

**ADDENDUM TO THE  
FINAL ENVIRONMENTAL IMPACT REPORT AND 2007 SUPPLEMENT  
THERE TO AS CERTIFIED BY THE CITY COUNCIL  
OF THE CITY OF BEVERLY HILLS  
FOR THE 8600 WILSHIRE MIXED-USE PROJECT  
(State Clearinghouse No. 2005101081)**

**Prepared by the City of Beverly Hills  
in its capacity as a Lead Agency**

**SITE:** 8600 Wilshire Boulevard, Beverly Hills, CA 90211  
**PROJECT TITLE:** 8600 Wilshire Mixed-Use Project  
**PROJECT APPLICANT:** 8600 Wilshire Boulevard, LLC  
**Exhibits:**  
1. City Council Resolution No. 07-R-12444  
2. City Council Resolution No. 07-R-12445  
3. City Council Resolution No. 07-R-12446  
4. Ordinance No. 07-O-2532

**PROJECT DESCRIPTION:** The currently proposed project is a proposal to make amendments to a Planned Development for a mixed-used development project approved in conjunction with an Environmental Impact Report and Overlay Zone. The originally approved project consisted of the development of 26 residential condominium units, two of which were designated as affordable units, and 6,383 square feet of commercial uses. However, during the plan check process, the developer reduced the unit count and ultimately obtained building permits to construct 18 total units, including the two affordable units. The amount of commercial floor area remained the same.

Pursuant to Condition #18 of Resolution No. 07-R-12446 (Exhibit 3), the following uses are prohibited on the Project site: any medical uses; vehicle dealership-related automotive uses; adult entertainment business; massage parlors; bars or taverns; liquor stores; markets; exercise facilities; hair or nail salons; pharmacies, coffee shops and fast food establishments; and uses that, in the sole opinion of the Director of Community Development, are high traffic or parking generating uses that would create potential traffic and/or parking impacts in the neighborhood.

The proposed amendments (the “Amendments”) include the following:

- Modify Condition #18 of Resolution No. 07-R-12446 by striking the words “markets, exercise facilities and coffee shops.” The striking of these words would thereby allow such uses to be established within the mixed-use building’s retail spaces.
- Request to allow ground floor commercial uses to occupy and operate on the Property subject to a shared parking plan of one parking space per 350 square feet of floor area, including exercise clubs and private training centers. Pursuant to Beverly Hills Municipal Code (BHMC) §10-3-1980.9.B, the Planning Commission may modify the amount of parking required for uses through a Planned Development.

**PURPOSE:** This Addendum to the Environmental Impact Report (EIR) is being prepared pursuant to Section 15164 of the California Environmental Quality Act (CEQA) Guidelines which allows for a lead agency to prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred. Pursuant to CEQA Guidelines Section 15162, no subsequent EIR shall be prepared for the project unless, on the basis of substantial evidence in the light of the whole record, one or more of the following is determined:

- (1) Substantial changes are proposed in the project that will require major revisions of the previous EIR due to the involvement of new, significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
  - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

#### **FINDINGS CONCERNING ENVIRONMENTAL IMPACTS OF REVISIONS TO THE PROJECT:**

1. The originally approved project consisting of the construction of a mixed-use development project with a total floor area of 49,107 square feet, and hereafter referred to as the “Original Project,” was environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* (“CEQA”), and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*). The City of Beverly Hills prepared an Environmental Impact Report, and subsequently, a Supplement to the Final Environmental Impact Report, (known by State Clearinghouse Number 2005101081, and hereafter collectively referred to as the “EIR”) and, based on the information contained in the EIR, determined that the Original Project would not result in unavoidable significant adverse impacts after the implementation of mitigation measures. Based on the analysis contained in EIR, the Original Project would result in the following significant impacts that were 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)
- Traffic and Parking (construction-related traffic)

The Original Project was found to result in less-than-significant impacts or no impacts in the following topic areas:

- Aesthetics (views and vistas)
- Air Quality (regional construction emissions, toxic area contaminants operational, mobile CO hot spots, consistency with AQMP)
- Geology, Seismicity and Hydrology (flooding and inundation)
- Land Use (consistency with SCAG Regional Policies)
- Noise (traffic related operational noise)
- Public Services (fire, emergency, police, public school services, recreation and parks)

- Traffic and Parking (traffic increases at roadway intersections and segments)
  - Utilities (water supply, wastewater, solid waste services, stormwater generation)
2. On November 13, 2007, the City of Beverly Hills City Council certified the EIR and approved the Original Project to allow construction of the mixed-use development. In addition, the Final Environmental Impact Report identified certain mitigation measures that were necessary to mitigate potential impacts of the Original Project to less than significant levels. The mitigation measures were adopted by the City Council and made binding on the Original Project. The findings of fact made in certifying the EIR, including the Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan, are provided for reference as Exhibit 1 (City Council Resolution No. 07-R-12444).
  3. Thereafter, an application for the Amendments (the “project” under consideration for this analysis) was submitted to the City of Beverly Hills on December 15, 2020 to amend the existing Planned Development to allow the modifications outlined in the Project Description, above.
  4. Staff analyzed the Amendments to determine if any new impacts, or substantial increase in the severity of impacts, would result from the proposed modifications. Pursuant to CEQA Guidelines Section 15162, neither a subsequent nor supplemental EIR is required for the modifications contemplated by the Amendments because:
    - (1) The Original Project consisted of the development of 26 residential units and approximately 6,383 square feet of commercial uses with a total floor area of 49,170 square feet. During the plan check process, the total number of residential units decreased to 18 while the amount of commercial uses remained the same; the total floor area of the building was reduced to 47,496 square feet. The modifications contemplated under the Amendments do not result in an increase to the total number of residential units, the total square footage dedicated to commercial uses, or the total floor area from the Original Project or the building as it now exists. Additional analysis of the Amendments and impact study areas are set forth as follows:

**Aesthetics.** Aesthetic impacts of the Original Project were based on spillover lighting, visual character (including design massing and height), and shade/shadows. The mixed use building has since been constructed in compliance with the prior approvals granted by the City Council, including all applicable mitigation measures to bring previously identified impacts to less than significant levels, and no construction is required in order to implement

the modifications. The modifications include changes in permitted uses within the building's retail spaces and parking requirements and no aesthetic impacts are anticipated.

Furthermore, Senate Bill (SB) 743, which became effective after approval of the Original Project, amended the way that aesthetic- and transportation-related impacts are analyzed under CEQA. Specifically, a project's aesthetic and parking impacts are no longer considered significant impacts on the environment if: 1) the project is a residential, mixed-use residential, or employment center project, and 2) the project is located on an infill site within a transit priority area. The Amendments fit both criteria as it is a mixed-use residential project located within a transit priority area (located within ½ mile of an existing or planned major transit stop).

**Air Quality.** Air quality impacts are assessed based on construction and operation of the mixed use building. The potential significant impacts identified in the Final EIR related to construction-related emission impacts, which were mitigated to a less than significant level. The mixed use building has since been constructed in compliance with the prior approvals granted by the City Council, including any applicable mitigation measures to bring previously identified impacts to less than significant levels, and no significant construction is required in order to implement the modifications. No mitigation measures were required to bring operational emissions to less than significant levels and the Project was found to be consistent with the AQMP. Accordingly, no air quality impacts are anticipated.

**Geology, Seismicity, and Hydrology.** Geology, seismicity, and hydrology impacts are based on geologic materials and soil and the seismicity of the subareas of ground shaking, liquefaction, and groundwater. Such impacts relate to the overall engineering and construction of a building and the mixed use building has since been constructed in compliance with prior approvals granted by the City Council, including any applicable mitigation measures to bring previously identified impacts to less than significant levels, and no construction is required in order to implement the modifications. Accordingly, no geology, seismicity, or hydrology impacts are anticipated.

**Land Use and Planning.** Both the Final EIR and the Supplement to the Final EIR identified a significant impact to Land Use that could be mitigated to less

than significant levels. Specifically, the reports note that “impacts related to General Plan, zoning ordinance and land use compatibility have been determined to be potentially significant.” The mitigation measure that reduced the impact to less than significant is as follows:

***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.***

On November 13, 2007, the City Council adopted Resolution No. 07-R-12445 (Exhibit 2), which amended the Beverly Hills General Plan to accommodate mixed use development at the Project site. At the same meeting, the City Council adopted Ordinance No. 07-O-2532 (Exhibit 4), which established a mixed use planned development overlay zone, amended the Beverly Hills Municipal Code, and applied the overlay zone to 8600 Wilshire Boulevard. The mixed use planned development overlay zone, generally identified as the M-PD-3 Zone and codified in Title 10, Chapter 3, Article 19.8 of the Beverly Hills Municipal Code (BHMC), establishes objectives that require the compatibility with surrounding uses.

Pursuant to BHMC 10-3-1980.4 (Uses Permitted), “No lot, premises, building or portion thereof in the M-PD-3 zone shall be used for any purpose except those approved by the planning commission as part of a planned development pursuant to article 18.4 of this chapter.” Furthermore, BHMC §10-3-1980.5 (Restrictions) outlines specific uses that are not permitted to be established within the M-PD-3 Zone. Such uses include establishments whose primary purpose or business is to sell alcoholic beverages for on-site consumption; medical uses; and entertainment uses, such as cabarets, nightclubs, and adult entertainment business.

The request to amend Condition #18 of Resolution No. 07-R-12446 in order to allow markets, exercise facilities, and coffee shops, therefore, may be permitted by the Planning Commission. The limited changes proposed under the Project would be consistent with the adopted overlay zone, the underlying

C-3 Commercial Zone, and would not result in a new, significant environmental impact.

**Noise.** Potentially significant impacts related to construction and operational noise were identified in the Supplement to the Final EIR; however, these impacts were mitigated to a less than significant level. The modifications contemplated under the Amendments relate to permitted uses and parking requirements and no additional construction noise impacts are anticipated.

Regarding operational noise, as noted in the Supplement to the Final EIR, the Project site is located in a commercial-residential transition area and would be subject to specific operational requirements in order to limit potential impacts on neighboring residential properties. BHMC §10-3-1956.A sets forth various operational standards for properties located in a commercial-residential transition area that would apply to businesses operating at the Project site. Additionally, retail businesses, including exercise facilities, would be prohibited from operating during extended hours (defined below) except as authorized by an Extended Hours Permit, which would require review and approval by the Planning Commission.

*EXTENDED HOURS: The time between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. on the following weekday, and the time between the hours of ten o'clock (10:00) P.M. and nine o'clock (9:00) A.M. on the following weekend day or holiday.*

Projects approved by the Planning Commission or the City Council on an appeal are generally exempt from the extended hours provisions if such resolution of approval specifically and explicitly addressed extended hours activities associated with the project. However, the resolution of approval for the mixed use project did not specifically and explicitly address extended hours activities and, accordingly, the retail businesses would be subject to such provisions. At this time, no Extended Hours Permit has been submitted for review.

Furthermore, any business conducted on the Project site will be subject to Title 5, Chapter 1, Article 1 of the BHMC regarding general noise regulations. This article sets forth standards by which noise impacts are measured and factors that may be considered in determining whether such noise violates the

provisions of the BHMC. In addition to the standards set forth in the City's noise regulations, BHMC 10-3-1956.A.8 requires the following:

- The employees, agents, associates, or contractors of a business shall not engage in conduct or activity which substantially or unreasonably disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area during extended hours.
- No activity shall be conducted on the premises in a manner which substantially or unreasonably disturbs the peace and quiet of the surrounding neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area during extended hours.

Based on the foregoing, no noise impacts are anticipated as a result of the Amendments.

**Public Services.** No potentially significant impacts were identified in the Supplement to the Final EIR as they relate to public services. The modifications include changes in permitted uses within the mixed use building's retail spaces and parking requirements and no public service impacts are anticipated.

**Traffic and Parking.** The modifications contemplated under the Amendments result in changes to the parking requirements for ground floor commercial uses, as the request involves a shared parking program whereby all ground floor commercial uses have a parking requirement of one parking space per 350 square feet of floor area, but would not result in a change to the amount of parking provided on-site. As constructed, the mixed use development provides 18 parking spaces for retail uses and nine parking spaces for public use.

Senate Bill (SB) 743, which became effective after approval of the Original Project, amended the way that transportation-related impacts are analyzed under CEQA. Specifically, a project's parking impacts are no longer considered significant impacts on the environment if: 1) the project is a residential, mixed-use residential, or employment center project, and 2) the project is located on an infill site within a transit priority area. The Project fits both criteria as it is a mixed-use residential project located within a transit priority area (located



within ½ mile of an existing or planned major transit stop). Accordingly, parking is not considered a significant impact for the Project site and modifying the parking requirements will not result in a significant parking impact under CEQA.

Additionally, pursuant to the City's CEQA Thresholds of Significance for Transportation Impacts, the requested modifications qualify for vehicle miles travelled (VMT) screening as there is a presumed less than significant impact for local serving retail projects (defined as less than 50,000 square feet per OPR's Technical Advisory). Accordingly, modifying the parking requirements will not result in a significant traffic/transportation impact under CEQA. The request also qualifies for VMT screening under the Transit Priority Area as it does not have a floor area ratio of less than 0.75, does not provide more parking than required by the City, and is not inconsistent with the applicable SCAG regional Transportation Plan/Sustainable Communities Strategy.

**Utilities.** No potentially significant impacts were identified in the Supplement to the Final EIR as they relate to utilities. Nevertheless, mitigation measures were included to reduce water consumption, to ensure that sufficient utility infrastructure was available, and to reduce solid waste generation that would have been implemented prior to or during the building's construction. The modifications include changes in permitted uses within the building's retail spaces and parking requirements and no utility impacts are anticipated.

- (2) There are no changes with respect to the circumstances under which the project is undertaken that will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of a previously identified impact. Since approval of the Original Project, the City of Beverly Hills has approved one new commercial building within the vicinity of the Project site; that project is located at 8633 Wilshire Boulevard. However, the Planning Commission found project at 8633 Wilshire Boulevard to be exempt from CEQA pursuant to the preparation of a Class 32 Categorical Exemption report. Similarly, because 8633 Wilshire Boulevard is also located in a transit priority area, that project did not have any parking or traffic impacts and was screened out of VMT analysis. Accordingly, no cumulative impacts from the construction and/or operation of these two projects are anticipated. Consequently, the circumstances under which the Project would be undertaken have not changed when compared to the circumstances in place during approval of the Original Project.


Staff has identified no new information of substantial importance to suggest that (A) The project will have one or more significant effects not discussed in the previous EIR ; (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR; (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

All mitigation measures adopted in conjunction with the Original Project continue to be imposed on the Project and are provided for reference in Exhibit 1 to this Addendum.

Therefore, pursuant to CEQA Guidelines Section 15164, the City has prepared this Addendum to the EIR, which documents changes to the project that would not result in new, significant environmental effects or a substantial increase in the severity of previously identified significant effects.

Prior to taking any action on the proposed Amendments, the decision making body will consider this Addendum along with the previously certified EIR.

For any questions regarding this matter, please contact Cindy Gordon, AICP, Acting Principal Planner in the Beverly Hills Community Development Department at 310-285-1191.

By:   
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Cindy Gordon, AICP, Acting Principal Planner

DATE: March 25, 2021

# **EXHIBIT 1**

City Council Resolution No. 07-R-12444

RESOLUTION NO 07-R- 12444

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 it 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.

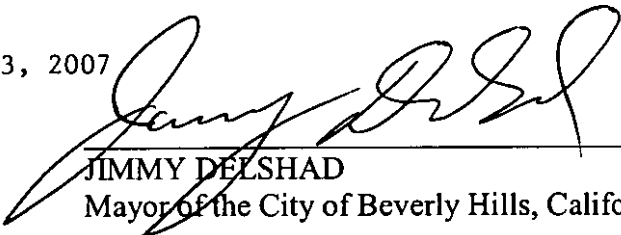
Section 18. The EIR describes, and the Planning Commission and City Council have fully considered, a reasonable range of alternatives to the Project. The Project, as revised by the City Council, will not have any significant environmental impacts after implementation of the identified mitigation measures; 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: November 13, 2007


  
JIMMY DELSHAD  
Mayor of the City of Beverly Hills, California

ATTEST:

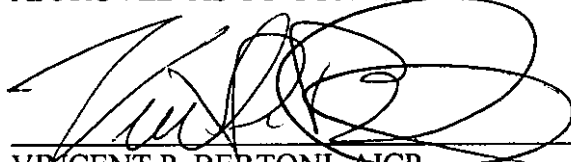
  
BYRON POPE  
City Clerk

(SEAL)

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
<b>Aesthetics</b>			
	A1 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.	Plan check process prior to permit issuance; site inspection prior to occupancy	Community Development; Building Safety and Planning Divisions
	A2 <i>Mitigation Measure is no longer necessary because revisions to the Project contemplated by the mitigation measure have been made to the Project.</i>		
	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.	Plan check process prior to permit issuance; site inspection prior to occupancy	Community Development; Building Safety and Planning Divisions
	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.	Plan check process prior to permit issuance; site inspection prior to occupancy	Community Development; Building Safety and Planning Divisions

<b>MITIGATION MONITORING AND REPORTING</b>			
<b>IMPACT</b>	<b>MITIGATION MEASURE</b>	<b>IMPLEMENTATION</b>	<b>MONITORING</b>
<b>Air Quality</b>			
	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
<b>Geology, Seismicity and Hydrology</b>			
	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
	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.		
	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.	Building plan check prior to permit issuance	Building and Safety
	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.	Building plan check prior to permit issuance	Building and Safety
Land Use			
	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.	Amendment of General Plan and Zoning Code by City Council prior to issuance of any permits	Department of Community Development
Noise			
	N1 Construction contracts shall specify that all construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.	Building plan check prior to issuance of permits; inspections	Building and Safety

**MITIGATION MONITORING AND REPORTING**

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	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.	Inspections and enforcement during construction	Building and Safety
	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.	Inspections and enforcement during construction	Building and Safety
	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.	Verify establishment before construction, grading or demolition work commences	Community Development; Building and Safety and Planning Divisions
	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	Enforcement of construction hours; inspections	Community Development; Building and Safety

**Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING**

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	Sunday.		
	N6 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.	Enforcement of Restrictions; recordation of restriction against Property as part of conditions of approval prior to permit issuance	Community Development; Public Works
	TP1 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: <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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</li> </ol>	Review and approval of Plan by Public Works and Transportation Department prior to commencement of construction; enforcement	Public Works and Transportation

**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 shuttled 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>		
	<p>TP2 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>	Building plan check prior to issuance of permits; inspections	Building and Safety
	<p>TP3 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>	Building plan check prior to issuance of permits; inspections	Building and Safety



**Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING**

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	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.		
	TP4 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.	Building plan check prior to issuance of permits; inspections	Building and Safety
Utilities			
	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.	Plan review process; plan check prior to permit issuance	Community Development; Building and Safety
	U2 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.	Verify utility availability prior to permit issuance	Public Works; Community Development

**Mitigation Monitoring and Reporting Program**

**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:**

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**Has the Mitigation Measure been implemented?**

☐ Yes ☐ No

**Notes:**

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**Is further action or monitoring required?**

☐ Yes ☐ No

**If yes, describe:**

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**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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Savag Demirjian  
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**FACSIMILE COVER LETTER**

RECEIVED  
CITY OF BEVERLY HILLS

JUL 24 2007

PLANNING & COMMUNITY  
DEVELOPMENT DEPARTMENT

<b>Date Submitted:</b>	July 24, 2007	<b>Number of Pages (including cover):</b>	6
<b>From:</b>	David M. Orbach	<b>Client Number:</b>	4280.000
<b>Re:</b>	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.

Initials of Operator: \_\_\_\_\_

## ORBACH, HUFF & SUAREZ LLP

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David M. Huff  
Sharon Suarez  
Colin E. Barr  
Sima R. Salek  
Marky S. Fox  
Jeffrey F. Kagan  
Stan M. Barankiewicz II  
F. Edward Navarro  
John P. Claudio  
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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.

## **ORBACH, HUFF & SUAREZ LLP**

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### **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, PM<sub>10</sub> 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., PM<sub>10</sub>) 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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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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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

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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 commentor 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 (SO<sub>2</sub>) or particulate matter (PM<sub>10</sub>). The nearest monitoring station that monitors SO<sub>2</sub> and PM<sub>10</sub> 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 SO<sub>2</sub> or PM<sub>10</sub> 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<sub>x</sub>) 2,053 pounds per day of CO, and 153 pounds per day of PM<sub>10</sub>. Construction activity would generate maximum daily emissions of 58 pounds of NO<sub>x</sub>, 52 pounds of CO, and 13 pounds of PM<sub>10</sub>. 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<sub>eq</sub>).

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 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.



## **EXHIBIT 2**

City Council Resolution No. 07-R-12445

RESOLUTION NO. 07-R-12445

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

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

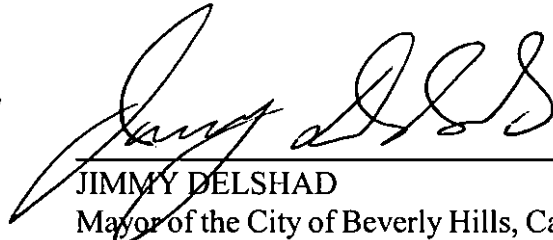
Section 1. California Government Code Section 65358 provides the authority for the City Council to amend the City's General Plan. Subsection (b) of Section 65358 limits the number of general plan amendments that can be made to a single mandatory element of a general plan to a maximum of four in any calendar year. The City Council hereby considers and approves an amendment to the Land Use Element of the General Plan consisting of changes to the land use designation, maximum floor area ratio and maximum building height for the property site described more fully below.

Section 2. The land use map of the Beverly Hills General Plan is hereby amended by redesignating that certain real property generally located at 8600 Wilshire Boulevard, consisting of four individual lots known as Lots 687, 688, and 689 of Tract 4988, Map Book 54, Pages 98 and 99 from commercial to Mixed Use #2, and Lot 686 of Tract 4988, Map Book 54, Pages 98 and 99 (collectively, the "8600 Wilshire Property") from single-family residential to Mixed Use #2, with a maximum floor area ratio of 2.0 to 1.0, and a maximum height of 61 feet, as shown on the map attached hereto as Exhibit A and incorporated herein by this reference.

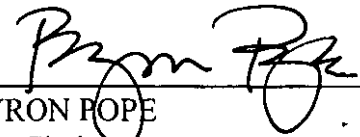
Section 3. The project proposed for the 8600 Wilshire Property, including the General Plan Amendment, has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 *et seq.*, the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*) and City's Local CEPA Guidelines (collectively, "CEPA"). An Environmental Impact Report was prepared and the City Council has certified the Final Environmental Impact Report ("FEIR"), made appropriate environmental findings, and adopted a Mitigation Monitoring and Reporting Program for the project, as fully set forth in Resolution No. 07-R- 12444, adopted by the City Council on November 13, 2007. That Resolution is incorporated herein by reference, and made a part hereof as if fully set forth herein. Further, the mitigation measures set forth therein are hereby made applicable to the general plan amendment for the 8600 Wilshire property.

Section 4. The City Clerk 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 Council of the City.

Adopted: November 13, 2007

  
JIMMY DELSHAD  
Mayor of the City of Beverly Hills, California

ATTEST:

  
BYRON POPE (SEAL)  
City Clerk

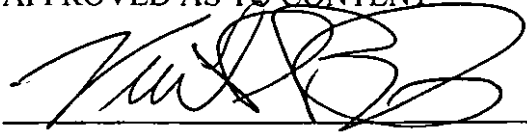
APPROVED AS TO FORM:



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ROXANNE DIAZ  
Chief Assistant City Attorney

APPROVED AS TO CONTENT

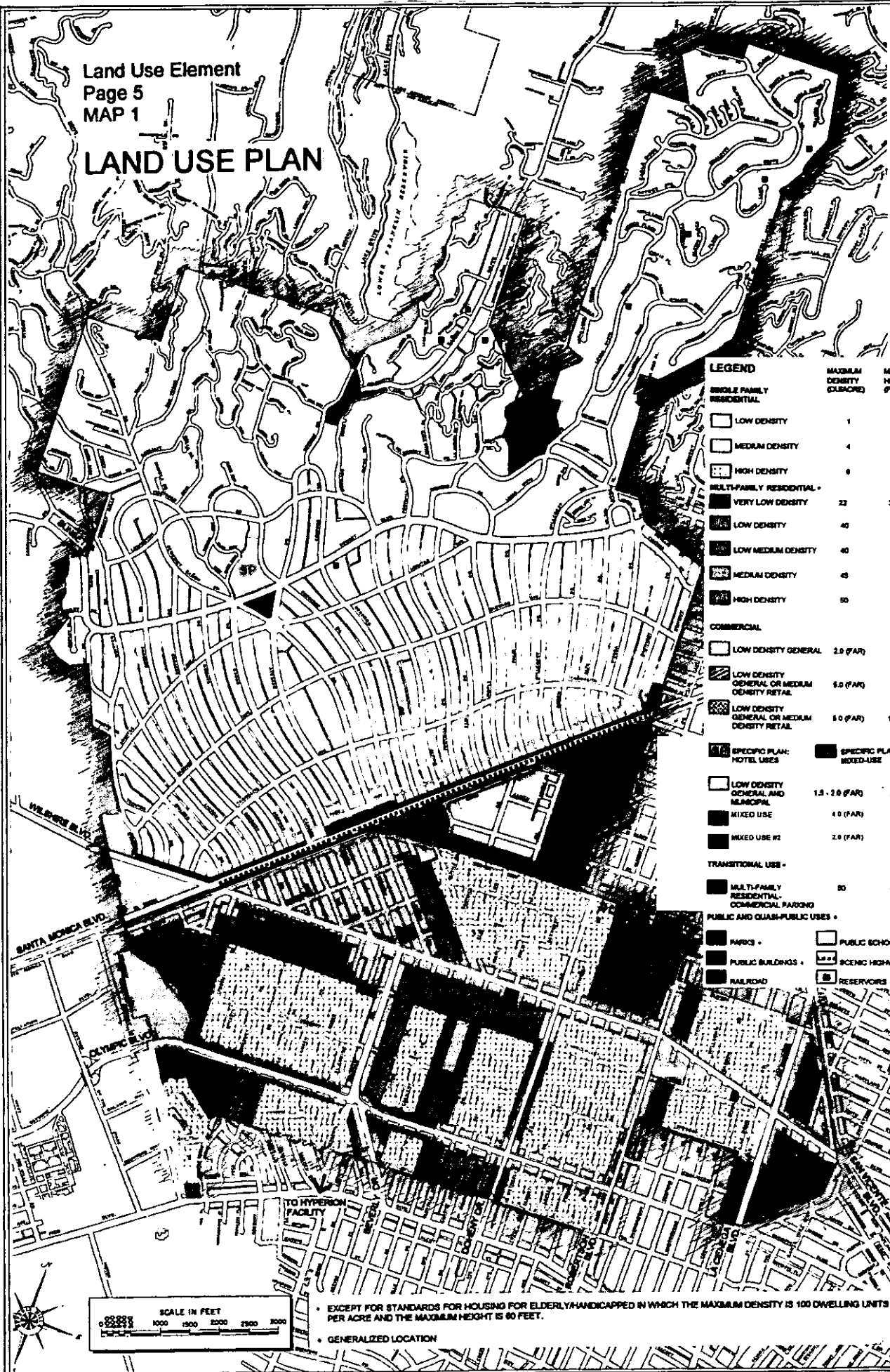


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VINCENT P. BERTONI, AICP  
Director of Community Development

EXHIBIT A  
REVISED LAND USE MAP

# LAND USE PLAN



## **EXHIBIT 3**

City Council Resolution No. 07-R-12446

RESOLUTION NO. 07-R-12446

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)

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. Introduction. Wilshire Colonial Partners LLC, the owner and applicant (the “Applicant”, has submitted an appeal of the Planning Commission decision denying applications for a General Plan Amendment, a Zoning Code Amendment to create an Overlay Zone, a Zoning Map Amendment to apply to an 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 consisting of 6,383 square feet of ground floor retail/commercial space and a maximum of 26 residential condominium units, two of which will be affordable units at property located at 8600 Wilshire Boulevard (collectively the “Project”). The appeal of the Planning Commission decision to the City Council was timely filed on July 28, 2006.

Although the Planning Commission’s role on General Plan Amendments, Zoning Code Amendments, and Development Agreements is solely advisory to the City Council, the Commission typically has the role of approving or conditionally approving Planned Development Permits and applications for tentative tract maps. In this case, the Planning Commission denied the Project on July 27, 2006, which decision was appealed to the City



Council. After granting the appeal as to the concept of mixed-use, the City Council retained jurisdiction over the Project.

Section 2. Project Background. The City Council, at its meeting on September 19, 2006, held a duly noticed public hearing to consider the appeal of the Planning Commission decision. After presentation of the Project and extensive public comment, the City Council found that mixed residential/commercial use could be appropriate at the proposed location, reversed the Planning Commission decision, and sent the Project back to the Planning Commission directing that the Planning Commission consider the specific issues of the Project such as allowed uses, height, density, landscape and design issues.

On November 30, 2006, the Planning Commission held a hearing regarding the Project modifications. The Planning Commission directed the Applicant to return with revised plans.

On January 25, 2007, the Planning Commission hearing resulted in certain direction to the Applicant regarding mix of uses, parking, height, density, modulation and design. The Planning Commission directed staff to prepare a draft development agreement and resolution for consideration at its meeting on March 8, 2007. At this meeting, the Planning Commission adopted resolution recommending approval of the Project with certain conditions relating to density, parking, height, setbacks, landscaping and uses. In addition, the Planning Commission provided a table that delineated specific conditions in relation to the City Council's direction at the September 19, 2006 hearing and whether they have been met.

On June 19, 2007, 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. In response to deliberations at the Planning Commission and City Council hearings, the Applicant made certain revisions to the Project and the City Council indicated that it 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; request the applicant to provide floor plans showing 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 requirement for 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. 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 and certified the Final Environmental Impact Report prepared for the Project, including the Supplement to the Environmental Impact Report dated June 2007, and adopted a Mitigation Monitoring and Reporting Program;
- Adopted 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 an 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 3. Project Description. The Project consists of 26 residential condominium units within a building envelope of 61 feet in height and a total square footage of 48,042, including 6,383 square feet of ground floor retail/commercial space. Of these 26 units, a maximum of 23 would be oriented toward Wilshire Boulevard and Stanley Drive above the commercial component for a total height of approximately 61 feet in a maximum of five stories. The allowable mix of units would include a maximum of 21 market rate units and two affordable units within the five-story building portion of the project fronting on Wilshire Boulevard. The remaining three units will be townhouses with two units fronting Charleville Boulevard and one unit fronting Stanley Drive for a total height of approximately 33 feet maximum of three stories with pitched rooflines. Parking will be provided at street level and in a subterranean garage up to a total of 97 parking spaces. Existing Code-required parking is 83 spaces and the Applicant will provide an additional 14 spaces, 9 of which will be dedicated as public parking spaces. Of the 97 parking spaces provided, 8 spaces will be compact and 7 spaces will be tandem. Free validated parking during business hours will be provided to Project businesses. The approval of the Project is dependent upon approval of an overlay zone for this location because the current C-3 zoning does not allow residential uses and the Project will exceed the existing three-story/45-foot height limit allowed in the C-3 zone and a greater floor area ratio.

Section 4. Planning Commission Environmental Review. The Planning Commission held duly noticed public hearings to consider the Project and the Draft Environmental Impact Report ("EIR") on April 27, 2006, June 22, 2006, July 27,

2006, November 30, 2006 and January 25, 2007, and a separate public hearing for the Development Agreement on March 8, 2007. Evidence, both written and oral, was presented at said hearings. The Planning Commission recommended that the City Council (a) make certain CEQA findings and determinations, (b) certify the EIR and (c) adopt a mitigation monitoring program, provided that if the ultimate project design involves a second level of subterranean parking, that further CEQA analysis of that plan must be completed before an environmental determination pursuant to CEQA can be made.

Section 5. City Council Environmental Review. On September 19, 2006, the City Council held a hearing on the appeal of the Planning Commission's July 27, 2006 action denying the Project and the City Council overturned the Planning Commission's decision. The City Council directed the Planning Commission to consider the specific issues of the project such as allowed uses, height, density, landscape and design issues. The Planning Commission recommended approval of the Project, including certification of the EIR. However, if the ultimate Project design involved a second level of subterranean parking, the Planning Commission directed that further CEQA analysis of that plan must be completed before an environmental determination pursuant to CEQA could be made. 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. The Supplement was provided to the City Council for its

review and consideration at its meeting of June 19, 2007. The City Council held public hearings on June 19, 2007, July 24, 2007, October 2, 2007, October 16, 2007 and November 13, 2007 to consider the EIR and the Supplement.

On November 13, 2007, the City Council adopted a resolution certifying the Final Environmental Impact Report as defined ("Final EIR") therein making environmental findings pursuant to CEQA and adopting a mitigation monitoring and reporting program. The certification, environmental findings and mitigation monitoring and reporting program are set forth in Resolution 07-R-12444\_\_\_\_\_, dated November 13, 2007, which is incorporated herein by this reference. The mitigation measures are expressly made applicable to the Project and are incorporated into the conditions of approval for the Project as set forth in Exhibit B.

Section 6. Vesting Tentative Tract Map Criteria. Pursuant to the California Subdivision Map Act and the City's subdivision requirements, the City Council considered the following issues in reviewing the application for Vesting Tentative Tract Map No. 63541:

6.1 Whether the proposed tentative map and the design or improvement of the proposed subdivision are consistent with the General Plan of the City and any applicable Specific Plan of the City;

6.2 Whether the site is physically suitable for the type of development and the proposed density;

6.3 Whether the design of the subdivision and the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;

6.4 Whether the design of the subdivision or type of improvements are likely to cause serious public health problems and whether the design of the subdivision or the type of improvements will conflict with any public easements; and

6.5 Whether the discharge of wastewater from the proposed subdivision into the existing sewer systems will result in a violation of existing requirements established by the Regional Water Quality Control Board.

Section 7. Findings for Vesting Tentative Tract Map. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the City Council hereby finds as follows with respect to Vesting Tentative Tract Map No. 63541:

7.1. As revised and conditioned, the proposed Project and its design and improvements are consistent with both the General Plan of the City as amended by the City Council on November 13, 2007, and the proposed Overlay Zone. The proposed subdivision and improvements implement the development and improvements described in the Development Agreement and the Final EIR, which in turn are consistent with the General Plan and the Overlay Zone, all of which are hereby incorporated by reference. Further, the Project advances general plan policies and objectives related to providing a mix of residential types and improving residential-commercial transitions as discussed further in Section 8 of this Resolution.

7.2. As revised and conditioned, the site is physically suitable for the type of development and the proposed density. The site currently is vacant except for one parcel that is developed with a commercial building. The infrastructure serving the site is generally adequate to support the development proposed on the site; and the Applicant shall be required to upgrade sewer capacity, if necessary, prior to finalizing the tentative map. The site has no unusual seismic or other hazards. Therefore, the site is physically suitable for the type of development and the proposed density.

7.3. As revised and conditioned, the proposed Project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The Final EIR prepared for the Project found no significant impacts to fish, wildlife or habitat, and concluded that all Project impacts can be mitigated to less than significant levels.

7.4. The design of the subdivision and the type of improvements will not cause serious public health problems and will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. The proposed map has been preliminarily reviewed by the Public Works and Engineering Department. In addition, encroachment permits will be obtained for all temporary and permanent encroachments into the public right-of-way. The public at large has not acquired any other easement for access through or use of the property.

7.5. The discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board. The subdivision will be served by the Hyperion Water Treatment Plant. The plant has sufficient capacity to handle the waste



water from the Project. Therefore, the discharge of waste water from the proposed subdivision into the existing sewer systems will not result in a violation of existing requirements presented by the Regional Water Quality Control Board.

Section 8. General Plan Consistency. Based upon the evidence presented, including the staff report and oral testimony, the City Council hereby finds that the Project is consistent with the General Plan and will advance the objectives of the General Plan and proposed Mixed-Use Planned Development Overlay Zone (M-PD-3) for the following reasons:

8.1. The Land Use Element of the General Plan was amended by the City Council on November 13, 2007 and identifies the maximum FAR for the site to be 1.86, with a maximum building height of 61 feet. The Project is consistent with the amended General Plan Land Use Element Map.

The Project is also consistent with specific land use policies and objectives including (1) provision of development standards for projects involving a mix of commercial and residential uses in order to expand the variety of available housing types, (2) maintaining and enhancing qualities that contribute to the long-term stability and desirability of residential and non-residential areas of the City in that the project maintains the appearance of lower density residential development along Charleville Boulevard and elevations that are compatible with existing commercial buildings along Wilshire Boulevard and Stanley Drive, and (3) providing transitional uses between the primarily commercial Wilshire Boulevard corridor and the single family residential uses located south of Charleville Boulevard.

Further, the Project is consistent with other goals and policies set forth in the General Plan including Objective 4.3 of the Housing Element which calls for developing standards for mixed residential-commercial structures, with and without low income housing components, including additional height, in areas currently zoned for commercial uses and consideration of application of such mixed-use standards to the “South side of Wilshire Boulevard, east of Beverly Drive (between Stanley Drive and LeDoux Road, extend to the north side of Charleville Boulevard).” In this case, the Project includes two units affordable for moderate-income households.

8.2 The Project will further the goals and objectives of the General Plan by creating a Mixed-Use Planned Development Overlay Zone (M-PD-3) and providing a mixed commercial/residential development that would not otherwise be provided in the City. The Land Use Element of the General Plan recommends that in commercial areas, “[t]he 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.” (Land Use Element, Section 2.2).

The Project will further goals and objectives of the General Plan by replacing three vacant lots and a commercial building with a mixed use project, including 26 housing units and subterranean parking. Implementation of the Project expands the housing opportunities available in the City, including the provision of two on-site housing units affordable to moderate-income households, and helps the City fulfill its obligations under the Housing Element and state housing law by helping the City meet its share of the regional housing needs. The Project is consistent with goals and policies set

forth in the General Plan including Program 4.3 of the Housing Element that states as an objective . “[d]evelop standards for mixed commercial and residential uses . . . with and without low-income housing components, including additional height, in areas currently zoned for commercial use . . such as: South side of Wilshire Blvd., east of Beverly Drive.” The General Plan clearly encourages the development of standards for mixed-use development on the South side of Wilshire, east of Beverly Drive, which is the location of the Project.

8.3. The Project will further goal/object (2) of the Land Use Element by replacing three vacant lots with a mixed-use project, including 6,383 square feet of commercial space with subterranean parking and 26 housing units, two of which are affordable to moderate-income households, that are compatible with the existing neighborhood in scale and preserve the character and “rhythm” of the surrounding streets. The Project’s parking, modern features (green sustainable building requirements) and design will be consistent with the character and quality of life generally associated with the City and the surrounding neighborhood.

Section 9. Overlay Zone Objectives. Pursuant to Beverly Hills Municipal Code Article 1, Chapter 4 and Section 10-3-1944, the City Council may approve a planned development permit if the City Council finds that the proposal will meet the requirements of the Municipal Code and will advance the objectives of the zone in which it is located. The City Council may impose such conditions and restrictions on the approval as are necessary to ensure a planned development will advance objectives of the zone. Any approval of the Project would be contingent upon the City Council’s

enactment of the ordinance establishing a Mixed-Use Planned Development Overlay Zone for the site. The proposed Zone Text Amendment to create the Mixed-Use Planned Development Overlay Zone (M-PD-3) and zone change to apply the overlay to the subject property is warranted because it furthers the public interest, health, safety, morals, peace, comfort, convenience or general welfare. The proposed Overlay Zone would create appropriate standards and criteria to ensure that the Overlay Zone is compatible with uses allowed within the underlying zone and on adjacent properties while maintaining and protecting the public interest, health, safety, morals, peace, comfort, convenience or general welfare.

Should the proposed Mixed-Use Overlay Zone be adopted, a mixed-use development such as the Project would be reviewed in accordance with the following ordinance objectives Pursuant to the proposed Section 10-3-1980.02 of the Beverly Hills Municipal Code:

9.1 To ensure that mixed-use development in the M-PD-3 Zone will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;

9.2 To provide for mixed-use development that is compatible with the scale and massing of the surrounding neighborhood, through appropriate height, modulation, upper-story setbacks, other similar measures, or any combination thereof;

9.3 To provide pedestrian-friendly amenities along the street level, and setbacks that are generally consistent with other development along Wilshire Boulevard and along Stanley Drive between Wilshire Boulevard and Charleville Boulevard, and along Charleville Boulevard between Stanley Drive and Carson Road;

9.4 To ensure that mixed-use development in the M-PD-3 Zone will not create any significant, adverse traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will minimize impediments to vehicular circulation and pedestrian safety;

9.5 To foster uniform planning and development of all parcels in the M-PD-3 Zone to ensure unified development in the overlay zone; and,

9.6 To protect the public health, safety and welfare.

Section 10. Findings for Overlay Zone Objectives. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the City Council hereby finds as follows with respect to the objectives of the overlay zone:

10.1 As conditioned, the proposed Project is compatible with and will not adversely affect existing and anticipated development in the vicinity and promotes harmonious development of the area. The Project as conditioned incorporates many design elements, including architectural modulation, setbacks and landscaping, designed to integrate the Project with both the commercial areas along Wilshire Boulevard and the residential areas along Charleville Boulevard. Additionally, the arrangement of uses on the site reflects their context to surrounding streets, with commercial uses concentrated along the ground floor of the Wilshire facade and residential uses located above and to the south of the commercial uses at the ground floor.

The Applicant will be required to prepare and submit a construction management plan and to conform all construction activities to said plans to minimize construction impacts on adjacent land uses. Thus, the Project will not adversely affect

existing or anticipated development in the vicinity and will promote harmonious development of the area.

10.2 As conditioned, the Project provides for mixed-use development that is compatible with the scale and massing of the surrounding neighborhood. The northerly building elevation is compatible with varied heights on the surrounding blocks of the existing Wilshire Boulevard streetscape. The project requires landscaped planters to be integrated into the Wilshire Boulevard façade. The project steps down in height from north to south, and takes on a more residential scale and design along Charleville Boulevard, and thus provides a buffer and transition between the commercial street (Wilshire Boulevard) and the single family residential neighborhood to the south. Further, the removal of the wall along Stanley Drive and integration of landscaping in the area between Stanley Drive and the structure on the parcel with the R-1 underlying zone, enhances compatibility with the surrounding neighborhood and enhances the streetscape by providing additional landscaping and greenery leading into the residential neighborhood. While the Project is 61 feet in height, the height and mass of the building is concentrated away from Charleville Boulevard. In addition, limiting the height on the R-1 underlying zone property to a maximum height of 33 feet with a pitched roofline also provides a transition from the commercial to the residential zones.

The proposed and conditioned Project, architectural treatments, setbacks, modulation and landscaping collectively help to reduce the mass of the structure as viewed from the surrounding streets. The Project is compatible in scale and mass to other existing and proposed structures in the vicinity. Further, the Project's

building facade, architectural details and landscaping are subject to review and approval by the Architectural Commission.

10.3 As conditioned, the Project will provide pedestrian-friendly amenities along the street level, including retail/commercial uses and setbacks that are generally consistent with other development along Wilshire Boulevard as well as setbacks along Stanley Drive. The Project provides an opportunity to construct a quality mixed-use development that would not otherwise be encouraged by the underlying zone. The Project design will contribute to the urban design amenities that will serve as a visual and pedestrian link between commercial areas along Wilshire Boulevard.

10.4 As conditioned, the proposed Project will not create any significant, adverse traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards and will minimize impediments to vehicular circulation and pedestrian safety. The Project EIR fully analyzes the existing traffic conditions, taking into account ambient traffic growth in the area surrounding the Project, as well as traffic from other projects that are proposed in the vicinity of the Project site. The Project will not induce significantly greater traffic on nearby neighborhood streets. The Final EIR prepared for the Project demonstrates that while the proposed Project will generate more traffic than the one existing use on the Project site, the incremental traffic increase on adjacent streets is not significant. The net weekday traffic generated by the Project is estimated to be approximately 244 daily trips on weekdays and 353 trips on Saturdays, of which 13 will occur in the weekday morning peak hour, 22 in the afternoon peak hour and 24 in the

Saturday mid-day peak hour. These trip generation numbers are significantly lower than those that would be generated by a code-compliant commercial structure of 45 feet in height in a maximum of three stories. By comparison, a code-compliant commercial project would generate 916 daily weekday trips and 691 daily Saturday trips. Weekday morning peaks would average 73 trips, weekday afternoon peaks would average 147 trips, and the Saturday midday peak would be approximately 75 trips. Therefore, the Project traffic will not have a significant impact to any neighborhood street. Access to the Project will be provided via one driveway from Stanley Drive. Gaps in the eastbound traffic stream on Wilshire Boulevard, resulting from the traffic signal operations, will provide adequate opportunity for the traffic to enter Wilshire Boulevard, primarily through right turns from Stanley Drive.

As conditioned, the proposed Project has sufficiently mitigated potentially adverse construction traffic impacts and parking impacts as a result of patron, employee and resident parking demand. In addition, the Project will have no significant traffic impacts when constructed and operational. Conditions will be imposed on the Project to reduce parking impacts, including the following: (1) on-site parking will be provided to all commercial and residential tenants of the development; (2) all commercial patrons and employees will be provided free on-site parking; and (3) a Loading Management Plan and a Parking Management Plan satisfactory to the Director of Community Development and the Director of Public Works and Transportation will be prepared. The Final EIR concluded that the Project's supply of parking is adequate to meet the parking demand generated by the Project. Under the City's parking Codes, 83 parking spaces would be required. Actual parking provided is proposed to be up to 97 spaces including 8 compact



spaces and 7 tandem spaces. 9 spaces in excess of the Code required parking will be dedicated to public use.

10.5 As conditioned, the Project will foster uniform planning and development of all parcels in the M-PD-3 Zone because all parcels are included in the Project which is an integrated development, which respects neighboring development characteristics. Further, the Project's building façade, architectural details and landscaping are subject to review and approval by the Architectural Commission.

10.6. As conditioned, the Project will be developed in such a manner so as to protect the public health, safety and welfare.

Based on the foregoing, the City Council finds that the Project as proposed is consistent with the objectives of the M-PD-3 Zone.

Section 11. As conditioned, the proposed Project has sufficiently mitigated potentially adverse construction traffic impacts and parking impacts as a result of patron, employee and resident parking demand. Conditions will be imposed on the Project to reduce parking impacts, including the following: (1) on-site parking will be provided to all commercial and residential tenants of the development; (2) all employees will be provided free, on-site parking and all commercial patrons will be provided with free, on-site validated parking; and (3) a Loading Management Plan and a Parking Management Plan satisfactory to the Director of Community Development and the Director of Public Works and Transportation. The Final EIR concluded that the Project's

supply of parking is adequate to meet the parking demand generated by the Project. One loading zone will be provided near the Stanley Drive entrance to the Project.

Section 12. As proposed and conditioned, the Project meets the objectives of the proposed Overlay Zone as set forth in Section 11 of this Resolution. For the reasons set forth above, the City Council determines that the findings necessary to approve the Vesting Tentative Tract Map as set forth in Section 6 of this Resolution and the findings necessary to approve the Planned Development Permit can be made, provided that certain conditions of approval, including the mitigation measures and conditions set forth in Resolution No. 07-R- 12444, dated November 13, 2007, are imposed and provided that such approvals shall only become valid upon the later effective date of the ordinance adopting the Zone Text Amendment and Zone Change and the ordinance adopting a development agreement.

Section 13. Conditions. Based upon the foregoing findings, the City Council hereby approves, subject to the following conditions, Vesting Tentative Tract Map No. 63541, a Planned Development Permit to allow construction of the Project at the property located at 8600 Wilshire Boulevard, and the occupancy of residential uses and commercial uses at the Project site, provided that commercial uses that front on Wilshire Boulevard shall be pedestrian friendly, as determined by the Director of Community Development:

1. The conditions set forth in this Resolution shall run with the land and shall remain in force for the duration of the life of the Project.

Covenant Recordation

2. This Resolution approving the Vesting Tentative Tract Map and Planned Development to allow construction of a mixed-use development at the property located at 8600 Wilshire Boulevard (collectively the “Approvals”), shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this Resolution. The covenant shall include a copy of this Resolution as an exhibit.

The Applicant shall deliver a conformed copy of the executed covenant to the Community Development Department **within 60 days** of the City Council decision. If the Applicant fails to deliver the executed covenant within the required 60 days, this Resolution approving a Development Plan Review shall be **null and void and of no further effect**. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the applicant, grant a waiver from the 60-day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that will affect the City’s ability to approve the discretionary approvals.

3. Approval of this Project is subject to all other discretionary approvals required by the City for the Project.

Planning Project Conditions

4. The Project shall be built in substantial compliance with the plans dated September 24, 2007 and submitted for the October 16, 2007, City Council meeting, on file with the City Clerk’s office and the Department of Community Development/Planning, except as modified by these conditions of approval, including Exhibit A, “Standard Conditions List” and Exhibit B, “Mitigation Monitoring Program,”

which are incorporated herein by reference, and subject to additional conditions as may be imposed by the Architectural Commission. In no case shall the Project include more than 21 residential units in the area with an underlying zone of C-3 property and 2 townhouses (maximum 2,800 square feet per unit) in the area with an underlying zone of R-1 property. The Applicant may incorporate two additional residential units in the area with an underlying zone of C-3, if those units are deed restricted units as required by the City Attorney and made available to moderate income households ("Affordable Units"). If the Applicant provides these Affordable Units, then one additional townhouse (approximately 2,800 square feet) is permitted in the area with an underlying zone of R-1. The two Affordable Units shall be no less than 750 square feet each with parking assigned to each unit. In addition, in no case shall the Project include less than 6,383 square feet of commercial space. In addition, the ground floor space fronting on Wilshire Boulevard shall be occupied by commercial uses, which, in the opinion of the Director of Community Development, are pedestrian-friendly uses. Any modifications to the plans shall be approved by the Department of Community Development/Planning prior to any work being done on the Project pursuant to those modifications. Review of modifications or corrections of may trigger the need to pay additional processing fees.

5. Parking spaces for the residential units shall be permanently assigned to each unit and shall be labeled as such. Parking spaces for residential units shall be used solely for the parking of the personal vehicles of residents and their guests. Parking spaces for residential units may not be leased, subleased, sold, transferred, or otherwise separated from the unit for which the parking spaces are required. Those parking spaces required to comply with the City's Municipal Code shall not be dedicated

to or used to provide parking for any off-site use. In addition, the Project provides nine excess parking spaces (“Excess Parking Spaces”). Such Excess Parking Spaces shall be provided to the City pursuant to a parking easement or other instrument as required by the City Attorney and shall be clearly labeled as such as directed by the Director of Community Development/Planning. Any parking spaces not required to comply with the City’s Municipal Code or that are not the Excess Parking Spaces may be made available to serve off-site uses upon approval by the Department of Community Development/Planning of such use of the parking space. Each parking stall designated to meet the numeric requirements of the Americans with Disabilities Act (“ADA”) shall meet all ADA requirements for an accessible parking space.

6. Prior to the issuance of a building permit, the Applicant shall submit a signage plan for review and approval by the Department of Community Development/Planning, which plan shall include, but not be limited to, provision of appropriate signage and precautionary devices inside the parking garage. All signage shall conform to the signage plan.

7. Prior to issuance of occupancy permits and subject to the review and approval of the Directors of Community Development and Public Works and Transportation, the Applicant shall provide a Loading Management Plan to minimize loading-related impacts from the Project on adjacent land uses. The Loading Management Plan shall identify permissible hours for loading and shall designate a delivery monitor to monitor the loading area and deliveries in order to control the circulation activities and to prevent overcrowding in the loading area. The City hereby retains the authority to impose additional conditions on the Project to address loading,

delivery and parking issues, including without limitation the authority to require valet parking for patrons of the commercial uses. The Applicant shall comply with the approved Loading Management Plan and any additional conditions imposed after adoption of this Resolution and after adoption of the Loading Management Plan, in order to address parking, loading and delivery issues.

8. No uses other than those specifically approved in this Resolution shall be permitted as part of this planned development. This condition shall not be construed to bar the Applicant from requesting a modification at a later date to permit additional uses as part of this planned development, which modifications shall be reviewed and approved by the Planning Commission.

9. All common areas and facilities shall be clearly depicted, described, or both in the final plans reviewed by the Department of Community Development/Planning prior to issuance of a building permit.

10. The project shall consist of a maximum of two (2) townhomes facing Charleville Boulevard and one (1) townhome facing Stanley on property with R-1 underlying zone and a mixed-use commercial/residential building consisting of no more than 6,383 square feet of commercial/retail floor area and 23 condominium units within 32,230 square feet of area on property with C-3 underlying zone, with two of those units being Affordable Units, and subterranean parking accommodating up to 97 parking spaces. The Applicant agrees to record covenants and/or deed restrictions as determined by the City Attorney to ensure that the sale price of the two Affordable Units shall not exceed an amount determined to be affordable to moderate income households. The

covenants and/or restrictions shall run with the land for the longest period of time permissible under law.

11. No rooftop uses are approved or permitted as part of this planned development.

12. The Project shall provide free on-site parking for its residential and commercial tenants and all on-site employees at all times.

13. The Project shall provide free, validated on-site parking for all patrons of the commercial component whenever commercial uses are open for business. Signage satisfactory to the Director of Community Development shall be visibly posted at the driveway entrance indicating the availability of the free parking in the garage for patrons of the commercial component.

14. Prior to the issuance of occupancy permits for the Project, the Applicant shall install a sign substantially indicating “Yield to Pedestrians Crossing” to warn drivers entering/exiting the residential and commercial garage.

15. Prior to the issuance of the building permits, the Applicant shall record a lot-tie covenant, satisfactory to the City Attorney, tying together all four lots of the Project site.

16. Neither the Project nor any residents or tenants shall be eligible to participate in the preferential parking zones that are or may be adopted for streets in the vicinity of the Project site.

17. The area between the eastern most townhome facing Charleville Boulevard and Stanley Drive shall not be enclosed with any wall and shall be landscaped.

18. The following uses shall be prohibited on the Project site: any medical uses; vehicle dealership-related automotive uses, adult entertainment businesses; massage parlors; bars or taverns; liquor stores; markets; exercise facilities; hair or nail salons; pharmacies, coffee shops and fast food establishments; and uses that, in the sole opinion of the Director of Community Development, that are high traffic or parking generating uses that would create potential traffic and/or parking impacts in the neighborhood.

19. The maximum height of the two townhomes facing Charleville Boulevard and the townhome fronting Stanley Drive shall (a) be no taller than 33 feet, (b) incorporate pitched roofs (3 in 12 pitch), (c) be different from one another and the commercial/residential building in design and/or architectural style, and (d) be compatible with the residential neighborhoods to the south of the Project site. The project shall incorporate mature trees and other landscaping to the satisfaction of the City's Architectural Commission.

20. Along the Wilshire Boulevard elevation, the fourth floor of the commercial/residential building on the property with C-3 underlying zone shall be set back a minimum four feet (4') from the property line, and the fifth floor shall be set back a minimum of twelve feet (12') from the property line.

21. The railings on balconies on the Wilshire Boulevard façade of commercial/residential building shall be set back a minimum of three feet from the building façade, and shall incorporate planter boxes with foliage between the railing and façade. The landscaping shall be maintained in healthy and attractive condition at all times.



22. The minimum setbacks for development on the property with the R-1 underlying zone shall be thirty feet, three inches (30' 3") from the western property line; ten feet, three and 3/4 inches (10' 3-3/4") from the southern property line; and nine feet, eleven and 7/8 inches (9' 11-7/8") from the eastern property. There shall be no setback from the northern boundary of the property with the R-1 underlying zone.

23. The existing "garden wall" that encloses 232 square feet of green space along Stanley Drive shall be removed and the area shall be planted with landscaping visible from the public right-of-way to create a perceptible visual transition from the commercial areas of the Project to the residential portions of the building and the residential neighborhood to the south. The Stanley Drive elevation of the commercial/residential portion of the project shall incorporate greater modulation subject to review and approval by the Architectural Commission.

24. The Wilshire Boulevard elevation shall be modified to incorporate planter niches with landscaping to soften the building elevation at the street level. The landscaping shall be maintained in healthy and attractive condition at all times. Any encroachments into the public right-of-way for planters shall be subject to review and approval by the City Council. All plantings and planters shall be subject to review and approval by the City's Architectural Commission.

#### Architectural Commission Review

25. Prior to the issuance of building permits, the design, materials and finishes of the building and proposed landscaping shall be subject to the review and approval of the Architectural Commission. The Applicant shall submit final landscape,

lighting and irrigation plans that include mature-sized plantings along the property to provide an appropriate visual and aesthetically pleasing transition from the C-3 zoned parcels on the north to the R1-Zoned parcels on the southern portions of the Project. Landscape plans shall be prepared by a licensed landscape architect.

26. Final building plans shall be consistent with the preliminary plans approved by this Resolution and shall be prepared by a licensed professional.

27. The Applicant shall prepare a model, landscape plan and updated renderings of the Project as seen from Wilshire Boulevard, Stanley Drive and Charleville Boulevard to assist the Architectural Commission's review of the Project.

28. The traffic generated by the development be periodically monitored, at the expense of the Applicant or the successor to the Applicant who owns the commercial portions of the Property, to ensure that the actual levels of traffic do not significantly exceed the levels of traffic anticipated by the Environmental Impact Report prepared for the Project ("EIR"). In the event that such monitoring shows that traffic generated by the Project significantly excess the traffic generation anticipated in the EIR, the Planning Commission or the City Council, after a public hearing, may impose additional conditions on the Project, or specifically on the owner of the commercial portion of the Project, to mitigate the impacts of the increased traffic or to reduce traffic generation to the levels anticipated in the EIR. The Applicant and any successor to the Applicant shall abide by such conditions. The first monitoring activity shall be undertaken approximately one year after the project construction is complete and the building is fully operational.

29. All common areas and facilities shall be clearly depicted, described, or both, in the final plans reviewed by the Department of Community Development/Planning, prior to issuance of a building permit.

30. The project shall conform to all requirements of the overlay zone that governs the Project site and authorizes construction of the Project.

#### Landscaping and Irrigation

31. Prior to final building inspection, the Applicant shall install all proposed irrigation and landscaping, including irrigation controllers, staking, and mulching, in accordance with the Architectural Commission's approval of the final Project design.

32. Prior to occupancy, the Applicant shall submit a letter from the Project landscape architect certifying that all landscape material and irrigation has been installed and is functioning according to the approved landscape plans.

33. The building owner and successors in interest shall be responsible for the maintenance of the site drainage system, sidewalks, parkways, street trees and other landscaping, including irrigation, within and along the adjacent public right-of-way.

#### Other Departments' Requirements

34. The Applicant shall comply with all applicable conditions and permits required from the Public Works and Transportation Department and Community Services-Recreation and Parks Department attached as Exhibit A. The Applicant shall secure all necessary permits from the Engineering Division of Public Works prior to commencement of any demolition or Project related work.

35. An offsite improvement plan prepared by a registered civil engineer must be submitted to the Civil Engineering Division. This plan must show all existing street furniture within the public right-of-way (ROW) fronting the proposed improvement site. All new construction and relocation of any existing street furniture must be clearly shown.

36. The Project shall comply with all applicable conditions from the Fire Department as may be identified through the plan check process.

#### Construction Management

37. The Applicant shall comply with a Construction Management Plan that has been submitted to and approved by the Department of Community Development prior to issuance of a building permit. The Applicant shall comply with the approved Construction Management Plan. The Construction Management Plan shall include, at a minimum, the following:

a. Written information about the construction parking arrangements and hauling activities at different stages of construction to be reviewed and approved by the Engineering Division of Public Works and the Building and Safety Division of Community Development. On-street parking shall be prohibited at all times during construction. The plan shall provide for construction parking at a nearby site where workers can be transported to and from the Project site.

b. A map identifying routes and parking lots to be utilized and shall include written certification from the owner(s) of the parking lots proposed to be

used that such parking will be available to the Applicant throughout the construction period.

c. Information regarding the anticipated number of workers, the location of parking with respect to schedule during the construction period, the arrangement of deliveries, hauling activities, the length of time of operation, designation of construction staging area and other pertinent information regarding construction related traffic.

d. The proposed demolition/construction staging for the Project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries etc., to the subject site.

38. A cash deposit of \$10,000 shall be deposited with the City to ensure compliance with the conditions of this Resolution regarding construction activities. Such deposit shall be returned to Applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten days of the notice; and (c) issue a stop work notice until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the Applicant timely requests a hearing, said deposit will not be forfeited until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines

that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice and the deposit of an additional \$10,000, pursuant to the procedure set forth herein above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited. The requirements of this condition are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this Resolution or the Beverly Hills Municipal Code.

39. Construction vehicular movement in and out of the construction site shall be controlled by flagmen located on Stanley Drive, Charleville Boulevard and/or Wilshire Boulevard to the extent necessary to ensure traffic safety as determined by the Engineering Division of the City's Public Works Department.

40. During construction, the Applicant shall install a minimum twelve-foot (12') construction fence to reduce noise and dust impacts on neighboring properties.

41. The Applicant shall maintain the site in an orderly condition prior to commencement of and during construction, including but not limited to, maintenance of the orderly appearance of existing structures and landscaping on the site, dust suppression for areas cleared by demolition, maintenance of safety barriers and adjacent public sidewalks, and provision of a contact person directly accessible to the public by telephone in the event that the public has any concerns regarding the maintenance of the site. The name and telephone number of the contact person shall be transmitted to the Director of Community Development and the Building Official. In addition, the Applicant shall post the name and telephone number of the contact person on the site in a

location readily visible to the general public as approved by the Director of Community Development. Said signs shall also include the name and number of a City contact from the Community Development Department. The Applicant representative's telephone number provided shall be manned during construction hours.

42. Within three working days after approval of this Resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$50.00 for a documentary handling fee in connection with Fish and Game Code requirements in addition to the Department of Fish and Game filing fee imposed pursuant to Fish and Game Code Section 711.4.

#### Property Maintenance

43. The property owners association shall be responsible for the operation and maintenance of the private sewer connection to the public sewer in the public right-of-way, the site drainage system, the maintenance of the common areas and facilities, the exterior of the building, the abutting street trees, parkways and any costs or corrections due to building or property maintenance code enforcement actions. The covenants, codes and restrictions shall specifically reflect this obligation.

#### General Conditions.

44. All electrical transformers and other such mechanical equipment shall be clearly depicted, described, or both, in the final plans reviewed by the Department of Community Development/Planning, prior to issuance of a building permit.

Screening and/or relocation may be required if the proposed locations have the potential to adversely affect the appearance of the building from the public right-of-way.

45. The Codes, Covenants and Restrictions (CC&Rs) for this project shall reflect the fact that, as this Project is located on Wilshire Boulevard, the maintenance of public improvements (street payment, sidewalk, curb, gutter, water and sewer lines) is usually performed at night.

46. In accordance with the requirements set forth in City Council Resolution 71-R-4269, the applicant shall file a formal written request with the Civil Engineering Department for approval of any type of temporary construction encroachment (steel tieback rods, etc.) within the public right-of-way. Shoring plans and elevations prepared by a registered civil engineer must be submitted for review by the Civil Engineering Department. An indemnity bond must be submitted and approved by the City Attorney prior to excavation.

47. The Project shall comply with the applicable standard conditions and shall obtain all necessary permits from the Public Works/Engineering Department. The Standard Conditions List is attached hereto as Exhibit A and incorporated herein by this reference.

48. The Applicant shall comply with the requirements of the Street Tree Mitigation Plan of the Recreation and Parks Department, attached hereto as Exhibit C and incorporated herein by this reference.

49. Except as otherwise provided by these conditions, the Project shall be constructed and operated in substantial compliance with the plans submitted to and approved by the City Council.



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

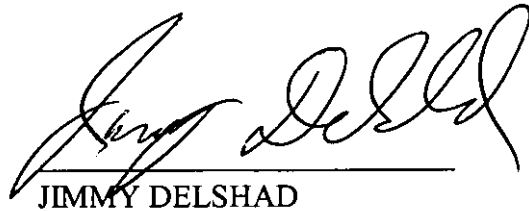
51. The City reserves the right to make modifications and/or impose additional conditions which may become necessary to enable implementation of the specific conditions set forth in this Resolution, and the Applicant shall comply with all such modified or additional conditions.

#### Green Building Design

52. The Project shall be constructed to meet the “Silver” rating pursuant to the City’s green building rating system, which means achieving a minimum of 33 points out of a possible 69 points as set forth in the City’s Green Building/Sustainability Checklist (“Checklist”) attached hereto and incorporated herein as Exhibit D. A green building plan shall be submitted as part of the application for a building permit. The green building plan shall indicate which points in the Checklist that the project will utilize, and indicate where compliance with each selected point is shown on the plans. The applicant shall be required to implement all points shown in the final green building plan. The Building Official or his designee shall verify compliance with each selected point prior to issuance of a final certificate of occupancy. The Building Official may conduct other inspections as needed to ensure compliance with this condition. The Applicant may request amendment of the green building plan and such amendment may be approved by the Building Official as long as the cumulative points total is at least 33 points. If the City Council adopts a green building ordinance prior to the submittal of an application for a building permit, the Applicant shall then comply with the procedures set forth in that ordinance.

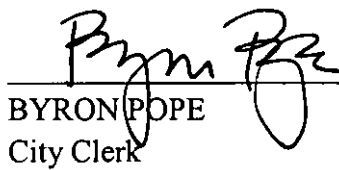
Section 14. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Council of this City.

Adopted: November 13, 2007



JIMMY DELSHAD  
Mayor of the City of  
Beverly Hills, California


ATTEST:



(SEAL)

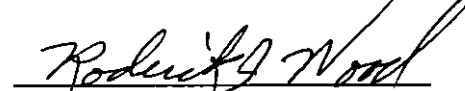
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

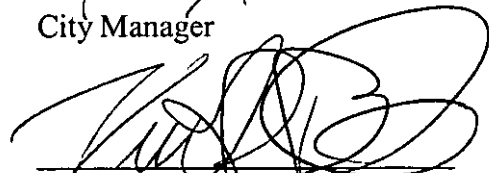


ROXANNE M. DIAZ  
Chief Assistant City Attorney

APPROVED AS TO CONTENT:



RODERICK J. WOOD  
City Manager



VINCENT P. BERTONI, AICP  
Director of Community  
Development

## **EXHIBIT A**

### **CITY OF BEVERLY HILLS STANDARD CONDITIONS LIST FOR THE PLANNING COMMISSION**

#### **ENGINEERING, UTILITIES AND RECREATION & PARKS:**

1. The applicant shall remove and replace all defective sidewalks surrounding the existing and proposed buildings to the satisfaction of the Engineering Division of the City's Public Works Department.
2. The applicant shall remove and replace all defective curb and gutter surrounding the existing and proposed buildings to the satisfaction of the Engineering Division of the City's Public Works Department.
3. The applicant shall remove all unused landings and driveway approaches. These parkway areas, if any, shall be landscaped and maintained by the project owner or any successor in interest. The landscape material shall not exceed six to eight inches in height and shall not be planted against the street trees. Care shall be taken to not damage or remove existing tree roots within the parkway area. Further the applicant shall remove and replace all defective alley and driveway approaches surrounding the existing and proposed buildings, to the satisfaction of the Engineering Division of the City's Public Works Department.
4. The applicant shall protect all existing street trees adjacent to the subject site during construction of the proposed project. Every effort shall be made to retain mature street trees. No street trees, including those street trees designated on the conceptual landscape or site plans, shall be removed or relocated unless written approval from the Recreation and Parks Department and the City Engineer first is obtained. (See attached Trees and Construction document.)

Removal and/or replacement of any street trees shall not commence until the applicant has provided the City with an improvement security to ensure the establishment of any relocated or replaced street trees. The security amount will be determined by the Director of Recreation and Parks, and shall be in a form approved by the City Engineer and the City Attorney.

5. The applicant shall provide that all roof and/or surface drains discharge to the street. All curb drains installed shall be angled at 45 degrees to the curb face in the direction of the normal street drainage flow. The applicant shall provide that all groundwater discharges to a storm drain. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Connection to a storm drain shall be accomplished in the manner approved by the City Engineer and the Los Angeles County Department of Public Works. No concentrated discharges onto the alley surfaces shall be permitted.
6. The applicant shall provide for all utility facilities, including electrical transformers required for service to the proposed structure(s), to be installed on the subject site. No such installations will be allowed in any City right-of-way.
7. The applicant shall underground, if necessary, the utilities in adjacent streets and alleys per requirements of the Utility Company and the City.

8. The applicant shall make connection to the City's sanitary sewer system through the existing connections available to the subject site unless otherwise approved by the City Engineer and shall pay the applicable sewer connection fee.
9. The applicant shall make connection to the City's water system through the existing water service connection unless otherwise approved by the City Engineer. The size, type and location of the water service meter installation will also require approval from the City Engineer.
10. The applicant shall provide to the Engineering Office the proposed demolition/construction staging for this project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries, etc., to the subject site.
11. The applicant shall obtain the appropriate permits from the Civil Engineering Department for the placement of construction canopies, fences, etc., and construction of any improvements in the public right-of-way, and for use of the public right-of-way for staging and/or hauling certain equipment and materials related to the project.
12. The applicant shall remove and reconstruct any existing improvements in the public right-of-way damaged during construction operations performed under any permits issued by the City.
13. During construction all items in the Erosion, Sediment, Chemical and Waste Control section of the general construction notes shall be followed.
14. Condensate from HVAC and refrigeration equipment shall drain to the sanitary sewer, not curb drains.
15. Water discharged from a loading dock area must go through an interceptor/clarifier prior to discharging to the storm drain system. A loading dock is not to be confused with a loading zone or designated parking space for loading and unloading.
16. Organic residuals from daily operations and water used to wash trash rooms cannot be discharged to the alley. Examples include but are not limited to grocery stores, mini markets and food services.
17. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Examples of ground water discharges are; rising ground water and garage sumps.
18. Storm water runoff from automobiles going into a parking garage shall be discharged through a clarifier before discharging into the storm drain system. In-lieu of discharging runoff through a clarifier, parking lots can be cleaned every two weeks with emphasis on removing grease and oil residuals which drip from vehicles. If parking area cleaning is implemented, records of cleaning activities shall be retained for verification by a City inspector.
19. After completion of architectural review of a new or modified commercial structure, and prior to issuance of the certificate of occupancy, the applicant is required to comply with the Public Art Ordinance. An application is required to

be submitted to the Fine Art Commission for review and approval of any proposed art piece or, as an alternative, the applicant may choose to pay an in-lieu art fee.

**EXHIBIT B**

**MITIGATION MEASURES**

**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
<b>Aesthetics</b>			
	A1 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.	Plan check process prior to permit issuance; site inspection prior to occupancy	Community Development; Building Safety and Planning Divisions
	A2 <i>Mitigation Measure is no longer necessary because revisions to the Project contemplated by the mitigation measure have been made to the Project.</i>		
	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.	Plan check process prior to permit issuance; site inspection prior to occupancy	Community Development; Building Safety and Planning Divisions
	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.	Plan check process prior to permit issuance; site inspection prior to occupancy	Community Development; Building Safety and Planning Divisions

<b>MITIGATION MONITORING AND REPORTING</b>			
<b>IMPACT</b>	<b>MITIGATION MEASURE</b>	<b>IMPLEMENTATION</b>	<b>MONITORING</b>
<b>Air Quality</b>			
	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
<b>Geology, Seismicity and Hydrology</b>			
	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
	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.		
	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.	Building plan check prior to permit issuance	Building and Safety
	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.	Building plan check prior to permit issuance	Building and Safety
Land Use			
	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.	Amendment of General Plan and Zoning Code by City Council prior to issuance of any permits	Department of Community Development
Noise			
	N1 Construction contracts shall specify that all construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.	Building plan check prior to issuance of permits; inspections	Building and Safety

**MITIGATION MONITORING AND REPORTING**

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	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.	Inspections and enforcement during construction	Building and Safety
	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.	Inspections and enforcement during construction	Building and Safety
	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.	Verify establishment before construction, grading or demolition work commences	Community Development; Building and Safety and Planning Divisions
	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	Enforcement of construction hours; inspections	Community Development; Building and Safety

**Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING**

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	Sunday.		
	N6 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.	Enforcement of Restrictions; recordation of restriction against Property as part of conditions of approval prior to permit issuance	Community Development; Public Works
	TP1 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: <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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</li> </ol>	Review and approval of Plan by Public Works and Transportation Department prior to commencement of construction; enforcement	Public Works and Transportation

**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 shuttled 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>		
	<p>TP2 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>	Building plan check prior to issuance of permits; inspections	Building and Safety
	<p>TP3 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>	Building plan check prior to issuance of permits; inspections	Building and Safety

**MITIGATION MONITORING AND REPORTING**

IMPACT	MITIGATION MEASURE	IMPLEMENTATION	MONITORING
	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.		
	TP4 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.	Building plan check prior to issuance of permits; inspections	Building and Safety
Utilities			
	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.	Plan review process; plan check prior to permit issuance	Community Development; Building and Safety
	U2 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.	Verify utility availability prior to permit issuance	Public Works; Community Development

**Mitigation Monitoring and Reporting Program**

**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:**

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**Has the Mitigation Measure been implemented?**

☐ Yes ☐ No

**Notes:**

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**Is further action or monitoring required?**

☐ Yes ☐ No

**If yes, describe:**

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**Is consultation with outside agencies required?**

☐ Yes ☐ No

**If yes, identify agency:** \_\_\_\_\_

**Has consultation with outside agency been completed?**

☐ Yes ☐ No

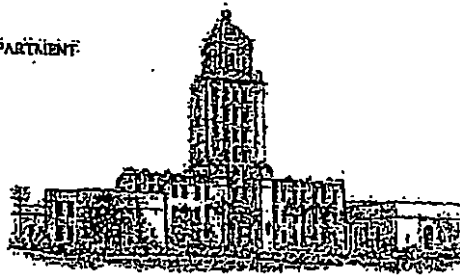
**Monitoring Verified By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**EXHIBIT C**

**STREET TREE MITIGATION PLAN OF THE RECREATION AND PARKS  
DEPARTMENT**

RECREATION AND PARKS DEPARTMENT  
451 N. Rexford Drive  
Beverly Hills, CA 90210-4817  
(310) 283-2574  
FAX: (310) 385-0140

STEVE MILLER, DIRECTOR



## CITY OF BEVERLY HILLS

### Trees and Construction

The City of Beverly Hills and its Residents hold our urban forest in high regard. We appreciate your regard for our City trees as you contemplate your project. We look forward to reviewing your mitigation plan as it relates to City trees that may be impacted by the proposed activities included in this project.

The applicant should identify any City and/or protected tree or trees within the proposed area of construction, and/or like tree or trees in close proximity to the construction site, that may be impacted. The location of these trees should be noted on the initial plan submittal. A plan that works to alleviate, or minimize, the potential that the health and vigor of a City and/or protected tree or trees will be affected during the construction process (a mitigation plan) should accompany the original plan submittal.

A mitigation plan should focus on retaining and protecting an existing City and/or protected tree or trees. This plan should include a valuation of the tree or trees that may be impacted by the proposed project. If more than one tree is involved, each tree should be valued in a separate treatment. This valuation should be performed by an International Society of Arboriculture (ISA) Certified Arborist using the standard valuation method recognized by the ISA.

Elements of the mitigation plan should include:

1. Definition of what can be done to avoid any impact on the tree or trees, as well as what steps will be taken to protect the tree or trees that may be impacted by construction activities, for the duration of the project.
2. If the well being of the tree or trees is suspected to be impacted or deemed unavoidable; a proposal to box, maintain and re-install the tree or trees after construction activities have been completed should be submitted. Any proposal for the boxing, care and re-installation of any tree or trees should include a resume of experience specific to tree moving from the firm submitting the plan. This proposal should include a contingency plan to replace the tree(s) with the installation of a forty-eight (48) inch box size should the tree or trees decline within twenty four (24) months after the time the tree or trees are re-installed into the site.
3. An offer of bond that is consistent with the value of the tree or trees based upon the previously described valuation of the tree or trees by an ISA Certified Arborist.
4. The ISA certification number and contact information for the ISA Certified Arborist assisting with the project mitigation plan.

To access a listing of ISA Certified Arborists in your area, visit:  
<http://www.isa-arbor.com/arborists/arbsearch.html>

To learn more about the valuation of trees, visit:  
<http://www2.champaign.isa-arbor.com/consumer/values.html>

Contact the Department of Recreation and Parks Urban Forest Supervisor at (310) 550-4638 or at [kpfaizgraf@cl.beverly-hills.ca.us](mailto:kpfaizgraf@cl.beverly-hills.ca.us) if you are in need of further assistance.

**EXHIBIT D**

**GREEN BUILDING CHECKLIST**

<b>City of Beverly Hills</b>			
<b>Green Building/Sustainability Checklist</b>			
New Commercial and Multi-Family Development - Final			
Project Name:			
Project Address:			
Project Pt.	Minimum Certified Points Required (26 Points)*		
<b>Sustainable Sites</b>		<b>14 Points</b>	
C.E.	<b>Construction Activity Pollution Prevention</b>	Required	SS P1**
C.E.	<b>Stormwater Design Requirement</b>	Required	
OWNER	<b>Development Density &amp; Community Connectivity</b>	1	SS 2**
OWNER	<b>Brownfield Redevelopment</b>	1	SS 3**
ARCH.	<b>Alternative Transportation, Public Transportation Access</b>	1	SS 4.1**
ARCH.	<b>Alternative Transportation, Bicycle Storage &amp; Changing Rooms</b>	1	SS 4.2**
ARCH.	<b>Alternative Transportation, Low-Emitting &amp; Fuel-Efficient Vehicles</b>	1	SS 4.3**
C.E.	<b>Alternative Transportation, Parking Capacity</b>	1	SS 4.4**
C.E.	<b>Site Development, Protect or Restore Habitat</b>	1	SS 5.1**
C.E.	<b>Site Development, Maximize Open Space</b>	1	SS 5.2**
C.E.	<b>Stormwater Design, Quantity Control</b>	1	SS 6.1**
C.E.	<b>Stormwater Design, Quality Control</b>	1	SS 6.2**
C.E./ARCH.	<b>Heat Island Effect, Non-Roof</b>	1	SS 7.1**
C.E./ARCH.	<b>Heat Island Effect, Roof</b>	1	SS 7.2**
E.E.	<b>Light Pollution Reduction</b>	1	SS 8**
<b>Water Efficiency</b>		<b>5 Points</b>	
LANDSCAPE	<b>Water Efficient Landscaping, Reduce by 50%</b>	1	WE 1.1**
LANDSCAPE	<b>Water Efficient Landscaping, No Potable Use or No Irrigation</b>	1	WE 1.2**
M.E.	<b>Innovative Wastewater Technologies</b>	1	WE 2**
M.E.	<b>Water Use Reduction, 20% Reduction</b>	1	WE 3.1**
M.E.	<b>Water Use Reduction, 30% Reduction</b>	1	WE 3.2**
<b>Energy &amp; Atmosphere</b>		<b>17 Points</b>	

COMM.	<b>Fundamental Commissioning of the Building Energy Systems</b>	Required	EA P1**
M.E.	<b>Minimum Energy Performance</b>	Required	EA P2**
M.E.	<b>Fundamental Refrigerant Management</b>	Required	EA P3**
M.E.	<b>Optimize Energy Performance</b> (Report from M.E. based on ASHRAE is required)	1 to 10	EA 1**
M.E.	<b>On-Site Renewable Energy</b> (Report from M.E. based on ASHRAE is required)	1 to 3	EA 2**
COMM.	<b>Enhanced Commissioning</b>	1	EA 3**
M.E.	<b>Enhanced Refrigerant Management</b>	1	EA 4**
M.E.	<b>Measurement &amp; Verification</b>	1	EA 5**
OWNER	<b>Green Power</b>	1	EA 6**
<b>Materials &amp; Resources</b>		<b>13 Points</b>	
ARCH.	<b>Storage &amp; Collection of Recyclables</b>	Required	MR P1**
ARCH.	<b>Building Reuse</b> , Maintain 75% of Existing Walls, Floors & Roof	1	MR 1.1**
ARCH.	<b>Building Reuse</b> , Maintain 100% of Existing Walls, Floors & Roof	1	MR 1.2**
ARCH.	<b>Building Reuse</b> , Maintain 50% of Interior Non-Structural Elements	1	MR 1.3**
CONT.	<b>Construction Waste Management</b> , Divert 50% from Disposal	1	MR 2.1**
CONT.	<b>Construction Waste Management</b> , Divert 75% from Disposal	1	MR 2.2**
ARCH.	<b>Materials Reuse</b> , 5%	1	MR 3.1**
ARCH.	<b>Materials Reuse</b> , 10%	1	MR 3.2**
ARCH.	<b>Recycled Content</b> , 10% (post-consumer + ½ pre-consumer)	1	MR 4.1**
ARCH.	<b>Recycled Content</b> , 20% (post-consumer + ½ pre-consumer)	1	MR 4.2**
ARCH.	<b>Regional Materials</b> , 10% Extracted, Processed & Manufactured Regionally	1	MR 5.1**
ARCH.	<b>Regional Materials</b> , 20% Extracted, Processed & Manufactured Regionally	1	MR 5.2**
ARCH.	<b>Rapidly Renewable Materials</b>	1	MR 6**
ARCH.	<b>Certified Wood</b>	1	MR 7**
<b>Indoor Environmental Quality</b>		<b>15 Points</b>	
M.E.	<b>Minimum IAQ Performance</b>	Required	EQ P1**
LEED AP	<b>Environmental Tobacco Smoke (ETS) Control</b>	Required	EQ P2**
M.E.	<b>Outdoor Air Delivery Monitoring</b>	1	EQ 1**
M.E.	<b>Increased Ventilation</b>	1	EQ 2**
CONT.	<b>Construction IAQ Management Plan</b> , During Construction	1	EQ 3.1**

CONT.	Construction IAQ Management Plan, Before Occupancy	1	EQ 3.2**
ARCH.	Low-Emitting Materials, Adhesives & Sealants	1	EQ 4.1**
ARCH.	Low-Emitting Materials, Paints & Coatings	1	EQ 4.2**
ARCH.	Low-Emitting Materials, Carpet Systems	1	EQ 4.3**
ARCH.	Low-Emitting Materials, Composite Wood & Agrifiber Products	1	EQ 4.4**
LEED AP	Indoor Chemical & Pollutant Source Control	1	EQ 5**
M.E.	Controllability of Systems, Lighting	1	EQ 6.1**
M.E.	Controllability of Systems, Thermal Comfort	1	EQ 6.2**
M.E.	Thermal Comfort, Design	1	EQ 7.1**
M.E.	Thermal Comfort, Verification	1	EQ 7.2**
ARCH.	Daylight & Views, Daylight 75% of Spaces	1	EQ 8.1**
ARCH.	Daylight & Views, Views for 90% of Spaces	1	EQ 8.2**
<b>Innovation &amp; Design Process</b>		5 Points	
ALL PROFS.	Innovation in Design: Provide Specific Title	1	ID 1.1**
ALL PROFS.	Innovation in Design: Provide Specific Title	1	ID 1.2**
ALL PROFS.	Innovation in Design: Provide Specific Title	1	ID 1.3**
ALL PROFS.	Innovation in Design: Provide Specific Title	1	ID 1.4**
	LEED® Accredited Professional	1	ID 2**
<b>Project Totals (Pre-certification estimates) =</b>			
* Certified 26- 32 points; Silver 33 - 38 points; Gold 39 - 51 points; Platinum 52 - 69 points			
** Refers to LEED Source Book for New Construction for Intent and Requirement of each category			



## **EXHIBIT 4**

City Council Ordinance No. 07-O-2532

ORDINANCE NO. 07-0-2532

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

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY  
ORDAINS AS FOLLOWS:

Section 1. Article 19.8 is hereby added to Chapter 3, Title 10 of the  
Beverly Hills Municipal Code to read as follows:

**“Article 19.8  
Mixed-Use Planned Development Overlay Zone (M-PD-3)**

- 10-3.1980. M-PD-3 Zone created.**
- 10-3.1980.01 Application of M-PD-3 Zone.**
- 10-3.1980.02 Objectives of the M-PD-3 Zone.**
- 10-3.1980.03 Definitions.**
- 10-3.1980.04 Uses permitted.**
- 10-3.1980.05 Restrictions.**
- 10-3.1980.06 Applicability of underlying zone regulations.**
- 10-3.1980.07 Height limitations.**
- 10-3.1980.08 Density.**
- 10-3.1980.09 Parking, access & circulation.**
- 10-3.1980.10 Setbacks.**
- 10-3.1980.11 Loading and ancillary facilities.**
- 10-3.1980.12 Outdoor living space required.**
- 10-3.1980.13 Rooftop uses.**
- 10-3.1980.14 Compatibility standards.**
- 10-3.1980.15 Application of transitional operational standards.**

**10-3.1980. M-PD-3 Zone created.**

There is hereby created an overlay zone designated as the Mixed-Use Planned Development Overlay Zone (M-PD-3).

**10-3.1980.01. Application of M-PD-3 Zone.**

The M-PD-3 Zone shall apply to the following areas, as shown on the Mixed-Use Planned Development Map, a copy of which is on file in the Department of Planning and Community Development and attached as Exhibit A to this Ordinance:

All those parcels located on the southwest corner of Wilshire Boulevard and Stanley Drive, bounded by Wilshire Boulevard on the north, Stanley Drive on the east, Charleville Boulevard on the South.

**10-3.1980.02. Objectives of the M-PD-3 Zone.**

The objectives of the M-PD-3 Zone shall be as follows:

(A) To ensure that mixed-use development in the M-PD-3 Zone will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area.

(B) To provide for mixed-use development that is compatible with the scale and massing of the surrounding neighborhood, through appropriate height, modulation, upper-story setbacks, other similar measures, or any combination thereof.

(C) To provide pedestrian-friendly amenities along the street level, and setbacks that are generally consistent with other development along Wilshire Boulevard and along Stanley Drive between Wilshire Boulevard and Charleville Boulevard, and along Charleville Boulevard between Stanley Drive and Carson Road.

(D) To ensure that mixed-use development in the M-PD-3 Zone will not create any significant, adverse traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will minimize impediments to vehicular circulation and pedestrian safety.

(E) To foster uniform planning and development of all parcels in the M-PD-3 Zone to ensure unified development in the overlay zone.

(F) To protect the public health, safety, or welfare.

### **10-3.1980.03. Definitions.**

Unless the context plainly requires otherwise, the following definitions shall govern this Article:

(A) 'Planned development' shall mean a development that is approved pursuant to the procedures of Article 18.4 of this Chapter.

(B) 'Entertainment use' shall mean any entertainment, other than live musical accompaniment to dining as defined in Section 10-3-2703 of this Chapter, and shall include, but not be limited to, movie theaters, playhouses, video arcades, cabarets, nightclubs, adult entertainment businesses, and similar uses.

### **10-3.1980.04. Uses permitted.**

No lot, premises, building or portion thereof in the M-PD-3 Zone shall be used for any purpose except those approved by the Planning Commission as part of a planned development pursuant to Article 18.4 of this Chapter.

### **10-3.1980.05. Restrictions.**

The following restrictions shall apply to mixed-use developments in the M-PD-3 Zone:

(A) No establishments whose primary purpose or business is to sell alcoholic beverages for on-site consumption, otherwise referred to as bars, may be included in a mixed-use development.

(B) No medical uses may be included in a mixed-use development.

(C) No entertainment uses including, but not limited to, cabarets, nightclubs, and adult entertainment businesses, may be included in a mixed-use development.

(D) Residential uses included as part of a mixed-use development shall be permitted in all portions of the development regardless of the underlying zone, except that residential uses shall not be permitted within the first forty feet (40') of the first floor facing arterial roadways such as Wilshire Boulevard, measured from the building facade.

(E) Commercial uses included, as part of a mixed-use development shall only be permitted in those portions of the development in which the underlying zone is a commercial zone.



(F) Notwithstanding any other provision of this Title, the Planning Commission may permit the combination of residential uses and residential and commercial parking facilities on a lot in either the R-1 or C-3 Zone in conjunction with the approval of a mixed-use development through a planned development permit pursuant to Article 18.4 of this Chapter.

(G) The Planning Commission shall have authority through conditions imposed on a Planned Development to prohibit other uses as, on a use by use basis, if it deems appropriate.

#### **10-3.1980.06. Applicability of underlying zone regulations.**

Except as otherwise specifically provided in this Article for mixed-use developments, development in an M-PD-3 Zone shall comply with the zoning regulations applicable to the underlying zone.

Nothing in this Article shall require a development to comply with the provisions of the M-PD-3 overlay zone if the development fully conforms to the requirements of the underlying zone.

#### **10-3.1980.07. Height limitations.**

No mixed-use development shall be constructed, altered, or enlarged in the M-PD-3 zone except in accordance with the following height restrictions:

(A) Commercial Component. No building, structure, improvement, or any part thereof, erected constructed or maintain as part of the commercial component of a mixed-use development in the M-PD-3 Zone shall not exceed sixty-one feet (61') in height, measured as set forth in this Chapter, or five (5) stories, whichever is less.

(B) Residential Component. No building, structure, improvement, or any part thereof, erected constructed or maintain on any part of the project in the R-1 Underlay Zone shall exceed thirty three feet (33') in height, with a pitched roof, measured as set forth in this Chapter, or three (3) stories, whichever is less.

(C) Unoccupied Architectural Features. Notwithstanding any other provision of this Code, unoccupied architectural features in portions of the project subject to the C-3 underlying Zone such as skylights and clerestories may exceed the height limits established by this Section by not more than ten feet (10') in height if such unoccupied architectural features are approved by the Planning Commission as part of a planned development pursuant to Article 18.4 of this Chapter and do not exceed thirty-three percent (33%) of the roof area upon which they are located and no such feature exceeds or intersects a line projecting from the perimeter of the roof upward at an angle of forty-five degrees (45°) from the horizontal.

### **10-3.1980.08. Density.**

(A) Maximum Floor Area Ratio. Notwithstanding any other provision of this Code, a mixed-use development in the M-PD-3 Zone, including all components, shall have a maximum aggregate floor area ratio no greater than 2.0:1. Above-grade parking facilities shall not be considered when calculating the floor area ratio of a mixed-use development pursuant to this Section, provided the parking complies with the requirements of Section 10-3.1980.09(C) of this Article.

(B) Maximum Commercial Floor Area. The maximum permitted floor area devoted to commercial uses in the M-PD-3 Zone shall be six thousand, three hundred and sixty-three (6,383) square feet.

(C) Maximum Number of Residential Units. The number of residential units that may be included in a mixed-use development in the M-PD-3 Zone shall not exceed three dwelling units with a maximum floor area of 8500 square feet in totality (approximately 2,800 square feet per unit) in an area with an underlying zone of R-1, and twenty-one (21) dwelling units in an area with an underlying zone of C-3. Notwithstanding, in the area with an underlying zone of C-3, a project may incorporate two additional residential units, if those residential units are deed restricted units available for moderate income households for the longest term feasible, with a minimum size of 750 square feet per affordable unit, for a total number of 23 units in 33,230 square feet of area in the underlying zone of C-3.

### **10-3.1980.09. Parking, Access & Circulation.**

Notwithstanding any other provision of this Code, parking for mixed-use developments located in the M-PD-3 Zone shall be provided in accordance with this Section.

(A) A mixed-use development shall provide parking for the commercial and residential components that can be physically separated. Notwithstanding the foregoing, the Planning Commission may permit, as part of a Planned Development, access between parking facilities for the commercial and residential components if it finds that such access would advance the objectives of the M-PD-3 Zone as set forth in Section 10-3.1980.02 of this Article.

(B) Parking for all uses in a mixed use development shall be provided in accordance with the applicable provisions of this Chapter, unless otherwise modified by the Planning Commission through a Planned Development.

(C) If parking is provided above ground, all parking, except for driveways and access to loading areas, shall be located behind building space that is dedicated to a permitted use other than parking, which building space shall be a minimum of forty (40) feet deep as measured from the building facades facing public streets, to

prevent direct visibility from adjacent streets unless otherwise approved by the Planning Commission through a Planned Development.

(D) The parking component of a mixed-use development in the M-PD-3 Zone shall be as approved as part of a Planned Development.

#### **10-3.1980.10. Setbacks.**

Mixed-use developments in the M-PD-3 Zone shall maintain the following setbacks:

(A) Wilshire Boulevard (front) setback. No minimum setback shall be required from the property line along the Wilshire Boulevard frontage of the commercial component of a mixed-use development in the M-PD-3 Zone. Any encroachment into the public right-of-way for planters or architectural features shall require approval from the City Council.

(B) Stanley Drive (street side) setback. A minimum setback of nine feet, eleven and 7/8 inches (9' 11-7/8") shall be required from the street side property line along the Stanley Drive frontage of the residential (R-1 underlay zone) component of a mixed-use development in the M-PD-3 Zone, and there shall be no minimum setback required along the Stanley Drive frontage of the commercial component of the mixed use development.

(C) Charleville Boulevard (street side) setback. A minimum setback of ten feet, three and 3/4 inches (10' 3-3/4") shall be required from the street side property line along the Charleville Boulevard frontage of a mixed-use development in the M-PD-3 Zone.

(D) Side setback fronting Charleville. The side setback for any residential uses fronting Charleville adjacent to R-1 property to the west shall be a minimum of thirty feet, three inches (30'-3") inches from the western property line.

#### **10-3.1980.11. Loading Facilities.**

Except as otherwise provided in this Section, loading facilities for mixed-use developments in the M-PD-3 Zone shall be provided in accordance with Sections 10-3.2740 through 10-3.2744 inclusive of this Chapter, or as otherwise approved as part of a Planned Development.



**10-3.1980.12. Outdoor living space required.**

The residential components of all mixed-use developments in the M-PD-3 zone shall provide outdoor living space in accordance with the requirements of Section 10-3.2803 of this Chapter, or as otherwise approved as part of a Planned Development.

**10-3.1980.13. Rooftop Uses.**

Roof top uses shall be prohibited.

**10-3.1980.14. Compatibility Standards.**

The following design standards shall be incorporated into all mixed-use developments in the M-PD-3 Zone:

(A) Noise Attenuation:

- (1) All dwelling units shall be constructed with double-glazed glass windows.
- (2) The exterior walls of all dwelling units, and any interior walls or floor/ceilings that separate dwelling units from commercial uses shall comply with the sound transmission standards set forth in Sections 1208 and 1208A of the Uniform Building Code, as amended by the 1998 California Building Code, or their successors.
- (3) All dwelling units shall be equipped with internal air conditioning, and state of the art air cleaning/filtering devices.

(B) Odors:

Air conditioning systems for the residential component shall be located and designed in a manner sufficient to prevent adverse impacts from odors generated by the commercial component.

**10-3.1980.15. Application of transitional operational standards.**

Unless otherwise provided in this Article, all uses in a mixed-use development shall comply with the general operational requirements set forth in Section 10-3.1956 of Article 19.5 of this Chapter.”



Section 2. The proposed ordinance has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000 et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and City's Local CEQA Guidelines. An Environmental Impact Report was prepared in connection with the project of which this Ordinance is a part. The City Council has certified the Final Environmental Impact Report ("FEIR") and made environmental findings in connection with the Ordinance in Resolution No. 07-R-12444, including adopting a Mitigation Monitoring Program, and those findings are incorporated herein by this reference.

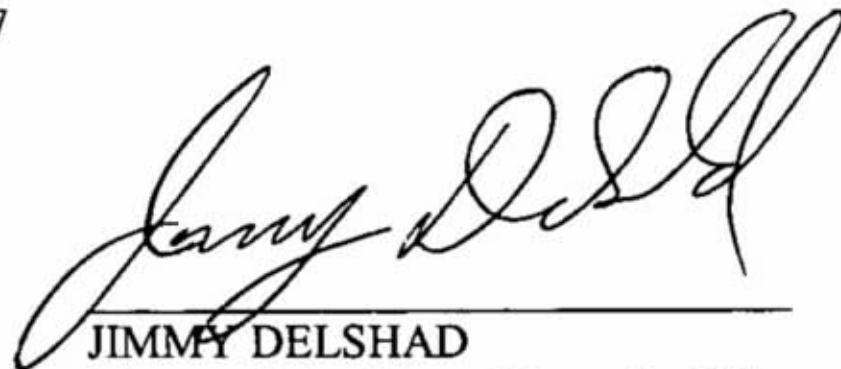
Section 3. The official zoning map of the City is hereby amended to apply the Mixed-Use Planned Development Overlay Zone (M-PD-3) to the property known as 8600 Wilshire Boulevard, Beverly Hills, as described in the legal description attached hereto as Exhibit A, and incorporated herein by reference.

Section 4. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be deemed repealed and the underlying zone shall control as to each property to which the Mixed-Use Planned Development Overlay Zone (M-PD-3) has been applied.

Section 5. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this ordinance and her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 6. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted: November 13, 2007  
Effective: December 14, 2007



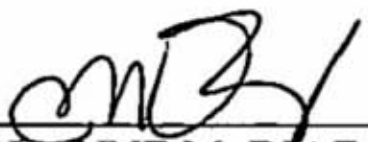
JIMMY DELSHAD  
Mayor of the City of Beverly Hills,  
California

ATTEST:

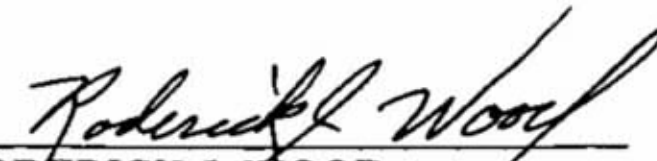


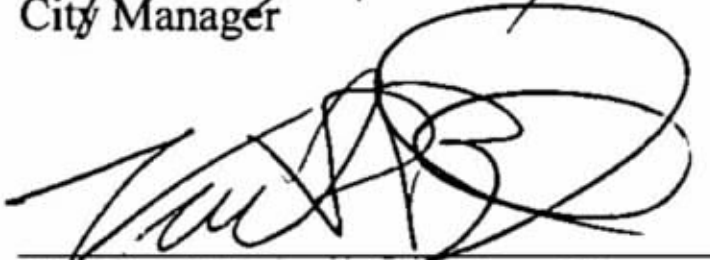
\_\_\_\_ (SEAL)  
BYRON FOOTE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ROXANNE M. DIAZ  
Chief Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
RODERICK J. WOOD  
City Manager

  
\_\_\_\_\_  
VINCENT P. BERTONI, AICP  
Director of Planning & Community  
Development

**EXHIBIT A**

[Legal Description]

The land referred to in this policy is described as follows:

Real property in the City of Beverly Hills, County of Los Angeles, State of California, described as follows:

**PARCEL A:**

Lots 686, 687 and 688 of Tract No. 4988, in the City of Beverly Hills, as per map recorded in Book 54 Pages 98 and 99 of Maps, in the Office of the County Recorder of said County.

**PARCEL B:**

Lot 689 of Tract No. 4988, in the City of Beverly Hills, as per map recorded in Book 54 Pages 98 and 99 of Maps, in the Office of the County Recorder of said County.

APN: 4333-018-033 and 4333-018-032