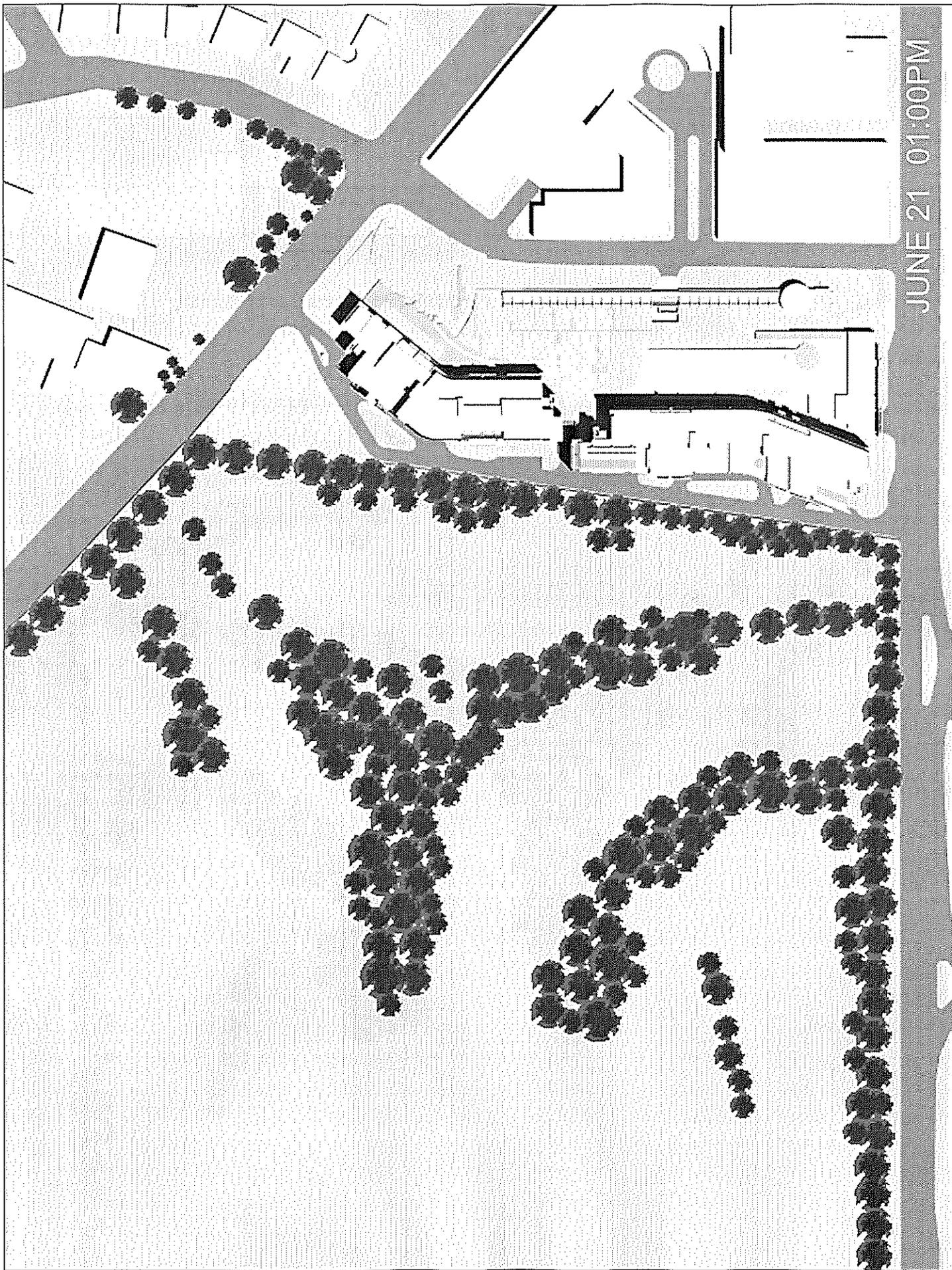


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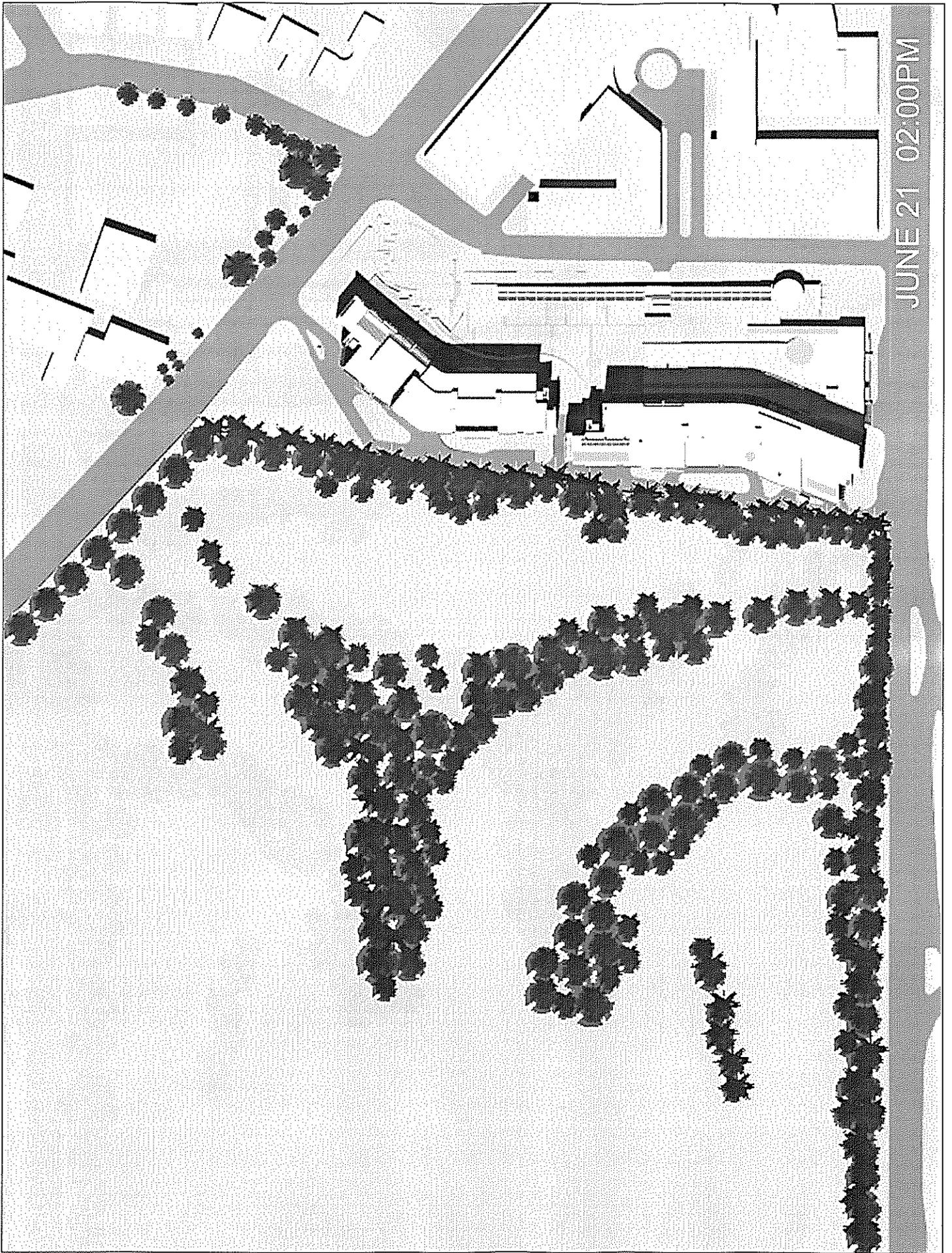




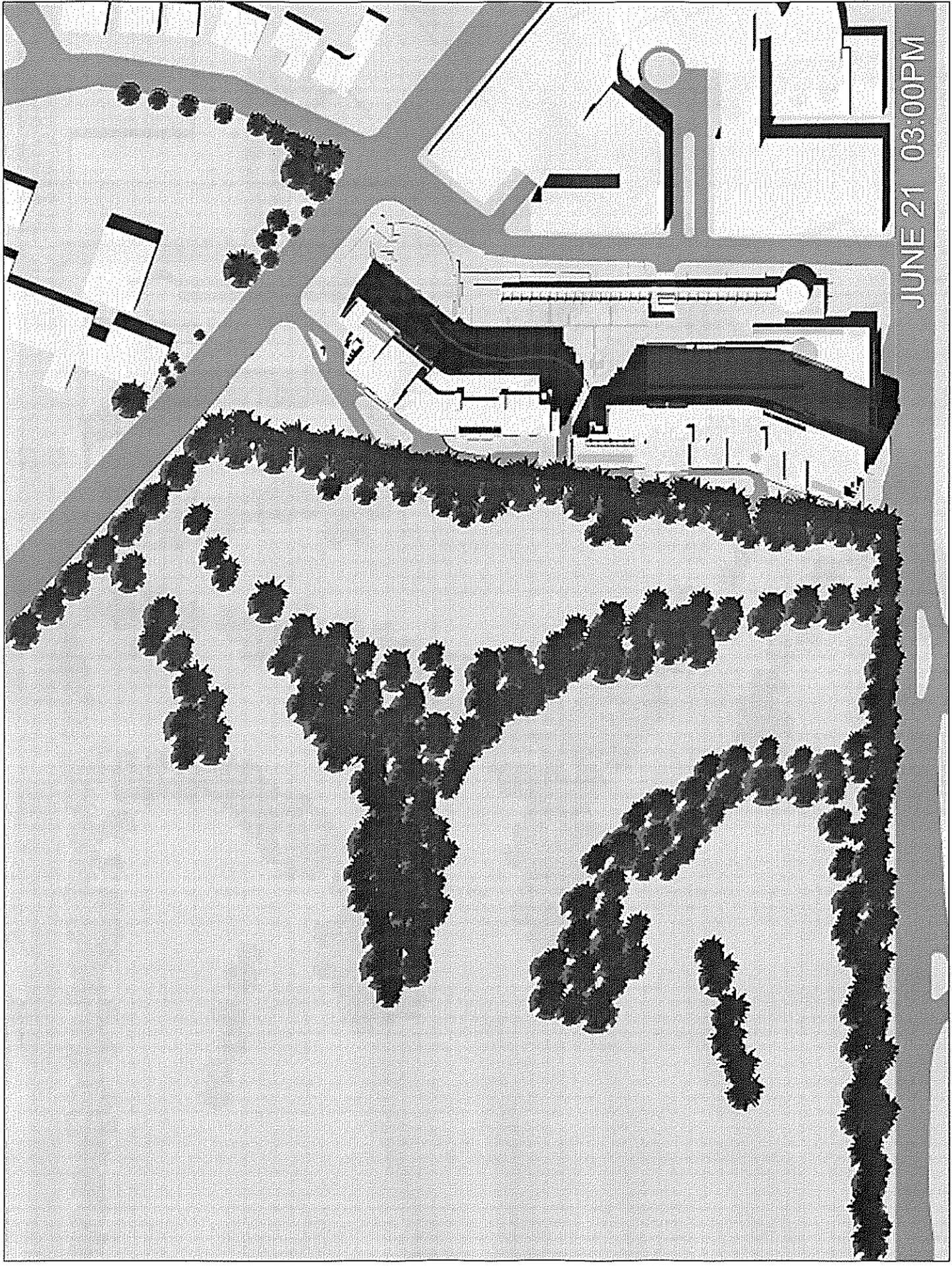
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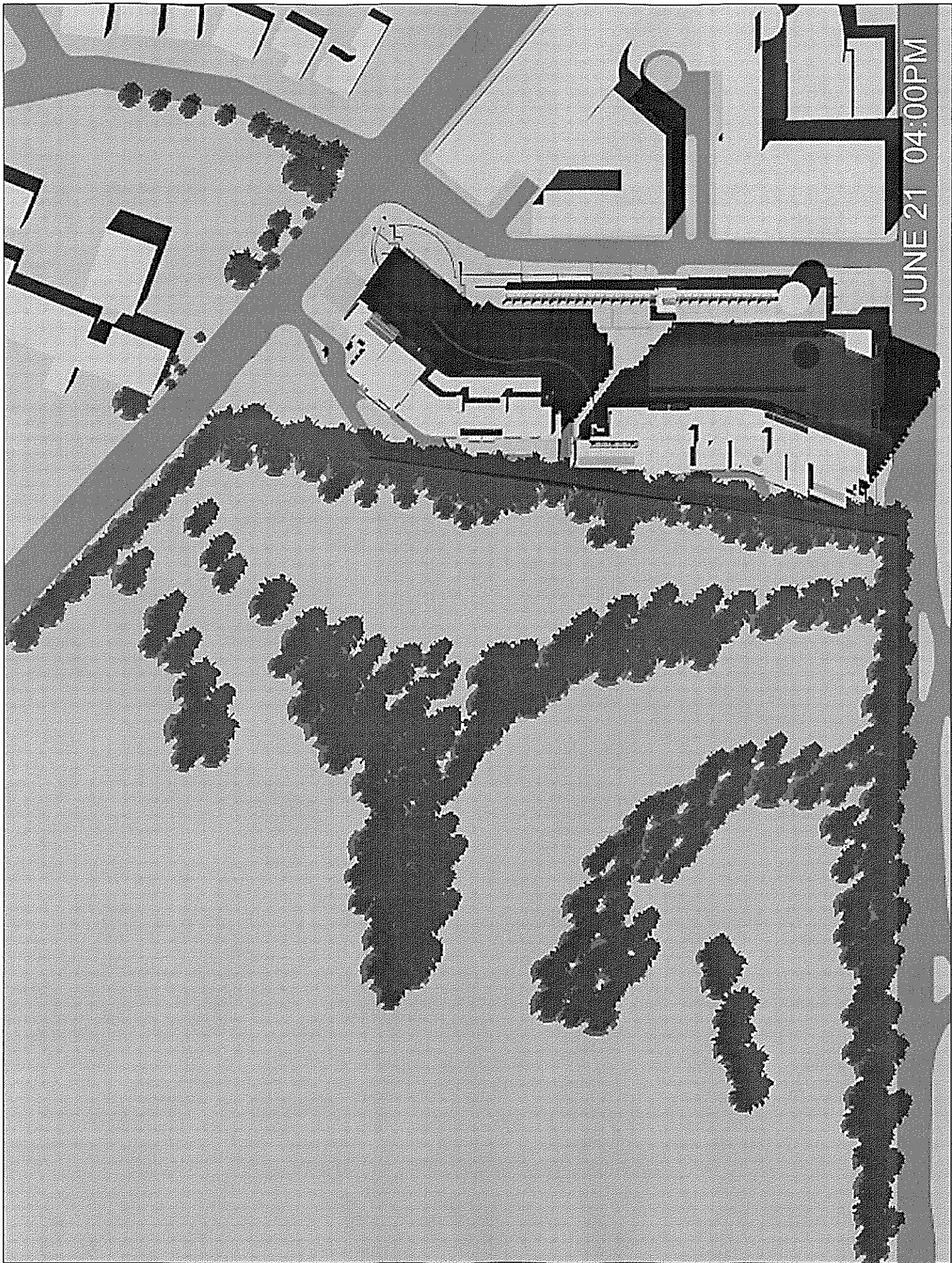
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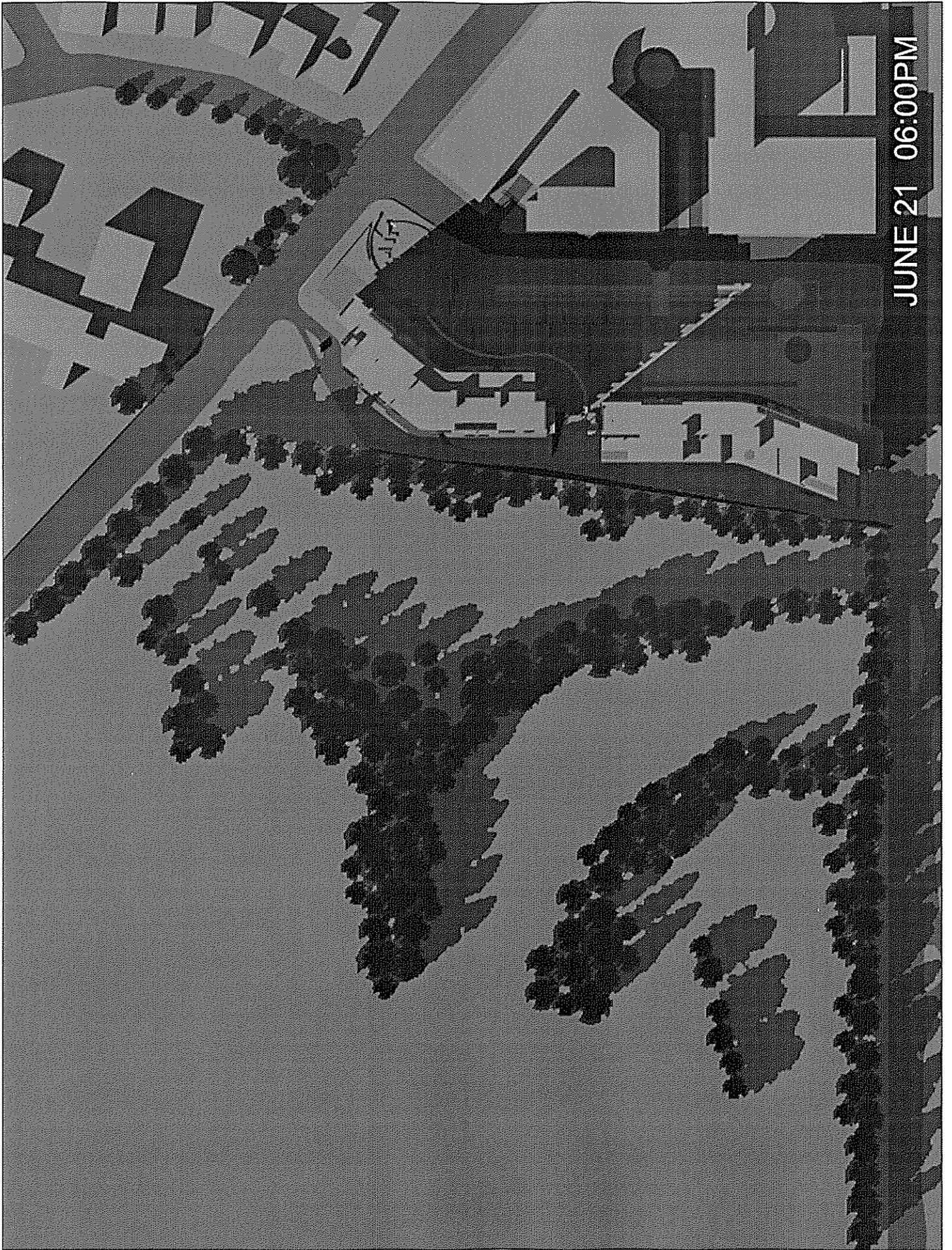
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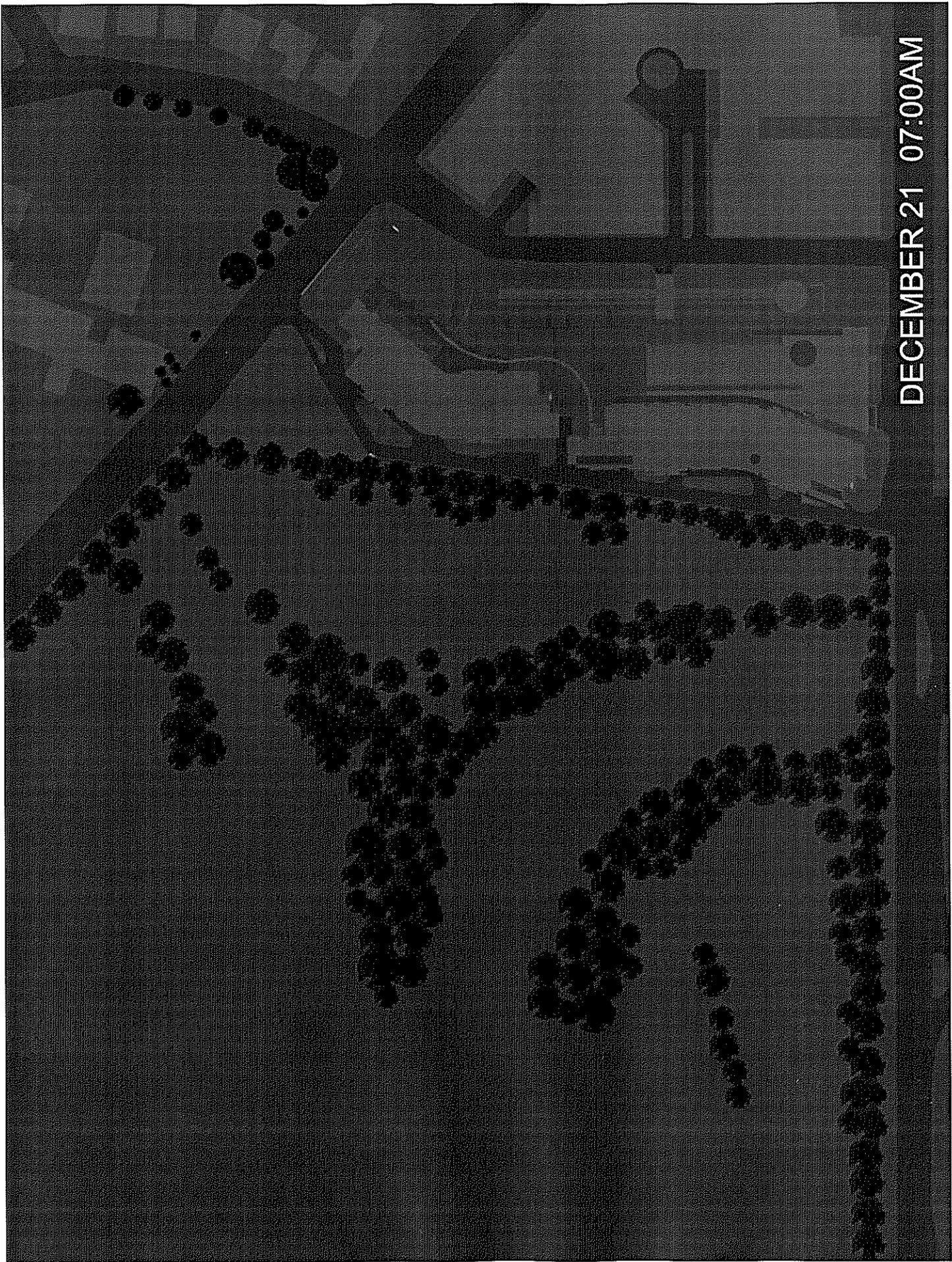
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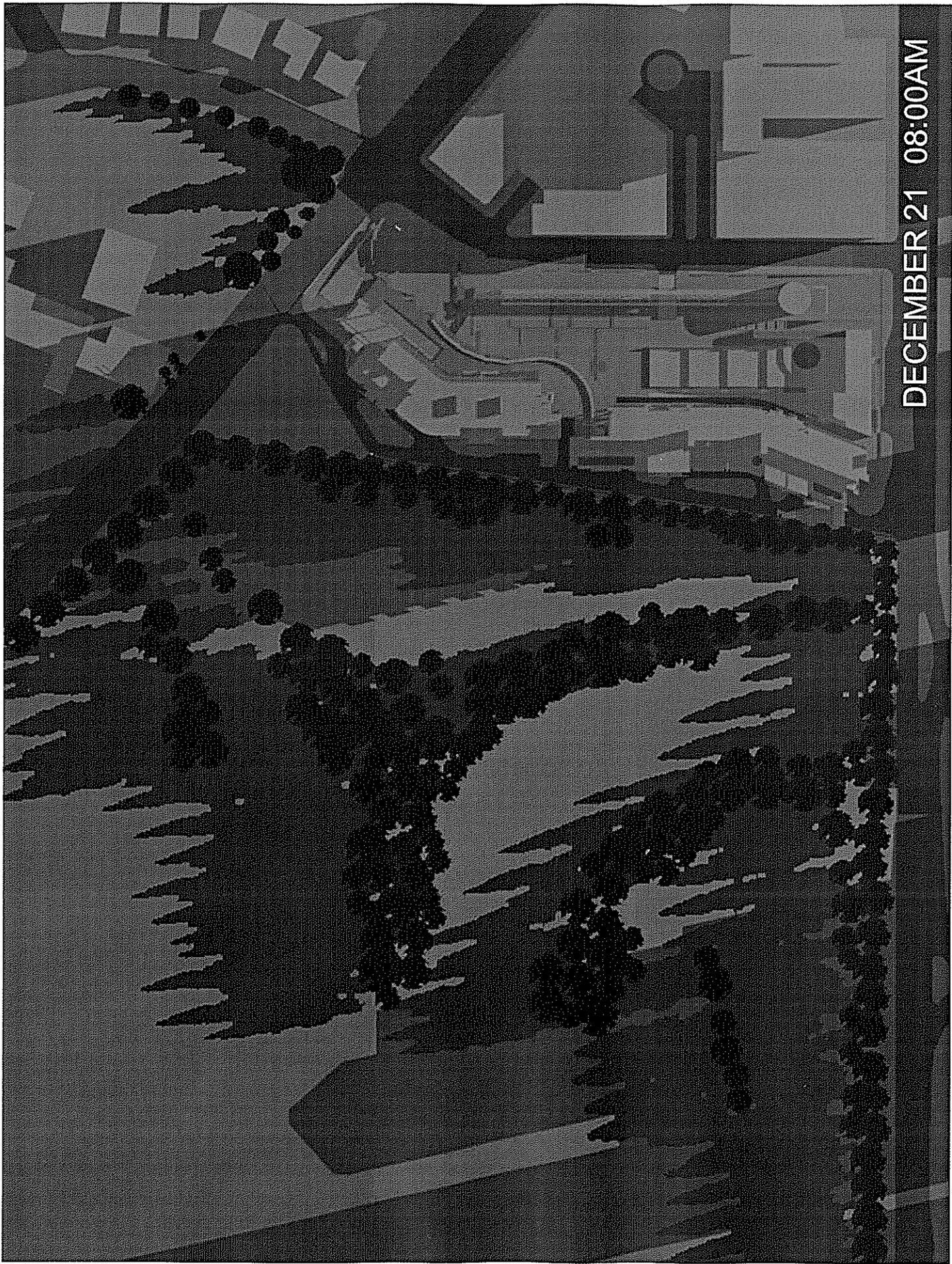


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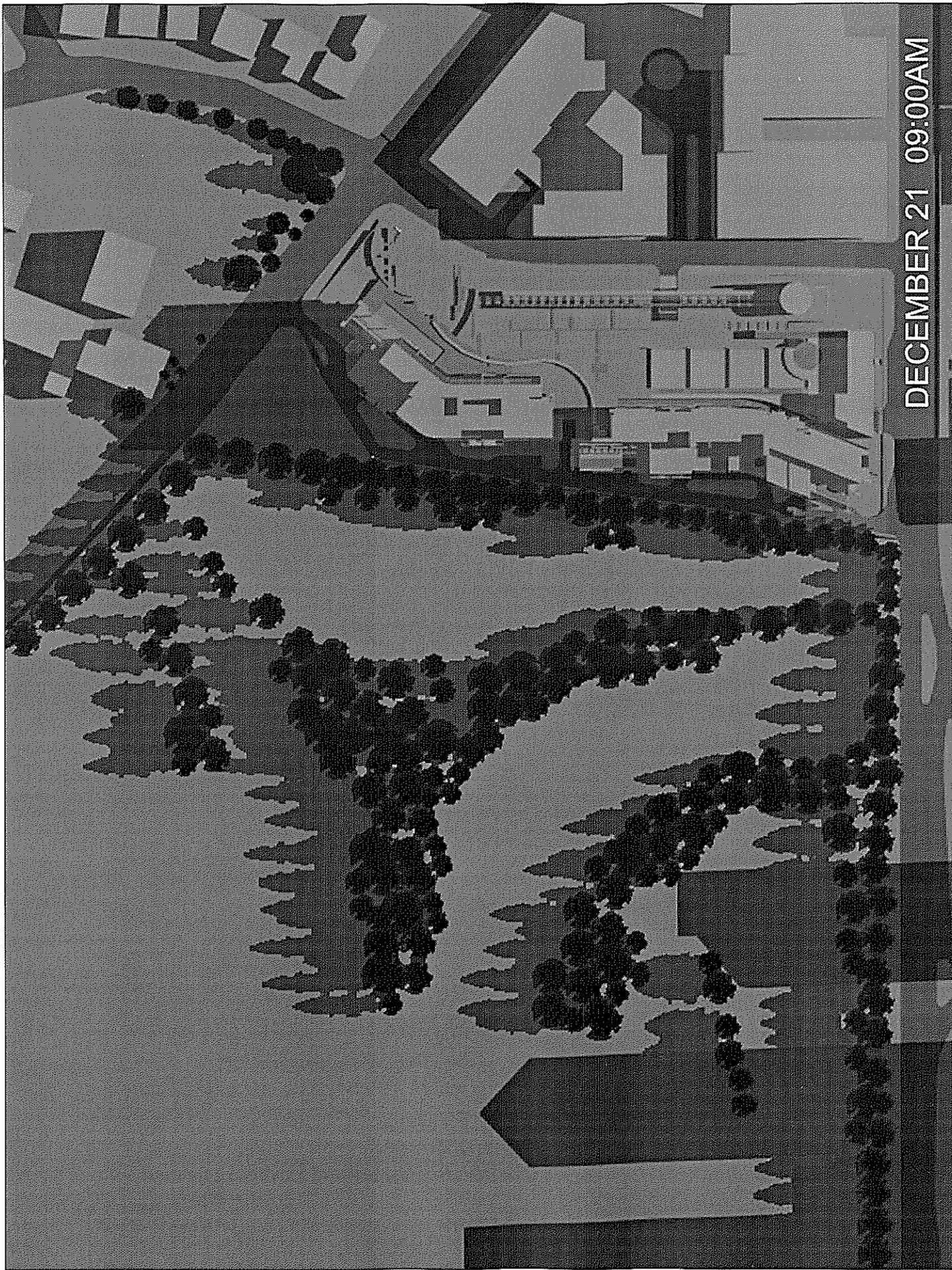


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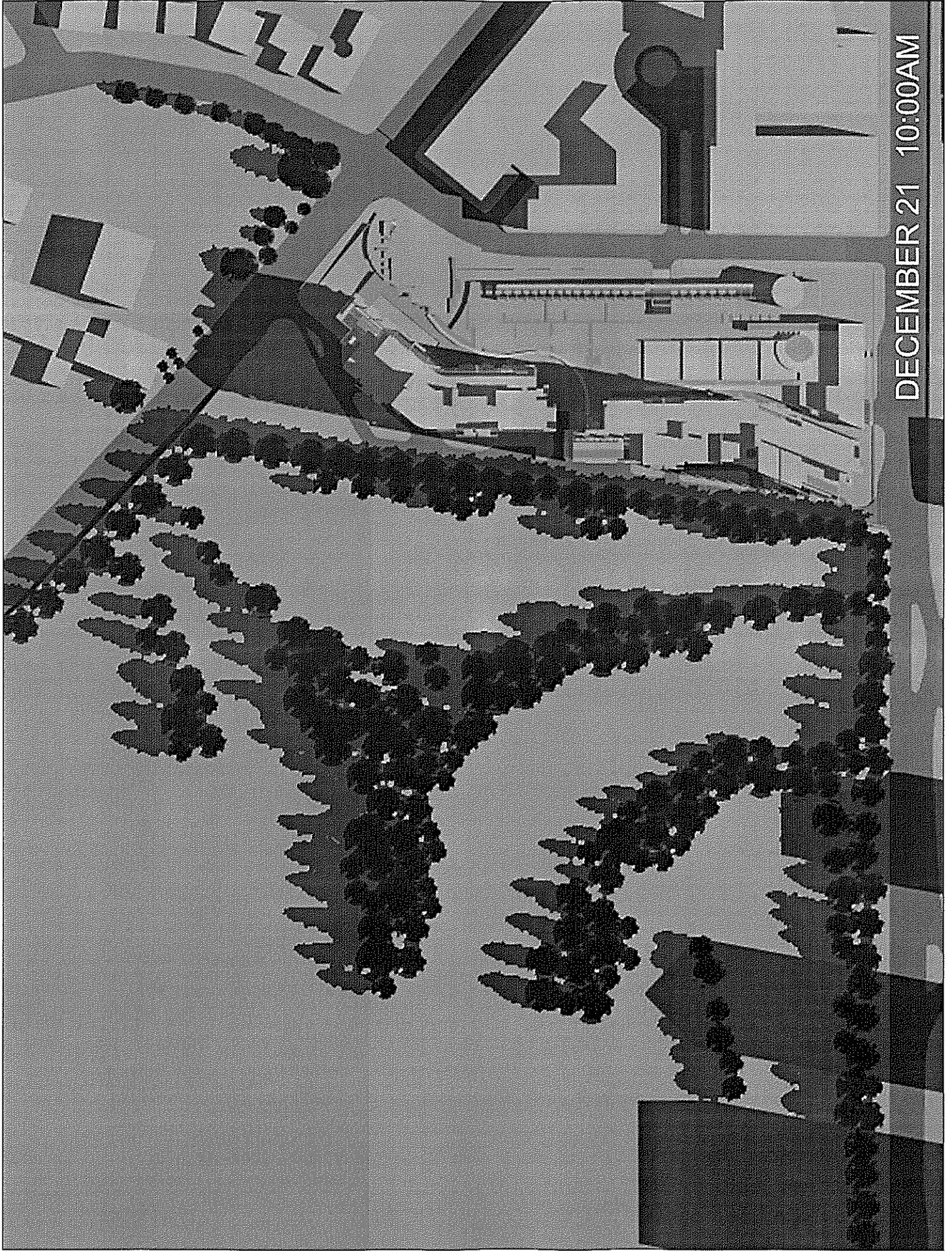




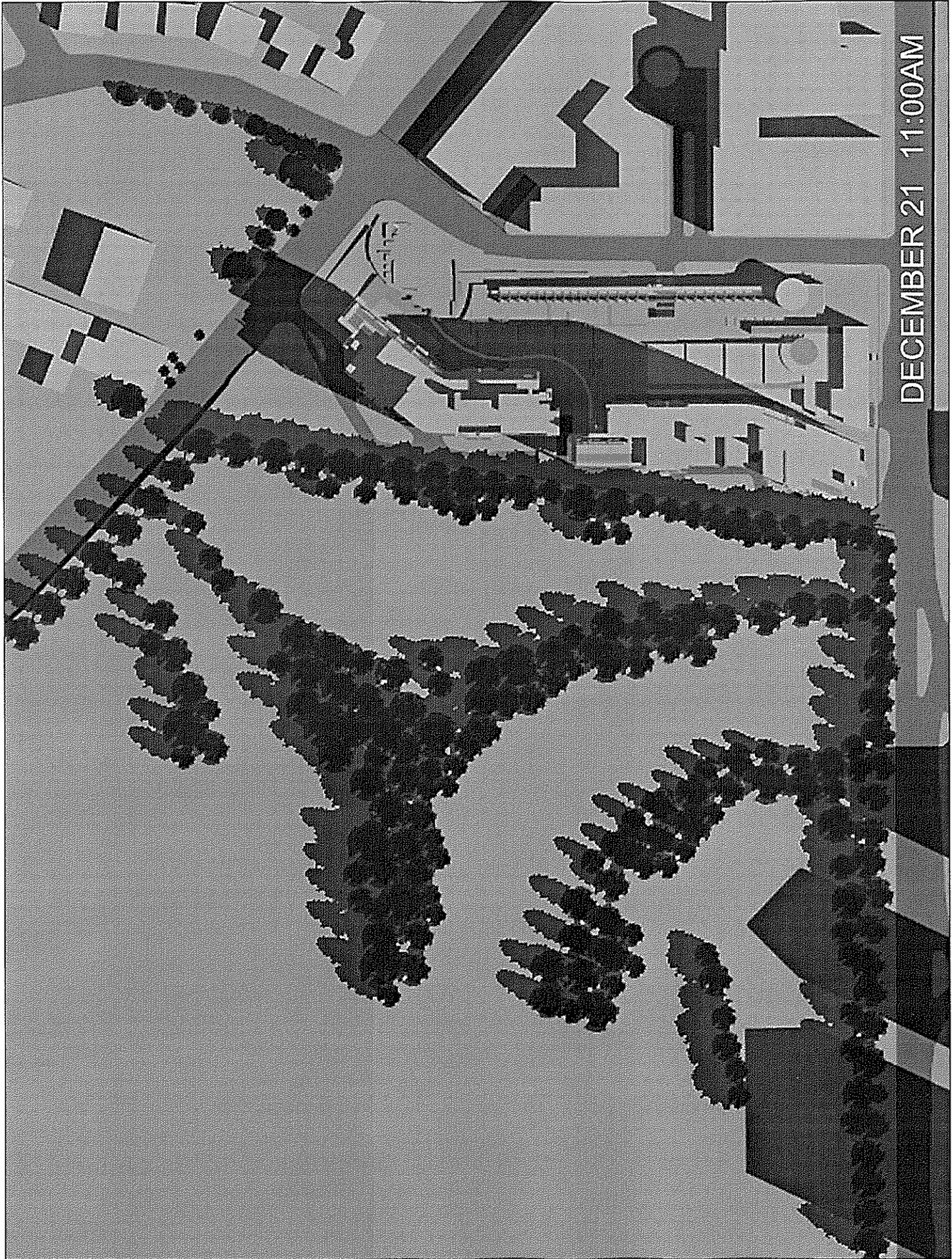
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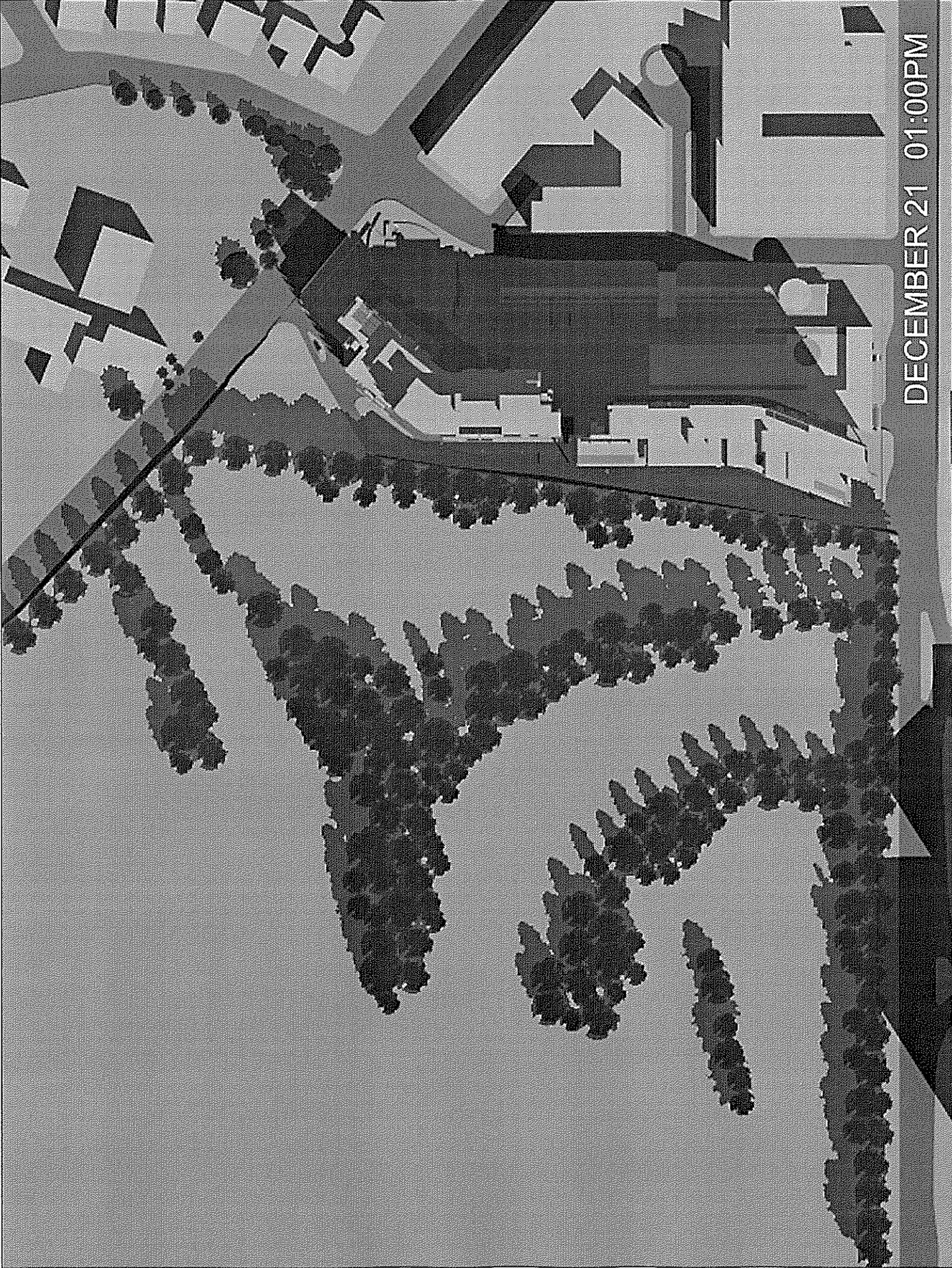


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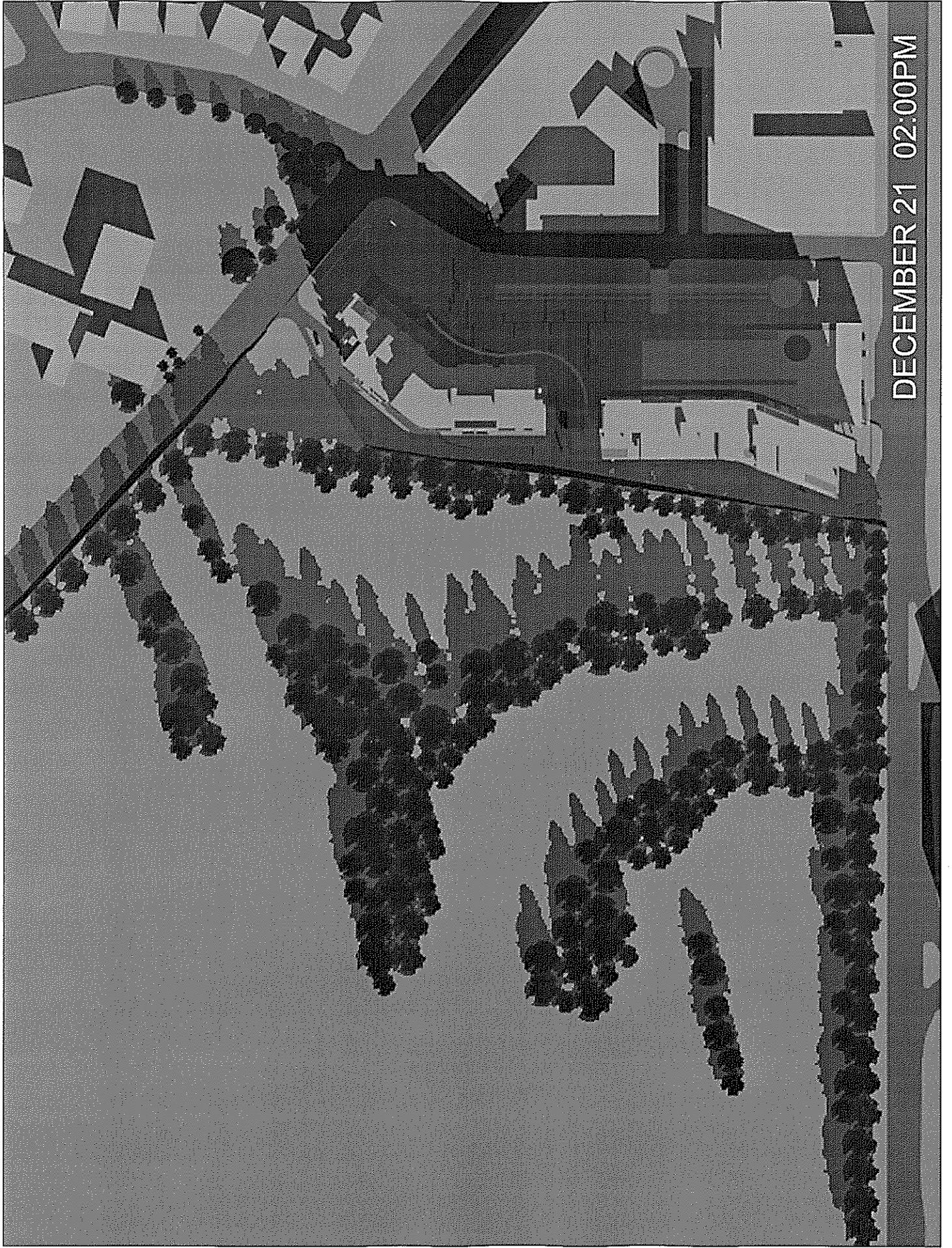


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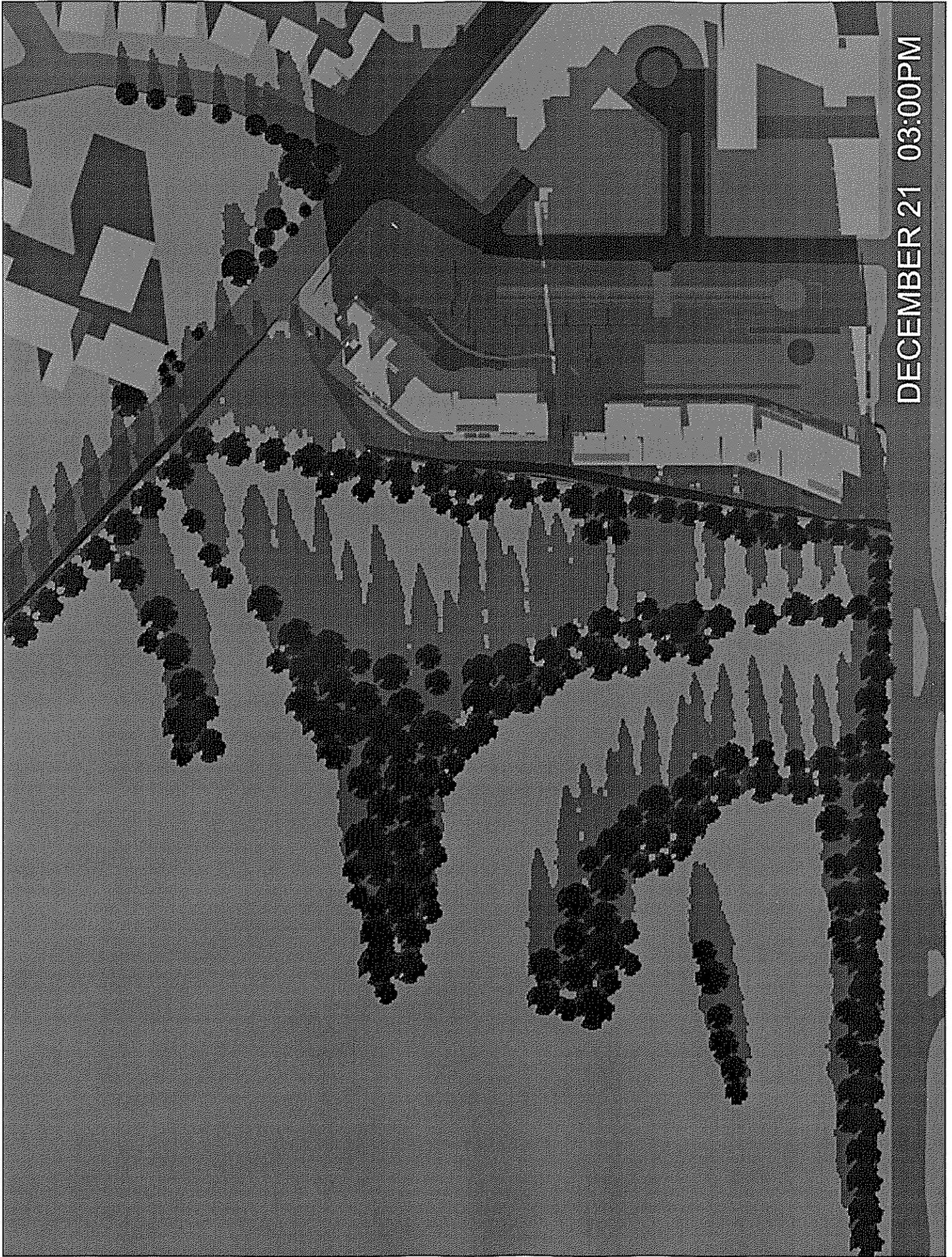


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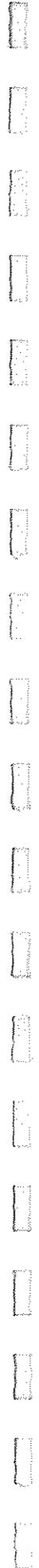


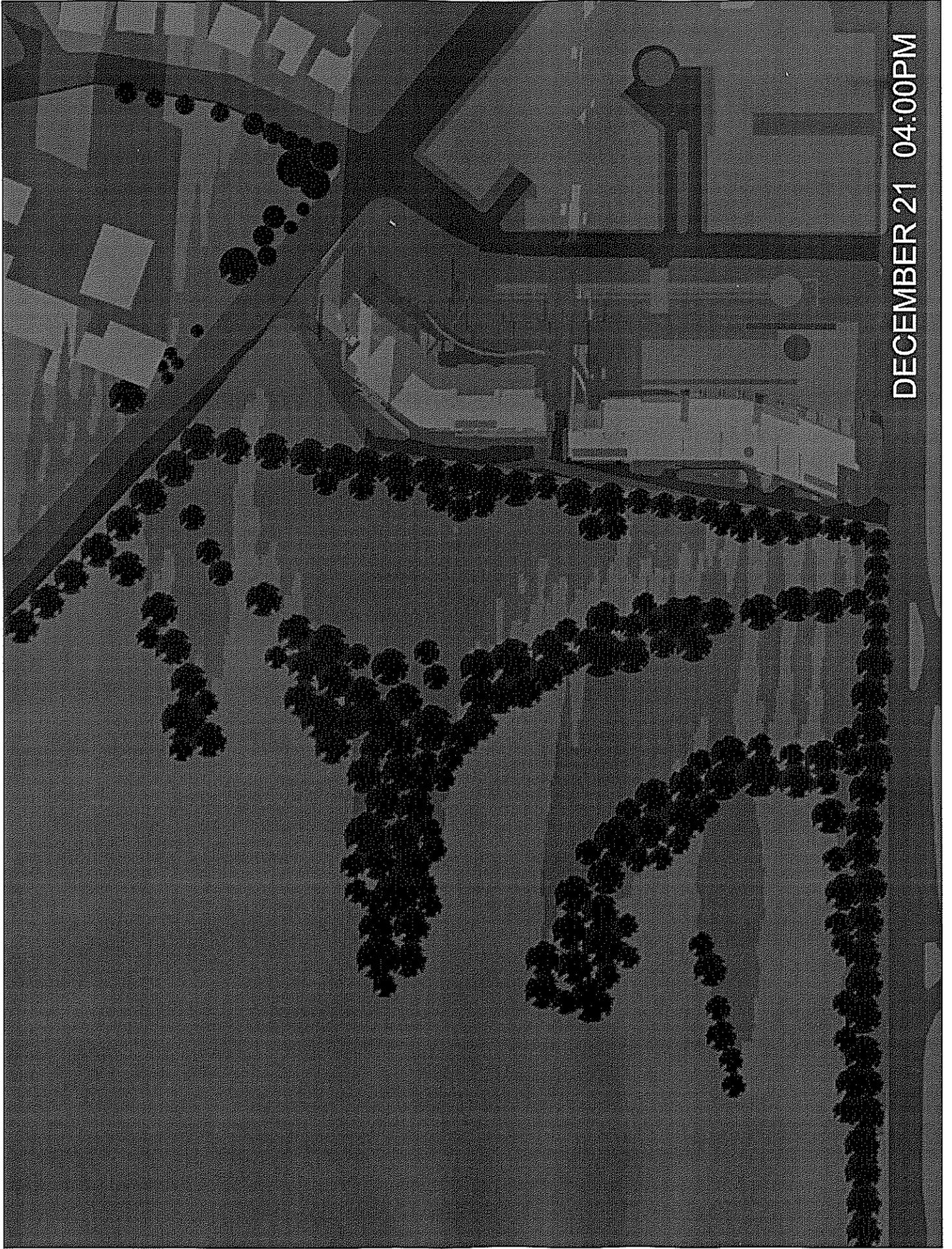


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March 18, 2008

Honorable Mayor and Members of the City Council
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

RE: Response to Comments on 9900 Wilshire Project EIR Traffic Analysis

Dear Honorable Mayor and Members of the City Council:

Iteris, Inc. is the transportation consultant to Candy and Candy/Project Lotus LLC for the 9900 Wilshire Project. We were also previously the transportation consultants to New Pacific Realty and helped to develop a proposed land use mix at 9900 Wilshire that would not result in any off-site traffic impacts. We prepared a traffic analysis for the proposed project prior to the City of Beverly Hills' Notice of Preparation for the project EIR which documented that the project would not have any traffic impacts. Our analysis was confirmed by the City's independent EIR consultant in the Project EIR.

I have been a Traffic Engineer for over 30 years and have worked on many traffic studies in Beverly Hills and the surrounding communities of Los Angeles and West Hollywood.

I am writing in response to the letter submitted to the City Council dated March 10, 2007 by Arthur L. Kassan on behalf of the Los Angeles Country Club. The responses below correspond to the numbered points in that letter:

1. It is standard practice and completely appropriate to evaluate the impacts of the proposed project by including all known related projects in the cumulative traffic analysis as was done by the City's EIR consultant. The Beverly Hilton project was included within that cumulative analysis. The applicant for 9900 Wilshire has no control over the Beverly Hilton site, in terms of the proposed land uses or the timing of the project. It is not even known if the Beverly Hilton project will be approved. They are clearly not one project.

To further refute the argument that the analysis of the two projects as one could have resulted in additional impacts, I added the Beverly Hilton impacts (as shown in Table 4.11-10 of that project DEIR) to the 9900 Wilshire project's impacts (shown in Table 4.11-8 in its DEIR) as shown on the mark-up of that table attached hereto as EXHIBIT A. Contrary to Mr. Kassan's unfounded assertion that there would be significant impacts, there is no intersection where the combined projects' change in ICU exceeds 0.010. The conclusions of the EIR would remain unchanged.

2. Experts can disagree on assumptions with regard to speculation on a project's trip distribution. In my opinion and based upon years of experience as a traffic engineer, the distribution in the EIR is reasonable. The DEIR shows that it will generate 321 trips less than the former Robinsons May store, so the impact on the residential streets to the north will be beneficial.

Moreover, even if the project's trip distribution were oriented more toward Whittier Drive and Elevado Avenue than was assumed, the project would not have a significant

impact on either of these residential streets. Based on the Project Trip Distribution of Figure 4.11-6 of the DEIR, 4% of project traffic is bound for Sunset Boulevard north of the residential area and 7% is bound for N. Beverly Drive, north of the project.

Furthermore, even if all of this traffic is assumed to use Whittier Drive and Elevado Avenue, and not the Beverly Drive to Santa Monica Boulevard as mentioned in this comment, the project would add 239 vehicles per day to Whittier Drive, a 2.2% increase, and 152 vehicles per day to Elevado Avenue, a 4.3% increase, both below the City of Beverly Hills threshold for a significant impact on a residential street. These figures conservatively assume that no credit is given for the former Robinsons May site's trip generation.

3. Please refer to Response #2. The same rationale contained therein would apply to comment number 3. The suggestions of Mr. Kassan would not change the conclusions of the EIR and the traffic impact will remain less than significant.
4. The EIR traffic analysis included the traffic generated by 79 cumulative projects in the Cities of Beverly Hills, Los Angeles and West Hollywood. This is an extensive cumulative project list. An ambient growth factor of 1% above this cumulative traffic is appropriate and common practice. A higher ambient growth factor would only be appropriate if little was known about cumulative growth in the project area. Even given that fact, a higher ambient growth factor would only serve to increase the future "without project" traffic volumes. The addition of project traffic to this higher "without project" traffic forecast would not result in any project traffic impacts, since the project's contribution to the change in ICU value would be the same as identified in the EIR.
5. In Iteris' analysis of the 9900 Wilshire project's traffic impacts submitted to the City approximately in early 2006, we did not assume any improvements at the Wilshire/Santa Monica Boulevard intersection and we found that the 9900 Wilshire project would not cause a significant impact at that location with the existing lane configurations assumed to remain in place. If the distribution of traffic is more oriented to alternate routes that would avoid this intersection, as noted in comment 2 above, the impact on this intersection will be even less significant than presented in the EIR's traffic analyses or those analyses which Iteris has performed.
6. The driveways proposed at the 9900 Wilshire project are wide enough to satisfactorily serve project traffic. The radius of curb returns have been increased in response to Planning Commission concerns to cars slowing to enter the western access roadway and deceleration lanes are proposed at the two driveways on Santa Monica Boulevard. The comment suggests that drivers exiting the project site (most of whom will be residents familiar with the site) will block the inbound traffic lanes. This is not supported by any evidence and is highly doubtful in my professional opinion.
7. The construction contractor will be responsible for finding locations to stage the trucks along Sepulveda Boulevard. The dispatch of trucks will be timed for arrival by radio dispatch so as not to need parking. In developing construction haul routes to minimize traffic impacts, it is the practice to identify the shortest routes between the construction site and the freeway on arterial streets. The use of Wilshire Boulevard to



reach the 9900 Wilshire site and Santa Monica Boulevard to return to the freeway is the shortest route. Because construction impacts are temporary in nature, it is in my opinion this will not create a significant impact.

The cumulative impacts of the construction of 9900 Wilshire with the Beverly Hilton construction were addressed in the EIR. Please refer to Mitigation Measure TRAF-9 for measures to reduce the level of this impact to less than significant. In my opinion, the residents of the Wilshire Corridor will not experience an impact to their quality of life resulting from this project given the incorporation of the mitigation measures in the EIR.

8. Mitigation Measure TRAF-6 requires that a Construction Workers Parking Plan be submitted to the City of Beverly Hills for review and be approved 30 days in advance of the start of construction. The plan must clearly state that no parking is permitted on residential streets north of Wilshire or in public structures. It is not reasonable to assume that construction workers will not be able to park on-site for 15 months. In fact, once the project's underground parking structure is complete, construction parking is expected to be accommodated on-site. The City of Beverly Hills will have an Environmental Monitor and Construction Relations Officer available to monitor enforce the Construction Traffic Management and Construction Workers Parking Plans. In my opinion, it is unlikely construction workers will seek out parking outside of the areas permitted by the Construction Workers Parking Plan. However, the EIR anticipates this unlikely contingency and has integrated appropriate conditions to address it.
9. Mitigation Measure TRAF-5 requires that a Construction Traffic Management Plan be submitted to the City of Beverly Hills for review and be approved 30 days in advance of the start of construction. The plan will include measures to reduce the impact of construction worker trip generation during peak hours. In my opinion, the assumptions contained in the EIR are realistic and support a reasonable analysis of likely impacts.
10. Please refer to Responses 7 and 9 above. The same rationales contained therein would apply to comment number 10.
11. The cumulative impacts of the construction of 9900 Wilshire with the Beverly Hilton construction were addressed in the EIR. Please refer to Mitigation Measure TRAF-9 for measures to reduce the level of this impact to less than significant.
12. It is very unlikely that trucks would ever have to stop on Merv Griffin Way to make deliveries. The only commercial space fronting on Merv Griffin Way will be a restaurant. The loading areas for the restaurant and commercial frontage on Santa Monica Boulevard will be within the parking garage at the rear of the restaurant and shops. It is unlikely that a restaurateur at this project, or in the City of Beverly Hills for that matter would accept deliveries through the front door of the restaurant. Loading for the residences will be provided in the garage or along the western access road. It would be difficult and impractical for a delivery to be made to the residences in the South and North Buildings from Merv Griffin Way, since the delivery person would not be able to access the building lobbies from Merv Griffin Way without walking to the western access road because of the private garden space that separates Merv Griffin Way from the residential entries.

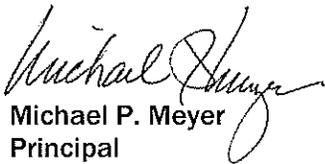


13. Page 3.0-12 of the DEIR notes that "valet parking would be provided for residents and their guests, as well as retail and restaurant patrons." Figure 3.0-81 illustrates where the visitor valet parking will be located in the garage. The location of guest parking and the system to approval the arrival of guests are not environmental impact issues. They are operations issues for the project.

I hope that these responses are helpful in evaluating the 9900 Wilshire project and will assist the City Council in making the finding that the project's transportation impacts are minimal and have been fully mitigated. I look forward to answering any questions that the City Council may have in that regard.

Sincerely,

Iteris, Inc.


Michael P. Meyer
Principal

CC: 9900 Wilshire/Project Lotus LLS team



EXHIBIT A

Table 4.11-8
Level of Service (LOS) Summary –
Future (2012) Without and With Project Traffic Conditions

Intersection	Peak Hour	Without Project		With Project		Impact	+ ICU Change Due to Hilton
		ICU/Delay ¹	LOS	ICU/Delay	LOS		
Santa Monica Boulevard North & Beverly Drive	AM	1.080	F	1.089	F	+0.009	+ 0.010
	Midday	1.049	F	1.046	F	-0.003	+ 0.001
	PM	1.153	F	1.153	F	0.000	+ 0.000
Santa Monica Boulevard North & Wilshire Boulevard	Saturday	1.052	F	1.050	F	-0.002	- 0.001
	AM	1.453	F	1.200	F	-0.253	- 0.530
	Midday	1.200	F	0.973	F	-0.227	- 0.443
Santa Monica Boulevard South & Beverly Drive	PM	1.217	F	1.012	F	-0.205	- 0.405
	Saturday	1.264	F	1.002	F	-0.262	- 0.507
	AM	1.043	F	1.045	F	+0.002	+ 0.002
Santa Monica Boulevard South & Wilshire Boulevard	Midday	0.850	D	0.850	D	0.000	+ 0.002
	PM	0.992	E	0.991	E	-0.001	- 0.001
	Saturday	0.797	C	0.795	C	-0.002	- 0.002
Santa Monica Boulevard North & Merv Griffin Way ²	AM	1.422	F	1.427	F	+0.005	+ 0.006
	Midday	0.982	E	0.978	E	-0.004	- 0.001
	PM	1.033	F	1.030	F	-0.003	- 0.002
Wilshire Boulevard & Beverly Drive	Saturday	0.964	E	0.958	E	-0.006	- 0.004
	AM	1.039	F	1.008	F	-0.031	- 0.077
	Midday	0.939	E	0.888	D	-0.051	- 0.082
Wilshire Boulevard & Merv Griffin Way	PM	1.129	F	1.077	F	-0.052	- 0.096
	Saturday	0.806	D	0.748	C	-0.058	- 0.084
	AM	0.915	E	0.918	E	+0.003	+ 0.003
Santa Monica Boulevard North & South Crossover	Midday	0.880	D	0.873	D	-0.007	- 0.007
	PM	0.923	E	0.918	E	-0.005	- 0.003
	Saturday	0.899	D	0.888	D	-0.011	- 0.009
Santa Monica Boulevard & Century Park East	AM	1.193	F	1.186	F	-0.007	- 0.026
	Midday	1.017	F	0.948	F	-0.069	- 0.104
	PM	1.386	F	1.316	F	-0.070	- 0.122
Sunset Boulevard & Whittier Drive	Saturday	0.949	E	0.853	E	-0.096	- 0.122
	AM	1.015	F	1.021	F	+0.006	+ 0.007
	Midday	0.738	C	0.735	C	-0.003	- 0.001
Santa Monica Boulevard & Century Park East	PM	0.846	D	0.846	D	0.000	+ 0.003
	Saturday	0.567	A	0.561	A	-0.006	- 0.003
	AM	0.817	D	0.819	D	+0.002	+ 0.003
Sunset Boulevard & Whittier Drive	Midday	0.765	C	0.763	C	-0.002	- 0.001
	PM	0.811	D	0.811	D	0.000	+ 0.001
	Saturday	0.575	A	0.574	A	-0.001	0.000
Sunset Boulevard & Whittier Drive	AM	0.889	D	0.892	D	+0.003	+ 0.003
	Midday	0.779	C	0.779	C	0.000	+ 0.003
	PM	0.924	E	0.925	E	0.000	+ 0.004
Sunset Boulevard & Whittier Drive	Saturday	0.650	B	0.648	B	-0.002	0.000

Source: Fehr and Peers, 2007

¹ VIC ratio for signalized intersections based on application of ICU Methodology. LOS for side-street stop control based on 2000 Highway Capacity Manual methodology.

² VIC ratio changes in bold denote an increase in traffic volumes. Italicized changes reflect reduction in VIC ratio and delay because of implementation of proposed improvements and reduction in trips associated with the site.

Advanced Engineering Acoustics
663 Bristol Avenue
Simi Valley, California 93065-5402
(805) 583-8207 - Voice (805) 231-1242 - Cell (805) 522-6636 - Fax

March 20, 2008

Jeffer, Mangels, Butler & Marmaro LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067

Subject: Recirculated DEIR Noise Section Review
 9900 Wilshire Project Traffic Noise Analysis

References: Draft EIR Recirculated Noise Section and related Appendices, October 2007
 Beverly Hills Municipal Code, Title 5, Chapter 1, Noise Regulations

Attention: Ian Forrest, Esq.

Dear Mr. Forrest:

At your request, Advanced Engineering Acoustics (AEA) has conducted a review of the Draft EIR Recirculated Noise Section and its related Appendices. The document relates to proposed improvements to the existing vacant Robinsons May site located at 9900 Wilshire Blvd., in the city of Beverly Hills, CA (City). The project site has private residences to the north, a golf course to the west and a school to the northwest. The Noise Section of the referenced DEIR discusses the potential for construction and operations noise impacts. This AEA letter report summarizes the results of our document review and findings.

After reviewing the recirculated noise analysis and related appendices it is our professional opinion that the baseline analysis employed by the EIR adequately summarizes the traffic noise impacts from the operation of the proposed Project, appropriately assessed the noise generated by the then existing Robinson-May building and determined that there would be a net decrease in project related traffic noise.

Based on my review of the data contained in the EIR and related appendices, it is my opinion that even if no such previous commercial use was assumed, *i.e.*, if it were assumed that the project site were a vacant lot generating no traffic, the noise generated by the daily vehicle trips from the project would not result in a significant noise impact and the conclusions of the EIR would remain the same.

If you have any questions regarding this report, please contact the undersigned at (805) 583-8207, or by cell phone at (805) 231-1242.

Sincerely,



Marlund E. Hale, Ph.D., P.E.(Acoustics-OR), INCE
Technical Director

APPENDIX B

Project and Revision Comparison Matrix

The table below provides a comparison of the originally proposed project, to the Alternative 5A, a variation on Alternative 5 as evaluated in Section 8.0, Project Alternatives, to the Draft EIR, and the newly proposed Alternative 5B-1, an additional variation on Alternative 5, as presented and evaluated in Section 8.0, Project Alternatives, to the Draft EIR.

	Original Project Per Draft EIR	Alternative 5A Recommended for Approval by Planning Commission	Alternative 5B-1 Newly Proposed by Applicant and City Council
Residential sf	829,686 sf ¹	928,907sf	Reduction of 7,500 sf compared to DEIR ²
Commercial sf	19,856 sf	19,856 sf	Reduction of 4,600 sf compared to DEIR
Amenities and "service" spaces	27,915 sf ³	75,290 sf	Increase of 72,000 sf (primarily underground) compared to DEIR
FAR	2.51:1 ⁴	2.74:1	2.763:1
North Building height	144'	Ranging from 108' (9 stories) to 149' (12 stories)	Ranging from 108' (9 stories) to 161' (13 stories)
Wilshire setback	35' from the curb	63' from the curb	72' from the curb (including the 15' sidewalk)
LACC setback	72'-6" at the south end	72'-6" at the south end	80'-6" at the south
Separation between North and South Buildings	45'	60'	43'
South Building height	144'	Ranging from 161' (13 stories) to 185' (15 stories)	Ranging from 161' (13 stories) to 185' (15 stories)
St Monica setback	23' from the curb	23' from the curb	27' from the curb
LACC setback	Ranges from 20' south end to 35' at the north end	Ranges from 33'-1" at the south end to 35'-7" at the north end	Ranges from 42'-1" at the south end to 44'-7" at the north end

¹ This number is what was in the Draft EIR. This does NOT include the approximate 20,000 sf of below grade amenities.

² Alt. 5B-1 would be 849,542 sf if the square footage is calculated in the same manner as the Original Scheme square footage, as it did not calculate the below grade amenities.

³ This is what the Original Scheme should have accounted for approximately 20,000 sf of below grade storage, lobbies, and amenities, which is included in this number.

⁴ The DEIR stated that the FAR was 2.4:1, but this did not include the 20,000 sf of amenities.

	Original Project Per Draft EIR	Alternative 5A Recommended for Approval by Planning Commission	Alternative 5B-1 Newly Proposed by Applicant and City Council
Lofts/Restaurant Building	30	30	Deleted (Restaurant Building would have 4,200 sf and 585 sf of outdoor dining)
Merv Griffin setback	13'-2" from the curb	55' from the centerline	44' from the centerline
St Monica setback	20' from the curb	31' from the curb	102' from the curb
Spa Pavilion		20,456 sf	11,656 sf
St Monica setback		31' from the curb	20'
Open space	0.42 acres	0.42 acres	0.81 acres

APPENDIX C

**Letter from JMBM, Dated March 27, 2008, Regarding Project Lotus, LLC's
Response to Los Angeles Country Club and Los Angeles Conservancy.**

Ian M. Forrest
IForrest@jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

Ref: 68417-0002

March 27, 2008

VIA E-MAIL & HAND DELIVERY

Byron Pope, CMC
City Clerk
City Clerk's Office, City of Beverly Hills
455 N. Rexford Dr.
Beverly Hills, CA 90210

Re: Project Lotus, LLC's Response to Los Angeles Country Club and Los Angeles Conservancy

Dear Mr. Pope:

Project Lotus, LLC, through its counsel, submits the following reports, letters, memoranda and responses for inclusion in the administrative record to the 9900 Wilshire project. This letter is in response to the March 11, 2008 letters submitted to the City Council on behalf of the Los Angeles Country Club and by the Los Angeles Conservancy, as well as to comments made at the March 20, 2008 City Council hearing. Attached please find the following:

- Exhibit A Letter dated 3/26/08 regarding City Council Question Concerning Additional Shade on #16 Green of the Los Angeles Country Club Golf Course, from William Kent Alkire, II, Agronomist, Golf Ventures International
- Exhibit B Letter dated 3/27/08 regarding Compatibility of proposed garden space with the preservation of the existing Robinsons May structure, from Dennis C. McGlade, FASLA, Partner, Olin Partnership
- Exhibit C Email letter dated 3/26/08 regarding 9900 Wilshire - Valet Stacking Increased Capacity, from Richard Raskin, Consultant, Walker Parking Consultants

Byron Pope, CMC
March 27, 2008
Page 2

Should you have any questions or comments regarding the information contained herein, please contact me directly.

Very truly yours,



IAN M. FORREST
Jeffer, Mangels, Butler & Marmaro LLP

IMF:ls

Enclosures

cc: Members of the City Council (Via Hand Delivery Only)
Roderick J. Wood, City Manager
Vincent P. Bertoni, Director of Community Development
Donna Jerex, Senior Planner
Laurence S. Wiener, Esq., City Attorney for Beverly Hills
David Snow, Esq., Assistant City Attorney for Beverly Hills
Joyce Parker-Bozylinski, AICP

March 26, 2008

Attn: Ian M. Forrest
Jeffer, Mangels, Butler & Marmaro LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90403

Re: City Council Question Concerning Additional Shade On #16 Green of the
Los Angeles Country Club (LACC) Golf Course

Dear Mr. Forrest:

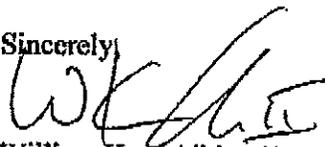
At your request I, as president of Golf Ventures International (GVI), report author and project leader of the Shade and Shadow Study, I have written this letter in order to address the issues raised in the March 20, 2008 Beverly Hills City Council Meeting concerning the impact of the project on the green next to the project site. Specifically, in that meeting, Councilmember Linda Briskman inquired about the possible impacts of shade and shadow from the revised project upon the #16 green, *i.e.*, the area of bent grass immediately surrounding the pin and hole of #16 used for putting located at the northeastern border of the LACC property.

In reviewing the past and present shade models and the field validation work we conducted, there is no shade on the green from the building shadow after 9:00 am occurring in the winter, spring, summer or fall. When the pathway of the sun, the distance between the green and the proposed project's North Building (caused in part by an intervening wedge-shaped property occupied by a gas station), and the proposed building shade are reviewed, it is readily evident that the proposed project does not significantly change the existing shade impact on or around the #16 green.

In addition, I would note that the #15 green at the southeastern portion of the LACC property is also in close proximity to the proposed project's buildings. However, there is no project-related shade falling on this green after 8:00 am.

In my professional opinion and based upon my 37 years of experience in the care, development, and management of golf courses, the #15 and #16 greens will not be significantly impacted by the development of the project and that green should continue to grow similar to its current quality and density.

Sincerely,


William Kent Alkire, II
Agronomist
Golf Ventures International

cc: Allan Alexander
Tim Simpson

Olin Partnership

landscape architecture
urban design

Mr. Ian M. Forrest
Jeffer, Mangels, Butler & Marmaro, LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90403

PROJECT: 9900 Wilshire Boulevard
Olin Partnership Project #0432

SUBJECT: Compatibility of proposed garden space with the preservation of
the existing Robinsons May structure

27 March 2008

Dear Mr. Forrest:

At your request, I have written the following in direct response to certain assertions made in the March 11, 2008 letters submitted to the Beverly Hills City Council regarding the proposed development of the 9900 Wilshire Boulevard site (the Project) from the Los Angeles Conservancy (the Conservancy) and on behalf of the Los Angeles Country Club (LACC).

Robert J. Bedell
Dennis C. McGlade
Laurie D. Olin
David A. Rubin
Lucinda R. Sanders
Susan K. Weiler

Harriet T. Boyce
Cricketer Brice
Matt Chu
Skip Griffin
Bryan Hanes
Christian A. Henley
Yue Li
Daneil Mazonc
Richard Newton
Sophie Robinsille
E. Allan Spulecki
Peter Stagner
Jean Weston

Public Ledger Building, Suite 1123
150 South Independence Mall West
Philadelphia, PA. 19106

215-440-0030 phone
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www.olinpn.com

I am a Partner in the Landscape Architecture and Urban Design firm of Olin Partnership (OP). In addition, I regularly teach the Planting Workshop at the University of Pennsylvania, lecture nationally, and have written numerous articles addressing topics of planting design and technology. I have designed many successful urban parks in the United States and Europe.

I have been a practicing landscape architect for over 30 years. I note the following as based upon my experience and the collective experience of Olin Partnership as experts in the fields of landscape architecture and urban design.

Proposed garden space concept for the 9900 Wilshire Project

The proposed park on the northeast corner of the site at Wilshire Blvd & Merv Griffin Way is on the site of the old, out of business, Robinson May department store. The proposed park is conceived as a public garden that is an extension of the existing linear park system that runs along the north side of Santa Monica Boulevard from where this street enters Beverly Hills from West Hollywood. At the intersection with Wilshire, the existing park system then turns and runs along Wilshire Boulevard terminating at Whittier Drive. (Whittier becomes Merv Griffin Way when it crosses Wilshire going south.) This existing park runs the east - west length of Beverly Hills along both Wilshire and Santa Monica Boulevards. Therefore, the new proposed public garden at the 9900 Wilshire site can be thought of as either terminating or beginning this city-wide linear park. Instead of a few small scraps of garden of inconsequential size, around the old store, the proposed new garden is a large and urbane extension of the existing linear park that begins at the city line



ASLA 2006 Landscape Architecture Firm Award Recipient

on the east with West Hollywood, and terminates on Santa Monica Boulevard almost at the city line on the west with Los Angeles.

This proposed public garden is designed for passive recreation and to compliment the existing linear park system. The proposed park will be entered from the sidewalk at the intersection of Wilshire Boulevard and Merv Griffin Way by means of either a flight of wide, generous steps or a curving entry ramp. The interior is visible from Wilshire Boulevard and Merv Griffin Way. Conversely, there are views out from the public garden towards Wilshire Boulevard and Merv Griffin Way.

The proposed public garden has both sunny and shady areas. There will be paths, a pergola, comfortable benches, welcoming fountains as well as still pools of ornamental water, trees, shrubs, mixed seasonal plantings and lawn panel. The proposed public garden runs along Merv Griffin Way in a linear strip approximately 30 feet wide as measured in from the street curb.

This proposed garden contains the public sidewalk that runs along Merv Griffin Way as well as sitting alcoves overlooking the sidewalk and street. There will be ornamental plantings, and decorative water features. This linear part of the proposed public garden terminates in a small public garden at the corner of Santa Monica Boulevard and Merv Griffin Way. This section of the proposed garden is a reprise of the larger proposed public garden at Wilshire Boulevard and Merv Griffin way. It too is to have a lawn panel, seating, decorative water features, and ornamental plantings of trees and shrubs.

Compatibility of proposed garden space with the preservation of the existing Robinsons May structure

The suggestion of the Conservancy advises the redesign of the Project to incorporate and preserve the existing Robinsons May building. In my opinion, the preservation of the existing Robinsons May building is incompatible with the implementation of the garden concept explained above. The successful design of a meaningful public garden space of the type envisioned by the Project's design team, and as inferred from the suggestions of the Beverly Hills Planning Commission and comments from the local residents, would not be possible if the Robinsons May building is retained.

I remain at your disposal should you wish to further discuss my opinions herein.

Sincerely,



Dennis C. McGlade, FASLA
Partner

cc: Allan Alexander, Esq.
Tim Simpson – Candy and Candy, Inc.
File

0432dcm-L-03-27-08-Robinson_May_Gardens.doc



Shada, Linda

From: Allan Alexander [aalexander@aalexander.net]
Sent: Wednesday, March 26, 2008 11:07 PM
To: Forrest, Ian M.
Subject: FW: 9900 Wilshire - Valet Stacking Increased Capacity

-----Original Message-----

From: Raskin, Richard [mailto:Richard.Raskin@walkerparking.com]
Sent: Wednesday, March 26, 2008 10:44 PM
To: Allan Alexander
Cc: Johns, Dan
Subject: 9900 Wilshire - Valet Stacking Increased Capacity

Mr. Alexander

The plans for 9900 Wilshire were reviewed with an eye for increasing parking capacity by "stacking" additional vehicles in the aisles.

We are proposing employing a non-aggressive level of valet stack parking, typically employed in similar valet operations, and considered industry standard. The valet-operational level proposed involves minimal stacking, and would only be in the event of extraordinary demand. There would be adequate aisle depth to stack park a minimum of an additional 160 vehicles throughout the two levels of the garage (40 in the residential section of P-1, and 120 throughout P-2). No stacked parking would block primary circulation lanes. Minimal stack parking would occur only in residential parking areas, and behind single (non-tandem) parking spaces. This stacking would be consistent with the preferred valet standards of having to move only one vehicle to access another vehicle.

And, if necessary, an additional 50 valet-parked cars could be accommodated by optimized valet parking in the retail area of the garage, bringing the total additional capacity with "stacking" valet operations to 210 spaces.

Please do not hesitate to contact me with any questions. I can be reached at my mobile phone - 818.395.1790.

Kindest regards
Richard Raskin
Consultant
Walker Parking Consultants
2550 Hollywood Way, Suite 303
Burbank, CA 91505
Voice: (818) 953-9130
Fax: (818) 953-9331
www.walkerparking.com <file://www.walkerparking.com/>