



AGENDA REPORT

Meeting Date: December 19, 2011

Item Number: D-2

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development

Subject: APPEAL OF THE PLANNING COMMISSION'S DECISION APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A NEW JIM FALK LEXUS DEALERSHIP ON THE PROPERTY LOCATED AT 9230 WILSHIRE BOULEVARD, AND CONSIDERATION OF A FINAL ENVIRONMENTAL IMPACT REPORT CERTIFIED BY THE PLANNING COMMISSION, AMENDMENT OF THE STREETS MASTER PLAN TO ALLOW VACATION OF THE PORTION OF THE EAST-WEST ALLEY LOCATED IMMEDIATELY SOUTH OF THE DEALERSHIP AND ESTABLISHMENT OF A REPLACEMENT ALLEY SEGMENT, AN ENCROACHMENT PERMIT TO ALLOW DEALERSHIP LOADING TO OCCUR ON WILSHIRE BOULEVARD, AND AN ORDINANCE AMENDING THE PARKING REQUIREMENT AND CALCULATION OF FLOOR AREA FOR NEW OR EXPANDED AUTOMOBILE DEALERSHIPS.

Attachments:

1. Appeal Petition
2. Planning Commission Resolution No. 1622 (CEQA Resolution)
3. Planning Commission Resolution No. 1623 (CUP Resolution)
4. Planning Commission Resolution No. 1624 (Zone Text Amendment Resolution)
5. Table ES-1, Summary of Environmental Impacts
6. Final Environmental Impact Report (Previously Provided Under Separate Cover)
7. Project Plans (Previously Provided Under Separate Cover)

RECOMMENDATION

It is recommended that the City Council direct the City Attorney to prepare resolutions making certain environmental findings in accordance with the Final Environmental Impact Report (FEIR) certified by the Planning Commission, granting approval of a Conditional Use Permit (CUP) to

allow the demolition of the existing Jim Falk Lexus dealership and construction of a new dealership, amending the City's Streets Master Plan to allow vacation/relocation of a portion of the east-west alley immediately south of the existing dealership, granting an encroachment permit to allow loading operations to occur on Wilshire Boulevard. Additionally, it is recommended that the Council introduce an ordinance amending the Municipal Code and schedule the amendment for second reading.

INTRODUCTION

This is an appeal of the October 27, 2011 decision of the Planning Commission approving a CUP to allow the demolition and redevelopment of the Jim Falk Lexus dealership located at 9230 Wilshire Boulevard.

Subsequent to the Planning Commission's approval of the CUP and recommendation to the City Council that other components of the project be approved, a timely appeal was filed by Stephen Webb, attorney on behalf of 131 South Maple Associates, LP and 9250 Wilshire, LLC, the owners of the apartment building directly south of the dealership and the commercial office building adjacent to the dealership, respectively. The appeal contests the validity of the findings made by the Planning Commission with respect to the CUP, and seeks denial of the project.

In addition to the Council's review of the CUP appeal, the following project-related components require review and final action by the Council prior to becoming effective:

1. Certain environmental findings must be made in support of the below entitlements, consistent with the FEIR certified by the Planning Commission;
2. An amendment to the City's Streets Master Plan to allow relocation of the portion of east-west alley located immediately south of the existing dealership. The existing alley segment would be vacated pursuant to streets and highways code section 8300 et seq., and a new 20-foot wide east-west alley segment would be dedicated to the City approximately 27 feet to the south of the existing alley location;
3. An encroachment permit to allow dealership loading operations to occur within a loading zone located on public property along Wilshire Boulevard; and
4. An ordinance of the City of Beverly Hills amending Section 10-3-3801 of the Municipal Code regarding the parking requirements and calculation of floor area for new or expanded automobile dealerships approved pursuant to a Conditional Use Permit.

This report outlines the basis for the Planning Commission's approval, responds to the information contained in the appeal petition, and makes a recommendation to approve the entitlements identified above.

BACKGROUND

Project Description

The proposed project would involve the demolition of the existing dealership, including existing improvements on three parcels, with subsequent construction of a new dealership. The proposed new automobile dealership will contain a combined total of approximately 28,863 square feet of showroom and office space within the first and second levels, approximately 81,944 square feet of vehicle parking and circulation areas within levels one through four, and approximately 56,466 square feet of subterranean vehicle service areas (68 service bays in total). The proposed new building would be approximately 45-feet to the roof level, 48-feet 6-inches to the top of the parapet and 59-feet to the top of the stair tower. The project proposes 351 parking spaces in a stacked/tandem configuration. While 113 of the parking spaces would be utilized to satisfy the City's zoning code requirement for sales and office areas, the remainder of the parking spaces would be utilized for automobile storage. In addition, the project includes a provision to provide 100 off-site parking spaces within one-half mile of the project site, installation of a traffic signal at the intersection of Wilshire Boulevard and Maple Drive, and installation of a vehicle barrier along South Maple Drive (adjacent to the dealership) for the purpose of controlling vehicle movements into and out of the dealership.

The Wilshire Boulevard portion of the site houses the primary existing Lexus dealership operations and is currently zoned for general commercial (C-3) uses. The parcel on South Maple Drive, south of the existing building across the alley is currently utilized by the dealership for vehicle storage/surface parking and is zoned for multiple-family residential (R-4) uses, which, under current code, also permits parking related to commercial uses fronting on Wilshire Boulevard. The 1,822 square foot portion of the east/west alley that bisects the parcels is proposed to be relocated as a part of the Project. The entire building site, including the proposed alley area is approximately 32,643 square feet. Additional information regarding project details can be found in the FEIR.

Summary of Planning Commission Review and Findings

The Planning Commission reviewed the Project during four public hearings on September 16, 2010, December 16, 2010, September 26, 2011, and October 27, 2011. In addition to the Commission's review at the public hearings, the Commission formed a subcommittee to review the project at various stages throughout its design in order to provide the applicant with feedback and guidance in modifying the project. Based on guidance from the Planning Commission and subcommittee, numerous modifications were made to the project to ensure compatibility with the surrounding neighborhood. Some of the more significant modifications made to the project as a result of the feedback are as follows:

Building Height

The project was originally proposed with a building height of 56-feet to the roof level. As approved by the Commission, building height was reduced to 45-feet at the roof level, which meets the maximum building height set forth in the Municipal Code. This building height includes four above-ground stories plus roof-level parking.

Alley Vacation

The project originally included a proposal to vacate the existing east-west alley located south of the dealership without providing a replacement alley segment. In lieu of a replacement alley segment, the applicant had proposed a 20-foot wide landscape buffer immediately south of the dealership. The Commission identified a replacement alley as an important project component in order to maintain adequate access and circulation in the area, and to provide for realignment of any utilities and infrastructure impacted by vacation of the current alley segment. Consequently, the project was modified to include a 20-foot wide replacement alley segment, and a 3-foot wide landscape buffer between the alley and the adjacent apartment building.

Service Bays

The project was originally proposed with 72 above-ground service bays. As approved by the Commission, vehicle servicing was relocated to provide all service bays within two subterranean levels of the building, with the intent of eliminating any impacts to the surrounding residential area that might otherwise result from an above-ground service operation. Additionally, the total number of service bays has been reduced from 72 to 68.

Vehicle Parking and Storage

The total number of on-site parking spaces was increased from 250 spaces to 351 spaces. The increase in parking spaces was realized through the result of moving all service areas to the subterranean areas of the building, and allows the project to better accommodate customers, staff, and vehicle inventory.

Loading Operations

The project was originally proposed with a loading area located on South Maple Drive adjacent to the project site. Due to concerns regarding potential impacts associated with loading operations, the loading zone was moved to Wilshire Boulevard to allow for all loading activities to occur on a commercial (rather than residential) street.

Signalized Intersection

The project was originally proposed without a traffic signal at the intersection of Wilshire Boulevard and Maple Drive. Based on direction from the Planning Commission subcommittee the applicant modified the project to convert the Wilshire Boulevard/Maple Drive intersection to a signalized intersection. The goal of adding a traffic signal to the intersection is to prevent vehicles from entering the surrounding residential areas by facilitating westerly movement onto Wilshire Boulevard for vehicles traveling north on South Maple Drive (leaving the dealership), and to facilitate southerly movement onto South Maple Drive for vehicles traveling westbound on Wilshire Boulevard (arriving at the dealership). The signalized intersection was incorporated into the traffic study and FEIR, and will not result in a significant traffic impact.

South Maple Drive Turn Restrictions

The project was originally proposed without a physical barrier on South Maple Drive to prevent vehicles traveling northbound on South Maple Drive from making a left turn into the dealership. Based on direction from the Planning Commission subcommittee the project includes a physical barrier on South Maple Drive to prevent northbound traffic from making left turns into the dealership. The goal of the barrier is to prevent dealership patrons from utilizing the surrounding residential streets for the purpose of accessing the dealership, and to instead direct traffic to Wilshire Boulevard. A

preliminary barrier design was approved by the Commission; however, any approval of such a barrier by the Council would be conditioned to require final design approval by the Director of Public Works to ensure a safe, effective configuration.

In addition to the abovementioned modifications, the Commission thoroughly reviewed and certified the FEIR and deliberated concerning the final proposed project. Based on the final project proposal and incorporation of conditions of approval, the Planning Commission determined that the required findings could be made in support of the Project, and that the Project would be an appropriate addition to the neighborhood. As a result, the Planning Commission voted unanimously in support of the Project, and all Project-specific findings and conditions are detailed in the attached Planning Commission resolutions. Commissioner Rosenstein did not participate in the decision because of a potential conflict of interest.

APPEAL

The appellant identifies the following main points as the basis for the appeal:

1. The project will be detrimental to the surrounding neighborhood;
2. The project intrudes into the R-4 zone;
3. Vehicle egress into the alley will result in conflicts;
4. The project does not provide a substantial buffer between commercial and residential uses;
5. The loading zone on Wilshire Boulevard will be detrimental;
6. Rooftop parking will impact surrounding residential uses;
7. Building openings to parking areas are problematic for adjacent uses;
8. Certain conditions of approval are not appropriate and require modification; and
9. Approval of the project did not follow procedural due process.

Further, it should be noted that the appeal petition contains no new information that had not previously been considered by the Planning Commission prior to rendering a decision on the Project. Therefore, staff is not recommending that the matter be remanded to the Planning Commission.

APPEAL ANALYSIS

The following section restates each of the main points provided in the Appeal Petition and provides analysis of each point.

The project will be detrimental to the surrounding neighborhood.

The appellant identifies the business of selling and servicing automobiles as being detrimental to the surrounding neighborhood as a result of an increase in the number of service bays as compared to the present condition, the fact that the FEIR identifies a significant and unavoidable impact caused by the project, and that the fact that the Planning Commission had to impose numerous conditions on the project in order to make the necessary findings.

The project was thoroughly reviewed by the Planning Commission, and an Environmental Impact Report was prepared in order to document any potential significant impacts that could be caused by the project, including the increase in vehicle service bays. During its initial review of the project, the Commission determined that the project would be detrimental to the neighborhood without modifications. Based on this determination by the Commission, the project underwent numerous design changes in order to ensure compatibility with the surrounding neighborhood. Additionally, and as identified by the appellant, numerous conditions of approval were imposed on the project to ensure compatibility with the surrounding neighborhood. Contrary to the appellant's suggestion that the numerous conditions imposed by the Commission are a clear sign that the project will be detrimental, the conditions are numerous because they were thought out in detail in order to contemplate any possible issues that could arise from redevelopment of the dealership. Conditions imposed by the Commission include but are not limited to regulations on operating hours, test drive routes, ingress and egress circulation, use of rooftop parking, employee congregation on public property, and vehicle loading and unloading.

With regard to the significant and unavoidable impacts identified in the FEIR, there are two impacts identified. The first unavoidable impact is a cumulative noise impact (related to noise associated with vehicle traffic). A cumulative impact means that the project itself does not generate a level of noise significant enough to be an impact on its own; however, when combined with other future traffic growth in the area, the cumulative effect of all traffic noise results in an impact. The second unavoidable impact identified is related to ground vibration caused by construction equipment. This is vibration that results from excavation of the site for the purpose of creating subterranean levels, and is only present during specific periods of the construction phase. This is considered to be a short-term impact that will conclude with completion of the project, and is also an impact that is common to new projects located adjacent to residential (and other sensitive receptor) type uses. Therefore, it is likely that any new project, auto dealership or otherwise, would have the potential to result in a construction-related vibration impact. Furthermore, the Planning Commission adopted a Statement of Overriding Considerations related to the significant and unavoidable impacts in certifying the FEIR. The Statement of Overriding considerations acknowledges that the project will result in significant and unavoidable impacts, but that the benefits associated with the project outweigh the impacts. The Commission's findings relative to the Statement of Overriding Considerations are detailed in Planning Commission Resolution No. 1622 (Attachment 2).

The project intrudes into the R-4 zone.

The appellant states that the project's use of the R-4 zone is inappropriate and inconsistent with the requirements of the Municipal Code because the Code allows only for parking and circulation to occur on the R-4 parcel, whereas activities associated with vehicle sales and service are not permitted.

The Municipal Code permits commercial parking and circulation to occur on R-4 parcels that are located adjacent to commercial uses that front on Wilshire Boulevard. The R-4 parcel in question meets this requirement, and was conditioned by the Planning Commission to be used for parking and circulation purposes only, in accordance with all applicable code requirements. Pursuant to Condition 8 in Planning Commission Resolution No. 1623 (Attachment 3), vehicle service and sales are not permitted to occur on the R-4 parcel, and verification of compliance with this condition is required prior to the issuance of any building permits. Therefore, the project's use of the R-4 parcel is not different from the existing configuration and use of the property, and will be in full compliance with the requirements of the Municipal Code.

Vehicle egress into the alley will result in conflicts.

The appellant states that the project's use of the alley for vehicle movements associated with test drives will result in conflicts with the driveways of adjacent properties, specifically Nessah Synagogue and 9250 Wilshire Boulevard.

The proposed project provides two points of egress onto the alley; one facing south and one facing west (the existing dealership provides two south-facing driveways that provide access to the alley). Pursuant to Planning Commission Resolution No. 1623 (Attachment 3), Conditions 20, 21, and 24 imposed by the Commission limit use of both driveways vehicle egress associated with test drives (by employees or customers), and to the individual delivery of disabled vehicles or vehicles traded between dealerships. Vehicle ingress must occur at the primary driveway located on South Maple Drive. Furthermore, alley egress may only be used during daylight hours, and mirrors and warning lights are required to be installed for safety purposes. Moreover, the egress arrow for Nessah Synagogue depicted in the appeal petition does not provide an accurate assessment of vehicle movement. In fact, vehicles exiting Nessah Synagogue would exit onto South Rexford Drive from the parking lot, or onto the alley from the southern portion of the parking lot, rather than at the northeast portion of the lot adjacent to the dealership. Therefore, based on the restrictions regarding dealership use of the alley and existing circulation conditions, vehicle conflicts are not anticipated to occur within the alley. This determination is consistent with the conclusions outlined in the FEIR.

The project does not provide a substantial buffer between commercial and residential uses.

The project provides a 3-foot landscape buffer between the east-west alley and the existing residential building to the south of the dealership, whereas the appellant requested a 5-foot landscape buffer during the public hearing. The appellant states that a 5-foot buffer is needed in order to provide appropriate screening and privacy.

The Planning Commission considered landscape buffers of various widths during the public hearing, and determined (with input from the City Arborist) that a 3-foot buffer would provide sufficient screening for the adjacent residential building. Additionally, the existing dealership configuration provides a vehicle parking lot immediately adjacent to

the residential building with no landscape buffer at all, whereas the new configuration would separate the residential building from the dealership with a 20-foot alley plus the 3-foot landscape buffer (23 feet of separation in total). This configuration improves the separation of commercial uses from residential uses, and provides a buffer for screening and privacy purposes. Moreover, the existing apartment building provides a nonconforming setback that is smaller than would be required under current code. In the event that a new apartment/condominium building were to be constructed on the property, a larger setback would be required, and would therefore further increase any separation.

The loading zone on Wilshire Boulevard will be detrimental.

The appellant states that use of the loading zone on Wilshire Boulevard will detract from the City's efforts to beautify Wilshire Boulevard, and that allowing lunch trucks and the loading/unloading of vehicle parts on the street is contrary to the image of Beverly Hills. As such, the appellant requests that the loading zone be reduced in length, that the dealership be redesigned to provide a wider sidewalk, and that employee lunch be provided on-site, rather than within the loading zone.

The dealership's loading zone was initially proposed on South Maple Drive; however, the Planning Commission felt that this would result in intrusion into the adjacent residential zone. Consequently, the applicant moved the loading zone to Wilshire Boulevard (a commercial street) in order to avoid impacting adjacent residents with loading operations. Based on the configuration of the dealership showroom and the minimum dimensions needed for a loading zone, the project results in a sidewalk that is 5 feet in width (adjacent to the loading zone). Because this portion of Wilshire Boulevard is not heavily traveled by-foot, and in order to provide for safe loading operations, the City's Public Works Department determined that a 5-foot wide sidewalk is the minimum acceptable dimension for the project. Furthermore, the Planning Commission determined that allowing lunch trucks to utilize the loading zone on Wilshire Boulevard would remove the trucks from the adjacent residential neighborhood, thereby improving upon existing conditions.

Rooftop parking will impact surrounding residential uses.

The appellant states that use of the rooftop parking during evening and morning hours will result in light and noise impacts to surrounding residential uses, and therefore requests limitations on use of the rooftop parking, as well as screening of the parking areas.

The concerns raised by the appellant are addressed within the design of the project and by Conditions 8, 9, 10, 11, 14, and 25 of Planning Commission Resolution No. 1623 (Attachment 3). First, the project provides 4-foot tall barriers along all levels of the parking areas, which screens vehicle headlights. Second, the dealership hours of operation are limited by the conditions of approval, with the maximum extent of hours being 7:00 AM to 9:00 PM. Vehicles are not permitted to be moved on the 3rd, 4th, or rooftop levels beyond the close of business, and rooftop lighting is required to be set on a timer to automatically turn off at the close of business each day. Therefore, the project's design and restrictions on operations will prevent impacts associated with rooftop operations.

Building openings to parking areas are problematic for adjacent uses.

The appellant states that the parking areas of the dealership are surrounded by building openings, which result in impacts related to noise, light, and aesthetics.

As discussed above, the concerns raised by the appellant are addressed within the design of the project and the conditions of approval imposed by the Planning Commission. The 4-foot tall barriers along all levels of the parking areas screen vehicle headlights, and the dealership hours of operation are limited to a maximum extent of 7:00 AM to 9:00 PM. Vehicles are not permitted to be moved on the 3rd, 4th, or rooftop levels beyond the close of business, and rooftop lighting is required to be set on a timer to turn off at the close of business each day. Additionally, review and approval of the project is required by the Architectural Commission, which may result in additional landscaping at building openings. Therefore, the project's design and restrictions on operations will prevent impacts associated with the building's openings.

Certain conditions of approval are not appropriate and require modification.

The appellant identifies specific conditions of approval that are requested to be modified in order to make the project more appropriate. The conditions identified by the appellant can be found on pages 8-10 of the appeal petition (Attachment 1), and relate to the design and operation of the dealership.

The conditions of approval imposed by the Planning Commission are the result of numerous public hearings, subcommittee meetings, environmental review, and input from City staff. The conditions were thoroughly discussed and thought out by the Commission, and are intended to prevent potential impacts associated with the project. As such, staff recommends continued incorporation of the conditions imposed by the Planning Commission and outlined in Planning Commission Resolution No. 1623 (Attachment 3).

Approval of the project did not follow procedural due process.

The appellant states that sufficient time was not provided for review of final Planning Commission resolutions prior to the deadline to appeal the Commission's decision.

The time period to appeal a Planning Commission decision is 14 days from the date of resolution adoption. In this case, the Commission made amendments to the resolutions prior to adopting them at the public hearing. Consequently, final, signed resolutions were not available to the public until several days prior to the appeal deadline; however, draft versions of the resolutions were available to the public prior to the public hearing, and audio/video of the meeting was made available online within several days of the hearing. As such, adoption of the resolutions occurred in accordance with Municipal Code requirements and information regarding the hearing was available in advance of the appeal deadline.

ENVIRONMENTAL ASSESSMENT

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines¹, and the environmental regulations of the City. The City prepared an Initial Study and, based on the

¹ The CEQA Guidelines and Statute are available online at <http://ceres.ca.gov/ceqa/guidelines>

information contained in the Initial Study, concluded that there was substantial evidence that the project may have a significant environmental impact on several specifically identified resources. Pursuant to Guidelines Sections 15064 and 15081, and based upon the information contained in the Initial Study, the City ordered the preparation of an Environmental Impact Report for the project to analyze the project's potential impacts on the environment. Circulation of the DEIR has been previously completed, and the FEIR has been prepared (inclusive of responses to comments) and certified by the Planning Commission. The certification of the FEIR was not appealed and therefore the role of the City Council is not to reconsider certification of the FEIR at this time, but instead to consider the environmental effects of the project as outlined in the FEIR when determining whether to approve the project. Additionally, the City Council may consider whether to direct preparation of a subsequent or supplemental EIR under certain conditions.

As identified in the FEIR (see Attachment 5, Table ES-1, Summary of Environmental Impacts,), the project would result in one project-specific Significant and Unavoidable Impact in the area of Construction Vibration, and would also contribute to a cumulative Significant and Unavoidable Impact in the area of noise. No other Significant and Unavoidable Impacts have been identified within the FEIR.

Statement of Overriding Considerations

Pursuant to CEQA regulations, when a public agency decides to approve a project that will cause one or more significant environmental effects, the agency shall prepare a statement of overriding considerations (SOC) which reflects the ultimate balancing of competing public objectives. Specifically, the public agency must find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment. A Statement of Overriding Considerations was adopted by the Planning Commission (in consideration of the two significant and unavoidable impacts) during certification of the FEIR, and the City Council would need to make environmental findings consistent with the Planning Commission's action if the Council approves the project and associated entitlements.

ANALYSIS/POLICY ISSUES

An analysis of key elements of the project is provided below and measures have been identified in the FEIR and Planning Commission resolutions to mitigate operational impacts associated with the project. In its review of the project, the City Council may want to consider specific land use policies associated with Zoning Text Amendments, neighborhood compatibility, dealership operations, and alley relocation. Therefore, the following discussion items should be considered by the Council in reviewing the project:

Noteworthy Business

Jim Falk Lexus has been an important business in the City as both an employer and tax revenue generator. The Applicant has indicated this project is the result of requirements of Lexus Corporate management to construct a new, modern facility to accommodate the local customer base. The size, number of service bays and vehicle display area proposed by the project are a direct result of Lexus Corporate requirements. According to the Applicant, Lexus contributes approximately \$750,000 to the City in annual sales taxes and that annual post-construction revenue to the City could be an additional \$500,000. Staff has reviewed tax receipts and confirmed existing sales tax revenue, but no information has been provided to verify future revenue projections.

The project requires approval of a Zone Text Amendment. Pursuant to Beverly Hills Municipal Code (BHMC) Section 10-3-3908. Such an amendment may occur if the Council finds that the *public interest, health, safety, morals, peace, comfort, convenience, or general welfare* requires modification of the current zoning standards.

Existing Dealership Operations

The existing building located on the subject property was constructed in 1929 as an automobile dealership, and has continuously been used as such since its construction. Although not always a Lexus dealership, the general land use of the property as an automobile dealership predates the City's requirement for dealerships to obtain a Conditional Use Permit (CUP) in order to operate. Because the dealership is considered to be legally nonconforming, there are no specific conditions of approval that regulate the dealership's current operations, including but not limited to activities such as loading, servicing of vehicles, employee parking, test drives, and turning movements for vehicles entering and exiting the dealership. Consequently, there are instances when the operations of the existing dealership adversely impact the surrounding residential uses. Approval of the CUP allows project-specific conditions to be imposed on the dealership, which serve to appropriately control dealership operations and prevent adverse impacts in the surrounding residential and commercial neighborhoods.

Zone Text Amendment

The proposed project includes a request for a zone text amendment that would be applicable to new or expanded automobile dealerships approved pursuant to a CUP. The amendments proposed in conjunction with the project would allow for certain parking and vehicle service areas to be excluded from the definition of Floor Area, and would also allow for the use of compact and tandem parking spaces. The proposed amendments would allow for the dealership to be built to a scale and density similar to that of a comparable general office building, and are not anticipated to result in adverse impacts to the surrounding area. Furthermore, the proposed Zone Text Amendments would only be applicable to automobile dealerships that require discretionary review through a CUP, thus ensuring that future projects would be reviewed on a case-by-case basis including compliance with CEQA. The proposed Zone Text Amendment language is provided in Planning Commission Resolution No. 1624 (Attachment 4).

Massing

Due to the configuration of the project and technical provisions of the Zoning Code, all parking areas and subterranean service areas associated with the project would count as Floor Area under the current development standards, and would cause the project to exceed the maximum allowed Floor Area Ratio (FAR) for the site. As a component of the project, the applicant seeks to modify the Zoning Code through a Zone Text Amendment to allow parking areas and subterranean service areas associated with automobile dealerships to be excluded from the definition of Floor Area, thereby allowing the project to comply with the maximum allowed FAR. From a practical standpoint (in terms of gross square footage) the proposed project is no larger than a comparable office building with above-grade and below-grade parking facilities that could be permitted on the subject site. The difference is that, due to technical provisions in the Zoning Code, a comparable office building has the ability to exclude above-grade and below-grade parking areas from its overall FAR, while the proposed Lexus dealership is unable to utilize these exemptions. Therefore, the overall mass of the project is considered to be consistent with that of a comparable, code-compliant office building, and is therefore not anticipated to result in adverse impacts to the surrounding area.

Height

The project complies with the standard 45-foot height limit for the C-3 zone and 35-foot height limit for the portion of the project in the R-4 zone. However, the project does exceed the standard three-story limitation for the C-3 zone. Pursuant to the issuance of a CUP the Council may approve height and story limitations in excess of the standard code requirements if the Council determines that such an approval would not be detrimental to the surrounding area. The project proposes four above-ground stories with rooftop parking for the purpose of providing adequate parking for customers, employees, and vehicle storage. Although the number of stories exceeds the standard code requirements, the height/stories of the structure are not anticipated to result in any impacts beyond those that may be generated by a standard three-story, 45-foot tall general office building. As a result, the number of stories associated with the project appears to be appropriate for the site and is not anticipated to result in adverse impacts to the surrounding area.

Traffic

The existing dealership generates 1,115 cumulative traffic trips per day, based on actual field collection data by the City's environmental consultant. The proposed project is expected to result in a total of 1,935 daily trips. Based on this data and incorporation of a signalized intersection at Wilshire Boulevard and Maple Drive the proposed project would not result in a significant impact at any of the study intersections or street segments. Moreover, this configuration would eliminate dealership-associated vehicles from traveling down South Maple Drive, and instead would allow for all dealership traffic to utilize Wilshire Boulevard for access.

Parking/Vehicle Storage

The project proposes 351 on-site parking spaces spread throughout the building, including one level of roof-top parking, and also includes 100 off-site parking spaces to be provided through a lease for employees. The proposed on-site parking spaces include compact and tandem spaces. The Zoning Code requires 1 parking space for every 350 square feet of floor area (not including parking areas and service areas based on the proposed Zone Text Amendment). When calculated conservatively, the peak parking demand for the proposed project, including employee parking, is approximately 357 parking spaces. As such, the project provides a sufficient number of on- and off-site parking spaces (451 spaces in total) to accommodate peak demand.

Loading

No loading area is proposed on-site. Delivery trucks would utilize Wilshire Boulevard (rather than South Maple Drive) to make deliveries. The trucks would park in the proposed loading area adjacent to Wilshire Boulevard to unload/load parts into the dealership. The loading zone would also be used for oversized trucks that purchase wholesale parts from the dealership. Pursuant to the recommended conditions of approval, and as approved by the Planning Commission, large car carriers would not be permitted to use the loading zone, and vehicles would be individually driven to the site from an off-site location or delivered individually by a flatbed truck. The proposed loading area requires approval of an encroachment permit to utilize portions of the public right-of-way. The proposed loading zone, as approved by the Planning Commission, would be approximately 11-feet by 95-feet and would maintain an approximate 5-foot wide sidewalk in this area of the project site.

Alley Relocation

The applicant proposes to vacate the portion of the east/west alley that bisects the Wilshire and Maple parcels. A study of the alley was conducted by the City's Transportation Division and is detailed in the FEIR. Based on the results of the study and consistent with past practice, the Planning Commission and Transportation Division recommend replacement of the alley with a new, 20-foot wide alley immediately south of the proposed building. The proposed project includes such a replacement alley, consistent with the Planning Commission's approval. Furthermore, the replacement alley is wider than the existing alley, which results in a net increase in City-controlled public right-of-way. As studied, the replacement alley does not result in any adverse impacts to the surrounding area or circulation. Findings related to alley vacation are discussed below.

R-4 Parcel

The southerly most lot associated with the project (and fronting on South Maple Drive) is currently zoned R-4, which typically allows for multi-family residential uses. In addition to the allowed use of multi-family residential, the R-4 zoning designation allows for the transitional use of commercial parking as a permitted use as long as certain development standards are met. The project proposes to maintain the current R-4 zoning designation on the subject property, and intends to use this area for parking purposes only, in full compliance with the standards applicable to parking structures located in an R-4 zone and serving as a transitional use between commercial and residential properties. Because the R-4 parcel is intended to be developed in full compliance with the standards applicable to transitional uses, and will be used for automobile parking purposes only, no adverse impact is anticipated.

FINDINGS

Based on the analysis outlined above and the findings adopted by the Planning Commission, staff recommends that the following findings be made in support of the Project and its associated entitlements:

1. *The proposed location of the use will not be detrimental to adjacent property or to the public welfare;*

The existing dealership predates the City's current code requirement that a CUP be obtained in order to operate an automobile dealership, and is therefore able to operate as a legally nonconforming use. Because the dealership is considered to be legally nonconforming, there are no specific conditions of approval that regulate the dealership's current operations, including but not limited to activities such as loading, servicing of vehicles, employee parking, test drives, and turning movements for vehicles entering and exiting the dealership. Consequently, there are instances when the operations of the existing dealership adversely impact the surrounding residential uses. Approval of the CUP allows project-specific conditions to be imposed on the dealership, which serve to appropriately control dealership operations and prevent adverse impacts in the surrounding residential and commercial neighborhoods.

The Project includes several circulation-related improvements such as installation of a traffic signal at the Wilshire Boulevard/Maple Drive intersection that will improve turning movements for vehicles associated with dealership operations, and also includes turn

restrictions for vehicles entering and exiting the dealership. These Project improvements discourage dealership-related vehicles from using the residential portions of South Maple Drive for direct dealership ingress/egress and eliminate the existing dealership-related circulation issues that impact the surrounding residential properties. Additionally, the Project provides all service bays within subterranean levels of the structure to prevent noise intrusion into the surrounding neighborhood. Therefore, based on the forgoing discussion, and as conditioned, the Project is not anticipated to be detrimental to adjacent property or the public welfare, and is instead anticipated to benefit the public welfare by improving the interface between the dealership and the residential neighborhood to the south, and maintaining/improving an important revenue generator for the City.

2. *The proposed alley vacation is consistent with the General Plan;*

The alley vacation furthers the goals and policies of the City by allowing the City to retain and enhance an important commercial asset while providing sufficient access and circulation in and around existing and future developments. Specifically, vacation of the existing 15-foot wide alley and replacement with a new 20-foot wide alley is consistent with General Plan Policy LU 5.6, which states:

“Alleys. Maintain existing neighborhood alleys as alternate, safe, well maintained access points to homes that also reduce curb cuts, driveways, and associated pedestrian-automobile conflicts.”

The Project provides a new, wider alley as a replacement to the existing alley, and thus maintains the City’s alley system as an alternate, safe, well maintained access point to properties. Additionally, the proposed vacation is consistent with General Plan Policy CIR 11.2c, which states:

“In commercial areas, however, there is the additional concern for alley relocation and/or closure, which may be desirable in conjunction with specific development proposals. As important as they are, the existence of the alleys should not preclude consideration of proposals which would alter them if satisfactory alternate services would be provided. In certain instances, development proposals which would utilize the alley may provide a type or quality of development or access which better serves the City’s objectives and as such, should be considered. Such development proposals might include alley closure which would permit unified development across an entire block or permit safer street access, or use of the alley as part of a landscaped pedestrian plaza or mall, or relocation of an alley of a more functional arrangement of structures or possible consideration of the space above or below the alley for parking purposes.”

The dealership is a desirable project for the City for the reasons outlined above, and a satisfactory alternative including relocation of the alley to allow a more functional arrangement of the proposed Project is being provided in the form of a wider replacement alley at the southern portion of the Project, which ties into the City’s existing alley system and provides sufficient space for larger vehicle turning movements.

3. *The alley proposed to be vacated is unnecessary for present or prospective public use;*

The alley segment proposed to be vacated would be replaced with a new alley segment approximately 27 feet to the south of the vacated segment. Vacation of the alley segment would not occur until such time as the replacement alley segment is constructed and opened to public circulation. At such time as the replacement alley is opened for public circulation, the existing alley will become unnecessary for present or prospective public use, as all existing and future circulation can be accommodated through the replacement alley segment.

4. *The right-of-way proposed to be vacated is not useful as a non-motorized transportation facility;*

The alley segment proposed to be vacated would be replaced with a new alley segment approximately 27 feet to the south of the vacated segment. Vacation of the alley segment would not occur until such time as the replacement alley segment is constructed and opened to public circulation. At such time as the replacement alley is opened for public circulation, the existing alley will no longer be useful as a non-motorized transportation facility, as all existing and future non-motorized transportation can be accommodated through the replacement alley segment.

5. *The encroachment permit for loading operations on Wilshire Boulevard is necessary or desirable;*

The use of Wilshire Boulevard for loading operations is necessary and desirable for operation of the project. Providing a loading zone on Wilshire Boulevard removes commercial operations and activity from the adjacent residential uses located to the south of the dealership. This improves upon existing conditions wherein the residential areas and alleys are used for dealership loading, and provides a designated area for such activity to occur on a commercial corridor, rather than a residential street.

6. *The encroachment permit does not create a substantial adverse impact on persons or property; and*

Allowing a loading zone on Wilshire Boulevard improves upon existing conditions, wherein the residential areas and alleys are used for dealership loading, by providing a designated area for such activity to occur on a commercial corridor, rather than a residential street. The loading zone is designed to appropriately and safely accommodate commercial vehicles, and removes commercial activity from adjacent residential zones. Therefore, the encroachment permit will not create a substantial adverse impact on persons or property.

7. *The encroachment permit does not adversely affect the public health, welfare, and safety.*

Allowing a loading zone on Wilshire Boulevard improves upon existing conditions, wherein the residential areas and alleys are used for dealership loading, by providing a designated area for such activity to occur on a commercial corridor, rather than a residential street. The loading zone is designed to appropriately and safely accommodate commercial vehicles, and removes commercial activity from adjacent residential zones. Therefore, the encroachment permit will not adversely affect the public health, welfare, and safety.

RECOMMENDED ACTION

Based on the forgoing information, staff recommends that the Council direct the City Attorney to prepare resolutions making environmental findings in accordance with the Final Environmental Impact Report certified by the Planning Commission, approving the Conditional Use Permit, approving alley vacation and relocation, and approving an encroachment permit for loading purposes. Additionally, it is recommended that the Council introduce the ordinance amending the Municipal Code and schedule the ordinance for second reading.

FISCAL IMPACT

Approval of the project is anticipated to result in a positive fiscal impact due to increased revenue generated by the project.

PUBLIC NOTICE

A public hearing notice was mailed on November 29, 2011 to all owners and residential occupants of property located on each street segment analyzed in the EIR's traffic study, and notice of the hearing was published in the Beverly Hills Courier and the Beverly Hills Weekly, two newspapers of local circulation, for two consecutive weeks prior to the hearing. Additionally, three posters were posted adjacent to the alley segment proposed for vacation.

Community Meeting

Staff held an informational community meeting on December 12, 2011 at the direction of the City Council to provide members of the public with information on the project. The meeting was attended by Mayor Brucker, Councilmembers Bosse and Gold (no Councilmember spoke regarding the project), and approximately 40 members from the public. The public asked questions of staff and provided comments on the project. Overall, the public identified ongoing concerns regarding the current operations of the dealership, and expressed concerns about the enforceability of conditions of approval on any new dealership, as well as the appropriateness of the use and scale of the project.

RECOMMENDED CONDITIONS OF APPROVAL

Staff recommends that all original conditions imposed by the Planning Commission pursuant to Resolution Nos. 1622, 1623, and 1624 (Attachments 2,3, and 4) also be imposed as conditions of any City Council approval.

Susan Healy Keene, AICP
Director of Community Development


Approved By _____

ATTACHMENT 1

APPEAL PETITION

TILLES, WEBB, KULLA & GRANT
A LAW CORPORATION
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Norman S. Kulla, Retired
Mandy Tilles, Retired

November 10, 2011

VIA HAND DELIVERY

Honorable Mayor Barry Brucker
Vice Mayor Dr. William Brien
Council Member Jon Mirisch
Council Member Lili Bosse
Council Member Dr. Julian Gold
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, California 90210

Re: Appeal of the Resolution of the Planning Commission of the City of Beverly Hills Conditionally Approving A Conditional Use Permit For Jim Falk Lexus of Beverly Hills at 9230 Wilshire Blvd in Beverly Hills

Dear Honorable Mayor Barry Brucker and Honorable Members of the City Council:

On behalf of our clients, 131 South Maple Associates, LP and 9250 Wilshire, LLC, the owners of the apartment building directly south of the dealership and the commercial office building adjacent to the Lexus Dealership, respectively, we hereby Appeal the October 27, 2011 decision of the Planning Commission ("Commission") adopting a Resolution Conditionally Approving a Conditional Use Permit ("CUP") to Jim Falk Lexus of Beverly Hills for the construction of a new sales and service center for each of the reasons set forth below.

The Requisite Finding that this Project "Will Not Be Detrimental To Adjacent Properties" Can Not Be Made

The business of automobile dealerships has drastically changed for many automobile brands over the past decades. Until Beverly Hills Mercedes built its separate service center in the industrial area of Beverly Hills, all automobile dealerships in our City engaged primarily in the business of selling and leasing automobiles with the "incidental" servicing and repair of vehicles in support of those sales efforts. No service facility of the magnitude of the Lexus proposed facility has ever been approved adjacent to any residential properties within the City of Beverly Hills.

What is being proposed is a substantial 70 service bay facility with sales and leasing being the incidental use. Of the 200,000 square feet of gross building area, only a combined

**TILLES, WEBB, KULLA & GRANT
A LAW CORPORATION**

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39,000 square feet on the first and second floors are devoted to the sale and leasing of vehicles, which also includes administrative offices that support the service facility.

On the other hand, approximately 60,000 square feet is devoted exclusively to the actual service repair of vehicles. The remainder is for parking that supports both service and sale activities.

The repair of vehicles is more analogous to "industrial" usage than to commercial usage. An increase of from 13 to 70 service bays (a six-fold increase from what exists today), by any standard, can only have a detrimental effect on the adjacent properties. There are other areas within the City that would be more appropriate for a service facility of this magnitude, including the City's own formally designated industrial area (which is the location of Beverly Hills Mercedes). However, Lexus is insisting on this location.

As set forth in the proposed Final EIR, there are unavoidable significant impacts resulting in the necessity of the Planning Commission in finding "overriding considerations" in order to approve this project. Those "overriding considerations" are the taxes that the City has, and arguably will continue to receive from Lexus. This would apply to almost any new project. Over and over, the Applicant's attorney pointed to the loss of BMW resulting from BMW's inability to build a service center that would meet its future needs within the City of Beverly Hills.

I was on the City council at the time that BMW was seeking expanded service facilities at its location adjacent to residential properties near Robertson Blvd. At that time, I and others on the City council expressed reluctance to any expansion of the service facilities adjacent to residential properties, but did explore with BMW possible alternative options. Unfortunately, BMW realized their facility needs for servicing vehicles exceeded even those of Mercedes and what Lexus is proposing, and thus moved to the mid-Wilshire area.

The BMW sales and leasing facilities will not remain vacant and the BMW sales tax will be replaced. Audi has leased those facilities, and based on current marketing studies of the growth of Audi sales, it appears unlikely that the City will lose any sales tax revenue. Furthermore, the Audi dealership in Beverly Hills will not include the burden of a large service facility anywhere close to what Lexus is seeking.

In addition to Audi, Infinity is in discussions to open a dealership in Beverly Hills as well, also without the burden of a large service facility. As such, the demand from various automobile dealerships to have a location within the City of Beverly Hills, would undoubtedly

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result in another dealership taking Lexus's place, assuming that Lexus would actually relocate its current sales and service facility, which it owns, if the Council were to reverse or modify the decisions of the Planning Commission. As such, there can be no finding of overriding consideration based on fiscal reasons.¹

The fact that the CUP requires so many conditions relating to Lexus' operations is the best evidence that this proposed service facility simply does not belong in this location. Who is actually going to be responsible for monitoring compliance with each and every one of these conditions? When there are violations of conditions, which we can all anticipate will occur from time to time, there is simply no way to realistically compel compliance, because once this CUP is granted, the willingness of the City to require Lexus to cease operations in the event of a violation and the length of time it would require to accomplish same, is an overriding factor weighing heavily against the approval of this CUP.

Intrusion into the R-4

The decision of the Planning Commission to allow the building to extend by almost 30 feet into the adjacent R-4 zoned property separated by only an alley from an apartment building required an unsupportable and unrealistic interpretation of the municipal code.

Although Municipal Code Section 10-3-3179 permits commercial parking on R-4 property, it does not permit any activities that are related either to service or sales. Notwithstanding the conditions imposed in an effort to meet compliance with this code section, the physical and operational aspects of the "parking only designated area" within the facility are so inextricably intertwined both physically and operationally with the sales and service activities themselves that it precludes any legal justification for approval.

At the September Planning Commission meeting, the plans submitted by Lexus relating to the R-4 area showed on the first floor plan electrical equipment and trash room; on the first basement floor plan, oil storage room; second basement floor two storage rooms, on the second floor mezzanine level, electrical and mechanical rooms; and on the fourth floor, mechanical equipment, which clearly is not permitted by the ordinance.

The Planning Commission advised the Applicant that all of those items had to be removed. However, the plans that were submitted at the second meeting on October 27, 2011 still showed a trash room and electrical equipment on the first floor in the R-4 area, and

¹ There is no guarantee that during the approximate two years of construction that Lexus' temporary sales facilities will be in Beverly Hills, which would result in a loss of sales tax.

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“untitled” spaces on the first and second floor basement plans as well as in the second floor mezzanine level. It would be impossible to park cars in those designated areas in the R-4 zone. In other words, these latest plans appear to simply have removed the “labels” for those physical areas, and nothing more. The Appellant should be required to submit new plans before the City Council makes any decisions on this project; not just leave it to be worked out with Building and Safety. There are simply too many facilities that must be relocated onto the non-R-4 areas that must take space away from mandated parking and other vital services.

As indicated above, the ordinance specifically states that “no portion of the R-4 area shall be used for the sale or servicing of automobiles, the sale or storage of goods, wears, or merchandise, or for any purpose other than that of automobile parking. Such use shall not include the storage of automobiles in connection with a used or new car business.” Since Lexus is in the used and new car business, the parking of any automobiles in this area would be by its nature “in connection” with that use. The Commission has approved an interpretation of this statute that would allow for the parking of vehicles that are on site solely to be serviced.

It bears restating: any use made of space located in the R-4 zone is so inextricably tied to the sales, leasing, and service operations of the dealership, that any such usage must be prohibited. Imposing conditions that will be difficult to monitor or enforce does not solve the problem.

Permitted Egress from the South-East Corner of the Building onto the Alley

This project, as approved, allows for egress from (and possible ingress to) the facility at two separate locations perpendicular to each other, off the one-way alley, and which requires cars exiting the facility at these locations to drive towards or in conflict with vehicles driving easterly from Rexford on this one way alley. Enclosed is a schematic drawing reflecting traffic patterns onto the one way alley by all sources, the impacts of which have not been studied. This confluence of vehicles creates a potential for significant congestion and safety issues. While the only individuals who are permitted to use these exits will be service personnel and customers testing vehicles, the commission only sought information at the last hearing as to the number of service vehicles anticipated to be tested by service personnel each day; no information was requested as to the number of anticipated customer test drives each day.

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These anticipated combined alley trips could have significant impacts and certainly be detrimental to both 131 S. Maple and 9250 Wilshire Blvd. Both properties utilize the alley for their own ingress and egress of vehicles.²

There is no reason why vehicles being tested by either customers or service personnel cannot exit the facility on Maple Drive and turn left onto Wilshire, as everyone else. If not, there is simply no way to insure that when these vehicles exit onto the east-west alley, that they will not either proceed south, down to Charleville into the residential neighborhood, or turn towards Maple Drive, and then turn right into the residential neighborhoods. This is another example of a "condition" that will have little likelihood of being complied with or being enforced. At most, there should only be one exit on to the alley, and not two, limited solely for use by emergency vehicles. Again, it is important to keep in mind that the east-west portion of this alley from Rexford Drive to the facility, is a one-way alley only 15 feet in width.

Furthermore, as conditioned, these exits can also be utilized for off-loading of disabled vehicles. This would permit a tow truck to park in the alley for several minutes while unloading. It should also be mentioned that the left turn towards Maple, at a 45 degree angle, this will make it difficult for trucks to make a left turn. The angle at the corner of the Lexus building should be "shaved off" to make left turns more practical.

The Purported "Buffer Zone" To Protect the Residents of 131 South Maple Drive

The owner of 131 S. Maple Dr. requested a five foot landscaped buffer between its property and the alley. The Planning Commission believed that three feet was sufficient. A three feet buffer would never, however, be permitted adjacent to single family residences. Both the Planning Commission and the Design Review Commission regularly require the planting of 48 inch box trees to preserve the privacy in the single family residential areas. Why should residents who live in apartments be afforded less protection?

To prove this point, you only have to walk across Wilshire Blvd to the north and look at the east-west alley that separates the commercial buildings on Wilshire with the single family residences on the other side of the alley. The space between the single family residences and the alley provides a ten foot landscaped buffer!

² While analysis of alley impacts are not required by CEQA, they should be required in connection with any decision to relocate the alley and in determining whether this will be detrimental to any of the adjacent properties as required for the adoption of a CUP.

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To the extent that this project is to be approved, then it should be conditioned with a five foot landscaped buffer between the apartment house property line (and the current six foot boundary wall) and the south side of the to be re-aligned alley to permit the planting of larger trees.³

Lexus opposed this request. Lexus' fight for every foot as being crucial to its operations only further evidences why this proposed project is being squeezed into too small an area.

The Loading Cut-Out on Wilshire

Lexus' original proposal for a new loading zone cut-out on Wilshire Blvd. was for 80 feet in length. Staff increased the size to 95 feet. I need not remind you of the City's expense to "beautify" Wilshire Blvd., especially the median and landscaping on Wilshire in front of the Lexus dealership. Attached is a photograph that was recently taken of an auto carrier that was parked in front of the Lexus dealership. This is not the image of Wilshire Blvd. that is appropriate for Beverly Hills. Although the Planning Commission prohibited this type of vehicular loading and unloading at this location, they did not prohibit the actual parking of this type of truck with vehicles thereon, nor any other large vehicle unloading a car or parts!

The Planning Commission further directed that this loading space must be utilized for any lunch trucks that would service the needs of the approximately 150 Lexus employees on site. How unsightly this will be during the breakfast and lunch hours, with scores of people milling around. Considering that the width of the sidewalk between the loading curb and the dealership is only five feet, it will be difficult, if not impossible, for pedestrians to utilize this sidewalk to pass through at such congested times.⁴

Appellants are requesting that the new loading zone be reduced to 80 feet in length, that Lexus be set back one to two feet to widen the sidewalk, and that where practicable, the unloading of parts should take place within the premises itself.

Appellants approve of Condition 34, which prohibits any employee of Lexus from "congregating, eating, drinking," etc. on any public right of way. Allowing a lunch truck at this location obviously conflicts with this important condition. Considering that there is a relatively large employee lunch room on the second floor, it would be appropriate to prohibit any off-site

³ Although the apartment structure is set back five feet from its property line, it cannot be landscaped because this setback area is all concrete walkway used to access its parking and subterranean utilities.

⁴ This is another example of Lexus opposing even a one foot set-back at this location as it did when the Architectural Commission sought some minimal modification.

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lunch trucks, and to require Lexus to provide lunch service on site for its employees, which is not an uncommon practice for employers who employ in excess of one hundred employees.

Roof-Top Usage

The open-air roof-top usage will not only negatively impact the residents of 131 S. Maple Drive, it will negatively impact some of the residential properties on the east side of Maple Drive that are at a 45 degree angle with the roof-top, the anticipated condominiums at the 9200 Wilshire Blvd., directly across Maple Drive from Lexus, and the office tenants at 9250 Wilshire whose windows are likewise at a 45 degree angle with the roof-top. While the Resolution requires "shielded" lighting where practicable for permanent light fixtures on the roof, there is nothing that protects residents and office tenants from headlights when the cars are moved on the roof before sunrise and after sunset. At this time of year, that can be problematic. A car driving north up the parking ramp at 7:00 p.m. at night will initially turn right (east) towards the 9200 Wilshire Blvd. proposed condominiums and then turn right again (south) towards the 131 S. Maple Drive apartments, shining headlights directly into the living areas of both properties. Because of the distances between the car and the parapet wall, the angles are such that those headlights will reflect into residences. Likewise, because the portion of the adjacent office building to the west (9250 Wilshire Blvd.) is set back substantially, cars being moved in or out of parking spaces at the back approximately one third of the roof area will also have headlights shining into the offices. There was some discussion at the Planning Commission about requiring an additional six feet of landscaped trellis at the roof level to break up these lights, but no such express conditions have been included.⁵

Noise will also be a significant issue emanating from roof-top usage. Because the 117 parking stalls on the roof are stacked three and in some cases four deep, it will require a fair amount of opening and closing of doors, starting of engines, etc. to move these cars around, making noise in the early morning and evening unavoidable. Likewise, there will be no way to stop employees from speaking loudly while they are conducting activities on the roof top and while that may not be a problem during the middle of the day, it will certainly be a problem, and can affect the peace and sanctity of residents, if it occurs before 8:00 a.m. and after 6:00 p.m.

⁵ There is a condition that the approval is subject to construction substantially conforming to the plans and there appears to be some landscaping reflected at the south parapet wall. There is nothing specific. There is no similar landscaping noted on the plans for the east and west roof-tops.

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As such, at the very least, the following conditions should be imposed:

1. Rooftop access will be prohibited before 8:00 a.m. and after 6:00 p.m. every day except in cases of emergency.
2. Some form of landscaped rooftop structures should be constructed and maintained on the south, east and west roof-top parapets that are at a reasonable height to make the rooftop more aesthetically pleasing, assist in muffling sound, and blocking light.

Conditions Regarding the Various "Openings" Around the Property and the West Wall

From the mezzanine level up, the proposed project has numerous "openings" facing Wilshire Blvd., facing east towards the 9200 Wilshire Blvd. building, some facing south towards residences, and some facing west. As described during the Planning Commission hearings, these are not windows; rather, they are openings without the glass. While no openings are permitted by code on the south facing wall that is located within the R-4 area, there are openings in the south facing wall which is set back on the fourth floor and portions of the east facing wall. The only condition imposed with respect to these openings, is Condition 9 which states that this project will be built in conformity with the Municipal Code, dealing with parking structures in the R-4 area, and nothing more. As conditioned, there is nothing that will eliminate noise and light emanating from these openings. There is absolutely no shielding at all.

Similarly, these openings will also face the proposed 9200 Wilshire Blvd. condominiums and Wilshire Blvd. Street lights from fixtures and headlights from moving cars will shine through.

The west wall, at a 45 degree angle to the 9250 building, blocks all views and is aesthetically unpleasing. It is requested by the owner of the 9250 Wilshire property that there be landscaping above the roof level and coming down the wall, and lighting installed to secure the parking at that location.

Comments Concerning Certain Specific Conditions

Section 2: The Applicant requested and the Planning Commission agreed to extend operating hours operating the service center during the week through 8:00 p.m. accrues upon the residential character and peacefulness of the neighborhood. It should be reduced to 7:00 p.m. and the sales should be reduced an hour to 8:00 p.m. On Sundays, the sales department should be closed no later than 6:00 p.m.

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Condition 3: This condition states that the project shall be constructed and operated in accordance with "... any written project proposal information and any verbal agreements or representations made to the decision making body ...". If there are any, these must be spelled out.

Conditions 8 and 9: These relate to the R-4 portion of the project and have been addressed above.

Condition 12: This appears to be once again a little sleight of hand. In one breadth, the staff represented that there was sufficient parking on-site, and in the next breadth they insisted that all employees (with the exception of fifteen) park off-site. The staff's response to inquiries from the commission regarding this were vague at best. The Council needs to question and address this issue.

Most importantly, there appears to be no minimum term of lease required for this employee parking. It could be a month-to-month lease. The only penalty to the Applicant is that they would be required to pay the City an amount that would in all likelihood be equivalent to what it would be paying if it had a lease in the first place. In the meantime, where are the employees supposed to park? What will the impacts be if Lexus is in violation of this condition?

Condition 14: Again, this relates to the hours of operation. The evening closing times should be set back.

Conditions 19 and 20: These relate to alley access and have been addressed above.

Condition 23: This permits for the loading and unloading operations in the loading zone to take place between 7:00 a.m. to 10:00 p.m. daily. However, while this might not be a problem when the loading and unloading is from the sidewalk side, it could be a significant problem if the loading and unloading was onto the street during the a.m./p.m. peak hours. Simply picture a situation in the winter at 6:00 p.m. while someone is unloading a vehicle or equipment on to the street side during rush hour. As such, loading and unloading should be prohibited during the p.m. peak hours.

Condition 28: Six months of supervision may not be sufficient. Instead of allowing the supervision to automatically end at that time, supervision should only cease at the direction of the Director of Community Development and/or Public Works, after these operations have been reviewed by them, and they are satisfied that supervision is no longer required. In other words,

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the burden should be on the dealership to prove to the City that supervision is no longer required, rather than the burden being placed on the City to establish that supervision is needed.

Condition 33: The spirit of this condition is good; however, waiting until the close of business each day to pick up trash and generally clean-up is not sufficient. Ideally, this should be done throughout the day, but at the very least, that clean-up occur first after the lunch hour (when one might expect some employees to potentially discard trash) and again, at closing.

Conditions 34 and 35: As indicated above, the permitting of a lunch truck on Wilshire Blvd. conflicts with the prohibition of employees being able to congregate outside the dealership. The Appellants strongly request, as indicated above, that there should be no food truck permitted at this location.

Condition 42: The length of the loading zone cut-out is too long on Wilshire Blvd. and should be reduced in size.

Condition 46: This relates to the 3 foot landscaped buffer adjacent to the Maple Drive apartment, and again, the request is for a 5 foot landscaped buffer.

Architectural Commission Approval:

It is requested that any final decision by the City Council not occur until the Architectural Commission can make its recommendations. In an initial meeting, the Architectural Commission had serious concerns relative to the current design of the building, and suggested greater modulation, among other things. This in turn could result in reduction of on-site parking and modification of other operations, which in turn could effect the ultimate decisions by this Council. As such, it is suggested that the Architectural Commission's recommendations come to the Council first, and that the Council at that time can finalize its decisions with respect to the entirety of the project at one time.

Construction Related Conditions

Neither of the Appellants, but in particular, the owner of the office building immediately adjacent to the construction site, have had sufficient time to meet their own construction consultants in order to review the various potential construction impacts and mitigation measures with respect thereto. As such, if the Council intends to proceed with any form of approval of this project, that it direct the Applicants' contractor to meet with the Appellants' construction experts and City staff to work out any construction related issues or disputes that might exist, that the

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Director of Building and Safety assist in this process, and retain jurisdiction to modify and/or supplement any of the construction related conditions that are ultimately approved.

Procedural Due Process Issue

Although the Municipal Code provides for fourteen days to appeal a decision once it is announced from the Planning Commission, in this particular case, the resolutions themselves that contained numerous provision and in excess of 100 conditions, as well as revised plans, were not made available to Appellants until late Tuesday afternoon, barely two days before the fourteen day appeal period expired. Appellants made a request for a couple of days of additional time, which not only was not granted, the staff did not even have the courtesy to respond to the request. As such, Appellants' counsel did his best to address all of the issues within the very limited time period, and reserves the right to supplement this Appeal.

In addition to the foregoing, the Appellants oppose the recommendation of the Planning Commission for encroachment permit and the Resolution granting the Text Amendment, which will be addressed under separate cover prior to the hearing thereon.

Conclusion

For the Planning Commission to specifically identify as one of the benefits and reasons for its approval, the fact that Lexus currently has no CUP and that the City has been unable to police and/or correct any Lexus' current operations, is a seriously flawed rationale. This is simply rewarding a property owner who has not been a good neighbor in the past, with an approval. The appropriate response from the Planning Commission should have been to require that Lexus be a good neighbor for a significant period of time before rewarding it with this heavily conditioned CUP.

It should be apparent to all that Lexus is squeezing too much into too little space, in the wrong location. If the Council would take the opportunity to review the Mercedes Service Center, which has the same number of service bays that Lexus is seeking in a much larger space (without a related sales showroom), you will see that in order to properly operate a service center, with that many service bays, requires substantially more space than is available to Lexus at this location.

**TILLES, WEBB, KULLA & GRANT
A LAW CORPORATION**

Honorable Mayor Barry Brucker, Vice Mayor Dr. William Brien, Council Member Jon Mirisch,
Council Member Lili Bosse, Council Member Dr. Julian Gold

Re: Appeal of the Resolution of the Planning Commission of the City of Beverly Hills
Conditionally Approving A Conditional Use Permit For Jim Falk Lexus of Beverly Hills at 9230
Wilshire Blvd in Beverly Hills

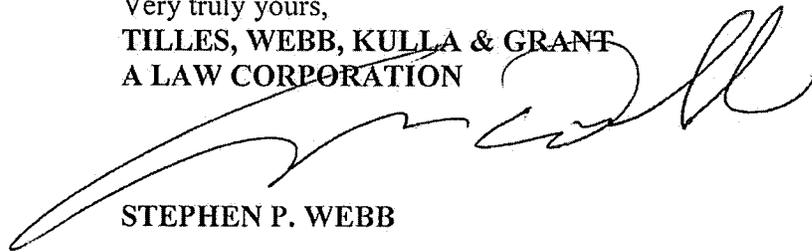
November 10, 2011

Page 12

For the reasons set forth above, by any objective standard, this project will be detrimental to the adjacent property owners, and for that reason, the requisite finding for the approval of a CUP cannot be made.

Very truly yours,

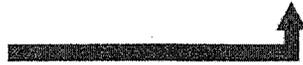
**TILLES, WEBB, KULLA & GRANT
A LAW CORPORATION**

A large, stylized handwritten signature in black ink, appearing to read 'S. Webb', is written over the typed name and extends to the right.

STEPHEN P. WEBB

SPW/da

APARTMENT PARKING



MENT

6" HIGH CONCRETE BLOCK WALL

41"W 128.93'

RE-ALIGNED 20' WIDE ALLEY



N00°05'27"E 50.00'

ALLEY

3'-0" LANDSCAPE BL

20'-0" RE-ALIGNED ALLEY

NESSAH PARKING LOT

2'-6" DEDICATION (CITY OF BEVERLY HILLS)

N00°05'27"E 50.00'

44'-5"

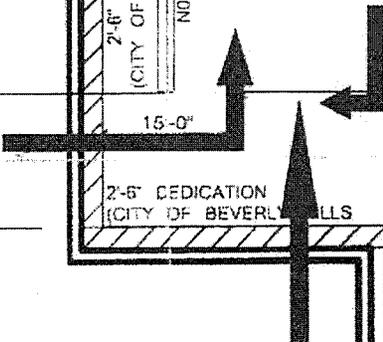
ALLEY

2'-6" DEDICATION (CITY OF BEVERLY HILLS)

15'-0"

15'-0"

OFFICE BUILDING PARKING EXIT

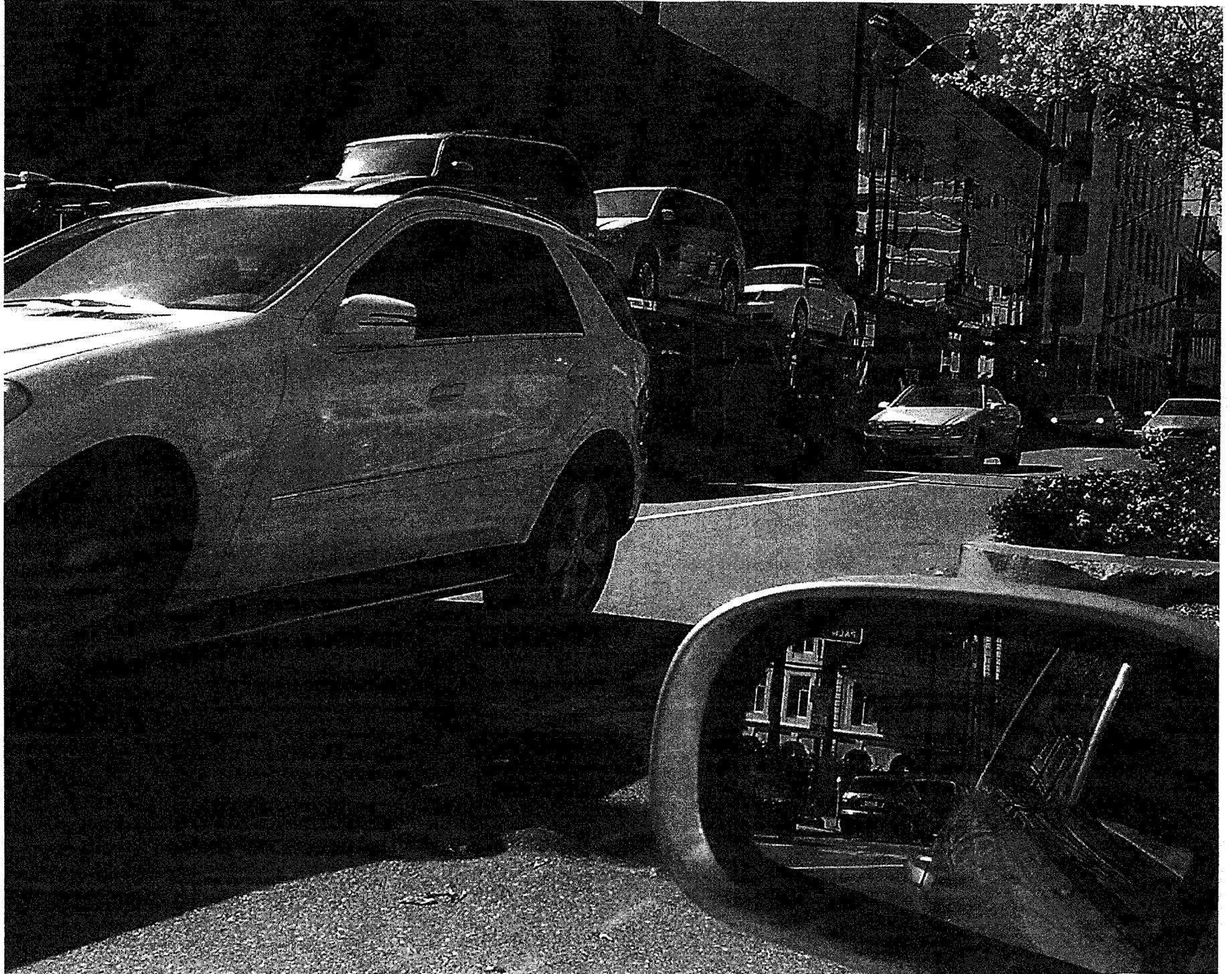


121.44'

312.88'

153.95'

RIVE



ATTACHMENT 2

PLANNING COMMISSION RESOLUTION No. 1622

(CEQA RESOLUTION)

RESOLUTION NO. 1622

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE BEVERLY HILLS LEXUS DEALERSHIP EXPANSION PROJECT; ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM.

The Planning Commission of the City of Beverly Hills hereby finds and resolves as follows:

Section 1. Applications were submitted to the City of Beverly Hills (the “City”) for the redevelopment of the Jim Falk Lexus of Beverly Hills facility, located on three parcels at 9230 and 9242 Wilshire Boulevard and a parcel to the south of those two parcels on South Maple Drive in the City of Beverly Hills (the “Project”). The Project involves the demolition of an existing car dealership and related improvements, and the construction of a new 193,641 square foot automobile dealership.

Section 2. On April 10, 2009, a Notice of Preparation (“NOP”) was distributed to the State Clearinghouse and responsible agencies for review. In addition, a public scoping meeting was held on April 23, 2009 to provide information on the Project and to receive comments on issues to be addressed in the Environmental Impact Report (“EIR”).

Section 3. In August 2009, a Draft Environmental Impact Report (“DEIR”) was prepared for the Project. In accordance with the California Environmental Quality Act (“CEQA”) (Cal. Pub. Res. Code §21000 *et seq.*) and the State Guidelines (the “Guidelines”) (14 Cal. Code Regs. §15000 *et seq.*) promulgated with respect thereto, the City has analyzed the Project’s potential impacts on the environment.

Section 4. The City circulated the DEIR and the Appendices for the Project to the public and other interested parties for a 45-day comment period, consistent with the 45-day public comment period required by Guidelines Section 15105, from September 3 to October 18, 2010. The Planning Commission held a duly noticed public hearing during the public review period on September 16, 2010, and a hearing regarding the Project on October 27, 2011.

Section 5. The City prepared written responses to all comments received on the DEIR and those responses to comments are incorporated into the Final Environmental Impact Report (the “Final EIR”). The Responses to Comments were distributed to all public agencies that submitted comments on the DEIR at least 10 days prior to certification of the Final EIR.

Section 6. The Final EIR is comprised of the DEIR dated September 2010 and all appendices thereto, the Comments and Response to Comments on the DEIR, Appendix J analyzing minor changes to the project made after preparation of the responses to comments and the Final EIR, and the Mitigation Monitoring and Reporting Program.

Section 7. The findings made in this Resolution are based upon the information and evidence set forth in the Final EIR and upon other substantial evidence that has been presented at the hearings and in the record of the proceedings. The documents, staff reports, technical studies, appendices, plans, specifications, and other materials that constitute the record of proceedings on which this Resolution is based are on file for public examination during normal business hours at the Community Development Department, City of Beverly Hills City Hall, 455 N. Rexford Ave. Beverly Hills, California 90210. Each of those documents is incorporated herein by reference.

Section 8. The Planning Commission finds that agencies and interested members of the public have been afforded ample notice and opportunity to comment on the EIR and the Project.

Section 9. Section 15091 of the State CEQA Guidelines requires that the City, before approving the Project, make one or more of the following written finding(s) for each significant effect identified in the Final EIR accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; or,
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or,
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Section 10. Section 15093 of the State CEQA Guidelines requires that if the Project will cause significant unavoidable adverse impacts, the City must adopt a Statement of Overriding Considerations prior to approving the project. A Statement of Overriding Considerations states that any significant adverse project effects are acceptable if expected project benefits outweigh unavoidable adverse environmental impacts.

Section 11. Environmental impacts identified in the Initial Study and Final EIR that are found to be less than significant and do not require mitigation are described in Sections IV and V, respectively of Exhibit A, attached hereto and incorporated herein by reference.

Section 12. Environmental impacts identified in the Final EIR as potentially significant, but that can be reduced to less than significant levels with mitigation, are described in Exhibit A, Section VI, attached hereto and incorporated herein by reference.

Section 13. Environmental impacts identified in the Final EIR as significant and unavoidable despite the imposition of all feasible mitigation measures are described in Exhibit A, Section VII, attached hereto and incorporated herein by reference.

Section 14. Alternatives to the Project that might eliminate or reduce significant environmental impacts are described in Exhibit A, Section VIII, attached hereto and incorporated herein by reference.

Section 15. A discussion of the Project benefits and a Statement of Overriding Considerations for the environmental impacts that cannot be fully mitigated to a less than significant level are set forth in Exhibit B, attached hereto and incorporated herein by reference.

Section 16. Public Resources Code section 21081.6 requires the City to prepare and adopt a mitigation monitoring and reporting program for any project for which mitigation measures have been imposed to assure compliance with the adopted mitigation measures. The Mitigation Monitoring and Reporting Program is attached hereto as Exhibit C, and is hereby incorporated herein by reference.

Section 17. Prior to taking action, the Planning Commission reviewed, considered and has exercised its independent judgment on the Final EIR and all of the information and data in the administrative record, and all oral and written testimony presented to it during meetings and hearings and finds that the Final EIR is adequate and was prepared in full compliance with CEQA. No comments or any additional information submitted to the City have produced any substantial new information requiring additional recirculation or additional environmental review of the Project under CEQA.

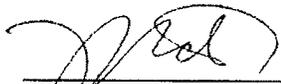
Section 18. The Planning Commission of the City of Beverly Hills, California, hereby certifies the Final Environmental Impact Report, adopts findings pursuant to the California Environmental Quality Act as set forth in Exhibit A attached hereto and incorporated herein by reference; adopts the Statement of Overriding Considerations as set forth in Exhibit B attached hereto and incorporated herein by reference; and adopts the Mitigation Monitoring and Reporting Program (MMRP) attached hereto as Exhibit C and incorporated herein by reference.

Section 19. The Secretary shall certify to the adoption of this Resolution, and shall cause this Resolution and his certification to be entered into the Book of Resolutions of the Planning Commission of the City.

Adopted: 10/27/2011

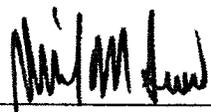
Daniel M. Yukelson
Chair of the Planning Commission
of the City of Beverly Hills

ATTEST:



Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

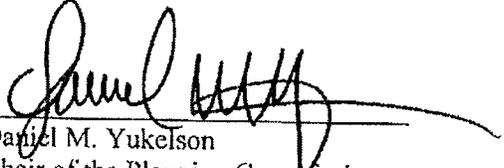
Approved as to content:



Jonathan Lait, AICP
City Planner

Section 19. The Secretary shall certify to the adoption of this Resolution, and shall cause this Resolution and his certification to be entered into the Book of Resolutions of the Planning Commission of the City.

Adopted: October 27, 2011


Daniel M. Yukelson
Chair of the Planning Commission
of the City of Beverly Hills

ATTEST:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Jonathan Lait, AICP
City Planner

EXHIBIT A

Findings and Facts in Support of Findings

I. Introduction.

The California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines (the “Guidelines”) provide that no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that will occur if a project is approved or carried out unless the public agency makes one or more of the following findings:

A. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the EIR.

B. Such changes or alterations are within the responsibility of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

C. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.¹

Pursuant to the requirements of CEQA, the Planning Commission hereby makes the following environmental findings in connection with the proposed Beverly Hills Lexus Dealership Expansion Project (the “Project”). These findings are based upon evidence presented in the record of these proceedings, both written and oral, the DEIR, and all of its contents, the Comments and Responses to Comments on the EIR, and staff and consultants’ reports presented through the hearing process, and Appendix J of the Final EIR, which collectively comprise the Final EIR (“FEIR”).

II. Project Objectives.

As set forth in the EIR, the proposed Project is intended to achieve a number of objectives (the “Project Objectives”) as follows:

A. To develop a modern facility on the same site to replace its current facility on the southwest corner of Maple Drive and Wilshire Boulevard.

B. To build a new facility that will accommodate the present and future needs of the Applicant and better serve the needs of the community.

C. To contribute to and enhance the economic vitality of the area by the creation of a modern building to revitalize this area of Beverly Hills.

¹ Cal. Pub. Res. Code § 21081; 14 Cal. Code Regs. § 15091.

D. To relocate the alley south of the present building so that all auto related services would be conducted within the building.

E. To improve customer service and significant reduction of vehicle trips in and out of the premises for service sales and deliveries.

F. To reduce congestion to the neighborhood, especially on Maple Drive and the surrounding neighborhood streets by elimination of many vehicle trips.

G. To enhance the beauty of the local area by creating a landscaped area that will serve as a buffer between the proposed building and the R-4 residential property to the south of the Lexus property.

H. To provide appropriate parking for service vehicles, customer vehicles and inventory.

I. To create viable, useful and revenue-generating development.

J. To contribute to the revitalization of the Wilshire Boulevard corridor.

III. Background

The proposed Project involves the demolition of the existing dealership, including existing improvements on three parcels, with subsequent construction of an automobile dealership located at 9230 Wilshire Boulevard. The gross building area of the proposed dealership would be 193,641 square feet.

The two parcels at 9242 and 9230 Wilshire Boulevard house the primary existing Lexus dealership operations and are currently zoned for general commercial (C-3) use. The third parcel on South Maple Drive is located to the south of the existing building at 9230 Wilshire Boulevard and is currently utilized by the dealership for vehicle storage/surface parking. This parcel, referred to herein as the "South Maple Drive Parcel," is zoned for multiple-family residential (R-4) use. An alley currently separates the South Maple Drive parcel from the 9230 Wilshire Boulevard property.

The current Lexus dealership has two levels and a height of about 34 feet. The proposed Project would have four levels and a maximum height of 44'6" plus a 48" parapet, and a maximum height of 59' to the top of the stair tower. The current dealership operation has off-site car storage, including rooftop storage at the 9900 Wilshire Boulevard (Robinsons May) site parking structure, underground parking at the 8942 Wilshire Boulevard (ICM) site, and a service location at 194 North Robertson Boulevard. The proposed new facility would house all auto related services with the intent to improve customer service activities, such as vehicle drop off and pick up, and reduce vehicle trips between the project site and other satellite parking and service locations. The Project would require the use of an off-site property for storage of a minimal portion of the dealership's inventory and an off-site parking location for employee parking.

The Project would require the approval of a Conditional Use Permit to allow the development of a new dealership in the C-3 zone, and a Municipal Code text amendment to allow for tandem parking and for deduction of below-grade service bays and above-ground parking areas from the floor area calculations. In addition, the Project would require a map amendment to the Beverly Hills Streets and Highway Master Plan to vacate the alley, and provide the proposed 20-foot wide replacement alley. Finally, the Project would require a temporary encroachment permit during construction to allow grading and excavation activities to extend to the outer edge of the sidewalk along both the Wilshire Boulevard and South Maple Drive frontages, and a permanent encroachment permit to allow a loading zone to be located within a portion of the existing Wilshire Boulevard public right-of-way adjacent to the project site.

The existing landscaping and sidewalk would be altered to provide loading access to the new building from Wilshire Boulevard. The ground floor of the building would be utilized for customer vehicle handover, vehicle circulation, parts delivery, customer lounge, internet café, parts boutique, offices, showrooms, and customer service. The ground floor has room for nine tandem parking spaces in the showroom to display inventory. Pedestrian access would be available at an entrance on the corner of Wilshire Boulevard and South Maple Drive.

Vehicular access would be available via South Maple Drive, where four drive lanes would provide ingress and egress to the facility, as well as from the alley via South Rexford Drive. The relocated alley on the project site would be available for vehicles traveling from South Rexford Drive or Charleville Boulevard to South Maple Drive. Delivery trucks would deliver parts to the facility via Wilshire Boulevard. The basement levels would be accessible via an interior drive ramp on the south side of the site, immediately north of the relocated alley. The first floor basement would provide 37 service bays and the second floor basement would provide 33 service bays. The second floor would be used for company offices, lounge areas, and would include 27 parking spaces. The third floor of the proposed dealership would have 105 tandem parking spaces. The fourth floor would have 103 tandem parking spaces. The rooftop would provide 117 parking spaces. In sum, the Project would include a total of 70 service bays and 350 parking spaces (of which 7 spaces – 3 on the roof, and 2 each on the third and fourth levels - are required to remain open for the purpose of jockeying vehicles parked in tandem so as to ensure efficiency of on-site circulation). In addition to the on-site parking, the applicant will be required to secure and maintain 100 off-site parking spaces within 1/2 mile of the facility for employees.

After the FEIR was completed, the Project Applicant altered the Project to include the provision of employee parking at an off-site location, with the exception of 15 employee parking spaces that would remain on-site at the dealership. At its September 26, 2011 meeting, the Planning Commission requested further analysis of secondary impacts associated with the proposed new traffic signal at Wilshire Boulevard and South Maple Drive. As described and analyzed in Appendix J to the Final EIR, dated October 2011, these minor Project revisions and clarifications discussed at the Planning Commission meeting of October 27, 2011, will not have any new significant effect or cause any new significant increase in the severity of effects beyond those already addressed in the EIR. In addition, the revised Project description and minor clarifications will not exacerbate any significant effects that were previously identified in the EIR, nor will they create any new significant environmental effects. Finally, no new significant effects have been identified, and no significant increase in the severity of an impact

has been identified. Moreover, there are no mitigation measures or alternatives that are substantially different than those in the EIR that would reduce significant effects of the modified project, but that the project proponents would decline to adopt.

IV. Effects Determined to be Less Than Significant/No Impact in the Initial Study/Notice of Preparation.

The City of Beverly Hills issued a Notice of Preparation (NOP) and conducted an Initial Study to determine the potential environmental effects of the Project. In the course of this evaluation, the Project was found to have no impact in certain impact categories because a project of this type and scope would not create such impacts or because of the absence of project characteristics producing effects of this type. The following effects were determined not to be significant or to be less than significant for the reasons set forth in the Initial Study, and were not analyzed in the EIR because they require no additional analysis to determine whether the effects could be significant. Any minor revisions to the proposed Project, as included in the description of the Project in Section III of this Exhibit A, does not change the conclusions of the Initial Study.

A. AESTHETICS

1. The Project will not substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway because the Project is not located in the vicinity of a state scenic highway.

B. AGRICULTURAL RESOURCES

1. The Project will not convert prime farmland, unique farmland or farmland of statewide importance to non-agricultural use because there are no agricultural resources on this fully developed urban site.

2. The Project will not conflict with existing zoning for agricultural use or a Williamson Act contract because the property is not zoned for agricultural use and is not subject to a Williamson Act contract.

3. The Project does not involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use because there are no agricultural resources on the site or in the vicinity.

C. AIR QUALITY

1. The Project will not conflict with or obstruct implementation of the applicable air quality plan because the Project will increase employment opportunities only minimally and no substantial increase in population would occur.

2. The Project will not create objectionable odors affecting a substantial number of people because "auto dealerships" are not generally considered to be among the uses that create objectionable odors and because the new building would have an exhaust evacuation system equivalent to the system at the current dealership.

D. BIOLOGICAL RESOURCES

1. The Project will not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service, because the urban site is fully developed. The Project site has been graded previously and is surrounded by pavement and urban structures (office buildings, residential buildings, and commercial buildings).

2. The Project will not have a substantial adverse effect on any riparian habitat identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service, because no such habitat exists on or in the vicinity of the Project site.

3. Federally protected wetlands will not be substantially and adversely affected by the construction or operation of the Project, as none exist in the vicinity of the Project site.

4. The Project will not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

5. The Project would not conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance.

6. The Project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan, because there are no such plans that apply to the fully developed urban site.

E. GEOLOGY AND SOILS

1. The Project will not involve the use of septic tanks or alternative wastewater disposal systems; it will be served by the City's wastewater disposal system. Thus, the Project will not have soils incapable of adequately supporting septic tanks or alternative wastewater disposal systems.

F. HAZARDS AND HAZARDOUS MATERIALS

1. The Project will not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials because compliance with applicable rules and regulations concerning hazardous materials will create a less than significant impact.

2. The Project will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within ¼ mile of an existing or proposed school because the dealership complies and will continue to comply with all applicable federal, state, county, and local regulations for the routine transport, use, and disposal of hazardous materials.

3. The Project is not located within an airport land use plan or within two miles of a public airport or public use airport, and thus, these impacts will not be significant.

4. The Project is not within the vicinity of a private airstrip, and thus, these impacts will not be significant.

5. The Project will not expose people or structures to a significant risk of loss, injury, or death involving wildland fires because the Project is located in an entirely urbanized area; there is not any flammable brush, grass, or dense foliage on the Project site.

G. HYDROLOGY AND WATER QUALITY

1. The Project will not violate any water quality standards or waste discharge requirements. The developer must comply with NPDES program requirements and utilize Best Management Practices (BMPs) such as the Best Available Technology Economically Achievable (BAT) and the Best Conventional Pollutant Control Technology (BCT) in order to avoid discharging pollutants into waterways. BMPs would be required during general operation of the Project to ensure that stormwater runoff meets the established water quality standards and waste discharge requirements.

2. The Project would not substantially deplete groundwater supplies. The Project site is primarily composed of impervious surfaces, except for approximately 1,800 square feet of grass on South Maple Drive. The Project would include landscaping on the east and north portion of the Project site. Therefore, the Project would not substantially increase the amount of impervious surfacing onsite as compared to existing conditions. The increase in the amount of commercial uses onsite would incrementally increase the amount of water used on the Project site; however, the Project would not involve activities that would directly extract water from the ground.

3. The Project will not substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site, in part because there are no streams or rivers in the vicinity of the project site.

4. The Project will not substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site, in part because there are no streams or rivers in the vicinity of the Project site. In addition, the Project involves redevelopment of an existing paved and built-out site, and it will not alter the existing drainage system or result in a net increase of water runoff that would lead to flooding on or off site.

5. The Project will not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, in part because the Project site already is covered mostly in impervious surfaces. In addition, mandatory compliance with the City's urban runoff and storm water regulations and NPDES requirements would reduce impacts associated with runoff and storm water drainage systems to a less than significant level.

6. The Project will not otherwise degrade water quality because the Project will comply with the City's standard construction and erosion control practices.

7. The Project will not place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. The Project does not involve the construction or relocation of housing.

8. The Project will not place structures within a 100-year flood hazard area that would impede or redirect flood flows, because the site is not in a flood hazard area.

9. The Project will not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam because the Project site is not located north of Carmelita Drive, and therefore would not be significantly affected by dam inundation.

10. The Project will not expose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami, or mudflow, because the site is sufficiently removed from large bodies of water, and is not near any sloped properties.

H. LAND USE AND PLANNING

1. The Project will not physically divide an established community because the Project involves the redevelopment of an existing site with the same auto dealership, simply on a larger scale.

2. The Project will not conflict with an applicable habitat conservation plan or natural community conservation plan because no habitat/natural community conservation plans apply to the Project site.

I. MINERAL RESOURCES

1. The Project will not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state. No mineral resources of value to the region or the residents of the state are known to be within the Project area.

2. The Project will not result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. Again, no mineral resources of value to the region or the residents of the state are known to be within the Project area.

J. NOISE

1. The Project is not located within an airport land use plan and thus, the Project will not expose people residing or working in the Project area to excessive noise levels.

2. The Project is not located near a private airstrip and thus, the Project will not expose people residing or working in the Project area to excessive noise.

K. POPULATION AND HOUSING

1. The Project will not induce substantial population growth in the area either directly or indirectly. The Project does not involve the construction of residences and therefore would not contribute to direct population growth in the area. Since the Project is expected to create 13 new jobs, however, the Project could incrementally increase the City's population, but the additional employment positions represent 0.6 percent of the projected population increase in the City. Thus, the potential effects of increased employment at the Project site are not expected to be substantial.

2. The Project will not displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere, because the Project involves only the redevelopment of an existing auto dealership.

3. The Project will not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere, because the Project involves only the redevelopment of an existing auto dealership.

L. PUBLIC SERVICES

1. The Project will not result in substantial adverse physical impacts associated with the provision, alteration, or construction of schools, parks, or other public facilities in order to maintain acceptable service ratios or performance objectives. The Project only involves the redevelopment of an existing automobile dealership, and does not involve the construction of residences, nor would it facilitate or necessitate the development of residences.

M. RECREATION

1. The proposed Project will not increase the use of existing neighborhood or regional parks or other recreation facilities because any indirect impacts to public parks would be offset by the payment of the City's standard commercial park impact fees.

2. The proposed Project does not include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

N. TRAFFIC/CIRCULATION/PARKING

1. The Project would not result in a change in air traffic patterns because the Project site is six miles away from the closest airport.

2. The Project will not conflict with adopted policies, plans, or programs supporting alternative transportation, including the LA County Congestion Management Plan or the Westside Transit Corridor Study, primarily because transit service along Wilshire Boulevard would remain unaffected and the Project development could reduce external trips associated with the dealership's current off-site services and parking facilities.

O. CUMULATIVE IMPACTS

1. Based on the lack of any impact in each of the foregoing categories of potential impacts, the Project will not result in any cumulatively considerable effects in conjunction with related projects.

V. Effects Determined to be Less Than Significant Without Mitigation in the EIR.

The EIR found that the proposed Project would have a less than significant impact without the imposition of mitigation on a number of environmental topic areas listed below. A less than significant environmental impact determination was made for each of the following topic areas listed below, based on the more expansive discussions contained in the Final EIR.

A. AESTHETICS

1. The Project will have a less than significant impact on scenic vistas. The new Lexus dealership building would be about 11 feet above the height of the existing structure at 9242 and 9230 Wilshire Boulevard. Replacement of the current building with a taller building could affect views for travelers along Wilshire Boulevard. However, the views that would be obstructed are not designated as scenic. Thus, impacts to scenic vistas are considered less than significant.

2. The Project will not substantially degrade the existing visual character of the site and its surroundings. Although the increase in mass and scale associated with the Project could potentially affect the visual character or quality of the site and its surroundings, the scale of the Project would be compatible with surrounding development and the Project would require review and approval by the City's Architectural Commission. Therefore, impacts to the visual character of the site and its surroundings will be less than significant.

3. The Project would replace existing sources of light and glare on and around the Project site. The proposed design would reduce parking lot glare by moving parking to the second floor, third floor, fourth floor, and the rooftop of the structure. In addition, the proposed design is not highly reflective because the building incorporates a matte facade of stone and stucco, with awnings covering many of the windows. Therefore, the Project will not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area.

4. The Project would cast shadows onto adjacent properties, particularly in the wintertime when shadows are most extreme. However, as no shadow-sensitive land uses would be shaded for extended periods, shadow impacts will be less than significant.

5. The appearance of the Project would be consistent with City policies, as demonstrated in photo simulations provided in Chapter 4 of the FEIR. Thus, impacts related to consistency with City policies would be less than significant.

6. Reasonably anticipated cumulative development in the City would add approximately 2.1 million square feet of commercial projects and 1,700 residential units. The 9200 Wilshire Boulevard project, which would be located immediately adjacent to the Project on the east, consists of a 70 foot high mixed-use development with 54 condominium units and 14,000 square feet of retail and/or restaurant development. Given that taller buildings are situated along Wilshire Boulevard and the appearance of additional buildings of similar height and scale is fitting for this commercial corridor, the projects would not have a cumulatively considerable impact. Moreover, the aesthetic impacts of individual development projects are mitigated through site design and appropriate building and landscape standards. Therefore, cumulative aesthetic impacts would be less than significant.

B. AIR QUALITY

1. Operation of the Project would generate air pollutant emissions, but these emissions would not exceed SCAQMD operational significance thresholds. Thus, the Project's operational impact to regional air quality would be less than significant. The Project will not contribute substantially to any existing or projected air quality violation.

2. Project-generated traffic, together with other cumulative traffic in the area, would incrementally increase carbon monoxide levels in the site vicinity. However, because concentrations would remain below state and federal standards, this impact would be less than significant.

3. Construction-related air pollutant emissions would not exceed SCAQMD levels for ROG, NOx, CO, and PM_{2.5}. Thus, for all criteria pollutants except for PM₁₀ (described below), construction-related air pollutant emissions would be less than significant.

4. Although project-generated traffic and cumulative development-related traffic would incrementally increase carbon monoxide levels in the Project site vicinity, concentrations would remain below state and federal standards. In addition, air pollutant emissions would not exceed SCAQMD significance thresholds. Thus, the Project's incremental effect would be less than cumulatively considerable.

C. CULTURAL RESOURCES

1. The Project will have a less than considerable impact on historic resources. The proposed Project would involve demolition of the existing Lexus dealership. Demolition of the existing dealership would not directly or indirectly significantly affect historic or potentially historic resources. Thus, impacts would be less than significant.

2. Although the Project would incrementally diminish the integrity of setting for the eligible Home Savings and Loan building located at 9245 Wilshire Boulevard, the integrity of the setting for this property is already substantially diminished due to the prevalence of multi-story commercial development in the area. Therefore, the Project would not substantially contribute to cumulative impacts to historic resources.

D. GEOLOGY AND SOILS

1. The Project will have a less than significant impact with regard to seismic hazards. Seismically-induced ground motion could destroy or damage proposed structures, resulting in a loss of property and risk to human health, but the Project would be required to comply with applicable provisions of the California Building Code, which would reduce potential impacts to people or structures to a less than significant level.

2. Adherence to California Building Code requirements and site specific geotechnical recommendations for individual projects would reduce the potential for adverse effects to a level that is less than significant. Cumulative impacts of reasonably foreseeable developments would be less than significant.

E. GREENHOUSE GAS (GHG) EMISSIONS

1. The proposed Project would generate GHG emissions from both mobile and operational sources, estimated to be 2,460 metric tons per year of CO₂E. This amount falls below the 10,000 metric ton CO₂E threshold. Since this also would not conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs, impacts would be less than significant. In addition, the Project's contribution to cumulative GHG emissions and climate change would not be cumulatively considerable.

F. HAZARDOUS AND HAZARDOUS MATERIALS

1. A lead based paint survey indicated there were no significant levels of lead in the paints that were sampled. Asbestos was detected in the penetration mastic of the roofs. Development would require demolition of buildings and structures that contain asbestos. However, compliance with applicable regulations regarding the handling and disposal of asbestos would reduce risk of upset impacts to a less than significant level.

2. The proposed Project would relocate a portion of an east-west alley and change the local circulation. However, the proposed Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. This is a less than significant impact.

3. Although cumulative development could potentially expose future area residents, employees, and visitors to chemical hazards by developing previously contaminated land, the magnitude of those hazards would depend upon the location, type, and size of development and the specific hazards associated with individual sites. Compliance with applicable regulations and implementation of appropriate mitigation measures, including remedial action on contaminated sites, would avoid potential cumulatively significant hazards and hazardous materials impacts associated with cumulative development in the City. The Project is not expected to have a cumulatively considerable effect on any hazard impacts.

G. LAND USE AND PLANNING

1. A Conditional Use Permit, a Text Amendment to allow tandem parking, a Text Amendment to exclude floor area devoted to parking, circulation areas, and service bays located below grade, and a Map Amendment to the Streets and Highways Master Plan are requested as part of the Project, which would make the Project consistent with adopted land use regulations. Therefore, impacts related to consistency with General Plan designations and zoning would be less than significant.

2. The Project is consistent with applicable Beverly Hills General Plan objectives and recommendations, and therefore, is a less than significant impact.

3. As is the case with the proposed Project, planned and pending development projects must comply with the policies of the Land Use Element and other elements of the General Plan. Assuming that appropriate land use controls are implemented for all planned and pending projects in the area, the Project would not result in significant cumulative land use impacts.

H. NOISE

1. Project-generated traffic would incrementally increase noise levels on area roadways. However, this incremental increase would not exceed significance thresholds. Thus, the effect of traffic noise on existing uses would be less than significant.

2. Operation of the Project would generate noise that may periodically be audible to existing residential uses along the southern boundary of the Project site. Such noise sources include parking lot noises, which would be contained within the building, noise from stationary rooftop equipment, and noise from maintenance activities. However, compliance with the Municipal Code and rooftop parapets would reduce noise levels resulting from operation of the Project, and therefore, this would remain a less than significant impact.

I. PUBLIC SERVICES AND UTILITIES

1. The Project would incrementally increase demands on the Beverly Hills Fire Department. However, this increase would not require the construction of new fire protection facilities. Thus, this is a less than significant impact.

2. The Project would incrementally increase demands on the Beverly Hills Police Department. However, this increase would not result in the need for new facilities. Thus, this is a less than significant impact.

3. The Project would increase water demand at the Project site, but the City has adequate supplies to meet increased demand through the year 2035. Thus, the Project's impact on the City's water supply would be less than significant.

4. The Project would incrementally increase the long-term generation of solid waste. However, solid waste facilities that serve the City have adequate capacity to handle the

increase. Therefore, impacts to the City's solid waste collection and disposal system would be less than significant.

5. Since the Project would not create the need for new fire or police protection facilities, the Project's contribution to any impacts would not be cumulatively considerable.

6. The water demand generated by cumulative development would increase by 839 AFY, which can be accommodated by the predicted City surplus of 953 AFY. Thus, cumulative impacts on water demand would be less than significant.

7. The cumulative increase in wastewater generation is estimated to be 669,899 gpd, or 0.67 million gallons per day. The Project's contributions to such impacts would not be cumulatively considerable given that combined Project development impacts would represent only .01 percent of the treatment plant's available capacity. Thus, the Project would not have a cumulatively considerable impact on wastewater.

8. Cumulative impacts on solid waste would be 13,561 tons of solid waste per year. Based on the City's current solid waste diversion rate (57%), approximately 7,730 tons of solid waste would be diverted annually, leaving approximately 5,831 tons of solid waste per year that would be disposed into the Sunshine Canyon, Calabasas, and/or Puente Hills Landfills. Combined, the landfills have a remaining capacity of 16,636 tons per day. The additional solid waste disposed of in landfills (minus diverted waste) generated by the Project in conjunction with cumulative projects would represent approximately 0.1% of the daily capacity for the three landfills. Therefore, significant cumulative impacts would not occur.

J. TRANSPORTATION AND CIRCULATION

1. The Project would generate an estimated 82 AM peak hour trips, 53 weekday midday peak hour trips, 78 PM peak hour trips, and 43 Saturday midday peak hour trips. This increase in vehicle trips would not exceed significance thresholds established by the City of Beverly Hills at any of the 14 study intersections during the weekday or Saturday peak hours under existing plus Project conditions or under cumulative plus Project conditions. Impacts would be less than significant.

2. Traffic generated by the proposed Project would not exceed Neighborhood Traffic Impact Analysis significance thresholds at any study area residential street segments. This is a less than significant impact.

3. The proposed Project would not significantly affect any Congestion Management Program (CMP) intersections and would not have adverse effects on public transit systems. Thus, the Project would not conflict with an applicable CMP and any impact would be less than significant.

4. The proposed Project would provide 350 parking spaces. This would fulfill the City of Beverly Hills zoning code requirement of 117 spaces. In addition, the parking demand study completed for the Project estimates that peak demand would require up to 357 spaces, including employee parking spaces. The Project would provide 350 on-site parking spaces and 100 off-site parking spaces, which would satisfy anticipated peak parking demand.

Thus, the Project would not conflict with any City policies or create any significant impacts related to parking. The Project's ability to provide a combined total of 450 parking spaces ensures that impacts will be less than significant in this regard.

5. The Project would allow for adequate site access to the building and internally. Therefore, the impact with respect to site access and circulation would be less than significant.

6. Implementation of the proposed project would incrementally reduce the amount of onsite pervious surface area, which may increase stormwater flows and create flooding and drainage problems. In addition, vehicular activity and use of fertilizers onsite could incrementally increase the amount of pollutants in surface water runoff. However, the project applicant would be required to submit a Storm Water Pollution Prevention Plan and a Standard Urban Storm Water Mitigation Plan to the City for review and approval. Therefore, impacts would be less than significant.

VI. Potentially Significant Environmental Impacts Determined to be Mitigated to a Less Than Significant Level.

The EIR identified the potential for the Project to cause significant environmental impacts in the areas of air quality, cultural resources, geology, hazards/hazardous materials, noise, public services/utilities, and transportation/circulation. With the exception of those specific impacts to noise as discussed in Section VII below, measures were identified that would mitigate all of these impacts to a less than significant level.

The Planning Commission finds that the feasible mitigation measures for the Project identified in the Final EIR would reduce the Project's impacts to a less than significant level, with the exception of those immitigable impacts discussed in Section VII below. The Planning Commission will adopt all of the feasible mitigation measures for the Project described in the Final EIR as conditions of approval of the Project and incorporate those into the Project if it approves the project, subject to Council approval of the related Municipal Code text amendments.

A. AIR QUALITY

1. Construction-Related Emissions

Temporary air pollutant emissions generated by construction activities associated with the Project would not exceed localized significance thresholds (LSTs) for criteria pollutants; however, emissions of PM₁₀ would exceed SCAQMD thresholds. Incorporation of Mitigation Measure CON-4 (a) would reduce PM₁₀ emissions below thresholds. Therefore, temporary air quality impacts associated with construction-related emissions would be significant but mitigable for PM₁₀.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential impact to construction-related emissions of PM₁₀. Specifically, the following measures have been imposed upon the Project to ensure a less than significant impact:

CON-4(a) Fugitive Dust Control. The following shall be implemented during construction to minimize fugitive dust emissions:

- Water trucks shall be used during construction to keep all areas of vehicle movements damp enough to prevent dust from leaving the site. At a minimum, this will require three daily applications (once in morning, once at midday and once at the end of the workday). Increased watering is required whenever wind speed exceeds 15 mph. Grading shall be suspended if wind gusts exceed 25 mph.
- Soil with 5% or greater silt content that is stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting material shall be tarped from the point of origin or shall maintain at least two feet of freeboard.
- All material excavated or graded shall be treated with soil binders or shall be sufficiently watered at least twice daily with complete coverage, preferably in the late morning and after work is done for the day.
- All clearing, grading, earth moving, or excavation activities shall cease during periods of high winds (i.e., greater than 20 mph averaged over one hour) so as to prevent excessive amounts of dust.
- All material transported off-site shall be securely covered to prevent excessive amounts of dust.
- All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted in a prominent and visible location at the construction site, and shall be maintained throughout the construction process. All notices and the signs shall indicate the dates and duration of construction activities, as well as provide a telephone number, capable of receiving calls 24-hours a day, seven days a week, where residents can inquire about the construction process and register complaints.
- Visible dust beyond the property line emanating from the project shall be prevented to the maximum extent feasible.

- These control techniques shall be indicated in project specifications. Compliance with the measure shall be subject to periodic site inspections by the City.

CON-4(b) Ozone Precursor Control. The following shall be implemented during construction to minimize emissions from construction equipment:

- Equipment engines shall be maintained in good condition and in proper tune per manufacturer's specifications;
- New technologies shall be utilized to control ozone precursor emissions as they become available.
- To the maximum extent feasible, diesel oxidation catalysts and particulate filters shall be installed on all on- and off- road construction vehicles.

(b) Facts Supporting the Findings

Temporary air pollutant emissions generated by construction activities associated with the Project would not exceed LST thresholds for criteria pollutants; however, emissions of PM₁₀ would exceed SCAQMD thresholds. It is estimated that the total PM₁₀ emissions without mitigation would be 237.2 lbs/day during construction. With the incorporation of Mitigation Measure CON-4 (a), the estimated PM₁₀ emissions would be reduced to 120.1 lbs/day, which is below the SCAQMD threshold of 150 lbs/day. Therefore, construction-related impacts associated with emissions of PM₁₀ would be significant but mitigable.

B. CULTURAL RESOURCES

1. Archaeological and Paleontological Resources

The introduction of the Project into an area where there is the potential to unearth previously unknown archaeological or paleontological resources has the potential to cause significant impacts to cultural resources. However, with the incorporation of mitigation, any impact will be reduced to a level of insignificance.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential impact to archaeological or paleontological resources. Specifically, the following measures have been imposed upon the Project to ensure a less than significant impact:

Measure CR-2(a) Archeological/Paleontological Monitoring. In the event that a previously unknown artifact or fossil is uncovered during project construction, all work shall cease until a certified archaeologist and/or paleontologist can investigate the finds and make appropriate recommendations.

Any artifacts uncovered shall be recorded and removed for storage at a location to be determined by the monitor.

Measure CR-2(b) Coroner Notification. If human remains are unearthed, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC). The NAHC will then identify the person(s) thought to be the Most Likely Descendent (MLD) of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains.

(b) Facts in Support of Findings

The building on the Project site was originally constructed as two, two-story brick commercial buildings, at 9230-36 and 9242 Wilshire Boulevard. The former was constructed in 1929 as an automobile dealership and garage. The latter was constructed in 1928 as a commercial building and bowling alley. The South Maple Drive parcel currently contains a surface parking lot utilized by the dealership. It was previously the location of an apartment building constructed in the 1930s.

The surface of the Project site has been previously disturbed and developed; no archeological or paleontological resources are known to be present onsite. Nevertheless, excavation required for subterranean levels and building foundations has the potential to disturb as yet undiscovered archaeological or paleontological resources and/or human remains. Impacts would be less than significant if the above-mentioned mitigation measures are incorporated.

C. GEOLOGY

1. Soils and Seismic Impacts

The introduction of the Project into a seismically active area has the potential to cause soil and seismic impacts. The proposed Project includes demolition of existing improvements and construction of a four story building (with two additional subterranean levels) within an already developed area. Area soils have a low potential for liquefaction, subsidence, and seismically-induced settlement; however, expansive soils are present. With the incorporation of mitigation, any impact will be reduced to a less than significant level.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential soil and seismic impact. Specifically, the following measures are imposed upon the Project to ensure a less than significant impact:

GEO-2 Geotechnical Report. The project applicant shall implement all design considerations recommended in the geotechnical report, including the following:

- All demolition debris shall be removed and hauled from proposed grading areas prior to the start of grading operations. Any existing vegetation shall not be mixed or diced into the soils. Any removed soils may be reutilized as compacted fill once any deleterious material or oversized materials (in excess of eight inches) is removed. Grading operations shall be performed in accordance with the "Specifications for Compacted Fill Operations" on page 15 of the Norcal Engineering April 2, 2010 geotechnical report.
- All fill and/or disturbed top soils shall be removed to native material, the exposed surface scarified to a depth of 12 inches, brought to within 2% of optimum moisture content and compacted to a minimum of 90% of the laboratory standard prior to placement of any additional compacted fill soils, foundations, slabs-on-grade and pavement.
- A diligent search shall be conducted during grading operations in an effort to uncover any underground structures, irrigation or utility lines. If encountered, these structures and lines shall be either removed or properly abandoned prior to construction.
- Any imported fill material shall be similar to the upper soils encountered at the Project site. Imported soils utilized for the backfill of retaining walls shall consist of select sand material or approved gravel material. All soils shall be approved prior to importing at the site and shall be subject to additional laboratory testing.
- Adequate drainage away from structures, pavement and slopes shall be provided at all times.
- Temporary shoring design for the proposed subterranean garage shall utilize a trapezoidal pressure distribution. The final shoring structural calculations and drawings shall be reviewed prior to installation.
- Temporary unsurcharged excavations above the vertical may be trimmed at a 1 to 1 gradient for an additional four feet.
- All excavations shall be made in accordance with the requirements of CAL-OSHA and other public agencies with jurisdiction over the Project site.
- All foundations shall be designed utilizing the allowable safe bearing capacities on page 9 of the geotechnical report dated April 2, 2010 for an embedded depth of 48 inches into competent native soils.
- All continuous foundations shall be reinforced with a minimum of two No. 4 bars, top and bottom; isolated pad foundations shall be reinforced at the discretion of the Project structural engineer.

- All concrete slabs-on-grade shall be at least four inches in office and sidewalk areas reinforced with a minimum of No. 3 bars, eighteen inches in each direction positioned mid-height in the slab and placed on approved subgrade soils.
- A vapor retarder shall be utilized in areas which would be sensitive to the infiltration of moisture.
- All pavement areas shall have positive drainage toward an approved outlet from the site. Drain lines behind curbs and/or adjacent to landscape areas shall be considered by the applicant and the appropriate design engineers to prevent water from infiltrating beneath the pavement.
- Any approved base material shall consist of a Class II aggregate or equivalent and shall be compacted to a minimum of 95% relative compaction.
- All pavement materials shall conform to the requirements set forth by the City of Beverly Hills.
- The base material and asphaltic concrete shall be tested prior to delivery to the site and during placement to determine conformance with project specifications.
- A pavement engineer shall designate the specific asphalt mix design to meet the required Project specifications.
- Trenches from installation of utility lines and other excavations may be backfilled with on-site soils or approved imported soils compacted to a minimum of 90% relative compaction.
- All utility lines shall be properly bedded with clean sand having a sand equivalency rating of 30 or more. This bedding material shall be thoroughly water jetted around the pipe structure prior to placement of compacted backfill soils.
- A Type II cement according to the latest specifications shall be utilized for building foundations.
- “Expansive Soil Guidelines” contained on page 17 of the geotechnical report shall be complied with during the design of the project and future property maintenance. The “Expansive Soil Guidelines” include the following requirements:
 - Maintain moisture contents at relatively constant levels, allowing neither excessive wetting or drying of soils.

- Drainage away from structures and pavement
- Strictly control irrigation around building foundations, slabs and pavement
- Analyze planting schemes for landscaping around structures and pavement
- Use thickened edges on exterior slabs to keep excessive moisture from entering directly beneath the concretes. Underlying interior and exterior slabs with 6-12 inches or more of non-expansive soils and presaturation of underlying clayey soils will improve the overall performance of on-grade slabs.
- Increase the amount of steel reinforcing in concrete slabs, foundations and other structures to resist the forces of expansive soils.

(b) Facts in Support of Findings

The proposed Project would introduce a new building into southern California, a seismically active area. Although the proposed Project would replace an existing facility on the site, geotechnical hazards are classified as a potential significant impact. The NorCal Engineering and Law/Crandall geotechnical reports identified a low potential for liquefaction, subsidence and seismically-induced settlement at the Project Site; however, the geotechnical reports identified expansive soils on the Project site.

The geotechnical report prepared by NorCal Engineering concluded that four levels of subterranean levels would be technically feasible. According to NorCal Engineering, the Project site is suitable for the proposed development, including two levels of subterranean development, provided that the recommendations in the soils/geotechnical report are followed. Seismic safety impacts can therefore be adequately mitigated through implementation of the measures contained in the final geotechnical/soils report for the Project.

D. HAZARDS AND HAZARDOUS MATERIALS

1. Exposure to Hazardous Materials

Implementation of the proposed Project requires demolition of the existing structure, which has the potential to release hazardous materials. There are three recognized environmental conditions (RECs) onsite that could pose a risk of upset hazard, including the historic use of the site for automotive maintenance/repair, the presence of two drains and a clarifier onsite, and the possible presence of former underground storage tanks on the site. Implementation of mitigation would be required to ensure a less than significant impact.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the impact of any potential release of hazardous materials. Specifically, the following mitigation measures have been imposed upon the Project to ensure a less than significant impact:

HAZ-2(a) Soil Sampling. At the time of vacancy and prior to demolition, soil sampling shall be conducted adjacent to the drains, drain lines, clarifier. Soil samples shall also be collected at various locations throughout the site and within any unpaved planter areas onsite. The soil samples shall be analyzed for the following: TPH, VOCs, SVOCs, metals and asbestos. If contaminated soil is identified, and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, any required remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by a regulatory oversight agency such as the County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.

HAZ-2(b) Geophysical Survey. At the time of vacancy and prior to demolition, a geophysical survey of the Project site shall be conducted to determine whether there is potential for any as-yet undiscovered underground storage tanks. If any large metal anomalies are discovered at the time of site clearance, but prior to issuance of a grading permit, a backhoe shall be used to uncover the anomaly.

If the anomaly is a tank, it shall be removed and properly disposed at a licensed disposal facility. The removal of a UST in Los Angeles County shall be conducted in accordance with County of Los Angeles Department of Public Works (LACDPW) UST Program. Removal of a UST shall include soil sampling beneath the UST. The soil samples shall be analyzed pursuant to the tank removal permit requirements. If contaminated soil is identified and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the LACDPW UST Program. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.

If hydraulic pistons are found, they shall be removed and properly disposed at a licensed facility. The removal of hydraulic pistons shall be conducted in accordance with applicable regulations under the guidance of a Professional Civil Engineer or Professional Geologist. Removal of hydraulic pistons could include soil sampling around the hydraulic pistons. If contaminated soil is identified, and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, any required remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by a regulatory oversight agency such as the County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.

HAZ-2(c) Excavation and Demolition Contingency Plans. The developer shall prepare a contingency plan for all excavation and demolition projects conducted within the Project area to be implemented in the event that contaminants or structural features not previously identified are suspected or discovered. The contingency plan shall identify appropriate measures to be followed if contaminants are found or suspected. The appropriate measures shall identify personnel to be notified, emergency contacts, and a sampling protocol. The excavation and demolition contractors shall be made aware of the possibility of encountering unknown hazardous materials, and shall be provided with appropriate contact and notification information. The contingency plan shall include a provision stating at what point it is safe to continue with the excavation or demolition, and identify the person authorized to make that determination.

HAZ-2(d) Groundwater Sampling. If, during the soil sampling required above under Measure HAZ-2(a), groundwater contamination is suspected, or if soil contamination is detected at depths at or greater than 30 feet below grade, the developer shall perform a groundwater sampling assessment. If contaminants are detected in groundwater at levels that exceed maximum contaminant levels for those constituents in drinking water, then the results of the groundwater sampling shall be forwarded to the appropriate regulatory agency (County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control). The agency shall review the data and sign off on the property or determine if any additional investigation or remedial activities are deemed necessary. The developer shall submit all correspondence to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.

(b) Facts in Support of Findings

Implementation of the proposed project would include demolition of existing structures, built between 1928 and 1933. The 9230 Wilshire Boulevard building has been in use by car dealerships since 1933. The 9242 Wilshire Boulevard building included a store, restaurant and bowling alley from 1933 through 1950. After 1950, the building appears to have been used as a store and offices. The South Maple Drive parcel has been used as a parking lot since 1947.

The site is currently developed with a Lexus car dealership, including an automobile showroom, an automobile maintenance and repair facility, an automobile detailing area, and offices and storage areas. In addition, a portion of the 9242 Wilshire Boulevard building includes offices for a photographer and offices for a construction company. There are six aboveground storage tanks (ASTs) and one clarifier on the site. Three of the ASTs contain new motor oil or antifreeze and three contain waste oil or antifreeze. There is a storage receptacle for old batteries in the South Maple Drive parcel surface parking lot. Wastewater from washing cars falls into a drain that leads to the onsite clarifier, which is connected to the City's sewer system. The contents of the onsite ASTs and solids from the clarifier are periodically removed and disposed at an offsite facility.

The Project site is listed in hazardous materials database lists because of the current and past use as an automotive service station. While no known contamination is present onsite the Phase I ESA (Rincon Consultants, Inc. 2009) indicates that three potential recognized environmental conditions (RECs) are present:

- *The historic use of the site for automotive maintenance and repair*
- *The presence of two drains and a clarifier onsite*
- *The possible presence of former underground storage tanks (USTs) on the site*

Under current conditions, the entire site is developed and is operational seven days per week, which makes evaluation of subsurface soils and detection of large metal anomalies infeasible. Nevertheless, to evaluate the potential for adverse impacts associated with the identified potential RECs, certain mitigation measures would need to be implemented. A geophysical survey shall be conducted of the site to determine if a UST or other underground features such as hydraulic pistons are present beneath the site. In addition, soil sampling shall be conducted adjacent to the drains, drain lines, clarifier, UST (if identified), and underground hydraulic pistons (if identified). Soil samples shall also be collected at various locations throughout the site and within any unpaved planter areas onsite. The soil samples shall be analyzed for the following: TPH, VOCs, SVOCs, metals and asbestos.

With implementation of the mitigation measures above, impacts related to contaminated soil and potential groundwater contamination would be reduced to a less than significant level.

E. NOISE

1. Construction-Related Noise

Project construction would intermittently generate high noise levels on and adjacent to the Project site, but construction activity would not exceed the allowable noise levels outside of the permitted hours. Mitigation measures CON-2(a-e) would be required to reduce construction noise levels. With incorporation of the mitigation measures, this would be a significant but mitigable impact.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential impact from construction-related noise. Specifically, the following mitigation measures are imposed upon the Project to ensure a less than significant impact:

CON-2 (a) Heavy Truck Restrictions. The construction contractor shall prohibit off-site heavy truck activities in local residential areas.

CON-2 (b) Staging Area. The construction contractor shall provide staging areas onsite to the extent feasible to minimize off-site transportation of heavy construction equipment. The distance between staging areas and sensitive receptors shall be maximized to reduce noise levels associated with idling construction equipment.

CON-2 (c) Diesel Equipment Mufflers. All diesel equipment shall be operated with closed engine doors and shall be equipped with factory-recommended mufflers.

CON-2 (d) Electrically-Powered Tools and Facilities. Electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.

CON-2 (e) Additional Noise Attenuation Techniques. For all noise-generating construction activity on the Project site, additional noise attenuation techniques shall be employed as necessary to reduce noise levels to 78.8 dBA. Such techniques shall include the use of sound blankets on noise generating equipment and the construction of temporary sound barriers between construction sites and nearby sensitive receptors in order to ensure that noise levels at nearby sensitive receptors do not exceed 78.8 dBA. At least one noise measurement shall be performed at each of the nearest sensitive uses during excavation and foundation/conditioning work to confirm that the noise attenuation techniques are reducing the noise levels sufficiently. The City shall contract for the noise measurements, with costs paid by the applicant, or the applicant shall submit the noise measurement results to the City for review. If sufficient attenuation is not being achieved, the contractor shall cease work and consult the City on additional noise attenuation techniques such as reducing the number of machines operating at one time, larger temporary barriers, or thicker sound blankets.

(b) Facts Supporting the Findings

Project construction would intermittently generate high noise levels on and adjacent to the Project site. Noise levels associated with heavy equipment typically range from about 76 to 101 dBA at 50 feet from the source. Continuous operation of this equipment during a nine hour workday can cause noise levels onsite and at adjacent receptor locations that are above ambient levels and could exceed applicable noise standards. Anticipated noise levels would range from 94.2 dBA to 109 dBA at a distance of 50 feet from the Project site.

Under the thresholds established by the City, a significant impact would occur if construction activities occurring on the Project site would result in an increase of 5 dB(A) above the ambient level 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). Based on modeling of the construction noise levels at the sensitive receptors, noise levels would be anticipated to exceed ambient noise levels by more than 5 dBA during construction. However, these noise levels would occur only during the daytime, in accordance with the permitted hours stipulated in the Municipal Code. In addition, incorporation of the mitigation measures described above will limit construction noise during the construction. In light of these facts, this impact will be reduced to a less than significant level.

F. PUBLIC SERVICES AND UTILITIES

1. Wastewater Infrastructure

The Project would generate an estimated net wastewater increase of 13,566 gallons per day (gpd), which would flow to the Hyperion Treatment Plant (HTP) located in the City of El Segundo. At this time, the HTP has sufficient capacity to accommodate such an increase in wastewater. However, existing wastewater conveyance infrastructure may require upgrades to meet the required flows for the Project. With the incorporation of mitigation, any impact will be reduced to a less than significant level.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential impact from an increase in wastewater. Specifically, the following mitigation measure is imposed upon the Project to ensure a less than significant impact:

PSU-4 Wastewater Conveyance Upgrade. If the City Engineer determines that infrastructure upgrades are necessary, the Applicant shall pay a "fair share" of the cost of the upgrade as determined by the City of Beverly Hills in association with the City of Los Angeles. Payment for this upgrade shall be made prior to the issuance of a building permit.

(b) Facts Supporting the Findings

The City's Department of Public Works maintains sewer collection and distribution systems located throughout Beverly Hills. The existing sanitary sewer system connects to the City of

Los Angeles' sewer facilities at the southeastern border of Beverly Hills. Over 65 percent of the existing system consists of 8-inch diameter pipes and over 50 percent of the system is more than 50 years old. The City has a rehabilitation program to repair, reline, and/or replace the existing wastewater infrastructure.

The sewer infrastructure serving the proposed Project originates in the City of Beverly Hills, but it discharges into the City of Los Angeles sewer line at a 36-inch line on La Cienega Boulevard. The sewage then continues into a 42-inch line on La Cienega Boulevard, before discharging into a 39-inch line on Crescent Heights Boulevard. Based on the existing gauging information provided by the City of Los Angeles Bureau of Sanitation, the current approximate flow levels are 47 percent for the 42 inch pipe on La Cienega Boulevard and 40 percent for the 39 inch pipe at Crescent Heights Boulevard.

All of the wastewater flows generated from the City are collected and treated at the Los Angeles Hyperion Wastewater Treatment Plant (HTP), located at 12000 Vista Del Mar in the City of El Segundo. Currently, the HTP is the largest of four wastewater treatment plants in the area surrounding the City of Los Angeles; it currently treats 340 million gallons per day (MGD). The HTP has a dry weather capacity of 450 MGD for full secondary treatment and an 850 MGD wet weather capacity.

Based on information from the City of Los Angeles Bureau of Sanitation, wastewater generation associated with the existing commercial automobile dealership is estimated to be approximately 1,925 gpd, while the proposed automobile dealership would generate approximately 15,491 gpd. Thus, the Project would generate an estimated net increase in wastewater of 13,566 gpd, which would flow to the Hyperion Plant. The Hyperion Treatment Plant, which ultimately treats the City's sewage, is operating 100 million gpd below capacity. The projected increase of 13,566 gpd of wastewater from the Project site represents 0.01 percent of the excess capacity. Therefore, sufficient treatment capacity at the Hyperion Plant exists to serve the Project.

Nonetheless, a substantial increase in wastewater diverted to the HTP could conflict with pollutant standards and regulations of the Los Angeles Regional Water Quality Control Board (RWQCB). Since the Project would not exceed the wastewater limits of the HTP, however, the HTP would be able to adequately treat Project-generated sewage in addition to existing sewage, and the treatment requirements of the RWQCB would not be exceeded. No new wastewater treatment facilities or expansion of existing facilities would be necessary, and the wastewater treatment requirements of the RWQCB would not be violated.

In sum, impacts related to capacity deficiency in the conveyance infrastructure would be potentially significant, but impacts related to the capacity of existing treatment facilities would be less than significant. With the mitigation described above, which requires the Applicant to pay its fair share of required infrastructure upgrades if such upgrades are deemed necessary, conveyance infrastructure would be sufficient to accommodate wastewater generated by the proposed project. Therefore, impacts to wastewater conveyance and disposal services associated with the Project would be less than significant with the proposed mitigation.

G. TRAFFIC AND CIRCULATION

1. Circulation – Relocation of the Alley

The alley between the South Maple Drive Parcel and 9242/9230 Wilshire Boulevard would be relocated as part of the proposed project. With implementation of mitigation, relocation of the alley would be a significant but mitigable impact.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential impact from the relocation of the alley. Specifically, the following mitigation measures are imposed upon the Project to ensure a less than significant impact:

T-6(a) Relocation of water line. Relocation of the water line that would be required due to the proposed alley relocation shall be approved by the City of Beverly Hills Water Utilities Division. The sewer line in the proposed alley relocation shall be Closed Circuit TV'd (CCTV) to verify existing connections prior to relocating the line. This work shall be performed according to City standards and shall be paid for by the applicant.

T-6(b) Contacting Utility Companies. The applicant shall contact utility companies to arrange for the relocation of their utilities prior to commencing the relocation process.

T-6(c) Alley Relocation. The alley shall be designed to permit vehicular and pedestrian traffic and to contain the relocated utilities with the City retaining ownership. To ensure adequate alley operations, EITHER additional right of way (not less than 2.5 feet) shall be obtained from the adjacent property owner (Nessah Property) adjacent to both the north/south and east/west alleys, to ensure passage of trucks pursuant to the recommendations of the alley closure study, subject to satisfaction of the City Department of Public Works Transportation Division, OR signs shall be posted at the entrances to the east-west and north-south alleys indicating "No Truck Access". The ultimate design is subject to review and approval by the City Department of Public Works Transportation Division.

(a) Facts Supporting the Findings

The alley proposed for relocation currently runs one-way, in an eastbound direction. As part of the proposed Project, the alley would be relocated to the southern portion of the site and would be 20 feet in width. Motorists and trash trucks entering the east-west alley from Rexford would turn south and then east to exit onto South Maple Drive or would turn south and exit at Charleville. As it is now, any vehicle or truck servicing the north-south alley would need to make a 90° turn to exit the alley onto Maple. Conversely, if the truck were to enter from Rexford and continue south and east to South Maple Drive or south to Charleville, the truck would need to make that 90° turn. A large car (19 feet long) traveling from the east-west alley

to the north south alley would not have any trouble making the turn as occurs under current conditions. Under the project, which would dedicate an additional 2'6" to the alley at the elbow on the northwest portion of the site, garbage trucks would still be able to make a 90° turn.

The alley is currently utilized by the existing automobile dealership for vehicle storage/surface parking. The existing automobile dealership has a rear building service center exit that is used for vehicle ingress and egress to the alley. The proposed project would involve an amendment to the City's Streets and Highway Master Plan in order to relocate the alley way between 9230 and 9242 Wilshire Boulevard and the South Maple Drive parcel to the southern portion of the Project site.

The proposed alley vacation would require relocation of the existing water mains and sewer lines. The mitigation measures identified above would effectively mitigate impacts to a less than significant level.

2. Construction-related Impacts

Project construction and equipment staging would temporarily increase truck traffic in the Project vicinity, which could disrupt the normal use of the sidewalk along adjacent streets, and affect parking availability. With implementation of Mitigation Measures CON-1(a-b), potentially significant impacts would be reduced to less than significant levels.

(a) Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen any potential traffic, parking, or circulation-related impact from construction activities. Specifically, the following mitigation measures are imposed upon the Project to ensure a less than significant impact:

CON-1 (a) Construction Traffic Management Plan. The applicant shall submit a Construction Traffic Management Plan to the City of Beverly Hills Building Official for review and approval prior to issuance of demolition, grading or building permits. At a minimum, the plan shall meet the following standards to the satisfaction of the City:

- *Coordinate with adjacent businesses and emergency service providers to ensure adequate access exists to the project site and land uses in proximity to the Project site during construction.*
- *Schedule deliveries and pick-ups of construction materials to non-peak travel periods, to the maximum extent feasible.*
- *Coordinate deliveries and pick-ups to reduce the potential of trucks waiting to load or unload for protracted periods of time.*
- *Minimize obstruction of through-traffic lanes on adjacent streets.*

- *Control construction equipment traffic from the contractors through flagman and traffic control devices.*
- *Identify designated transport routes for heavy trucks (in addition to haul trucks) to be used over the duration of the proposed project.*
- *Schedule vehicle movements to ensure that there are no vehicles waiting off-site and impeding public traffic flow on the surrounding streets.*
- *Establish requirements for loading/unloading and storage of materials on the project site, where parking spaces would be encumbered, length of time traffic travel lanes can be encumbered, sidewalk closings or pedestrian diversions to ensure the safety of the pedestrian and access to local businesses.*

CON-1 (b) Worker Parking Management Plan. The applicant shall submit a Worker Parking Management Plan to the City of Beverly Hills Building Official for review and approval prior to the issuance of demolition, grading or building permits. To the maximum extent feasible, all working parking shall be accommodated on the Project site. During any demolition and construction activities when construction worker parking cannot be accommodated on the project site, the Plan shall identify alternate parking locations for construction workers and method of transportation to and from the project site for approval by the City 30 days prior to commencement of construction. The Construction Workers Parking Plan shall include appropriate methods to ensure that the parking location requirements for construction workers are strictly enforced. These include but are not limited to the following:

- *Provide all construction contractors with written information on where their workers and their subcontractors are permitted to park and provide clear consequences to violators for failure to follow these regulations. This information must clearly state that no parking is permitted on any residential street or in public parking structures.*
- *Prohibit construction worker parking within 500 feet of the nearest point of the Project site except within designated areas approved in the plan. The construction contractor shall be responsible for informing subcontractors and construction workers of this requirement, and if necessary, for hiring a security guard to enforce these parking provisions. The applicant shall be responsible for all costs associated with enforcement of this mitigation measure.*
- *Identify sites where construction workers could park off-site, if necessary.*

In lieu of the above, the applicant/construction contractor has the option of phasing demolition and construction activities such that all construction worker parking can be accommodated on the Project site throughout the entire duration of demolition and construction activities. The applicant shall submit a Phasing Plan to the City of Beverly Hills Building Official for review and approval prior to the issuance of demolition, grading or building permits.

(b) Facts Supporting the Findings

Construction activity may affect adjacent streets, including Wilshire Boulevard and South Maple Drive. During construction staging, the storage of construction equipment may require the use of street parking. Construction activity would require the temporary closure of the sidewalks adjacent to the site. This would disrupt pedestrian activity in the area. In addition to the reduction of on-street parking capacity during construction, construction site workers would temporarily compete with other users for parking facilities. This would temporarily reduce the available supply of public parking. Thus, impacts to pedestrian and vehicular flow in the area and the temporary reduction in on-street parking capacity would be potentially significant.

The Construction Traffic Management Plan and Worker Parking Management Plan would require that the Applicant coordinate with the owners of surrounding businesses and minimize construction-related traffic impacts. In addition, the Applicant will be required to identify offsite parking options and inform construction workers of those options. Parking immediately adjacent to the site will be prohibited. The Worker Parking Management Plan should maximize the availability of street parking for others. With implementation of the required Construction Traffic Management Plan and Worker Parking Management Plan, construction-related impacts would be reduced to a less than significant level.

H. CUMULATIVE CONSTRUCTION IMPACTS

Construction projects located throughout the City and surrounding areas would add a total of about 2.1 million sf of non-residential development and approximately 1,700 dwelling units to the City. This development would create temporary traffic, noise, and air quality impacts. However, the effects of construction activity would be localized and temporary in nature and would not contribute to any cumulative citywide impacts. Consequently, compliance with standard construction mitigation requirements similar to those described for the Project on a case-by-case basis would mitigate any potential impacts from individual construction projects. Further, it is very unlikely that all cumulative projects would be concurrently constructed, so actual impacts will be less than assumed for purposes of this cumulative analysis.

VII. Environmental Effects that Remain Significant and Unavoidable After Mitigation.

In the environmental areas of noise, there are instances where environmental impacts would remain significant and unavoidable after mitigation. These areas are discussed below.

A. NOISE

1. Cumulative Development

Traffic noise impacts associated with cumulative development within the City would incrementally increase noise levels along roadways and could potentially subject sensitive receptors to noise exceeding City standards. The estimated noise increase resulting from cumulative development in the City would exceed the 1 dB threshold for the segment of Wilshire Boulevard between Rexford Drive and Maple Drive during the PM peak hour and midday peak hour. Cumulative traffic growth would result in a noise increase of up to 2.0 dB due to traffic increases on this roadway segment, which could affect sensitive receptors such as residents near that roadway segment. This noise level increase due to cumulative traffic increases is considered a significant cumulative impact. However, Project-generated traffic would not measurably contribute to this significant cumulative impact; thus, the Project's impact would not be cumulatively considerable.

There is no feasible solution to reduce vehicle generated noise along Wilshire Boulevard. While traffic noise impacts associated with cumulative development would be significant and unavoidable, the project's contribution to the cumulatively significant impact would not be cumulatively considerable.

2. Groundborne Vibrations

Project construction activities could generate intermittent levels of groundborne vibration exceeding thresholds for sensitive receptors in the vicinity of the project site, including residential, institutional, and medical uses. Mitigation measures CON-2(a-b) would be required to reduce construction vibration levels, but impacts would remain significant, even with the implementation of mitigation detailed below.

(a) Findings

Changes or alterations have been required in, or incorporated into the Project to attempt to lessen any significant impact related to groundborne vibrations. More specifically, Mitigation CON-2(a-b) detailed below will lessen any potentially significant impact, reducing exposure of sensitive receptors to heavy trucks and equipment staging. Because there is no mitigation available that can be guaranteed to reduce the impacts to below significance thresholds at sensitive receptor locations, however, the impact is considered unavoidably significant.

CON-2 (a) Heavy Truck Restrictions. The construction contractor shall prohibit off-site heavy truck activities in local residential areas.

CON-2 (b) Staging Area. The construction contractor shall provide staging areas onsite to the extent feasible to minimize off-site transportation of heavy construction equipment. The distance between staging areas and sensitive receptors shall be maximized to reduce noise levels associated with idling construction equipment.

(b) Facts in Support of Findings

Construction activities that would occur on the Project site have the potential to generate low levels of groundborne vibration. Vibration levels could be approximately 87 vibration decibels (VdB) at the existing residences located 20 feet south of the project site. This would exceed the groundborne velocity threshold level of 72 VdB established by the Federal Railway Administration for residences where people normally sleep.

Construction activities would also have the potential to generate groundborne vibration at the Nursery School 75 feet south of the site, where a large bulldozer would create vibrations of about 77 VdB, which would exceed the institutional land use threshold of 75 VdB. Vibrations at sensitive residential receptors located 100 feet to the southeast and the Center for Radiation Therapy located 110 feet to the north would be about 75 VdB during operation of a large bulldozer, which exceeds the allowable thresholds for residential uses (72 VdB) and hospitals (65 VdB).

Construction activity would be temporary, and the use of heavy equipment would be primarily limited to the demolition, excavation, site preparation and exterior construction phases. As construction of the outer shell of the building progresses, the building itself would contain much of the construction activity, and the likelihood of utilizing bulldozers and jackhammers decreases. Trucks would still be anticipated to bring construction materials to the site, which may periodically generate vibrations that would be felt by nearby receptors; however, the vibrations would not be likely to persist for long periods of time.

Construction activities and associated vibration levels would be limited to daytime hours between 8:00 AM to 6:00 PM Monday through Friday per Section 5-1-206 of Article 2 of the Municipal Code. Therefore, vibration levels would be unlikely to affect sensitive residential receptors that are usually sensitive to vibration levels when sleep is disturbed. Mitigation measures CON-2(a-b) would reduce vibration levels on the Project site during permitted construction hours. Nonetheless, because construction of the Project would generate vibration levels that would exceed thresholds at sensitive receptor locations, impacts would be unavoidably significant.

Mitigation measures CON-2(a-b) are expected to reduce exposure of sensitive receptors to heavy trucks and equipment staging; however, there is no mitigation available that can be guaranteed to eliminate the potential for vibrations in excess of thresholds at sensitive receptor locations. Because there is no mitigation available that can be guaranteed to reduce the impacts below significance thresholds, impacts would remain unavoidably significant.

VIII. Project Alternatives.

The Planning Commission considered a range of reasonable alternatives for the proposed Project including, Alternative 1 – No Project Alternative/No Change Alternative, Alternative 2 – Code Complying Design, and Alternative 3 – Reduced Project Alternative. Alternatives 1, 2, and 3, all of which were analyzed in the EIR, are discussed below. In addition, the basis for rejecting each of these alternatives as infeasible is analyzed.

A. ALTERNATIVE 1 – NO PROJECT/NO CHANGE ALTERNATIVE

1. Summary of Alternative

Under this alternative, there would be no change to the existing site – the Project site and existing operations would remain in its current condition. The existing 24,069 square foot, two-story car dealership would remain, along with the existing 12 vehicle service bays. The No Project alternative would not require a new configuration for the alley between 9230-9242 Wilshire Boulevard and the South Maple Drive parcel. The 33 above-grade parking spaces would remain on the South Maple Drive parcel, and no additional parking would be added underground. In addition, customer vehicle handover/pickup and truck loading would continue to occur on South Maple Drive or in the alley. Implementation of the No Project alternative would not preclude future proposals for site development, including projects consistent with the existing R-4 and C-3 zoning.

2. Reasons for Rejecting Alternative: Infeasibility

Alternative 1 would avoid the Project's construction vibration impact, and significant but mitigable impacts related to cultural resources, geology, hazards and hazardous materials, noise, public services and utilities, and traffic. In addition, Alternative 1 would avoid the less than significant impacts in all other issue areas studied in the EIR. However, the No Project Alternative would not improve the site from a land use or aesthetic perspective, and would not meet any of the Project objectives. Based on the foregoing, the Planning Commission finds this alternative socially infeasible and rejects the alternative on that basis.

The Planning Commission hereby finds that each of the reasons set forth above would be an independent ground for rejecting Alternative 1 as infeasible, and by itself, independent of any other reason, would justify rejection of Alternative 1 as infeasible.

B. ALTERNATIVE 2 – CODE COMPLYING DESIGN

1. Summary of Alternative

Under this alternative, the Project would involve a Code Complying Design, estimated to have about 79,478 square feet of building area and 34 vehicle service bays. This alternative would consist of two separate buildings, one on the corner parcel to replace the existing building, which would be three stories tall and a maximum of 45' plus a 42" parapet and stair tower, while the South Maple Drive parcel would contain a separate building to house parking uses only. That building would be three stories, and have a maximum height of 35 feet. The existing alley would be preserved. Loading would be provided via South Maple Drive on the Project site. Parking would be provided within the South Maple Drive Structure and/or within one level of subterranean parking (83 parking spaces).

2. Reasons for Rejecting Alternative: Infeasibility

Alternative 2 would reduce a number of environmental impacts, including impacts to aesthetics, traffic, air quality, hazards/hazardous materials, vibrations, water demand, wastewater generation, and solid waste generation. The Alternative would contribute less

traffic to area intersections, and operational emissions would be reduced by 41 percent due to the reduction in service bays. Since this Alternative would preserve the alley, it would avoid the significant but mitigable impact related to relocation of infrastructure within the alley. However, the smaller footprint of the main service building might require additional coordination for proper site access. Impacts to hazards and hazardous materials would be similar to the Project, although slightly reduced because excavation would be reduced given that only one level of subterranean parking would be required. Similarly, vibrations impacts would likely decrease due to the reduced need for excavation. Nonetheless, given the proximity of the sensitive receptors, groundborne vibrations likely would remain unavoidably significant. Mitigable impacts to cultural resources, geology, roadway-generated noise, as well as the mitigable operational noises, would be the same as under the proposed Project, and mitigation would still apply. Alternative 2 would be somewhat superior from a land use perspective because it would not require a map amendment to the Streets and Highways Master Plan, but it would still require the Applicant to obtain a Conditional Use Permit.

The following fundamental project objectives would not be met by Alternative 2:

- To build a new facility that will accommodate the present and future needs of the Applicant and better serve the needs of the community.
- To relocate the alley south of the present building so that all auto related services would be conducted within the building.
- To create viable, useful and revenue-generating development.
- To improve customer service and significant reduction of vehicle trips in and out of the premises for service sales and deliveries.
- To reduce congestion to the neighborhood, especially on Maple Drive and the surrounding neighborhood streets by elimination of many vehicle trips
- To provide appropriate parking for service vehicles, customer vehicles and inventory.

The following fundamental project objectives would have the potential to be partially realized by Alternative 2:

- To develop a modern facility on the same site to replace its current facility on the southwest corner of Maple Drive and Wilshire Boulevard.
- To contribute to the revitalization of the Wilshire Boulevard corridor.
- To contribute to and enhance the economic vitality of the area by the creation of a modern building to revitalize this area of Beverly Hills.

- To enhance the beauty of the local area by creating a landscaped area that will serve as a buffer between the proposed building and the R-4 residential property to the south of the Lexus property.

Although Alternative 2 would eliminate some of the environmental impacts as detailed above, it would fail to meet many of the project objectives including the relocation of the alley. This Alternative would not result in a viable development because with the reduced footprint of the Project, the Alternative would not allow for the consolidation imagined by the proposed Project. In addition, the fact that the Project would not consolidate the various customer-serving land uses would not improve customer service, substantially reduce vehicle trips in and out of the premises for service sales/deliveries, or reduce congestion in the neighborhood.

As such, this Alternative 2 is socially infeasible and would not provide the environmental benefits that result from consolidation of operational activities. The Planning Commission hereby rejects Alternative 2, finding that each of the reasons set forth above would be an independent ground for rejecting Alternative 2 as infeasible, and by itself, independent of any other reason, would justify rejection of Alternative 2 as infeasible.

C. ALTERNATIVE 3 – REDUCED PROJECT ALTERNATIVE

1. Summary of Alternative

Alternative 3 would involve an estimated 134,700 square feet and 66 service bays, compared to the proposed Project, which would have 193,641 square feet and 70 service bays. The building would have a maximum height of 45 feet (plus 42” parapet and height to top of stair tower of 59’) and would be four stories tall with rooftop parking. The building would have a footprint similar to the Project, including relocating the alley to lie between the southern edge of the building and the adjacent multi-family residential property at 121 South Maple Drive. This alternative would facilitate a pull-through loading design where trucks enter on South Maple Drive and exit on the western edge of the building to the alley. Parking would be provided on the rooftop and within one to three levels of a subterranean garage. This Alternative would include all parking onsite, including employee parking.

2. Reasons for Rejecting Alternative; Infeasibility

Like the Project, this Alternative would have less than significant impacts to aesthetics, air quality, geology, and land use. This Alternative would also have mitigable impacts on cultural resources, hazards and hazardous materials, public services/utilities, and temporary construction-related traffic, noise, and air quality impacts, like the Project. Since this Alternative includes relocation of the alley, it would have the same significant but mitigable impact related to relocation of infrastructure within the alley. Other traffic and noise impacts may be somewhat reduced as compared to the Project because this Alternative involves reduced massing and four fewer service bays than the Project. Unlike the Project, however, the Alternative would require truck loading to occur on South Maple Drive, contributing to an increase in traffic and noise in residential areas. In addition, the Alternative may involve additional excavation if a third level of subterranean parking is required to accommodate all of the necessary parking spaces, which could increase vibrations and extend the time duration of

the grading and excavation. Like the Project, impacts due to vibrations would be unavoidably significant. With respect to the residential sensitive receptors south of the Project site, this Alternative's noise impact would increase during operation, due to the need for truck loading on South Maple Drive instead of Wilshire Boulevard.

The following fundamental project objectives would not be met by this Alternative:

- To build a new facility that will accommodate the present and future needs of the Applicant and better serve the needs of the community.
- To provide appropriate parking for service vehicles, customer vehicles and inventory.

In addition, Alternative 3 would only partially meet a number of other Project objectives. While this alternative would reduce some impacts, it would result in an incremental increase in noise impacts to residential properties to the south as a result of the location of loading activities along South Maple Drive, rather than on Wilshire Boulevard. Moreover, this Alternative is technically infeasible because it includes the establishment of a multi-story parking structure on the South Maple Parcel, which cannot be constructed on that lot because of the City's requirements regarding drive aisle widths and parking stall dimensions. Thus, even though many of the environmental impacts appear to be lessened with this Alternative, it is rejected in light of the more impactful loading configuration and because it is socially and technically infeasible.

Because this Alternative will not meet the project objective of relocating the alley so that all auto-related services would be conducted within the building and because this Alternative is technically infeasible, the Planning Commission rejects it as infeasible. The Planning Commission hereby finds that each of the reasons set forth above would be an independent ground for rejecting Alternative 3 as infeasible by itself, and independent of any other reason would justify rejection of Alternative 3 as infeasible.

D. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Alternative 1, the No Project Alternative, would avoid all of the Project's impacts and therefore, it would be the environmentally superior alternative. CEQA Guidelines Section 15126.6(e)(2) requires that where the No Project Alternative is the environmentally superior alternative, another alternative should be identified that is environmentally superior. For this reason, Alternative 2 – Code Complying Design would be the environmentally superior alternative. However, this alternative would fail to realize many of the project objectives, including:

- To build a new facility that will accommodate the present and future needs of the Applicant and better serve the needs of the community.
- To relocate the alley south of the present building so that all auto related services would be conducted within the building.

- To create viable, useful and revenue-generating development.
- To improve customer service and significant reduction of vehicle trips in and out of the premises for service sales and deliveries.
- To reduce congestion to the neighborhood, especially on Maple Drive and the surrounding neighborhood streets by elimination of many vehicle trips.
- To provide appropriate parking for service vehicles, customer vehicles and inventory.

As the environmentally superior alternative fails to meet many of the project objectives, it is rejected as infeasible in favor of the proposed project.

EXHIBIT B

Statement of Overriding Considerations

The following Statement of Overriding Considerations is made in connection with the proposed approval of the Jim Falk Lexus Dealership Expansion Project (the "Project").

CEQA requires the decision-making agency to balance the economic, legal, social, technological or other benefits of a project against its unavoidable environmental risks when determining whether to approve a project. If the benefits of the project outweigh the unavoidable adverse effects, those effects may be considered acceptable. CEQA requires the agency to provide written findings supporting the specific reasons for considering a project acceptable when significant impacts are unavoidable. Such reasons must be based on substantial evidence in the EIR or elsewhere in the administrative record. The reasons for proceeding with this Project despite the adverse environmental impacts that may result are provided in this Statement of Overriding Considerations.

The Planning Commission finds that the economic, social and other benefits of the Project outweigh the significant and unavoidable effects identified in the Final EIR and the record of proceedings. In making this finding, the Planning Commission has balanced the benefits of the Project against its unavoidable impacts and has indicated its willingness to accept those adverse impacts. The Planning Commission finds that each one of the following benefits of the Project, independent of the other benefits, would warrant approval of the Project notwithstanding the unavoidable environmental impacts of the Project as identified in the Final EIR.

A. The Jim Falk Lexus Dealership Expansion Project will enhance the economic vitality of the Wilshire Boulevard corridor by adding a much-needed modern facility at the southwest corner of Maple Drive and Wilshire Boulevard.

B. By housing all auto-related services in one location, the Project would reduce trips to the dealership's other satellite parking and service locations, and reduce congestion in the neighborhood.

C. The Project would add landscaping between the new building on South Maple Drive and the multi-family residences to the south to create a buffer between the two uses.

D. The Project will relocate existing loading and unloading areas along Maple Drive that are relatively close to residential properties south of the project site to Wilshire Boulevard, which is an arterial roadway, thereby reducing commercial activity intrusions into the adjacent residential area to the south.

The Planning Commission finds that the foregoing benefits outweigh the identified significant adverse environmental impacts. The Planning Commission further finds that each of the individual Project benefits discussed above outweighs the unavoidable adverse environmental effects identified in the Final EIR and therefore finds those impacts to be acceptable. The Planning Commission further finds that each of the benefits listed above,

standing alone, is sufficient justification for the Planning Commission to override these unavoidable environmental impacts.

EXHIBIT C

Mitigation Monitoring and Reporting Program

Monitoring and Reporting Program

This document is the Mitigation Monitoring and Reporting Program (MMRP) for the Lexus Dealership Project, proposed in the City of Beverly Hills, California. Public Resources Code Section 21081.6(a) requires that a Lead Agency adopt an MMRP prior to approving a project in order to mitigate or avoid significant impacts that have been identified in an Environmental Impact Report. The purpose of the MMRP is to ensure that the required mitigation measures identified in the Environmental Impact Report are implemented as part of the overall project implementation. In addition to ensuring implementation of mitigation measures, the MMRP provides feedback to agency staff and decision-makers during project implementation, and identifies the need for enforcement action before irreversible environmental damage occurs.

The following table summarizes the mitigation measures for each issue area identified in the Environmental Impact Report for the Lexus Dealership Project. The table identifies each mitigation measure; the action required for the measure to be implemented; the time at which the monitoring is to occur; the monitoring frequency; and the agency or party responsible for ensuring that the monitoring is performed. In addition, the table includes columns for compliance verification. These columns will be filled out by the monitoring agency or party and would document monitoring compliance. Where an impact was identified to be less than significant, no mitigation measures were required.

This MMRP will be used by City staff or the City's consultant to determine compliance with permit conditions. Violations of these conditions may cause the City to revoke the operating permit.



Mitigation Measure/Condition of Approval	Responsible Party	Action Required	Monitoring Frequency	Compliance Verification		
				Initial	Date	Comments
CULTURAL RESOURCES						
CR-2(a)	Archeological/Paleontological Monitoring. In the event that a previously unknown artifact or fossil is uncovered during project construction, all work shall cease until a certified archaeologist and/or paleontologist can investigate the finds and make appropriate recommendations. Any artifacts uncovered shall be recorded and removed for storage at a location to be determined by the monitor.	Community Development Department	Field verification to confirm that work ceases and appropriate measures are taken if archaeological/paleontological resources are discovered.	Periodically during construction.		
CR-2(b)	Coroner Notification. If human remains are unearthed, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC). The NAHC will then identify the person(s) thought to be the Most Likely Descendent (MLD) of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains.	Community Development Department	Field verification to confirm that the Project complies with State Health and Safety Code Section 7050.5 if human remains are unearthed.	Periodically during construction.		
GEOLOGY						
GEO-2	Geotechnical Report. The project applicant shall implement all design considerations recommended in the geotechnical report, including the following: <ul style="list-style-type: none"> All demolition debris shall be removed and hauled from proposed grading areas prior to the start of grading operations. Any existing vegetation shall not be mixed or diced into the soils. Any removed soils may be reutilized as compacted fill once any deleterious material or oversized materials (in excess of eight inches) is removed. Grading operations shall be performed in accordance with the "Specifications for Compacted Fill Operations" on page 15 of the 	Community Development Department/ Building & Safety Division	Plan check and field verification to confirm that geotechnical recommendations are implemented.	Once prior to issuance of Building Permit and periodically during construction.		



Mitigation Measure/Condition of Approval	Responsible Party	Action Required	Monitoring Frequency	Compliance Verification		
				Initial	Date	Comments
<p>Norcal Engineering April 2, 2010 geotechnical report.</p> <ul style="list-style-type: none"> • All fill and/or disturbed top soils shall be removed to native material, the exposed surface scarified to a depth of 12 inches, brought to within 2% of optimum moisture content and compacted to a minimum of 90% of the laboratory standard prior to placement of any additional compacted fill soils, foundations, slabs-on-grade and pavement. • A diligent search shall be conducted during grading operations in an effort to uncover any underground structures, irrigation or utility lines. If encountered, these structures and lines shall be either removed or properly abandoned prior to construction. • Any imported fill material shall be similar to the upper soils encountered at the Project site. Imported soils utilized for the backfill of retaining walls shall consist of select sand material or approved gravel material. All soils shall be approved prior to importing at the site and shall be subject to additional laboratory testing. • Adequate drainage away from structures, pavement and slopes shall be provided at all times. • Temporary shoring design for the proposed subterranean garage shall utilize a trapezoidal pressure distribution. The final shoring structural calculations and drawings shall be reviewed prior to installation. • Temporary unsurcharged excavations above the vertical may be trimmed at a 1 to 1 gradient for an additional four feet. • All excavations shall be made in accordance with the requirements of CAL-OSHA and other public agencies with jurisdiction over the Project site. • All foundations shall be designed utilizing the allowable safe bearing capacities on page 9 of the geotechnical report dated April 2, 2010 for an embedded depth of 48 inches into competent native soils. • All continuous foundations shall be reinforced with a minimum of two No. 4 bars, top and bottom; isolated pad foundations shall be reinforced at the discretion of the Project structural engineer. • All concrete slabs-on-grade shall be at least four inches in office and sidewalk areas reinforced with a minimum of No. 3 bars, eighteen inches in each direction positioned mid-height in the slab and placed on approved subgrade soils. • A vapor retarder shall be utilized in areas which would be sensitive to the infiltration of moisture. • All pavement areas shall have positive drainage toward an approved outlet from the site. Drain lines behind curbs and/or adjacent to 						



Mitigation Measure/Condition of Approval	Responsible Party	Action Required	Monitoring Frequency	Compliance Verification		
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<p>landscape areas shall be considered by the applicant and the appropriate design engineers to prevent water from infiltrating beneath the pavement.</p> <ul style="list-style-type: none"> • Any approved base material shall consist of a Class II aggregate or equivalent and shall be compacted to a minimum of 95% relative compaction. • All pavement materials shall conform to the requirements set forth by the City of Beverly Hills. • The base material and asphaltic concrete shall be tested prior to delivery to the site and during placement to determine conformance with project specifications. • A pavement engineer shall designate the specific asphalt mix design to meet the required Project specifications. • Trenches from installation of utility lines and other excavations may be backfilled with on-site soils or approved imported soils compacted to a minimum of 90% relative compaction. • All utility lines shall be properly bedded with clean sand having a sand equivalency rating of 30 or more. This bedding material shall be thoroughly water jetted around the pipe structure prior to placement of compacted backfill soils. • A Type II cement according to the latest specifications shall be utilized for building foundations. • "Expansive Soil Guidelines" contained on page 17 of the geotechnical report shall be complied with during the design of the project and future property maintenance. The "Expansive Soil Guidelines" include the following requirements: <ul style="list-style-type: none"> • Maintain moisture contents at relatively constant levels, allowing neither excessive wetting or drying of soils. • Drainage away from structures and pavement • Strictly control irrigation around building foundations, slabs and pavement • Analyze planting schemes for landscaping around structures and pavement • Use thickened edges on exterior slabs to keep excessive moisture from entering directly beneath the concretes. Underlying interior and exterior slabs with 6-12 inches or more of non-expansive soils and presaturation of underlying clayey soils will improve the overall performance of on-grade slabs. • Increase the amount of steel reinforcing in concrete slabs, foundations and other structures to resist the forces of expansive 						



Mitigation Measure/Condition of Approval	Responsible Party	Action Required	Monitoring Frequency	Compliance Verification		
				Initial	Date	Comments
soils.						
HAZARDS AND HAZARDOUS MATERIALS						
HAZ-2(a)	<p>Soil Sampling. At the time of vacancy and prior to demolition, soil sampling shall be conducted adjacent to the drains, drain lines, clarifier. Soil samples shall also be collected at various locations throughout the site and within any unpaved planter areas onsite. The soil samples shall be analyzed for the following: TPH, VOCs, SVOCs, metals and asbestos. If contaminated soil is identified, and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, any required remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by a regulatory oversight agency such as the County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.</p>	Community Development Department/ Building and Safety Division.	Review and approval of clearance documentation regarding soil sampling and remediation.	Prior to issuance of a grading or building permit		
	<p>HAZ-2(b) Geophysical Survey. At the time of vacancy and prior to demolition, a geophysical survey of the Project site shall be conducted to determine whether there is potential for any as-yet undiscovered underground storage tanks. If any large metal anomalies are discovered at the time of site clearance, but prior to issuance of a grading permit, a backhoe shall be used to uncover the anomaly.</p> <p>If the anomaly is a tank, it shall be removed and properly disposed at a licensed disposal facility. The removal of a UST in Los Angeles County shall be conducted in accordance with County of Los Angeles Department of Public Works (LACDPW) UST Program. Removal of a UST shall include soil sampling beneath the UST. The soil samples shall be analyzed pursuant to the tank removal permit requirements. If contaminated soil is identified and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the LACDPW UST Program. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading</p>	Community Development Department/ Building and Safety Division.	Review and approval of clearance documentation regarding geophysical survey.	Prior to issuance of a grading or building permit		



Mitigation Measure/Condition of Approval	Responsible Party	Action Required	Monitoring Frequency	Compliance Verification		
				Initial	Date	Comments
<p>or building permits.</p> <p>If hydraulic pistons are found, they shall be removed and properly disposed at a licensed facility. The removal of hydraulic pistons shall be conducted in accordance with applicable regulations under the guidance of a Professional Civil Engineer or Professional Geologist. Removal of hydraulic pistons could include soil sampling around the hydraulic pistons. If contaminated soil is identified, and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, any required remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by a regulatory oversight agency such as the County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.</p>						
<p>HAZ-2(c) Excavation and Demolition Contingency Plans. The developer shall prepare a contingency plan for all excavation and demolition projects conducted within the Project area to be implemented in the event that contaminants or structural features not previously identified are suspected or discovered. The contingency plan shall identify appropriate measures to be followed if contaminants are found or suspected. The appropriate measures shall identify personnel to be notified, emergency contacts, and a sampling protocol. The excavation and demolition contractors shall be made aware of the possibility of encountering unknown hazardous materials, and shall be provided with appropriate contact and notification information. The contingency plan shall include a provision stating at what point it is safe to continue with the excavation or demolition, and identify the person authorized to make that determination.</p>	Community Development Department/ Building and Safety Division.	Review and approval of excavation and demolition contingency plans.	Prior to issuance of a grading permit			
<p>HAZ-2(d) Groundwater Sampling. If, during the soil sampling required above under Measure HAZ-2(a), groundwater contamination is suspected, or if soil contamination is detected at depths at or greater than 30 feet below grade, the developer shall perform a groundwater sampling assessment. If contaminants are detected in groundwater at levels that exceed maximum contaminant levels for those constituents in drinking water, then the results of the groundwater sampling shall be forwarded to</p>	Community Development Department/ Building and Safety Division.	Approval of clearance documentation regarding groundwater sampling.	Prior to issuance of a grading or building permit			



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	the appropriate regulatory agency (County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control). The agency shall review the data and sign off on the property or determine if any additional investigation or remedial activities are deemed necessary. The developer shall submit all correspondence to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.						
PUBLIC SERVICES AND UTILITIES							
PSU-4	Wastewater Conveyance Upgrade. If the City Engineer determines that infrastructure upgrades are necessary, the Applicant shall pay a "fair share" of the cost of the upgrade as determined by the City of Beverly Hills in association with the City of Los Angeles. Payment for this upgrade shall be made prior to the issuance of a building permit.	City Engineer	Confirmation that the applicant pays a fair share of the cost of necessary infrastructure upgrades.	Once prior to issuance of a building permit.			
TRAFFIC AND CIRCULATION							
T-6(a)	Relocation of water line. Relocation of the water line that would be required due to the proposed alley relocation shall be approved by the City of Beverly Hills Water Utilities Division. The sewer line in the proposed alley relocation shall be Closed Circuit TV'd (CCTV) to verify existing connections prior to relocating the line. This work shall be performed according to City standards and shall be paid for by the applicant.	City Water Utilities Division	Plan check to confirm that relocation is acceptable pursuant to City standards.	Once prior to issuance of a building permit.			
T-6(b)	Contacting Utility Companies. The applicant shall contact utility companies to arrange for the relocation of their utilities prior to commencing the relocation process.	Community Development Department	Confirm that the applicant contacts utility companies to arrange for relocation of utilities.	Once prior to issuance of a building permit.			
T-6(c)	Alley Relocation. The alley shall be designed to permit vehicular and pedestrian traffic and to contain the relocated utilities with the City retaining ownership. To ensure adequate alley operations, EITHER additional right of way (not less than 2.5 feet) shall be obtained from the adjacent property owner (Nessah Property) adjacent to both the north/south and east/west alleys, to ensure passage of trucks pursuant to the recommendations of the alley closure study, subject to review and	Public Works Department Transportation Division	Plan check to confirm that alley is designed appropriately or that "no truck access" signs	Once prior to issuance of a building permit.			



Mitigation Measure/Condition of Approval	Responsible Party	Action Required	Monitoring Frequency	Compliance Verification		
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approval by the City Department of Public Works Transportation Division, OR signs shall be posted at the entrances to the east-west and north-south alleys indicating "No Truck Access". The ultimate design is subject to review and approval by the City Department of Public Works Transportation Division.		are planned to be installed.				
CONSTRUCTION EFFECTS						
CON-2 (a)	Heavy Truck Restrictions. The construction contractor shall prohibit off-site heavy truck activities in local residential areas.	Community Development Department/ Building and Safety Division	Field verification to confirm that contractor prohibits off-site trucks in residential areas.	Periodically during construction.		
CON-2 (b)	Staging Area. The construction contractor shall provide staging areas onsite to the extent feasible to minimize off-site transportation of heavy construction equipment. The distance between staging areas and sensitive receptors shall be maximized to reduce noise levels associated with idling construction equipment.	Community Development Department/ Building and Safety Division	Field verification to confirm that staging areas are onsite to the extent feasible and that staging areas are located at a distance from sensitive receptors.	Periodically during construction.		
CON-2 (c)	Diesel Equipment Mufflers. All diesel equipment shall be operated with closed engine doors and shall be equipped with factory recommended mufflers.	Community Development Department/ Building and Safety Division	Field verification to confirm that diesel equipment is operated with closed engine doors and equipped with factory recommended mufflers.	Periodically during construction.		



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<p>CON-2 (d) Electrically-Powered Tools and Facilities. Electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.</p>	Community Development Department/ Building and Safety Division	Field verification to confirm that electrical power is used to run power tools and power any temporary structures.	Periodically during construction.			
<p>CON-2 (e) Additional Noise Attenuation Techniques. For all noise generating construction activity on the Project site, additional noise attenuation techniques shall be employed as necessary to reduce noise levels to 78.8 dBA. Such techniques shall include the use of sound blankets on noise generating equipment and the construction of temporary sound barriers between construction sites and nearby sensitive receptors in order to ensure that noise levels at nearby sensitive receptors do not exceed 78.8 dBA. The contractor shall perform at least one noise measurement at each of the nearest sensitive uses during excavation and foundation/conditioning work to confirm that the noise attenuation techniques are reducing the noise levels sufficiently. If sufficient attenuation is not being achieved, the contractor shall cease work and consult the City on additional noise attenuation techniques such as reducing the number of machines operating at one time, larger temporary barriers, or thicker sound blankets.</p>	Community Development Department/ Building and Safety Division	Field verification to confirm that noise attenuation techniques are implemented.	Periodically during construction.			
<p>CON-4(a) Fugitive Dust Control. The following shall be implemented during construction to minimize fugitive dust emissions:</p> <ul style="list-style-type: none"> •Water trucks shall be used during construction to keep all areas of vehicle movements damp enough to prevent dust from leaving the site. At a minimum, this will require three daily applications (once in morning, once at midday and once at the end of the workday). Increased watering is required whenever wind speed exceeds 15 mph. Grading shall be suspended if wind gusts exceed 25 mph. •Soil with 5% or greater silt content that is stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting material shall be tarped from the point of origin or shall maintain at least two feet of freeboard. •All material excavated or graded shall be treated with soil binders or shall be sufficiently watered at least twice daily with complete coverage, preferably in the late morning and after work is done for the day. 	Community Development Department/ Building and Safety Division	Field verification to confirm that fugitive dust control measures are implemented.	Periodically during construction.			



Mitigation Measure/Condition of Approval	Responsible Party	Action Required	Monitoring Frequency	Compliance Verification		
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<p>All clearing, grading, earth moving, or excavation activities shall cease during periods of high winds (i.e., greater than 20 mph averaged over one hour) so as to prevent excessive amounts of dust.</p> <p>All material transported off-site shall be securely covered to prevent excessive amounts of dust.</p> <p>All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted in a prominent and visible location at the construction site, and shall be maintained throughout the construction process. All notices and the signs shall indicate the dates and duration of construction activities, as well as provide a telephone number (capable of receiving calls 24 hours a day, seven days a week) where residents can inquire about the construction process and register complaints.</p> <p>Visible dust beyond the property line emanating from the project shall be prevented to the maximum extent feasible.</p> <p>These control techniques shall be indicated in project specifications. Compliance with the measure shall be subject to periodic site inspections by the City.</p>						
<p>CON-4(b) Ozone Precursor Control. The following shall be implemented during construction to minimize emissions from construction equipment:</p> <p>Equipment engines shall be maintained in good condition and in proper tune per manufacturer's specifications;</p> <p>New technologies shall be utilized to control ozone precursor emissions as they become available.</p> <p>To the maximum extent feasible, diesel oxidation catalysts and particulate filters shall be installed on all on- and off- road construction vehicles.</p>	Community Development Department/ Building and Safety Division	Field verification to confirm that ozone control measures are implemented during construction.	Periodically during construction.			



STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF BEVERLY HILLS)

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1622 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on October 27, 2011, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Furie, Cole, Vice Chair Corman, and Chair Yukelson.

NOES: None.

ABSENT: None.

RECUSED: Commissioner Rosenstein.



JONATHAN LAIT, AICP
Secretary of the Planning Commission /
City Planner
City of Beverly Hills, California

ATTACHMENT 3
PLANNING COMMISSION RESOLUTION No. 1623
(CUP RESOLUTION)

RESOLUTION NO. 1623

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT, AND RECOMMENDING APPROVAL OF AN ENCROACHMENT PERMIT AND ALLEY VACATION TO ALLOW THE DEMOLITION OF THE EXISTING JIM FALK LEXUS DEALERSHIP AND CONSTRUCTION OF A NEW DEALERSHIP ON THE PROPERTY LOCATED AT 9230 WILSHIRE BOULEVARD.

The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. Jim Falk Lexus, through its agent Mitch Dawson, has submitted an application to allow the demolition of the existing dealership, including existing improvements on three parcels, with subsequent construction of a new dealership (the "Project"). The proposed new automobile dealership will contain a combined total of approximately 29,165 square feet of showroom and office space within the first and second levels, approximately 82,286 square feet of vehicle parking and circulation areas within levels one through four, and approximately 56,768 square feet of subterranean vehicle service areas (70 service bays in total). The proposed new building would be approximately 45-feet to the roof level, 48-feet 6-inches to the top of the parapet and 59-feet to the top of the stair tower. The project proposes 350 parking spaces, some of which are in a stacked/tandem configuration. While 117 of the parking spaces would be utilized to satisfy the City's zoning code requirement for sales and office areas, the remainder of the parking spaces would be utilized for automobile storage. In addition, 100 additional parking spaces would be secured at an off-site location within 1/3 of a mile of the project site for use by employees.

Section 2. The Project site is located at the southwest corner of the intersection of Wilshire Boulevard and South Maple Drive. The Wilshire Boulevard portion of the site houses the primary existing Lexus dealership operations and is currently zoned for general commercial (C-3) uses. The parcel on South Maple Drive, south of the existing building across the alley is currently utilized by the dealership for vehicle storage/surface parking and is zoned for multiple-family residential (R-4) uses, which also permits parking related to commercial uses fronting on Wilshire Boulevard. The parcels are currently bisected by an approximately 1,822 square foot portion of the east/west alley that connects South Rexford Drive to South Maple Drive. The portion of the alley that bisects the Project site is proposed to be relocated as a part of the Project. The entire building site, including the proposed alley area is approximately 32,643 square feet. Proposed hours of operation for the Dealership are as follows:

Service Department: Monday through Friday, 7 AM to 8 PM; Saturday, 7 AM to 6 PM.

Sales Department: Monday through Friday, 9 AM to 9PM; Saturday, 9 AM to 8 PM; and Sunday, 10 AM to 7 PM.

Section 3. The request to demolish the existing automobile dealership and construct a new automobile dealership results in the need for specific entitlements as follows:

1. Zone Text Amendment;
 - a. The Project includes a request to exclude above-ground automobile dealership parking areas and 50% of subterranean service areas from the definition of Floor Area. With such an amendment the

Project would comply with the FAR limitations in the C-3 zone. The amendment would also exclude 50% of the automobile service areas from counting toward the required number of parking spaces for the project because vehicles are stored in the service bays while being repaired.

- b. The Project includes a request to allow automobile dealerships to provide stacked/tandem parking for the purpose of complying with parking requirements. The amendment would allow the Project to provide the appropriate number of on-site parking spaces needed to accommodate sales, service, and vehicle storage.
2. Conditional Use Permit (CUP) to allow the operation of an automobile dealership;
 3. Alley Vacation/Amendment to Streets and Highways Master Plan to relocate an existing alley segment; and
 4. Encroachment Permit to allow loading operations to occur on public property, along Wilshire Boulevard.

Section 4. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City’s environmental guidelines. The City prepared an Initial Study and, based on the information contained in the Initial Study, concluded that there was substantial

evidence that the Project may have a significant environmental impact on several specifically identified resources. Pursuant to Guidelines Sections 15064 and 15081, and based upon the information contained in the Initial Study, the City ordered the preparation of an EIR for the Project to analyze the Project's potential impacts on the environment. A Draft Environmental Impact Report (DEIR) was prepared and circulated for public review and comment, and a Final Environmental Impact Report (FEIR) was reviewed by the Planning Commission and certified under Planning Commission Resolution No. 1622.

Section 5. Notices of the Project and the various public hearings held concerning the Project were posted in two newspapers of local circulation and were mailed on September 3, 2010, December 3, 2010, and September 15, 2011 to all property owners and residential tenants within a 300-foot radius of the property. Written and oral comments were received during the public hearings, both in support and opposition of the Project, and were made a part of the record. Responses to comments are also provided in the FEIR.

Section 6. The Planning Commission conducted public hearings for the Project on September 16, 2010, December 16, 2010, September 26, 2011, and a continued public hearing on October 27, 2011. Additionally, the Planning Commission formed a subcommittee consisting of two Commissioners (Furie and Yukelson) to assist in reviewing the Project. Based on comments received at the public hearings and from the subcommittee, the following revisions have been made to the Project:

1. The Project height was reduced to a code-compliant height of 45 feet;

2. All 70 service bays were relocated to be fully contained within two subterranean levels of the Project;
3. Additional parking spaces were added to the Project, for a total of 350 on-site parking spaces;
4. The loading zone was moved from South Maple Drive to Wilshire Boulevard in order to provide greater separation between commercial operations and residential uses to the south of the Project site;
5. A traffic signal was added to the Wilshire Boulevard/Maple Drive intersection in order to facilitate turning movements to and from the Project; and
6. A physical barrier was added to South Maple Drive in order to prevent vehicles traveling northbound on South Maple Drive from turning left into the Project site. This modification discourages vehicles from utilizing the residential portions of South Maple Drive for dealership access by precluding direct access to northbound traffic.

Section 7. In considering the request for a Conditional Use Permit, the Planning Commission may approve the Conditional Use Permit if the Commission finds as follows:

1. The proposed location of any such use will not be detrimental to adjacent property or to the public welfare.

Section 8. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the Conditional Use Permit (CUP):

The existing dealership predates the City's current code requirement that a CUP be obtained in order to operate an automobile dealership, and is therefore able to operate as a legally nonconforming use. Because the dealership is considered to be legally nonconforming, there are no specific conditions of approval that regulate the dealership's current operations, including but not limited to activities such as loading, servicing of vehicles, employee parking, test drives, and turning movements for vehicles entering and exiting the dealership. Consequently, there are instances when the operations of the existing dealership adversely impact the surrounding residential uses. Approval of the CUP allows project-specific conditions to be imposed on the dealership, which serve to appropriately control dealership operations and prevent adverse impacts in the surrounding residential and commercial neighborhoods.

The Project includes several circulation-related improvements such as installation of a traffic signal at the Wilshire Boulevard/Maple Drive intersection that will improve turning movements for vehicles associated with dealership operations, and also includes turn restrictions for vehicles entering and exiting the dealership. These Project improvements discourage dealership-related vehicles from using the residential portions of South Maple Drive for direct dealership ingress/egress and eliminate the existing dealership-related circulation issues that impact the surrounding residential properties. Additionally, the Project provides all service bays within subterranean levels of the structure to prevent noise intrusion into the surrounding neighborhood. Therefore, based on the forgoing discussion, and as conditioned, the Project is not anticipated to be detrimental to adjacent property or the public welfare, and is instead anticipated to benefit the public welfare by improving the interface between the dealership and the residential neighborhood to the south, and maintaining/improving an important revenue generator for the City.

Section 9. In considering the request for alley vacation, the Planning Commission may recommend that the City Council approve the vacation if the Commission finds as follows:

1. The proposed alley vacation is consistent with the General Plan.

Section 10. Based on the foregoing, the Planning Commission hereby finds and determines as follows regarding the alley vacation:

The alley vacation furthers the goals and policies of the City by allowing the City to retain and enhance an important commercial asset while providing sufficient access and circulation in and around existing and future developments. Specifically, vacation of the existing 15-foot wide alley and replacement with a new 20-foot wide alley is consistent with General Plan Policy LU 5.6, which states:

“Alleys. Maintain existing neighborhood alleys as alternate, safe, well maintained access points to homes that also reduce curb cuts, driveways, and associated pedestrian-automobile conflicts.”

The Project provides a new, wider alley as a replacement to the existing alley, and thus maintains the City’s alley system as an alternate, safe, well maintained access point to properties. Additionally, the proposed vacation is consistent with General Plan Policy CIR 11.2c, which states:

“In commercial areas, however, there is the additional concern for alley relocation and/or closure, which may be desirable in conjunction with specific development proposals. As important as they are, the existence of the alleys should not preclude consideration of proposals which would alter them if satisfactory alternate services would be provided. In certain instances,

development proposals which would utilize the alley may provide a type or quality of development or access which better serves the City's objectives and as such, should be considered. Such development proposals might include alley closure which would permit unified development across an entire block or permit safer street access, or use of the alley as part of a landscaped pedestrian plaza or mall, or relocation of an alley of a more functional arrangement of structures or possible consideration of the space above or below the alley for parking purposes."

The dealership is a desirable project for the City for the reasons outlined above, and a satisfactory alternative including relocation of the alley to allow a more functional arrangement of the proposed Project is being provided in the form of a wider replacement alley at the southern portion of the Project, which ties into the City's existing alley system and provides sufficient space for larger vehicle turning movements.

Section 11. Based on the foregoing, the Planning Commission hereby grants the requested CUP and recommends approval of the alley vacation and encroachment permit, subject to the following conditions:

GENERAL AND DESIGN-RELATED CONDITIONS:

1. The approvals to construct a new automobile dealership shall not become effective unless and until the proposed Zone Text Amendment regarding Floor Area and parking standards for automobile dealerships, alley vacation, and encroachment permit for loading purposes have been adopted by the City Council and have taken effect.
2. In the event of any court action or proceeding challenging the approval of this resolution or otherwise challenging the Project, or the environmental review

conducted in conjunction with this Project, the Applicant shall defend, at its own expense, the action or proceeding. In addition, the Applicant shall reimburse the City for the City's cost of defending any such court action or proceeding. The Applicant shall also pay any award of costs, expenses and fees that the court having jurisdiction over such challenge makes in favor of any challenger and against the City. The Applicant shall cooperate with the City in any such defense as the City may reasonably request and may not resolve such challenge without the agreement of the City. In the event the Applicant fails or refuses to reimburse the City for its cost to defend any challenge to the approval of this conditional use permit, the Project, or the environmental review conducted in conjunction with this Project, the City shall have the right, among other remedies, to revoke this conditional use permit approval.

In order to ensure compliance with this condition, within twenty (20) days after notification by the City of the filing of any claim, action or proceeding to attack, set aside, void or annul the approval of this conditional use permit or the Project, the Applicant shall deposit with the City cash or other security in the amount of seventy five thousand dollars (\$75,000), satisfactory in form to the City Attorney, guaranteeing indemnification or reimbursement to the City of all costs related to any action triggering the obligations of this condition. If the City is required to draw on that cash or security to indemnify or reimburse itself for such costs, the Applicant shall restore the deposit to its original amount within thirty (30) days after notice from the City. Additionally, if at any time the City Attorney determines that an additional deposit or additional security up to an additional fifty thousand dollars (\$50,000.00) is necessary to secure the obligations of this section, the Applicant shall provide such

additional security within thirty (30) days of notice from the City Attorney. The City shall promptly notify the Applicant of any claim, action or proceeding within the scope of this condition.

3. The Project shall be constructed and operated in substantial conformance with all adopted environmental mitigation measures and/or conditions of approval, incorporated herein by this reference, any written project proposal information and any verbal agreements or representations made to the decision making body as part of its consideration of the Project. Minor amendments to the Project shall be subject to review and may be approved by the Director of Community Development or his/her designee. In the event that the Director of Community Development determines that Project amendments are individually or cumulatively significant, such amendments shall be subject to review by the Planning Commission.
4. The Applicant shall submit an affidavit to the Director of Community Development on an annual basis attesting to the fact that the dealership is operating in compliance with all conditions set forth herein. For the purposes of this condition, annual shall mean each year on the anniversary of the issuance of the certificate of occupancy for the Project.
5. The Planning Commission expressly reserves jurisdiction relative to traffic and parking issues and the right to impose additional conditions as necessary to mitigate any other unanticipated impacts caused by the proposed Project as they arise. In the event that the Project is found to result in any unanticipated impacts and a hearing is scheduled to review the Project, the full cost of the review hearing and

implementation of any additional conditions or mitigation measures shall be paid for by the Applicant.

6. The conditions of approval set forth in this resolution are specifically tailored to address the operation of Jim Falk Lexus as presented to and approved by the Planning Commission. To ensure that any subsequent automobile dealerships operated at the subject site do not cause adverse impacts to the surrounding neighborhoods, any transfer of ownership, management, or control of the dealership shall be reviewed by the Director of Community Development to determine whether the proposed change substantially conforms to the Project approved by the Planning Commission. If the Director determines that the proposed change does not substantially conform to the approved Project, the Director shall schedule a hearing before the Planning Commission in accordance with the provisions of Section 10-3-3803 of the Beverly Hills Municipal Code. The Planning Commission expressly reserves jurisdiction at said hearing to revoke the CUP or to impose additional conditions as necessary to ensure that the operation of a subsequent dealership at the subject site is compatible with adjacent land uses. The full cost of any such review hearing and implementation of any additional conditions or mitigation measures shall be paid for by the Applicant.
7. Prior to the issuance of a certificate of occupancy and subject to the satisfaction of the Director of Community Development, all drive aisles and parking ramps within the Project shall be constructed of concrete with a rotary finish to prevent possible tire noise associated with vehicle movements within the parking areas.
8. All portions of the Project located within an R-4 zoning designation shall be used solely for the purpose of customer/employee parking and vehicle circulation.

Pursuant to BHMC §10-3-3719 F. the portions of the Project located within an R-4 zoning designation shall not be used for the sale or servicing of automobiles, the sale or storage of goods, wares, or merchandise, or for the storage of new or used automobiles being offered for sale or lease.

9. The Project shall be built in compliance with BHMC §10-3-3719 H. regarding screening of vehicles within parking structures constructed on properties with R-4 zoning designations.
10. The south side of the structure (adjacent to residential uses) shall be greened with landscaping subject to review and approval by the Architectural Commission.
11. All rooftop lighting shall be set on a timer to automatically turn on at sunset and off at the close of business each day, shall be shielded from residential uses, and the location and intensity of the lighting shall be designed to meet, but not exceed, minimum building code requirements. To the extent permitted by the building code, rooftop lighting shall be located below the height of the rooftop parapet. In the event that all building code required lighting cannot be located below the height of the parapet, light standards shall be limited to a maximum height of 10 feet. All other exterior lighting not located on a rooftop shall be shielded from residential areas.
12. With the exception of specific employees designated by the dealership (not to exceed 15 employees), all dealership employees shall be required to park at an off-site location. The availability of a minimum of 100 off-site employee parking spaces shall be demonstrated through a lease agreement that the Applicant shall submit to the Director of Community Development prior to the issuance of a certificate of occupancy and annually thereafter. For the purposes of this condition, annual shall

mean each year on the anniversary of the issuance of the certificate of occupancy for the Project. If at any time the Applicant is notified that rights to any off-site parking required by this condition are no longer available or will become unavailable due to termination or non-renewal of a lease, the Applicant shall provide written notice to the Director of Community Development of the loss of parking and submit evidence of replacement parking within five working days of the loss of the parking. If the Applicant is unable to immediately secure replacement parking, the Applicant shall pay a prorated monthly fine to the city for each off-site parking space lost that is equal to the highest monthly rate for a parking space charged by the City. The fine shall be paid until such time that replacement parking is obtained. Fines shall be paid no later than the first business day of each month following a month during which the Applicant is unable to provide required off-site parking. If after three months the Applicant has not submitted evidence of a replacement lease or leases satisfying the off-site parking required by this condition, a review of, and possible amendment to or termination of, the Conditional Use Permit shall be scheduled before the Planning Commission at the Applicant's expense. All employee parking spaces shall be made available to employees at no charge, and shall be located within one-half of a mile of the Project site.

13. Acoustic paneling, for the purpose of reducing noise from the service areas, shall be applied to the walls and ceiling of the vehicle ramp and drive aisle leading from the first floor of the Project to the first basement level housing service operations.

OPERATIONAL CONDITIONS:

14. The hours of operation for the dealership's service department shall be limited to 7:00 AM to 8:00 PM Monday through Friday, and 7:00 AM to 6:00 PM on Saturday. No service shall be performed on Sundays. The hours of operation for the dealership's sales department shall be limited to 9:00 AM to 9:00 PM Monday through Friday, 9:00 AM to 8:00 PM on Saturday, and 10:00 AM to 7:00 PM on Sunday. The hours of operation of the dealership's parking areas on the 3rd, 4th, and rooftop levels of the Project shall not exceed the maximum limits of the operating hours permitted in this condition. This condition shall not prevent the dealership from assisting customers beyond the operating hours outlined above, provided that said customer entered the dealership prior to the close of business.
15. No public address systems shall be utilized by the automobile dealership unless such system is inaudible beyond the property boundaries.
16. To the extent permitted under the law, the Project site shall be the Applicant's principal place of business and shall be the point-of-sale for the purpose of collecting any sales tax on vehicles or goods that are sold, delivered, leased or rented by the Applicant.
17. All vehicles awaiting service or having already been serviced shall be stored on-site.
18. A minimum of 7 parking spaces, immediately adjacent to a drive aisle, shall remain open and available for use when jockeying vehicles in tandem parking spaces. The 7 parking spaces shall be distributed between the top 3 levels of the parking garage, providing 2 parking spaces within each of levels 3 and 4, and 3 parking spaces on the rooftop. The designated parking spaces shall not be used for any other purpose.

19. Alley access doors shall be designed to operate at a noise level that does not exceed 65 decibels or the City's noise ordinance, whichever is more restrictive.
20. Alley access to and from the Project shall be limited to use by mechanics test driving vehicles that are being serviced, customers test driving vehicles for purchase or lease, and the individual delivery of a disabled or dealer-traded vehicle being dropped off by tow truck or flatbed truck. Vehicle test drives that occur after sunset shall not use the alley points of egress, and shall instead use the dealership's primary driveway on South Maple Drive. Additionally, subject to review and approval by the Director of Public Works, a stop sign, mirrors, and warning lights shall be installed within the Project at each alley egress point. Mirrors shall be installed at all internal turns/ramps within the Project.
21. The west-facing building opening that provides access to the alley from the subterranean service areas shall be permitted to remain open during the approved vehicle servicing hours outlined in this resolution, but not after sunset, and shall remain closed at all other times. The south-facing building opening that provides access to the alley from the above-ground vehicle storage areas shall remain closed at all times when not facilitating individual vehicle test drives as permitted in Condition 20 above. Neither opening, and no part of the alley, shall be used to directly move any vehicle from one part of the dealership to another; all such vehicle movements shall occur entirely inside the dealership.
22. Except as otherwise provided in this resolution, all non-vehicle deliveries shall occur within the designated loading area on Wilshire Boulevard. No other streets or rights-of-way shall be used for such purposes.

23. Loading or unloading operations associated with the dealership shall be prohibited outside the hours of 7:00 AM to 10:00 PM daily. Additionally, no loading or unloading of new or used vehicles on vehicle transport trucks shall be permitted anywhere on or adjacent to the Project site. This condition shall not preclude the delivery of an individual disabled or dealer-traded vehicle by tow truck or flatbed truck.
24. Prior to the issuance of a certificate of occupancy the Applicant shall prepare, and receive approval of, a test drive route to be used by customers and/or dealership employees. The test drive route shall be subject to review and approval by the Director of Community Development and the Director of Public Works, and no test drives shall be permitted on any local or residential streets or street segments.
25. The perimeter of the rooftop parking areas facing Wilshire Boulevard and South Maple Drive shall be used exclusively for the storage of vehicles that are 60 inches or less in height. Vehicles exceeding 60 inches in height shall be stored elsewhere on the Project site. The Director of Community Development shall have the authority to modify this condition if it can be demonstrated that taller vehicles will not be visible from the public rights-of-way or adjacent properties.
26. Except as expressly required by law, dealership employees shall be prohibited from parking on City streets. The Applicant shall actively discourage vendors and other vehicles associated with or doing business with the dealership or its employees from parking on City Streets.
27. All vehicle servicing shall be conducted in the two subterranean levels of the Project. Vehicle servicing shall not occur within any of the above-ground levels.

28. During the first 6 months of dealership operation (from the date of issuance of a certificate of occupancy), an employee of the dealership shall be positioned at the driveway entrance/exit between the hours of 7:00 AM and 11:00 AM and shall direct vehicles as to the proper turn movements as conditioned herein. Additionally, the dealership's website shall provide information on how to properly access the site by avoiding travel on residential streets, and employees shall also provide proper guidance when setting appointments for customers over the phone.
29. The exit from the Project site to South Maple Drive shall be configured to allow exiting only from the southernmost vehicle lane in the building.
30. All customers of the dealership shall be provided with free valet parking.
31. All trash storage and recycling areas shall be incorporated into the interior design of the Project, and shall only be removed from the structure for the purpose of collection.
32. At all times the dealership shall operate in compliance with the City's noise ordinance and the noise study presented to the Planning Commission during the public hearing process.
33. At the close of business each day, an employee(s) of the dealership shall walk the perimeter of the Project site and collect and dispose of any trash or debris that may be present on adjacent sidewalks or the alley, regardless of whether said trash or debris was generated by the dealership.
34. Employees shall be prohibited from congregating outside the dealership, and shall be prohibited from eating, drinking, or smoking in the alley and other public rights-of-way.

35. Lunch trucks/catering trucks shall be directed by the dealership to park only in the loading zone on Wilshire Boulevard. Dealership employees shall be prohibited from patronizing any such truck that is parked on a residential street or in an alley.

PUBLIC WORKS/RIGHT-OF-WAY CONDITIONS:

36. Prior to the issuance of a demolition permit for the existing dealership, a new, 20-foot wide alley shall be constructed, dedicated to the City, and open for vehicular circulation in accordance with the approved plans and all applicable City standards. The full cost of alley design, construction, and dedication shall be paid for by the Applicant.

37. The existing alley to be vacated shall not be abandoned or closed to vehicular circulation unless and until the proposed new alley has been constructed and is operational.

38. Vacation of the alley south of Wilshire Boulevard between Maple Drive and the alley west of Maple Drive shall be conducted in accordance with the Streets and Highways Code Section 8300 et seq.

39. Vehicles traveling northbound on South Maple Drive shall be prohibited from turning left into the Project site. Such left turns shall be restricted through the installation of signage and a physical barrier, which shall be reviewed and approved by the Director of Public Works prior to the issuance of building permits. Installation of the signage and barrier shall be completed prior to the issuance of a certificate of occupancy, and all costs associated with the design and installation of the signs and barrier shall be paid for by the Applicant. Furthermore, all costs associated with the repair and maintenance of the signs and barrier shall be paid for by the Applicant for the first 5

years (from the date of issuance of a certificate of occupancy) of dealership operation. After such time period has passed, repair and maintenance of said signs and barrier shall be the responsibility of the City. The Applicant shall deposit a sufficient amount of funds with the City, as calculated by the Director of Public Works, to pay the abovementioned costs. The required deposit shall be made prior to the issuance of a building permit.

40. Vehicles exiting the dealership shall be prohibited from turning right onto South Maple Drive. Signage, subject to review and approval by the Director of Public Works, shall be installed prior to the issuance of a certificate of occupancy at the driveway exit to inform vehicles that right turns are prohibited, and an angled curb shall be installed to further discourage right turns onto South Maple Drive. All costs associated with the design, installation, repair and maintenance of the signs and curb shall be paid for by the Applicant.
41. Prior to the issuance of a certificate of occupancy, the routes used to transport vehicles to or from the Project site, including individual cars and larger vehicles transporting multiple vehicles, shall be subject to review and approval by the Director of Public Works.
42. Prior to the issuance of a certificate of occupancy a loading zone shall be constructed along Wilshire Boulevard. The Loading zone shall be a minimum of 11 feet clear in width measured from the alignment of the existing curb face, and a minimum of 95 feet in total length. The near transition shall be a minimum of 15 feet in length, the far transition a minimum of 25 feet in length, and a minimum of 55 feet in length for the full-width loading area. The Director of Community Development, in

consultation with the Director of Public Works, shall have the authority to increase or decrease the length of the loading zone by up to 10%. All costs associated with the design and construction of the loading zone shall be paid for by the Applicant.

43. Prior to the issuance of a certificate of occupancy the sidewalk along Wilshire Boulevard and adjacent to the Project shall be constructed and maintained at a minimum width of 5 feet clear, measured from the face of the curb, and a minimum vertical dimension of 8 feet clear, measured from the finished elevation of the sidewalk. No projections or obstacles are permitted within the abovementioned sidewalk area. This includes but is not limited to building columns, architectural elements, veneers, and doors. All costs associated with the design and construction of the sidewalk shall be paid for by the Applicant.
44. Prior to the issuance of a certificate of occupancy a surface easement shall be granted to the City for any areas of sidewalk provided on private property. Said surface easement shall be recorded in a form satisfactory to the Director of Public Works.
45. Prior to the issuance of a certificate of occupancy and subject to review and approval by the Director of Public Works, the sidewalk and curb adjacent to the loading area on Wilshire Boulevard shall be engineered and constructed to withstand frequent loading and unloading activities commonly associated with an automobile dealership. Specifically, the sidewalk and curb shall be capable of supporting heavier loads than a typical sidewalk may experience.
46. Prior to the issuance of a certificate of occupancy, a landscaping easement of 3 feet in width located at the southern portion of the R-4 parcel shall be granted to the City for the purpose of providing a landscape buffer between the residential and commercial

uses. Said easement shall be recorded in a form satisfactory to the Director of Public Works. The landscaping shall be subject to review and approval by the Architectural Commission and shall include species that are substantial enough to create a visual and physical separation between residential uses and commercial uses. The Applicant shall maintain the landscaping to the satisfaction of the City Arborist for the life of the Project. All costs associated with the installation and maintenance of the landscaping shall be paid for by the Applicant, and the City shall not be responsible for any future maintenance of the landscaping.

47. Prior to the issuance of a certificate of occupancy, a new traffic signal shall be installed at the intersection of Wilshire Boulevard and Maple Drive. The signal shall be designed and installed in accordance with City Standards, and the full cost of such design and installation shall be paid for by the Applicant.
48. A Sewer Area Study shall be provided in order to analyze the existing sewer lines within the City of Beverly Hills that will convey the flow from the subject project. The Applicant shall pay for the sewer system upgrades (if needed) due to the additional proposed sewage generated by the Project.
49. Sewer lines impacted by the alley vacation shall be CCTV'd to verify existing connections before abandoning the line. All work shall be done according to City standards and shall be paid for by the Applicant.
50. The Applicant shall contact all utility companies (Southern California Edison, the Gas Company, Time Warner and AT&T) to arrange for the relocation of their respective utilities before commencing vacation process.

51. Each utility within the alley shall be relocated without interruption of service, unless an easement is reserved for that utility. The Applicant shall be responsible for making the requisite arrangements with each and every utility to provide an equivalent level of service as each utility deems necessary. All utilities proposed for relocation shall be relocated to the satisfaction of each utility owner before any work for the Project will be allowed in the alley proposed for vacation.
52. The Applicant, at no expense to the City, shall work with franchise utilities to relocate those utilities in light of the City's decision to relocate its alley. The City agrees to assist the Applicant, to the extent that the City bears no expense in this effort.
53. All City owned and operated utilities shall be relocated at the Applicant's expense. The Applicant shall work with franchise utilities to relocate those utilities at no expense to the City. The City agrees to assist the applicant with such relocation, to the extent that the City bears no expense in this effort.
54. The Applicant shall clearly identify the process, phasing, and future location of utilities to be relocated in conjunction with the alley vacation.
55. The fire hydrant on the west side of Maple Drive where the future driveway is proposed shall be relocated and paid for by the Applicant.
56. Removal or replacement of existing street trees as a result of the Project shall be coordinated and authorized by the City's Arborist. An indemnity bond shall be submitted by the Applicant and approved by the City Attorney prior to removal.

57. Sidewalks, curb ramps and curbs and gutters adjacent to the Project site on Wilshire Boulevard and Maple Drive shall be removed and replaced according to City standards, and be paid for by the Applicant.
58. The pavement and center drainage gutter on the alley west of Maple Drive between the east-west alley south of Wilshire Boulevard and the new southern property line of the Project, and on the east-west alley (between Rexford Drive and the alley west of Maple Drive shall be removed and replaced according to City standards, and shall be paid for by the applicant.
59. All survey monuments, street lights, underground utilities, and any off-site improvements affected by the Project shall be re-established according to City standards, and shall be paid for by the Applicant. No structures or improvements are permitted within the public right-of-way without an encroachment permit.
60. Any street lights/fixtures removed as a result of the Project shall be properly stored and reinstalled according to City standards and requirements, and shall be paid for by the Applicant. An indemnity bond must be submitted and approved by the City Attorney prior to removal of street lights.
61. The same lighting intensity shall be maintained on Wilshire Boulevard and Maple Drive if street lights adjacent to Project are removed due to construction. Also, a continuous power supply shall be maintained to the rest of the street lights on both streets if street light conduits are removed due to project construction.
62. Future driveway and alley approaches shall be constructed to current ADA and City standards. Relocation of existing street light conduits on the west side of Maple Drive and the south side of Wilshire Boulevard impacted by the Project driveway approach

on Maple Drive, and loading zone on Wilshire Boulevard, shall be paid for by the Applicant.

63. The Applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP), and a Standard Urban Storm Water Mitigation Plan (SUSMP) to the Utilities Division (Attention: Josette Descalzo) for review and approval. The SUSMP shall adhere to the numerical design criteria written in the MS4 permit.
64. In accordance with the requirements set forth in City Council Resolution 71-R-4269, the Applicant shall file a formal written request with the Civil Engineering Division for approval of any type of temporary construction encroachment (steel tieback rods, etc.) within the public right-of-way. Shoring plans and elevations prepared by a registered civil engineer shall be submitted for review by the Civil Engineering Division. Shoring elements shall not project into the alleys. An indemnity bond shall be submitted and approved by the City Attorney prior to excavation.
65. The Applicant shall provide a soils report prepared by a California registered geotechnical engineer that identifies the shoring recommendations and design parameters. Shoring design shall account for heavy traffic loads on Wilshire Boulevard, and must limit the deflection to ¼ inch on top of the piles/caissons to avoid any deflection and damage to adjacent streets.
66. A site improvement plan designed by a licensed Civil Engineer in the State of California shall be prepared and submitted to the Civil Engineering Division for plan check and approval. All work in the public right of way shall be constructed in accordance to the approved plans and required permits issued for this specific work.

67. Pedestrian access shall be maintained on Wilshire Boulevard and Maple Drive if sidewalks are removed due to excavation. No pedestrian barricades are allowed on the roadway section of Wilshire Boulevard or Maple Drive.
68. The Applicant shall provide a construction management plan that clearly shows usage of cranes and other heavy equipment. There shall be no lane closures on Wilshire Boulevard unless approved by City Council.
69. Landscape plans shall be reviewed and approved by the City's Arborist.
70. A Photometric study for Wilshire Boulevard that shows the foot-candle distribution within the property limits and 100 feet beyond the property lines shall be provided for the existing conditions and the proposed conditions.
71. The applicant shall remove the street curb along Maple Drive in front of the property and re-construct a new curb and gutter by setting the curb back by 2.5 feet between the beginning of the curb return at Wilshire Boulevard and the Project driveway by narrowing the existing 7.5 foot parkway (grass) to a 5 foot wide parkway. The dimension of the newly constructed sidewalk shall stay the same as the existing sidewalk. This segment of Maple Drive shall also be widened from the existing 30 feet to 32.5 feet; however, the new street center line shall remain along the same line as the existing center line (i.e., currently 15 feet from the face of the curb on the east side of the street).
72. South Maple Drive shall be reconstructed (curb to curb) to City standards between the new east-west alley and transitioning onto Wilshire Boulevard pavement and shall be paid for by the Applicant.

73. In the event that any parking meters are removed as a result of the Project, the full cost of removal, replacement, and loss of revenues shall be calculated by the Director of Public Works and paid for by the Applicant.
74. The corner of the property (south-west corner of the intersection of Maple and Wilshire) shall be set back enough to accommodate ADA requirements for the design of a handicapped ramp and adequate sidewalk behind the ramp per the most recent ADA standards in concert with the new curb and gutter along Maple and Wilshire.
75. The vertical slope of the intersection shall be maintained with the new ramp.
76. Pull boxes, sign posts and other street culture that were adjacent to the previous curb shall be relocated and placed properly adjacent to the new curb.

STANDARD CONDITIONS:

77. Decisions of the Planning Commission may be appealed to the City Council within fourteen (14) days of the Planning Commission action by filing a written appeal with the City Clerk. Appeal forms are available in the City Clerk's office. An appeal fee is required.
78. Prior to the issuance of building permits, the Project's exterior design and its associated signage shall be reviewed and approved by the Architectural Commission.
79. Project Plans are subject to compliance with all applicable zoning regulations, except as may be expressly modified herein. Project plans shall be subject to a complete Code Compliance review when building plans are submitted for plan check. Compliance with all applicable Municipal Code and General Plan Policies is required prior to the issuance of a building permit.

80. The Project shall operate at all times in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking or other actions.
81. At all times the Project shall comply with the standards of the City's Municipal Code and all other applicable State and Federal regulations.
82. The resolution approving the Conditional Use Permit shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of the resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Community Development prior to the issuance of a building permit. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder.
83. Prior to the issuance of building permits, all exterior modifications to the building, as well as signage and window displays, shall be submitted to and approved by the Architectural Commission.
84. A violation of these conditions of approval may result in the revocation of the entitlements granted herein. Any such revocation shall be conducted in accordance with the revocation proceedings set forth in §10-3-3803 of the Beverly Hills Municipal Code.
85. Prior to the issuance of a Building Permit, all applicable fees and taxes shall be paid to the City.
86. The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution.

87. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

MITIGATION MEASURES:

88. **CR-2(a) Archeological/Paleontological Monitoring.** In the event that a previously unknown artifact or fossil is uncovered during project construction, all work shall cease until a certified archaeologist and/or paleontologist can investigate the finds and make appropriate recommendations. Any artifacts uncovered shall be recorded and removed for storage at a location to be determined by the monitor.

89. **CR-2(b) Coroner Notification.** If human remains are unearthed, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC). The NAHC will then identify the person(s) thought to be the Most Likely Descendent (MLD) of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains.

90. **GEO-2 Geotechnical Report.** The project applicant shall implement all design considerations recommended in the geotechnical report, including the following:

- All demolition debris shall be removed and hauled from proposed grading areas prior to the start of grading operations. Any existing vegetation shall not be mixed or diced into the soils. Any removed soils may be reutilized as compacted fill once any deleterious material or oversized materials (in excess of eight inches)

is removed. Grading operations shall be performed in accordance with the “Specifications for Compacted Fill Operations” on page 15 of the Norcal Engineering April 2, 2010 geotechnical report.

- All fill and/or disturbed top soils shall be removed to native material, the exposed surface scarified to a depth of 12 inches, brought to within 2% of optimum moisture content and compacted to a minimum of 90% of the laboratory standard prior to placement of any additional compacted fill soils, foundations, slabs-on-grade and pavement.
- A diligent search shall be conducted during grading operations in an effort to uncover any underground structures, irrigation or utility lines. If encountered, these structures and lines shall be either removed or properly abandoned prior to construction.
- Any imported fill material shall be similar to the upper soils encountered at the Project site. Imported soils utilized for the backfill of retaining walls shall consist of select sand material or approved gravel material. All soils shall be approved prior to importing at the site and shall be subject to additional laboratory testing.
- Adequate drainage away from structures, pavement and slopes shall be provided at all times.
- Temporary shoring design for the proposed subterranean garage shall utilize a trapezoidal pressure distribution. The final shoring structural calculations and drawings shall be reviewed prior to installation.
- Temporary unsurcharged excavations above the vertical may be trimmed at a 1 to 1 gradient for an additional four feet.

- All excavations shall be made in accordance with the requirements of CAL-OSHA and other public agencies with jurisdiction over the Project site.
- All foundations shall be designed utilizing the allowable safe bearing capacities on page 9 of the geotechnical report dated April 2, 2010 for an embedded depth of 48 inches into competent native soils.
- All continuous foundations shall be reinforced with a minimum of two No. 4 bars, top and bottom; isolated pad foundations shall be reinforced at the discretion of the Project structural engineer.
- All concrete slabs-on-grade shall be at least four inches in office and sidewalk areas reinforced with a minimum of No. 3 bars, eighteen inches in each direction positioned mid-height in the slab and placed on approved subgrade soils.
- A vapor retarder shall be utilized in areas which would be sensitive to the infiltration of moisture.
- All pavement areas shall have positive drainage toward an approved outlet from the site. Drain lines behind curbs and/or adjacent to landscape areas shall be considered by the applicant and the appropriate design engineers to prevent water from infiltrating beneath the pavement.
- Any approved base material shall consist of a Class II aggregate or equivalent and shall be compacted to a minimum of 95% relative compaction.
- All pavement materials shall conform to the requirements set forth by the City of Beverly Hills.
- The base material and asphaltic concrete shall be tested prior to delivery to the site and during placement to determine conformance with project specifications.

- A pavement engineer shall designate the specific asphalt mix design to meet the required Project specifications.
- Trenches from installation of utility lines and other excavations may be backfilled with on-site soils or approved imported soils compacted to a minimum of 90% relative compaction.
- All utility lines shall be properly bedded with clean sand having a sand equivalency rating of 30 or more. This bedding material shall be thoroughly water jetted around the pipe structure prior to placement of compacted backfill soils.
- A Type II cement according to the latest specifications shall be utilized for building foundations.
- “Expansive Soil Guidelines” contained on page 17 of the geotechnical report shall be complied with during the design of the project and future property maintenance. The “Expansive Soil Guidelines” include the following requirements:
 - Maintain moisture contents at relatively constant levels, allowing neither excessive wetting or drying of soils.
 - Drainage away from structures and pavement
 - Strictly control irrigation around building foundations, slabs and pavement
 - Analyze planting schemes for landscaping around structures and pavement
 - Use thickened edges on exterior slabs to keep excessive moisture from entering directly beneath the concretes. Underlying interior and exterior slabs with 6-12

inches or more of non-expansive soils and presaturation of underlying clayey soils will improve the overall performance of on-grade slabs.

- Increase the amount of steel reinforcing in concrete slabs, foundations and other structures to resist the forces of expansive soils.

91. **HAZ-2(a) Soil Sampling.** At the time of vacancy and prior to demolition, soil sampling shall be conducted adjacent to the drains, drain lines, clarifier. Soil samples shall also be collected at various locations throughout the site and within any unpaved planter areas onsite. The soil samples shall be analyzed for the following: TPH, VOCs, SVOCs, metals and asbestos. If contaminated soil is identified, and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, any required remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by a regulatory oversight agency such as the County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.

92. **HAZ-2(b) Geophysical Survey.** At the time of vacancy and prior to demolition, a geophysical survey of the Project site shall be conducted to determine whether there is potential for any as-yet undiscovered underground storage tanks. If any large metal

anomalies are discovered at the time of site clearance, but prior to issuance of a grading permit, a backhoe shall be used to uncover the anomaly.

If the anomaly is a tank, it shall be removed and properly disposed at a licensed disposal facility. The removal of a UST in Los Angeles County shall be conducted in accordance with County of Los Angeles Department of Public Works (LACDPW) UST Program. Removal of a UST shall include soil sampling beneath the UST. The soil samples shall be analyzed pursuant to the tank removal permit requirements. If contaminated soil is identified and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the LACDPW UST Program. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.

If hydraulic pistons are found, they shall be removed and properly disposed at a licensed facility. The removal of hydraulic pistons shall be conducted in accordance with applicable regulations under the guidance of a Professional Civil Engineer or Professional Geologist. Removal of hydraulic pistons could include soil sampling around the hydraulic pistons. If contaminated soil is identified, and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, any required remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by a regulatory oversight agency such as the County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control

Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.

93. **HAZ-2(c) Excavation and Demolition Contingency Plans.** The developer shall prepare a contingency plan for all excavation and demolition projects conducted within the Project area to be implemented in the event that contaminants or structural features not previously identified are suspected or discovered. The contingency plan shall identify appropriate measures to be followed if contaminants are found or suspected. The appropriate measures shall identify personnel to be notified, emergency contacts, and a sampling protocol. The excavation and demolition contractors shall be made aware of the possibility of encountering unknown hazardous materials, and shall be provided with appropriate contact and notification information. The contingency plan shall include a provision stating at what point it is safe to continue with the excavation or demolition, and identify the person authorized to make that determination.

94. **HAZ-2(d) Groundwater Sampling.** If, during the soil sampling required above under Measure HAZ-2(a), groundwater contamination is suspected, or if soil contamination is detected at depths at or greater than 30 feet below grade, the developer shall perform a groundwater sampling assessment. If contaminants are detected in groundwater at levels that exceed maximum contaminant levels for those constituents in drinking water, then the results of the groundwater sampling shall be

forwarded to the appropriate regulatory agency (County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control). The agency shall review the data and sign off on the property or determine if any additional investigation or remedial activities are deemed necessary. The developer shall submit all correspondence to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.

95. **PSU-4 Wastewater Conveyance Upgrade.** If the City Engineer determines that infrastructure upgrades are necessary, the Applicant shall pay a “fair share” of the cost of the upgrade as determined by the City of Beverly Hills in association with the City of Los Angeles. Payment for this upgrade shall be made prior to the issuance of a building permit.
96. **T-6(a) Relocation of water line.** Relocation of the water line that would be required due to the proposed alley relocation shall be approved by the City of Beverly Hills Water Utilities Division. The sewer line in the proposed alley relocation shall be Closed Circuit TV'd (CCTV) to verify existing connections prior to relocating the line. This work shall be performed according to City standards and shall be paid for by the applicant.
97. **T-6(b) Contacting Utility Companies.** The applicant shall contact utility companies to arrange for the relocation of their utilities prior to commencing the relocation process.
98. **T-6(c) Alley Relocation.** The alley shall be designed to permit vehicular and pedestrian traffic and to contain the relocated utilities with the City retaining

ownership. To ensure adequate alley operations, EITHER additional right of way (not less than 2.5 feet) shall be obtained from the adjacent property owner (Nessah Property) adjacent to both the north/south and east/west alleys, to ensure passage of trucks pursuant to the recommendations of the alley closure study, subject to satisfaction of the City Department of Public Works Transportation Division, OR signs shall be posted at the entrances to the east-west and north-south alleys indicating "No Truck Access". The ultimate design is subject to review and approval by the City Department of Public Works Transportation Division.

99. **CON-1 (a) Construction Traffic Management Plan.** The applicant shall submit a Construction Traffic Management Plan to the City for review and approval prior to issuance of demolition, grading or building permits. At a minimum, the plan shall meet the following standards to the satisfaction of the City:
- Maintain existing access for land uses in proximity to the Project site during project construction.
 - Schedule deliveries and pick-ups of construction materials to non-peak travel periods, to the maximum extent feasible.
 - Coordinate deliveries and pick-ups to reduce the potential of trucks waiting to load or unload for protracted periods of time.
 - Minimize obstruction of through-traffic lanes on adjacent streets.
 - Control construction equipment traffic from the contractors through flagman and traffic control devices.
 - Identify designated transport routes for heavy trucks (in addition to haul trucks) to be used over the duration of the proposed project.

- Schedule vehicle movements to ensure that there are no vehicles waiting off-site and impeding public traffic flow on the surrounding streets.
- Establish requirements for loading/unloading and storage of materials on the project site, where parking spaces would be encumbered, length of time traffic travel lanes can be encumbered, sidewalk closings or pedestrian diversions to ensure the safety of the pedestrian and access to local businesses.
- Coordinate with adjacent businesses and emergency service providers to ensure adequate access exists to the project site and neighboring businesses.

100. **CON-1 (b) Worker Parking Management Plan.** The applicant shall submit a Worker Parking Management Plan to the City for review and approval prior to the issuance of demolition, grading or building permits. To the maximum extent feasible, all working parking shall be accommodated on the Project site. During any demolition and construction activities when construction worker parking cannot be accommodated on the project site, the Plan shall identify alternate parking locations for construction workers and method of transportation to and from the project site for approval by the City 30 days prior to commencement of construction. The Construction Workers Parking Plan shall include appropriate methods to ensure that the parking location requirements for construction workers are strictly enforced. These include but are not limited to the following:

- Provide all construction contractors with written information on where their workers and their subcontractors are permitted to park and provide clear consequences to violators for failure to follow these regulations. This information

will clearly state that no parking is permitted on any residential street or in public parking structures.

- Prohibit construction worker parking within 500 feet of the nearest point of the Project site except within designated areas. The construction contractor shall be responsible for informing subcontractors and construction workers of this requirement, and if necessary, for hiring a security guard to enforce these parking provisions. The applicant shall be responsible for all costs associated with enforcement of this mitigation measure.
- Identify sites where construction workers could park off-site, if necessary.

In lieu of the above, the applicant/construction contractor has the option of phasing demolition and construction activities such that all construction worker parking can be accommodated on the Project site throughout the entire duration of demolition and construction activities.

101. **CON-2 (a) Heavy Truck Restrictions.** The construction contractor shall prohibit off-site heavy truck activities in local residential areas.
102. **CON-2 (b) Staging Area.** The construction contractor shall provide staging areas onsite to the extent feasible to minimize off-site transportation of heavy construction equipment. The distance between staging areas and sensitive receptors shall be maximized to reduce noise levels associated with idling construction equipment.
103. **CON-2 (c) Diesel Equipment Mufflers.** All diesel equipment shall be operated with closed engine doors and shall be equipped with factory recommended mufflers.

104. **CON-2 (d) Electrically-Powered Tools and Facilities.** Electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.
105. **CON-2 (e) Additional Noise Attenuation Techniques.** For all noise generating construction activity on the Project site, additional noise attenuation techniques shall be employed as necessary to reduce noise levels to 78.8 dBA. Such techniques shall include the use of sound blankets on noise generating equipment and the construction of temporary sound barriers between construction sites and nearby sensitive receptors in order to ensure that noise levels at nearby sensitive receptors do not exceed 78.8 dBA. The contractor shall perform at least one noise measurement at each of the nearest sensitive uses during excavation and foundation/conditioning work to confirm that the noise attenuation techniques are reducing the noise levels sufficiently. If sufficient attenuation is not being achieved, the contractor shall cease work and consult the City on additional noise attenuation techniques such as reducing the number of machines operating at one time, larger temporary barriers, or thicker sound blankets.
106. **CON-4(a) Fugitive Dust Control.** The following shall be implemented during construction to minimize fugitive dust emissions:
- Water trucks shall be used during construction to keep all areas of vehicle movements damp enough to prevent dust from leaving the site. At a minimum, this will require three daily applications (once in morning, once at midday and once at the end of the workday). Increased watering is required whenever wind speed exceeds 15 mph. Grading shall be suspended if wind gusts exceed 25 mph.

- Soil with 5% or greater silt content that is stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting material shall be tarped from the point of origin or shall maintain at least two feet of freeboard.
- All material excavated or graded shall be treated with soil binders or shall be sufficiently watered at least twice daily with complete coverage, preferably in the late morning and after work is done for the day.
- All clearing, grading, earth moving, or excavation activities shall cease during periods of high winds (i.e., greater than 20 mph averaged over one hour) so as to prevent excessive amounts of dust.
- All material transported off-site shall be securely covered to prevent excessive amounts of dust.
- All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted in a prominent and visible location at the construction site, and shall be maintained throughout the construction process. All notices and the signs shall indicate the dates and duration of construction activities, as well as provide a telephone number (capable of receiving calls 24-hours a day, 7 days a week) where residents can inquire about the construction process and register complaints.
- Visible dust beyond the property line emanating from the project shall be prevented to the maximum extent feasible.

- These control techniques shall be indicated in project specifications. Compliance with the measure shall be subject to periodic site inspections by the City.

Although NOx emissions would not exceed SCAQMD or LST thresholds, Mitigation Measure CON-4(b) is recommended to reduce NOx emissions.

107. **CON-4(b) Ozone Precursor Control.** The following shall be implemented during construction to minimize emissions from construction equipment:

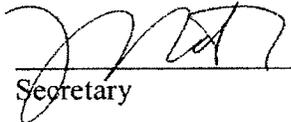
- Equipment engines shall be maintained in good condition and in proper tune per manufacturer's specifications;
- New technologies shall be utilized to control ozone precursor emissions as they become available.
- To the maximum extent feasible, diesel oxidation catalysts and particulate filters shall be installed on all on- and off- road construction vehicles.

Section 11. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 10/27/2011

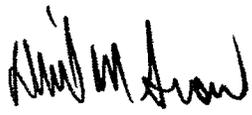
Daniel M. Yukelson, Chair of the Planning
Commission of the City of Beverly Hills,
California

Attest:



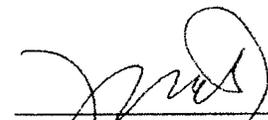
Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

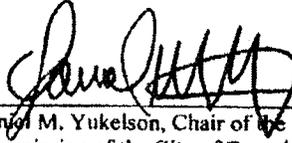
Approved as to content:



Jonathan Lait, AICP
City Planner

Section 11. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: October 27, 2011



Daniel M. Yukelson, Chair of the Planning
Commission of the City of Beverly Hills,
California

Attest:

Secretary

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

Jonathan Lait, AICP
City Planner

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF BEVERLY HILLS)

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1623 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on October 27, 2011, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Furie, Cole, Vice Chair Corman, and Chair Yukelson.
NOES: None.
ABSENT: None.
RECUSED: Commissioner Rosenstein.



JONATHAN LAIT, AICP
Secretary of the Planning Commission /
City Planner
City of Beverly Hills, California

ATTACHMENT 4

PLANNING COMMISSION RESOLUTION No. 1624

(ZONE TEXT AMENDMENT RESOLUTION)

RESOLUTION NO. 1624

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING PARKING STANDARDS AND FLOOR AREA STANDARDS FOR AUTOMOBILE DEALERSHIPS WHEN REVIEWED PURSUANT TO A CONDITIONAL USE PERMIT.

WHEREAS, the Planning Commission has considered the proposed amendments to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Amendments"); and

WHEREAS, the Planning Commission conducted duly noticed public hearings on September 26, 2011 and October 27, 2011, at which times it received oral and documentary evidence relative to the proposed Amendments; and

WHEREAS, the Planning Commission finds that the proposed Amendments are required for the public health, safety, and general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections

21000, et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”), and the City’s environmental guidelines, and a Final Environmental Impact Report (FEIR) has been certified by the Planning Commission pursuant to Planning Commission Resolution No. 1622.

Section 2. The Planning Commission does hereby find that the proposed Zone Text Amendment is intended to serve new or expanded automobile dealerships approved pursuant to a Conditional Use Permit (CUP).

Automobile dealerships are required, under existing code, to provide parking spaces that meet the same size and accessibility requirements as other general commercial uses. This requirement does not take into consideration the volume of automobiles stored within a dealership for the purpose of sales or service, and limits a dealership’s ability to provide a sufficient amount of on-site vehicle parking and storage. Because automobile dealerships serve as important revenue generators and commercial components of the City’s business inventory, allowing the Planning Commission to authorize the use of tandem and compact parking spaces through the issuance of a CUP provides the flexibility and feasibility needed for a dealership to provide an adequate number of on-site parking spaces.

Additionally, automobile dealerships are required to count Floor Area in the same manner as other general commercial uses, which includes counting above-grade parking areas toward Floor Area when there is not a full level of subterranean parking provided, and counting above- or below-grade service areas. This requirement does not take into consideration the desirable configuration (for noise intrusion purposes) of providing service levels below grade, which prevents the installation of subterranean parking, the volume of automobiles stored within

a dealership for the purpose of sales or service, nor does it take into consideration the amount of vehicles stored in service bays at any given time. Consequently, the method in which Floor Area is counted has the potential to limit a dealership's ability to provide a sufficient amount of on-site vehicle parking and storage, and vehicle service bays while still complying with all applicable Floor Area limitations. Allowing above-ground parking areas within automobile dealerships to be excluded from the definition of Floor Area, and allowing portions of below-grade service areas to be excluded from the definition of Floor Area, provides the flexibility and feasibility needed for a dealership to provide an adequate number of on-site parking spaces and service bays.

Automobile dealerships may not be established or expanded without the approval of a Conditional Use Permit. These Amendments are not a carte blanche approval for parking and Floor Area waivers, and instead provides for an entitlement process (in the form of a Conditional Use Permit) by which certain exceptions for parking and Floor Area may be granted. Each application would be reviewed on a case-by-case basis and findings would need to be made by the reviewing authority based on the merits of each application. Because the amendment allows for improved feasibility, retention, and redevelopment of automobile dealerships, and provides for discretionary review of all new or expanded automobile dealerships, the amendment serves to benefit the public interest, health, safety, morals, peace, comfort, convenience, and general welfare of both the business and residential communities.

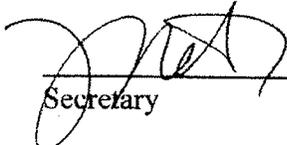
Section 3. The Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendment substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 10/27/2011

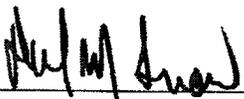
Daniel M. Yukelson
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:



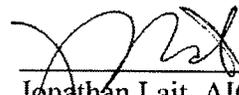
Secretary

Approved as to form:



David M. Snow
Assistant City Attorney

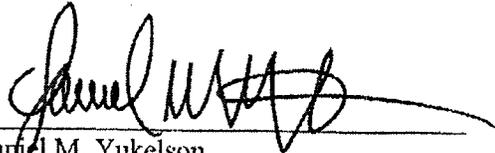
Approved as to content:



Jonathan Lait, AICP
City Planner

Section 4. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: October 27, 2011



Daniel M. Yukelson
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Jonathan Lait, AICP
City Planner

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING SECTION 10-3-3801 OF THE MUNICIPAL CODE
REGARDING THE PARKING REQUIREMENTS AND
CALCULATION OF FLOOR AREA FOR NEW OR
EXPANDED AUTOMOBILE DEALERSHIPS APPROVED
PURSUANT TO A CONDITIONAL USE PERMIT.

WHEREAS, on September 26, 2011 and October 27, 2011, the Planning Commission conducted duly noticed public hearings to consider a proposed amendment to the parking requirements and calculation of Floor Area for new or expanded automobile dealerships approved pursuant to a Conditional Use Permit as set forth in the Beverly Hills Municipal Code and recommended that the City Council approve the proposed amendment.

WHEREAS, on _____, the City Council conducted a duly noticed public hearing to consider proposed amendments to the parking requirements and calculation of Floor Area for new or expanded automobile dealerships approved pursuant to a Conditional Use Permit and introduced the Ordinance.

WHEREAS, the City Council hereby finds and concludes that the Amendment has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's

environmental guidelines, and a Final Environmental Impact Report has been prepared by the City and certified by the City Council, and a statement of overriding considerations has been adopted concluding that the benefits of the project outweigh the significant and unmitigable impact.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF BEVERLY HILLS
DOES ORDAIN AS FOLLOWS:

Section 1. A new Subsection E is hereby added after subsection D and before the final paragraph of Section 10-3-3801 (EXEMPTIONS AND RESTRICTIONS) of Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“E. Automobile dealerships. In addition to the foregoing, as part of the Conditional Use Permit process for the establishment of a new or expanded automobile dealership, the Planning Commission may permit:

1. The required parking to be provided in a tandem and/or compact configuration provided that at least half of the overall parking supply is devoted to the storage of new automobiles.
2. The exclusion of above-grade parking and circulation areas and up to half of below-grade areas devoted solely to vehicle service from the definition of Floor Area as set forth in Section 10-3-100 of the Beverly Hills Municipal Code, provided that the

building housing the automobile dealership does not exceed 45-feet in height measured pursuant to Section 10-3-100 of the Beverly Hills Municipal Code.”

Section 2. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 3. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.”

Section 4. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager

SUSAN HEALY KEENE
Director of Community Development

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF BEVERLY HILLS)

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1624 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on October 27, 2011, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Furie, Cole, Vice Chair Corman, and Chair Yukelson.
NOES: None.
ABSENT: None.
RECUSED: Commissioner Rosenstein.



JONATHAN LAIT, AICP
Secretary of the Planning Commission /
City Planner
City of Beverly Hills, California

ATTACHMENT 5

TABLE ES-1, SUMMARY OF ENVIRONMENTAL IMPACTS

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures and Residual Impacts**

Class I (Significant and Unavoidable) Impacts		
Impact	Mitigation Measures	Residual Impact
NOISE		
<p>Traffic noise impacts associated with cumulative development within the City would incrementally increase noise levels along roadways and could potentially subject sensitive receptors to noise exceeding City standards. As shown in tables 4.7-4 and 4.7-5, the estimated noise increase resulting from cumulative development in the City would exceed the 1 dB threshold shown in Table 4.7-3 for the segment of Wilshire Boulevard between Rexford Drive and Maple Drive. Cumulative traffic growth would result in a noise increase of up to 1.9 dB due to traffic increases on this roadway segment, which could affect sensitive receptors such as residents near that roadway segment. This noise level increase due to cumulative traffic increases is considered a significant cumulative impact. However, as shown in tables 4.7-4 and 4.7-5, Project-generated traffic would not measurably contribute to this significant cumulative impact. Therefore, the Project's impact would not be cumulatively considerable.</p>	<p>There is no feasible solution to reduce vehicle generated noise along Wilshire Boulevard.</p>	<p>Class I, <i>unavoidably significant</i>; however, the project's contribution to the cumulatively significant impact would not be cumulatively considerable.</p>
CONSTRUCTION EFFECTS		
<p>Impact CON-3 Project construction activities could generate intermittent levels of groundborne vibration exceeding thresholds for sensitive receptors in the vicinity of the project site, including residential, institutional, and medical uses. Mitigation measures CON-2(a-b) would be required to reduce construction vibration levels. Nonetheless, impacts would be Class I, <i>unavoidably significant</i>.</p>	<p>Mitigation measures CON-2(a-b) would be anticipated to reduce exposure of sensitive receptors to heavy trucks and equipment staging; however, there is no mitigation available that can be guaranteed to eliminate the potential for vibrations in excess of thresholds at sensitive receptor locations.</p>	<p>Because there is no mitigation available that can be guaranteed to reduce the impacts to below significance thresholds, the impact is considered Class I <i>unavoidably significant</i>.</p>

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
CULTURAL RESOURCES		
<p>Impact CR-2 There are no known archaeological or paleontological resources. However, there is potential to unearth previously unknown archaeological or paleontological resources. This is a Class II, significant but mitigable impact.</p>	<p>CR-2(a) Archeological/Paleontological Monitoring. In the event that a previously unknown artifact or fossil is uncovered during project construction, all work shall cease until a certified archaeologist and/or paleontologist can investigate the finds and make appropriate recommendations. Any artifacts uncovered shall be recorded and removed for storage at a location to be determined by the monitor.</p> <p>CR-2(b) Coroner Notification. If human remains are unearthed, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC). The NAHC will then identify the person(s) thought to be the Most Likely Descendent (MLD) of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains.</p>	<p>Less than significant.</p>
GEOLOGY		
<p>Impact GEO-2 The proposed Project includes demolition of existing improvements and construction of a four story building with a two subterranean levels within the developed portion of Beverly Hills. Area soils have a low potential for liquefaction, subsidence, and seismically-induced settlement; however, expansive soils are present. With implementation of Mitigation Measure GEO-2, impacts relating to secondary seismic and soil hazards would be Class II, significant but mitigable.</p>	<p>GEO-2 Geotechnical Report. The project applicant shall implement all design considerations recommended in the geotechnical report, including the following:</p> <ul style="list-style-type: none"> • All demolition debris shall be removed and hauled from proposed grading areas prior to the start of grading operations. Any existing vegetation shall not be mixed or diced into the soils. Any removed soils may be reutilized as compacted fill once any deleterious material or oversized materials (in excess of eight inches) is removed. Grading operations shall be performed in accordance with the "Specifications for Compacted Fill Operations" on page 15 of the Norcal Engineering April 2, 2010 geotechnical report. • All fill and/or disturbed top soils shall be removed to native material, the exposed surface scarified to a depth of 12 inches, brought to within 2% of optimum moisture content and compacted to a minimum of 90% of the laboratory standard prior to placement of any additional compacted fill 	<p>Less than significant.</p>

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

<i>Class II (Significant but Mitigable) Impacts</i>		
Impact	Mitigation Measures	Residual Impact
	<p>soils, foundations, slabs-on-grade and pavement.</p> <ul style="list-style-type: none"> • A diligent search shall be conducted during grading operations in an effort to uncover any underground structures, irrigation or utility lines. If encountered, these structures and lines shall be either removed or properly abandoned prior to construction. • Any imported fill material shall be similar to the upper soils encountered at the Project site. Imported soils utilized for the backfill of retaining walls shall consist of select sand material or approved gravel material. All soils shall be approved prior to importing at the site and shall be subject to additional laboratory testing. • Adequate drainage away from structures, pavement and slopes shall be provided at all times. • Temporary shoring design for the proposed subterranean garage shall utilize a trapezoidal pressure distribution. The final shoring structural calculations and drawings shall be reviewed prior to installation. • Temporary unsurcharged excavations above the vertical may be trimmed at a 1 to 1 gradient for an additional four feet. • All excavations shall be made in accordance with the requirements of CAL-OSHA and other public agencies with jurisdiction over the Project site. • All foundations shall be designed utilizing the allowable safe bearing capacities on page 9 of the geotechnical report dated April 2, 2010 for an embedded depth of 48 inches into competent native soils. • All continuous foundations shall be reinforced with a minimum of two No. 4 bars, top and bottom; isolated pad foundations shall be reinforced at the discretion of the Project structural engineer. • All concrete slabs-on-grade shall be at least four inches in office and sidewalk areas reinforced with a minimum of No. 3 bars, eighteen inches in each direction positioned mid-height in the slab and placed on approved subgrade soils. • A vapor retarder shall be utilized in areas which would be sensitive to the infiltration of moisture. • All pavement areas shall have positive drainage toward an approved outlet from the site. Drain lines behind curbs and/or adjacent to landscape areas shall be considered by the applicant and the appropriate design engineers to prevent 	

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
	<p>water from infiltrating beneath the pavement.</p> <ul style="list-style-type: none"> • Any approved base material shall consist of a Class II aggregate or equivalent and shall be compacted to a minimum of 95% relative compaction. • All pavement materials shall conform to the requirements set forth by the City of Beverly Hills. • The base material and asphaltic concrete shall be tested prior to delivery to the site and during placement to determine conformance with project specifications. • A pavement engineer shall designate the specific asphalt mix design to meet the required Project specifications. • Trenches from installation of utility lines and other excavations may be backfilled with on-site soils or approved imported soils compacted to a minimum of 90% relative compaction. • All utility lines shall be properly bedded with clean sand having a sand equivalency rating of 30 or more. This bedding material shall be thoroughly water jetted around the pipe structure prior to placement of compacted backfill soils. • A Type II cement according to the latest specifications shall be utilized for building foundations. • "Expansive Soil Guidelines" contained on page 17 of the geotechnical report shall be complied with during the design of the project and future property maintenance. The "Expansive Soil Guidelines" include the following requirements: <ul style="list-style-type: none"> • Maintain moisture contents at relatively constant levels, allowing neither excessive wetting or drying of soils. • Drainage away from structures and pavement • Strictly control irrigation around building foundations, slabs and pavement • Analyze planting schemes for landscaping around structures and pavement • Use thickened edges on exterior slabs to keep excessive moisture from entering directly beneath the concretes. Underlying interior and exterior slabs with 6-12 inches or more of non-expansive soils and presaturation of underlying clayey soils will improve the overall performance of on-grade slabs. • Increase the amount of steel reinforcing in concrete slabs, foundations and other structures to resist the forces of expansive 	

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
	soils.	
HAZARDS AND HAZARDOUS MATERIALS		
<p>Impact HAZ 2 Three recognized environmental conditions (RECs) that could pose a risk of upset hazard are present onsite. Potential hazard impacts associated with these conditions would be Class II, <i>significant but mitigable</i>.</p>	<p>HAZ-2(a) Soil Sampling. At the time of vacancy and prior to demolition, soil sampling shall be conducted adjacent to the drains, drain lines, clarifier. Soil samples shall also be collected at various locations throughout the site and within any unpaved planter areas onsite. The soil samples shall be analyzed for the following: TPH, VOCs, SVOCs, metals and asbestos. If contaminated soil is identified, and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, any required remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by a regulatory oversight agency such as the County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.</p> <p>HAZ-2(b) Geophysical Survey. At the time of vacancy and prior to demolition, a geophysical survey of the Project site shall be conducted to determine whether there is potential for any as-yet undiscovered underground storage tanks. If any large metal anomalies are discovered at the time of site clearance, but prior to issuance of a grading permit, a backhoe shall be used to uncover the anomaly.</p> <p>If the anomaly is a tank, it shall be removed and properly disposed at a licensed disposal facility. The removal of a UST in Los Angeles County shall be conducted in accordance with County of Los Angeles Department of Public Works (LACDPW) UST Program. Removal of a UST shall include soil sampling beneath the UST. The soil samples shall be analyzed pursuant to the tank removal permit requirements. If contaminated soil is identified and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the LACDPW UST Program. Remediation options may include, but are not</p>	<p>Less than significant</p>

Table ES-1 Summary of Environmental Impacts, Mitigation Measures, and Residual Impacts

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
	<p>limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.</p> <p>If hydraulic pistons are found, they shall be removed and properly disposed at a licensed facility. The removal of hydraulic pistons shall be conducted in accordance with applicable regulations under the guidance of a Professional Civil Engineer or Professional Geologist. Removal of hydraulic pistons could include soil sampling around the hydraulic pistons. If contaminated soil is identified, and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, any required remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by a regulatory oversight agency such as the County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control. Remediation options may include, but are not limited to: excavation and removal with offsite disposal at a licensed facility, or in-situ soil treatment. The developer shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.</p> <p>HAZ-2(c) Excavation and Demolition Contingency Plans. The developer shall prepare a contingency plan for all excavation and demolition projects conducted within the Project area to be implemented in the event that contaminants or structural features not previously identified are suspected or discovered. The contingency plan shall identify appropriate measures to be followed if contaminants are found or suspected. The appropriate measures shall identify personnel to be notified, emergency contacts, and a sampling protocol. The excavation and demolition contractors shall be made aware of the possibility of encountering unknown hazardous materials, and shall be provided with appropriate contact and notification information. The contingency plan shall include a provision stating at what point it is safe to continue with the excavation or demolition, and identify the person authorized to make that determination.</p>	

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
	<p>HAZ-2(d) Groundwater Sampling. If, during the soil sampling required above under Measure HAZ-2(a), groundwater contamination is suspected, or if soil contamination is detected at depths at or greater than 30 feet below grade, the developer shall perform a groundwater sampling assessment. If contaminants are detected in groundwater at levels that exceed maximum contaminant levels for those constituents in drinking water, then the results of the groundwater sampling shall be forwarded to the appropriate regulatory agency (County of Los Angeles Fire Department CUPA, Los Angeles Regional Water Quality Control Board, or the State of California Environmental Protection Agency Department of Toxic Substances Control). The agency shall review the data and sign off on the property or determine if any additional investigation or remedial activities are deemed necessary. The developer shall submit all correspondence to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.</p>	
PUBLIC SERVICES AND UTILITIES		
<p>Impact PSU-4 The Project would generate an estimated net wastewater increase of 13,566 gallons per day (gpd), which would flow to the Hyperion Plant. The treatment plant has sufficient capacity to accommodate this increase in wastewater. However, existing wastewater conveyance infrastructure may require upgrades to meet the required flows for the Project. This impact would be Class II, <i>significant but mitigable</i>.</p>	<p>PSU-4 Wastewater Conveyance Upgrade. If the City Engineer determines that infrastructure upgrades are necessary, the Applicant shall pay a "fair share" of the cost of the upgrade as determined by the City of Beverly Hills in association with the City of Los Angeles. Payment for this upgrade shall be made prior to the issuance of a building permit.</p>	Less than significant.
TRAFFIC AND CIRCULATION		
<p>Impact T-6 The alley between the South Maple Drive Parcel and 9242/9230 Wilshire Boulevard would be relocated as part of the proposed project. With implementation of mitigation, relocation of the alley would be a Class II, <i>significant but mitigable</i>, impact.</p>	<p>T-6(a)Relocation of water line. Relocation of the water line that would be required due to the proposed alley relocation shall be approved by the City of Beverly Hills Water Utilities Division. The sewer line in the proposed alley relocation shall be Closed Circuit TV'd (CCTV) to verify existing connections prior to relocating the line. This work shall be performed according to City standards and shall be paid for by the applicant.</p> <p>T-6(b)Contacting Utility Companies. The applicant shall contact utility companies to arrange for the relocation of their utilities prior</p>	Less than significant

Table ES-1 Summary of Environmental Impacts, Mitigation Measures, and Residual Impacts

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
	<p>to commencing the relocation process.</p> <p>T-6(c) Alley Relocation. The alley shall be designed to permit vehicular and pedestrian traffic and to contain the relocated utilities with the City retaining ownership. To ensure adequate alley operations, additional right of way (up to 2.5 feet) shall be obtained on the west side of the alley to ensure passage of trucks pursuant to the recommendations of the alley closure study, subject to review and approval by the City Department of Public Works Transportation Division, OR signs shall be posted at the entrances to the east-west and north-south alleys indicating "No Truck Access". The ultimate design is subject to review and approval by the City Department of Public Works Transportation Division.</p>	
CONSTRUCTION EFFECTS		
<p>Impact CON 1 Project construction and equipment staging would temporarily increase truck traffic in the Project vicinity, which could disrupt the normal use of the sidewalk along adjacent streets, and affect parking availability. With implementation of Mitigation Measure CON-1, impacts would be Class II, <i>significant but mitigable</i>.</p>	<p>CON-1 (a) Construction Traffic Management Plan. The applicant shall submit a Construction Traffic Management Plan to the City for review and approval prior to issuance of demolition, grading or building permits. At a minimum, the plan shall meet the following standards to the satisfaction of the City:</p> <ul style="list-style-type: none"> • Maintain existing access for land uses in proximity to the Project site during project construction. • Schedule deliveries and pick-ups of construction materials to non-peak travel periods, to the maximum extent feasible. • Coordinate deliveries and pick-ups to reduce the potential of trucks waiting to load or unload for protracted periods of time. • Minimize obstruction of through-traffic lanes on adjacent streets. • Control construction equipment traffic from the contractors through flagman and traffic control devices. • Identify designated transport routes for heavy trucks (in addition to haul trucks) to be used over the duration of the proposed project. • Schedule vehicle movements to ensure that there are no vehicles waiting off-site and impeding public traffic flow on the surrounding streets. • Establish requirements for loading/unloading and storage of materials on the project site, where parking spaces would be encumbered, length of time traffic travel lanes can be encumbered, sidewalk closings or pedestrian diversions to ensure 	<p>Less than significant.</p>

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
	<p>the safety of the pedestrian and access to local businesses.</p> <ul style="list-style-type: none"> • Coordinate with adjacent businesses and emergency service providers to ensure adequate access exists to the project site and neighboring businesses. <p>CON-1 (b) Worker Parking Management Plan. The applicant shall submit a Worker Parking Management Plan to the City for review and approval prior to the issuance of demolition, grading or building permits. To the maximum extent feasible, all working parking shall be accommodated on the Project site. During any demolition and construction activities when construction worker parking cannot be accommodated on the project site, the Plan shall identify alternate parking locations for construction workers and method of transportation to and from the project site for approval by the City 30 days prior to commencement of construction. The Construction Workers Parking Plan shall include appropriate methods to ensure that the parking location requirements for construction workers are strictly enforced. These include but are not limited to the following:</p> <ul style="list-style-type: none"> • Provide all construction contractors with written information on where their workers and their subcontractors are permitted to park and provide clear consequences to violators for failure to follow these regulations. This information will clearly state that no parking is permitted on any residential street or in public parking structures. • Prohibit construction worker parking within 500 feet of the nearest point of the Project site except within designated areas. The construction contractor shall be responsible for informing subcontractors and construction workers of this requirement, and if necessary, for hiring a security guard to enforce these parking provisions. The applicant shall be responsible for all costs associated with enforcement of this mitigation measure. • Identify sites where construction workers could park off-site, if necessary. <p>In lieu of the above, the applicant/construction contractor has the option of phasing demolition and construction activities such that all construction worker parking can be accommodated on the Project site throughout</p>	

Table ES-1 Summary of Environmental Impacts, Mitigation Measures, and Residual Impacts

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
	the entire duration of demolition and construction activities.	
<p>Impact CON 2 Project construction would intermittently generate high noise levels on and adjacent to the Project site. This may exceed the allowable noise levels at nearby properties during the permitted hours, but construction activity would not exceed the allowable noise levels outside of the permitted hours. This is a Class II, <i>significant but mitigable</i>, impact.</p>	<p>CON-2 (a) Heavy Truck Restrictions. The construction contractor shall prohibit off-site heavy truck activities in local residential areas.</p> <p>CON-2 (b) Staging Area. The construction contractor shall provide staging areas onsite to the extent feasible to minimize off-site transportation of heavy construction equipment. The distance between staging areas and sensitive receptors shall be maximized to reduce noise levels associated with idling construction equipment.</p> <p>CON-2 (c) Diesel Equipment Mufflers. All diesel equipment shall be operated with closed engine doors and shall be equipped with factory recommended mufflers.</p> <p>CON-2 (d) Electrically-Powered Tools and Facilities. Electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.</p> <p>CON-2 (e) Additional Noise Attenuation Techniques. For all noise generating construction activity on the Project site, additional noise attenuation techniques shall be employed as necessary to reduce noise levels to 78.8 dBA. Such techniques shall include the use of sound blankets on noise generating equipment and the construction of temporary sound barriers between construction sites and nearby sensitive receptors in order to ensure that noise levels at nearby sensitive receptors do not exceed 78.8 dBA. The contractor shall perform at least one noise measurement at each of the nearest sensitive uses during excavation and foundation/conditioning work to confirm that the noise attenuation techniques are reducing the noise levels sufficiently. If sufficient attenuation is not being achieved, the contractor shall cease work and consult the City on additional noise attenuation techniques such as reducing the number of machines operating at one time, larger temporary barriers, or thicker sound blankets.</p>	Less than significant.
<p>Impact CON-4 Temporary air pollutant emissions generated by construction activities associated with the Project would not exceed Lst thresholds for criteria pollutants; however, emissions of PM₁₀ would exceed SCAQMD thresholds.</p>	<p>CON-4(a) Fugitive Dust Control. The following shall be implemented during construction to minimize fugitive dust emissions:</p>	Less than significant

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
<p>Incorporation of Mitigation Measure CON-4 (a) would reduce PM₁₀ emissions below thresholds. Therefore, temporary impacts associated with construction-related emissions would be Class II, significant but mitigable for PM₁₀ and Class III, less than significant for ROG, NO_x, CO, and PM_{2.5}.</p>	<ul style="list-style-type: none"> • Water trucks shall be used during construction to keep all areas of vehicle movements damp enough to prevent dust from leaving the site. At a minimum, this will require three daily applications (once in morning, once at midday and once at the end of the workday). Increased watering is required whenever wind speed exceeds 15 mph. Grading shall be suspended if wind gusts exceed 25 mph. • Soil with 5% or greater silt content that is stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting material shall be tarped from the point of origin or shall maintain at least two feet of freeboard. • All material excavated or graded shall be treated with soil binders or shall be sufficiently watered at least twice daily with complete coverage, preferably in the late morning and after work is done for the day. • All clearing, grading, earth moving, or excavation activities shall cease during periods of high winds (i.e., greater than 20 mph averaged over one hour) so as to prevent excessive amounts of dust. • All material transported off-site shall be securely covered to prevent excessive amounts of dust. • All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted in a prominent and visible location at the construction site, and shall be maintained throughout the construction process. All notices and the signs shall indicate the dates and duration of construction activities, as well as provide a telephone number where residents can inquire about the construction process and register complaints. • Visible dust beyond the property line emanating from the project shall be prevented to the maximum extent feasible. • These control techniques shall be indicated in project specifications. Compliance with the measure shall be subject to periodic site inspections by the City. <p>Although NO_x emissions would not exceed SCAQMD or LST thresholds, Mitigation Measure CON-4(b) is recommended to reduce NO_x emissions.</p>	



**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class II (Significant but Mitigable) Impacts		
Impact	Mitigation Measures	Residual Impact
	<p>CON-4(b) Ozone Precursor Control. The following shall be implemented during construction to minimize emissions from construction equipment:</p> <ul style="list-style-type: none"> • Equipment engines shall be maintained in good condition and in proper tune per manufacturer's specifications; • New technologies shall be utilized to control ozone precursor emissions as they become available. • Diesel oxidation catalysts and particulate filters shall be installed on all on- and off- road construction vehicles. 	

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class III (Less than Significant) Impacts		
Impact	Mitigation Measures	Residual Impact
AESTHETICS		
<p>Impact AES-1 The new Lexus dealership building would be about 11 feet above the height of the existing structure at 9242 and 9230 Wilshire Boulevard. Replacement of the current building with a taller building could affect views for travelers along Wilshire Boulevard. However, the views that would be obstructed are not designated as scenic. Therefore, impacts to scenic vistas are considered Class III, <i>less than significant</i>.</p>	None required.	Less than significant.
<p>Impact AES-2 The increase in mass and scale associated with the Project could potentially affect the visual character or quality of the site and its surroundings. However, the scale of the Project would be compatible with surrounding development and the Project would require review and approval by the City's Architectural Commission. Therefore, impacts would be Class III, <i>less than significant</i>.</p>	None required.	Less than significant.
<p>Impact AES-3 The Project would replace existing sources of light and glare on and around the Project site. However, the proposed design would</p>	None required.	Less than significant.

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class III (Less than Significant) Impacts		
Impact	Mitigation Measures	Residual Impact
reduce parking lot glare by moving parking to the second floor, third floor, fourth floor, and the rooftop of the structure. In addition, the proposed design is not highly reflective as it shows the building with a matt facade of stone and stucco, with awnings covering many of the windows. Therefore, the project has a Class III, <i>less than significant</i> impact with respect to light and glare.		
Impact AES-4 The Project would cast shadows onto adjacent properties, particularly in the wintertime when shadows are most extreme. However, as no shadow-sensitive land uses would be shaded for extended periods, shadow impacts would be Class III, <i>less than significant</i> .	None required	Less than significant.
Impact AES-5 The appearance of the Project would be consistent with City policies, as demonstrated in photo simulations (Figures 4.1-4 and 4.1-5). Impacts related to consistency with City policies would be Class III, <i>less than significant</i> .	None required	Less than significant.
AIR QUALITY		
Impact AQ-1 Operation of the Project would generate air pollutant emissions. However, these emissions would not exceed SCAQMD operational significance thresholds. The project's operational impact to regional air quality would be Class III, <i>less than significant</i> .	None required.	Less than significant.
Impact AQ-2 Project-generated traffic, together with other cumulative traffic in the area, would incrementally increase carbon monoxide levels in the site vicinity. However, because concentrations would remain below state and federal standards, this impact would be Class III, <i>less than significant</i> .	None required	Less than significant.
CULTURAL RESOURCES		
Impact CR-1 The proposed Project would involve demolition of the existing Lexus dealership. Demolition of the existing dealership would not directly or indirectly significantly affect historic or potentially historic resources.	None required.	Less than significant.

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class III (Less than Significant) Impacts		
Impact	Mitigation Measures	Residual Impact
Impacts would be Class III, less than significant.		
GEOLOGY		
Impact GEO-1 Seismically-induced ground motion could destroy or damage proposed structures, resulting in a loss of property and risk to human health. However, the Project would be required to comply with applicable provisions of the California Building Code, which would reduce potential impacts to Class III, <i>less than significant</i> .	None required.	Less than significant.
Impact GHG-1 The proposed Project would generate GHG emissions from both mobile and operational sources. However, Project-generated emissions would not exceed the 10,000 tons CDE/year threshold and would not conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. Therefore, impacts would be Class III, <i>less than significant</i> .	None required.	Less than significant.
HAZARDS AND HAZARDOUS MATERIALS		
Impact HAZ-1 A lead based paint survey indicated there were no significant levels of lead in the paints that were sampled. Asbestos was detected in the penetration mastic of the roofs. Development would require demolition of buildings and structures that contain asbestos. However, compliance with applicable regulations regarding the handling and disposal of asbestos would reduce risk of upset impacts to a Class III, <i>less than significant</i> , level.	None required.	Less than significant.
Impact HAZ-3 The proposed Project would relocate a portion of an east-west alley and change the local circulation. However, the proposed Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. This is a Class III, <i>less than significant</i> , impact	None required.	Less than significant.



**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class III (Less than Significant) Impacts		
Impact	Mitigation Measures	Residual Impact
LAND USE AND PLANNING		
Impact LU-1 A Conditional Use Permit, Text Amendment to allow tandem parking, Text Amendment to exclude floor area devoted to parking and circulation areas and service bays located below grade, and Map Amendment to the Streets and Highways Master Plan are requested as part of the Project, which would make the Project consistent with adopted land use regulations. Therefore, impacts related to consistency with General Plan designations and zoning would be would be Class III, <i>less than significant</i> .	None required.	Less than significant.
Impact LU-2 The Project appears to be consistent with applicable Beverly Hills General Plan objectives and recommendations. This is a Class III, <i>less than significant</i> , impact.	None required.	Less than significant.
NOISE		
Impact N-1 Project-generated traffic would incrementally increase noise levels on area roadways. However, this incremental increase would not exceed significance thresholds. The effect of traffic noise on existing uses would be Class III, <i>less than significant</i> .	None required.	Less than significant
Impact N-2 Operation of the Project would generate noise that may periodically be audible to existing residential uses along the southern boundary of the Project site. Such noise sources include parking lot noises, which would be contained within the building, noise from stationary rooftop equipment, and noise from maintenance activities. However, compliance with the Municipal Code and rooftop parapets would reduce noise levels resulting from operation of the Project. This is a Class III, <i>less than significant</i> , impact.	None required.	Less than significant.
PUBLIC SERVICES AND UTILITIES		
Impact PSU-1 The Project would incrementally increase demands on	None required.	Less than significant



**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class III (Less than Significant) Impacts		
Impact	Mitigation Measures	Residual Impact
the Beverly Hills Fire Department. However, this increase would not require the construction of new fire protection facilities. This impact would be Class III, <i>less than significant</i> .		
Impact PSU-2 The Project would incrementally increase demands on the Beverly Hills Police Department. However, this increase would not result in the need for new facilities. Therefore, this is a Class III, <i>less than significant</i> , impact.	None required.	Less than significant
Impact PSU-3 The Project would increase water demand at the Project site. The City has adequate supplies to meet increased demand through the year 2035; Therefore, impacts to the City's water supply would be Class III, <i>less than significant</i> .	None required, but the following measure is recommended. Vehicle Washwater Recycle System. The proposed Project shall be designed such that washwater from the detailing of vehicles is recycled pursuant to the best available technology. An example of a washwater recycle system is included in Appendix G.	Less than significant
Impact PSU-5 The Project would incrementally increase the long-term generation of solid waste. However, solid waste facilities that serve the City have adequate capacity to handle the increase. Therefore, impacts to the City's solid waste collection and disposal system would be Class III, <i>less than significant</i> .	None required.	Less than significant
TRANSPORTATION AND CIRCULATION		
Impact T-1 The Project would generate an estimated 82 AM peak hour trips, 53 weekday midday peak hour trips, 78 PM peak hour trips, and 43 Saturday midday peak hour trips. This increase in vehicle trips would not exceed significance thresholds established by the City of Beverly Hills at any of the 14 study intersections during the weekday or Saturday peak hours under existing plus Project conditions or under cumulative plus Project conditions. Impacts would be Class III, <i>less than significant</i> .	None required.	Less than significant
Impact T-2 Traffic generated by the proposed Project would not exceed Neighborhood Traffic Impact Analysis significance thresholds at any study area residential street segments. This is a Class III, <i>less than</i>	None required.	Less than significant

**Table ES-1 Summary of Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Class III (Less than Significant) Impacts		
Impact	Mitigation Measures	Residual Impact
<i>significant, impact.</i>		
Impact T-3 The proposed Project would not significantly affect any CMP intersections and would not have adverse effects on public transit systems. The impact would be Class III, <i>less than significant</i> .	None required.	Less than significant
Impact T-4 The proposed Project would provide 352 parking spaces onsite. This would fulfill the City of Beverly Hills parking code requirement of 83 spaces. In addition, the parking demand study completed for the Project estimates that peak demand would require up to 319 spaces onsite, including employee parking spaces. The Project would provide 352 parking spaces, which would satisfy anticipated peak parking demand. Impacts would be Class III, <i>less than significant</i> .	None required.	Less than significant.
Impact T-5 The Project would allow for adequate site access to the building and internally. Therefore, the impact with respect to site access and circulation would be Class III, <i>less than significant</i> .	None required.	Less than significant.
Impact CON-5 Implementation of the proposed project would incrementally reduce the amount of onsite pervious surface area, which may increase stormwater flows and create flooding and drainage problems. In addition, vehicular activity and use of fertilizers onsite could incrementally increase the amount of pollutants in surface water runoff. However, the project applicant would be required to submit a Storm Water Pollution Prevention Plan and a Standard Urban Storm Water Mitigation Plan to the City for review and approval. Therefore, impacts would be Class III, <i>less than significant</i> .	None required.	Less than significant



ATTACHMENT 6

FINAL ENVIRONMENTAL IMPACT REPORT

(PREVIOUSLY PROVIDED UNDER SEPARATE COVER)

ATTACHMENT 7

PROJECT PLANS

(PREVIOUSLY PROVIDED UNDER SEPARATE COVER)