



AGENDA REPORT

Meeting Date: November 13, 2007

Item Number: D-1

To: Honorable Mayor & City Council

From: Vincent P. Bertoni, AICP, Community Development Director
Donna Jerex, Senior Planner

- Subject:**
- A) RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED MIXED USE PROJECT GENERALLY LOCATED AT 8600 WILSHIRE BOULEVARD; MAKING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND ADOPTING A MITIGATION MONITORING PROGRAM
 - B) RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS GENERAL PLAN TO ACCOMMODATE MIXED USE DEVELOPMENT AT THE HEIGHT AND DENSITY PROPOSED FOR THE REAL PROPERTY LOCATED AT 8600 WILSHIRE BOULEVARD
 - C) RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING VESTING TENTATIVE TRACT MAP NO. 63541 AND A PLANNED DEVELOPMENT PERMIT TO ALLOW CONSTRUCTION OF A MIXED-USE PROJECT FOR PROPERTY LOCATED AT 8600 WILSHIRE BOULEVARD (WILSHIRE COLONIAL PARTNERS LLC)
 - D) AN ORDINANCE OF THE CITY OF BEVERLY HILLS ESTABLISHING A MIXED-USE PLANNED DEVELOPMENT OVERLAY ZONE AND REGULATIONS PERTAINING THERETO, AMENDING THE BEVERLY HILLS MUNICIPAL CODE AND APPLYING THE OVERLAY ZONE TO PROPERTY LOCATED AT 8600 WILSHIRE BOULEVARD
 - E) AN ORDINANCE OF THE CITY OF BEVERLY HILLS APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND WILSHIRE COLONIAL PARTNERS, LLC, FOR CONSTRUCTION OF A MIXED-USE PROJECT AT 8600 WILSHIRE BOULEVARD

Attachments: Documents listed above under "Subject" heading.

RECOMMENDATION

Staff recommends that the City Council adopt the following:

1. Resolution of the Council of the City of Beverly Hills Certifying the Final Environmental Impact Report for a Proposed Mixed Use Project Generally Located at 8600 Wilshire Boulevard; Making Environmental Findings Pursuant to the California Environmental Quality Act; and Adopting a Mitigation Monitoring Program.
2. Resolution of the Council of the City of Beverly Hills Amending the Beverly Hills General Plan by Changing the Land Use Map Designation, Maximum Density and Maximum Height for Those Real Properties Located at 8600 Wilshire Boulevard.
3. Resolution of the Council of the City of Beverly Hills Conditionally Approving Vesting Tentative Tract Map No. 63541 and a Planned Development Permit to Allow Construction of a Mixed Use Project for Property Located at 8600 Wilshire Boulevard. (Wilshire Colonial Partners LLC)
4. Conduct second reading and adopt An Ordinance of the City of Beverly Hills Establishing a Mixed-use Planned Development Overlay Zone and Regulations Pertaining Thereto, Amending the Beverly Hills Municipal Code and Applying the Overlay Zone to Property Located at 8600 Wilshire Boulevard
5. Conduct second reading and adopt an Ordinance of the City of Beverly Hills Approving a Development Agreement between the City of Beverly Hills and Wilshire Colonial Partners, LLC, for Construction of a Mixed-Use Project at 8600 Wilshire Boulevard

INTRODUCTION

At its October 16, 2007 City Council meeting, the Council directed staff to prepare the above-listed documents to approve a 26-unit mixed-use development with 6,383 square foot of ground floor retail space and 9 parking spaces above the Code's requirements. First readings were held on ordinances to: a) establish a Mixed-Use Planned Development Overlay Zone and regulations pertaining thereto, and b) to approve a Development Agreement between the City of Beverly Hills and the project applicant (Wilshire Colonial Partners LLC) for development of a mixed-use project.

PROJECT DESCRIPTION

The Applicant, Wilshire Colonial Partners, LLC, has proposed to develop a five-story, maximum 61-foot high (including rooftop uses), mixed-use project on the vacant lot at 8600 Wilshire Boulevard. The project would include:

- A maximum of 26 residential condominium units including 2 affordable units and 3 townhomes. The maximum height of the Wilshire-fronting building would be 61 feet. The townhomes would be a maximum height of 33 feet.
- 6,383 square feet of ground-floor commercial space
- Up to 97 parking spaces located in a multi-level subterranean garage
- Access to the project site would be from Stanley Drive

- Loading facilities would be located on the site off of, and accessed from Stanley Drive

Approval of the project is dependent upon approval of a general plan amendment and an overlay zone for this location because the current C-3 zoning does not allow residential use; the current R-1 portion of the site would not allow multiple dwelling units; and the Project would exceed the existing three-story/45-foot height limit and FAR (Floor Area Ratio) allowed in the C-3 and/or R-1 Zone. In addition, approval of the project requires City Council approval of a planned development permit, a vesting tentative tract map, and a development agreement for this mixed use project.

At its October 16, 2007 meeting, the City Council conducted first readings on the ordinances for the Mixed-Use Planned Development Overlay Zone and Development Agreement and directed staff to return with the project resolutions described in the title above. These resolutions are attached for the Council's consideration and the public hearing remains open. In addition, the ordinances are attached for second reading and adoption.

Vincent P. Bertoni, AICP
Director of Community Development

Approved By



Item No. D-1A

Resolution Certifying the Final Environmental Impact Report for a Proposed Mixed Use Project Generally Located at 8600 Wilshire Boulevard; **Making Environmental Findings** Pursuant to the California Environmental Quality Act; And **Adopting a Mitigation Monitoring Program**

RESOLUTION NO 07-R-

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED MIXED USE PROJECT GENERALLY LOCATED AT 8600 WILSHIRE BOULEVARD; MAKING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND ADOPTING A MITIGATION MONITORING PROGRAM

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY FINDS
AND RESOLVES AS FOLLOWS:

Section 1. Wilshire Colonial Partners LLC (the "Applicant"), has applied for a General Plan Amendment, a Zoning Code Amendment to create an Overlay Zone, a Zoning Map Amendment to apply to overlay zone to the subject property, a Vesting Tentative Tract Map, a Planned Development Permit and a proposed Development Agreement to allow construction of a mixed-use project (the "Project") at property known as 8600 Wilshire Boulevard (the "Project site"). Parking will be provided at street level and in a subterranean garage. A Draft Environmental Impact Report dated April 2006 (the "Draft EIR") 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 analyzed the Project's potential impacts on the environment.

Section 2. Pursuant to Section 15063 of the Guidelines, the City prepared an Initial Environmental Study (the "Initial Study") for the Project. The Initial Study concluded that there was substantial evidence that the Project might have a significant environmental impact on several specifically identified resources and governmental services, including Aesthetics; Air

Quality; Geology, Seismicity and Hydrology; Land Use; Noise; Public Services; Traffic and Parking; and Utilities.

Section 3. 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. The City contracted with independent consultants for the preparation of the technical studies for the environmental impact report and, on October 14, 2005, prepared and sent a Notice of Preparation of the Environmental Impact Report ("EIR") to responsible, trustee, and other interested agencies and persons in accordance with Guidelines Section 15082(a). The City held a public scoping meeting on October 27, 2005 to invite comments on the environmental issues to be included in the Draft EIR.

Section 4. The City completed the Draft EIR, together with those certain technical appendices (the "Appendices"), on or about March 17, 2006. The City circulated the Draft EIR and the Appendices to the public and other interested persons between April 17, 2006 and June 1, 2006 for a 45-day comment period as required by Guidelines Sections 15087(c) and 15105. During the public comment period on the Draft EIR, the City received one (1) written comment letter regarding the Draft EIR, along with comments from the Planning Commission, including a petition with 18 residents' names, from a meeting on April 27, 2006 meeting held to discuss and take input on the Draft EIR.

Section 5. The Planning Commission held duly noticed public hearings on April 27, 2006 (to, as note above, discuss the Draft EIR), June 22, 2006, and July 27, 2006, at which times it received oral and documentary evidence from the public regarding the Project and the Draft EIR. On July 27, 2006, the Planning Commission denied the requested General Plan

Amendment and Zone Change necessary to permit the Project on the basis that the property was not appropriate for a mixed use development. The denial was appealed to the City Council, which held a hearing on September 19, 2006, at which time it the Council overturned the Commission's decision, determined that the site was appropriate for mixed-use development, and remanded the matter to the Commission for its input regarding specific issues related to allowable uses, height, density, landscape and project design. On remand, the Planning Commission held duly noticed public hearings on November 30, 2006, at which time the Commission directed the Applicant to modify the Project and return with revised plans. The hearing was continued on January 25, 2007, at which time the Commission provided additional direction to the Applicant regarding the mix of uses, parking, height, density, modulation and design. The Commission also directed staff to prepare a development agreement and resolution for consideration. On March 8, 2007, the Planning Commission adopted a resolution recommending approval of the Project with certain conditions relating to density, parking, height, setbacks, landscaping and uses, and summarized the City's Council's direction from the September 19, 2006 hearing and whether the Council's direction had been followed.

Section 6. The City prepared written responses to all timely comments received on the Draft EIR and made revisions to the Draft EIR, as appropriate, in response to those comments. The City completed the written responses to comments on the Draft EIR in August 2006. The written responses to comments were made available for public review in the Department of Community Development. After reviewing the responses to comments and the revisions to the Draft EIR, the City concluded that the information and issues raised by the comments and the responses thereto did not constitute new information requiring additional recirculation of the Draft EIR.

Section 7. During the Planning Commission deliberations at its various hearings, the Applicant made certain revisions to the Project, and the Commission indicated that it supported certain additional revisions to the Project including: reducing the overall number of residential units, reducing the height of the project, and increasing the amount of parking. The Commission considered the potential impacts of the Project, directed the Applicant to revise the Project to address the impacts, and recommended mitigation measures and conditions of approval to further address the potential impacts. Therefore, the Commission concluded that the Project as proposed, and subject to the identified mitigation measures and conditions of approval, would not have a significant impact on the environment. As demonstrated in the EIR, the environmental impacts of the Project revised in accord with the Planning Commission's direction are generally less than the environmental impacts of the Project as originally proposed and mitigated. Therefore, each of the findings set forth herein for the "Project" would apply to both the Project as originally proposed and the Project as modified by the Planning Commission's direction. The Planning Commission recommended a condition of approval for the Project that would require a second level of subterranean parking, but only if the potential environmental impacts, if any, have been fully analyzed in accordance with the applicable CEQA requirements.

Section 8. Subsequent to the Planning Commission's consideration of the Project, a supplement to the EIR dated June 2007 (the "Supplement") was prepared to analyze the Project as revised by the Planning Commission, specifically including the second level of subterranean parking, and other revisions set forth in Section 2.3 of the Supplement. Similar to the EIR itself, the Supplement concluded that the Project, as modified in accord with the conditions imposed by the Planning Commission would not result in unavoidable significant adverse impacts after implementation of mitigation, and specifically that impacts in the

following topical areas can be mitigated to less than significant levels: Aesthetics (shadows, lighting and visual character); Geology, Seismicity and Hydrology (geologic materials and soils, liquefaction and groundwater); Land Use (General Plan consistency, land use compatibility, zoning); Noise (construction-related noise); and Traffic and Parking (construction-related traffic). Impacts, if any, in the remaining topical areas were found to be less than significant.

Section 9. The City Council, in light of its continuing jurisdiction over the matter as a result of the appeal of the initial Planning Commission, held a duly notice public hearing on June 19, 2007. At that hearing the City Council received an overview of the Project including environmental review and discussed the physical aspects of the Project including building design, height and landscaping. Further, the Supplement was provided to the City Council for its review and consideration at this meeting. In response to deliberations at the prior Planning Commission and City Council hearings, the Applicant made certain revisions to the Project and the City Council indicated that is supported certain revisions to the Project including: returning with plans showing options for two or three townhome units including an option for one unit fronting on Stanley Drive with plans showing the pitched rooflines, setting the maximum height on the Wilshire Boulevard building to 61 feet; requesting the applicant to provide the floor plans for the affordable units to determine whether additional height with a pitched roof would be appropriate for the townhouses as an incentive for the provision of the affordable units; and requesting the Applicant to remove the garden wall on Stanley Drive and to show the landscaping at the pedestrian/street level on Wilshire. The City Council agreed with the Planning Commission's determination on the removal of the driveway on Charleville and the additional modulation on Wilshire Boulevard and Stanley Drive. The public hearing was continued to July 24, 2007.

On July 24, 2007, the City Council reviewed the staff's analysis of the revised changes to the Project regarding density, height, modulation, driveway locations and landscaping. The City Council consensus was to support two townhouses on the Charleville side and one on Stanley Drive; support two affordable units with two parking spaces and reduce the extra parking spaces from 11 to 9 spaces and direct Staff to review further the 33 foot pitched roof on the townhomes and require that the Applicant bring back a landscape plan for the townhouses on Charleville and Stanley and at pedestrian street level on Wilshire. In the afternoon on July 24, 2007, the City received an untimely CEQA comment letter from David M. Orbach (the "Orbach Letter") regarding alleged inadequacies in the EIR prepared for the Project. A copy of the letter is attached hereto as Exhibit C, and is incorporated herein by reference. The City Council continued the hearing on the Project to allow staff and the City's environmental consultant an opportunity to review the letter in more detail. The public hearing was continued to October 2, 2007.

On October 2, 2007, the City Council received a report from staff that plans had not been received from the applicant within a sufficient time period for review and the applicant was directed to return to the October 16, 2007 meeting with the requested plan revisions. the public hearing was continued to October 16, 2007.

On October 16, 2007, the City Council, the City Council reviewed revised plans that included a visual depiction of the visual differences between a 30-foot high flat roof and a 33-foot high pitched roof for the townhomes; required that 9 parking spaces be provided for public parking purposes; reviewed the Development Agreement as revised; conducted first readings on the ordinances for the Mixed-Use Overlay Zone and Development Agreement; and

directed City staff to prepare resolutions for the project approvals. The public hearing was continued to November 13, 2007.

On November 13, 2007, the City Council:

- Considered the Final Environmental Impact Report prepared for the Project, including the Supplement to the Environmental Impact Report dated June 2007, and adoption of a Mitigation Monitoring and Reporting Program;
- Considered adoption of a resolution approving a General Plan Amendment that applies to the 8600 Wilshire site, thus allowing mixed use and additional height and density;
- Conducted second reading of the ordinance establishing a mixed-use planned development overlay zone; and
- Conducted second reading of an ordinance approving a development agreement between the City and Applicant for development of the Project.

Section 10. The Final Environmental Impact Report (the "EIR") is comprised of: the Draft EIR, including Appendices, dated April, 2006; the Comments and Responses to Comments on the Draft EIR dated August 2006, the Supplement, the untimely Orbach Letter and the response to the comments in the Orbach Letter, which is attached hereto as Exhibit D and is incorporated herein by reference.

Section 11. The findings made in this Resolution are based upon the information and evidence set forth in the EIR and upon other substantial evidence which has been presented at the City Council hearings, Planning Commission hearings and in the record of the proceeding. 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 and available for public examination during normal business hours in the Department of Community Development and with the Director of Community Development, who serves as the custodian of these records, at the Beverly Hills City Hall, 455 North Rexford Drive, Beverly Hills, California, 90210.

Section 12. The City Council finds that agencies and interested members of the public have been afforded ample notice and opportunity to comment on the EIR.

Section 13. The City Council has independently reviewed and considered the contents of the Final EIR prior to deciding whether to approve the Project. The City Council believes that the Final EIR reflects its independent judgment. The City Council further believes that the additional information provided in the staff reports, in the responses to comments received after circulation of the Draft EIR (including the Orbach Letter), in the evidence presented in written and oral testimony presented at the PC Hearings, and as set forth in the Supplement does not constitute new information requiring recirculation of the EIR under CEQA. None of the information presented to the City Council after circulation of the Draft EIR has deprived the public of a meaningful opportunity to comment upon a substantial environmental impact of the Project or a feasible mitigation measure or alternative that the City has declined to implement. Further, the Supplement clarifies the change in impacts that attends revisions made to the Project after circulation of the DEIR, however the information in the Supplement does not trigger recirculation pursuant to CEQA Guideline Section 15088.5 because it does not contain significant new information, does not identify any new unmitigated impact, and proposed mitigation has been accepted by the Project applicant.

Section 14. The City Council finds that the comments regarding the Draft EIR and the responses to those comments have been received by the City; that the Planning Commission received public testimony regarding the adequacy of the EIR; and that the City Council has reviewed and considered all such documents and testimony prior to acting on the Project. Pursuant to Guidelines Section 15090, the City Council hereby certifies that the EIR has been completed in compliance with CEQA.

Section 15. Based upon the EIR and the record before the Planning Commission and the City Council, the City Council finds that the Project, as revised by the City Council, will not cause any significant environmental impacts after mitigation. Explanations for why the impacts were found to be less than significant are contained in the Environmental Findings set forth in Exhibit A to this Resolution and more fully described in the EIR and the Initial Study (included as Appendix A to the Draft EIR).

Section 16. Based upon the EIR and the record before the Planning Commission and the City Council, the City Council finds that the Project, as revised by the City Council will create no significant unavoidable impacts as further explained in the "Findings and Facts In Support of Findings" set forth in Exhibit A, which is attached hereto and is incorporated herein by reference, and in the EIR.

Section 17. Based upon the EIR and the record before the Planning Commission and the City Council, the City Council finds that cumulative impacts of the Project are not significant. Further explanation for this determination may be found in the EIR and Exhibit A, attached hereto.

Section 18. The EIR describes, and the Planning Commission and City Council have fully considered, a reasonable range of alternatives to the Project. The Project, as revised by the City Council, will not have any significant environmental impacts after implementation of the identified mitigation measures; therefore none of the Alternatives would reduce or avoid significant environmental impacts associated with the Project, and CEQA does not require findings regarding each of the Alternatives. Nonetheless, the City Council hereby makes the findings set forth in Exhibit A with respect to the Alternatives. The Planning Commission expressly recommended that the City Council find that each of the Alternatives identified in the EIR either would not sufficiently achieve the basic objectives of the Project, would do so only with unacceptable adverse environmental impacts greater than those associated with the Project, or are not feasible. Accordingly, and for any one of the reasons set forth in Exhibit A, attached hereto and incorporated herein by this reference, or set forth in the record, the City Council finds that specific economic, social, or other considerations make infeasible each of the Project Alternatives, including the "No Project" alternative, identified in the EIR, and each is hereby rejected. The City Council finds that a good faith effort was made to incorporate alternatives into the preparation of the EIR, and that all reasonable alternatives were considered in the review process of the EIR and the ultimate decision on the Project.

Section 19. The City Council hereby adopts the mitigation measures set forth in the "Mitigation Monitoring and Reporting Program," attached hereto as Exhibit B and incorporated herein by this reference, and intends to impose each mitigation measure as a condition of Project approval if approval is granted. These mitigation measures have been incorporated into the recommended Conditions of Approval for the Project. City staff shall

ensure implementation of the mitigation measures and monitor compliance with same, as described in Exhibit B.

Section 20. The secretary shall certify to the adoption of this Resolution, and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the City Council of this City.

Adopted:

JIMMY DELSHAD
Mayor of the City of Beverly Hills, California

ATTEST:

BYRON POPE
City Clerk

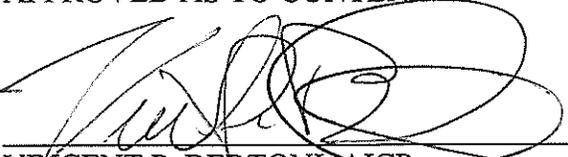
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APPROVED AS TO FORM:



ROXANNE DIAZ
Chief Assistant City Attorney

APPROVED AS TO CONTENT:



VINCENT P. BERTONI, AICP
Director of Community Development

EXHIBIT A

Findings and Facts In Support Of Findings

Article 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 or 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.
- c. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

Pursuant the requirements of CEQA, the City Council hereby makes the following environmental findings in connection with the proposed construction of the mixed use development project consisting of approximately 6,383 square feet of commercial space, 21 residential market-rate and 2 affordable condominium units on the upper stories above commercial and parking uses, three townhomes and related parking (the "Project"). The project has been reduced in scope and scale from that analyzed in the EIR and alternatives, thus generally further reducing any potential impacts from the Project as more fully discussed in the Supplement to the 8600 Wilshire Mixed-Use Project Final Environmental Impact Report dated June 2007 (the "Supplement"). These findings are based upon evidence presented in the record of these proceedings, both written and oral, the EIR and all of its contents, the Comments and Responses to Comments on the Draft EIR, the Supplement and staff and consultants' reports prepared and presented to the Planning Commission and City Council.

Article II. Project Objectives.

As set forth in the EIR, the objectives that the Project applicant seeks to achieve with this Project (the "Project Objectives") are as follows:

- Maximize use of an underutilized/vacant site;
- Contribute to the revitalization of the eastern end of the City;
- Advance the economic health of the neighborhood with a mixed-use project instead of strictly commercial or residential development;
- Provide additional housing stock;
- Create ground-floor retail to serve the local neighborhood; and

- To encourage a pattern of mixed-uses that takes maximum advantage of the physical, social and economic potential of the Project site without adversely impacting the viability of adjacent commercial development.

Article III. Impacts Determined to be Insignificant.

The Initial Study, the Supplement, or both analyzed the potential impacts of the Project and concluded that there would be no significant environmental impact in the following impact areas: Agricultural Resources, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Population and Housing, and Recreation. Because the Project will not have significant impacts of the foregoing types, no mitigation measures are necessary to address these issues.

Article IV. Potentially Significant Environmental Impacts Determined to be Mitigated to a Level of Insignificance.

The EIR identified the potential for the Project to cause significant environmental impacts in the areas of Aesthetics, Air Quality, Geology and Soils, Land Use and Planning, Noise, Public Services, Traffic and Parking, and Utilities. Each of these topics was analyzed in the Draft EIR and Supplement, concluding that the Project either would not have a significant impact, or would not have a significant impact with the implementation of identified mitigation measures.

The City Council finds that the mitigation measures for the Project identified in the EIR and Supplement are feasible and would reduce the Project's impacts to a less than significant level. The City Council adopts all of the mitigation measures for the Project described in the EIR and Supplement as conditions of approval of the Project and incorporates those into the Project.

4.1. Aesthetics

A. Potential Impacts

The EIR, at Section 4.1, and the Supplement analyze the potential for significant impacts to aesthetics, and in particular, the visual character of the Project site and the general vicinity and shade and shadows. Development of the Project will permanently alter the existing view from neighboring properties and will change the visual character of the site. Additionally, the Project will add new sources of light and glare to the environment and will create a new source of shade and shadow. These potential impacts were fully analyzed the EIR and Supplement.

B. Findings

Through the incorporation of project design features, compliance with applicable City codes, adherence to the mitigation measures, or combination thereof, the Project will avoid or substantially lessen any significant effects, such that no significant aesthetic impact will result.

C. Facts in Support of Findings

1. Visual Character. Removal of the existing structure on the Project site and development on the presently vacant portions of the Project site with the mixed-use

development could impact the visual character along Wilshire Boulevard, Stanley Drive, Charleville Boulevard and adjacent residential streets.

The impacts to visual character, which are more fully described in the EIR and Supplement, primarily involve the contrast between the existing site conditions, which include vacant property and a low profile commercial building, and the built condition after Project completion. The EIR concludes that a height (37 feet for the townhomes as initially proposed) would contrast with the visual character of Charleville Boulevard, although the Project, as revised pursuant to Planning Commission and City Council direction, would involve three townhomes with pitched roofs. The Project, before revisions directed by the Planning Commission, had a height (65 feet), mass and lack of setback along Wilshire Boulevard that would impact the visual character of the area in comparison to the existing condition.

However, the EIR identified, and the City Council adopts, the following mitigation measure that would reduce the impacts to less than significant levels:

[NOTE: Mitigation Measure A2 is no longer necessary because revisions to the Project contemplated by Measure A2 have been made to the Project.]

- A3 The Project shall incorporate design features to lessen the visual contrast with adjacent commercial buildings on Wilshire Boulevard. These features shall include reduced building height and/or increased step back for the fourth and fifth floors of the building to give the Project's Wilshire Boulevard façade a more pronounced three-story character consistent with adjacent development and existing zoning requirements, and railings on balconies on the Wilshire Boulevard façade set back a minimum of three feet from the building façade, incorporating planter boxes with foliage between the railing and building façade

2. Obstruction of Scenic Views and Vistas. The nearest natural feature is the Santa Monica Mountains; and although the Project would change the view of the mountains, the impact is found to be less than significant because of the other development existing in the area and because construction of a building to the maximum height allowed under existing zoning would have a similar effect. Because the impacts are found to be less than significant, no mitigation measures are necessary.

3. Shade/Shadow. Construction of the Project will generate new shade and shadow in the area and has the potential for impacting residences adjacent to the west of the Project, which front on Carson Drive, during certain times of the year. However, with implementation of the following mitigation measure, the impact will be reduced to a less than significant level:

- A4 The primary source of shadows cast onto the rear yards of adjacent residences is the 15+ feet western perimeter wall, as well as the first floor of the condominium portion of the Project. To reduce shadows these structures shall be set back from the western property line of the proposed Project a minimum of ten feet. The wall may not require setback, and as a substitute, the perimeter wall shall be designed at the minimum height that would block the line-of-sight between the proposed

Project townhomes and adjacent residences. Other measures shall include wall design features that would allow the passage of light, but maintain screening between the adjacent land uses.

4. New Sources of Light. Three of the four parcels that constitute the Project site are vacant, and the remaining parcel is developed with a commercial structure and surface parking. Lighting associated with the proposed Project will be limited to security lighting focusing on doors, gates and driveway entrances, along with possible landscape accent lighting. Given the design of the proposed Project, the lighting fixtures facing residential areas would not result in spillover or lighting glare effects on adjacent residences to the west of the proposed Project. Further, residences located south of Charleville Boulevard would typically view either landscape accent lighting or security lighting, all of which would be focused on the Project site particularly given Project revisions that deleted the previously proposed parking area access from Charleville Boulevard. Therefore when properly mounted and hooded, the lighting would not result in significant spillover or glare effects. Nonetheless, mitigation Measure A1 is proposed to ensure impacts of spillover lighting will remain less than significant.

A1 All exterior lighting shall be shielded in a manner to focus illumination onto entrances, pathways, landscaping or onto the building itself and not to be directed in a manner to cause spillover lighting on adjacent residences.

4.2. Air Quality

A. Potential Impacts

The Air Quality Impact Analysis examines the Project's potential to result in significant adverse changes to air quality. The analysis discusses both short-term impacts resulting from air pollutants generated during construction activities and long-term impacts resulting from operational emissions. Construction activities that could generate emissions include demolition of the existing structure on the site, grading and excavation, construction workers traveling to and from the Project site, delivery and hauling of construction supplies and debris to and from the Project site, fuel combustion by on-site construction equipment, the application of architectural coatings and other building materials that release volatile organic compounds (VOCs), and asphalt paving. These potential impacts are fully analyzed in the EIR, including specifically Section 4.2, and in the Supplement.

B. Findings

Changes or alterations have been required in, or incorporated into, the Project which substantially lessen the air quality impacts listed above, and will avoid effects caused by the Project.

C. Facts in Support of Findings

1. Construction Impacts. Construction activities will result in the generation of air pollutants. Analysis of the construction emissions indicates that all emission levels will remain well below established thresholds for such emissions. (EIR, Table 4.2-6.) As set forth in the Supplement, the additional 22 days of grading necessary to excavate the second

level of underground parking will generate 154 pounds of VOC, 1,254 pounds of NOX, 1,144 pounds of CO and 286 pounds of PM10. This translates into daily emissions that are well below the SCAQMD standards of 7 pounds per day of VOC, 57 pounds per day of NOX, 52 pounds per day of CO and 13 pounds per day of PM10. Based on the analysis set forth in the EIR and the Supplement, these emissions will be reduced to less than significant levels by implementation of standard conditions, uniform codes, Project design features, and mitigation measures identified in the EIR and set forth in the Mitigation Monitoring and Reporting Program. Further, any impacts will cease at the completion of construction activities.

2. Operational Impacts. Long term emissions resulting from post-construction operation of the Project would come from such sources as use of natural gas and consumer products, maintenance of landscaping and mobile sources (i.e., motor vehicles). Mobile source emissions for the Project were estimated using the trip generation estimates and CARB EMFAC2002, a computer program developed by the California Air Resources Board for estimating emissions generated by land use projects. Pursuant to the computer generated results, total operational emissions for the Project will remain significantly below established thresholds and, therefore, will not create a significant impact on air quality. (EIR, Tables 4.2-7 and 4.2-8.) Localized impacts from carbon monoxide (CO) concentrations were estimated using the USEPA CAL3QHC micro-scale dispersion model. The results of this modeling indicate that the 1-hour CO concentrations and the 8-hour CO concentrations for the Project are well below the established State standard. (EIR, Tables 4.2-9 and 4.2-10.) Accordingly, the Project will not result in any significant impacts to localized air quality. The results of the air quality analysis, EIR Section 4.2, demonstrate that the Project's daily emissions from stationary sources are well below South Coast Air Quality Management District (SCAQMD) thresholds. The City Council has determined that the State health standards are an appropriate measure of any localized impact from air emissions and that the SCAQMD CEQA significance standards are an appropriate measure of the significance of the City's contribution to cumulative, regional, air impacts as that agency has responsibility for ensuring long term compliance with regional air quality goals. The City Council has not been presented with any evidence that it is appropriate to use any other threshold of significance for air quality impacts. Further, the minor Project revisions analyzed in the Supplement do not alter this conclusion.

Further, the City Council hereby finds that the Project is consistent with the SCAQMD Air Quality Management Plan (AQMP) because the Project will not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP. The City Council also finds that the proposed Project will not exceed the growth assumptions in the most recent AQMP.

In light of the low levels of air quality impacts, the Project is not considered significant, and is not of sufficient size or density to cause a significant impact to Global Climate change.

Accordingly, the City Council finds that the Project will not have a significant impact on long term air quality; and no mitigation is necessary.

4.3 Geology, Seismicity and Hydrology

A. Potential Impacts

Section 4.3 of the EIR identifies the potential for significant impacts resulting from geologic materials and soils, seismicity, flooding and inundation, and groundwater. These potential impacts are fully analyzed in the EIR and the Supplement.

B. Finding

Through compliance with applicable regulatory processes, uniform codes, and City requirements, and the mitigation measures identified in the EIR, the Project will not result in any significant adverse impacts.

C. Facts in Support of Finding

1. Geologic Materials and Soils. The Project site sits on Chino Association soils, which is characterized as having the slight potential for expansivity, liquefaction, landslides, and erosion hazards. In addition, site grading, excavation and earth movement during construction could expose the site to wind or water generated erosion. The area of the Project site is known to exhibit high shrink-swell behavior. However, compliance with the building and safety standards and regulations enacted by the State of California and the City of Beverly Hills will act to prevent damage and any other possible impacts of the soil types in the Project area. Accordingly, the Project's impacts from geologic hazards including those resulting from a second subterranean parking level as discussed in the Supplement, will be less than significant, upon implementation of the mitigation measure requiring preparation of grading plans for review and approval by the City. (Mitigation Measure GSH1.) With respect to ground shaking, like all of Los Angeles County, the Project is susceptible to high-intensity ground shaking which can affect structures in the City. However, with compliance with the State and City building codes, construction of the new development will not result in significant residual environmental impacts.

2. Liquefaction and Seismically-induced Settlement. The Project site is not located within or adjacent to an Alquist-Priolo Earthquake Fault Zone, but is near an active fault system that has the potential for fault rupture, as discussed more fully in Section 4.3 of the EIR. Although there is a potential for such impacts on the Project, mitigation measures that require, among other things, compliance with the City's building codes, mitigate any potential impact to a less than significant level.

The Project site lies within an area identified as having a potential for liquefaction and where ground water conditions indicate a potential for permanent ground displacement. The high water table, coupled with the alluvium soil composition, raises the possibility of liquefaction. Nonetheless, the Project must comply with State and City building regulations aimed at decreasing or preventing injury to lives and structure from liquefaction. To minimize the potential liquefaction impacts, mitigation measures pursuant to Public Resources Code Section 2693(c) are made applicable to the Project as conditions of project approval. With mitigation to minimize potential impacts, the Project does not have the potential to have significant adverse impacts with respect to liquefaction, even with a second level of subterranean parking as analyzed in the Supplement. (See Mitigation Measures GSH2, GSH3, and GSH4.)

3. Landslides. The relatively flat topography at the Project site precludes both stability problems and the potential for lurching (earth movement at right angles to a cliff or steep slope during ground shaking). In addition, the Project site is not located within an area identified as having a potential for seismically-induced slope instability; and there are no known landslides near the Project site, nor is the Project site in the path of any known or potential landslides. Therefore, potential risk of exposure to slope stability hazard will be less than significant. Furthermore, compliance with the City's standard building codes and construction practices will ensure that any risk of exposure to slope stability hazard during excavation will be less than significant.

4. Seiche and Tsunami. The Project site is not located within a coastal area or near any other water body; therefore, the risk of exposure to potential tsunamis is less than significant. The Project site is located within a potential inundation area for a seismically-induced dam failure from the Upper of Lower Franklin Reservoir. However, studies have concluded that catastrophic failure of a major dam as a result of an earthquake is unlikely; accordingly, the risk of exposure to potential inundation is less than significant. Therefore, a less-than-significant impact related to seiche or tsunami activity.

5. Groundwater. The historic high groundwater level beneath the site is at a depth of between 16 feet and 22 feet below the surface. In light of the grading necessary to construct the Project and the coverage of presently vacant property, the Project would increase runoff. The Project is required to implement standard engineering and building practices, and thus with mitigation measures the City Council finds no significant impact to groundwater will result. In the event that temporary dewatering is necessary during construction, any discharges (temporary or permanent) will be handled through the NPDES permitting process, as is done with all development involving water discharges. The NPDES permitting process is a mandatory federal regulatory process designed to safeguard against water quality problems. Compliance with NPDES requirements will ensure that any water discharges will not have a significant impact on the environment. Temporary dewatering would essentially mimic effects that already occur naturally. Therefore, groundwater impacts will be less than significant.

In conclusion, with the implementation of mitigation measures GSH1 through GSH 4, and adherence to the City's codes, including but not limited to the water supply ordinance; Article 6 of Chapter 4 of Title 9 of the Beverly Hills Municipal Code, the Project will not have any significant impact with respect to Geology, Seismicity or Hydrology.

4.4 Land Use

A. Potential Impacts

Section 4.4 of the EIR analyzes the Project's consistency with the General Plan and other local and regional land use policies and examines the potential conflicts between the proposed land uses on-site and existing development in the Project vicinity. These potential impacts include land use compatibility, General Plan Consistency, Zoning Ordinance consistency and consistency with Regional Plans and Policies, resulting from the creation of a mixed use commercial and residential, project. The potential impacts were analyzed in detail in the EIR and discussed in the Supplement.

B. Findings

Changes or alterations have been required in, or incorporated into, the Project which substantially lessen the land use impacts listed above, and will avoid the land use effects caused by the Project. The requested amendments to the Zoning Code and the General Plan are consistent with the intent of the City's General Plan and will reduce potential impacts on the environment to less than significant levels. Further, the intensity of the land use proposed by the Project was anticipated by the General Plan and the increase in density over the existing use of the Project site is relatively minor and actually results in a less intense overall development than could be permitted under existing zoning standards. Therefore, the Project's land use impacts will be less than significant.

C. Facts in Support of Findings

1. Land Use Compatibility. The Project would occupy a site that consists of four parcels, three of which are vacant, and one of which is occupied with a commercial building. The Project will be compatible with the mix of commercial and residential properties surrounding the Project site, although some land use conflict could arise due to the proximity of commercial uses to residential uses. The development standards established by the proposed overlay zoning for the Project site, in conjunction with the specific conditions of approval imposed on the Project through the Planned Development process; the other mitigation measures dealing with specific issues such as noise, traffic, and aesthetics; Mitigation Measure LU1 regarding general plan and zoning amendments; and enforcement of the standards set forth in the amendments reduce impacts to a less than significant level. Additionally, Project revisions including removal of the Charleville Boulevard access point to the subterranean parking serve to further enhance compatibility of uses, as discussed in the Supplement.

2. General Plan Consistency. The General Plan Land Use Map designates the three Wilshire Boulevard fronting lots of the Project site for low-density commercial development, while the southerly lot adjacent to Charleville Boulevard is designated for high-density single family residential land uses. Therefore, in order to allow the proposed mix of land uses, which involves residences in a commercial designation, the City's General Plan must be amended. Through the consideration of the requested General Plan Amendment, any potential impacts are reduced to less than significant. The requested General Plan Amendment will assist in implementing the City's Housing Element, which includes Program 4.3 that calls for development of "standards for mixed residential-commercial structures, with and without low income housing components, including additional height, in areas currently zoned for commercial use and consider appropriateness of various areas such as ...[the] South side of Wilshire Blvd., east of Beverly Dr. (Between Stanley Dr. and LeDoux Rd., extend to north side of Charleville.)." The proposed Project would carry out this Housing Element objective. The Land Use Element further provides:

"The feasibility of allowing mixed commercial/residential uses should be analyzed in order to expand the variety of housing types available and, in certain areas, to improve commercial/residential transitions." (Beverly Hills General Plan, Land Use Element, p. 7.)

The Project furthers this policy.

Thus, the Project, including the related General Plan and Zoning Code Amendments, is consistent with the General Plan and, with adherence to the identified mitigation measure, will not have a significant effect on land use policies, or the physical environment.

3. Zoning Ordinance. The City's zoning map designates the three Wilshire Boulevard fronting lots of the Project site as within the Commercial (C-3) zone, while the southerly lot adjacent to Charleville Boulevard is within the R-1 zone for single family residential development. Therefore, in order to allow the proposed mix of land uses which involves residences in a commercial designation, the zoning of the Project site must be amended. An overlay zone has been requested, which would include the requirement for a Planned Development process and a set of objectives to ensure compatibility of development with nearby uses. One component of the overall project is the Overlay Zone, the Mixed-Use Planned Development Overlay Zone, which, upon adoption and application to the Project, will mitigate any impacts related to the City's zoning ordinance to less than significant levels.

4. Regional Plans and Policies. The EIR discusses the various policies of the Southern California Association of Governments (SCAG), the Regional Comprehensive Plan and Guide (RCPG) and Regional Transportation Plan (RTP). As fully discussed in Table. 4.4-3 of the EIR, the Project is consistent with SCAG policies relating to general growth forecasts, improvement of regional standards of living; improving regional quality of life; social, political and cultural equity; regional transportation planning; air quality, open space and water reclamation. Therefore, the Project is consistent with regional plans and policies.

4.5 Noise

A. Potential Impacts

The Noise Impact Analysis examines the potential for significant noise impacts during construction from construction hauling and equipment (earth-moving equipment such as backhoes, bulldozers, pile drivers, skip loaders, fork lifts, concrete mixers, concrete pumps, tower cranes, and other equipment) and long-term impacts from the Project operations. These potential impacts are fully analyzed in the EIR and the Supplement.

B. Finding

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant noise impacts. Implementation of the identified mitigation measures and design changes will reduce both construction and operational noise impacts to a less than significant level.

C. Facts in Support of Finding

1. Construction Impacts. Project construction activities require the use of several different types of noise generating equipment on an intermittent basis. The increase in noise could result in temporary annoyance to nearby residents. Noise levels will

fluctuate depending on the construction phase, the equipment used, and the duration of the activity. Distance between the noise source and the receptor will also impact noise levels. Construction related noise will be short-term in nature. Construction related noise will be mitigated by implementation of the mitigation measures identified in the EIR which, among other things, require: (a) that the Project applicant establish a noise "disturbance coordinator," who will be available by telephone during construction; (b) that a sound barrier (such as a noise curtain) be utilized along the western, southern and eastern perimeter of the Project site during construction activities and be tall enough to block line-of-sight between activities on site and sensitive receptors; (c) equip construction equipment with mufflers and other noise attenuation devices; (d) provide notice to neighbors of construction schedule; and (e) comply with City's construction hours and conditions. In addition, potential construction related noise impacts along residential streets will be mitigated by requiring construction vehicles to abide by a Construction Haul Route Plan, which is a required part of the Construction Management Plan for all developments. The City regularly and routinely requires and relies upon Construction Management Plans to address construction-related parking, staging, and hauling issues on new development. The Construction Management Plan is subject to review and approval by the Directors of Community Development and Transportation prior to the issuance of building permits for the Project and shall provide for construction haul routes that avoid the use of residential streets. With implementation of these mitigation measures and conditions of approval, the Project's construction-related noise impacts will be less than significant, even considering the longer construction period associated with the revised Project that incorporates a second level of subterranean parking, as discussed in the Supplement.

2. Operational Noise Impacts. The Project, when in operation, has the potential to generate noise from Project-related traffic, delivery truck and trash pick up, and rooftop equipment operation. Based on the traffic increases expected to result from operation of the Project, the EIR concludes, and the City Council finds, that the Project will not result in a significant adverse impact. Noise from delivery and trash trucks could be potentially significant, however, with mitigation that focuses truck activity at the Project site during the less noise-sensitive times (daylight hours), the Project will have less than significant impact. Potential impacts are further reduced by removal of the Charleville Boulevard access to the subterranean parking, thus creating greater distance between the Project access point and neighboring residential areas, as discussed in the Supplement. With respect to noise impacts of rooftop mechanical equipment, the noise generated will be minimized through the distance between the equipment and neighboring properties, and with the construction techniques and building design that will shield mechanical equipment from view from adjacent residences. Any potential noise impacts will be further reduced to a level of insignificance by incorporation and implementation of the noise mitigation measures identified in the EIR. With implementation of these mitigation measures, the Project's operational noise impacts will be less than significant.

4.6 Public Services and Utilities

A. Potential Impacts

Section 4.6 of the EIR examines the Project's potential to cause significant impacts in the areas of public services, including fire protection and emergency services, police protection, schools, and recreation and parks. Section 4.8 of the EIR examines the Project's potential to cause

significant impacts in the areas of water supply, sewer and wastewater, storm water and drains, and solid waste disposal. These potential impacts are fully analyzed in the EIR and the Supplement.

B. Finding

The proposed Project will not result in a significant adverse environmental impact in areas of fire protection and emergency services, police protection, schools, recreation and parks or storm water, and no mitigation measures are required. Compliance with standard conditions and uniform codes, when applicable will avoid or substantially lessen the potentially significant effects on the environment and reduce these potential impacts to a less than significant level.

Further, changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the potentially significant impacts to water supply, wastewater and solid waste. Implementation of the identified mitigation measures will reduce public service and utility impacts to a less than significant level. Project revisions discussed in the Supplement would not change the EIR's conclusions as to public services and utilities.

C. Facts in Support of Finding

1. Fire Protection and Emergency Services. The Project site is served by adequate fire flow for fighting fires and must comply with the City's adopted Fire Code standards. Further, the Project will meet current Fire Codes regarding building materials, circulation and access, fire flow requirements, and other aspects that would reduce the incidence of fires and improve the effectiveness of the Beverly Hills Fire Department's services, including response times, which represents an adequate and acceptable level of fire protection and emergency service. The small amount of growth from the Project will neither create the need for additional facilities nor increase response times to the extent that they would compromise public health or safety. Accordingly, the Project will result in less than significant impacts on fire protection and emergency services.

2. Police Protection. The project will generate approximately 56 new residents, due to elimination of one townhome from the Project, which will result in an incremental increase in demand for police services. However, this incremental increase in population will not generate the need for additional patrols or emergency response. Further, the Project will include security features such as access-controlled gates and on-site security which would reduce the need for police services. The Beverly Hills Police Department concluded that any increase in calls for police services that result from this Project would not significantly reduce the Department's ability to provide police services. No significant impact to police services is expected.

3. Schools. The Project is expected to generate approximately nine new students that would be matriculated into the City's schools - five in grades K through 8 and four in grades 9 through 12. The existing capacity in area schools is more than sufficient to accommodate the Project-related increase in students. The Project will not result in the need to construct additional facilities. Moreover, the Project will be required to pay school impact fees in accordance with the most current rate schedule adopted by the school district. The school

impact fees will be used to assist the school district in meeting the incremental costs associated with expanded enrollment. The Project's impacts on area schools are, therefore, expected to be less than significant.

4. Recreation and Parks. The proposed Project is expected to add approximately twenty-four dwelling units to the City. The proposed Project will place additional demands on the City's parks as a result of approximately 54 additional persons residing at the Project. However, the City has adopted a park and recreation tax on development to ensure that additional development will pay the cost of meeting additional demand upon the City's existing park facilities and programs. The developer will be required to pay that tax. Additionally, the Project provides outdoor living area to serve the recreational needs of its residents. The Project meets the Code requirements for outdoor living area. By providing on-site open-space usable to the Project residents and by paying the applicable park fees, the Project will have a less than significant impact on the City's parks.

5. Water Supply. The City's water is supplied through a combination of groundwater extraction and purchasing of water from the Metropolitan Water District of Southern California. According to the Beverly Hills 2005 Water Quality Consumer Confidence Report, approximately ten percent of the City's water supply comes from its local groundwater resources. The proposed Project would result in development of new residential and commercial uses on property that is primarily undeveloped. The infrastructure to convey water to the Project site is in place, and no expansion or rehabilitation is necessary in order to supply water to the Project. The proposed Project would result in an increase in water demand of approximately 5,253 gallons per day, whereas the City's historic water usage averages approximately 12.2 million gallons per day. Thus, the Project would increase the demand for water by approximately .043 percent. The City's water supply sources are adequate to meet the projected ultimate demands for the City's service area, and the additional water demand resulting from the proposed Project will not result in the need for new water supplies. Nonetheless, mitigation is required to ensure that water conservation strategies would be implemented to reduce water consumption as much as possible. For the foregoing reasons, the Project will not have a significant impact on water supply or the City's ability to provide water to the community.

6. Wastewater. The Project will generate approximately 4,377 gallons of wastewater per day. The infrastructure needed to transport and treat sewage is in place and is not anticipated to require expansion or rehabilitation because of the Project. There is sufficient capacity to process the wastewater generated by the Project, although coordination with the City's Community Development and Public Works Departments when the Project is undertaken to ensure that no changes in ability to serve have occurred. Therefore, the Project's impact on wastewater will be less than significant.

7. Storm Water. The proposed Project would be developed on a site consisting of three vacant parcels and one developed parcel, and thus would convert permeable surfaces to impervious surfaces. The construction of impervious surfaces would result in an increase in storm water runoff into the existing storm drain system; however, the limited size of the Project site would result in an amount of storm water runoff that would not exceed the system's capacity. Further, the Project will be subject to all applicable Federal, State, and local

regulations and programs related to storm water management. Therefore, a less than significant impact will result.

8. Solid Waste Disposal. The Project will increase the amount of solid waste generated by the site. The Project is anticipated to generate approximately 206 pounds of solid waste per day (37.6 tons per year). However, compared to the millions of tons of remaining capacity in the landfills serving the City, there is sufficient capacity to serve the proposed Project's solid waste generation. The increased solid waste generation attributable to the Project will not significantly affect the estimated life of the landfills. In addition, the Project is required to install commercial size trash compactors to further mitigate any potential impact, and will comply with the applicable State and local rules regarding solid waste reduction. Therefore, the Project's impact on solid waste services will be less than significant.

4.7 Traffic and Parking

A. Potential Impacts

The traffic studies prepared in connection with the EIR identify the potential for significant traffic impacts due to construction period traffic and traffic and parking needs related to operation of the Project after construction. Potential impacts considered in the EIR include those associated with traffic congestion at local intersections, increased traffic volumes on adjacent residential streets, the effect of the Project on Congestion Management Program ("CMP") compliance, and increased parking demand on local streets. These potential impacts are fully analyzed in the EIR and the Supplement.

B. Findings

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen traffic impacts resulting from construction activities and operational activities.

C. Facts in Support of Findings

1. Construction Traffic. During construction of the Project, short-term adverse traffic impact could potentially occur in the vicinity of the Project site. Further, parking demand during construction could spill over to residential areas if appropriate accommodations, including on-site parking, are not provided by the Project developer. Although there is the possibility that lane closures would occur during construction, there will be no need to completely close any of the streets adjacent to the Project site. Further, construction related traffic impacts will be short term; and mitigation measures have been identified that reduce the potential impacts to less than significant levels.

2. Operational Traffic. The EIR fully analyzes the existing traffic conditions, taking into account ambient traffic growth in the area surrounding the Project, and as well as traffic from other projects that are proposed in the vicinity of the Project site. The EIR then adds in traffic generated from the proposed project, as determined pursuant to the ITE Trip Generation publication. The Project is expected to generate approximately 244 net trips for a typical weekday and 353 net trips for a typical Saturday. The Project would generate 13, 22, and

24 trips during weekday morning peak hour, weekday evening peak hour, and Saturday peak hour (which is midday), respectively. Accordingly, the Project impacts do not exceed the Thresholds of Significance, which are set forth in Section 4.7 of the EIR, for any of the eight study intersections analyzed. Further, as discussed in the Supplement, reconfiguration of the access point to the parking area is necessary to ensure that vehicles entering the Project are not stacked onto Spalding Drive. Mitigation measures address this potential impact and mitigate it to a less than significant level. Further revisions to the Project's access will not substantially change the access and egress routes used by residents and visitors to the Project site, as discussed in the Supplement.

3. Congestion Management Plan Conformance. The Congestion Management Plan (CMP) for Los Angeles County requires that the traffic impact on individual development projects of potentially regional significance be analyzed. The CMP system is comprised of a specific system of arterial roadways and all freeways. The CMP requires preparation of a Traffic Impact Analysis (TIA) if a project adds 50 or more trips to a CMP monitoring intersection or adds 150 or more trips at a CMP mainline freeway monitoring location. The nearest CMP monitoring station to the Project site is at the intersection of Wilshire Boulevard and Santa Monica Boulevard. Based on the Project Trip Generation estimates and trip distribution, the proposed Project will not result in 50 or more trips per hour at the CMP intersection, nor will it add 150 or more trips to a freeway monitoring location. Thus, the Project will not be regionally significant and no further analysis is required.

4. Parking Demand Analysis. The Project analyzed in the EIR provided 86 parking spaces, whereas the demand for parking calculated pursuant to the ITE Parking Generation, 3rd Edition, concluded that the Project demand would be 52 spaces. Under the City's parking codes, 82 parking spaces would be required. Therefore, the Project, with 86 parking stalls would exceed the Project's parking demand. Subsequently, as discussed in the Supplement, the Project was redesigned to include up to 97 parking stalls in a three-level parking area (one level at grade, and two subterranean levels), which further demonstrates that the Project will have a sufficient number of parking stalls to accommodate the demand generated. Thus, no significant parking impacts will result from the Project.

4.8 Cumulative Impacts

A. Potential Impacts

The EIR, Section 6.1 and Supplement Section 3.5, fully examine the potential for cumulative impacts associated with the Project.

B. Finding

The EIR has identified no significant cumulative impacts, thus no mitigation measures beyond those identified in the project specific analysis, is required.

C. Facts in Support of Finding

The EIR considered a number of projects within and outside of the City, as set forth in Table 6-1. Based on the analysis in the EIR, there is no substantial evidence that the Project would have any

significant cumulative impact in the areas of Aesthetics, Air Quality, Noise, Public Services, Traffic and Parking, Utilities and Service Systems, or any other environmental impact category.

4.9 Growth Inducing Impacts. The Project would bring growth to the area through provision of new housing and commercial opportunities. However, given the small size of the commercial area and limited number of residential units in the context of the urbanized area in which the Project is located, the Project does not have the potential to induce further significant growth as discussed in the EIR and the Supplement.

4.10 Irreversible Adverse Environmental Impacts. Construction and operation of the Project would rely on the use of nonrenewable resources. Nonetheless, the amount of resources consumed would not be of an extraordinary nature, particularly in the context of the region in which the Project is located, as discussed in the EIR and the Supplement.

Article IV. Project Alternatives

The EIR analyzed the following alternatives to the Project:

Alternative 1: Single Family Residential and Retail/Office Built to Existing Zoning Restrictions

Alternative 2: Multi-Family Residential/Retail Built to Allowed Height along Charleville Boulevard

Alternative 3: Reduced Residential with Building Stepbacks

Alternative 4: No Project

In addition, at the direction of the Planning Commission, the Final EIR considered additional versions of Alternative 3 including the following:

Alternative 3A: Reduced Residential with Expanded Retail

Alternative 3B: Reduced Residential with Two Levels of Office

The alternatives constitute a reasonable range of alternatives that have the potential to avoid or substantially lessen one or more of the significant effects of the proposed Project.

Although not required to make specific findings regarding alternatives because all Project impacts have been mitigated to less than significant levels, the following summarizes the City Council's conclusions regarding why other considered alternatives are not feasible or result in greater impact than the proposed Project.

The alternatives identified in the EIR either would not sufficiently achieve the basic objectives of the Project or would do so only with unacceptable adverse environmental impacts. The City Council finds that specific economic, social, or other considerations make infeasible each of the Project alternatives identified in the EIR and each is hereby rejected. The City Council further finds that a good faith effort was made to incorporate alternatives into the preparation of the EIR,

and that a reasonable range of alternatives were considered in the review process of the EIR and the ultimate decision on the Project.

The EIR analyzed a total of four (4) alternatives to the proposed Project, along with two variations on one of the four alternatives, as set forth above.

A. Alternative 1: Single Family Residential and Retail/Office Built to Existing Zoning Restrictions

This alternative would result in a project built to existing Zoning Code allowances. Based on the analysis in the EIR, this alternative would likely result in less aesthetic impacts; comparable or less shade/shadow impact; comparable air quality, geology, seismicity, and hydrology impacts; less land use impact; comparable construction and operational noise; comparable public service impacts; substantially greater traffic generation and need for additional parking; and less demand on existing utilities.

Although this alternative would reduce impacts in some areas, it would result in more traffic in the neighborhood than the Proposed Project, and is rejected for that reason.

B. Alternative 2: Multi-Family Residential/Retail Built to Allowed Height along Charleville Boulevard

Based on the analysis in the EIR, this alternative would likely result in less aesthetic impacts; similar shade/shadow impact; comparable air quality, geology, seismicity, and hydrology impacts; comparable land use impact; comparable construction and operational noise; comparable public service impacts; greater traffic generation and need for additional parking; and similar demand on existing utilities.

Although this alternative would reduce impacts in some areas, it would result in more traffic in the neighborhood than the Proposed Project, and is rejected for that reason.

C. Alternative 3: Reduced Residential with Building Stepbacks

Based on the analysis in the EIR, this alternative would likely result in less aesthetic impacts; similar shade/shadow impact; comparable air quality, geology, seismicity, and hydrology impacts; comparable land use impact; comparable construction and operational noise; comparable public service impacts; greater traffic generation and need for additional parking; and similar demand on existing utilities.

Although this alternative would reduce impacts in some areas, it would result in more traffic in the neighborhood than the Proposed Project, and is rejected for that reason.

D. Alternative 3A: Reduced Residential with Expanded Retail

Based on the analysis in the EIR, this alternative would likely result in less aesthetic impacts; similar shade/shadow impact; comparable air quality, geology, seismicity, and hydrology impacts; comparable land use impact; comparable construction and operational noise;

comparable public service impacts; greater traffic generation and need for additional parking; and similar demand on existing utilities.

Although this alternative would reduce impacts in some areas, it would result in as much as 70% more weekday traffic and 60% more Saturday traffic than the proposed Project, and is rejected for that reason.

E. Alternative 3B: Reduced Residential with Two Levels of Office

Based on the analysis in the EIR, this alternative would likely result in less aesthetic impacts; similar shade/shadow impact; comparable air quality, geology, seismicity, and hydrology impacts; comparable land use impact; comparable construction and operational noise; comparable public service impacts; greater traffic generation and need for additional parking; and similar demand on existing utilities.

Although this alternative would reduce impacts in some areas, it would result in as much as 130% more weekday traffic and 15% more Saturday traffic than the Proposed Project, and is rejected for that reason.

F. Alternative 4: No Project

The No Project Alternative would not meet the objectives of the Project for development of the site, and the site would likely either remain vacant, or perhaps be developed with a code conforming project as discussed with Alternative 1. This alternative is rejected for failing to meet the Project objectives.

G. Environmentally Superior Alternative

Alternative 3, with a reduced retail space component would be considered the environmentally superior alternative, for the reasons set forth in the EIR.

The City Council has carefully considered the attributes and environmental impacts of all of the alternatives analyzed in the EIR and has compared them with those of the proposed Project. The City Council finds that each of the alternatives is infeasible for various environmental, economic, technical, social and other reasons set forth above. The City Council further finds, for various environmental, economic, technical, social and other reasons set forth below, that the Project as proposed is the best combination of features to serve the interests of the public.

EXHIBIT B
"Mitigation Monitoring Plan"

**MITIGATION MONITORING
and
REPORTING PROGRAM**

8600 Wilshire – Mixed-Use Development Project

(SCH No. 2005101081)

Prepared for

The City of Beverly Hills
Department of Community Development

July 2007

INTRODUCTION

The California Environmental Quality Act (CEQA) requires that agencies adopting Environmental Impact Reports (EIRs) take affirmative steps to determine that approved mitigation measures are implemented subsequent to project approval.

As part of CEQA (state-mandated) environmental review procedures, Section 21081.6 requires a public agency to adopt a monitoring and reporting program for assessing and ensuring efficacy of any mitigation measures applied to the proposed project. Specifically, the lead or responsible agency must adopt a reporting or monitoring program for mitigation measures incorporated into a project or imposed as conditions of approval.

This Mitigation Monitoring and Reporting Program (“MMRP”) will be used by the City of Beverly Hills (the “City”) to ensure compliance with mitigation measures associated with 8600 Wilshire Mixed-Use Development Project (the “Project”).

The Mitigation Monitoring and Reporting section of this document identifies the potential impacts under each environmental resource that would occur with implementation of the proposed Project. Under each identified resource, the significant adverse impact(s), its corresponding mitigation measure(s), and the implementation and monitoring requirements are discussed. The implementation and monitoring requirements that have been set forth in this MMRP are as follows:

- Party Responsible for Implementation of Mitigation
- Implementation Phase
- Party Responsible for Monitoring Activity
- Monitoring Activity

A sample mitigation monitoring compliance form is provided at the end of this document. For detailed information regarding environmental resource impact methodology and analysis, please refer to the Draft EIS/EIR and Final EIR.

Throughout the table, various City departments are listed as Responsible Party. Although the City has the ultimate responsibility to ensure compliance with this Mitigation Monitoring and Reporting Plan, the City may delegate certain implementing and/or reporting actions. Monitoring will be done on an independent basis.

This Final Mitigation Monitoring and Reporting Program contains the mitigation measure language approved by the Planning Commission with the additional mitigation measures identified in the Supplement. Some of the Planning Commission’s modifications are not reflected in the Supplement, and the language in this Program shall control.

MITIGATION MONITORING AND REPORTING

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
Aesthetics			
A1	<p>All exterior lighting shall be shielded in a manner to focus illumination onto entrances, pathways, landscaping, or onto the building itself and not be directed in a manner to cause spillover lighting on adjacent residences.</p>	<p>Plan check process prior to permit issuance; site inspection prior to occupancy</p>	<p>Community Development; Building Safety and Planning Divisions</p>
A2	<p><i>Mitigation Measure is no longer necessary because revisions to the Project contemplated by the mitigation measure have been made to the Project.</i></p>		
A3	<p>The Project shall incorporate design features to lessen the visual contrast with adjacent commercial buildings on Wilshire Boulevard. These features shall include reduced building height and/or increased step back for the fourth and fifth floors of the building to give the Project's Wilshire Boulevard façade a more pronounced three-story character consistent with adjacent development and existing zoning requirements, and railings on balconies on the Wilshire Boulevard façade set back a minimum of three feet from the building façade, incorporating planter boxes with foliage between the railing and building façade.</p>	<p>Plan check process prior to permit issuance; site inspection prior to occupancy</p>	<p>Community Development; Building Safety and Planning Divisions</p>
A4	<p>The primary source of shadows cast onto the rear yards of adjacent residences is the 15+ feet western perimeter wall, as well as the first floor of the condominium portion of the Project. To reduce shadows, these structures shall be set back from the western property line of the proposed Project a minimum of ten feet. The wall may not require setback, and as a substitute, the perimeter wall shall be designed at the minimum height that would block the line-of-sight between the proposed Project townhomes and adjacent residences. Other measures shall include wall design features that would allow the passage of light, but maintain screening between the adjacent land uses.</p>	<p>Plan check process prior to permit issuance; site inspection prior to occupancy</p>	<p>Community Development; Building Safety and Planning Divisions</p>

MITIGATION MONITORING AND REPORTING

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
Air Quality			
	AQ1 Water shall be applied to exposed surfaces in sufficient quantity to prevent generation of dust plumes.	Verification and enforcement through inspection process	Building and Safety Division
	AQ2 Track-out shall not extend 25 feet or more from an active operation, and track-out shall be removed at the conclusion of each workday.	Verification and enforcement through inspection process	Building and Safety Division
	AQ3 A wheel washing system shall be installed and used to remove bulk material from tires and vehicle undercarriages before vehicles exit the Project site.	Verification and enforcement through inspection process	Building and Safety Division
	AQ4 All haul trucks hauling soil, sand and other loose material shall maintain at least six inches of freeboard in accordance with California Vehicle Code Section 23114.	Verification and enforcement through inspection process	Building and Safety Division
	AQ5 All haul trucks hauling soil, sand and other loose material shall be covered (e.g., with tarps or other enclosures that would reduce fugitive dust emissions).	Verification and enforcement through inspection process	Building and Safety Division
	AQ6 Traffic speeds on unpaved roads shall be limited to 15 miles per hour.	Verification and enforcement through inspection process	Building and Safety Division
	AQ7 Operations on unpaved surfaces shall be suspended when winds exceed 25 miles per hour.	Verification and enforcement through inspection process	Building and Safety Division
	AQ8 Heavy-equipment operations shall be suspended during first and second stage smog alerts.	Verification and enforcement through inspection process	Building and Safety Division
	AQ9 On-site stockpiles of debris, dirt or rusty material shall be covered or watered at least twice per hour.	Verification and enforcement through inspection process	Building and Safety Division
Geology, Seismicity and Hydrology			
	GSH1 Grading Plans shall be submitted for approval by the City to ensure the final grades are designed to prevent soil erosion.	Grading plan check prior to permit issuance	Building and Safety; Public Works
	GSH2 Prior to approval of final plans, the Applicant shall develop and submit for approval by the City a site-specific geotechnical study prepared by a registered geotechnical	Grading plan check prior to permit issuance	Building and Safety; Public Works

MITIGATION MONITORING AND REPORTING

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	<p>engineer to ensure that all applicable building codes and design specifications are incorporated into the plans. The geotechnical study shall identify design requirements for structures and foundations to maintain structural integrity to the maximum extent under probable earthquake conditions as determined by the study, including but not limited to, strong seismic ground shaking including the potential for liquefaction.</p>		
	<p>GSH3 Structures built on the Project site shall comply with the most current seismic Building Code standards. This mitigation measure will confirm that the construction of dwelling units and infrastructure meet State safety requirements.</p>	<p>Building plan check prior to permit issuance</p>	<p>Building and Safety</p>
	<p>GSH4 Prior to the approval of a residential project located in a liquefaction zone, such as the proposed Project, special foundation recommendations shall be provided to mitigate this hazard per the requirements of the California State Geologist as well as the City's current building codes and engineering practices. Possible mitigation recommendations include deep piles or caissons to support the planned structures and/or mechanical densification of subsurface soils prone to liquefaction.</p>	<p>Building plan check prior to permit issuance</p>	<p>Building and Safety</p>
<p>Land Use</p>			
	<p>LU1 The Beverly Hills General Plan shall be amended to reflect the mixed-use development of the proposed Project. Additionally, the overlay zone shall be instituted which would include (1) the City's Planned Development requirements, and (2) include objectives of compatibility with surrounding uses. The Project would then be required to comply with the newly-implemented standards of the Overlay Zone.</p>	<p>Amendment of General Plan and Zoning Code by City Council prior to issuance of any permits</p>	<p>Department of Community Development</p>
<p>Noise</p>			
	<p>N1 Construction contracts shall specify that all construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.</p>	<p>Building plan check prior to issuance of permits; inspections</p>	<p>Building and Safety</p>

MITIGATION MONITORING AND REPORTING

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	<p>N2 A temporary noise barrier shall be placed along the western, southern and eastern perimeter of the construction site. The noise barrier shall have a sound transmission class (STC) rating of no less than 35 and shall be tall enough to block the line-of-sight between activities occurring on the construction site and sensitive receptors, and shall remain in place throughout the construction period. The noise barrier shall be subject to approval by the Architectural Commission.</p>	<p>Inspections and enforcement during construction</p>	<p>Building and Safety</p>
	<p>N3 All residential units located within 600 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed Project. The notice shall include a copy of the project's conditions of approval and mitigation measures. A sign, legible at a distance of 50 feet shall also be posted at the construction site. All notices and signs shall indicate the dates and duration of construction activities, as well as provide telephone numbers for the contractor and a contact person at the City where residents can inquire about the construction process and register complaints.</p>	<p>Inspections and enforcement during construction</p>	<p>Building and Safety</p>
	<p>N4 A noise "disturbance coordinator" shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would be required to implement reasonable measures such that the complaint is reasonably resolved. All notices that are sent to residential units within 600 feet of the construction site, and all signs posted at the construction site shall list the telephone number for the disturbance coordinator. The noise coordinator shall use best efforts to respond to any complaint within 24-hours from the lodging of the complaint.</p>	<p>Verify establishment before construction, grading or demolition work commences</p>	<p>Community Development; Building and Safety and Planning Divisions</p>
	<p>N5 Construction activities shall not occur between the hours of 6:00 p.m. and 7:00 a.m. Monday through Friday, before 8:00 a.m. or after 5:00 p.m. Saturday, or at anytime on</p>	<p>Enforcement of construction hours; inspections</p>	<p>Community Development; Building and Safety</p>

MITIGATION MONITORING AND REPORTING

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	<p>Sunday.</p>		
N6	<p>Consistent with the City's Commercial-Residential Transitions Ordinance, delivery and trash trucks shall be prohibited on the Project site between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, between 10:00 p.m. and 9:00 a.m. on weekends and holidays.</p>	<p>Enforcement of Restrictions; recordation of restriction against Property as part of conditions of approval prior to permit issuance</p>	<p>Community Development; Public Works</p>
TP1	<p>Prior to construction of the proposed Project, the Project applicant shall develop and submit a Construction Staging and Traffic Management Plan for approval. The Construction Staging and Traffic Management Plan shall include the following:</p> <ol style="list-style-type: none"> 1. <i>Haul Truck Routes, Queue Areas and Deliveries</i> - The designated truck route for the Project site shall be Wilshire Boulevard for trucks coming from the east or the west. The primary entry point to the site shall be off of Stanley Drive at the southeast corner of the site. Trucks shall access this entry point on Stanley Drive from the north to and from Wilshire Boulevard. Construction traffic shall not be permitted on Stanley Drive (north of Wilshire Boulevard and south of Charleville Boulevard). Flag men shall be provided to control truck access to the site to minimize traffic delays and enhance safety. 2. <i>Construction Transportation/Circulation</i> - General site access and egress shall be located on Stanley Drive. There shall be no site access/egress points on Wilshire Boulevard. Flag men shall be provided as necessary to minimize delays. 3. <i>Pedestrian Safety</i> - The contractor shall install a construction fence around the site perimeter, complying with City requirements, before excavation begins. The contractor shall be required to maintain a minimum sidewalk width of five feet on Wilshire Boulevard during the construction period. The contractor shall also erect protective sidewalk canopies on Stanley Drive and 	<p>Review and approval of Plan by Public Works and Transportation Department prior to commencement of construction; enforcement</p>	<p>Public Works and Transportation</p>

MITIGATION MONITORING AND REPORTING

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	<p>Wilshire Boulevard to enhance pedestrian safety along the construction site. A flag man shall be provided whenever trucks entering or leaving the Project site may impede the flow of pedestrian or automotive traffic.</p> <p>4. <i>Parking</i> - Construction worker parking shall be not be permitted on residential streets and shall be provided in an off-site parking lot nearby, and workers shall be shuffled to and from the Project site. The shuttle shall load and unload construction staff near the main gate, which would be on Stanley Drive, near the southeast corner of the site. The shuttle shall operate during the morning starting time and afternoon quitting time. Occasionally, additional trips between the construction site and the off-site parking lot may be required. These trips are expected to have negligible effect to the surrounding street systems within the study area. Whenever feasible construction workers shall park on site in order to alleviate shuttle traffic to and from the project site.</p>		
TP2	<p>Driveway distance from Wilshire Boulevard. To avoid conflicts and possible hazards with vehicles turning southbound onto Stanley Drive from Wilshire Boulevard, the driveway to the proposed project shall be located no less than 40 feet (two car lengths) from the Wilshire Boulevard and Stanley Drive curb return. This measure will likely require the relocation of the Stanley Drive loading dock, as well a possible reconfiguration of the interior parking ramps.</p>	<p>Building plan check prior to issuance of permits; inspections</p>	<p>Building and Safety</p>
TP3	<p>Location of ADA (Americans with Disabilities Act) Accessible Parking Spaces. To avoid conflicts and delays directly at the entrance to the proposed parking garage, the two proposed ADA accessible parking spaces shall be relocated. The</p>	<p>Building plan check prior to issuance of permits; inspections</p>	<p>Building and Safety</p>

MITIGATION MONITORING AND REPORTING

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	<p>location of all accessible parking spaces shall be no less than 40 feet from the entrance to the proposed parking garage. The location of the accessible parking spaces shall comply with all applicable ADA requirements.</p>		
<p>TP4</p>	<p>Internal Parking Garage Circulation. To ensure efficient and safe operations of the proposed parking garage, the backout distance from any parking stall shall be no less than 26 feet. For two-way ramps between parking levels, the radius and width of ramps shall comply with AASHTO passenger car standards to allow vehicles to pass each other safely while traveling in opposite directions on the ramp.</p>	<p>Building plan check prior to issuance of permits; inspections</p>	<p>Building and Safety</p>
<p>Utilities</p>	<p>U1 The City shall require, through its Project design and site plan review process, that all feasible and reasonable measures be taken to reduce water consumption, including, but not limited to, systems using reclaimed water for landscaping (should reclaimed water become available to the City), drip irrigation, recirculating hot water systems, water-conserving landscape techniques (such as mulching, installation of drip irrigation systems, landscape design to group plants of similar water demand, soil moisture sensors, automatic irrigation systems, clustered landscaped areas to maximize the efficiency of the irrigation system), water conserving kitchen and bathroom fixtures and appliances, thermostatically controlled mixing valves for baths and showers, and insulated hot water lines, as per City adopted Uniform Building Code (UBC) requirements.</p>	<p>Plan review process; plan check prior to permit issuance</p>	<p>Community Development; Building and Safety</p>
<p>U2</p>	<p>Consultation between the Community Development Department and the Public Works Department shall be required for the proposed Project to determine whether the Project site would have sufficient utility supplies available to serve the proposed development.</p>	<p>Verify utility availability prior to permit issuance</p>	<p>Public Works; Community Development</p>

MITIGATION MONITORING AND REPORTING

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	U3 For the condominium homes and the retail portion of the proposed Project, commercial size trash compactors shall be installed.	Building plan check prior to permit issuance	Building and Safety
Throughout the table, the City Departments are listed as Responsible Party. Although the City has the ultimate legal responsibility to ensure compliance with this Mitigation Monitoring and Reporting Plan, the City may delegate certain implementing and/or reporting actions. Monitoring will be done on an independent basis.			

APPENDIX A

SAMPLE COMPLIANCE FORM

8600 WILSHIRE MIXED-USE DEVELOPMENT PROJECT
MITIGATION MEASURE MONITORING COMPLIANCE FORM

Reporting Period: Pre-Construction Construction Post-Construction

Report Date: _____

Mitigation Measure:

Has the Mitigation Measure been implemented?

Yes No

Notes:

Is further action or monitoring required?

Yes No

If yes, describe:

Is consultation with outside agencies required?

Yes No

If yes, identify agency: _____

Has consultation with outside agency been completed?

Yes No

Monitoring Verified By: _____ Date: _____

EXHIBIT C

June 24, 2007 Orbach Letter

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FACSIMILE COVER LETTER

RECEIVED
CITY OF BEVERLY HILLS

JUL 24 2007

PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

Date Submitted:	July 24, 2007	Number of Pages (including cover):	6
From:	David M. Orbach	Client Number:	4280.000
Re:	Inadequacies within the Environmental Impact Report for the 8600 Wilshire Mixed-Use Project		
<i>If any problems are encountered, please contact us at (310)788-9200.</i>			

Recipient	Firm/Company	Telephone	Fax
Ms. Donna Jerex City Planner	City of Beverly Hills Department of Community Development - Planning	(310) 285-1123	(310) 858-5966

COMMENTS:

The information contained in this facsimile is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone, and return the original message to us at the above address via U.S. Postal Service. Thank you.

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File Number
4280.000

July 24, 2007

VIA FACSIMILE AND U.S. MAIL

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

Re: Inadequacies within the Environmental Impact Report
for the 8600 Wilshire Mixed-Use Project

Dear Ms. Jerex:

On behalf of the Beverly Hills Unified School District (“District”), we request that this letter be submitted to City Counsel at its public hearing the evening of July 24, 2007, regarding the City Counsel’s consideration of whether to certify an Environmental Impact Report (“EIR”) pursuant to the California Environmental Quality Act (“CEQA”) for the 8600 Wilshire Mixed-Use Project (“Project”). Specifically, this letter identifies the existing inadequacies within the Project EIR in the areas of air quality, geologic materials and soils, noise, traffic, water, wastewater, environmentally superior alternative, and cumulative impacts. In addition, the Project EIR, in large part, fails to analyze the potential impacts of the Project to the elementary school children attending Horace Mann Elementary School located at Charleville Boulevard and South Hamel Drive, which is only three blocks west of the Project. These inadequacies must be corrected in the Project EIR and recirculated for additional comments in order to be compliant with CEQA. As such, we respectfully request that City Counsel decline certifying the Project EIR and approving the Project and direct staff to revise the Project EIR to address the issues raised herein to comply with CEQA.

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Ms. Donna Jerex
July 24, 2007
Page 2

AIR QUALITY

The Project EIR reports that data from two South Coast Air Quality Management District monitoring stations were used to establish environmental baseline conditions. (Draft EIR, p. 4.2-7.) Specifically, data from the West Los Angeles – VA Hospital and Hawthorne monitoring stations were used. (*Id.*, p. 4.2-7, Figure 4.2-2.) The problem with using these monitoring stations is that both are not near the Project site. The West Los Angeles – VA Hospital monitoring station is roughly four miles away on the west side of I-405 and the Hawthorne monitoring station is some 15 miles away south of I-105 and to the west of I-405. The large distances between these monitoring stations and the Project site are not adequately representative of the Project area.

The Project EIR identifies the air quality study intersections on p. 4.2-10 of the Draft EIR; however, neither the access intersections to the Horace Mann Elementary School at Wilshire Boulevard and N. Hamel Drive nor Charleville Boulevard and N. Hamel Drive were included in the study. The primary access intersections to the school are of paramount concern to the District because these intersections are traversed by students and are the closest to the school. However, the Project EIR's air quality analysis did not include either intersection. Although the Project EIR's analysis did sample air at the school for carbon monoxide emissions, it did not do the same for ozone, nitrogen dioxide, PM₁₀ or sulfur dioxide. As a result, the direct impact of the Project's air emissions on the elementary school children has not been adequately analyzed and remains unknown.

The increased sensitivity of the school children to air emissions was acknowledged in the Project EIR on page 4.2-11 of the Draft EIR, but the Project EIR did not provide any analysis of this acknowledged sensitivity. Rather, the Project EIR analyzed air quality impacts using standard air quality thresholds applicable to the general population; it did not provide any different impact threshold for the sensitive elementary school children. The most important aspect for school children will be during construction activities that will last nearly a full year. On page 4.2-14 of the Draft EIR, Table 4.2-6 presents the projected daily construction emissions from the Project, which will put 56 pounds of Volatile Organic Compounds ("VOCs"), 58 pounds of Nitrogen Oxides ("NOx") and 13 pounds of particulate matter (i.e., PM₁₀) in the air daily. The impacts of these daily emissions on the school children walking to and from school past the Project site and while attending school has not been adequately addressed in the Project EIR.

GEOLOGIC MATERIALS AND SOILS

In Section 4.3 of the Draft EIR, a mitigation measure GSH4 is proposed for the potential significant impacts from seismicity and liquefaction—deep piles. However, the Project EIR does not analyze the impact of installing deep piles. The vibration from pounding deep piles into the ground will generate vibrations that could disrupt the community and the learning of the school

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Ms. Donna Jerex
July 24, 2007
Page 3

children. The potential impacts of this mitigation measure on the school need to be analyzed before it is adopted.

NOISE

On page 4.5-4 of the Draft EIR, the noise analysis used CNEL levels to determine the noise levels at the Horace Mann School. However, CNEL levels are a metric averaging a 24-hour period. The Horace Mann School does not operate 24 hours; thus, the use of this metric is not appropriate for determining noise impacts at the school. The Project EIR does not analyze the noise impact from construction equipment and elevated congestion as a result. Also absent from the analysis is the noise impacts from traffic congestion created during construction.

Further, the Project EIR does not analyze the impact of Project noise on the school children's learning. Rather, the Draft EIR on page 4.5-6 adopts a general threshold of significance of 5 decibels or more (dBA) that is applied to all people. The impact to school children may be significant: on page 4.5-9, Table 4.5-5 reports that the maximum construction noise level at Horace Mann School is projected to be 64 dBA, but existing ambient noise is 58 (dBA, Leq). This is a 6 decibel increase which would be significant even under the existing significance threshold. The Project EIR makes the improper conclusion that the impact is not significant because it uses the metric of New Ambient (dBA, Leq.) for the impact decision. This is improper; the existing ambient is the proper baseline to measure the impact against.

TRAFFIC

The traffic analysis did not include either of the intersections at Wilshire Boulevard and N. Hamel or Charleville Boulevard and N. Hamel. Both of these intersections are important and heavily used by school children and staff arriving at the Horace Mann School. To evaluate the traffic impact on the school, at least one of the intersections should be studied. The heavy use of the Wilshire Boulevard and N. Hamel intersection is shown inferentially in part by the Project EIR's analysis at two study intersections that straddle the Wilshire and N. Hamel intersection. In Figure 4.7-2, the traffic volumes for 2006 a.m. peak-hour existing conditions were reported. For the Wilshire Boulevard and Willaman Drive intersection, the eastbound traffic is 2088 vehicles. For the Wilshire Boulevard and Robertson Boulevard intersection, the eastbound traffic dramatically drops to 1539 vehicles. The opposite is seen in the eastern direction. For Wilshire and Robertson Boulevard, there were 802 vehicles traveling eastbound. At Wilshire Boulevard and Willaman Drive, the east bound traffic substantially increases to 1323. The cause of these changes is likely traffic going to and coming from the Horace Mann School. The traffic to the school is higher in the a.m. peak period because classes start in the a.m. However, classes have already ended by the start of the p.m. peak period. Thus, the traffic associated with a.m. peak hour conditions have the greatest potential to cause traffic impacts to the school.

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Ms. Donna Jerex
July 24, 2007
Page 4

The Project EIR also fails to properly analyze the road segments adjacent to Horace Mann School because it did not conduct traffic sampling along N. Hamel adjacent to the school or Charleville Boulevard adjacent to the school. Thus, the traffic impact to the school is not adequately analyzed. The need to study the Charleville Boulevard segment near the school is shown by the Draft EIR's reporting in Table 4.7-4 that traffic volumes along Charleville Boulevard near Stanley Drive increase by 16.1% in the a.m. peak period. This data is for traffic during operations of the Project and no similar analysis is provided for the construction process. Thus, the traffic analysis needs to be revised to evaluate the impact of the project's construction traffic on Horace Mann School.

As discussed above regarding air quality impacts, the haul routes for construction traffic have the potential to significantly impact traffic flow. On page 4.7-23, mitigation measure TP1 identifies that the haul routes for construction trucks will be along Wilshire Boulevard. This will likely cause construction trucks to queue up along Wilshire Boulevard as they try to turn onto Stanley Drive to access the construction site. This phenomenon is especially pronounced during periods of excavation and will be further pronounced if the revised Project is approved that adds a second level of subterranean parking. The queuing of construction traffic will cause existing traffic to slow and congestion will build. This construction traffic queuing will also interfere with traffic flow to the Horace Mann School as parents drop off their children at school and staff arrive during the a.m. rush-hour period.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The Draft EIR identified Alternative 2 as the environmentally superior alternative on page 5-16. However, Alternative 2 would require an overlay zone and General Plan amendment. (*Id.*) Without the overlay and amendment, Alternative 2 would create a significant land use impact. However, Alternative 1 would not require such an impact since an overlay or amendment would not be necessary. Thus, Alternative 1 should be identified as the environmentally superior alternative.

Further, the Project EIR does not provide any analysis demonstrating that Alternatives 1, 2 and 4 are economically infeasible. All that is included are conclusory statements claiming such. Such conclusory statements fail to meet CEQA's requirement for the EIR to provide substantial evidence and a reasoned analysis leading to such conclusions. Thus, the Project EIR inadequately analyzed the Project's alternatives and must be revised.

CUMULATIVE IMPACTS

The Project EIR purported to analyze the cumulative impacts of the Project by using the year 2007. Cumulative impacts must be analyzed in future years. The Notice of Preparation was issued in late 2005. Analyzing cumulative impacts that occur only a year or a year and one-half

ORBACH, HUFF & SUAREZ LLP

Ms. Donna Jerex
July 24, 2007
Page 5

from the Notice of Preparation does not adequately analyze the cumulative impacts of the Project. At least a five-year period should be used to capture the cumulative impacts.

SCHOOL CHILDREN SAFETY

Although the Project EIR analyzes the impacts to pedestrians directly adjacent to the Project site, the Project EIR does not specifically analyze the potential safety impacts to the elementary school children walking to the Horace Mann School despite that the issue was raised by a commentator to the Notice of Preparation. (See Draft EIR, Appendix A, p. 3.) This analysis needs to be done because of the increased construction traffic that will occur on the streets adjacent and near the school. Increased traffic, especially construction traffic, poses an increased risk of injury to elementary school children.

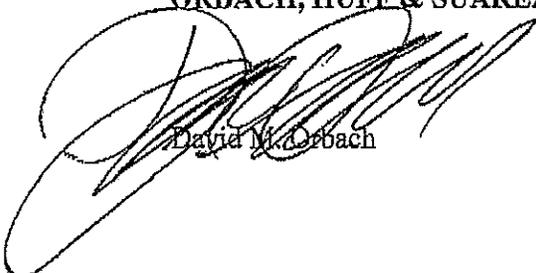
Further, additional measures, besides a construction fence, are needed to dissuade children from coming to look at the construction or enter the construction area and to protect them from injury from falling construction materials.

CONCLUSION

The District is extremely concerned about the Project's potential impacts to the elementary school children and the lack of specific analysis of such impacts to the children. Although the bulk of the discussion herein centers on the Draft EIR, neither the uncertified 8600 Wilshire Mixed-Use Project Final Environmental Impact Report nor the Supplement to the 8600 Wilshire Mixed-Use Project Final Environmental Impact Report addresses these potential impacts. Because the Project EIR is inadequate in the areas discussed above, the District respectfully requests that City Counsel decline to certify the Project EIR and approve the Project and direct staff to address these potential impacts in the EIR and recirculate for comments.

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

Very truly yours,
ORBACH, HUFF & SUAREZ LLP



David M. Orbach

DMO/ml
cc: Karen Christensen

EXHIBIT D

Response to Comments Raised in June 24, 2007 Orbach Letter

Terry A. Hayes Associates (TAHA)

Response to Orbach Letter

NOTIFYING BHUSD OF THE PROPOSED PROJECT

TAHA prepared the 8600 Wilshire Mixed-Use Project Draft EIR, which was distributed for public circulation in April 2006. During the preparation of the Draft EIR, TAHA contacted BHUSD on two separate occasions: 1) a September 2005 letter correspondence to Mr. James Hansen of the Business Office requesting enrollment and other information needed for the Draft EIR Public Services analysis, and 2) a November 2005 correspondence with Karen Christensen of the Planning and Facilities Department to obtain information on future plans for constructing or renovating BHUSD schools and other facilities. The correspondence with Ms. Christensen is footnoted on page 4.6-4 in the Public Services section of the Draft EIR circulated in April 2006.

RESPONSES TO ENVIRONMENTAL ISSUES

Air Quality

The South Coast Air Quality Management District (SCAQMD) monitors air quality conditions at 37 locations throughout the South Coast Air Basin. The monitoring stations are divided into subareas, which cover the entire Basin. The Project site is located within the Northwest Los Angeles County Coastal Monitoring Area, which is served by the West Los Angeles-VA Hospital Monitoring Station. This is the closest monitoring station to the Project site and it is recommended by the SCAQMD for describing air quality conditions at all locations within the Northwest Los Angeles County Coastal Monitoring Area.

The Los Angeles-VA Hospital Monitoring Station does not monitor sulfur dioxide (SO₂) or particulate matter (PM₁₀). The nearest monitoring station that monitors SO₂ and PM₁₀ within the same general forecast area as the Project site, is the Hawthorne Monitoring Station, which is approximately 9.8 miles southwest of the Project site. The Hawthorne Monitoring Station has been designated by the SCAQMD as having similar meteorological conditions as the Los Angeles-VA Hospital Monitoring Station. Therefore, the Hawthorne Monitoring Station is the most appropriate monitoring station for describing SO₂ or PM₁₀ conditions in the Project area.

The localized carbon monoxide (CO) analysis was based on the traffic study. The traffic study did not analyze the intersections of Wilshire Boulevard and Hamel Drive or Charleville Boulevard and Hamel Drive. However, the traffic study did analyze four intersections along Wilshire Boulevard. These four intersections were all analyzed in the air quality analysis for potential localized CO hotspots. Localized CO hotspots are most likely to occur at intersections with high roadway volumes. The four analyzed intersections along Wilshire Boulevard all have higher traffic volumes than intersections along Charleville Boulevard. Therefore, the Wilshire Boulevard intersections represent worst-case conditions

for potential CO hotspots. As shown on Page 4.2-19 of the Draft EIR, none of the analyzed intersections would result in a CO hotspot.

The SCAQMD recommends utilizing CO hotspots as an indicator of other potential mobile source operational impacts. The operational analysis followed the methodology and guidelines set forth by the SCAQMD and no additional mobile source analysis is required. The proposed Project would not include significant stationary emission sources. As such, operational emissions would not result in a significant impact to Horace Mann Elementary School.

The SCAQMD has published localized significance thresholds (LSTs) for assessing localized construction impacts. The LSTs are conservative and utilized to address potential impacts to all types of sensitive receptors, including children. The Project site is approximately 850 feet (260 meters) from Horace Mann Elementary School. Based on SCAQMD guidance, the LSTs for Horace Mann Elementary School from construction activity at the Project site are 225 pounds per day of nitrogen oxide (NO_x) 2,053 pounds per day of CO, and 153 pounds per day of PM₁₀. Construction activity would generate maximum daily emissions of 58 pounds of NO_x, 52 pounds of CO, and 13 pounds of PM₁₀. These emissions are well below the SCAQMD LST thresholds applicable to Horace Mann Elementary School.

Note that the SCAQMD did not develop an LST for volatile organic compounds (VOC) because VOC is only a regional concern.

Geologic Materials and Soils

Pile driving would potentially generate a vibration level of 1.518 inches per second at a distance of 25 feet. The Project site is approximately 850 feet from Horace Mann Elementary School. At this distance, pile driving vibration levels at Horace Mann Elementary School would be 0.008 inches per second. The human vibration perception threshold is approximately 0.012 inches per second. As such, pile-driving vibration would not be perceptible at Horace Mann Elementary School.

Noise

The table presented on Page 4.5-4 of the Draft EIR presents mobile noise levels at the Project site. Mobile noise levels are commonly presented in the 24-hour CNEL metric. The CNEL metric was not used to assess construction impacts. As shown on Page 4.5-9 of the Draft EIR, construction noise impacts were assessed based on hourly noise levels (L_{eq}).

Regarding mobile construction noise, it is unlikely that any substantial amount of construction traffic would travel along Charleville Boulevard. As such, the portion of Horace Mann Elementary School located along Charleville Boulevard would not be exposed to increased mobile noise levels as a result of construction activity. The majority of construction traffic passing Horace Mann Elementary School would travel along Wilshire Boulevard. Generally, a doubling of traffic is required to audibly increase mobile noise levels. Construction traffic would not double traffic along Wilshire Boulevard. As such, mobile construction noise would not audibly increase mobile noise levels along Wilshire Boulevard.

The U.S. Environmental Protection Agency (USEPA) methodology utilized to calculate noise levels takes into account that construction equipment does not operate continuously for eight hours per day. The USEPA methodology calculates construction noise levels based on research

that shows construction equipment typically operates at 40 percent. Based on this methodology, the hourly noise level would be less than 64 dBA.

Traffic

The traffic study included four intersections along Wilshire Boulevard. It was determined that the Project would not significantly impact any of the four intersections. As such, it is likely that Project traffic would not significantly impact Wilshire Boulevard and Hamel Drive.

The traffic study also analyzed the intersection of Charleville Boulevard and Robertson Boulevard. It was determined that the proposed Project would not significantly impact this intersection. The intersection of Charleville Boulevard and Robertson Boulevard has more traffic than the intersection of Charleville Boulevard and Hamel Drive. Therefore, traffic impacts (e.g., vehicle delays) would more likely occur at Charleville Boulevard and Robertson Boulevard than at Charleville Boulevard and Hamel Drive. As such, the traffic study presented a conservative analysis.

In addition, signalized intersections are typically analyzed in traffic studies. The intersections of Hamel Drive and Charleville Boulevard and Hamel Drive and Wilshire Boulevard have no traffic signals and were not analyzed. As shown in the Traffic and Parking Section of the EIR, no operational traffic impacts were determined to result at the larger intersections from the proposed Project during the AM Peak Hour, PM Peak Hour, or Saturday MIDDAY. Because no impacts were found at the larger intersections analyzed (which generally have higher traffic volumes than the Hamel Drive intersections) and are located near or surrounding the Hamel Drive intersections, it is not likely that any impacts would result at the Hamel Drive intersections during the AM or PM Peak Hours, or Saturday MIDDAY.

Regarding the need to analyze roadway segments during the construction phase, similar to the operational phase of the proposed Project, the construction phase is considered to be a temporary phase and is not evaluated in the same way as the operational phase traffic. Construction traffic analysis emphasizes the temporary addition of haul trucks on roadways near the Project site. As stated in the Draft EIR Traffic and Parking section (mitigation measures), the designated truck route for the Project site shall be Wilshire Boulevard for trucks coming from the east or the west. The primary entry point to the site shall be off of Stanley Drive at the southeast corner of the site. Trucks shall access this entry point on Stanley Drive from the north to and from Wilshire Boulevard. Construction traffic shall not be permitted on Stanley Drive (north of Wilshire Boulevard and south of Charleville Boulevard). Flag men shall be provided to control truck access to the site to minimize traffic delays and enhance safety.

Environmentally Superior Alternative

Alternative 3 (not Alternative 2) is identified as the environmentally superior alternative in the Draft EIR (last paragraph, page 5-14 of the Draft EIR). Alternative 3 would construct a 60-foot tall mixed-use building on Wilshire Boulevard and a 25-foot tall, flat-roof townhome building on Charleville Boulevard.

It was stated that Alternative 1 should have been selected as the environmentally superior alternative. Alternative 1 would construct 45-foot tall commercial building on Wilshire

Boulevard and a 25-foot tall single-family residence on Charleville Boulevard. The proposed Project (with changes described in the Supplement to the EIR) would construct a 61-foot tall mixed-use building along Wilshire Boulevard and a 30-foot (or 33-foot) tall townhome building along Charleville Boulevard. Although Alternative 1 would be code-compliant and would not result in the need for an overlay zone and General Plan Amendment, Alternative 1 would create a total of 916 weekday traffic trips during the operational phase. The proposed Project would generate only approximately 244 weekday traffic trips.

Cumulative Impacts

Cumulative impacts analysis evaluates a project's impacts on the region in conjunction with potential impacts from known and related project adjacent to the project area. The CEQA Guidelines do not state that cumulative impacts must be analyzed for a certain number of years in the future. The Draft EIR determined that no cumulative or adverse impacts would result from the proposed Project.

School Children Safety

The recent changes to the proposed Project documented in the Supplement to the EIR show that the driveway, which was previously proposed along Charleville Boulevard, has been eliminated from the Project. This driveway was eliminated to reduce potential safety risks to children that may be walking to Horace Mann Elementary School along the north side of Charleville Boulevard.