

Attachment 5

Beverly Hills Unified School District Letters



IMPACT SCIENCES

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March 20, 2008

Ms. Karen Christiansen
Director of Planning and Facilities
Beverly Hills Unified School District
255 South Laskey Drive
Beverly Hills, CA 90212-3697

**Re: Final Environmental Impact Report
9900 Wilshire Project, City of Beverly Hills**

Dear Ms. Christiansen:

Impact Sciences has been retained to prepare an Environmental Impact Report (EIR) for the proposed 9900 Wilshire project in the City of Beverly Hills. The City of Beverly Hills is the lead agency for this project.

A Notice of Preparation (NOP) and Initial Study were distributed and available for public review July 21, 2006 through August 21, 2006. The Draft EIR was circulated for a 52-day public review period beginning on August 8, 2007 and ending on September 28, 2007.

In order to provide the public with a meaningful opportunity to comment upon potential impacts related to traffic, air quality, and noise, the Lead Agency determined that certain sections of the 9900 Wilshire EIR should be revised because another Draft EIR simultaneously under consideration by the City used different baseline information in the existing conditions portion of the traffic section of the EIR. Section 4.11, Transportation, Traffic, Parking and Circulation, Section 4.2, Air Quality, and Section 4.8, Noise, were revised and recirculated with a shortened 30-day public review period beginning October 16, 2007 and ending November 13, 2007.

In addition, the Beverly Hills Planning Commission held public hearings on August 20, September 5, September 24, October 29, November 8, and November 28, 2007, and in January 2008, to receive testimony, both written and oral, regarding the project and the Draft EIR.

The Beverly Hills City Council held its first public hearing to consider certification of the EIR on Tuesday, March 11, 2008, at 7:00 PM at the City of Beverly Hills at 455 N. Rexford, Beverly Hills, CA 90210, with an additional hearing scheduled for Thursday, March 20, 2008 at 7:00 PM. The soonest date on which the City Council would be considering EIR certification would be at the hearing scheduled for April 1, 2008.

Ms. Karen Christiansen, Director of Planning and Facilities
March 20, 2008
Page 2

Per the California Environmental Quality Act (CEQA), Section 15088(b), "the lead agency shall provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report." In compliance with CEQA, preliminary responses to comments submitted by the Beverly Hills Unified School District (BHUSD), as well as the attorney representing BHUSD, are enclosed herein.

The text of the mitigation measures referenced in these responses to comments may differ slightly from the text included in the printed version of the Final EIR. These differences result from additions of and refinements to mitigation measures in response to the Planning Commission's review and consideration of the Final EIR and the Mitigation Monitoring and Report Program. Additionally, throughout negotiations with BHUSD, text of mitigation measures may be further refined.

Should you have any questions regarding the enclosed responses or the public hearing currently scheduled for April 1, 2008, please contact Rita Naziri, City of Beverly Hills Senior Planner, at (310) 285-1123.

Very truly yours,



Rita Naziri
Senior Planner
Community Development Department (Planning)
City of Beverly Hills



255 South Lasky Drive
Beverly Hills, California 90212-3697
(310) 551-5100

Ms. Donna Jerex
City Planner
City of Beverly Hills
Department of Community Development – Planning
455 N. Rexford Drive, Room G-40
Beverly Hills, CA 90210

Re: 9900 Wilshire Boulevard Project

Dear Ms. Jerex:

The Beverly Hills Unified School District ("District") is very pleased and appreciative of the collaboration and cooperation of the City of Beverly Hills ("City") and its consultants concerning the District's comments and concerns about the proposed project at 9900 Wilshire Boulevard ("Project"). The meeting on September 25, 2007, between the District and City was extremely positive and the District truly appreciates the City's recognition of the District's unique concerns and the desire to resolve them as part of the Environmental Impact Report ("EIR") for the Project.

The purpose of this letter is to identify the District's areas of concerns and the agreed course of action between the City and District with respect to each concern:

- 1. **District Concern:** The construction haul route will require more than 8,000 truck loads of debris and dirt over at least a six week period. This may greatly interfere with school traffic. Moving the haul route to Santa Monica Blvd. and Merv Griffin Way would reduce that impact. As with the Hilton/Waldorf Astoria project the Construction Traffic Emission Management Plan should also be submitted to the District for review, comment and approval.

1

Agreed Course of Action: The City will incorporate a comment into the EIR that the District will be provided a copy of the Petitioner's Construction Management and Traffic Mitigation Plans for the District's review, comment and approval. The City's commitment to work with the District to help mitigate negative impacts on the District's facilities will also be incorporated into the EIR as a comment.

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- 2. **District Concern:** No Project area or school air sampling done. The Draft EIR relies solely on distant air monitoring stations and calculations. Nitrogen oxide emissions from construction will exceed SCAQMD thresholds (170 pounds per day) and is considered inmitigable. No health risk assessment reported on for

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ILENE W. STRAUS Ed.D., Assistant Superintendent, Educational Services K12 • SAL GUMINA, Assistant Superintendent, Human Resources

5

diesel fumes. [Air monitoring at the schools during construction should be provided and construction activities reduced if air contaminants exceed thresholds for children (no thresholds for children provided).

6

Agreed Course of Action: The District's concerns over air quality identified above will be incorporated into the EIR as a comment along with a comment that the City will work with the District to help mitigate negative impacts on the District's facilities.

- 3. **District Concern:** Levels of dust emission during the two years of construction are expected to reach 89 pounds (year one) and 21 pounds per day (year two). The EIR concludes that even with standard air mitigation measures, the significant impact will still be unavoidable. No specific analysis on the impacts to the school children. Impact to school children should be analyzed and air monitoring at the school's perimeter nearest the Project should be added as a mitigation measure. Construction activities should be reduced if dust exceeds the significance thresholds for children (no thresholds for children provided).

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Agreed Course of Action: The District's concerns over air quality identified above will be incorporated into the EIR as a comment along with a comment that the City will work with the District to help mitigate negative impacts on the District's facilities.

- 4. **District Concern:** The Project will cast shadows on the El Rodeo School from 7:30 a.m. to 10:00 a.m. during the winter on the classrooms and on the campus playfield from early morning until 2:00 p.m. This shadow impact does not consider the shadows cast by the Hilton/Waldorf project.

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Agreed Course of Action: The District will provide the City with comments to be incorporated into the EIR regarding the specific impacts of shade and shadow on the programs and activities at El Rodeo School including the potential negative impact on the District's ability to utilize solar power as a cost saving (and environmentally superior) method of generating energy.

- 5. **District Concern:** Construction would cause high noise levels, but the EIR states that most of the time, the construction noise levels would be well below the projected levels and thus, concludes no significant impact. Some mitigation proposed. Noise monitoring at the El Rodeo School should be provided to ensure thresholds for children (not provided) are not exceeded. Construction activities should be reduced if noise becomes significant. Vibration impact found to be significant and immitigable.

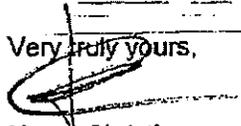
9

Agreed Course of Action: The District's concerns over noise identified above will be incorporated into the EIR as a comment along with a comment that the

<p>City will work with the District to help mitigate negative impacts on the District's facilities.</p>	9
<p>6. District Concern: 127 daily traffic trips will be generated, but net affect is a decrease from existing operations assuming the Wilshire Blvd./Merv Griffin intersection is improved by the Hilton/Waldorf project. Yet this does not take into account that 4-year construction period anticipated for the Hilton/Waldorf project compared to the two year construction period for this project. What will happen during the intervening two years? The traffic plan during construction is contained in the Construction Traffic Management Plan and Construction Workers Parking Plan should also be submitted to the District for comments and approval.</p>	10
<p>Agreed Course of Action: The City will incorporate a comment into the EIR that the District will be provided a copy of the Petitioner's Construction Management and Traffic Mitigation Plans for the District's review, comment and approval. The City's commitment to work with the District to help mitigate negative impacts on the District's facilities will also be incorporated into the EIR as a comment.</p>	
<p>7. District Concern: No plan or study of the impact on cars accessing or departing the project has been undertaken as to the impact on the surrounding communities.</p>	11
<p>Agreed Course of Action: The City will incorporate a comment into the EIR that the District will be provided a copy of the Petitioner's Construction Management and Traffic Mitigation Plans for the District's review, comment and approval. The City's commitment to work with the District to help mitigate negative impacts on the District's facilities will also be incorporated into the EIR as a comment.</p>	
<p>8. District Concern: The District also expressed concerns about the security at</p>	12
<p>District sites including the High School, additional traffic on Santa Monica Boulevard and its impact on the High School, paths of travel for the High School</p>	13
<p>and El Rodeo students and parents and the cumulative impact of the planned projects and their timing.</p>	14
<p>Agreed Course of Action: The City will review these concerns to determine if mitigation is possible and what form it might take. The District will provide a copy of its Master Plan to the City as soon as possible.</p>	
<p>Overall Agreed Course of Action: The District, the City and the EIR consultants</p>	15
<p>agreed to keep open lines of communication and work together in a cooperative and non-adversarial manner to resolve issues concerning development and the District's facilities to the mutual benefit of the City and the District.</p>	16

We again appreciate the City's efforts and openness concerning this process and we look forward to working with the City during this challenging and exciting time in the City's history.

Very truly yours,


Karen Christiansen
Beverly Hills Unified School District
Facilities Director

Letter No. 4: Beverly Hills Unified School District, dated October 1, 2007

Response 4-1

The commenter notes that the 9900 Wilshire Project will generate 8,000 truckloads of debris and dirt over a six-week period. The commenter requests that the designated haul route be moved to Santa Monica Boulevard instead of Wilshire Boulevard. The commenter also requests that the Construction Traffic Management Plan be submitted to the district for review, comment, and approval.

The current plans for construction propose the use of Wilshire Boulevard as a haul route for vehicles traveling to the site. At this time, it is premature to make adjustments in the Construction Traffic Management Plan as further changes to the plan are anticipated as the project design is finalized. The City recognizes the need to involve the Beverly Hills Unified School District (BHUSD) with further development of the Construction Traffic Management Plan and will modify Mitigation measure TRAF-5 to include the following statement (a new bullet point):

- Prior to submittal to the City of Beverly Hills, the Developer shall provide their Construction Traffic Management Plan and Construction Working Parking Management Plan to the Beverly Hills Unified School District and the Los Angeles County Metropolitan Transportation Authority for their review and comment. The Developer shall notify the City of Beverly Hills of all comments received from these agencies related to the Construction Traffic Management Plan.

Response 4-2

The commenter notes that the Draft EIR for the 9900 Wilshire Project did not incorporate air sampling in the local area or at El Rodeo School. The South Coast Air Quality Management District (SCAQMD) does not require air sampling to be conducted in the local area or at a nearby school for the purposes of the California Environmental Quality Act (CEQA). The SCAQMD operates and maintains a network of monitoring stations located throughout the region under its jurisdiction. The monitoring stations are calibrated according to established protocols, and the data are evaluated by SCAQMD staff to account for errors and other inconsistencies. Each monitoring station generally provides long-term (five years of data were summarized in the Draft EIR) air quality data that is representative of a defined area, known as a source receptor area (SRA). The data from a monitoring station is representative of general air quality conditions in the SRA in which it is located. The SCAQMD recommends that projects should use data from the monitoring station located in the SRA to determine background concentrations. In the event data for a particular pollutant are not available, the next nearest monitoring station should be used.¹ While local air sampling is feasible, establishing a background concentration would not be possible since

¹ South Coast Air Quality Management District. *Final Localized Significance Threshold Methodology*, p. I-5, June 2003.

it would only provide short-term data. For these reasons, the Draft EIR utilized data from the monitoring station located in the same SRA as the project or from the next closest monitoring station.

Response 4-3

The carbon monoxide (CO) and nitrogen dioxide (NO₂) monitoring data from the West Los Angeles monitoring station were used in the Localized Significance Thresholds (LST) analysis and the carbon monoxide hotspots analysis. As noted in **Letter No. 2, Response No. 4-2**, these data, when used as background data, are representative of ambient air quality conditions in SRA 2. Use of these data are consistent with the methods for such analysis recommended by the SCAQMD.

Response 4-4

The commenter notes that the Draft EIR for the 9900 Wilshire Project concludes that emissions of oxides of nitrogen (NO_x) during construction exceed the SCAQMD threshold and that these emissions are considered unmitigable. The Draft EIR indicates that emissions of NO_x during construction exceed the established significance threshold; however, mitigation measures are provided that reduces the level of combustion emissions, which include NO_x. It is acknowledged in the Draft EIR that the mitigation measures would not necessarily reduce the emissions to a less than significant level.

Response 4-5

The commenter notes that the Draft EIR for the 9900 Wilshire Project does not incorporate a health risk assessment for diesel fumes. The SCAQMD has established CEQA significance thresholds for the health impacts associated with toxic air contaminants. The California Air Resources Board (CARB) has designated particulate matter emissions from diesel-fueled engines as a toxic air contaminant. Generally, however, the SCAQMD does not require a health risk assessment for diesel particulate matter (DPM) associated with project construction. For the 9900 Wilshire Project, the SCAQMD did not submit a comment on the Notice of Preparation or Draft EIR recommending that a health risk assessment be conducted for construction-related diesel emissions.

Because the diesel particulate matter emissions during construction are relatively short-term, and the students at El Rodeo School may only be exposed for a portion of the construction days, it is not expected that the chronic non-cancer health risk or cancer risk would exceed the SCAQMD thresholds for health effects in the vicinity of the project. For these reasons, a health risk assessment was not incorporated in the Draft EIR. Nevertheless, Section 4.2, Air Quality, of the Draft EIR includes a general discussion of the health impacts related to construction of the project and discusses the potential health risks associated with various pollutants.

Response 4-6

The commenter states that the Draft EIR for the 9900 Wilshire Project should incorporate air monitoring at the school during construction and that the construction activities should be reduced if the air contaminants exceed the threshold for children. The SCAQMD has not established significance thresholds specifically for children, although the California Ambient Air Quality Standards do reflect the particular sensitivity of children to air pollutants. However, the SCAQMD has adopted LSTs for sensitive receptors, which are defined as persons who could potentially remain at a location for a specific length of time (1 hour, 8 hours, or 24 hours) depending on the pollutant being analyzed. The school was considered a sensitive receptor for all pollutants assessed in the LST analysis. In addition, reducing the level of daily construction activities as requested could have the unintended consequence of increasing exposures to construction-related air pollutants due to an extended construction schedule. Therefore, reducing the level of daily construction activities would not be an effective mitigation measure.

Based on consultations with the Beverly Hills Unified School District, the District's concerns over air quality identified in the comments above are incorporated into the EIR. In addition, the City of Beverly Hills will work with the District to help mitigate adverse air quality-related impacts on the District's facilities due to project implementation. The following mitigation measure will be added to Section 4.2 of the Draft EIR:

MM-AQ-14 The project proponent shall establish a third-party air quality consultant to conduct monitoring of the PM₁₀ (dust) concentrations at one upwind (background) location and one or more downwind receptor locations to determine if such results are in compliance with the established threshold in SCAQMD Rule 403. The monitoring shall be conducted at least one time per week for the duration of the demolition and grading period. The third-party consultant shall be approved by the City of Beverly Hills Planning Department. Sample locations, methods, and sampling duration shall be selected in accordance with Rule 403. To the extent feasible, one downwind monitoring station shall be located at or near the El Rodeo School's southern perimeter. Costs for the monitoring stations and tests by the third-party consultant shall be borne by the project proponent. If any measurements are found by the consultant to exceed the SCAQMD Rule 403 threshold, the project proponent shall submit a corrective action plan to the City of Beverly Hills within seven calendar days after receipt of the report from the consultant. The corrective action plan shall specify a schedule for ongoing remedial action and implementation shall begin as soon as reasonably practical, as determined by mutual agreement with the City of Beverly Hills.

Response 4-7

The commenter states that the Draft EIR for the 9900 Wilshire Project concludes that standard air mitigation measures will still result in significant and unavoidable impacts with respect to dust emissions. The commenter also notes that the Draft EIR does not include a specific analysis on the air quality impacts to school children and suggests that such an analysis should be included in the Draft EIR and that air monitoring at the school's perimeter nearest to the project site be added as a mitigation measure.

Based on the LST analysis, the Draft EIR concludes that respirable particulate matter (PM₁₀) and fine particulate matter (PM_{2.5}) emissions due to construction of the project will result in significant and unavoidable ambient air quality impacts. The SCAQMD has not promulgated air quality significance thresholds specific to children. However, the SCAQMD has adopted LSTs for sensitive receptors, which are defined as persons who could potentially remain at a located for a specific length of time (1 hour, 8 hours, or 24 hours) depending on the pollutant being analyzed. The school was considered a sensitive receptor for all pollutants assessed in the LST analysis, including PM₁₀ and PM_{2.5}. It should be noted that SCAQMD Rule 403 prohibits visible fugitive dust emissions beyond the boundary of a project site. While the LST analysis addresses the hypothetical impacts on ambient air quality, the project proponent's compliance with Rule 403, and if necessary, enforcement by the SCAQMD, will help to ensure that adverse impacts do not occur.

Following consultation with the Beverly Hills Unified School District, the District's concerns over air quality identified in the comments above have been incorporated into the EIR. In addition, the City of Beverly Hills will work with the District to help mitigate adverse air quality-related impacts on the District's facilities due to project implementation. The following mitigation measure will be added to Section 4.2 of the Draft EIR:

MM-AO-14 The project proponent shall establish a third-party air quality consultant to conduct monitoring of the PM₁₀ (dust) concentrations at one upwind (background) location and one or more downwind receptor locations to determine if such results are in compliance with the established threshold in SCAQMD Rule 403. The monitoring shall be conducted at least one time per week for the duration of the demolition and grading period. The third-party consultant shall be approved by the City of Beverly Hills Planning Department. Sample locations, methods, and sampling duration shall be selected in accordance with Rule 403. To the extent feasible, one downwind monitoring station shall be located at or near the El Rodeo School's southern perimeter. Costs for the monitoring stations and tests by the third-party consultant

shall be borne by the project proponent. If any measurements are found by the consultant to exceed the SCAQMD Rule 403 threshold, the project proponent shall submit a corrective action plan to the City of Beverly Hills within seven calendar days after receipt of the report from the consultant. The corrective action plan shall specify a schedule for ongoing remedial action and implementation shall begin as soon as reasonably practical, as determined by mutual agreement with the City of Beverly Hills.

Response 4-8

The District states its concern about shading of El Rodeo School's campus and states that it will provide the City with comments on those impacts. The commenter also claims that the shade/shadow analysis contained in the 9900 Wilshire EIR only addresses impacts of the 9900 Wilshire project and not those of The Beverly Hilton Revitalization Plan.

A subsequent comment letter prepared by Orbach, Huff & Suarez, LLP and transmitting District comments on the 9900 Wilshire EIR was received by the City (see **Letter No. 41**), but did not contain any comments concerning project shade or shadow impacts. The 9900 Wilshire EIR contains analysis of the specific impacts associated with the 9900 Wilshire EIR in Section 4.1.3, and subsection 4.1.3.8 addresses the potential for cumulative shading of the school's campus by the 9900 Wilshire and Beverly Hilton Revitalization projects.

The *Shade and Shadow Study for the 9900 Wilshire Project*, prepared by Impact Sciences, Inc. analyzed shadows that would be cast by proposed project site buildings onto the adjacent El Rodeo School during the summer solstice (June 21st), for each hour from 9:00 AM to 5:00 PM, and during winter solstice (December 21st) for each half-hour from 7:30 AM to 3:30 PM. The *Shade and Shadow Study for the 9900 Wilshire Project* shows that El Rodeo School would not be shaded at any time during the summer solstice since shadows would not be cast to the north. Since El Rodeo School would not experience any project-generated shade, project-related shadow impacts during the summer solstice would be less than significant.

During winter solstice, while existing trees in the area currently shade portions of the campus, the proposed project would result in additional shadows cast on the campus. Beginning at 7:30 AM, when school begins, and continuing until 10:00 AM portions or all of the southernmost classroom building located in the southwestern portion of the school campus would be shaded by shadows cast from the project's North Tower. Therefore, the classroom building would experience shade as a result of the proposed project for a total of approximately two hours.

From 9:30 AM through 3:30 PM, when the school day ends, portions of the playfields in the south and east portion of the El Rodeo School campus would be shaded. While a portion of the playfields on the campus would be shaded by the proposed structures, the area shaded would be only a fraction of the entire playfield; the majority of the playfield would remain unshaded and unaffected by the proposed project. Additionally, within the general area, the affected areas are currently shaded by trees and project-generated shade on the campus would not adversely affect students' recreational activities, as the least amount of shade would occur during the noon hour when children would play during lunchtime. Based on the above, shade and shadow impacts during the winter solstice would be less than significant.

Further, during the Planning Commission's review of the project, the North Building was modified such that its height at the northerly end of the building was reduced and the building was setback farther south from Wilshire Boulevard, away from the school. These modifications reduce the extent of shade and shadow impacts to the school from the levels identified in the Draft EIR.

The 9900 Wilshire and The Beverly Hilton Revitalization Plan projects would shade off-site land uses, including the school, park, and residences north of Wilshire, at different times of day, and no single land use would be shaded for more than three hours as a result of the combined shading effects of the two projects. The shading impacts of the 9900 Wilshire project, considered together with The Beverly Hilton Revitalization Plan project and other related projects, would be less than cumulatively considerable and therefore not significant.

As stated in Section 4.1.3, and during a presentation of the joint project shading impacts by the City's environmental consultant at the November 8, 2007, Planning Commission hearing for this project, combined shading impacts would remain less than significant.

Response 4-9

This commenter requests that noise monitoring be provided during project construction to ensure that noise thresholds for children are not exceeded. The commenter points out that these thresholds are not provided in the EIR. While the City has adopted the Office of Planning and Research's (OPR) standards for 24-hour community noise exposure levels for various sensitive receptors (see Table 4.8-4 in Section 4.8, Noise, of the Draft EIR), the City has not adopted standards specifically for construction noise levels. Therefore, no specific construction noise thresholds for sensitive receptors such as El Rodeo School have been adopted by the City.

As shown in Table 4.8-5 in Section 4.8, Noise, of the Draft EIR, noise levels experienced at El Rodeo School due to project construction could intermittently reach 90 dB(A). However, noise levels that are presented in Table 4.8-5 reflect the peak noise levels of equipment used during each phase and assume

the simultaneous operation of all equipment within each phase. The majority of the time, construction noise levels experienced at the school would be well below the noise levels reflected in Table 4.8-5. Furthermore, mitigation measures would be implemented as part of a finalized Construction Management Plan to reduce project-related construction noise.

As discussed in Section 4.8, Noise, of the Draft EIR, some construction activity may occur outside the hours permitted by the City's noise ordinance (i.e., between the hours of 6:00 PM and 8:00 AM on weekdays, or at any time on Saturday, Sunday or a public holiday). Such "after-hours" construction would help offset noise impacts to the school, but would increase impacts to residents and occupants of the Beverly Hilton Hotel during evening and weekend periods. Therefore, requiring all construction activity to occur after-hours is not feasible.

In order to reduce impacts associated with project construction noise experienced at El Rodeo School, mitigation measure MM-NOISE-1 will be expanded to include the following restriction on construction activities statement (a new bullet point):

- 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 periods 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.

Response 4-10

The commenter notes that the project would generate additional trips on to the roadway network and asks about impacts that might occur prior to the completion of the improved Wilshire Boulevard/Merv Griffin Way intersection. The commenter repeats their request that the Construction Traffic Management Plan be submitted to the BHUSD for their review and comment. While both the 9900 Wilshire and The Beverly Hilton Projects are proposed to be constructed, the exact start dates for construction are unknown at this time. The 9900 Wilshire project construction could be completed before The Beverly Hilton construction or even after although, presently concurrent or at least overlapping construction is contemplated so as to have a conservative assessment of both projects' construction occurring simultaneously. In response to the comment regarding review of the Construction Traffic Management and Parking Plans, please see **Letter No. 4, Response No. 4-1**.

Response 4-11

The commenter states that there was no plan or study of impacts on the surrounding community. The Draft EIR contains a review of potential traffic impacts on Whittier Drive and other residential streets within the study, as per the requirements of the City of Beverly Hills. This analysis is documented on pages 4.11-38 and 4.11-39 of the Draft EIR. The traffic study did assess the impact of vehicles entering and exiting the project site during both construction and operation.

Response 4-12

School security is beyond the scope of this analysis. The school district could adopt and enforce site access rules, as it may deem appropriate.

Response 4-13

As mentioned in Section 4.11, Transportation, Traffic, Parking and Circulation, of both the Public Draft EIR and the Recirculated EIR, a Community Liaison Officer (CLO) shall be appointed by the developer to respond to the concerns of surrounding residents, businesses, and the general public. Additionally, the applicant shall provide BHUSD and El Rodeo School with a construction schedule and shall notify BHUSD and El Rodeo School of the start date of project construction. Also, BHUSD and El Rodeo School shall be notified of any lane closures within the vicinity of the project.

Mitigation measures in Section 4.11, Transportation, Traffic, Parking and Circulation, of both the Public Draft EIR and the Recirculated EIR, state that the City shall provide an Environmental Monitor to monitor the compliance of the mitigation measures in the Mitigation Monitoring Program and shall proactively inform the public of the ongoing project progress and respond to requests for information and assistance when impacts raise special concerns by members of the public.

The Construction Management and Mitigation Plan contains provisions for pedestrian safety such as maintaining a solid plywood construction barrier at the perimeter of the site under construction at the time pursuant to the phasing plan and covering sidewalks adjacent to the construction site.

Additionally, the City will review concerns related to pedestrian safety and determine if mitigation is possible and in what way mitigation is possible.

The commenter also expresses concerns about additional traffic on Santa Monica Boulevard and the impacts of this traffic on students attending Beverly Hills High School and El Rodeo School. The project generates no net new daily trips on the roadway network beyond those previously associated with the

site. Since the project generates few incremental trips, the impact of this project on students traveling to various schools throughout the BHUSD would be limited and less than significant.

Response 4-14

The commenter expresses concerns about the cumulative impacts of planned projects and their timing. The analysis of traffic impacts assumed the completion of both the 9900 Wilshire and Beverly Hilton Revitalization Plan Projects and included traffic associated with both projects. In other words, the traffic analysis for the 9900 Wilshire Project accounted for the completion of The Beverly Hilton Revitalization Plan Project as one of the many projects contributing to future traffic volumes. Likewise, the traffic analysis for The Beverly Hilton Revitalization Plan Project accounted for the completion of the 9900 Wilshire Project as one of the many projects contributing to the future traffic increase. Regarding the timing of the projects, the construction schedule for the 9900 Wilshire Project has been modified so that both projects would be constructed along similar schedules if both projects begin construction simultaneously. Please see **Letter No. 4, Response No. 4-10**, regarding additional information related to construction and project timing.

Response 4-15

See **Letter No. 4, Response Nos. 4-13 and 4-14**, for a discussion of security, pedestrian safety, and the combined impacts of the 9900 Wilshire and Beverly Hilton Revitalization Plan projects. The City looks forward to receipt of the School District Master Plan.

Response 4-16

As this comment is not directed at any specific environmental analysis in the Draft EIR, or its conclusions, no further response is necessary.



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RECEIVED
CITY OF BEVERLY HILLS

NOV - 7 2007

PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

November 6, 2007

Larry Sakurai, Senior Planner
City of Beverly Hills
Department of Community Development - Planning
455 North Rexford Drive
Beverly Hills, CA 90210

Dear Larry,

Thank you for the opportunity to communicate with the City of Beverly Hills regarding the proposed developments at 9900 and 9876 Wilshire, and the Re-Circulated Draft Environmental Impact Reports and Construction Management Plans associated with these projects.

Per our meeting on November 5, 2007, Beverly Hills Unified School District ("District") requests an extension on the November 13, 2007 public comment period in order to properly review the Construction Management Plans and the information discussed during the Planning Commission Hearing on November 8, 2007 regarding cumulative issues for the 9900 and 9876 Wilshire Projects. Due to the Planning Department office closure on Monday November 12, 2007 and the upcoming Thanksgiving holiday, the District requests the deadline be extended to December 1, 2007 in order to ensure the District School Board enough time to adequately review and respond.

1

In addition, the District would like to request a copy of the portfolio of visual simulations illustrated by Visionscape and the Construction Phasing Plans for both the 9900 and 9876 Wilshire Projects.

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We look forward to working together to ensure that all members of the school community benefit from, and are not adversely affected by, the proposed changes to Beverly Hills.

Thank you for your consideration.

Sincerely,

Karen Christiansen, Consultant
Director of Planning and Facilities
Beverly Hills Unified School District

BOARD OF EDUCATION: JOHN D. MILLAN, President • MYRA DEMETER, Ph.D., Vice President • MYRA B. LURIE • NOOSHIN MESHKATY • ALISSA ROSTON
ADMINISTRATIVE STAFF: KARI McVEIGH, Superintendent • CHERYL PLOTKIN, Assistant Superintendent, Business Services
ILENE W. STRAUS Ed.D., Assistant Superintendent, Educational Services K12 • SAL GUMINA, Assistant Superintendent, Human Resources

Letter No. 37: Beverly Hills Unified School District, dated November 6, 2007

Response 37-1

Several sections of the Draft EIR were recirculated because another Draft EIR recently prepared by the City has used different baseline information in the existing conditions portion of the traffic section of that EIR. In order to provide the public with a meaningful opportunity to comment upon potential impacts related to traffic, air quality, and noise for the 9900 Wilshire and Hilton Revitalization projects, the City determined that certain sections of the 9900 Wilshire Project EIR should be revised to use similar baseline conditions and then recirculated for additional public review. Sections 4.11, Transportation, Traffic, Parking and Circulation, 4.2, Air Quality, and 4.8, Noise, were revised and recirculated. The analyses contained in the recirculated Draft EIR indicate that the use of higher traffic counts collected for the other City Draft EIR did not lead to the finding of any new or more severe environmental impacts related to air, noise, or traffic. Therefore, the findings in the Draft EIR for the 9900 Wilshire Project dated August 2007, including findings on construction mitigation and cumulative impacts, remain unchanged and no additional or revised mitigation measures are needed. The City requested a shortened review period for the recirculated sections of this Draft EIR, and the request was granted by the Governor's Office of Planning and Research.

Responses to comment letters received after the November 13, 2007, end date, including the November 15, 2007, letter from the Beverly Hills Unified School District's counsel, are fully addressed and contained within this Final EIR.

Response 37-2

Limited copies of the visual simulations have been printed and therefore cannot be distributed to all requestors. However, copies of the simulations are available for public viewing at the City Planning Department located at 9357 West Third Street.



IMPACT SCIENCES

234 E. Colorado Boulevard, Suite 205
Pasadena, California 91101
Telephone (626) 564-1500 FAX (626) 564-1501
www.impactsciences.com

March 20, 2008

Mr. David M. Orbach
Orbach, Huff & Suarez LLP
Attorneys at Law
1901 Avenue of the Stars, Suite 575
Los Angeles, CA 90067

**Re: Final Environmental Impact Report
9900 Wilshire Project, City of Beverly Hills**

Dear Mr. Orbach:

Impact Sciences has been retained to prepare an Environmental Impact Report (EIR) for the proposed 9900 Wilshire project in the City of Beverly Hills. The City of Beverly Hills is the lead agency for this project.

A Notice of Preparation (NOP) and Initial Study were distributed and available for public review July 21, 2006 through August 21, 2006. The Draft EIR was circulated for a 52-day public review period beginning on August 8, 2007 and ending on September 28, 2007.

In order to provide the public with a meaningful opportunity to comment upon potential impacts related to traffic, air quality, and noise, the Lead Agency determined that certain sections of the 9900 Wilshire EIR should be revised because another Draft EIR simultaneously under consideration by the City used different baseline information in the existing conditions portion of the traffic section of the EIR. Section 4.11, Transportation, Traffic, Parking and Circulation, Section 4.2, Air Quality, and Section 4.8, Noise, were revised and recirculated with a shortened 30-day public review period beginning October 16, 2007 and ending November 13, 2007.

In addition, the Beverly Hills Planning Commission held public hearings on August 20, September 5, September 24, October 29, November 8, and November 28, 2007, and in January 2008, to receive testimony, both written and oral, regarding the project and the Draft EIR.

The Beverly Hills City Council held its first public hearing to consider certification of the EIR on Tuesday, March 11, 2008, at 7:00 PM at the City of Beverly Hills at 455 N. Rexford, Beverly Hills, CA 90210, with an additional hearing scheduled for Thursday, March 20, 2008 at 7:00 PM. The soonest date on which the City Council would be considering EIR certification would be at the hearing scheduled for April 1, 2008.

Mr. David M. Orbach, Attorney At Law
March 20, 2008
Page 2

Per the California Environmental Quality Act (CEQA), Section 15088(b), "the lead agency shall provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report." In compliance with CEQA, preliminary responses to comments submitted by the Beverly Hills Unified School District (BHUSD), as well as the attorney representing BHUSD, are enclosed herein.

The text of the mitigation measures referenced in these responses to comments may differ slightly from the text included in the printed version of the Final EIR. These differences result from additions of and refinements to mitigation measures in response to the Planning Commission's review and consideration of the Final EIR and the Mitigation Monitoring and Report Program. Additionally, throughout negotiations with BHUSD, text of mitigation measures may be further refined.

Should you have any questions regarding the enclosed responses or the public hearing currently scheduled for April 1, 2008, please contact Rita Naziri, City of Beverly Hills Senior Planner, at (310) 285-1123.

Very truly yours,



Rita Naziri
Senior Planner
Community Development Department (Planning)
City of Beverly Hills

ORBACH, HUFF & SUAREZ LLP

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NOV 16 2007

PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

November 15, 2007

Of Counsel
Peter F. Lindborg
Mark L. Jubelt

File Number
4280.000

VIA CERTIFIED AND REGULAR MAIL

Ms. Donna Jerex
City Planner
City of Beverly Hills
Department of Community
Development - Planning
455 N. Rexford Drive, Room G-40
Beverly Hills, CA 90210

Re: Inadequacies within the Environmental Impact Report
For the 9900 Wilshire Boulevard Project

Dear Ms. Jerex:

The Beverly Hills Unified School District ("District"), requests that this letter be submitted to City Council and incorporated into the record as a formal comment letter, regarding the City Council's consideration of whether to certify an Environmental Impact Report ("EIR") pursuant to the California Environmental Quality Act ("CEQA") for the 9900 Wilshire Boulevard Project ("Project"). Specifically, this letter identifies the existing inadequacies within the Project EIR in the areas of air quality, geologic materials and soils, noise, traffic, water, wastewater, sun and shadow, and cumulative impacts. In addition, the Project EIR, in large part, fails to analyze the potential impacts of the Project to the school children attending the El Rodeo School which is directly adjacent to the Project. These inadequacies must be corrected in the Project EIR and recirculated for additional comments in order to be compliant with CEQA. As such, we respectfully request that City Council decline certifying the Project EIR and not approve the Project and direct staff to revise the Project EIR to address the issues raised herein to comply with CEQA.

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- 1. The construction haul route will require more than 8,000 truck loads of debris and dirt over at least a six week period. This will greatly interfere with school traffic. Moving the haul route to Santa Monica Blvd. and Merv Griffin Way would reduce that impact. As with the 9876 Wilshire Boulevard project, the

ORBACH, HUFF & SUAREZ LLP

Ms. Donna Jerex
City Planner
City of Beverly Hills
November 15, 2007
Page 2

Construction Traffic Emission Management Plan should also be submitted to the District for review, comment and approval.

6

2. No Project area or school air sampling done. The Draft EIR relies solely on distant air monitoring stations and calculations. Nitrogen oxide emissions from construction will exceed SCAQMD thresholds (170 pounds per day) and is considered immitigable. No health risk assessment reported on for diesel fumes. To mitigate the potential air quality impact to the school children, the developer should provide air monitoring at the El Rodeo School and Beverly Hills High School during construction. The City should require construction to stop or be modified if air contaminants exceed thresholds for children (no thresholds for children provided).

7

3. Levels of dust emission during the two years of construction are expected to reach 89 pounds (year one) and 21 pounds per day (year two). The Draft EIR concludes that even with standard air mitigation measures, the significant impact will still be unavoidable. No specific analysis on the impacts of dust to the school children. Impact to school children should be analyzed and dust monitoring at the school's perimeter nearest the Project should be added as a mitigation measure. Construction activities should be halted or modified if monitoring demonstrates dust exceeding the significance thresholds for children (no thresholds for children provided).

8

4. The Project will cast shadows on the El Rodeo School from 7:30 a.m. to 10:00 a.m. during the winter on a classroom bldg and on campus playfields until 2:00 p.m. This shadow impact does not consider the shadows cast by the Hilton/Waldorf project. No mitigation is proposed. A potential mitigation measure is to reduce the height of the Project's buildings or, or in combination, increase the set-back in a manner that will not cast shadows on the El Rodeo School as mitigation.

9

5. Construction would cause high noise levels, but the Draft EIR states that most of the time, the construction noise levels would be well below the projected levels and thus, concludes no significant impact. Some mitigation proposed. Noise monitoring at the El Rodeo School should be provided to ensure thresholds for children (not provided) are not exceeded. Construction activities should be reduced if noise becomes significant. Vibration impact found to be significant and immitigable. To mitigate the vibration impact to school children, the developer should provide vibration monitoring at the El Rodeo School. The City should require construction to stop or be modified if monitoring demonstrates a significant vibration impact to the school children.

10

ORBACH, HUFF & SUAREZ LLP

Ms. Donna Jerex
City Planner
City of Beverly Hills
November 15, 2007
Page 3

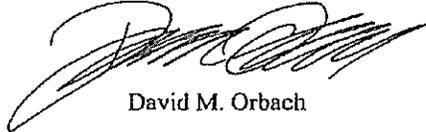
- 6. 127 daily traffic trips will be generated, but net affect is a decrease from existing operations assuming the Wilshire/Merv Griffin intersection is improved by the 9876 Wilshire Boulevard project. Yet this does not take into account that 4-year construction period anticipated for the 9876 Wilshire Boulevard project compared to the two year construction period for this Project. What will happen during the intervening two years? The traffic plan during construction is contained in the Construction Traffic Management Plan and Construction Workers Parking Plan and should also be submitted to the District for review, comments and approval. 11
- 7. No plan or study of the impact on cars accessing or departing the Project has been undertaken to analyze the potential impact on the surrounding communities. 12
- 8. There is no plan for addressing security issues which may impact the school children or staff during construction. We suggest that background checks, fingerprinting and limitations on workers approaching school grounds or children be required as mitigation and that the District be permitted to review, comment and approve a security plan prepared and submitted by the developer. 13

CONCLUSION

The District is extremely concerned about the Project's potential impacts to the school children and the lack of specific analysis and mitigation of such impacts to the children. Because the Project EIR is inadequate in the areas discussed above, the District respectfully requests that City Council decline to certify the Project EIR and not approve the Project and direct staff to address these potential impacts and include the suggested mitigation in the Draft EIR and recirculate it for comments. 14

If you have any questions, please contact me at your earliest convenience.

Very truly yours,
ORBACH, HUFF & SUAREZ LLP



David M. Orbach

DMO:ml
cc: Beverly Hills Unified School District
Attn: Kari McVeigh, Superintendent
Board of Education

Letter No. 41: Orbach, Huff & Suarez LLP, Representing Beverly Hills Unified School District, dated November 15, 2007

Response 41-1

This comment is an introduction to comments that follow. Inclusion of this letter in the Final EIR fulfills the request to incorporate the letter into the Record. No further response is required.

Response 41-2

Please refer to **Letter No. 41, Response Nos. 41-6 through 41-13**, for detailed responses regarding concerns raised by the commenter.

Response 41-3

Potential shading and shadow impacts to the El Rodeo School campus are addressed in Section 4.1.3, Shade and Shadow, of the Draft EIR. Potential air quality impacts to students and staff at El Rodeo School are addressed in Section 4.2, Air Quality, of the Draft EIR. Potential noise impacts associated with project construction and operation are evaluated in Section 4.8, Noise, of the Draft EIR. Overall impacts to Beverly Hills Unified School District are evaluated and discussed in Section 4.10.3, Schools of the Draft EIR. Potential safety impacts, and specifically pedestrian safety impacts are evaluated in Section 4.11, Transportation, Traffic, Parking and Circulation, of the Draft EIR. Additional information regarding pedestrian safety is provided in **Letter No. 4, Response No. 4-13**. Therefore, throughout the analysis included in the EIR, impacts to the El Rodeo School campus as well as the students that attend El Rodeo School are evaluated.

Response 41-4

This comment suggests that preparation and recirculation of the Draft EIR may be necessary. Recirculation of the Draft EIR is not required based on the standards defined in Section 15088.5 of the *California Environmental Quality Act (CEQA) Guidelines*. This section of the *Guidelines* state that a lead agency is required to recirculate an EIR when significant new information is added to the EIR. This information can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a 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) that the project's proponents have declined to implement. Significant new information requiring recirculation could include a new significant environmental impact or a substantial increase in the severity of an environmental impact.

The information provided in response to this comment and other comments in this Final EIR do not identify a new significant environmental impact or a substantial increase in the severity of an environmental impact. According to the *CEQA Guidelines* Section 15088.5(b), recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications to an adequate EIR. The responses provided to this comment and to other comments received in response to the Draft EIR clarify, simplify or make insignificant changes to information provided in the Draft EIR; this additional information does not change the conclusions reached in the Draft EIR or disclose any new impacts. Therefore, recirculation of the Draft EIR is not required.

In order to provide the public with a meaningful opportunity to comment upon potential impacts related to traffic, air quality and noise for this project and the adjacent Beverly Hilton Project, the Lead Agency determined that certain sections of the 9900 Wilshire EIR and the Beverly Hilton Project EIR should be revised to use similar baseline conditions as another recent project and thereafter recirculated for additional public review, in accordance with footnote 1 found in Section 4.11, Transportation, Traffic, Parking, and Circulation, page 4.11-9. Sections 4.11, Transportation, Traffic, Parking and Circulation, 4.2, Air Quality and 4.8, Noise, were revised and recirculated with a shortened 30-day public review period beginning October 16, 2007, and ending November 13, 2007.

The analyses contained in Sections 4.11, Transportation, Traffic, Parking, and Circulation, 4.2, Air Quality, and 4.8, Noise, in the recirculated Draft EIR indicate that the use of higher traffic counts collected for the 231-265 North Beverly Drive, William Morris Project in June 2006 did not lead to the finding of any new or more severe environmental impacts related to air, noise or traffic. Therefore, the findings in the Draft EIR dated August 2007 remain unchanged and no additional or revised mitigation measures are needed.

Response 41-5

The comment requests that this EIR not be certified but instead be revised and recirculated. For the reasons discussed in **Letter No. 41, Response No. 41-4**, above, recirculation of the Draft EIR is not warranted. As such, this comment will be forwarded to the decision-makers for the proposed project.

Response 41-6

The commenter notes that the 9900 Wilshire Project will generate 8,000 truckloads of debris and dirt over a six-week period. The commenter requests that the designated haul route be moved to Santa Monica Boulevard, instead of Wilshire Boulevard. The commenter also requests that the Construction Traffic Management Plan be submitted to the district for review, comment, and approval.

The current plans for construction propose the use of Wilshire Boulevard as a haul route for vehicles traveling to the site. At this time, it is premature to make adjustments in the Construction Traffic Management Plan as further changes to the plan are anticipated as the project design is finalized. The City recognizes the need to involve the BHUSD with further development of the Construction Traffic Management Plan and recommends that mitigation measure TRAF-5 be modified to include the following statement (a new bullet point):

- Prior to submittal to the City of Beverly Hills, the Developer shall provide their Construction Traffic Management Plan and Construction Working Parking Management Plan to the Beverly Hills Unified School District and the Los Angeles County Metropolitan Transportation Authority for their review and comment. The Developer shall notify the City of Beverly Hills of all comments received from these agencies related to the Construction Traffic Management Plan.

Response 41-7

The commenter states that the Draft EIR for the 9900 Wilshire Project relies solely on distant air monitoring stations and calculations. The South Coast Air Quality Management District (SCAQMD) does not require air sampling to be conducted in the local area or at a nearby school for the purposes of CEQA. The SCAQMD operates and maintains a network of monitoring stations located throughout the region under its jurisdiction. The monitoring stations are calibrated according to established protocols, and the data are evaluated by SCAQMD staff to account for errors and other inconsistencies. Each monitoring station generally provides long-term (five years of data were summarized in the Draft EIR) air quality data that is representative of a defined area, known as a source receptor area (SRA). The data from a monitoring station is representative of general air quality conditions in the SRA in which it is located. The SCAQMD recommends that projects should use data from the monitoring station located in the SRA to determine background concentrations. In the event data for a particular pollutant are not available, the next nearest monitoring station should be used. While local air sampling is feasible, establishing a background concentration would not be possible since it would only provide short-term data. For these reasons, the Draft EIR utilized data from the monitoring station located in the same SRA as the project or from the next closest monitoring station.

The commenter notes that the Draft EIR for the 9900 Wilshire Project concludes that emissions of oxides of nitrogen (NO_x) during construction exceed the SCAQMD threshold and that these emissions are considered inmitigable. The Draft EIR indicates that emissions of NO_x during construction will exceed the established significance threshold; however, mitigation measures are provided that reduce the level of combustion emissions, which include NO_x. It is acknowledged in the Draft EIR that the mitigation measures would not necessarily reduce the emissions to a less-than-significant level.

The commenter notes that the Draft EIR for the 9900 Wilshire Project does not incorporate a health risk assessment for diesel fumes. The SCAQMD has established CEQA significance thresholds for the health impacts associated with toxic air contaminants. The California Air Resources Board (CARB) has designated particulate matter emissions from diesel-fueled engines as a toxic air contaminant. Generally, however, the SCAQMD does not require a health risk assessment for diesel particulate matter (DPM) associated with project construction. For the 9900 Wilshire Project, the SCAQMD did not submit a comment on the Notice of Preparation or Draft EIR recommending that a health risk assessment be conducted for construction-related diesel emissions.

Because the diesel particulate matter emissions during construction are relatively short-term and the students at El Rodeo School may only be exposed for a portion of the construction days, it is not expected that the chronic noncancer health risk or cancer risk would exceed the SCAQMD thresholds for health effects in the vicinity of the project. For these reasons, a health risk assessment was not incorporated in the Draft EIR. Nevertheless, Section 4.2, Air Quality, of the Draft EIR includes a general discussion of the health impacts related to construction of the project.

The commenter states that the Draft EIR for the 9900 Wilshire Project should incorporate air monitoring at the school during construction and that the construction activities should be stopped or modified if the air contaminants exceed the threshold for children. The SCAQMD has not established significance thresholds specifically for children, although the California Ambient Air Quality Standards do reflect the particular sensitivity of children to air pollutants. However, the SCAQMD has adopted Localized Significance Thresholds (LSTs) for sensitive receptors, which are defined as persons who could potentially remain at a location for a specific length of time (1 hour, 8 hours, or 24 hours) depending on the pollutant being analyzed. The school was considered a sensitive receptor for all pollutants assessed in the LST analysis.

Based on consultations with the Beverly Hills Unified School District, the District's concerns over air quality identified in the comments above are incorporated into the EIR. In addition, the City of Beverly Hills will work with the District to help mitigate adverse air quality-related impacts on the District's facilities due to project implementation. Therefore, the following mitigation measure will be added to Section 4.2 of the Draft EIR:

MM-AQ-14 The project proponent shall establish a third-party air quality consultant to conduct monitoring of the PM₁₀ (dust) concentrations at one upwind (background) location and one or more downwind receptor locations to determine if such results are in compliance with the established threshold in SCAQMD Rule 403. The monitoring shall be conducted at least one time per week for the duration of the demolition and

grading period. The third-party consultant shall be approved by the City of Beverly Hills Planning Department. Sample locations, methods, and sampling duration shall be selected in accordance with Rule 403. To the extent feasible, one downwind monitoring station shall be located at or near the El Rodeo School's southern perimeter. Costs for the monitoring stations and tests by the third-party consultant shall be borne by the project proponent. If any measurements are found by the consultant to exceed the SCAQMD Rule 403 threshold, the project proponent shall submit a corrective action plan to the City of Beverly Hills within seven calendar days after receipt of the report from the consultant. The corrective action plan shall specify a schedule for ongoing remedial action and implementation shall begin as soon as reasonably practical, as determined by mutual agreement with the City of Beverly Hills.

Response 41-8

The commenter states that the Draft EIR for the 9900 Wilshire Project concludes that standard air mitigation measures will still result in significant and unavoidable impacts with respect to dust emissions. The commenter also notes that the Draft EIR does not include a specific analysis on the air quality impacts to school children and suggests that such an analysis should be included in the Draft EIR and that air monitoring at the school's perimeter nearest to the project site be added as a mitigation measure.

The SCAQMD has not promulgated air quality significance thresholds specific to children, although the California Ambient Air Quality Standards do reflect the particular sensitivity of children to air pollutants. The SCAQMD has adopted LSTs for sensitive receptors, which are defined as persons who could potentially remain at a location for a specific length of time (1 hour, 8 hours, or 24 hours) depending on the pollutant being analyzed. The school was considered a sensitive receptor for all pollutants assessed in the LST analysis.

The feasibility and potential value of ambient air quality monitoring has been evaluated. First, it would be difficult to separate the ambient air quality impacts resulting from motor vehicles traveling on Wilshire Boulevard and nearby streets from those resulting from construction equipment associated with the proposed project as they emit many of the same air pollutants (e.g., oxides of nitrogen, carbon monoxide). Second, SCAQMD Rule 403 prohibits visible fugitive dust emissions beyond the boundary of a project site. If dust complaints were registered with the SCAQMD, the SCAQMD at its discretion may perform PM₁₀ monitoring in the vicinity of the project site. If the fugitive dust due to the project construction results in an increase of 50 micrograms per cubic meter (the 24-hour average California

Ambient Air Quality Standard for PM₁₀), the project would be in violation of Rule 403, and the SCAQMD could take enforcement action to ensure that the project does not result in unacceptable levels of fugitive dust.

Based on consultations with the Beverly Hills Unified School District, the District's concerns over air quality identified in the comments above are incorporated into the EIR. In addition, the City of Beverly Hills will work with the District to help mitigate negative air quality-related impacts on the District's facilities due to project implementation. Therefore, the following mitigation measure will be added to Section 4.2 of the Draft EIR:

MM-AQ-14 The project proponent shall establish a third-party air quality consultant to conduct monitoring of the PM₁₀ (dust) concentrations at one upwind (background) location and one or more downwind receptor locations to determine if such results are in compliance with the established threshold in SCAQMD Rule 403. The monitoring shall be conducted at least one time per week for the duration of the demolition and grading period. The third-party consultant shall be approved by the City of Beverly Hills Planning Department. Sample locations, methods, and sampling duration shall be selected in accordance with Rule 403. To the extent feasible, one downwind monitoring station shall be located at or near the El Rodeo School's southern perimeter. Costs for the monitoring stations and tests by the third-party consultant shall be borne by the project proponent. If any measurements are found by the consultant to exceed the SCAQMD Rule 403 threshold, the project proponent shall submit a corrective action plan to the City of Beverly Hills within seven calendar days after receipt of the report from the consultant. The corrective action plan shall specify a schedule for ongoing remedial action and implementation shall begin as soon as reasonably practical, as determined by mutual agreement with the City of Beverly Hills.

Response 41-9

The commenter states that the shade/shadow analysis contained in the 9900 Wilshire EIR only addresses impacts of the 9900 Wilshire project and not those of The Beverly Hilton Revitalization Plan. The 9900 Wilshire EIR contains analysis of the specific impacts associated with the 9900 Wilshire EIR in Section 4.1.3, and subsection 4.1.3.8 addresses the potential for cumulative shading of the school's campus by the 9900 Wilshire and Beverly Hilton Revitalization projects. As stated therein, and during a presentation of the joint project shading impacts by the City's environmental consultant at the November 8, 2007,

Planning Commission hearing for this project, combined shading impacts would remain less than significant.

Modifications of the 9900 Wilshire project subsequent to Draft EIR circulation increase building setbacks from Wilshire Boulevard and incorporate height stepbacks into the North Tower along Wilshire Boulevard and the South Tower along LACC. These modifications would reduce project-related shading of El Rodeo School's campus, thereby reducing the severity of any impact further below the threshold of significance.

Response 41-10

See **Letter No. 4, Response No. 4-9**, regarding construction noise impacts to El Rodeo School.

Additionally, the commenter requests that vibration monitoring be conducted on the school site due to the potential for significant vibration impacts. The City's vibration threshold for schools is 75 VdB. As shown in Table 4.8-6 in Section 4.8, Noise, vibration levels associated with operation of a large bulldozer could reach 75 VdB approximately 100 feet from the equipment. It should be noted that such significant vibration impacts would occur at the playground of the school campus and not at the school buildings, which are located farther than 100 feet from the project site. Nevertheless, where vibration impacts would be significant, such impacts would occur intermittently. The majority of the time, construction vibration levels experienced at the school would be well below the levels reflected in Table 4.8-6. Furthermore, mitigation measures would be implemented as part of a finalized Construction Management Plan to reduce project-related construction vibration.

Response 41-11

Please see **Letter No. 4, Response No. 4-10**, regarding this question.

Response 41-12

The commenter states that there was no plan or study of traffic impacts on the surrounding community. The Draft EIR contains a review of potential traffic impacts on Whittier Drive and other residential streets within the study area, per the requirements of the City of Beverly Hills. This analysis is documented on pages 4.11-38 and 4.11-39 of the Draft EIR. The traffic study did assess the impact of vehicles entering and exiting the project site during both construction and operation.

Response 41-13

As mentioned in Section 4.11, Transportation, Traffic, Parking and Circulation, of both the Public Draft EIR and the Recirculated EIR, a Community Liaison Officer (CLO) shall be appointed by the developer to respond to the concerns of surrounding residents, businesses, and the general public. Additionally, the applicant shall provide Beverly Hills Unified School District (BHUSD) and El Rodeo School with a construction schedule and shall notify BHUSD and El Rodeo School of the start date of project construction. Also, BHUSD and El Rodeo School shall be notified of any lane closures within the vicinity of the project.

Mitigation measures in Section 4.11, Transportation, Traffic, Parking and Circulation, of both the Public Draft EIR and the Recirculated EIR, state that the City shall provide an Environmental Monitor to monitor the compliance of the mitigation measures in the Mitigation Monitoring Program and shall proactively inform the public of the ongoing project progress and respond to requests for information and assistance when impacts raise special concerns by members of the public.

The Construction Management and Mitigation Plan contains provisions for pedestrian safety such as maintaining a solid plywood construction barrier at the perimeter of the site under construction at the time pursuant to the phasing plan and covering sidewalks adjacent to the construction site.

Additionally, the City will review concerns related to pedestrian safety and determine if mitigation is possible and in what way mitigation is possible.

School security is beyond the scope of this analysis with respect to background checks on construction workers, and the school district could adopt and enforce site access rules as it may deem appropriate.

Response 41-14

Please refer to **Letter No. 41, Response Nos. 41-1 through 41-13**, above for a complete discussion of the concerns raised by the commenter. This comment will be forwarded to the decision-makers for the proposed project

RECEIVED
CITY OF BEVERLY HILLS

NOV 27 2007

PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

Mary J. Davis
703 North Canon Drive
Beverly Hills, California 90210

November 25, 2007

Planning Commission
Noah Furie, Chair
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210

Dear Commissioners:

I am writing in opposition to the 9900 Wilshire project. The plans by Candy & Candy are completely out of scale with the rest of the community. This is not Century City; this is Beverly Hills and I am proud to live here. You are good citizens of this community to be working on the Planning Commission. I am trying to be a good citizen by expressing my views on the proposed development for the Robinson-May property. Why can't the builders of the project try the good neighbor policy?

1

There are myriad concerns for the residents of Beverly Hills associated with this proposed development, the primary one being traffic. It is already very difficult to drive down either Wilshire or Santa Monica. With the addition of traffic from this intersection—both during construction and forever afterwards—it will be almost impossible to enter or leave Beverly Hills via either Wilshire or Santa Monica. I am sure we can use the fees for this construction project; however, in the long run we will lose income for the city by discouraging people from shopping in Beverly Hills. It would not be worth fighting the traffic.

2

Further, the project brags about gardens and landscaping and the lovely view of the adjacent country club. How in the world can anything grow with two 144 foot tall towers cutting off any sunshine or air circulation in the area? Aesthetically, the buildings will form a high wall from Santa Monica Boulevard all the way to Wilshire Boulevard.

3

Even the two-story houses currently being built in the residential area are set back 40 feet. The project being planned for 9900 Wilshire would be set back from the neighboring fairway by a mere 25 feet. That is totally insufficient. It could even make it necessary to move the fairway. How would the residents in these high towers like looking down on storage or a paved utility yard?

4

If approved as planned, this development would have dire consequences for residents and businesses of Beverly Hills as well as the country club immediately next door. I ask you to reduce the height of the proposed towers and to increase the setback from the Los Angeles Country Club property line. The current height limit in Beverly Hills is 45 feet. Even twice that at 90 feet would be a more responsible height limit for this project than the currently proposed 144 feet.

5

Thank you for your time and attention to this matter of utmost importance.

Sincerely,

Copy: Jimmy Delshad, Mayor of Beverly Hills

Letter No. 42: Mary Y. Davis, dated November 25, 2007

Response 42-1

Please refer to Section 4.1, Aesthetics, and Section 4.7, Land Use and Planning, of the Draft EIR for a detailed analysis of the scope of the proposed project. The comment expresses the opinions of the commentator. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project. However, because the comment does not address or question the content of the Draft EIR, no further response is required.

Response 42-2

The incremental trips associated with the 9900 Wilshire Project are minimal and fewer than those generated by the previous occupant of the site, the Robinsons-May department store. Therefore, incremental traffic that might occur would not be attributable to the 9900 Wilshire Project.

Response 42-3

Please refer to Section 4.1.3, Shade and Shadow, for a complete analysis of shade and shadow impacts. Project-specific and cumulative shade and shadow impacts would be less than significant.

Concerning the aesthetics of the proposed project, the comment is noted and will be incorporated into the Final EIR to be provided for the review and consideration of the decision-makers prior to any approval action on the project. It should be noted that, subsequent to circulation of the Draft EIR in August 2007, the applicant has revised the project to increase the setback of the South Tower from the Los Angeles Country Club (LACC) to approximately 40 feet and the North Tower from LACC to 79.5 feet in plans presented at the January 10, 2008, Planning Commission meeting.

Response 42-4

This comment is noted and will be incorporated into the Final EIR to be provided for the review and consideration of the decision-makers prior to any approval action on the project. It should be noted that, subsequent to circulation of the Draft EIR in August 2007, the applicant has revised the project to increase the setback of the South Tower from LACC to approximately 40 feet and the North Tower from LACC to 79.5 feet in plans presented at the January 10, 2008, Planning Commission meeting.

Response 42-5

This comment is noted and will be provided for the review and consideration by the decision-makers prior to any approval action on the project. The applicant has revised the project to increase the setback of the south building from LACC to approximately 40 feet and the north building from LACC to 79.5 feet in plans presented at the January 10, 2008, Planning Commission meeting. It should be noted that the project is subject to review by the Architectural Commission as part of the environmental approval process.

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March 20, 2008

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VIA FACSIMILE (310) 273-8459

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VIA FACSIMILE (213) 891-8463

George J. Muhlsten, Esq.
Latham & Watkins LLP
633 West Fifth Street, Suite 4000
Los Angeles, CA 90071

Re: 9876 and 9900 Wilshire Boulevard Projects
Proposed School Benefits Fee and Project Mitigations

Dear Messrs. Alexander and Muhlsten:

This law office represents the Beverly Hills Unified School District (the "District") with regard to the above-referenced matters. As you are aware, the Beverly Hills City Planning Commission has recommended that the Beverly Hills City Council impose a School Benefits Fee as a condition of approval of the above-referenced projects for the purpose of providing funding for mitigation of impacts and enforcement of mitigation measures related to these projects. To that end, the District's Facilities Department has developed a list of proposed mitigation and monitoring measures, as well as the estimated costs of such measures. Attached hereto you will find a chart outlining such mitigation measures and costs. As detailed on the attached chart, the District requests that a total School Benefits Fee, covering both projects, be paid in the amount of \$10,340,000.00.

The District is open to discussion as to the appropriate apportionment of the fees between the two projects. However, certain portions of the fees need to be paid in advance of the start of any demolition or construction in order to insure that mitigation measures, monitoring systems and personnel are in place before any impacts can occur. In addition, please note that the District's estimated costs are based on the assumption that construction of the projects will begin in 2008 and last no more than three years. A later start date and/or longer construction schedule will require that additional fees be collected to cover cost increases and additional personnel time.

Allan Alexander, Esq.
George J. Mhlsten, Esq.
March 20, 2008
Page 2

In addition to payment of the School Benefits Fee as detailed above, the District requests that the following additional mitigation measure be included in the final project approvals:

- That demolition of the existing structures start and take place, to the greatest extent possible, during the summer months when school is out of session;
- That a complete Construction Management Plan, including Safety Plan and Corrective Action Plan, be approved by the District prior to the start of construction;
- That the District be provided with a full set of final demolition plans and specifications and construction plans and specifications, before the start of demolition and construction respectively;
- That the public bus stop located adjacent to the El Rodeo School at the northwest corner of Wilshire and Whittier be moved so that it is no longer adjacent to the school nor directly across the street from the construction site;
- That District representatives be invited to attend and participate in regular construction progress meetings, which include the applicants' Project Managers and City Building Officials;
- That crossing guards be provided at all affected intersections during school hours for the entire period of construction for both projects;
- That all workers on both project sites undergo criminal background checks and fingerprinting, and that the results be certified to the District;
- That no construction take place on designated testing days as identified by the District; and
- That the District be reimbursed for any Average Daily Attendance ("ADA") funding lost as a result of construction impacts.

We look forward to the opportunity to discuss these matters with you at your earliest convenience, and to having the resulting School Benefits Fee and mitigation measures included in the approvals to be considered by the City Council.

Allan Alexander, Esq.
George J. Mihalsten, Esq.
March 20, 2008
Page 3

Thank you for your immediate attention to this matter. As always, please do not hesitate to contact me at any time with any questions or comments you may have.

Sincerely,

GAINES & STACEY LLP

By *Fred Gaines*
FRED GAINES *By: TDP*

cc: Kari McVeigh
Karen Christensen

Impact	Mitigation measure	Comments	Estimated Costs
Air Quality	Monitoring (ER and BHHS)	The City has included some monitoring in the EIR conditions. The District will need to retain a consultant to assist with reading and analyzing the reports and for additional monitoring by BHUSD representatives.	\$500,000
	HVAC upgrades (ER)	Includes more intense filters and electrical system upgrades to support increased HVAC operations and the associated design and agency approval fees.	\$850,000
	New walk off mats and weather stripping at doors and windows and other upgrades(ER)	Will help with dust and debris being brought into buildings. Will also improve the existing indoor play area for increased use.	\$600,000
Traffic & Parking	Monitoring (ER and BHHS)	Utilizing the City's traffic consultant for an additional study focused on ER and BHHS and independent monitoring of plan. Monitoring to be done by BHUSD representatives.	\$500,000
Noise and vibration	Monitoring (ER and BHHS)	Developers and City would be made aware of STAR testing and other dates where noise will need to be reduced or eliminated. Monitoring to be done by BHUSD representatives.	\$500,000
Safety and security	Landscape and increased fencing (ER);increased security and cameras	Security guards to enforce the barrier/separation for the workers and students during the work day and when entering and exiting the site. Security camera system to include Wifishire footage, Landscape design and installation, and privacy fencing design and installation.	\$900,000
Additional Field & Building Maintenance	Increase cleaning for turf field and campus (ER)	The BHUSD has recently installed artificial turf at ER school. In order to keep the field in good condition additional cleaning should be scheduled.	\$150,000
Consultant time	Monitor implementation of mitigation measures and oversee the process from the District's perspective. (ER and BHHS)	Consultant would attend all preconstruction and construction meetings to share information. Consultant would be responsible for reporting and responding to concerns and issues to all parties of interest. Consultant would be responsible for monitoring personnel and project management staff to be positioned at site(s) on a daily basis during the construction process. Also includes community outreach and public relations components. Includes reimbursement for legal counsel and other professionals for the duration of construction.	\$5,400,000
Total			Contingency \$940,000 \$9,400,000 \$10,340,000

- This chart does not include the cost of additional crossing guards which the City has already added as a condition of approval for the 9900 and Hilton projects.
- These items assume a 3 year (36 month), beginning June 2008, complete project timeline for BOTH projects under construction simultaneously. The District reserves the right to further negotiate if either of the projects extend past this estimated time.
- At this time, March 2008, the District has no specific information on means and methods for demo or construction for either project. The District also has not received a detailed construction schedule for either project.

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April 3, 2008

ORIGINAL BY MAIL

VIA FACSIMILE (310) 858-5966

Vincent P. Bertoni, AICP
Director of Community Development
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210

Re: 9900 Wilshire Project
Additional Comments of Beverly Hills Unified School District
Regarding Construction Measures

Dear Mr. Bertoni:

As you know, this law office represents the Beverly Hills Unified School District ("District") with regard to the above-referenced matter. We are in receipt of the copy of your Memorandum dated March 27, 2008, regarding Construction Measures for the 9900 Wilshire Project. The District greatly appreciates your efforts, and those of your Department, in addressing the concerns raised by the District, the El Rodeo PTA and other concerned citizens regarding potential impacts of the construction of the 9900 Wilshire and Beverly Hilton Revitalization projects on the El Rodeo School and other District facilities.

The District supports your recommendation that Additional Conditions 1-16, as found on pages 23 through 25 of your March 27, 2008 Memorandum, be imposed as conditions of approval in addition to those conditions already contained in the 9900 Wilshire project Environmental Impact Report ("EIR"), the City Council Staff Report and Planning Commission Resolution 1500.

The District also requests that, and would greatly appreciate if, the following conditions of approval be required and clarifications be made as part of approval of the 9900 Wilshire project by the City:

- With regard to EIR Condition AQ14 (9th bullet point), the District requests that it be provided access to the secured website containing the air quality monitoring data;

Vincent P. Bertoni, AICP

April 3, 2008

Page 2

- With regard to Planning Commission Condition No. 2, the District requests that language be added requiring notice to and approved by the District before it is determined that any workers related to the project may have direct contact with students from the District during the performance of their duties;
- With regard to Planning Commission Condition No. 3, the District requests that language be added to require that the District be consulted during the development of the draft Construction Management Plan, and that the Plan be submitted for review and comment by the District prior to approval by the Department of Community Development and issuance of any permit;
- The District requests clarification that the project applicant will be required to pay for any physical improvements to District facilities deemed necessary by the independent Environmental Monitor (e.g. HVAC, windows, landscape, security, maintenance, etc...), and that such payments must be made to the District sufficiently prior to the commencement of any construction activity so that the improvement(s) can be installed prior to expected impacts;
- The District requests clarification that the project applicant will reimburse the District for staff costs and legal fees related to meeting attendance, coordination with the Environmental Monitor, Construction Relations Officer, Contractor and City Officials, and for community relations activities (including those costs incurred during the EIR and project approval process) as deemed necessary and reasonable by the independent Environmental Monitor;
- The District requests clarification that the project applicant will be required to pay for any additional independent consultants, studies or monitors deemed necessary by the independent Environmental Monitor; and
- The District requests that the recommended benefit fee be paid in advance of commencement of any construction activity, and that it be clarified that such fee is to be utilized at the sole discretion of the District.

Vincent P. Bertoni, AICP

April 3, 2008

Page 3

Thank you for your immediate attention to this matter. As always, please do not hesitate to contact me at any time with any questions or comments that you may have.

Sincerely,

GAINES & STACEY LLP

By



FRED GAINES

cc: All City Council Members (via facsimile (310) 275-8159)