



AGENDA REPORT

- Meeting Date:** January 10, 2012
Item Number: F-6
To: Honorable Mayor & City Council
From: City Attorney
Subject:
- A. RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM;
 - B. RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT 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
 - C. RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AMENDING THE MASTER PLAN OF STREETS, ALLEYS AND HIGHWAYS AND ORDERING THE CONDITIONAL VACATION OF AN ALLEY LOCATED ADJACENT TO THE PROPERTY LOCATED AT 9230 WILSHIRE BOULEVARD

Attachments: 3 Resolutions

RECOMMENDATION

It is recommended that the proposed resolutions be adopted.

INTRODUCTION

These resolutions implement the direction of the City Council to conditionally approve construction of a new Jim Falk Lexus dealership on property located at 9230 Wilshire Boulevard and to relocate the alley that currently bisects the project site.

DISCUSSION

At the meeting of December 19, 2011 the City Council conducted a public hearing regarding an appeal of the Planning Commission's decision to approve a conditional use permit to allow construction of a new Lexus dealership on property located at 9230 Wilshire Boulevard, considered a final environmental impact report certified by the Planning Commission and an 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. At that meeting, the City Council directed the City Attorney to prepare documents to approve the proposed project with conditions and to approve relocation of the alley.

Resolution approving CUP

At the conclusion of the City Council's discussion regarding the project, the City Council highlighted several conditions that the Council wished to see incorporated into the document. For ease of reference, these conditions are identified below along with the location where they can be found in the resolution approving the conditional use permit.

- The City Council directed that vehicle service hours on Saturdays should not begin until 9:00 a.m. This restriction may be found in condition no. 13.
- The City Council directed that, during the first six months of operation of the new facility, the applicant assign an employee to direct vehicles to properly exit the facility during the hours of operation of the service department. This requirement may be found in condition no. 28.
- The City Council directed that the Planning Commission review the conditional use permit after one year. This requirement may be found in condition no. 86.
- The City Council directed that no catering trucks be permitted in the loading zone on Wilshire Boulevard. Condition no. 35 requires the applicant to prohibit employees from patronizing catering trucks in the loading zone on Wilshire Boulevard. Additionally, as the loading zone restrictions will be controlled by the City, staff will implement the City Council direction to adopt loading zone restrictions to prohibit catering truck use.
- The City Council directed that placards be displayed on all vehicles while they are being test driven. This requirement may be found in condition no. 24.
- The City Council directed that the City should retain flexibility to require the installation of cameras should such cameras later appear appropriate as a tool to enforce compliance with the conditions of approval. This flexibility may be found in condition nos. 39 and 40.
- The City Council directed that the Applicant deposit money to establish an enforcement fund that will be drawn upon if the applicant violates the conditions of the conditional use permit. The requirement to establish an enforcement fund may be found in condition no. 36.
- The City Council directed that staff study the potential for installing bollards and that Lexus be required to fund the study and the installation of the bollards, if the City chooses to install bollards. This requirement may be found in condition no. 77.

- The City Council directed that the applicant pay for a traffic light to be installed at the intersection of South Maple Drive and Wilshire Boulevard and that flexibility be maintained to reconsider the traffic signal installation if bollards are not installed on South Maple Drive. This requirement may be found in condition no. 47.

Additionally, in response to other Council comments during the hearing and the representations of the applicant, condition no. 87 requires the applicant to provide certain construction information, including a telephone contact, to neighbors within one-quarter mile of the project site and by posting signage at the construction site. Also, condition no. 78 has been written to include standards for the vehicle entrance opening on Maple Drive and to direct the architectural commission to specifically examine openings on Maple Drive when evaluating the exterior design of the proposed building.

Resolution of Environmental Findings

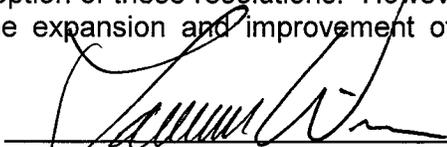
Although the Planning Commission certified the Final Environmental Impact Report (the "EIR") and that certification was not appealed, the City Council must still consider the information in the EIR before making a decision to approve the project and must make certain environmental findings in connection with the project. These findings are set forth in the attached resolution. The resolution also adopts a mitigation measure monitoring program as required by the California Environmental Quality Act to ensure that the mitigation measures recommended in the EIR are implemented.

Resolution Relocating Alley

This resolution amends the master plan of streets and authorizes the relocation of the alley that currently bisects the project site. The alley will be relocated as shown on the plans reviewed by the City Council at its hearing on December 19, 2011.

FISCAL IMPACT

There is no direct fiscal impact anticipated from adoption of these resolutions. However, the approval of the resolutions will encourage the expansion and improvement of a significant local tax generator.



Laurence S. Wiener, City Attorney

Attachments

3 Resolutions

RESOLUTION NO. _____

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM.

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

Section 1. An appeal was filed by 131 South Maple Associates, LP and 9250 Wilshire, LLC (hereinafter referred to collectively as the “Appellants”) from the Planning Commission’s October 27, 2011 decision approving a conditional use permit (“CUP”) for the Beverly Hills Lexus Dealership expansion project. The Appellants did not appeal the Planning Commission’s certification of the environmental impact report prepared for that project.

Section 2. 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 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 3. 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 4. 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 5. 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.

Section 6. 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 7. 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 8. In addition to the hearing on September 16, 2010, the Planning Commission held additional hearings on the Project on December 16, 2010 September 26, 2011

and October 27, 2011. As a result of the hearing process, the Project was revised to minimize its impacts, as analyzed in Appendix J of the Final EIR.

Section 9. On October 27, 2011 the Planning Commission adopted Resolution No. 1622 certifying the Final EIR and making certain environmental findings. The Planning Commission also adopted Resolution No. 1623 conditionally approving a conditional use permit for the Project.

Section 10. 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. The custodian of these records is the Director of Community Development.

Section 11. The City Council finds that agencies and interested members of the public were afforded ample notice and opportunity to comment on the EIR and the Project.

Section 12. 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 13. 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 14. 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 15. 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 16. 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 17. Alternatives to the Project that might eliminate or reduce significant environmental impacts are discussed in Exhibit A, Section VIII, attached hereto and incorporated herein by reference.

Section 18. 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 19. 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 20. Prior to taking action, the City Council reviewed and considered the Final EIR certified by the Planning Commission and all of the information and data in the administrative record, and all oral and written testimony presented to it during meetings and hearings. The City Council finds that the Final EIR represents the independent judgment of the City and is adequate and was prepared in full compliance with CEQA. No changes to the Project, changes to the environment, comments on the Project, or any additional information

submitted to the City have produced any substantial new information requiring additional environmental review or documentation of the Project under CEQA.

Section 21. Based upon the evidence presented at the hearing, including the staff report and oral testimony, the City Council of the City of Beverly Hills, California, hereby 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 22. The City Clerk 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 City of Beverly Hills.

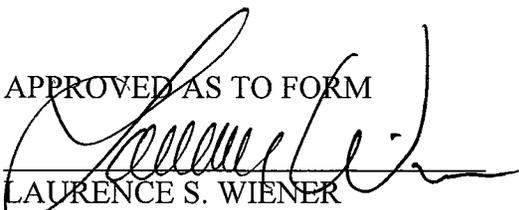
Adopted:

BARRY BRUCKER
Mayor of the City of Beverly Hills

ATTEST:

(SEAL)
BYRON POPE
Clerk

APPROVED AS TO FORM



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT

JEFFREY KOLIN
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development

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 City Council 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, including the Final EIR and staff and consultants’ reports presented through the hearing process.

II. Project Objectives.

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

1) To develop a modern facility on the same site to replace the current Lexus dealership facility on the southwest corner of Maple Drive and Wilshire Boulevard.

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.

3) 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.

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

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

- 5) To improve customer service and significantly reduce vehicle trips in and out of the premises for service sales and deliveries.
- 6) To reduce congestion to the neighborhood, especially on Maple Drive and the surrounding neighborhood streets, by eliminating many vehicle trips.
- 7) 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.
- 8) To provide appropriate parking for service vehicles, customer vehicles and inventory.
- 9) To create viable, useful and revenue-generating development.
- 10) 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 42" parapet, and a maximum height of 59' to the top of the stair tower. The current dealership operation has offsite 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 offsite 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 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.

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. 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 10 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 will not have any new significant effect or cause any substantial increase in the severity of effects beyond those already addressed in the EIR. 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, do not change the conclusions of the Initial Study.

(a) AESTHETICS

a) 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

a) 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.

b) 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.

c) 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

a) 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.

b) 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

a) 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).

b) 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.

c) 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.

d) 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.

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

f) 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

a) 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

a) 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.

b) 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.

c) 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.

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

e) 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

a) 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.

b) 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.

c) 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.

d) 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.

e) 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.

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

g) 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.

h) 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.

i) 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.

j) 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

a) 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.

b) 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

a) 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.

b) 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

a) 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.

b) 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

a) 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.

b) 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.

c) 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

a) 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

a) 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.

b) 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

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

b) 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

a) 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

a) 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.

b) 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.

c) 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.

d) 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.

e) 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.

f) 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

a) 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.

b) 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.

c) 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.

d) 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

a) 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.

b) 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

a) 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.

b) 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

a) 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

a) 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.

b) 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.

c) 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

a) 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.

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

c) 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

a) 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.

b) 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

a) 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.

b) 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.

c) 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.

d) 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.

e) 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.

f) 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.

g) 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.

h) 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

a) 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.

b) 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.

c) 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.

d) The proposed Project would provide 350 parking spaces. This would fulfill the City of Beverly Hills 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 350 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. In addition,

the Project will be required to obtain an additional 100 off-site parking spaces, which will further ensure that impacts will be less than significant in this regard.

e) 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.

f) 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 City Council 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 City Council adopts all of the feasible mitigation measures for the Project described in the Final EIR as conditions of approval of the Project and incorporates those into the Project.

(A) AIR QUALITY

a) 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.

(1) 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:

(a) 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 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.

(b) 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.
- Diesel oxidation catalysts and particulate filters shall be installed on all on- and off- road construction vehicles.

(2) 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 mitigated.

(B) CULTURAL RESOURCES

a) 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.

(1) 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:

(a) **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.

(b) **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.

(2) 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

a) 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.

(1) 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:

(a) **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.

(2) 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

a) 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.

(1) 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:

(a) **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.

(b) **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.

(c) 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.

(d) 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.

(e) **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.

(f) 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.

(2) 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 identified and then reduced to a less than significant level.

(e) **NOISE**

a) 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.

(1) **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:

(a) **CON-2 (a) Heavy Truck Restrictions.**

The construction contractor shall prohibit off-site heavy truck activities in local residential areas.

(b) **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.

(c) **CON-2 (c) Diesel Equipment**

Mufflers. All diesel equipment shall be operated with closed engine doors and shall be equipped with factory- recommended mufflers.

(d) **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.

(e) **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. The contractor shall implement any additional noise attenuation techniques required by the City.

(2) 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

a) 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.

(1) 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:

(a) **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.

(2) 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

a) 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.

(1) 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:

(a) 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 examined using Closed Circuit TV (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.

(b) 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.

(c) 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.

(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 southwest 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.

b) 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.

(1) **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:

(a) **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.*

(b) CON-1 (b) Worker Parking

Management Plan. The applicant shall submit a Construction 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 worker 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 Worker Parking Management 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.*

(c)

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.

(2) 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 Construction 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 Construction Worker Parking Management Plan will maximize the availability of street parking for others. With implementation of the required Construction Traffic Management Plan and Construction 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 area of noise, there are instances where environmental impacts would remain significant and unavoidable after mitigation. These areas are discussed below.

(a) NOISE

a) 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 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 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.

b) Ground borne Vibrations

Project construction activities could generate intermittent levels of ground borne 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.

(1) Findings

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

(a) CON-2 (a) Heavy Truck Restrictions.

The construction contractor shall prohibit off-site heavy truck activities in local residential areas.

(b) 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.

(2) Facts in Support of Findings

Construction activities that would occur on the Project site have the potential to generate low levels of ground borne 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 ground borne 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 ground borne 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 expected to eliminate the potential for vibrations in excess of thresholds at sensitive receptor locations. Because there is no mitigation available that can be expected to reduce the impacts below significance thresholds, impacts would remain unavoidably significant.

VII. Project Alternatives.

The City Council 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.

(A) ALTERNATIVE 1 – NO PROJECT/NO CHANGE ALTERNATIVE

a) 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.

b) 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 is socially infeasible for several reasons. First, the No Project Alternative would not result in any land use or aesthetic improvement to the site. Second, the No Project Alternative would not meet any of the Project objectives. Third, the No Project Alternative would not provide increased protection to the adjacent neighborhood from the nuisance impacts of the automobile dealership use. Unlike the proposed project, the No Project Alternative would not separate the commercial use from adjacent residential uses by an alley, would not enclose the dealership uses within a building and would not include operations conditions on the dealership that relocate impacts from Maple Drive to Wilshire Boulevard. Preserving the residential character of the adjacent residential neighborhood to the extent feasible is an important policy goal of the City Council. Based on the foregoing, the City Council finds this alternative socially infeasible and rejects the alternative on that basis.

The City Council 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

a) Summary of Alternative

Under this alternative, the Project design would comply with the current zoning code, would include approximately 79,478 square feet of building area and 34 vehicle service bays. This alternative would consist of two separate buildings, one to replace the existing building, which would be three stories tall and have a maximum height of forty five feet (45'), plus a forty two inch (42") parapet and stair tower, and one to replace the existing surface parking and storage lot to house parking uses only. The parking building would be three stories, and have a maximum height of 35 feet. The existing alley would be preserved. Loading would be from 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).

b) 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. Nonetheless, given the proximity of the sensitive receptors, ground borne 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 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 one building.
- To provide appropriate parking for service vehicles, customer vehicles and inventory.

Alternative 2 is socially infeasible for several reasons. Although Alternative 2 would reduce some environmental impacts as detailed above, it would not fully mitigate the immitigable impact of ground borne vibration. Thus, the environmental benefits of Alternative 2 are minimal. However, Alternative 2 would have unacceptable social impacts. With regard to social feasibility, Alternative 2 fails to meet several of the project objectives, including construction of a facility that will meet the present and future needs of the Applicant in order to encourage the Applicant to remain in the City of Beverly Hills. Secondly, the smaller footprint of the main service building will require additional coordination for proper site access and Alternative 2 provides that Applicant will conduct loading from Maple Drive. Both of these aspects of Alternative 2 increase the likelihood that Alternative 2 will have greater nuisance impacts on the adjacent residential neighborhood than the Project. Preserving the residential character of the adjacent residential neighborhood to the extent feasible is an important policy goal of the City Council. Third, this Alternative would not consolidate the various customer-serving land uses due to the reduction of service bays and the reduction of on-site parking spaces for vehicle storage and parking. Therefore, this Alternative would not improve, to the same extent as the proposed Project, customer service for the community or reduce vehicle impacts in other City neighborhoods by eliminating service and sales trips between the Project site and other locations.

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.

The City Council hereby rejects Alternative 2 as socially infeasible and technically infeasible, 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

a) 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.

b) 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 proposed Project, as revised from the original application, incorporates several aspects of this Alternative 3, including reduced height, a relocated (instead of abandoned) alley, and increased on-site parking to accommodate employees and other needs. Thus, the Project has fewer environmental impacts than the original application and Alternative 3 is no longer environmentally superior to the Project.

Alternative 3 may generate marginally fewer vehicle trips than the proposed Project due to the reduction in service bays from 70 to 66. However, this small benefit will not eliminate any significant environmental impacts of the Project and is outweighed by the increased noise and land use impacts that result from loading activities on Maple Drive that would occur as a result of Alternative 3, but are relocated to Wilshire Boulevard as a result of the Project. Furthermore, the Project further reduces potential nuisance noise impacts to the surrounding neighborhood by relocating all service bays to subterranean levels of the Project.

In addition, this Alternative is socially infeasible because of the increased nuisance noise and land use impacts to the adjacent residential area from loading on Maple Drive. Preserving the residential character of the adjacent residential neighborhood to the extent feasible is an important policy goal of the City Council.

The City Council hereby finds that Alternative 3 is not environmentally superior to the Project, as revised through the public hearing process to incorporate important aspects of Alternative 3, and is socially infeasible. 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.

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 City Council 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 City Council has balanced the benefits of the Project against its unavoidable impacts and has indicated its willingness to accept those adverse impacts. The City Council 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. The Project will encourage the Jim Falk Lexus dealership to remain in the City of Beverly Hills and thereby preserve within the City a source of significant tax revenue generation.

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

D. The Project will add an alley and landscaping between the commercial use and the multi-family residences to the south to create a buffer between the two uses.

E. 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.

F. The Project will better protect the residential character of the adjacent neighborhood. Although the commercial use will expand due to the increased number of service bays and increased square footage to be developed at the site, the commercial activity

will now be regulated by conditions that are imposed through the conditional use permit for the Project and that are designed to protect the adjacent residential neighborhood from intrusion by the commercial use.

F. The Project design will discourage commercial intrusion into the adjacent residential neighborhood. The Project design will include a prohibition against left turns into the Project site which will significantly deter traffic from approaching the Project from the residential neighborhood to the south. Additionally, the design of the egress driveway will deter traffic from exiting the Project to the south and travelling through the residential neighborhood.

The City Council finds that the foregoing benefits outweigh the identified unavoidable significant adverse environmental impacts. The City Council 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 City Council further finds that each of the benefits listed above, standing alone, is sufficient justification for the City Council 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.



Beverly Hills Lexus Dealership Project EIR
Mitigation Monitoring and Reporting Program

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.		



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<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 						



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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 						



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	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			



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	<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	Once prior to issuance of a building permit.			



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			relocation of utilities.				
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.	Public Works Department Transportation Division	Plan check to confirm that alley is designed appropriately or that "no truck access" signs are planned to be installed.	Once prior to issuance of a building permit.			
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	Periodically during construction.			



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			operated with closed engine doors and 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.	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.			
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.	Community Development Department/ Building and Safety Division	Field verification to confirm that noise attenuation techniques are implemented.	Periodically during construction.			
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.	Community Development Department/ Building and Safety Division	Field verification to confirm that fugitive dust control measures are implemented.	Periodically during construction.			



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	<p>•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.</p> <p>•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.</p> <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 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>						
CON-4(b)	<p>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>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.			



RESOLUTION NO. 12-R-

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT 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 City Council 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 height 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 1/2 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 Project site, including the proposed alley area is approximately 32,643 square feet.

Section 3. 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 environmental impact report 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 by Planning Commission Resolution No. 1622. The City Council has

made environmental findings in connection with the Project and adopted a Statement of Overriding Considerations in City Council Resolution No. _____.

Section 4. 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 on the DEIR are also provided in the FEIR.

Section 5. 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. On October 27, 2011 the Planning Commission adopted Resolution No. 1623 approving a Conditional Use Permit for the Project.

Section 6. A timely appeal of the Planning Commission decision approving the Conditional Use Permit was filed by 131 South Maple Associates, LP and 9250 Wilshire, LLC (hereinafter referred to collectively as the “Appellants”).

Section 7. The City Council conducted a public hearing on the appeal on December 19, 2011.

Section 8. In considering the request for a Conditional Use Permit, the City Council may approve the Conditional Use Permit if the Council finds as follows:

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

Section 9. Based on the foregoing, the City Council hereby finds and determines that the proposed location of the proposed use will not be detrimental to adjacent property or to the public welfare for the following reasons:

The existing dealership predates the City's current code requirement that a conditional use permit ("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 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 reduce or prevent current adverse impacts on adjacent property and the public welfare. 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 reduce the existing dealership-related circulation impacts on the nearby residential properties. Additionally, the Project provides all service bays within

subterranean levels of the structure to prevent noise intrusion into the surrounding neighborhood. Furthermore, by relocating the alley and enclosing all dealership operations within a building, the proposed Project improves the buffer between residential properties and the commercial use. Therefore, 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 by maintaining/improving an important tax revenue generator for the City.

Section 10. Based on the foregoing, the City Council hereby grants the requested CUP, subject to the following conditions:

GENERAL AND DESIGN-RELATED CONDITIONS:

1. The approval of the CUP shall not become effective unless and until the following approvals considered by the City Council at the December 19, 2011 public hearing on the Project have been adopted and taken effect: (1) the proposed Zone Text Amendment regarding Floor Area and parking standards for automobile dealerships and (2) the proposed alley vacation and relocation.
2. In the event of any court action or other proceeding challenging the approval of this resolution or otherwise challenging any approval by the City of the Project or any aspect of the Project, including the environmental review conducted in conjunction with this Project, the Applicant shall reimburse the City for the City's cost of defending any such court action or proceeding with counsel chosen by the City. 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. In the event the Applicant fails or refuses

to reimburse the City for its cost to defend any challenge to the approval of this CUP, any challenge to any other approval associated with the Project, or any challenge to the environmental review conducted in conjunction with this Project, the City shall have the right, among other remedies, to revoke this CUP 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 CUP, any other approval associated with the Project, or the environmental review conducted in conjunction with this 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 the plans submitted to the City Council, any written project proposal information provided to the City Council and any verbal agreements or representations made to the Planning Commission and

the City Council as part of their consideration of the Project. The Project shall also substantially comply with each mitigation measure recommended by the Final EIR as set forth in this resolution and each condition of approval set forth in this resolution. Minor amendments to the Project may be approved by the Director of Community Development or the Director's designee provided that the Project, as amended, meets the requirements of this condition, including substantial conformity with the plans submitted to the City Council.

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 in this resolution. 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 City Council expressly reserves jurisdiction to the Planning Commission to impose additional conditions on the Project by adding additional conditions to the CUP as necessary to mitigate any traffic and parking impacts to the adjacent residential neighborhood and to mitigate any unanticipated impacts, including unanticipated traffic and parking impacts, caused by the Project. Such additional conditions may be imposed after providing notice to the Applicant and an opportunity to be heard regarding the proposed additional conditions. Notice shall also be provided to all property owners and residential occupants of property located on the 100, 200, 300 and 400 blocks of South Elm, South Rexford, South Maple, South Palm and South Oakhurst Drives, and to the 100 block of North Rexford, North Elm, North Maple, and North Palm Drives. In the event that a hearing is scheduled to consider the imposition of additional conditions, the full cost of the notice, the 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 City Council. 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 City Council expressly reserves jurisdiction to the Planning Commission to revoke the CUP if the Planning Commission determines that proposed change does not substantially conform to the approved Project or to impose additional conditions as necessary to ensure that the operation of a subsequent dealership at the subject site conforms to the approved Project. The full cost of the notice, the hearing, and the implementation of any additional conditions 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 zone shall be used solely for the purpose of customer or employee parking and vehicle circulation. Pursuant to BHMC §10-3-3719 F. the portions of the Project located within an R-4 zone 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 within an R-4 zone.
10. The south side of the structure (adjacent to residential uses) shall be greened with landscaping satisfactory to the Architectural Commission.
11. All rooftop lighting shall be set on a timer to automatically turn on at sunset and turn 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 or the City of Beverly Hills Parking Authority for monthly parking in a parking structure owned by the City or the Authority. 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, the Director of Community Development shall schedule a hearing before the Planning Commission to consider the revocation of the Conditional Use Permit or the imposition of additional conditions to mitigate the impact from the loss of offsite employee parking. The full cost of the notice of the hearing, the hearing, and the implementation of any additional conditions shall be paid for by the Applicant. All employee parking spaces shall be made available to employees at no charge, and shall be located within one-half (1/2) of a mile of the Project site.

13. Acoustic paneling, satisfactory to the Director of Community Development, 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 9:00 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 by law, the Applicant shall take all reasonable measures to ensure that 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 and maintained 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 Project site.
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. All test drives shall use the approved test drive route. All vehicles being test driven shall prominently display a placard, satisfactory in form and content to the Director of Community Development, identifying the vehicle as a vehicle that is being test driven. The placard shall be displayed so that it is clearly visible to pedestrians and other drivers.
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, to the satisfaction of the Director of Community

Development, 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 six (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 during the hours of operation of the service department 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 telephone or by in writing (including electronic written communication).

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. Trash and recycling materials 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 parameters set forth in the noise study presented to the Planning Commission during the public hearing process.

33. At the close of business each day, at least one employee 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. Dealership employees shall be prohibited from patronizing any lunch truck or catering truck that is parked on a residential street, in an alley or in the loading zone on Wilshire Boulevard.
36. Prior to the issuance of a certificate of occupancy, the Applicant shall deposit with the City \$50,000 to ensure compliance with the requirements of the Beverly Hills Municipal Code and all conditions of this resolution. If the City determines that the Applicant is responsible for two or more violations of the requirements of the Beverly Hills Municipal Code or the conditions of this resolution during any twelve (12) month period, then the City may: (a) draw down from the deposit \$5,000 to cover the City's costs of enforcement of the conditions of this resolution, (b) notify the Applicant that the Applicant may request a hearing before the City within ten days of the notice, and may (c) suspend this CUP approval until such time that an additional deposit of funds is made in an amount sufficient to restore the deposit to \$50,000.

If the Applicant timely requests a hearing, the deposit shall not be drawn upon, and additional funds shall not be required to be deposited, until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City Manager, or the City Manager's designee, regarding whether the City should draw on the deposit and the City

determines that substantial evidence supports drawing upon the deposit. If the City determines that the Applicant is responsible for additional violations within the twelve month period, then the City may draw an additional \$5,000 from the deposit to reimburse the City for the cost of enforcement of the conditions of this resolution, require the Applicant to restore the deposit to \$50,000 and may suspend the certificate of occupancy until such time as the deposit is restored, all through the procedure set forth above.

The deposit may be reduced to \$25,000 after the Project has been occupied for five years if the Applicant has been responsible for no more than two violations of the conditions of this resolution and the provisions of the Beverly Hills Municipal Code in any twelve month period. The deposit may be returned in full to the Applicant after the Project has been occupied for ten years if the Applicant has not been responsible for more than two violations of the conditions of this resolution or the Beverly Hills Municipal Code within any twelve month period. However, at any time, the Director of Community Development may require the deposit to be reestablished at the level of \$50,000 if the Director determines that there have been continuing violations of the conditions of this resolution or the Beverly Hills Municipal Code or if the Director determines that there has been a change in the ownership of the Project site or the dealership occupying the Project. The Applicant shall reestablish the deposit at the amount determined by the Director within thirty (30) days after receipt of a written notice from the Director notifying the Applicant of the requirement to reestablish the deposit. The Applicant may appeal to the City Council the decision of the Director to reestablish the deposit. Such appeal must be filed within ten days after the Applicant has received notice of the requirement to reestablish the deposit.

PUBLIC WORKS/RIGHT-OF-WAY CONDITIONS:

37. 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 plans reviewed by the City Council at its meeting of December 19, 2011 and all applicable City standards. The full cost of alley design, construction, and dedication shall be paid for by the Applicant.
38. No portion of any existing alley shall be vacated or closed to vehicular circulation unless and until a new alley has been constructed and is operational in accordance with the requirements of condition no. 37.
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 design 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.

If the Director of Community Development determines that the requirements of this condition have not deterred drivers from approaching the Project site entrance through the adjacent residential area, then the Director may require the Applicant to install cameras for the purpose of recording the movement of vehicles in the public right of way as the vehicles approach the Project entrance. Such recordings shall be made available to the City for the purpose of monitoring compliance with this CUP. The cameras shall be of a type, and shall be installed in locations, satisfactory to the Director. All costs associated with the installation, operation and maintenance of the cameras shall be borne by the Applicant.

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. An angled curb, satisfactory to the Director of Public Works, 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.

If the Director of Community Development determines that the requirements of this condition have not deterred drivers from exiting the Project site driveway and proceeding south through the adjacent residential area, then the Director may require the Applicant to install cameras for the purpose of recording the movement of vehicles in the public right of way as the vehicles exit the Project. Such recordings shall be made available to the City for the purpose of monitoring compliance with this CUP. The cameras shall be of a type, and shall be installed in locations, satisfactory to the Director. All costs associated with the installation, operation and maintenance of the cameras shall be borne 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 shall be reviewed and approved by the Director of Public Works. All vehicles transported to the site shall conform to the route approved by the Director of Public Works.

42. Prior to the issuance of a certificate of occupancy a loading zone shall be constructed by the City 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, to the satisfaction of the Director of Public Works.
46. Prior to the issuance of a certificate of occupancy, the Applicant shall execute a covenant to maintain landscaping in an area three (3) feet in width located at the southern portion of the R-4 parcel satisfactory in form and content to the City Attorney and the Director of Public Works. The landscaping shall be for the purpose of providing a landscape buffer between the residential and commercial uses. The landscaping shall be subject to review and approval by the Architectural Commission and shall include species that are sufficiently substantial 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 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. However, in the event that the City elects not to install bollards or a similar device on South Maple Drive to deter Project traffic from utilizing South Maple Drive, then the City Council may, after notice to the Applicant as well as residents and property owners of South Maple Drive, suspend this condition without amendment of the CUP.

48. Prior to the issuance of a certificate of occupancy, the Applicant shall provide the City with a Sewer Area Study that will analyze whether the existing sewer lines within the City of Beverly Hills require upgrading in order to handle the wastewater flow from the Project or from the cumulative impacts of the Project and other potential development. The Applicant shall pay its fair share 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 examined using closed circuit television cameras (CCTV) 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 the 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 ensuring that each and every relocated utility provides an equivalent level of service from the relocated infrastructure. 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 with such relocation, to the extent that the City bears no expense in this effort.

53. The Applicant shall clearly identify the process, phasing, and future location of utilities to be relocated in conjunction with the alley vacation.

54. The fire hydrant on the west side of Maple Drive where the future driveway is proposed shall be relocated and the cost of relocation shall be paid for by the Applicant.

55. Removal or replacement of existing street trees as a result of the Project shall be coordinated with, and authorized by, the City's Arborist. Prior to the removal of any street tree, security to ensure successful removal and replacement of street trees shall be provided by the Applicant in form and content satisfactory to the City Attorney and the City's arborist.

56. Prior to issuance of a certificate of occupancy, 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.

57. 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.

58. All survey monuments, street lights, underground utilities, and any off-site improvements adversely 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.
59. Any street lights/fixtures removed as a result of the Project shall be properly stored and reinstalled according to City standards and requirements at the expense of the Applicant. Prior to the removal of any street light/fixture, security to ensure successful removal and replacement of the street light/fixture shall be provided by the Applicant in form and content satisfactory to the City Attorney and the Director of Public Works.
60. 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.
61. 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.
62. 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.

63. 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.
64. 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.
65. 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 with the approved plans and required permits issued for this specific work.
66. 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.
67. 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 the City Council.

68. Landscape plans shall be reviewed and approved by the City's Arborist. Landscaping shall be maintained in accordance with the approved plans.
69. 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.
70. The Applicant shall remove the street curb along Maple Drive in front of the Project site 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).
71. 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.
72. 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 by the Applicant.
73. The corner of the Project site (south-west corner of the intersection of Maple and Wilshire) shall be sufficiently set back 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 Drive and Wilshire Boulevard.

74. The vertical slope of the intersection shall be maintained with the new ramp.
75. 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.
76. 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.
77. The Applicant shall reimburse the City for the City's cost to study the installation of bollards or similar devices on Maple Drive, including the cost of any required environmental review. The primary purpose of the bollards is to deter Project related vehicle traffic from utilizing South Maple Drive to approach or depart the Project site. If the City determines to install bollards for this purpose, then the Applicant shall pay for the cost of such bollards. The Applicant shall reimburse the City for its costs associated with the study and installation of bollards within sixty days after the City has made demand upon the Applicant for reimbursement and presented evidence of the amounts expended by the City.

If bollards are installed on South Maple Drive, then without amending this CUP, the Director of Community Development may suspend the Applicant's obligation to comply with other conditions identified by the Director as designed to deter traffic from using South

Maple Drive. Prior to suspending a condition, the Director must determine that the suspended condition is no longer necessary to protect the adjacent residential neighborhood from impacts due to the placement of bollards on South Maple Drive. The Director may reinstitute any suspended condition upon thirty days notice to the Applicant if the Director determines that the suspension of the condition has had an adverse impact on the adjacent residential neighborhood or the public welfare.

STANDARD CONDITIONS:

78. Prior to the issuance of building permits, the Project's exterior design, including openings and doors facing Maple Drive, and its associated signage shall be reviewed and approved by the Architectural Commission. Furthermore, the parking garage openings facing South Maple Drive shall be fitted with roll-down doors that are to be closed at sunset or the close of business each day, whichever is earlier. The doors shall be of metal construction and shall be painted to match the exterior color of the building.

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 review for compliance with the Municipal Code when building plans are submitted for plan check. Compliance with the Municipal Code is required prior to the issuance of a building permit.

80. At all times the Project shall comply with the City's Municipal Code and all applicable State and Federal regulations.

81. This 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 this 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.

82. 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, or its successor.

83. Prior to the issuance of a Building Permit, all applicable fees and taxes shall be paid to the City.

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

85. Shortly after the one year anniversary of the issuance of the certificate of occupancy for the Project, the Planning Commission shall hold a public hearing to review compliance with the CUP and evaluate whether the Project has created unanticipated impacts on adjacent properties or the public welfare. Pursuant to condition no. 5, additional conditions may be imposed on the CUP at this hearing in order to mitigate traffic impacts on the adjacent residential neighborhood or to mitigate any unanticipated impacts on adjacent properties or the public welfare, including traffic impacts. Notice shall be provided to the Applicant and the Applicant shall be provided with an opportunity to be heard regarding the Applicant's compliance with the CUP, whether the Project has generated any unanticipated impacts, and any proposed additional conditions. Notice shall also be provided to all property owners and

residential occupants of property located on the 100, 200, 300, and 400 blocks of South Elm, South Rexford, South Maple, South Palm, and South Oakhurst Drives, and to the 100 block of North Rexford, North Elm, North Maple, and North Palm Drives. The full cost of the notice, the hearing and implementation of any additional conditions shall be paid for by the Applicant.

86. Prior to demolition of the Project site, the Applicant shall provide a notice to all property owners and residential units within one quarter mile radius of the Project site setting forth the construction schedule for the Project and a telephone number where residents and others can inquire about the construction process and register complaints. A sign, legible at a distance of fifty (50) feet, shall also be posted at the Project site with this information.

MITIGATION MEASURES:

87. **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.
88. **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.

89. GEO-2 Geotechnical Report. The Applicant shall implement all design recommendations 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.

90. **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, and 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 Applicant shall submit all clearance documentation to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.

91. **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 the 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 shall 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.

92. HAZ-2(c) Excavation and Demolition Contingency Plans. The Applicant shall prepare a contingency plan for all excavation and demolition projects conducted within the Project site 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.

93. **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 Applicant shall submit all correspondence to the Beverly Hills Department of Community Development prior to issuance of grading or building permits.
94. **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.
95. **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 examined with a Closed Circuit television camera (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.

96. **T-6(b) Contacting Utility Companies.** The applicant shall contact utility companies to arrange for the relocation of their utilities prior to commencing the alley relocation process.
97. **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.
98. **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 construction 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.

99. **CON-1 (b) Construction Worker Parking Management Plan.** The Applicant shall submit a Construction 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 construction worker 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 Worker Parking Management 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.

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

101. **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.

102. **CON-2 (c) Diesel Equipment Mufflers.** All diesel equipment shall be operated with closed engine doors and shall be equipped with factory recommended mufflers.
103. **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.
104. **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.
105. **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 sufficiently damp 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.

106. **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 City Clerk shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his Certification to be entered in the Book of Resolutions of the City of Beverly Hills.

Adopted:

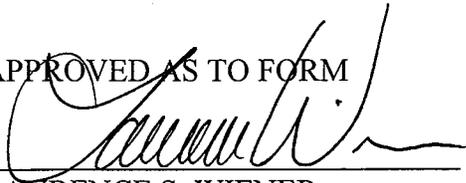
BARRY BRUCKER
Mayor of the City of Beverly Hills

ATTEST:

BYRON POPE
City Clerk

[Signatures continue]

APPROVED AS TO FORM



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT

JEFFREY KOLIN
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development

RESOLUTION NO. 12-R-

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AMENDING THE MASTER PLAN OF STREETS, ALLEYS AND HIGHWAYS AND ORDERING THE CONDITIONAL VACATION OF AN ALLEY LOCATED ADJACENT TO THE PROPERTY AT 9230 WILSHIRE BOULEVARD.

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

Section 1. In accordance with the provisions of Section 8320 of the Streets and Highways Code of the State of California (the “Streets and Highways Code”), the City published notice of its intent to vacate a portion of the alley located to the south of property located at 9230 Wilshire Boulevard, and west of Maple Drive on October 29, 2004, and November 5, 2004, in the *Beverly Hills Weekly* on December 1 and December 8, 2011 and in the *Beverly Hills Courier* on December 2, and December 9, 2011. Notice was also posted on the project site.

Section 2. The proceedings to vacate the alley were conducted pursuant to Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code, Section 8320 *et. seq.* Notices of the proposed alley vacation were duly published and posted in the manner and form and at the times required by Sections 8322 and 8323 of the Streets and Highways Code.

Section 3. On October 27, 2011, the Planning Commission considered, among other things, the alley vacation and found that the alley vacation and replacement is consistent with the General Plan and recommended that the City Council approve the vacation.

Section 4. The City Council held a duly noticed public hearing regarding the vacation and related matters on December 19, 2011.

Section 5. The project, including a proposal to demolish and build a new automobile dealership on the property at 9230 Wilshire Boulevard and the related entitlements, and including this alley vacation (collectively 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 environmental impact report 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 by Planning Commission Resolution No. 1622. The City Council has made environmental findings in connection with the Project and adopted a Statement of Overriding Considerations in City Council Resolution No. _____.

Section 6. Based on the foregoing, and evidence presented through the hearing process, the City Council hereby finds and determines as follows regarding the alley vacation:

1. 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 relocation is a desirable project for the City for the reasons outlined above, and a satisfactory alternative to the existing alley because the relocation of the alley results in 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.

2. Pursuant to Section 8324 of the Streets and Highways Code, the portion of the alley proposed for abandonment as described in Exhibit A, attached hereto and incorporated by reference, is unnecessary for present or prospective public use if the replacement alley right-of-way required as a condition of approval of this vacation, is dedicated and improved because that alley right-of-way will adequately serve the same purposes currently served by the portion of the alley being vacated.

3. Upon dedication and improvement of the replacement alley, the replacement alley would provide utility for non-motorized transportation facility, and as such, the current alley would not be useful for a non-motorized transportation facility.

Section 7. The City Council hereby orders that the portion of the alley as described and shown on Exhibit A, attached hereto and incorporated by reference, shall be and is hereby ordered to be vacated subject to all of the following conditions and only after the conditions are satisfied:

1. No portion of any existing alley shall be vacated or closed to vehicular circulation unless and until a new alley, in a location substantially as shown in Exhibit B attached hereto and incorporated by reference, and in an exact location satisfactory to the Director of Public Works, has been constructed to City standards, is dedicated to the City, and is operational.
2. All utility companies (Southern California Edison, the Gas Company, Time Warner and AT&T) shall relocate their respective utilities to the new alley shown in Exhibit B.
3. Each utility within the alley to be vacated shall be relocated without interruption of service, and each and every utility shall provide an equivalent level of service from the relocated infrastructure.
4. The pavement and center drainage gutter on the alley west of Maple Drive between the east-west alley south of Wilshire Boulevard and the relocated alley, 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.

Section 8. Page 36 of the City's Master Plan of Streets, Alleys and Highways, is hereby amended as shown on the map, attached hereto as Exhibit C and incorporated by reference.

Section 9. The documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 10. The City Manager or his designee shall administer the terms of this Resolution on behalf of the City.

Section 11. The City Clerk is directed to cause a certified copy of this resolution and order to be recorded in the office of the Recorder of the County of Los Angeles at such time as the conditions of approval set forth in Section 7 of this Resolution, have been satisfied.

Section 12. The City Clerk shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his Certification to be entered in the Book of Resolutions of the City of Beverly Hills.

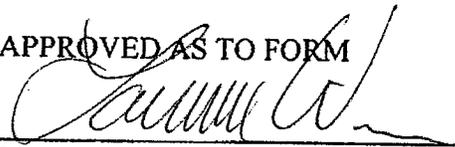
Adopted:

BARRY BRUCKER
Mayor of the City of Beverly Hills

ATTEST:

BYRON POPE (SEAL)
City Clerk

APPROVED AS TO FORM



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT

JEFFREY KOLIN
City Manager

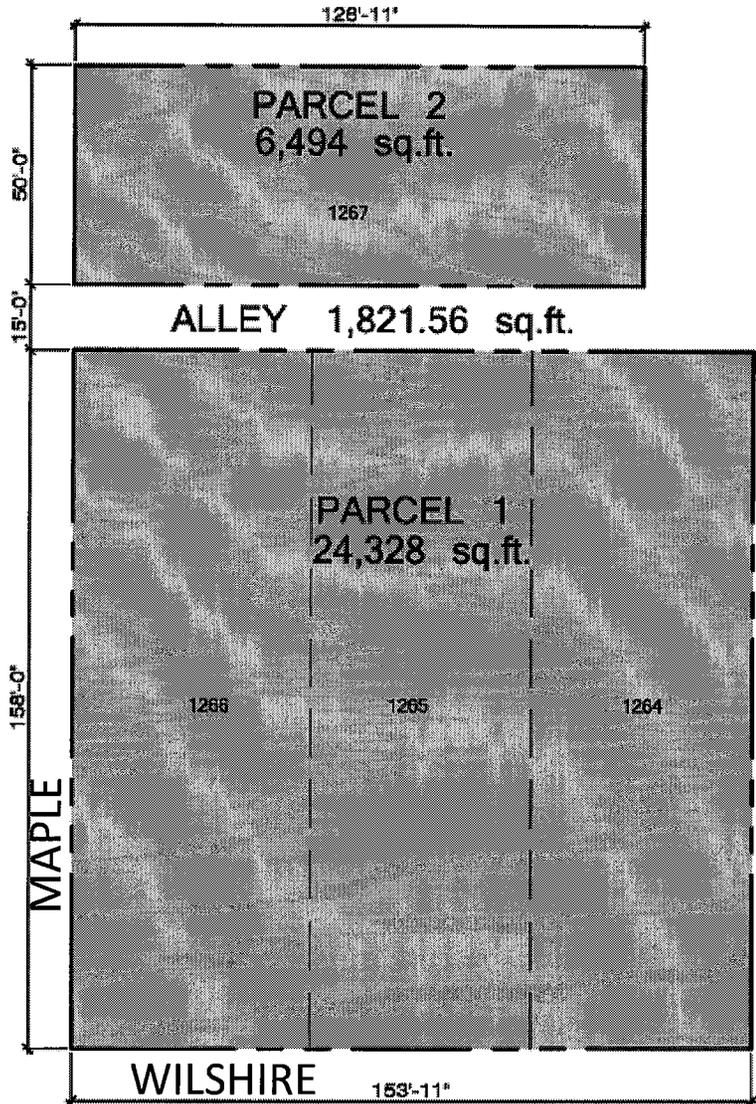

FOR DAVID D. GUSTAVSON
Director of Public Works and Transportation

EXHIBIT A
VACATION PARCEL

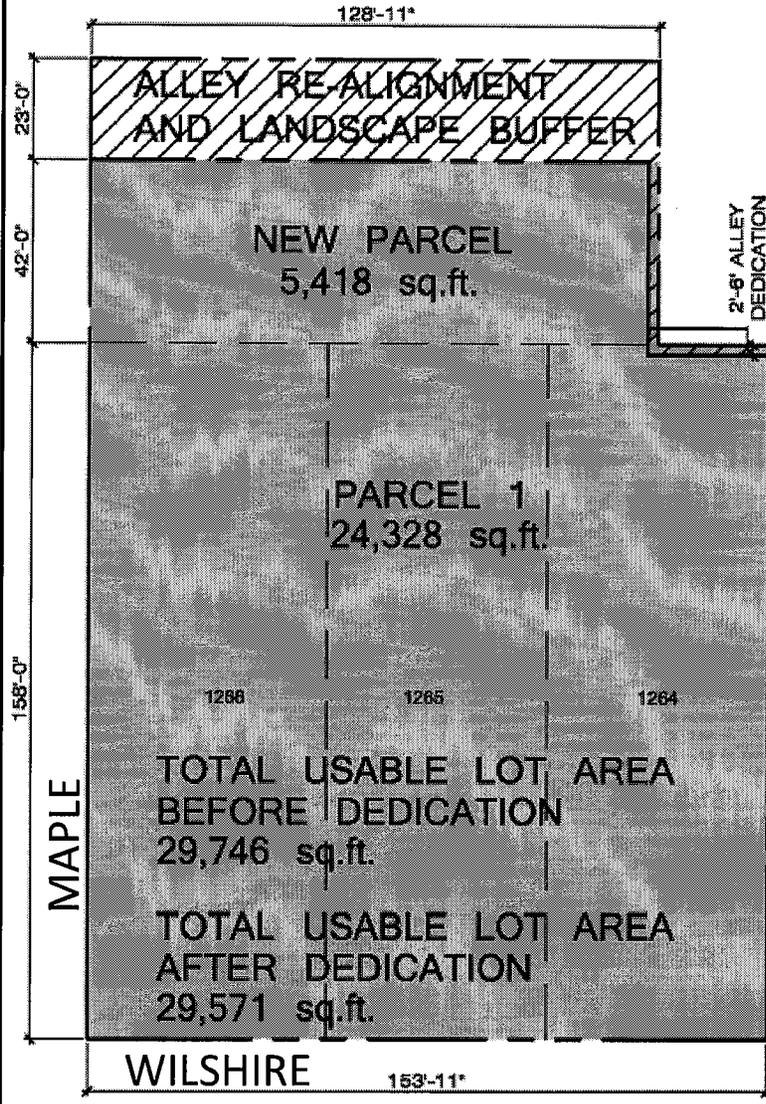
EXHIBIT A

Legal Description will be provided at the Council meeting January 10, 2012

EXHIBIT B
DIAGRAM OF REPLACEMENT ALLEY

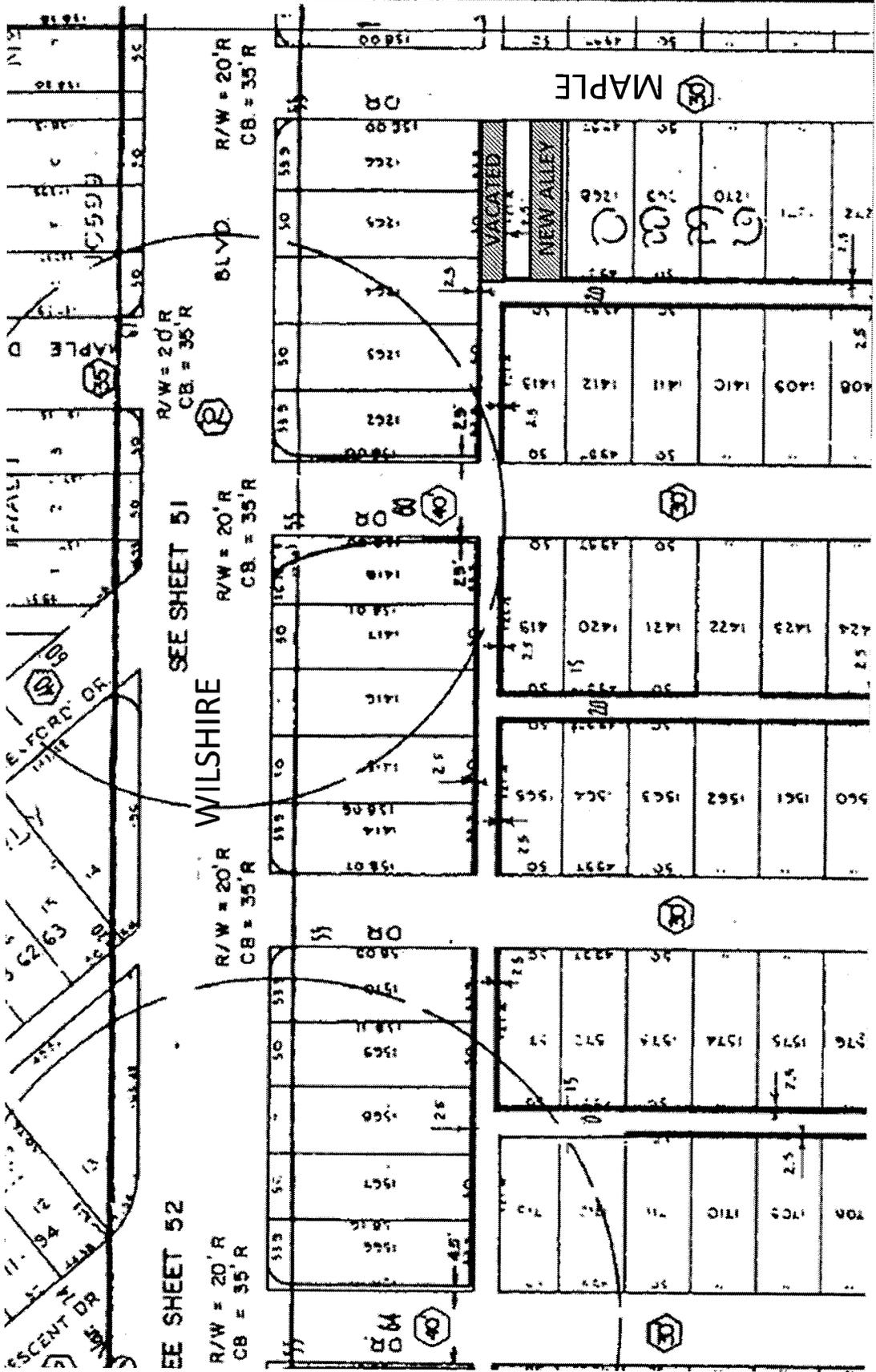


EXISTING PARCELS AND ALLEY
EXPLODED VIEW OF INDIVIDUAL PARCELS



PROPOSED NEW
EXPLODED VIEW OF INDIVIDUAL PARCELS

EXHIBIT C
AMENDMENT TO MASTER PLAN
OF STREETS, ALLEYS AND HIGHWAYS



SEE SHEET 51

SEE SHEET 52

WILSHIRE

R/W = 20'R
CB = 35'R

MAPLE

VACATED

NEW ALLEY

