

ARMBRUSTER GOLDSMITH & DELVAC LLP

LAND USE ENTITLEMENTS □ LITIGATION □ MUNICIPAL ADVOCACY

R.J. COMER
DIRECT DIAL: (310) 254-9056

11611 SAN VICENTE BOULEVARD, SUITE 900
LOS ANGELES, CA 90049

Tel: (310) 209-8800
Fax: (310) 209-8801

E-MAIL: RJ@AGD-LandUse.com

WEB: www.AGD-LandUse.com

August 27, 2013

VIA FEDEX & ELECTRONIC MAIL

Los Angeles City Council
Attn: City Clerk, John White
200 North Spring Street, Room 360
Los Angeles, California 90012

john.white@lacity.org

Re: Council File Numbers 13-0877 & 13-0877-S1; VTT – 61216; ENV-2004-6000-EIR

Dear Honorable City Council Members:

This firm represents the applicant M. David Paul with regard to the Il Villaggio Toscano Project (the “**Project**”) and the relevant case numbers referenced above. This letter responds to the last-minute submission of 175 pages from Sherman Oaks Residents for a Safe Environment (“**SORSE**”), through its counsel Bradly Torgan, to the City Council Planning and Land Use Management (“**PLUM**”) Committee on August 12, 2013—**1 day before the PLUM Committee Hearing**.

The Project before the City Council is a product of a City process that *worked*. The Project reflects input, revisions, and reductions from nearly 10 years of community outreach and meetings. The Project before the City Council represents a 35 percent in residential units compared to the original project and a 16 percent reduction in maximum height. In addition, public benefits and additional measures have been incorporated into the Project all along the way. The Sherman Oaks Neighborhood Council spent 17 months on this Project—and enthusiastically supports the Project. The City Planning Commission (“**CPC**”) further reduced Project, added conditions, and recommended that the Project be approved. The PLUM Committee carefully considered arguments from the last remaining opponents to the Project and recommended that the City Council deny the appeals and approve the Project with additional public benefit measures brought forth by Councilman LaBonge. The additional [Q] Conditions accompany the PLUM report. Although some Project opponents cannot be satisfied, the Project enjoys significant neighbor and community support resulting from the applicant’s willingness to revise and reduce the Project as well as provide significant additional community benefits.

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 2

SORSE, through its counsel, has routinely filed last-minute voluminous letters and exhibits right before the City's hearings. The PLUM Committee hearing on August 13, 2013 was no exception. Despite being publicly admonished by City Planning Commissioner Perlman for filing a 16-page letter with 60 pages of attachments two days before the CPC hearing—Mr. Torgan filed 127-page submission on August 12, 2013, the day before the PLUM Committee Hearing (the "**August 12 Letter**") . Consequently, the applicant has no choice but to respond in writing to assure a complete and accurate administrative record.

A. SORSE Members Have Not Identified Themselves and Refuse to Meet

At no time throughout this administrative process has anyone identified himself or herself as a member of SORSE. SORSE is an otherwise unidentified association of persons.¹ No one identifying himself or herself as a member of SORSE has ever testified at a public hearing on this Project, and no one claiming to be a member of SORSE has submitted any written comments to the City regarding this Project. The Applicant's request to meet with SORSE members has been rebuffed by SORSE's attorney. All of SORSE's opposition has come through Mr. Torgan. We respectfully suggest that the City Council view with skepticism the "concerns" of neighbors who will neither publicly identify themselves nor meet with an applicant who has clearly demonstrated his willingness to compromise.

B. SORSE Reiterates Previous Arguments That Were Thoroughly Vetted and Responses Prepared

SORSE's August 12 Letter primarily reiterates arguments SORSE made throughout the process, which arguments have been thoroughly considered, responses prepared, and findings made. The administrative record contains substantive responses to SORSE's comments, including but not limited to the following:

- Final EIR Supplemental Analysis Responses to February 2013 Comments (the "**Supplemental RTC's**") prepared by Matrix Environmental and which the CPC found "*provide substantial evidence that none of the comments received in conjunction with the February 19 hearing show that the EIR analysis is inadequate under CEQA or provide substantial evidence of significant new information requiring recirculation of the Final EIR*";
- CPC Findings specific to SORSE's claims as follows:

¹ As of the date of this memorandum "Sherman Oaks Residents for a Safe Environment" is not an entity that is registered with California Secretary of State.

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 3

- Although the SORSE letter was very late, the City Planning Department fully considered the SORSE letter and the Supplemental Responses to Comments provide complete responses to the SORSE Letter. In addition, the Supplemental Responses to Comments contain expert technical reports responding to the memoranda and reports attached to the SORSE letter.
- Based upon the substantial evidence contained in the Supplemental Responses to Comments, the City finds that the SORSE Letter does not provide substantial evidence that the EIR analysis is inadequate under CEQA and does not contain substantial evidence of undisclosed significant environmental impacts or that significant impacts may be substantially more severe. The City further finds that the SORSE Letter does not provide substantial evidence of significant new information requiring recirculation of the Final EIR. Nevertheless, suggestion to tighten the enforceability Mitigation Measures B-5 and B-6 were incorporated into revised mitigation measures.
- Furthermore, the City has thoroughly reviewed the expert credentials of the persons preparing the technical reports attached to SORSE Letter. The City finds that the credential of Hans Giroux fails to demonstrate that Hans Giroux possesses the requisite expertise, training, or experience to qualify him as an expert in the fields of air quality, human health, noise or vibration. Mr. Giroux's credential shows that he holds degrees in meteorology and physics, which do not establish him as an expert in air quality, human health, noise or vibration. He holds no degree in engineering or human health. Nothing in his credential shows any formal education or experience in human health risk assessments. His credential reveals no relevant publications he has authored and his experience as an educator has primarily been in the field of meteorology. The City finds that Mr. Giroux's memorandum does not contain credible expert opinion. The City further finds that the Supplemental Responses to Comments and expert reports by Bill Piazza and Amir Yazdanniyaz attached thereto provide substantial evidence refuting the opinions offered by Hans Giroux.
- The City has thoroughly reviewed the experience of Mr. Arthur Kassin and finds Mr, Kassin to be qualified as an expert in traffic impact analysis. However, after thoroughly reviewing both Mr. Kassin's report attached to the SORSE Letter and Mr. Nakamura's reports, the City finds that the opposing reports constitute a disagreement among experts. The City further finds that Mr. Nakamura's reports and conclusion are more credible and provide substantial evidence refuting Mr. Kassin's conclusions.

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 4

- The City has thoroughly reviewed the expert credentials of the persons preparing the technical reports attached to the Supplemental Responses to Comments. The City finds that substantial evidence demonstrates that Traffic Engineer Roy Nakamura of Crain & Associates, Acoustical Engineer Amir Yazdanniyaz of Acoustical Engineering Services, and Bill Piazza of Air Quality Dynamics possess the requisite expertise and experience in their respective fields and that the technical reports prepared by each of them is credible.
- A 40-page rebuttal by Armbruster Goldsmith & Delvac with Technical Exhibits A through F (the “**March AGD Memo**”) to SORSE’s March 8, 2013 letter, which March AGD Memo contained in-depth analysis demonstrating the following:
 - Substantial Evidence Supports the Conclusion that the Project Is Consistent with the Sherman Oaks-Studio City-Toluca Lake-Cahuenga Pass Community Plan (the “**Community Plan**”);
 - The Project Is Consistent with the Commercial Goals, Policies, and Objectives of the Community Plan;
 - The Project Is Consistent with the Ventura Cahuenga Boulevard Corridor Specific Plan (the “**Specific Plan**”); Specific Plan Exceptions Are Expressly Allowed by the Specific Plan;
 - Substantial Evidence Supports the Requisite Specific Plan Exception Findings; and
 - Substantial Evidence Supports the Tract Map Findings; and
- An August 7, 2013 Memorandum responding to all the appeals filed with the PLUM Committee and setting forth all the evidence in the administrative record refuting each claim made by the appellants.

Consequently, the issues raised on appeal before the PLUM Committee and most of the issues raised in SORSE’s last-minute August 12 Letter have all been carefully considered. The administrative record before the City Council thoroughly considers and responds to every timely concern brought forth.

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 5

C. SORSE's August 12 Letter Contains No New Arguments of Merit

1. Project Reductions Do Not Require Additional Study and Consideration by the CPC

Among SORSE's new arguments (an argument also made by appellant Sherman Oaks Homeowners Association) is the preposterous claim that the reduced Project from 500 units to 325 units and from a maximum height of 100 feet to 82 feet somehow requires additional study and review under the California Environmental Quality Act ("CEQA") and consideration by the CPC. This claim is preposterous for several reasons:

- a. The CPC thoroughly considered the Project reductions at its hearing;
- b. The Supplemental RTCs and the Final EIR both consider the Project reductions;
- c. Additional CEQA analysis is only required when substantial evidence shows that project changes will result in new or more severe significant environmental impacts, whereas Project reductions *reduce* the severity of the larger Project's significant impacts and do not cause any new significant impacts; and
- d. The March AGD Memo Exhibit E contains an analysis by Crain & Associates showing that a much smaller Specific Plan-compliant mixed use project of 1.5 FAR with 277 residential units, a 45,000 square-foot grocery, and 6,000 square feet of neighborhood-serving retail impacts 10 of the 11 intersections impacted by the Project, and after mitigation would result in the same significant unmitigated impacts at the same 5 local intersections as the proposed Project.

Consequently, there is no merit to the argument that reducing the residential density of the proposed Project by 35 percent and reducing the height of the proposed Project by 16 percent, while not introducing any new uses nor reconfiguring the basic site plan requires additional CEQA review and consideration by the CPC.

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 6

2. Project Reductions Do Not Undermine the Justifications for the Specific Plan Exception Findings

Mr. Torgan has challenged the Specific Plan exception findings for the Project throughout the process but has offered only his opinion and disagreement with City Planning Department's analysis as the basis of his challenge. Substantial evidence in the City's findings and throughout the administrative record set forth all the justifications for the Specific Plan exceptions. The City's findings as well as the applicant's justifications set forth in great detail the substantial evidence supporting the Specific Plan exception findings.

In his August 12 Letter and in testimony before the PLUM Committee, SORSE's counsel questioned whether Specific Plan exception findings for height and Floor Area Ratio ("FAR") were still necessary given the reductions in Project height and residential density. Although counsel questions the findings, he offers no evidence that project reductions somehow undermined the findings.

Reducing the maximum height of the Project from 100 feet to 82 feet does not eliminate the need or justifications for Specific Plan exceptions to exceed the maximum height of 75 feet or the maximum FAR of 1.5:1. First, a podium design is necessary to lift the habitable structures above a parking structure and above the 26-foot freeway wall that runs the entire length of the Project's rear (and longest) boundary. Second, building a 6-story box atop the podium that would remain within the 75-foot limit would result in an un-articulated design that is much taller along Sepulveda Boulevard than the residential uses across the street, with no well-planned open space or frontage articulation, no open courtyards, and a building which would be less compatible with the neighborhood despite complying with the height limit. Stepping back a project that remains within the 75-foot limit was also shown to be infeasible as it would reduce the Project to a level the City Planning Department conclusively determined "would not result in a physically viable project."²

By contrast, the proposed stepped back design essentially loads the higher buildings far away from Sepulveda while keeping two-thirds of the Project within the 75-foot height limit, and keeping buildings along Sepulveda much lower than the 75-foot height limit and requiring them to be well-articulated with a spacious open courtyard.

² CPC Findings F-17.

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 7

The City Planning Commission found:

Two-thirds of the Project is already designed with building heights consistent with the 75-foot height limit established by the Specific Plan. Within this 75-foot height limit, six stories of residential component can be provided on top of the podium. However the current proposal includes a stair-stepping design which removes the top two levels fronting along Sepulveda Boulevard in order to create a design sensitive to the surrounding community and consistent with the surrounding built environment.

Building atop the necessary podium while limiting height to 75-feet and providing the stair-stepping design compatible to the area *would not result in a physically viable project.*³

Reducing the maximum permitted height of the Project from 100 feet to 82 feet does not undermine this analysis. The stepped-back design that lowers heights along Sepulveda Boulevard and the array of open space along Sepulveda Boulevard and throughout the Project still necessitates that this varied and articulated height design exceed 75-feet in the rear of the Project. As set forth above, the City has already determined that a stepped-back and open design within the 75-foot height limit would not result in a physically viable project.

Rather than making the findings more difficult, reducing the height and unit count made the Project more difficult. Yet, the applicant is committed to making it work. On September 10, 2012, the Project's expert financial consultant Johnson Capital Partners evaluated the feasible financing mechanisms for the Project and determined that any physical constraint, such as reduced height or FAR, that would reduce the Project below 375 units would likely make the preferred financing method infeasible and render the Project more difficult to finance.⁴ This letter was submitted to the City among other evidence justifying the need for Specific Plan exception findings to make the Project feasible.

In direct response to Mr. Torgan's last minute August 12 Letter, Johnson Capital Partners has provided another letter, dated August 21, 2013, addressing the financing implications of the reduced Project.⁵ According to Brent Lister, Senior Vice President of Johnson Capital:

³ CPC Findings F-17 [*emphasis added*].

⁴ See **Exhibit A-1** attached hereto.

⁵ See **Exhibit A-2** attached hereto.

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 8

We regret this reduction in the project because *it rendered the best financing option infeasible* and will *decrease the potential returns* by requiring a lower loan-to-value cost (LTC) ratio.⁶

The letters from Johnson Capital set forth the relationships among the reasonably foreseeable costs of building the Project given the amount of residential units, the ratio of residential units to floor area of retail uses, and the overall floor area of the Project. Then Johnson Capital relates those factors to feasible financing mechanisms and the costs of such financing. Building a podium to reach above a 26-foot sound wall that runs the entire length of the Project's longest boundary is not optional—it is necessary.⁷ Building the Project atop that podium is not optional. Building atop that podium but staying within a 75-foot height limit is one option but it results in a project that has greater adverse impacts and an infeasible single-box design. Building an articulated-stepped-back project atop a necessary podium but staying within 75-foot limit does not result in a physically viable project and would not reduce any of the significant impacts of the Project.

What Johnson Capital adds to this discussion is the very real financial impacts of reducing the Project height and residential density. As shown in Exhibit A-1, the cost of building the podium and the project necessitates a minimum of 375 residential apartment units and 52,000 square feet of commercial development in order for the Project to be financeable by the best most feasible method. As shown in Exhibit A-2, the Project being further reduced to 325 units increases the cost of financing the Project. Thus, the height and FAR exceptions remain necessary to preserve the viability of the Project. This is not strictly a financial hardship—this is a practical difficulty arising from a unique physical hardship on-site. Generally, financial hardship alone will not constitute an unnecessary hardship. But if the unique condition of one's property combined with an inability to use the property for the purposes of its existing zoning caused by the prevailing uses of surrounding property directly impacts financial viability, then evidence of financial hardship is a valid consideration in granting an exception.

[E]ncouraging additional [multi-family] infill development, particularly near transit lines and in neighborhoods that are currently or potentially “walkable,” may help slow the inevitable increase in automobile travel, both on freeways and on local roads.... *Done without reference to a viable financial model and private*

⁶ *Id.*

⁷ See **Exhibit B** attached hereto from Project architect Wade Killefer; see also CPC Findings F-15, F-17, F-20 – 21, F-24 – 26.

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 9

developers' need to earn a reasonable rate of return, infill becomes simply a pipe dream.”⁸

SORSE’s attorney merely assumes without evidence, and without any experience building or financing mixed used projects of this complexity, that reducing the Project height and unit count rendered the Specific Plan exceptions unnecessary or the findings more difficult to justify. The evidence shows that he is wrong. The Specific Plan exceptions remain justified, perhaps even more so now that the site’s physical constraints combined with reduced height and unit count make the Project more expensive to finance than a larger project.

Finally, reductions in Project density do not eliminate the need for a Specific Plan exception regarding FAR; Lower unit counts merely reduce the degree to which the proposed Project deviates from the Specific Plan maximum FAR.

3. SORSE’s Last-Minute Reference to Caltrans and Challenges to the CMP Traffic Analysis Are Woefully Late and Without Merit

Mr. Torgan’s sudden concern for Caltrans and his reference to Caltrans’ suspicion of the CMP analytic methodology for studying traffic impacts to freeway segments lacks merit and is made years too late. The City fully responded to this comment from Caltrans in the Final EIR.

The Draft EIR was released for public circulation in December 2010. Neither anyone from SORSE nor Mr. Torgan submitted a written comment on the Draft EIR. Despite the availability of the Draft EIR for public comment and several opportunities to directly interact with the applicant and express concerns, Mr. Torgan and SORSE ignored these opportunities and delayed filing any comment until February 14, 2013—one business day before the February 19 City Planning Department hearing. A May 26, 2011 Project-specific correspondence from Hans Giroux addressed to Mr. Torgan and attached to that February Letter indicates that Mr. Torgan had been retained long before submitting his February Letter. As set forth above, Mr. Torgan makes a habit of filing voluminous submissions raising CEQA claims on the eve of hearings. And now he raises this new CEQA claim—that the EIR is flawed for not evaluating Project impacts according to the Caltrans CMP methodology. CEQA discourages the kind of intentional last-minute document dumping such as Mr. Torgan’s, and CEQA expressly states that a lead agency is not required to respond to the Torgan letter at all.⁹ Nevertheless, substantive responses

⁸ Housing Policy Debate, Vol. 17 Issue 4 “*The Future of Infill Housing in California: Opportunities, Potential, and Feasibility*” (2006) John D. Landis, Heather Hood, Guangyu Li, Thomas Rogers, and Charles Warren (University of California–Berkeley) p. 682 (emphasis added).

⁹ CEQA Guidelines 15088(a), 15207.

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 10

were prepared to Mr. Torgan's previous document dumps and a response to this latest claim is provided below.

The City fully involved Caltrans in the CEQA process for this Project. Unlike Mr. Torgan and SORSE, who appoint themselves the defenders of Caltrans, Caltrans submitted a written comment to the Draft EIR –Letter Number 2. In that letter Caltrans makes 11 comments, only one of them regards Caltrans' concerns over the CMP traffic methodology. The Final EIR Responses to Comments fully responds to all of Caltrans' comments—including Comment 2-4 wherein Caltrans states:

Generally, Caltrans does not consider the Los Angeles County's CMP analysis alone to be adequate for the analysis of transportation impacts pursuant to a CEQA review. A CMP analysis alone fails to provide adequate information as to the potential cumulative effect of the added traffic, please see Section 15065(3) of the CEQA guidelines.

Final EIR Response to Comment 2-6 is fully responsive to both Caltrans' timely comment and Mr. Torgan's untimely comment. It states in full:

Cumulative traffic impacts are discussed on pages IV.K-44 and IV.K-45 of the Draft EIR. The City of Los Angeles, the lead agency, has specific guidelines and criteria for requiring further analysis of a project's potential impact to a freeway mainline or an on- or off-ramp, as well as for the determination of a significant impact under such an analysis. These guidelines and criteria are described on page IV.K-21 of the Draft EIR. The City has also adopted the County of Los Angeles Congestion Management Program (CMP). The CMP has similar specific guidelines and criteria for the evaluation of regional transportation impacts, which are also described on page IV.K-21 of the Draft EIR. As discussed on pages IV.K-39 and IV.K-40 of the Draft EIR, the project's contribution of trips to freeway mainlines and on- and off-ramps would be below the City and CMP thresholds, and would not be expected to result in any significant impacts. This is supported by the results in Table IV.K-9 of the Draft EIR, which indicate there would be no significant project impacts on nearby CMP freeway mainline monitoring locations.

The comment expresses doubt whether CMP analysis alone would provide adequate information as to the potential cumulative effect of the added traffic and references Section 15065(3) of the CEQA guidelines. However, the comment does not identify what other method should be used or provide any evidence

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 11

showing that if the unspecified method were used that the cumulative impacts would be significant. The Caltrans Guide for the Preparation of Traffic Impact Studies (the “Caltrans Guide”) identifies the Highway Capacity Manual (“HCM”) as its *preferred* methodology for calculating impacts on state highways and transit uses, but expressly states on that “other methodologies might be accepted.” Also, neither the Caltrans Guide nor the HCM contained therein identify any thresholds of significance for CEQA impacts. The thresholds in Section II.A of the Caltrans Guide refer only to *when* a traffic study is required, not to *impact* thresholds of significance for CEQA analyses.

The [Caltrans] reference to Section 15065(3) of the CEQA guidelines is not clear. Section 15065 of the CEQA guidelines is divided into subsections (a), (b), and (c), each of which are further subdivided into numerical sections. It is not clear which alphabetical subsection is being referenced. Also, Section 15065 of the CEQA guidelines regards Mandatory Findings of Significance not cumulative impacts.

Mr. Torgan’s untimely last-minute comment challenging the City’s CMP methodology on behalf of Caltrans reveals not only his unfamiliarity with the administrative record in this case but also his unfamiliarity with Caltrans’ methodologies. The Caltrans Guide identified in Response to Comment 2-6 above does not establish any impact thresholds for determining significant CEQA impacts on freeway segments and, therefore, is not viable for determining CEQA impacts.

Finally, it is well-established that jurisdictions may rely on their locally-adopted CEQA impact thresholds and are not required to employ methods of other jurisdictions.

D. Conclusion

The Project before the City Council reflects significant input and support from the neighbors, the community, the Sherman Oaks Neighborhood Council, the City Planning Commission, and the PLUM Committee. The last-minute August 12 Letter of 127 pages from SORSE’s counsel restated previous arguments in his other last-minute voluminous submissions. The two issues he raised anew in his August 12 letter are mere opinion and speculation and are untimely. By contrast, substantial evidence supports every finding and conclusion made by the City’s various departments, staff, and officials throughout the administrative process.

ARMBRUSTER GOLDSMITH & DELVAC LLP

Los Angeles City Council
Council File No. 13-0877 & 13-0877-S1
August 27, 2013
Page 12

We respectfully ask that the City Council deny the appeals and adopt the PLUM Committee Report.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read "R.J. Comer", with a long, sweeping underline.

R.J. Comer

RJC

Attachments

cc: Jonathan Brand, CD 4 (via electronic mail w/attachments)

EXHIBIT A-1



August 21, 2013

Mr. Paul W. Krueger, Development Manager
m. david paul & associates
100 Wilshire Boulevard, Suite 1600
Santa Monica, California 90401

RE: Updated - Financial Guidance for il Villaggio Toscano
4827 Sepulveda Boulevard, Sherman Oaks, CA

Dear Mr. Krueger:

We appreciate the opportunity to update our financial guidance for the proposed mixed-use development in Sherman Oaks, California, referred to as il Villaggio Toscano (IVT). Last September we sought to provide you with our insights into the capital market as you were approaching various hearings with the City of Los Angeles for your entitlement approval of the Project. Your company has since informed us that the project has been further scaled down to a level consisting of 325 residential units above 52,000 square feet of neighborhood retail primarily anchored by a specialty grocer. As explained more fully below, we regret this reduction in the project because it rendered the best financing option infeasible and will decrease potential returns by requiring a lower loan-to-cost (LTC) ratio.

The previous recommendation for sourcing debt capital was to obtain construction and/or permanent financing from a government enterprise funds referred to as a GSE. A primary restriction associated to the GSE for a mixed use project is the limitation on commercial income to fifteen (15) percent or less of the combined gross income for the project. With the reduction in the project to 325 residential units, we estimate that the gross income from the residential portion of the Project to be approximately 75% of the total. As stated in our earlier letter, the financial projection is based on our understanding of the current rental rates for both commercial and residential space and our expectation that the IVT project will be at the top of rental and quality range of the market. Although there is a provision for special exceptions with the GSE process that could potentially allow the project be submitted to this program, it would remove the decision making away from the local office to the home office in Washington DC. Because of our experience in processing GSE applications and internal discussions with other colleagues, this exception will add considerable time, potentially 6 months or more, to an already lengthy process and delay the project unnecessarily which could translate to a much larger timing issue within the current economic cycle. Thus at this time we would not recommend the GSE approach based on the revised configuration of the project.

1801 CENTURY PARK EAST, SUITE 1550 • LOS ANGELES, CALIFORNIA 90067-2316 • 310-286-7400 FAX 310-286-7434

IRVINE (CORPORATE HEADQUARTERS) • LOS ANGELES • SAN DIEGO • ENCINO (CA) • SAN JOSE • SAN FRANCISCO • NAPA (CA) • PHOENIX • DENVER • SALT LAKE CITY
DALLAS • KANSAS CITY • CHICAGO • LITTLE ROCK • BOCA RATON • WASHINGTON, D.C. • NEW YORK CITY • NORWALK (CT) • CABO SAN LUCAS, MEXICO • INDIA/DUBAI
www.johnsoncapital.com



Although this reduction in the project rendered the best financing option infeasible and will decrease potential returns by requiring a lower loan-to-cost (LTC) ratio, we remain committed to identifying an appropriate financial solution to meet M. David Paul & Associates (MDPA) objectives. In our discussions, these objectives include the desire to assume low cost debt capital without requiring additional equity, either from internal or external, for the construction of the project. MDPA's conservative approach has permitted the company to be a leader in developing quality buildings with strong financial fundamentals. Because of the shift in the projects density however we find it necessary to alert you that sourcing the debt capital will most likely require a lower loan-to-cost (LTC) ratio that is typical of life/pension companies as well as larger banking institutions. Whereas the GSE market has a higher LTC, MDPA can expect to contribute an additional 10 to 15 percent in equity capital for the development of the project. We recognize that the partnerships associated to this project have been in existence for many decades and most likely would prefer not to raise equity internally. The equity alternatives will lead the project to obtain such capital from either outside joint ventures, participating loan structures with large institutions or mezzanine loan equity. In either case these approaches will decrease potential returns to the existing partners and pending such negotiations at the time of execution, could introduce additional issues, including but not limited to floating interest terms or high yield participation levels.

The information provided continues to be preliminary in that the approval of the IVT remains in process. We look forward to continuing our discussion for the construction and permanent financing of the IVT project. Should you have any immediate questions please do not hesitate to contact myself at your convenience.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Brent R. Lister", written over a horizontal line.

Brent R. Lister
Senior Vice President
Johnson Capital, Inc.

EXHIBIT A-2



September 10, 2012

Mr. Paul W. Krueger, Development Manager
m. david paul & associates
100 Wilshire Boulevard, Suite 1600
Santa Monica, California 90401

RE: Preliminary Financial Guidance for il Villaggio Toscano
4827 Sepulveda Boulevard, Sherman Oaks, CA

Dear Mr. Krueger:

Johnson Capital is pleased to respond to your request to provide preliminary financial guidance for the proposed mixed-use development in Sherman Oaks, California, referred to as il Villaggio Toscano (IVT). For more than two and a half decades Johnson Capital has provided leaders in real estate with superior financial information and assistance in servicing in debt placement, equity financing, commercial mortgage, and capital services for all types of properties. As M. David Paul & Associates (MDPA) is aware, Johnson Capital advises its clients on a wide range of capital structures to match your objectives with the most appropriate loan programs in the marketplace. As a nationally recognized leader in the financial industry, Johnson Capital understands these market forces that are placed on mixed-use developments in California and throughout the country and is then able to apply this experience to achieve the best financial solutions for its clients.

The IVT site is well located within the city of Los Angeles and directly adjacent to the interchange of the 405 and 101 Freeways. The project is a mixed-use development consisting of 399 residential units above 52,000 square feet of neighborhood commercial retail primarily anchored by a specialty grocer. The development includes four levels of parking within a concrete podium structure that is 2 levels below grade and 2 above providing separate access for the three distinct users of the property; residential tenants, residential guests and commercial patrons. Above the podium rests several residential buildings that are scaled from 2 to 6 levels each with the higher levels further away from the Sepulveda Boulevard frontage. In keeping with your desired Italian inspired design the project does not appear to maximize density but instead provides planned open space in the form of large thematic gardens on the first level of the podium for exclusive use of the residential tenants/guests. Also, a large public plaza along Sepulveda Boulevard provides open space for retail patrons visiting the neighborhood serving shops.

As you continue through the entitlement process please keep at the forefront of your analysis that while interest rates are at their historic lows for construction and permanent financing a project of this quality and scale will continue to be evaluated under current market assumptions and performance fundamentals. Our expertise is in advising our clients on capital structures to meet with the most appropriate loan programs available in the marketplace. In this changed economy lenders of all types are definitely more selective in rendering loan decisions. Two primary considerations are the sponsor and the quality of the asset being financed. MDPA has been in the commercial development and construction business for nearly 45 continuous years and is well respected for developing quality buildings with strong, conservative financial objectives. Your company's experience in real estate development with the integration of in-house construction services assures prospective lenders with an integrity for completion. Based on MDPA's history of long-term ownership of land along with the Project's highly desired residential component for this location, we believe that the IVT project is an extremely attractive asset class for lenders capable of servicing a large development. Thus for a variety of reasons, lenders capable of financing such a project will be attracted to the project, however the real question is whether these institutions are able meet the financial objectives for the existing partnership without imposing MDPA to assume unreasonable risks for its development.

The preliminary review of identifying institutional requirements with that of the project has lead through numerous financial companies that may be able to provide such debt capital, however the restrictions imposed could require major changes to your underlying financial objectives. As briefly discussed in earlier conversations, the simple parameters to consider with the IVT project and its partnership composition would be to assume low cost debt capital without requiring additional equity capital for the development of the project. This translates into obtaining high loan to cost/value structures as well as looking at both construction and permanent financing simultaneously. Recognizing the conservative structure that is desired without placing undue financial risk on the partnership, we have evaluated various capital sources including life companies, pension funds, conduits and government sponsored enterprise funds (GSE's). Due to the financial needs for this size of project, local and regional bank restrictions will limit their participation and require loan syndication. While the regional banks may be considered, at this stage of guidance we encourage MDPA to seek capital from one or two institutions as opposed to pooling several together so as to reduce the overall limitations potentially imposed on the capital stack. Further we encourage MDPA to seek larger institutions capable of sourcing the necessary capital independently thus simplifying the process altogether.

Based on your company's objectives we believe that MDPA would be well served by sourcing the debt capital from a government sponsored enterprises (GSE). Although more restrictive in the sense of less negotiating power on behalf of the sponsor, the GSE funded loans are considered to provide some of the best overall terms for mixed-use development projects.

Primary characteristics for the GSE funded capital will be higher loan to cost structures that life and pension companies while also providing MDPA with the added benefit of including permanent/take-out financing at the same time of sourcing the loan prior to construction. Yet the feature that truly separates the GSE program, quite honestly, is the low interest rate and term of the mortgage. As mentioned earlier we are in a historic period of low interest rates and while most debt capital sources are providing terms ranging from ten to twenty five years, the GSE program enables the sponsor to not only have the low interest financing through construction but also throughout the entire length of the permanent component as well. But unlike the life and pension companies, the GSE offers new construction loans with long term permanent financing for forty (40) years. As you can imagine this program is not for everyone, however when compared to your financial objectives for long term ownership, stable management, limited and/or no additional equity capital requirements - the GSE program is very attractive. However, we would acknowledge that the GSE loan application process is more involved and income ratios between residential and commercial tenants are more restrictive.

Specifically the GSE restricts commercial income to fifteen (15) percent or less when compared to the combined gross income for the project. In relation to the IVT project, the income ratio would appear to be at or near a break point level needed for GSE loan underwriting. The current configuration for IVT is 399 residential apartment units and 52,000 square feet of neighborhood commercial. Based on the square footage of the residential and commercial areas with that of local market data we estimate the gross income for the residential portion of the Project to be roughly 86% of the total. Thus any significant reduction to the residential portion of the project will cause the project to be out of line with the GSE program requirements and unable to be considered as a viable source of debt capital without additional equity capital. We understand that your original configuration sought to develop 500 residential apartment units with a marginally higher amount of retail space. For obvious reasons the larger amount of residential income versus the commercial provides you with a higher tolerance for sensitivities associated to the local market rental rates. As you proceed with the approval of the IVT project it is strongly advised that MDPA not reduce the amount of residential density/unit count from its current level. Any reduction in the residential portion of the project below 375 units will cause the estimated income ratio to be unacceptable for the GSE program and force additional equity capital from an outside source that will significantly impact IVT's financial performance. The 375 unit level projection is based on our understanding of the current rental rates for both commercial and residential space and our preliminary assumptions to maintain the proposed level of commercial floor area within the project. The neighborhood commercial space is divided among the base assumption for an anchor specialty grocery tenant afforded 45,000 square feet with the remaining 7,000 square feet for typical in-line tenants. For both the commercial and residential components we expect the IVT project to be at the top range of the market due to the quality, age and amenities offered to its tenants compared to existing comparable locations.

Mr. Paul W. Krueger, Development Manager

September 10, 2012

Page 4

We understand the high barriers placed on obtaining approval for a project of this size, quality and location and respect the work that MDPA has accomplished to date. The information provided is our preliminary guidance for the IVT as you continue through the entitlement process. In order to reduce the potential for additional equity capital from outside sources, the income ratio will need to remain weighted toward the residential component as described above. We look forward to continuing our relationship with MDPA and will continue to advise you on the market as it evolves.

Should you have any immediate questions please do not hesitate to contact myself at your convenience.

Very truly yours

A handwritten signature in black ink, appearing to read "Brent Lister", with a stylized flourish at the end.

Brent Lister
Senior Vice President
Johnson Capital

EXHIBIT B



August 22, 2013

Paul W. Krueger
M. David Paul Development LLC
100 Wilshire Blvd. Suite 1600
Santa Monica, CA 90401

29001 Villaggio Toscano

Dear Paul,

I am writing to respond to questions about the design of Il Villaggio Toscano in Sherman Oaks.

The first question asks why the residential construction extends above the sound wall. The sound wall is concrete and concrete block. If the residential construction did not rise above the sound wall, the residents would look into a block wall from 30 feet away and the units would be shaded by the wall all afternoon.

The second question asks why a podium is necessary. The residential building is Type III Construction which allows for 5 stories of wood framing above a Type I (concrete) structure. The parking must be separated from the wood construction by a 3 hour barrier which the podium provides.

Sincerely,

Wade Killefer, FAIA

1625 Olympic Boulevard
Santa Monica, California 90404

—
310-399-7975 phone
310-399-8545 fax

—
kfalosangeles.com