

Appendix 12

Responses to the September 2018 Appeal



Responses to Comments in September 2018 Appeal

9908 South Santa Monica Boulevard
Condominium Project EIR

Prepared by:

City of Beverly Hills
455 Rexford Drive, First Floor
Beverly Hills, California 90210

Prepared with the assistance of:

Rincon Consultants, Inc.
250 East 1st Street, Suite 301
Los Angeles, California 90012

January 2019

RESPONSES to COMMENTS in SEPTEMBER 2018 APPEAL

This section summarizes the written comments provided in an appeal of the Planning Commission's approval of the revised 9908 South Santa Monica Boulevard Condominium Project.

In September 2018, a Revised Project Analysis was prepared for the 9908 South Santa Monica Boulevard Condominium Project, which is included in Appendix 11 of the Final Environmental Impact Report (FEIR). On September 13, 2018, the City's Planning Commission conditionally approved the September 2018 Revised Project – a decision that consisted of the following:

- 1) Certifying the 9908 South Santa Monica Boulevard Condominium Project EIR;
- 2) Recommending approval to the City Council of a General Plan Amendment, Zone Change, and Zone Text Amendment to create a Mixed-Use Planned Development Overlay Zone and apply it to the Project site; and
- 3) Conditionally approving a Planned Development and Vesting Tentative Tract Map for the September 2018 Revised Project.

On September 24, 2018, the City received an appeal to the Planning Commission's approval entitled "Appeal to Beverly Hills City Council" (hereafter, the "Appeal"), from The Belvedere Hotel Partnership (hereafter, the "appellant"). The Belvedere Hotel Partnership owns The Peninsula Beverly Hills ("The Peninsula"), located on the corner of South Santa Monica Boulevard and Charleville Boulevard east of the Project site. The Appeal is included herein, along with a response to address each environmental, CEQA-related, concern raised by The Belvedere Hotel Partnership.

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APPEAL PETITIONS MUST BE FILED WITH THE CITY CLERK'S OFFICE WITHIN
14 CALENDAR DAYS AFTER THE DATE OF THE DECISION

APPEAL TO _____ COMMISSION OR CITY COUNCIL

PLEASE TYPE OR PRINT CLEARLY IN BLACK INK

September 24, 2018

Date

In accordance with the appeals procedure as authorized by the provisions of the Beverly Hills Municipal Code, the undersigned hereby appeals from the decision of Planning Commission (Official, Board or Commission involved) rendered on September 13, 2018; which decision consisted of: The grounds submitted for this appeal are as follows: **(WARNING: State all grounds for appeal. Describe how decision is inconsistent with law. Use extra paper if necessary.)**

Appeal of the Planning Commission's Approval of Revised 9908 S. Santa Monica Blvd. Project on September 13, 2018, including:

- 1) Certifying the Revised 9908 Project's Final Environmental Impact Report ("EIR");
- 2) Recommending approval to the City Council of a General Plan Amendment, Zone Change, and Zone Text Amendment to create a Mixed Use Planned Development Overlay Zone and apply it to the Revised 9908 Project site; and
- 3) Conditionally approving a Planned Development and Vesting Tentative Tract Map for the Revised 9908 Project.

See the attached "Appeal to Beverly Hills City Council" pages 1 through 7, plus Exhibits. The undersigned discussed the decision being appealed with:

Ryan Golich and Masa Alkire
(Department Head(s) Involved)

on September 21, 2018
Date

It is requested that written notice of the time and place for the hearing on this appeal before the City Council be sent to:

Robert Zarnegin c/o Probitry International Corp. 421 N. Beverly Drive Suite 350 Bev. Hills, CA 90210

Name

Address

The Belvedere Hotel Partnership
By: 707, LLC, it's Managing Gen. Partner
By: Robert Zarnegin, President

Signature of appealing party

421 N. Beverly Dr. Suite 350 Bev. Hills, CA 90210

Address

PH 310 888 1882 FAX 310 888 8838

Telephone Number & Fax Number

Fee Paid \$5,325.16

(For City Clerk's use)

DATE RECEIVED

LOG NO. 55x18

Written Notice mailed to appellant:

Copies to: City Council, City Manager, City Attorney, Planning

Involved Department

RECEIVED
CITY OF BEVERLY HILLS
2018 SEP 24 11:58
CITY CLERK'S OFFICE

R. Zarnegin



APPEAL TO BEVERLY HILLS CITY COUNCIL

September 24, 2018

The Belvedere Hotel Partnership owns The Peninsula Beverly Hills ("The "Peninsula"), located on the corner of South Santa Monica Blvd. and Charleville Blvd., on the same side of South Santa Monica Blvd. as the Revised 9908 Project and directly across Charleville Blvd. from the Revised 9908 Project.

In accordance with the appeal procedure as authorized by the provisions of the Beverly Hills Municipal Code and the Subdivision Map Act, Belvedere hereby appeals from the decision of the Planning Commission approving the Revised 9908 S. Santa Monica Blvd. Project (the "Revised 9908 Project"), rendered on September 13, 2018. The decision consisted of the following:

- 1) Certifying the Revised 9908 Project's Final Environmental Impact Report ("EIR");
- 2) Recommending approval to the City Council of a General Plan Amendment, Zone Change, and Zone Text Amendment to create a Mixed Use Planned Development Overlay Zone and apply it to the Revised 9908 Project site; and
- 3) Conditionally approving a Planned Development and Vesting Tentative Tract Map for the Revised 9908 Project.

The Planning Commission's approval of the Revised 9908 Project is poor planning that will negatively impact the City of Beverly Hills, its residents, and The Peninsula for years to come. The Revised 9908 Project converts already limited commercial space into a mixed-use development in the heart of the City's commercial center. This will result in the loss of more than two floors of potential tax revenue generating retail/office space. The Revised 9908 Project will dramatically impact TOT provided by The Peninsula, one of the City's largest TOT generators. Moreover, the Revised 9908 Project was approved despite insufficient environmental analysis, including project additions that were slipped in by the developer at the last minute, and overinflated, incorrect financial projections. The City Council should overturn the Planning Commission's approval of the Revised 9908 Project.

A. Background

On August 8, 2018, the Planning Commission held a hearing regarding the proposed mixed-use project at 9908 South Santa Monica Boulevard. After conducting the public hearing, the Planning Commission was prepared to deny the project 3-2. The developer then spoke to the Commission and agreed to make changes to the project to address the Commission's concerns. After Commissioner deliberations, a majority of the Commission members directed the applicant to make further modifications to the Project for review and approval, and directed staff to prepare draft resolutions to



4 certify the Final Environmental Impact Report, recommend approval of the requested General Plan Amendment, Zone Change, and Zone Text Amendment to the City Council, and conditionally approve a Planned Development Permit and Vesting Tentative Tract Map for the Project. Staff prepared a report that was released to the public on September 7, 2018 that summarizes the revisions submitted by the Applicant pursuant to the Planning Commission's direction.

On September 13, 2018, the Planning Commission approved the Revised 9908 Project 3-2. The Planning Commission noted it was approving the Revised 9908 Project with a restriction that limits the number of people allowed on roof deck and amenity garden to 150.

B. The Revised 9908 Project is a New Project.

The Revised 9908 Project eliminates one story of residential units from the original project, as directed by the Planning Commission at the hearing on August 8, 2018. However, the Revised 9908 Project included the following additions that were not requested or required by the Planning Commission:

- 5
- The rooftop pool has been expanded in size from 1,250 SF to 1,875 SF.
 - The pool deck area has been expanded from 2,355 SF to 3,623 SF and is now located on the west side of the building to the east by the relocated amenity and mechanical rooms.
 - The rooftop amenity garden has been moved from the west side of the rooftop to the east side and has been expanded from 2,779 SF in area to 5,944 SF in area.
 - The rooftop amenity room has been increased in size from 1,494 SF to 2,613 SF.
 - The Revised 9908 Project as submitted will contain a total of 12,180 SF of "amenity space".

The rooftop pool has increased in size by 50%. The pool deck area has increased in size by approximately 54% and the amenity room has increased in size by 75%, and is now nearly twice the size of The Peninsula's largest ballroom. The amenity garden has increased in size more than 100%. These bootstrapped additions to the project amounted to a new project and invoked the need for a new EIR, or at the very least a supplemental EIR. Furthermore, The Revised 9908 Project identified these rooftop areas as "public" without any indication as to the extent to which they will be accessible by the public or their attendant uses. These changes are significant. These increases in and of themselves make the Revised 9908 Project a new project that require a completely new EIR, new staff analysis, and all attendant analyses. Yet the Planning Commission chose to certify the insufficient EIR anyway.

6 Moreover, there is no discussion about the proposed uses for the amenity garden, which is on the east side of the building and is in direct sight line of The Peninsula and its guest rooms. The "amenity garden" is almost 6,000 SF, completely unrestricted, and could be used to assemble people for any purpose. The Planning Commission approved the Revised 9908 Project with a maximum capacity of 150 people on the roof deck and amenity garden. However, there is no analysis in the EIR with respect to a 150-person event in addition to the residential and commercial uses. The potential roof deck uses

and the noise, parking, and cumulative impacts of such uses must be analyzed in a new, or at the very least, a subsequent or supplemental, EIR.

- 6 The Revised 9908 Project as approved may dramatically and negatively impact the TOT generated by The Peninsula if the rooftop use of 9908 S. Santa Monica is allowed to affect the tranquility and privacy of The Peninsula guests and its guestrooms. The Planning Commission should have thoroughly analyzed the multitude of unidentified uses, including almost 6,000 square feet of amenity garden, another 5,000 square feet of pool and pool deck area, and a 2,613 square foot amenity room. Each of these could be used to accommodate large gatherings of people, which will have a negative impact on the already existing uses in the Revised 9908 Project neighborhood.

- 7 Based on the foregoing, the City Council should decertify the EIR and instruct the Planning Commission to undertake further environmental review, analyzing these last-minute additions.

C. Revised 9908 Project's Rezoning does not Benefit the Public.

BHMC § 10-3-3908 provides that the Planning Commission may recommend General Plan Amendments, Zone Changes and Zone Text Amendments to the City Council based on the following finding: "If, from the facts presented at the public hearing, or by investigation by or at the instance of the planning commission, the planning commission finds that the public interest, health, safety, morals, peace, comfort, convenience, or general welfare *requires* the reclassification of the property involved or the reclassification of any portion of the property, the planning commission shall so recommend to the council." (emphasis added). Nothing about the Revised 9908 Project *requires* the reclassification of the property for the public interest, health, safety, morals, peace, comfort, convenience, or general welfare of the citizens of Beverly Hills.

- 8 9908 South Santa Monica Blvd. is currently zoned C-3A, a commercial zone that will generate tax revenue and significant economic activity upon development. The Revised 9908 Project results in a zone change to mixed use, with retail and a residential lobby on the ground floor and residential units on the upper floors. This will result in the loss of more than two floors of potential tax revenue generating retail/office space, where commercially-zoned property is already limited. It is in the City and taxpayer's best interest for this property to remain commercially zoned. The economic studies prepared by KMA and HR&A (see section G, below) focused entirely on projected tax revenues to the City and neglected to analyze the multiplier effect that a code compliant project would have on the neighboring business. A code compliant office building on the subject site would populate the area with approximately 200 people that would use and support the local merchants on a daily basis.

Business license tax revenue is generally a steady stream of income for the City; such steady tax revenue should not be traded for speculative, infrequent revenue on the potential sales of condos. A commercial office building would provide jobs for 200 people and provide multiplier effect for the business and retailers in the area, helping with their rents and business license tax payments.

9 The Peninsula is permitted to have “after-hours” events on its rooftop pool deck. This permit is subject to bi-annual review by the City’s Planning Department. The Peninsula is very careful to comply with the conditions of the permit, to minimize the possibility of disturbing the residents nearby. Residents within 500 feet of the hotel are notified when the permit is subject to review, and are given the opportunity to address any problems or concerns the hotel’s after-hours activities have caused them. The development of residential units immediately across the street from the hotel will create a new potential for conflict between the residents of those units and the commercial activities for which South Santa Monica Blvd. has been designated.

10 In addition, the Revised 9908 Project requires an amendment to the General Plan, the Zoning Map and Zone Text Amendment, and Vesting Tentative Tract Map. This impermissible “spot zoning” will allow for a Planned Development Overlay Zone (M-PD-5) for the Revised 9908 Project – an entirely new zoning category that does not exist at this time and does not benefit the City of Beverly Hills or its residents. *See Foothill Communities Coalition v. County of Orange* (2014) 222 Cal. App. 4th 1302, 1314. This sets bad precedent in the City, and will incentivize other developers to seek spot zoning. It allows the Planning Commission to override the General Plan and zoning to benefit specific projects, and create an entirely new zoning category without review by the City Council or input from taxpayers. This is a slippery slope for the City. This poor planning will result in a patchwork of mismatched developments throughout the City, ultimately reducing our quality of life. The General Plan and zoning code establish the rules and regulations by which development can be established in the City of Beverly Hills. Creating this new mixed-use overlay zone circumvents these requirements. Moreover, as described throughout this appeal, the Revised 9908 Project does not benefit the general public – it takes away revenue generating commercial property, will dramatically impact TOT generated by The Peninsula, is based on insufficient environmental analysis, and overinflated financial projections.

11 The current City Treasurer, Howard S. Fisher, and Former City Treasurer, Eliot M. Finkel, oppose the Revised 9908 Project and have addressed the fiscal damage the Revised 9908 Project will cause the City via public comment and written comment to the Planning Commission. *See* Finkel letter dated November 28, 2017 and Fisher Email dated January 11, 2018 attached hereto as Exhibit A. 9908 S. Santa Monica Blvd. should remain a commercially zoned property. The Peninsula requests the City Council overturn the Planning Commission’s approval of the Revised 9908 Project.

D. Height/FAR Requirements.

12 The Planning Commission’s approval attempts to minimize the drastic allowable height increase of the Revised 9908 Project. Under the current zoning restrictions, the maximum building height is 45 feet and 3 stories and the maximum Floor Area Ratio (“FAR”) is 2.0. In an apparent attempt to minimize the impact of the actual height of the project versus the allowable height under the code, the Planning Commission resolutions incorrectly state the height of the Revised 9908 Project is 47 feet. The correct height of the Revised 9908 Project is approximately 57 feet tall to the roof of the amenity/fitness room,

12 and is more than 25% higher than the currently allowable height. In addition, it is four stories plus the pool deck and fitness room, more than two (2) levels higher than allowed under the zoning code. The Revised 9908 Project includes a FAR of 2.51, a 25% increase in the allowable FAR. It should be noted that while the applicant seeks to build residential units within a commercial zone, the City's zoning code contains transition zones where commercial zones abut residential zones. These transition zones limit development to two stories and 35 feet in height, and a 1.33 FAR. The Revised 9908 Project not only creates an exception to the General Plan, but demonstrates a complete disregard for the philosophy behind it. The additional 0.51 FAR or 18,000 sf is a pure up-front gift worth approximately \$9 million, based on the Applicant's purchase price. Converting from commercial to for-sale residential is an additional gift to the Applicant.

13 The Peninsula is particularly concerned that the Revised 9908 Project will result in an invasion of privacy of guests using the hotel's rooftop pool area. Currently The Peninsula's rooftop pool area does not have any buildings overlooking it. Guests can swim and lounge discreetly without being watched from a nearby window or rooftop. If the Revised 9908 Project is built as proposed, The Peninsula's rooftop pool area will be in the line of sight of the project's undefined amenity garden and will be lower than the interior amenity room. This is an untenable situation for The Peninsula and its guests and it could dramatically impact TOT generated by The Peninsula.

14 The Revised 9908 Project is out of character for the commercial corridor in which it is proposed. At the very least, City Council should require the Planning Commission to instruct the Applicant to decrease the height of its project to 45 feet to the top of the amenity room.

E. Ingress/Egress

15 The Revised 9908 Project's ingress and egress is on both South Santa Monica Blvd. and Charleville Blvd., a secondary street that separates the Revised 9908 Project from The Peninsula. The ingress and egress on Charleville Blvd. will create a bottleneck issue on the street, and increase noise and traffic directly adjacent to The Peninsula's guest rooms. The Planning Commission should have instructed the Applicant to relocate the ingress and egress to the alleyway behind the project, in accordance with the City's preferred development standards.

F. Traffic and Parking

16 The Traffic Study only studied two signalized intersections – 1) S. Santa Monica Blvd. & Charleville Blvd. and 2) S. Santa Monica Blvd. and Moreno Drive. While these two intersections are closest to the Revised 9908 Project, the study should have included the major intersections of S. Santa Monica Blvd & Wilshire (less than 1000 feet from the Revised 9908 Project) and Santa Monica Blvd. & Century Park East (just over 1000 feet from the Revised 9908 Project). Ignoring these major intersections skews the results of the Traffic Study to appear as if the Revised 9908 Project will have

- 16 | little impact on traffic in the area. The Traffic Study should be redone to protect the community from the unintended consequences of deficient analysis.

- 17 | The Traffic Study does not include a hypothetical in which the newly expanded rooftop public areas are used for event space. If the Revised 9908 Project is used to host events with 150 people, traffic will be a substantial issue, especially if it coincides with events occurring in the neighborhood at The Peninsula Beverly Hills and/or the Beverly Hilton/Waldorf Astoria. Adding a potential event space venue will only increase the burden on S. Santa Monica and Santa Monica Blvd. The Planning Commission should require additional study of the traffic issues invoked by the Revised 9908 Project.

In addition, there is no analysis with respect to parking that contemplates the newly proposed amenity garden, the expanded pool and pool deck, and the expanded amenity room. The rooftop space is over 12,000 square feet, which could hold hundreds of people for any number of unspecified events. The Revised 9908 Project is severely under parked for use of the rooftop as potential event space. The Planning Commission must require staff to study this issue before making any decision on the Revised 9908 Project.

G. Financial Analysis

Keyser Marson Associates (“KMA”) performed a financial analysis for the City with respect to the project. The developer hired HR&A to conduct a financial analysis of the project. During the August 8, 2018 hearing on the Revised 9908 Project, Commissioner Ostroff questioned HR&A’s representative about its financial conclusions with respect to the Revised 9908 Project. After questioning, HR&A’s representative essentially admitted the financials were inaccurate and overstated. This is unacceptable. The developer is attempting to make the Revised 9908 Project appear to be a greater revenue generator for the City than it will be, in order to get it approved by the City.

- 18 | Moreover, both KMA and HR&A performed their financial analyses before the developer was required by the Planning Commission to lop off the 5th floor of the project, which contained the two 5-bedroom penthouse suites, over 10,000 square feet of saleable condo space. These two penthouse suites were the largest potential sales generators and will result in lower revenue generated by the Revised 9908 Project. The Revised 9908 Project is even less fiscally viable than it was before these changes. A financial analysis of the Revised 9908 Project without the two largest condos has not been conducted. The City Council must require an updated, more robust, accurate financial report to fully understand the economics of the Revised 9908 Project.

Neither financial analysis addressed the economic benefits of a code compliant commercial/office project would have on the neighboring business, or the increased revenues the City would reap from that economic activity. In comparing the proposed project to an all commercial alternative, both the KMA and HR&A reports are inaccurate and deficient.

H. All Negotiations with the Applicant Must Be Stayed Pending Appeal.

- 19 | The City must not start negotiations with Applicant regarding any Development Agreement, including fees for sales of condos. Such negotiations would taint the City Council's judgement and prematurely commit the City to the project, to the detriment of the neighboring businesses. The scope of the project, if it is to go forward, must first be approved before any financial deal is contemplated. Any and all negotiations with the Applicant must be stayed pending review of this Appeal and any other actions that may be taken by the City Council with respect to the Revised 9908 Project.

CONCLUSION

- 20 | Based on the foregoing, the City Council should overturn the Planning Commission's approval of the Revised 9908 Project as currently proposed.

EXHIBIT A



Eliot M. Finkel

110 North Maple Drive, Beverly Hills, California 90210

Telephone: 310-271-8988

November 28, 2017

Beverly Hills Planning Commission
455 North Rexford Drive
Beverly Hills, California 90210

Re: 9908 Santa Monica Boulevard Proposed Project

Dear Chair Gordon and Members of the Planning Commission:

I urge you not to approve the proposed 9908 Santa Monica Boulevard project. In addition to exceeding the current height and FAR limits, the project's costs far outweigh the benefits.

Three-quarters of Beverly Hills revenue comes from the 9% of our land which is commercially zoned. Commercial property produces business taxes on income and property rentals, hotel taxes, sales tax and property tax. Our commercial businesses strongly support our restaurants and retail stores; visitors come from around the world to eat and shop here.

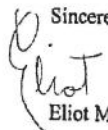
Though Beverly Hills is financially healthy today it was not the case in 2009. We should not jeopardize our financial future by converting commercial property to condominiums. Condominiums are the only form of development which lasts forever. Can you imagine 27 homeowners agreeing to sell their property for a higher and better commercial use? A commercial property or apartment building owner could easily do so.

As a reminder of how things can change search no farther than Beverly Hills pension obligations. Shortly after the turn of the century, CalPERS persuaded California governments their surpluses would last forever and benefits should be increased. Since then, Beverly Hills pension obligations have gone from an \$86 million surplus to a \$200 million unfunded liability.

The Planning Commission is our first line of defense against the fiscal damage that would be caused by the conversion of our commercial property to developments entailing condominiums. We can ill afford to jeopardize Beverly Hills' financial future by removing commercial property from the City's inventory. Please think of our City's future and deny this proposed project.

Thank you.

Sincerely,


Eliot M. Finkel

Submitted at the Planning
Commission meeting of:

11/28/17

By: Correspondence Rec'd

Re: Item #1

105

Masa Alkire

From: Howard Fisher
Sent: Thursday, January 11, 2018 12:21 PM
To: Masa Alkire
Subject: FW: Friars Club Project

From: Howard Fisher
Sent: Thursday, January 11, 2018 11:22 AM
To: Lori Gordon; andrewlicht@gmail.com
Cc: Andre Sahakian; Ryan Gohlich
Subject: Friars Club Project

Dear Chair Gordon and Vice-Chair Licht,

Although there have been improvements to the Friars' Club protect, from the perspective of the City Treasurer, I still oppose the project for the same reasons that I articulated when last before the Commission.

Thank you for your considerations.

Howard S. Fisher

Howard S. Fisher,
Treasurer
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210
c (310) 980-5974
t (310) 285-2411
f (310) 285-2441

Submitted at the Planning
Commission meeting of:

1/11/18

By: Correspondence Rec'd
Re # 3



Response 1

The Appeal includes a cover page disclosing details of the appealed decision (i.e., Planning Commission approval of the September 2018 Revised Project), appellant, City Staff involved in the appeal, and the filing date and amount paid associated with the appeal petition.

This cover page serves an administrative purpose and is intended to summarize details of the appeal petition. The cover page raises no environmental issues specific to the September 2018 Revised Project.

Response 2

The appellant describes The Peninsula's location with respect to the Project site and formally states their appeal from the Planning Commission's approval of the September 2018 Revised Project rendered on September 12, 2018.

This is not a CEQA-related comment on the Revised Project Analysis (included in Appendix 11 of the FEIR) and raises no environmental issues specific to the September 2018 Revised Project.

Response 3

The appellant summarizes an opinion that, if built, the September 2018 Revised Project would negatively impact the City, its residents, and The Peninsula by converting limited commercial space into a mixed-use development, creating a loss of tax-revenue-generating retail/office space, and impacting the Transient Occupancy Tax (TOT) provided by The Peninsula. The appellant states that the Revised Project analysis was approved despite being insufficient and asks that City Council overturn the Planning Commission's approval of the September 2018 Revised Project.

The issues and concerns raised by the appellant regarding the September 2018 Revised Project are in Responses 5 through 18. Specifically, Responses 5 through 7 address concerns associated with the rooftop uses; Responses 8 through 11 addresses zoning and tax revenue concerns; Responses 12 through 14 address the Project's height and Floor Area Ratio (FAR); Responses 15 through 17 address site access and traffic concerns, and Response 18 addresses fiscal and financial concerns expressed by appellant.

Response 4

The appellant provides background details about the Planning Commission hearing held on August 8, 2018, the Commission's directions for the Applicant to make further modifications to the Project for review and approval, and the 3-2 Commission approval on September 13, 2018 of the September 2018 Revised Project provided that the number of people allowed on the Project's roof deck and amenity garden was restricted to 150 at any time.

This is not a CEQA-related comment on the Revised Project Analysis (included in Appendix 11 of the FEIR) and raises no environmental issues specific to the September 2018 Revised Project.

Response 5

The appellant lists details about the September 2018 Revised Project as a result of comments from the Planning Commission at the August 8, 2018 hearing, consisting of an expansion of the rooftop pool from 1,250 square feet (SF) to 1,875 SF; an expansion of the rooftop pool deck from

2,355 SF to 3,623 SF and relocation to the west side of the rooftop; an expansion of the rooftop amenity garden from 2,799 SF to 5,944 SF and relocation to the east side of the rooftop; an expansion of the rooftop amenity room from 1,494 SF and 2,613 SF; and a total of 12,180 SF¹ of “amenity space” when compared to the July 2018 Revised Project. The appellant states that, under the September 2018 Revised Project, the rooftop pool increased by 50 percent, the pool deck increased by 54 percent, the amenity garden increased by more than 100 percent, and the amenity room increased by 75 percent. The appellant adds that these Project features are identified as “public” without clarifying the extent to which the rooftop uses would be accessible by the public. The appellant states that the change in size of these rooftop uses invokes the need for a new or supplemental, EIR.

The September 2018 Revised Project is a four-story project that eliminated the stepped back fifth floor included in the July 2018 Revised Project, which contained two penthouse units with private outdoor decks and pools. The September 2018 Revised Project includes a larger roof area because the top floor is no longer stepped back. Therefore, the September 2018 Revised Project has amenity space to accommodate the private use of 25 condominium owners, with a pool, pool deck, garden, and indoor amenity/fitness room. Although the four-story September 2018 Revised Project includes 11,244 SF² of common outdoor space on the roof, this is less than the prior July 2018 Revised Project, which included 6,384 SF³ of outdoor roof space plus 11,109 SF of outdoor space on the penthouse level for a total of 17,493 SF. Factoring in the indoor amenity rooms, the September 2018 Revised Project would include a total of 13,857 SF of outdoor/indoor rooftop amenity space while the July 2018 Revised Project would include a total of 17,493 SF of outdoor/indoor rooftop and penthouse level amenity space. The rooftop amenities under the September 2018 Revised Project would not be new when compared to the original Project analyzed in the August 2016 Draft EIR or the July 2018 Revised Project (as discussed in FEIR Appendix 9) and there is no evidence that the revised amenities would result in a significant environmental impact. Specifically, the rooftop amenity space is intended for the 25 condominium owners and their guests and would operate as a typical residential property in accordance with the Conditions of Approval, which would limit the maximum number of people at a roof-top event to no more than 150 people. Further, tenants of the commercial spaces in the mixed-use project would not be allowed to utilize the rooftop amenities. Therefore, the changes to the rooftop amenities would not create new impacts that would require a new or supplemental EIR for the September 2018 Revised Project. Further, supplemental (or subsequent) EIRs may only be required after an initial Final EIR has been certified - which has not yet occurred in this matter. See Response 6 for further details on the relocation and use of rooftop amenities under the September 2018 Revised Project.

Response 6

The appellant states that the September 2018 Revised Project would negatively impact the TOT generated by The Peninsula should the rooftop use of the September 2018 Revised Project affect the tranquility and privacy of The Peninsula guests and its guestrooms. The appellant states

¹ Although unspecified in the Appeal, the 12,180 SF “amenity space” stated by the appellant is calculated by adding the rooftop pool deck (3,623 SF), amenity garden (5,944 SF), and amenity room (2,613 SF).

² This SF is calculated by adding the outdoor rooftop uses (i.e., 1,875 SF pool, 3,623 SF rooftop pool deck, and 5,944 SF amenity garden) minus the 2,613 SF amenity room.

³ This SF is calculated by adding the outdoor rooftop uses (i.e., 1,250 SF pool, 2,355 SF rooftop pool deck, and 2,779 SF amenity garden) minus the 1,494 SF amenity room.



that there is no discussion regarding the proposed uses for the rooftop amenity garden, which is now located on the east side of the building. The appellant adds that each of the rooftop features (i.e., amenity garden, pool and pool deck area, and amenity room) could accommodate large gatherings of people that would impact existing uses in the Project site vicinity. The appellant states that the amenity garden would be in direct line-of-sight to The Peninsula and its guest rooms, and could be used to assemble people for any purpose. The appellant requests that the noise, parking, and cumulative impacts of the rooftop uses be analyzed in a new or supplemental EIR.

Fiscal and financial issues, including those of The Peninsula, are not environmental topics and thus are not the subject of CEQA. While the September 2018 Revised Project includes a larger roof area in comparison to the July 2018 Project (see Response 5), rooftop activities would not generate substantial noise or privacy issues. The pool and pool deck were moved from the east side of the roof to the west side of the roof in response to concerns raised by The Peninsula regarding possible visual and noise impacts of the pool. Thus, reconfiguration of the rooftop uses would reduce the potential for any adverse noise impacts on The Peninsula by increasing the distance between the pool area and The Peninsula, and by placing the amenity and mechanical rooms between the pool area and The Peninsula as an additional buffer between both uses. In addition, the pool and pool deck would be set back 17.5 feet from the rear edge of the roof and 24.5 feet from the rear property line along the alley. Furthermore, use of the 1,820 SF indoor fitness/amenity room would be limited to residents and their guests. The remaining outdoor amenity garden area contains hardscape and landscape designed for use only by residents and their guests for passive activity such as sunbathing or reading. The garden area on the east side of the rooftop would be set back 5 feet from the edge of the building and 9 feet from the Charleville property line. In addition, the entire perimeter of the rooftop would include a landscaped buffer of varying widths. The landscaped buffer would be 5 feet in width along the eastern edge of the building and designed to limit views of The Peninsula from the proposed project's rooftop.

All rooftop areas would be operated in accordance with the Conditions of Approval, which would limit rooftop uses to customary residential common area uses. The Conditions specify that no banquets would be permitted and that all Project common rooms would be limited to resident recreation and for private events for residents and their guests. Commercial occupants of the building would be prohibited from the use of rooftop facilities. The hours of operation for outdoor rooftop areas would be limited to 7 AM to 10 PM Monday through Friday and 9 AM to 10 PM Saturday and Sunday. In addition to the Project Conditions, the Project's Covenants, Conditions & Restrictions (CC&Rs) and future Homeowner Association Rules and Regulations would limit the use of the rooftop to ensure that the activity levels do not disturb condominium residents or neighbors, including The Peninsula. See Response 18 for a discussion of parking and traffic impacts associated with the September 2018 Revised Project's rooftop features.

Response 7

The appellant asks that City Council decertify the EIR and that Planning Commission undertake further environmental review.

This request is noted, but per responses contained herein, no substantial evidence has been provided to show that the September 2018 Revised Project would have any significant environmental impacts not already addressed in the Final EIR.

Response 8

The appellant states that, per Section 10-3-3908 of the Beverly Hills Municipal Code, nothing about the September 2018 Revised Project warrants the reclassification of the Project site via a General Plan Amendment, Zone Change, Zone Text Amendment, for the public interest, health, safety, morals, peace, comfort, convenience, or general welfare. The appellant adds that the Project would result in the conversion of a commercial-zoned property to mixed-use, creating a loss of potential tax-revenue-generating retail/office space. The appellant states that a code-complaint commercial project would populate the area with approximately 200 people that would support local businesses and merchants and provide the City with a business license tax revenue income compared to the infrequent revenue of condominium sales.

This comment is noted. Fiscal, financial and social changes in cases such as this where such changes will not result in any physical change in the environment, are not environmental topics included within the scope of CEQA⁴, and thus the issues raised would be considered by the City Council in the context of rendering a decision on the requested zoning changes, rather than as part of the CEQA analysis.

Response 9

The appellant states that The Peninsula is permitted to have “after-hours” events on its rooftop and deck by complying with the conditions of a permit that is subject to bi-annual review by the City’s Planning Department, including receiving annual feedback from residents within 500 feet of The Peninsula as part of the permit’s review process. The appellant adds that the development of residential units immediately across the street from the hotel would create a potential for conflict between the residents of those units and the commercial activities permitted along South Santa Monica Boulevard.

Impacts of the existing environment on the Project, including noise impacts from commercial activities in the Project site vicinity, are not environmental effects under CEQA, which focuses on the impacts of proposed actions on the environment. Nevertheless, per state and local requirements, the Project would be required to provide noise insulation features to achieve an interior noise environment of 45 dBA CNEL or less. Any noise-related issues experienced by residents of the Project from permitted “after-hours” events at The Peninsula’s rooftop would be addressed bi-annually as part of The Peninsula’s permit review process.

Response 10

The appellant states that the September 2018 Revised Project is “spot zoning” because it requires an amendment of the General Plan, a Zoning Map and Zone Text Amendment, a Vesting Tentative Tract Map, and a Planned Development Overlay Zone (M-PD-5) which is an overlay that does not exist at this time. The appellant states the creation and implementation of the M-PD-5 would circumvent the requirements of the General Plan and Zoning Code, and incentivize other developers to seek similar “spot zoning,” which would ultimately result in mismatched developments throughout the City and a lower quality of life.

⁴ 14 Cal. Code Regs. Secs. 15064(e), and 15382.



The City's Municipal Code allows for an amendment to the General Plan and Zoning Code, including the rezoning of a property if the required findings for an amendment can be met. As identified in the Planning Commission's resolution recommending the General Plan and Zone Text amendments (PC Reso. 1858), the Planning Commission determined that the required findings to approve the amendment can be met. Specifically, the rezoning of the Project site is in the public interest because it would allow for the increased production of housing; the Project is an appropriately scaled mixed-use development that would contribute to the vitality of the Santa Monica Boulevard commercial corridor; and the Project and proposed rezoning are an appropriate transition between existing multi-family and commercial uses. Further, that the rezoned property would serve as a transition between residential and commercial areas of the City. In addition, the Planning Commission found that the public's health requires that the Project site be reclassified as mixed-use in that mixed-use development is consistent with local and regional transportation policies⁵. Overall, the rezoning of the Project site is consistent with existing policies set out in the City's General Plan Land Use Element in that Land Use Policy 9.5 specifically states that, "the feasibility of allowing mixed commercial/residential uses should be analyzed in order to expand the variety of housing types available in certain areas, to improve commercial/ residential transitions." Therefore, the proposed rezoning could not be classified as "spot zoning" as there is an appropriate basis to undertake the rezoning of the Project site, it has followed the procedures set out in the Zoning Code, and it is supported by existing land use policies set out in the General Plan.

Response 11

The appellant notes that the September 2018 Revised Project would result in a loss of revenue-generating commercial property and suggests that would reduce the TOT generated by The Peninsula. The appellant adds that the current and former City Treasurers, Howard S. Fisher and Eliot M. Finkel, respectively, oppose the September 2018 Revised Project via written comment to the Planning Commission (included as Exhibit A to the Appeal). The appellant states an opinion that the Project site should remain a commercially-zoned property.

These opinions are noted. No evidence that the Project would adversely affect business at The Peninsula has been provided and, in any event, fiscal and financial issues are not environmental topics under CEQA as discussed in Response 8 above. See also Response 10 regarding the land use and zoning entitlements required for the September 2018 Revised Project.

Response 12

The appellant states that, under current zoning restrictions, the maximum building height is 45 feet and three stories, and the maximum FAR is 2.0. The appellant also states that the September 2018 Revised Project's height is incorrectly stated as 47 feet, since the height of the Project to the roof of the amenity/fitness room is 57 feet. The appellant adds that the Project is four stories plus the pool deck and fitness room – two levels higher than the allowed height under the Zoning Code. The appellant states that the September 2018 Revised Project has an FAR of 2.51, which is a 25 percent increase above the allowable FAR. The appellant adds that the City's

⁵ In reference to the finding on page nine of Planning Commission Resolution 1858, where the Commission found that the public's health requires reclassification of the property.



Zoning Code includes transition zones, where commercial zones abut residential zones, which limit development to a height to 35 feet and two stories, and a 1.33 FAR.

The September 2018 Revised Project approved by the Planning Commission measures 47 feet in height measured from the highest point of the adjacent sidewalk (the height measuring datum point) to the roof deck surface. Measuring building height from this height datum point to the roof deck surface is consistent with how building height is measured in the C-3 zone. The height limit requirements for the M-PD-5 overlay zone exclude certain structures from consideration when determining height. Rooftop amenity/fitness rooms and pool decks are identified in the M-PD-5 overlay zone as structures that can exceed a building's height by up to 10 feet if approved by the Planning Commission. The subject rooftop structures are 10 feet tall, have been reviewed by the Planning Commission, and thus would be compliant with this M-PD-5 requirement. In comparison, the C-3 zone also allows for rooftop structures, such as rooftop gymnasiums and lunchrooms, to exceed a building's measured height by up to 15 feet if approved by the Planning Commission. Thus, the regulations governing building height measurement in the M-PD-5 Zone are very similar to, but more restrictive than the building height measurement methodology, including allowable exceptions, used for the C-3 Zone that is applicable to neighboring properties, including The Peninsula. Further, the EIR and the various staff reports have disclosed that the actual height of the proposed building, inclusive of the mechanical equipment and other rooftop structures, is 57 feet to top of rooftop amenity structures and 62 feet to top of elevator enclosures (highest point of the proposed building).

Commercial buildings located in the C-3 commercial zone are limited to 3 stories, with the exception of hotels, which are allowed to be up to 4 stories in height. In the C-3 zone, with Planning Commission approval of a Development Plan Review for a roof-top use, an additional rooftop structure can be allowed on top of a 3 or 4 story commercial structure. In comparison, the M-PD-5 zone allows for up to 4 stories with additional residential amenity structures allowed as rooftop uses.

The existing zoning of the Project site is C-3 which allows for development to have a FAR of up to 2.0. The appellant correctly states that proposed overlay zone would allow a FAR of up to 2.5. The appellant adds that the City's Zoning Code includes transition zones, where commercial zones abut residential zones, which limit development to a height to 35 feet and two stories, and a 1.33 FAR. The cited 1.33 FAR and two-story height limit are development standards associated with the C-3T-2 Commercial-Transition Zone, which is a zoning designation applied to commercial properties located on Olympic Boulevard. These C-3T-2 properties on Olympic Boulevard are predominately located adjacent to properties with single-family residential zoning designations. The Project site is located on Santa Monica Boulevard and is located adjacent to multi-family and commercially zoned properties, and thus the Project site has a different context than properties to which the cited transition zone regulations are applicable.

Response 13

The appellant states that The Peninsula's rooftop pool area would be in direct line-of-sight from the September 2018 Revised Project's amenity garden, which would result in an invasion of privacy for guests using The Peninsula's rooftop pool area. The appellant adds that this situation for The Peninsula and its guests would reduce TOT generated by The Peninsula.



No evidence that the Project would harm The Peninsula's business has been provided. Regardless, fiscal and financial issues are not environmental topics included under CEQA, as discussed above in Response 8. Similarly, privacy is not an environmental topic under CEQA. See Response 6 for further details on the relocation and use of rooftop amenities under the September 2018 Revised Project, and landscaped screening that is intended to limit views of The Peninsula.

Response 14

The appellant states that the September 2018 Revised Project is out of character with the Santa Monica Boulevard commercial corridor and that the Applicant should be required to decrease the height of the Project to 45 feet to the top of the amenity room.

The September 2018 Revised Project includes 13,036 SF of retail/commercial space, which would create a different visual character than the original Proposed Project. With incorporation of the retail/commercial space, the September 2018 Revised Project would be visually compatible with the character of surrounding one-to-four story developments, including the Beverly Hills Community Sports Center to the west; commercial retail, offices, and The Peninsula Hotel across Charleville Boulevard to the east; and multi-family residential and parking garages to the south. See Response 12 regarding the September 2018 Revised Project's height.

Response 15

The appellant states that the Project's ingress and egress on Charleville Boulevard would create bottleneck issues on the street and increase noise and traffic directly adjacent to The Peninsula's guest rooms. The appellant adds that the Planning Commission should have instructed the Applicant to relocate the ingress and egress to the alleyway behind the Project.

On January 2, 2019, Fehr & Peers prepared responses to transportation-related concerns raised by the appellant in a memorandum titled, *Responses to Transportation Comments – 9908 S. Santa Monica Boulevard Appeal*. The memorandum is included as Attachment A to this appendix. The findings included in the memorandum are summarized under Responses 15 through 17 of this document.

The Project driveway on Charleville Boulevard would provide access to on-site residences while the Project driveway on South Santa Monica Boulevard would serve the commercial uses. Residents utilizing Charleville Boulevard to access the Project site would generate approximately 166 daily trips, 14 AM peak hour trips, and 17 PM peak hour trips. The number of residential trips traveling on Charleville Boulevard to access the site would be minimal in comparison to the current traffic levels as summarized below:

- During the AM peak hour, approximately 270 vehicles travel on Charleville Boulevard between South Santa Monica Boulevard and the alley based on traffic counts collected as part of the traffic study. Project residences would add 14 vehicles to this segment of Charleville Boulevard, an increase of about 5 percent.

- During the PM peak hour, approximately 335 vehicles travel on Charleville Boulevard between South Santa Monica Boulevard and the alley based on traffic counts collected as part of the traffic study. Project residences would add 17 vehicles to this segment of Charleville Boulevard, an increase of about 5 percent.

As concluded in the memorandum prepared by Fehr & Peers (see Attachment A), no significant traffic impacts to the intersection of S. Santa Monica Boulevard & Charleville Boulevard would occur based on the City's significant impact criteria.

With respect to the comment that noise impacts would occur, as discussed in Section 4.6.1, *Noise and Vibration*, of the EIR, a doubling of sound energy is equivalent to a 3 dBA increase. In general, a 3 dBA change in the community noise level is noticeable while 1-2 dBA changes generally are not perceived. In this case, a doubling of vehicles along Charleville Boulevard between South Santa Monica Boulevard and the alley would result in a 3 dBA increase in the community noise level. Project-generated traffic would increase the community noise level by 3 dBA if 270 vehicles are added to the AM peak hour (for a total of 540 vehicles) or if 335 vehicles are added to the PM peak hour (for a total of 670 vehicles) on Charleville Boulevard. However, the Project would only generate 14 vehicles during the AM peak hour and 17 vehicles during the PM peak hour at this segment of Charleville Boulevard. Therefore, the 5 percent increase in daily AM peak hour and PM peak hour traffic on Charleville Boulevard would not audibly change noise conditions along that roadway.

Response 16

The appellant states that, while the Traffic Study prepared by Fehr & Peers studies the two intersections closest to the Project site (i.e., South Santa Monica Boulevard/ Charleville Boulevard and South Santa Monica Boulevard/ Moreno Drive), it should have also included South Santa Monica Boulevard/ Wilshire Boulevard and Santa Monica Boulevard/ Century Park East.

At the outset of the transportation analysis conducted by Fehr & Peers in 2016, the Project consisted of 27 multi-family residential units. Based on the expected trip generation, the two signalized intersections located closest to the Project site and two nearby residential streets segments were selected by Fehr & Peers as the analysis locations:

Signalized Intersections Analyzed for Level of Service Impacts:

South Santa Monica Boulevard & Charleville Boulevard
South Santa Monica Boulevard & Moreno Drive

Street Segments Analyzed for Neighborhood Street Segment Impact

Charleville Boulevard between South Santa Monica Boulevard and Durant Drive
Durant Drive between Moreno Drive and Charleville Boulevard

The two intersections requested for analysis in the appeal letter serve major corridors and carry large volumes of traffic. Therefore, the additional traffic generated by the Project would not be expected to result in peak hour impacts for the reasons summarized below.

- South Santa Monica Boulevard & Wilshire Boulevard carries approximately 4,500 vehicles during the AM peak hour and 4,100 vehicles during the PM peak hour. The Project is expected to generate approximately 63 AM peak hour trips and 88 PM peak hour trips, of which 45% would travel to/from the north and east. Therefore, the Project would add up to 28 vehicles to this intersection during the AM peak hour and 40 vehicles to the intersection during the PM peak hour. In comparison to current traffic levels, the 0.6 percent increase of vehicle traffic above existing AM conditions and the 1 percent increase of vehicle traffic above existing PM conditions would not generate a significant impact based on the City's significance thresholds.
- Santa Monica Boulevard & Century Park East carries approximately 5,000 vehicles during the AM peak hour and 5,400 vehicles during the PM peak hour. The Project is expected to generate approximately 63 AM peak hour trips and 88 PM peak hour trips, of which 55% would travel to/from the south and west. Therefore, the Project would add up to 35 vehicles to this intersection during the AM peak hour and 48 vehicles to the intersection during the PM peak hour. In comparison to current traffic levels, the 0.7 percent increase of vehicle traffic above existing AM conditions and the 0.9 percent increase of vehicle traffic above existing PM conditions would not generate a significant impact based on the City's significance thresholds.

Response 17

The appellant states that the Traffic Study does not analyze a hypothetical traffic and parking scenario in which the rooftop public areas associated with the September 2018 Revised Project are used as event space for 150 people. The appellant states that use of the Project's rooftop uses would create traffic issues on Santa Monica Boulevard if events coincide with events at The Peninsula and/or the Beverley Hilton/Waldorf Astoria hotels. The appellant adds that Project would not have sufficient parking if the rooftop is used as event space for hundreds of people, and requests an additional analysis to determine potential parking impacts of such an event.

As stated in the traffic memorandum (Attachment A), the trip generation rates used to evaluate the Project reflect typical activity levels for the commercial and residential uses included in the Proposed Project. The rooftop amenity space is intended for the 25 condominium owners and their guests and would operate as a typical residential property in accordance with the Conditions of Approval, which would limit the maximum number of people at a roof-top event to no more than 150 people (this is also discussed under Response 6). Further, tenants of the commercial spaces in the mixed-use project would not be allowed to utilize the rooftop amenities. Special events such as those described by the appellant are not part of the September 2018 Revised Project, and are not anticipated to occur.

Response 18

The appellant states that Keyser Marston Associates (KMA) performed a financial analysis for the City regarding the 9908 Santa Monica Boulevard Project while the Applicant hired HR&A to perform a similar financial analysis. The appellant states that, during an August 8, 2018 hearing, a representative of HR&A admitted that the financials were inaccurate and overstated in an attempt to make the original Project appear to be a greater revenue generator for the City than it will be. The appellant adds that both analyses were completed prior to the conception and analysis September 2018 Revised Project, and, with the removal of the two, fifth-floor

penthouses, the September 2018 Revised Project would result in a lower revenue stream. The appellant requests that City Council require an updated financial analysis of the September 2018 Revised Project.

Fiscal and financial issues are not environmental topics under CEQA, as discussed in Response 8 above.

Response 19

The appellant asks the City to not begin negotiations with the Applicant regarding any Development Agreement, including fees for sales of condos, pending review of the Appeal and petition and any other actions that maybe undertaken by the City Council with respect to the September 2018 Revised Project.

These comments do not present environmental impact issues, and therefore no further response is necessary for CEQA purposes. The City Council will take into account the comments as it considers how to proceed with review of the project.

Response 20

The appellant concludes the Appeal by asking the City Council to overturn the Planning Commission's approval of the September 2018 Revised Project.

The suggestion that City Council should reject the Planning Commission's approval of the September 2018 Revised Project is noted, and will be considered by the City Council.

Response 21

The appellant includes Exhibit A as an attachment to support the Appeal, which includes written comments addressed to the City from former City Treasurer Eliot M. Finkel dated November 28, 2017, and current City Treasurer Howard S. Fisher dated January 11, 2018.

Both written comments state opposition of the Project from the City's former and current Treasurers, citing the cost of the Project and loss of revenue-generating commercial property. See Response 11 for a response to matters of finance regarding the September 2018 Revised Project.

Attachment A



Fehr & Peers Responses Memorandum





MEMORANDUM

Date: January 2, 2019

To: Susanne Huerta, Rincon Consultants

From: Sarah Brandenburg, Fehr & Peers

Subject: Responses to Transportation Comments - 9908 S. Santa Monica Boulevard Appeal

Ref: 2812

This memorandum documents the responses related to transportation concerns raised in the appeal of the 9908 South Santa Monica Boulevard in Beverly Hills.

Ingress/Egress

The appeal stated that the project's ingress and egress occurs on both South Santa Monica Boulevard and Charleville Boulevard, and expressed concerns that the project driveway on Charleville Boulevard will create a bottleneck issue on the street and increase traffic adjacent to the Peninsula's guest rooms. The appeal requested that the Charleville ingress/egress be moved to the alleyway behind the building.

The project driveway on Charleville Boulevard would provide access to the residential uses while the project driveway on South Santa Monica Boulevard would serve the commercial uses. The residential uses utilizing Charleville Boulevard to access the project site would generate approximately 166 daily trips, 14 AM peak hour trips, and 17 PM peak hour trips. The number of residential trips traveling on Charleville Boulevard to access the site would be minimal in comparison to the current traffic levels as summarized below:

- During the AM peak hour, approximately 270 vehicles travel on Charleville Boulevard between South Santa Monica Boulevard and the alley based on traffic counts collected as part of the traffic study. The residential uses of the project would add 14 vehicles to this segment of Charleville Boulevard.
- During the PM peak hour, approximately 335 vehicles travel on Charleville Boulevard between South Santa Monica Boulevard and the alley based on traffic counts collected as



part of the traffic study. The residential uses of the project would add 17 vehicles to this segment of Charleville Boulevard.

In addition, no impacts to the intersection of S. Santa Monica Boulevard & Charleville Boulevard would occur based on City of Beverly Hills significant impact criteria.

Traffic Analysis

The appeal stated that the traffic study only analyzed the two signalized intersections closest to the project site and requested that the following signalized intersections located approximately 1,000 feet from the project site also be analyzed: 1) South Santa Monica Boulevard & Wilshire Boulevard and 2) Santa Monica Boulevard & Century Park East.

At the outset of the transportation study in 2016, the project consisted of 27 multi-family residential units. Based on the expected trip generation, the two signalized intersections located closest to the project site and two nearby residential streets segments were selected as the analysis locations:

Signalized Intersections Analyzed for Level of Service Impacts:

1. South Santa Monica Boulevard & Charleville Boulevard
2. South Santa Monica Boulevard & Moreno Drive

Street Segments Analyzed for Neighborhood Street Segment Impact

1. Charleville Boulevard between South Santa Monica Boulevard and Durant Drive
2. Durant Drive between Moreno Drive and Charleville Boulevard

As the project progressed, the amount of supporting commercial uses was increased based on feedback from the City's Planning Commission. With each iteration of the project, the traffic impact study was updated to reflect the new land uses under consideration. The transportation impact analysis of the 2018 Revised Project, and subsequent review of the 4-story version of the Revised Project, found that the proposed uses would not significantly impact traffic at either study intersection during peak travel hours based on the LOS analysis for the existing plus Project and cumulative plus Project conditions (using the Beverly Hills significance criteria). In addition, the Project was not found to cause significant impacts to the adjacent neighborhood street segments.

Based on the travel characteristics in the study area and the number of trips generated by the revised project description, the analysis of additional intersections was not deemed necessary.



The two intersections requested for analysis in the appeal letter serve major corridors and carry large volumes of traffic. Therefore, the additional traffic generated by the project would not be expected to result in peak hour impacts as summarized below.

- South Santa Monica Boulevard & Wilshire Boulevard carries approximately 4,500 vehicles during the AM peak hour and 4,100 vehicles during the PM peak hour. The project is expected to generate approximately 63 AM peak hour trips and 88 PM peak hour trips, of which 45% would travel to/from the north and east. Therefore, the project would add up to 28 vehicles to this intersection during the AM peak hour and 40 vehicles to the intersection during the PM peak hour. In comparison to current traffic levels, this would not generate a significant impact based on the City's significance thresholds.
- Santa Monica Boulevard & Century Park East carries approximately 5,000 vehicles during the AM peak hour and 5,400 vehicles during the PM peak hour. The project is expected to generate approximately 63 AM peak hour trips and 88 PM peak hour trips, of which 55% would travel to/from the south and west. Therefore, the project would add up to 35 vehicles to this intersection during the AM peak hour and 48 vehicles to the intersection during the PM peak hour. In comparison to current traffic levels, this would not generate a significant impact based on the City's significance thresholds.

The appeal also stated that the traffic study did not include a scenario that analyzed the rooftop being used for event space. A similar concern was expressed for parking demand under special event conditions. The trip generation rates applied to the project are based on rates published by the Institute of Transportation Engineers for multi-family housing sites. The trip generation rates reflect typical activity levels for residential uses as are expected to occur with the proposed project. As explained in the project description, the amenity space is intended for the 25 condominium owners and their guests and will operate as a typical residential property in accordance with the Conditions of Approval. Therefore, a special event analysis is not required for this project.