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February 19, 2011

VIA E-MAIL AND U.S. MAIL

Honorable Ed P. Reyes, Chair
Honorable José Huizar, Vice Chair
Honorable Paul Krekorian, Member
Planning and Land Use Management Committee
City of Los Angeles
Attention: Michael Espinosa, Legislative Assistant
200 N. Spring Street
City Hall, Room 395
Los Angeles, CA 90012

Re: Wilshire Grand Redevelopment
ENV-2009-1577-EIR-GB
CPC 2009-3416-TDR-CUB-CU-CUW-ZV-SW-DA-ZAD-SPR-GB
Council File No. 11-0106

Dear Chairman Reyes and Honorable Members of the Planning and Land Use Management Committee ("PLUM"):

As you are aware, this office represents Wilshire Boulevard Property LLC, the owner ("Owner") of the real property located at 1000 Wilshire Boulevard, immediately west of the above-referenced proposed redevelopment project (the "Project"). While the Owner believes a sensible redevelopment of the Wilshire Grand site is warranted, the Owner maintains serious concerns regarding Project impacts related to traffic, circulation, and signage. To that end, the Owner asks that PLUM continue this matter to allow the Department of City Planning and Department of Transportation ("DOT") an adequate opportunity to evaluate reasonable mitigation measures that would alleviate Project impacts, as detailed below. Further, the Owner holds that the above-referenced Environmental Impact Report ("EIR") has failed to fully present and analyze the environmental impacts of the Project in a legally adequate manner.

I. THE PROJECT PROPOSES A LEVEL OF DEVELOPMENT THAT IS WHOLLY INAPPROPRIATE ABSENT ADDITIONAL MITIGATION MEASURES

The Project site's zoning allows for approximately 1 million square feet of development. Nevertheless, the Project proposes 2.5 million square feet, at a floor-to-area ratio ("FAR") of 13:1. To permit this intensity, the Project requires, among other things, a 1.5 million square-foot transfer of floor area rights ("TFAR") from the City's Convention Center property.¹ Further, while the Convention Center may have 1.5 million square feet to transfer, it is currently unclear how many square feet of transferable floor area rights the Convention Center has in total, and whether sufficient Convention Center transferable floor area rights will remain after the Project to allow for other projects in the Central City area (such as the recently proposed event center/football stadium). In short, the Project seeks significant increases to its square footage beyond that permitted by code.

In addition, as a matter of public policy, it is indefensible for the City to approve the transfer of City development rights when such a transfer will create unmitigated significant environmental impacts surrounding the transferee site. According to the Project's EIR, it will create unmitigated significant environmental impacts at 12 major intersections, not to mention numerous other significant impacts unrelated to traffic and circulation. To approve the Project, the City will need to adopt a Statement of Overriding Considerations. In this case, it is the City itself that will create the very significant impacts it will then vote to override.

Given this perverse set of circumstances, the City and the Project developer have an obligation to ensure that all reasonable efforts are made to mitigate Project impacts. The law requires as much. Los Angeles Municipal Code ("LAMC") section 14.5.6 B.2(a) forbids a transfer of floor area rights absent a finding, supported by evidence, that the increase in floor area generated by the transfer is "compatible with other existing and proposed development[.]" Absent Project developer Thomas Properties Group ("TPG") implementing the mitigation measures recommended below to alleviate certain traffic and circulation issues, the Owner has material objections to proceeding with the currently contemplated Project.

Finally, while TFAR requires certain payments to the City, TPG will only have to pay approximately \$17 million for this massive transfer of square footage, which works out to a little over \$11/square foot. One does not have to be an expert in real estate valuation to know that receiving permanent development rights for 1.5 million square feet in one of the most prime

¹ Even with this substantial transfer of floor area rights, development would be limited to approximately 2.35 million SF. To further intensify development, the Project proposes an alteration of the definition of buildable lot area so that the site's buildable area actually extends to the centerline of adjoining streets for purposes of calculating FAR.

locations in the City is worth many times more than \$17 million.² Given this fact, TPG certainly has the funds to implement the crucial mitigation measures we request.

II. 1000 WILSHIRE REQUESTS REASONABLE CIRCULATION MITIGATIONS

1000 Wilshire requests the following: (1) widening Francisco Street to at least four lanes, (2) providing a third left turn lane from eastbound Wilshire Boulevard onto northbound Figueroa Street, (3) taking non-valet Project traffic directly to the parking garage from the Project's 7th Street entrance, and, (4) providing Project egress directly onto Figueroa Street. DOT and Planning Department staff have recently communicated to the Owner that in particular the first three requests likely can be achieved with additional time for design work.³

The only impediment to implementing these sensible mitigations is the insistence by TPG that the Project move forward immediately. The Project is currently scheduled for consideration by PLUM on February 22, 2011. In light of DOT's request for additional design details and conceptual plans regarding these crucial mitigation measures, we do not believe PLUM has sufficient information to issue any decision on the Project. Therefore, we respectfully request that PLUM continue the public hearing to allow DOT the time necessary to analyze these measures and make a recommendation regarding implementation. A delay of a few weeks for design work will have no effect on the Project's development timeline, whereas approving the Project now will lock in negative traffic and circulation impacts for decades.

III. REASONABLE MITIGATIONS ARE PARTICULARLY IMPORTANT GIVEN THAT THE PROJECT EIR ALMOST CERTAINLY UNDERESTIMATES PROJECT TRAFFIC

A. The Excessive Trip Credits Claimed by the Project Result in an Artificially Low Traffic Volume

The traffic impact analysis ("TIA") for the Project claims, depending on the specific use, trip credits that range from 37 percent to 75 percent. That is, the traffic analysis for the Project effectively disregards up to three out of every four vehicle trips that certain uses would generate. The result of these discounts is the claim in the EIR that even though the project would nearly triple the amount of development on the Property, it would only increase the existing traffic by about one third. Despite this, however, the EIR states that significant impacts would occur to 12 study area intersections, and acknowledges that a thirteenth intersection may also be significantly impacted.

² One commercial real estate broker who specializes in downtown has estimated that each square foot of floor area rights transferred by the City would have a fair market value of \$250 - \$300 based on today's market. Selling each square foot for \$11 is the equivalent of getting 3% - 4% of its value.

³ We understand that Planning and DOT generally are opposed to providing an exit directly onto Figueroa Street, but we submit that given the scope of the Project, such an exit is a reasonable deviation from streetscape standards.

B. The EIR Conceals the Full Extent of Circulation Impacts on Francisco Street

The TIA effectively conceals how Project traffic would be distributed on adjacent streets, and does not clearly illustrate the effect of the Project on circulation. In fact, neither the TIA nor the Transportation and Traffic section of the EIR explicitly state the number of daily vehicle trips Francisco Street must accommodate. To gain an accurate picture of circulation, a reader must consult the text of the EIR, the TIA (Appendix IV.B to the EIR), and the noise analysis (Appendix IV.C-1 to the EIR).

Using the numbers provided in these appendices, one can do the math the EIR conveniently does not do; namely, that the Project assigns over 95 percent of its traffic to Francisco Street, the only street that provides access to 1000 Wilshire.

Francisco Street already accommodates an average of 5,155 daily vehicle trips, according to the noise analysis of the EIR. The Project proposes dumping thousands of additional cars onto a currently overburdened street, as Francisco Street already experiences daily gridlock during peak hours as cars back up from Wilshire Boulevard. According to Appendix C-1 (Noise) of the EIR, the Project would distribute 3,485 of its 3,624 vehicle trips--96 percent--onto Francisco Street.⁴

Further, the proposed redesign of Francisco Street, which entails three lanes - one northbound, one southbound, and a continuous double turn lane - has the potential to create significant and dangerous vehicle movement conflicts as cars try to enter the garages of both 1000 Wilshire and the Project while cars are also trying to exit these garages.

C. The EIR Acknowledges that a Significant Impact Could Occur to the Francisco Street/Wilshire Boulevard Intersection, But Excludes It from the List of Impacted Intersections

Upon consulting the Transportation and Traffic section of the EIR, the reader finds two analyses. In addition to a "standard" analysis of impacts on intersections, the EIR includes an "Alternate Intersections Operation Analysis" on page IV.B-42. The EIR acknowledges that the existing vehicle trips the analysis subtracts from the Project traffic were calculated based on standard trip generation rates and full utilization of the Wilshire Grand Hotel. In fact, the Wilshire Grand Hotel is underutilized, and accounting for this increases the Project's share of the trips added to TIA study area intersections, and reveals that an additional significant impact would occur at Francisco Street/Wilshire Boulevard. However, this intersection is not listed among the significant impacts considered in the Transportation and Traffic Section, the Executive Summary, or the Alternatives Analysis.

⁴ Moreover, even if a reader can find these figures, the technical appendix only includes the Francisco Street segment volumes for the so-called "alternate analysis," not for the "standard" analysis that underlies the TIA. Thus, the volume of cars the project would place on Francisco Street under the standard analysis remains unknown.

IV. THE REQUESTED SIGN DISTRICT IS UNPRECEDENTED AND WAS CORRECTLY MODIFIED BY THE CITY PLANNING COMMISSION

The Project proposes to implement a Supplemental Use District ("SUD") for signage that will allow several hundred thousand square feet of animated and static signage. In isolating only the impact on the side of the Project facing Francisco Street (SUD Subdistrict "B") the Project originally proposed approximately 131,000 square feet of signage above 35 feet, or over 66% of the total building façade. The City Planning Commission ("CPC"), per the recommendation of the Planning Department, significantly reduced the amount of signage facing Francisco Street, and recommended other sensible reductions in overall signage. Even under the Planning Commission's signage recommendation, the Project would still house far more signage than any other property in downtown absent LA Live, and would obviously house dramatically more signage than any other office building or hotel in downtown.

Rather than accept these sensible reductions, TPG appealed the Planning Commission recommendation and has asked for almost all of its originally proposed signage, including two large scrolling banners at the corners of Francisco and Wilshire and Francisco and 7th Street, respectively. TPG cannot provide proper visual simulations of these signs to demonstrate their appearance and light-related impacts, as the proposed design of the signs has not been implemented anywhere else.

The Owner strongly encourages PLUM to support and maintain the CPC's sensible reductions in this signage program. At a minimum, the Owner suggests a mitigation measure that substantially reduces signage scale, intensity, and animation on all building facades that are directly adjacent to and/or within 100 feet of another building. Otherwise, many of the surrounding office building tenants with windows facing the Project, including 1000 Wilshire, will have constant light distraction that will disrupt the ability to work in these offices.

V. HELIPORT HEIGHT AND FREQUENCY OF HELICOPTER FLIGHTS SHOULD BE LIMITED

The Project's Design Flexibility Program allows for the construction of buildings substantially lower than currently proposed. As such, the proposed heliport could, absent additional conditions of approval, be constructed lower than 1,090 feet, resulting in direct noise impacts on 1000 Wilshire. In addition, the Project's EIR provides for numerous daily flights, which would allow Project owner Hanjin/Korean Air to use helicopter flights as a taxi service for Korean Air customers, causing extensive noise impacts on surrounding properties. The Owner therefore requests (1) that helicopter flights are limited to two flights (four flight operations) per day, and (2) that a heliport located lower than 1,090 feet be subject to a new conditional use permit with City Planning Commission review.

VI. ADDITIONAL EIR DEFICIENCIES

A. The TIA Does Not Comply With Current DOT Guidance

Recent guidance issued by DOT in response to a recent court decision states that a TIA must evaluate the impacts of a project against existing conditions (i.e., the time of issuance of a Notice of Preparation), as well as an appropriate future baseline. As we described in detail in our February 16, 2011 letter to PLUM, the TIA for the Project, among other failings, failed to do this.

B. The EIR Does Not Contain A Stable, Accurate, and Finite Project Description, and Contains Numerous Errors, Omissions, and Misrepresentations

As we detailed in our December 9, 2010 letter to the CPC, as well as in our February 16, 2011 letter to PLUM, the EIR for the Project, among other things, renders impossible a proper understanding of the scope and duration of the Project.

The Land Use Equivalency Program and the associated Design Flexibility Program allow the applicant to build a substantially different project than the one analyzed in the EIR. For example, the project includes up to 100 residential units, but under the Land Use Equivalency Program it could include up to 1,100. Worse still, the developer and the City failed to make the Design Flexibility Program available to the public during the time the EIR was circulated for public review and comment. Consequently, the public and decisionmakers cannot know with any certainty what the project comprises, and therefore cannot offer informed comment. Further, no certainty exists as to what the developer will construct and when, significantly complicating the consideration of, for example, appropriate trip generation rates for the TIA.

C. The Development Agreement

As stated in our February 16, 2011 letter to PLUM, the Development Agreement for the Project could potentially delay implementation by 25 years. However, none of the analysis provided in the EIR, aside from transportation and traffic, even attempts to address this.

D. Project Objectives

The Project objectives are drawn too narrowly and represent uncritical acceptance of the applicant's objectives by the lead agency. For example, the objective regarding electronic signage is so narrow as to preclude any alternative that does not create significant light and glare impacts by including signage of a scale specifically sought by the applicant. Even a project identical to the one sought, but without the signage specifically sought, is deemed by the EIR not to meet project objectives. The notion that a 2.5 million-square-foot development, without 66

percent of the building facades covered in lighted signs, cannot meet the basic objectives of the Project is, quite frankly, absurd.

E. Mitigation Measures

Many of the mitigation measures ("MMs") and project design features ("PDFs") provided in the EIR lack performance standards, improperly defer analysis, or fail to include an explanation of how they will reduce the impact they are designed to address, rendering them unenforceable and therefore inadequate under the California Environmental Quality Act ("CEQA"). Consider the following examples:

- MM IV.E-7 limits maximum lumen output of signage to 20 lumens/s.f. How does that limitation mitigate the impact of the new lighting source, particularly during evening/sleeping hours?
- MM IV.E-8 allows operation of the lighting displays until 2:00am. How does that limitation mitigate the impact of glare, particularly where, as in noise (CNEL thresholds), sources of irritation generated during all nighttime hours are more heavily weighted?
- MMs IV.E-9 and -10: how does the limitation on candelas/square meter mitigate the impact of increased nighttime illumination?
- MM IV.E-14 requires submission of a conceptual signage and lighting design "to establish lighting standards and guidelines." Will these guidelines be the same as those included in the mitigation measures above? With what performance standards must this design comply? The mitigation measure neither provides a performance standard nor explicitly incorporates the preceding mitigation measures, and no basis for its effectiveness appears provided in the analysis.
- Environmental Hazards and Safety PDFs-1 and -2 improperly defer analysis by requiring study of potential environmental hazards and the design of any necessary mitigation after project approval and commencement.
- MM IV.A-1 requires review of signage by the Director of City Planning. This is vague and unenforceable, and the discussion includes no substantial information as to how review would mitigate this impact to a less-than-significant level.
- Land Use PDFs 1 to 13 essentially amount to a requirement to build the Project as TPG proposes it.
- Transportation and Traffic PDF-2 requires First Mile Last Mile Connectivity space dedication, but how does this mitigate impacts, given that it appears to simply provide extra parking space and electric vehicle plug-in space?
- Transportation and Traffic PDF 3 requires a contribution to the ExpressPark project, but how does that mitigate project impacts?

F. Alternatives

Project alternatives, while numerous, still do not represent a reasonable range as required by CEQA. In addition to the problem posed by the project objectives, as described

above, the selection of alternatives does not appear directed toward any particular end other than justifying adoption of the Project.

With respect to the Reduced Density alternative, what is the basis for the reduction in square footage? The total reduction is very slight (315,000 square feet of total commercial, with no reduction in other uses) and does not appear oriented towards addressing a particular impact.

What impact does the Phased Construction alternative avoid or reduce? The total construction activity is the same, and construction-related air quality impacts are evaluated on a daily, rather than monthly or quarterly basis.

Why does no alternative attempt to address the impacts of signage and other environmental issue areas? For example, a reduced density, zoning-compliant signage alternative, or completely zoning compliant (including compliant signage) alternative? The alternatives seem specifically crafted to carve out one particular impact in some cases, while creating other impacts similar enough to the proposed project to allow a claim of no substantial reduction.

Further, given that this project is designed on speculation, and likely will not immediately be built (hence the 25-year life of the Development Agreement,), what is the basis for concluding that any of the reduced project alternatives are not feasible?

Additionally, the analysis does not identify an environmentally superior alternative. Table V-1 presents a highly incomplete and misleading list of the impacts of the project and the various alternatives. Although the analysis concedes that the alternatives would reduce certain significant and unavoidable impacts of the proposed project (such as intersections), the table does not reflect this and does not provide a meaningful "thumbnail" comparison of the actual differences in impacts among the various alternatives.

Also, Table V-2 demonstrates that all but two alternatives (no project and residential only) meet all or almost all project objectives. Consequently, no substantive basis appears to exist for rejecting any alternative in favor of the proposed project.

In addition to the above, numerous additional errors and omissions riddle the EIR, rendering it fatally flawed.

VI. CONCLUSION

As noted above, the Owner believes the proposed Project could benefit 1000 Wilshire as well as the overall economy of downtown Los Angeles. However, the Project will have material impacts on 1000 Wilshire and the surrounding area that require further analysis. Further, the EIR contains significant inconsistencies and deficiencies that render it invalid. The Owner urges PLUM simply to continue this matter to allow DOT and the Department of City

Planning adequate time to consider specific mitigation proposals to address the significant but as-yet unmitigated impacts created by the Project.

Sincerely,



BENJAMIN M. REZNIK of
Jeffer Mangels Butler & Mitchell LLP

BMR:neb

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