

A Westside Coalition of Community Associations

January 15, 2006

*California Country Club
Homeowners Association*

Century Westwood Watch

*Cheviot Hills Homeowners
Association*

*Manning Area Protection
Association*

Overland Avenue Community

Residents of Beverly Glen, Inc.

*Tract 7260 Homeowners
Association*

*Westwood Gardens Civic
Association*

Westwood Homeowners Association

*Westwood South of Santa Monica
Blvd. Homeowners Association*

Jonathon Riker
Dept. of City Planning
Environmental Review Section
200 N. Spring Street, Room 750
Los Angeles, CA 90012

Ref: ENV-2004-6269-EIR

Project Address: 10131 Constellation Boulevard, Century City, 90067

Dear Mr. Riker:

We represent a large area west of Century City (see attached map) and have come together to oppose the 10131 Constellation Blvd. project as proposed in the EIR. We have reviewed the EIR and have extensive comments and concerns. We also note in the first paragraph of the document that the text states that the city is the Lead Agency. Therefore, we will assume that requests for notification sent to the Lead Agency will be honored, no matter to what department they are made, and that the departments will share information regarding notifications and interested parties. We hereby request notification to each of our members of all future actions on this project, including but not limited to, public hearings, haul route hearings, and responses to comments.

Our foremost comment is that this EIR is too flawed and inaccurate to adequately review. The traffic study overstates existing uses, the project does not have the development rights it purports to have, many environmental topics are not addressed in the EIR, and mitigation measures are lacking. We cannot assess whether the impacts of the project have been adequately addressed because they are not accurately stated to begin with. The EIR needs to be corrected and re-issued prior to any further project action or discretionary action by any portion of the Lead Agency.

Notwithstanding the comment above, we have listed our specific comments and concerns below. We reserve the right to add to these comments when corrections to the EIR are presented.

DEVELOPMENT RIGHTS

Page 5: Please clarify what the covenant and agreement changes are.

Page 11: The project is not consistent with the CCNSP. There is no such term as a "potential replacement trip" in the CCNSP.

Page 11, B-24, and elsewhere: The trips listed are inaccurate for several reasons.

1. Parcel 7 totals reflect an improper transfer of 1141.819 trips from Parcel 9. As stated in the CCNSP, "No Trip may be transferred if it has previously been utilized on or transferred from the transferor site; ... Trips and Transferred Trips which have been transferred, but not utilized on the transferee site may be transferred to ANY OTHER lot within the Specific Plan area." [emphasis added] The improper transfer of trips reduces available trips (stated as 1541.190) by 1141.819 trips, which accounts for 151 units or 31% of the project. Parcel 7 should therefore only be allocated 399.371 trips.
2. The calculation of "potential replacement trips" for the existing uses is inconsistent with the stated existing uses. Specifically, the replacement trips given were derived by applying the drive through bank trip rate to the entire first floor of the bank at 192 trips per 1000 square feet and the remainder of the bank at 14 trips/1000 sf. The drive through is a separate structure. (See Page 4, 61, 79, 96, A-4: The existing uses are described as a bank AND drive-through bank facility, restaurant and nightclub. Page 96 goes further and

says “City National Bank functions **in connection with** a drive-through banking facility... **The drive-through contains an asphalt driveway running from Constellation Boulevard to Avenue of the Stars.**” This makes it clear that the bank is separate from the drive-through and further identifies the drive-through as the separate structure.) Any replacement trips should be calculated at 14/1000 for the bank, 192/1000 for the actual drive-through building and 45/1000 for the restaurant. This calculation results in

- Drive-Through Bank: $400 \text{ sf} \times 192/1000 = 76.8$ trips
- Office/Commercial (bank): $15,250 \text{ sf} \times 14/1000 = 213.50$ trips
- Restaurant per trip chart = 793.485 trips

FOR A TOTAL OF 1083.785 TRIPS

Since the EIR states that 2112.991 replacement trips are available, the improper assumptions regarding replacement trips yields 1029.206 excess trips which account for 136 of the 483 units or 28% of the project. Parcel 8 should only provide 1083.785 trips.

3. Accurate trip calculations therefore only allow the project to use $399.371 + 1083.785$ trips – a total of 1483.156. The EIR assumes a total allocation of 3,654.181. This is inaccurate and the project does not have the development rights to build as proposed.
4. In addition, it is the intention of the community to challenge the trip usage for the restaurant based on CCNSP section 6 as actual measured uses are less than CATGP trip rates.
5. Please demonstrate that trips were properly accounted for when the restaurant added canopy space and an enclosed dance floor.
6. The so-called “potential replacement trips” associated with parcel 8 show that the restaurant would generate 793.485 trips. This does not match the square footage given in the EIR. Please provide accurate square footages, and revised trip numbers.

Page 118: Objective 3.1.7 There are insufficient developments rights. See comments above for page 11.

Page 118 and 127: Objective 3.2 The project does not reduce trips.

Page 130: Section 3.C.1.g The EIR’s traffic study is fatally flawed and does not provide adequate information for the community or elected officials to determine actual project impacts. Please see TRAFFIC section below.

Page 132: Section 3.C.2.a The trips are inaccurate. See comments for page 11.

Page 139: Policy 4.16 The project is not consistent with the CCNSP.

TRAFFIC

For the reasons stated in the attached report from Art Kassan and Tom Brohard, Traffic Engineers, we believe the EIR overstates existing use traffic and understates project traffic. As a result, the traffic impacts throughout the EIR are inaccurate.

Page 147 and Table 8: It should be noted that each of the 8 north-south streets listed terminates at one end near the project area. This is important because the shortage of through north-south routes in the community burdens the few that exist. Furthermore, many of the intersections identified that show Level of Service C or better are those locations where streets terminate and there is no through traffic. This discussion does not meaningfully show the traffic situation.

page 164: 3rd para. “Peak Hour” is unrealistic. The reality is that intersections operate at LOS F at more than 2 hours per day. Also, saying that construction oriented traffic would use major arterials and freeways and therefore result in a less than significant traffic impact during peak commuter periods makes no sense. Peak commuter periods are when the arterials and freeways are busiest (by definition almost).

page 164, (ii) : This discussion of hauling impacts assumes that the existing trip generation is accurate (116 am peak trips and 338 pm peak trips). It posits that since those trips will be removed, the truck hauling trips of 25 per hour (avg) will not have an impact. However, since the traffic counts at the location have demonstrated that the current uses do not generate the peak morning or afternoon trips estimated in the EIR, the addition of 25 trips per hour will, at certain times, result in an increase in peak hour traffic, particularly since these trips are being made by large construction vehicles that occupy significantly more space than a trip generating vehicle. 25+ trips per hour of heavy trucks is extremely disruptive to traffic flow (restricted acceleration and maneuvering).

Page 174: The EIR states that there would be a net decrease in freeway trips in the PM peak. The existing uses do not generate PM peak trips. However, the residents, staff and visitors will.

Page 175: The conclusion is flawed as the project will increase daily traffic.

Table 12, page 169: If the trip numbers change (are accurate) then the project would add to an intersection that is already at LOS F. This should be significant no matter how small the increment.

Page 268: The Air Quality analysis should be redone with revised and validated trip numbers.

TRANSIT

Page 151 (e) and elsewhere: The discussion of the “Transit Plaza” is inaccurate and misleading. What exists at this location is (1) a bus layover facility that just opened a few months ago and at which LADOT buses are not allowed to stop. It has no route signs, benches, maps, lights, or anything else that make it a Transit Plaza, and (2) two bus stops on Constellation Blvd. that also do not have route maps, schedules, fare information, or any amenities other than the bus stop sign. This location is neither a Transit Plaza nor transit friendly and the project cannot rely on this to mitigate potentially significant impacts. There are also no indications that there are nearby buses on Pico and Santa Monica Blvds. or how to get them.

Page 161 (e): In addition to riders outnumbering busses, an impact would occur to transit riders if they were delayed or the routes disrupted. The continual construction in Century City and on Santa Monica Blvd. is having a long term adverse impact on transit riders.

HAUL ROUTE

Page 323 (b): This noise discussion assumes one haul route, yet three were mentioned on page 164. Use of the route that follows Pico and Overland to access I-10 passes by several schools and should be analyzed or forbidden. For schools, daytime hours are noise sensitive.

Page 395 (c): The construction impact analysis only addresses the schools that the project would feed in to. It fails to discuss haul route impacts to the schools along Pico and Overland, i.e. Saint Timothy’s, Temple Isaiah, Le Lycee, Overland ES, Notre Dame Academy, and Notre Dame ES, not to mention preschools at Palms Park and private preschools. Rancho Park, Palms Park and the Palms-Rancho library would also be affected. Nor are impacts to Beverly Hills HS addressed, which is directly adjacent to the eastern border of Century City.

LAND USE

Page 106, 114, 116, 120, 129, and elsewhere: The project takes credit for compatibility with surrounding land uses, particularly stressing the pedestrian orientation of Century City and the pedestrian pathways. There is, in fact, no distinguishable pedestrian pathway as shown on Page 106. Yes, there are normal street sidewalks and crossings at intersections and midblock crossings to the shopping center at MGM Plaza and via the bridge over Avenue of the Stars. But there are no obvious paths or connections elsewhere, as implied, and there is no midblock crossing of Constellation Blvd. at the project site as shown. This is, in fact, a location where one can easily observe pedestrians jaywalking, particularly on days when the Farmer’s Market is held. Without having seen the diagram in the EIR we would not have known of this “path system.” Having tried to walk it, we can state that it does not exist as described. The project should not claim consistency with the pedestrian orientation of Century City, as there is no pedestrian path system or network.

As the CCNSP was adopted in 1981, isn't 25 years long enough for this walkway to have been made a reality? If JMB, a long time property owner in Century City and developer of MGM Plaza, is stretching to take credit for this phantom path system that they could have made a reality, our confidence in promises of future mitigation is very low.

Will the "upgraded landscaping" provide identification, lighting, or amenities for an entire network of paths? When will the developer take responsibility for the entire path system, not just allowing a little land on the side of their parcel be dedicated to this use? When will the developer construct the midblock crossing of Constellation?

Page 118, Objective 3.2: The project claims consistency with this objective by citing the pedestrian paths (phantom - see above) and components of the West Side Bicycle Plan on Santa Monica Blvd. and Avenue of the Stars. The bike plan shows both these streets as being Class II (bike lane). There is NO bike lane on either of these streets. These consistency claims should state whether the consistency is present (it isn't) or with future street improvements (as stated for Santa Monica Blvd.), or just not there (Avenue of the Stars). Even the description on page 143 does not mention a bike lane. The project should not claim that it is "facilitating a reduction in vehicle trips and miles traveled" when all it is doing is not impeding use of these streets.

Page 124, Policy 1-2.1: The project claims consistency with this policy by stating that that the project is served by shuttle buses. Page 151 does not list any shuttle buses, nor did an internet search of transit sites find any that the public can learn about and access. (We understand there is a FOX shuttle available to their employees.)

Page 133, Parking: While the project may exceed code-required parking for residents and guests, the nature of this luxury project strongly suggests that there will be many employees of the project and the residents (maintenance, gardeners, trainers, cleaning staff, household staff, etc.). What factors were used to account for these?

PUBLIC SERVICES/INFRASTRUCTURE

The effects on infrastructure should be added to page 5, "Areas of Controversy".

Water/Hydrology

The project site clearly collects storm water and runoff, and may, based on the "high" groundwater levels cited in the EIR, also intercept the groundwater table. Although the document addresses the potential impact of dewatering the site and treating the groundwater (if necessary), it does not address the effect of the project potentially contaminating the groundwater or the loss of the groundwater resource.

There is no discussion of where runoff from the parking garage will be directed or how the wastewater from the garage will be treated. As noted in the EIR for Constellation Place (in the discussion of this site as an alternative), "storm water runoff from commercial areas may contain high concentration of heavy metals, coliform bacteria, oxygen demanding substances, and total suspended solids. This impact is potentially significant."

The Initial Study (page B-20) states that groundwater is 75 feet below ground surface (bgs) and therefore the flow will not be affected. However, page 359 of the EIR states that high groundwater levels may be 40 feet bgs so the flow might be affected and this impact has not been analyzed.

Page 358 of the EIR lists the nearby storm drain inlets but fails to mention that none of them are actually adjacent to the property. According to IMap LA, the closest storm drain inlet is located at the corner of Century Park E and Constellation. A storm drain conduit runs directly under the property but it appears that ground water (rain water, hose water, etc.) is directed into the site and collects there. Unless the street grading is right, without a downstream (meaning down street) inlet, water collects and has nowhere to go, except sit there waiting for mosquitoes to breed. What improvements to the storm drain system will be made?

The document does not disclose the presence of an isolated wetland on site. Hydrophytic vegetation is present (cattails and others) and the hydrology is clear. The wetland is supported by both runoff and, potentially, by groundwater (high groundwater levels of 30-40 feet below ground surface and the site is 20-40 feet below street level). This wetland may be connected to other waters by groundwater and contribute to the ecosystem's health by filtering pesticides and other pollutants for downstream waters.

The soils under the site may also be hydric and are described in the Initial Study Checklist (VI.d) as “fine grained alluvial soils consisting predominately of moderately to highly expansive clay soils.”

Under the US Army Corps of Engineers Dredge and Fill permits, the law places the burden of proof squarely on a permit applicant to demonstrate that the destruction of any portion of a wetland is necessary. Where is this proof?

The cumulative impacts of “small” disturbances permitted under the general permits system have been severe in many watersheds, especially in Los Angeles and should be mitigated.

A RWQCB 401 Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) may also be required. The rules and regulations apply to all "Waters of the State", including isolated wetlands and stream channels that may be dry during much of the year, have been modified in the past, look like a depression or drainage ditch, have no riparian corridor, or are on private land.

Mitigation Measure G-1 must include wetland mitigation such as creation, restoration, and preservation.

Police and Fire

Page 375, first sentence: Regarding possible improvements to the water conveyance system that may be required, this sentence should read: Under standard City practices, these improvements would be completed by the LADWP at the cost of the developer and/or building tenants, in accordance...” There is no reason city taxpayers should pay for this.

Residents at the nearby Park Place condominium community report that water pressure is an area of concern requiring further investigation. While capacity in the area may be adequate to support additional development, water pressure and pumping capacity may be inadequate.

Page 375 (ii): Just because Station 92 is 1.5 miles from the project site does not mean no additional stations or station capacity need be constructed. The density of Century City is increasing. The analysis DOES NOT include the increased daytime population of the area when MGM Plaza and 2000 Avenue of the Stars or this project are at full occupancy. EMS calls can occur whether there are RESIDENTS or COMMUTERS in the buildings. Basing the analysis on census (i.e. resident) data is inadequate.

Page 375 (ii): The sentence “Since both stations have the same staffing and equipment...” does not match Table 36 which states that Station 58 has a paramedic unit while Station 92 does not. Also, just because Station 58 answers more calls than Station 92, does not mean that 92 is able to answer more or that they are inefficient in some way. Other factors such as geography, density, dispatching, and equipment and personnel also factor in. Further, the ability of public safety personnel to reach incidents during peak travel hours is greatly compromised when traffic is gridlocked (and intersections are at Level of Service F). While the station may be located only 1.5 miles from Century City, the travel time can be lengthy.

Table 42 of the Constellation Place EIR notes in regards to fire services that [the Proposed Project] “would increase demand for fire services. Fire protection services in the area are currently considered overburdened.” It also states that demand would be the same for Alternative site F (the site of this project). Why does this document state that there would be no effect?

The increase of 2.5 percent in fire district population and 3.3 percent in calls from just one project is a significant usage of fire department response capacity. There is no discussion of first responder capability in the event of a major fire, earthquake, or other disaster.

As shown in Table 38, LAPD is understaffed in the project area and surrounding communities. Adding density will exacerbate this problem and no mitigation or improvement of facilities or resources is offered in compensation for the cumulative effects of development.

Table 42 of the Constellation Place EIR notes in regards to police services that [the Proposed Project] “would have a significant impact on police services”. It also states that demand would be the same for Alternative site F (the site of this project). Why does this document state that there would be no effect?

Page 386, 3rd para: Just because there is said to be a “less than significant” effect does not mean that cumulative effects (over time) should be ignored. When will that be addressed? Cumulative impacts are incremental effects that are cumulative considerable. [as defined by CEQA]. These impacts to LAPD and LAFD are not being mitigated.

Schools

Page 391 and elsewhere: It is incorrect to say that Westwood Charter ES is operating under capacity. According to the school, they must accept all students in the resident area. The district has predicted an increase of 50 children over the next 5 years, but has no plan for how to house them. Their enrollment is currently at 752, capacity being 775. However, their numbers in primary the last few years have been huge, with an extra class at both K and 1. As those children move up, they have no classroom space to accommodate them. For example, they may need another 2nd grade class next year, and another 4-5 class. There's no classroom space to expand and the yard and facilities are already at capacity as well. Portables have already been installed and staff parking is inadequate, forcing parking in the neighborhood. Therefore, the project will have an adverse impact and no mitigation is proposed.

Page 392: The EIR uses a vacancy rate of 5.5 percent for LAUSD. What is the rate for the census tracts that feed into Westwood Charter, Overland, or other nearby schools? If Westwood Gardens had a 5.5 percent vacancy rate, for example, there would be 34 vacant houses. This is absolutely not the case!

Page 395: It is incorrect to say that haul routes would not pass by any schools. They may not pass by the schools listed but a haul route that uses Pico and Overland to get to I-10 passes by the Temple Isaiah school, St. Timothy's, Le Lycee, Overland ES, Notre Dame ES, and Notre Dame Academy, in addition to a number of preschools. The trucks will have traffic, noise, safety, and air quality impacts at drop off and pick up times as well as during the learning day.

Page 397: Listing PWT schools as a factor in this case does not make sense since the elementary schools nearest the project (Overland, Westwood, and Fairburn) are not part of this program.

Page 398: The payment of fees as mitigation is misleading since there is no guarantee that the money will stay in the local school area or construct facilities at the affected school(s).

Page 399: The proposed use of mitigation measures such as portable classrooms and year round schedules is unacceptable since their use would create a significant impact as defined in the Thresholds of Significance on page 395.

Page 399 and Table 42, page 400: Table 42 has many blanks in it and does not show (as stated) that related projects would generate 2,410 students. There are NO TOTAL figures in Table 42 and no numbers for employee student generation. The complete table needs to be provided and then the opportunity for analysis and comment provided.

Parks/Recreation

Page 407, para. 1: Private golf courses should not be included in the calculation of open space at all and public golf courses provide recreation for a very limited population due to costs to participate. The area surrounding Century City contains an unusually large number of golf courses (Rancho Park, Hillcrest CC, and the Los Angeles CC). However, their presence in the area does not serve the large majority of residents nor does it provide recreational space for children in the community. The evaluation should be done on parks accessible to the general population, in which case, West LA is far short of the goals of the PRP.

Page 408 (c.1) Sidewalks should not be included as landscaped areas in the calculation of the 1.7 acres. These are streetscapes, not recreation spaces. Furthermore, descriptions of the proposals for the corner of Avenue of the Stars and Constellation call for stepped gardens. This sounds like the pedestrian will be faced with concrete walls and less greenery than hardscape.

Page 409 (a) - 410: “The project includes ...1.7 acres of open space for its 980 residents.” The 1.7 acres isn’t available to the public (one can’t park a car to get there, there is no place to throw a ball, and no place for a child to play at the corner of Constellation and Ave. of the Stars!) whereas the project residents can use other parkland. The project is not adding to the usable open space in the area. Furthermore, most of the open space and greenery will not be visible to pedestrians in the area.

Table 43 says total usable open space required = 483 sq. feet. This is the number of units and should be corrected. The loophole of designating the lofts as only 2 habitable rooms seems to be a way of minimizing the open space requirements for the project. A requirement based on square footage would be more meaningful for this type of architecture.

Page 411 (4): More park acreage, actual land purchase and dedication, must be required. Providing 1.7 acres of space not available to area residents and paying the Quimby fees (which should stay to improve local parks such as Rancho Park in Cheviot Hills, but don’t) does not provide more park acreage. This mitigation measure only works if land is available and affordable in the area of the project. It would be meaningful mitigation if the project proponent provided park acreage to West LA. Otherwise there is still an adverse impact on the community and the PRP goals are not being met.

Discussion of the Pedestrian Corridor as recreation space is misleading. There is no recognizable walkway or promotion of walking as a recreational activity in Century City. The project should only take credit for this if the entire corridor is improved and usable.

CUMULATIVE

Cumulative effects are not just effects of this project with other (future) projects. They are also the effects of this project as the latest in a long string of projects that have impacts that are individually limited but now cumulatively considerable: traffic, park land, school capacity, noise, air quality, etc. As defined in the CEQA checklist, “Cumulatively considerable means that the incremental effects of a project are considerable when viewed in connection with (1) *the effects of past projects*, (2) *the effects of other current projects*, and (3) the effects of probable future projects.” [emphasis and numbering added] The EIR only addresses the cumulative impacts with probable future projects and therefore is inadequate and incomplete. Many examples are provided below but each section and impact needs to be reviewed and reanalyzed.

Cumulative traffic operational impacts are identified, partly because significant individual impacts may not be mitigated. However, the point is that individual significant impacts will be mitigated but the less than significant ones add up and CUMULATIVELY become significant. What mitigation is proposed to ease the LOS F intersections?

Cumulative impacts to library usage are not addressed. Why is there not a fee paid to the library department or support of the local branches?

How will cumulative impacts to parks ever be mitigated if no land is purchased and preserved? The only affordable land is on the outskirts of the city, not nearby where the impacts are occurring.

What mitigation is proposed for the cumulative construction noise impact stated as significant? When will it be put in place?

There are significant and unmitigated cumulative noise and air quality impacts from the continuous construction that has occurred and continues in Century City, including but not limited to:

1. Constellation Place 2001-2003
2. Santa Monica Transit Parkway 2003-2007 (?)
3. Westfield mall expansion 2005
4. 2000 Avenue of the Stars 2004-2006 (?)
5. Fox Expansion 2004-2006 (?)
6. St. Regis/2055 Avenue of the Stars 2006-2009 (?)
7. this project 2006-2010 (?)

Such a continuous barrage has health impacts as well as quality of life impacts on our community.

Are there cumulative effects on water pressure capacity because of the many projects just built and being built? In the EIR for 2055 Avenue of the Stars, the LA DWP letter seems to imply that DWP looks at needs on a case-by-case basis. A cumulative analysis needs to be done.

Overall, the project and the Lead Agency are not addressing the cumulative impacts on the carrying capacity of the city's infrastructure. West LA has reached the limit due to incremental effects over time that have not been mitigated. Our intersections do not operate, our streets have not been repaved, we have an inadequate supply of parkland, our police and fire response times are increasing, and our city services are decaying.

TOXICS & HAZARDOUS

The proposed project is located within the boundaries of what the DEIR refers to as the "Beverly Hills Oil Field". The DEIR does not delineate how many active, plugged, and abandoned wells are located within the project boundaries. All wells within or in close proximity to the project boundaries should be accurately plotted on project maps. A draft EIR must contain a statement briefly indicating the reasons why the lead agency determined that various possible significant effect actually were not significant and were not discussed in detail in the EIR. *Public Resource Code* Section 21100(c).

The DEIR repeatedly asserts that "based upon historic aerial photographs, the site was used as a golf course from 1928 to 1935". Please provide evidence showing this site was used for anything other than as an oil production and processing area.

The DEIR admits that the "Project site was used for oil exploration and production from the 1950s to 1991, primarily under the auspices of the Chevron/Texaco Company." Photographs of this site (see below and on exhibits 1 through 3 attached) show clearly this site was used for oil exploration, production, and processing to such an extent that parcel 6 (APN 4319-002-053) of the site was specifically carved out when subdividing the lots. There is no explanation in the DEIR as to why parcel 6 was subdivided in this manner. It appears from photographic evidence that the lot containing the oil production and processing was located here.

Building over or in the proximity of plugged and abandoned wells, pursuant to Department of Conservation, State of California (Department) guidelines, should be avoided if at all possible. If this is not possible, it may be necessary to plug or re-plug wells to current specifications, as set forth in the Department's Division of Oil, Gas, and Geothermal Resources (DOGGR).

Although the DEIR claims that the "Project site has 28 wells that have been properly closed in accordance with current . . . DOGGR standards" (DEIR, IV.F.1.a), it fails to identify: (1) how many wells exist (in other words, 28 may have been "properly closed", but there may exist additional wells that have not been "properly closed"); (2) the location of said wells; (3) how many wells have been abandoned; (4) how many wells have been plugged; (4) the records for the Century City Drill Site as described in footnote 69 of the DEIR as part of the Record; and (5) whether the "Century City Drill Site" is part of or separate to the assertion that the site is within the boundaries of the "Beverly Hills Oil Field". There should be a report and drawing that provides the location of all existing, abandoned, idle, and active oil wells on site, as well as the location and future status of all existing oil wells on site. There should also be a commitment not to construct buildings over any oil wells on the project site and that the project site has been designed to locate structures as far away as possible from existing oil wells. DOGGR must review all of the information prior to project implementation. The City's Department of Planning and Building must require and verify that final building plans have undergone DOGGR review prior to the start of construction.

While page 340 of the DEIR discusses some limited prior remediation activities, there is no discussion as to whether or not the Project owners have conducted any tests in connection with the closure or abandonment of wells at this site, or whether other hazardous materials may have been dumped at the Project site at any time, including, but not limited to the time there were active wells on the subject property. This should be included in an appendix to the EIR. Since this property was previously part of the 20th Century back lot, there is a possibility that this site was used as a dumping ground.

In contrast to what has been asserted in the DEIR, as set forth in the response to the Final Environmental Report to the Project owner's earlier construction at 10250 Constellation Boulevard, this site (which was described in the FEIR as an alternative site), it was reported as to the subject property: ""The lot on the northeast corner of Constellation Boulevard and Avenue of the Stars is approximately 5.6 acres in size and is owned by the owners of the project site. The site is located in the Century City North Specific Plan area and within the West Los Angeles Community Plan. It is zoned C2-2-0. The site is currently developed with a bank and a restaurant. Impacts generated by development of the alternative site would be approximately the same as those occurring with the proposed project, although the site has *serious development constraints due to previous use of the site for oil and gas production and the potential for Risk of Upset/Human Health problems.*" [emphasis added.] There is no record that any remedial work was done to the subject property between the date of the FEIR (namely, July 1997; Addendum January 1998) and the date of this DEIR that claims no remedial work need be done. In fact, the Project owner claimed that it would be very difficult to develop this land based upon the significant adverse impacts identified in the FEIR. Please explain what was done since the date of that FEIR and this DEIR that makes the subject site less constrained for development.

The intent of the original master plan for Century City was to not build on the vast majority of the Project site due to the oil drilling and possible severe contamination. Attached as Exhibit 1 is a true and correct copy of a photograph taken in 1963 showing the oil rig on the Project site. Attached as Exhibit 2 is a true and correct copy of a photograph taken in 1966 showing the oil rig and possible processing plant at the Project site. Attached as Exhibit 3 is a true and correct copy of a photograph taken in 1965 showing the oil rig and oil production area at the Project site. Attached as Exhibit 4 is a true and correct copy of a photograph dated 1958 of one view of the model master plan for Century City, specifically showing this site to remain undeveloped. Attached as Exhibit 5 is a true and correct copy of a photograph dated 1958 of a second view of the model master plan for Century City, specifically showing this site was to remain undeveloped. Exhibit 4 shows two areas with the words "oil drilling site", one of which is at the project site.

If it is not possible to avoid building over or in the proximity of plugged and abandoned wells, a requirement to permit said construction should necessitate identifying all wells and plugging or re-plugging the wells to current Division specifications. Also, the State Oil and Gas Supervisor should inspect the subject property and order the re-abandonment of previously plugged and abandoned wells, since construction over or in the proximity of the wells could result in a hazard (Section 3208.1 of the Public Resources Code). Finally, if construction over an abandoned well is unavoidable an adequate gas venting system should be placed over the well.

Furthermore, if any plugged and abandoned or unrecorded wells are damaged or uncovered during excavation or grading, remedial plugging operations may be required. If such damage or discover occurs, the Division's district office must be contacted to obtain information on the requirements for and approval to perform remedial operations.

To ensure proper review of building projects, the Division has published an informational packet entitled "Construction Project Site Review and Well Abandonment Procedure" that outlines the information a project developer must submit to the Division for Review. There is nothing in the DEIR that indicates whether the Project owner has contacted the Division or otherwise provided notice to the Division that the intent is to build on or in close proximity to this contaminated site. There is nothing in the DEIR that indicates what, if any, remedial work has been done by the current owner of the subject property or any prior owner (which information would be revealed and disclosed pursuant to local, state and federal regulations) upon transfer of this property. This property has, in fact, been continuously held by AP Properties Ltd. and its successors in interest since transferred to AP Properties Ltd by AP Ventures, Inc., as successor in merger to Century City, Inc., a Delaware corporation, in 1986. Accordingly, the current owner knew or should have known that the majority of the subject property was not intended to be developed at all due to the contamination from oil excavation at this site. Indeed, nothing in the DEIR shows the subject property and the large pond (or possibly a wetland) located directly over the oil production site. Attached as Exhibits 6, 7, and 8 are true and correct photographs taken on December 26, 2005 showing a large depression in the surface of the Project site, and large deposits of water. There is no indication as to whether this above ground water has been tested for contaminants, or the source of this water at the site.

If the Department of Conservation and the Department of Toxic Substances Control (DTSC) were not notified of the plans for this project and given the opportunity to investigate and comment, they should be given such notification. Were site investigations made? State whether the investigations, if any, were overseen by any regulatory agency. Were soil samples collected? If so, what analysis was conducted? Was there an analysis of volatile organic

compounds using the approved analytical method done? Was a Health Risk Assessment completed using current analytical methods? Was the Los Angeles Regional Water Quality Control Board contacted or otherwise notified of this project? Since the RWQCB is the Responsible Agency that has jurisdiction to oversee hazardous substance cleanup, documentation should be provided that RWQCB has agreed to oversee this project. A new site investigation should be conducted and overseen by the appropriate regulatory agency to confirm that the site has been adequately characterized. This should be followed by a Health Risk Assessment (HRA) which should be submitted to a regulatory agency with expertise in risk assessments (i.e. the California Environmental Protection Agency, Office of Environmental Health Hazard Assessment or the DTSC) for review.

The EIR should identify and determine whether current or historic uses at the project site may have resulted in any release of hazardous wastes/substances. Appendix "F" is inadequate. Since Fox Realty or other Fox holdings may have originally owned the subject property, has an investigation of Fox records been conducted? What are the findings? The EIR should identify any known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If hazardous materials or wastes were stored at the site, an environmental assessment should be conducted to determine if a release has ever occurred. If so, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. It may be necessary to determine if an expedited response action is required to reduce existing or potential threats to public health or the environment. If no immediate threat exists, the final remedy should be implemented in compliance with state regulations, policies, and laws.

All environmental investigations, sampling and/or remediation should be conducted under a work plan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous waste cleanup. The findings and sampling results from the report should be clearly summarized in the EIR. Proper investigation, sampling and remedial actions overseen by a regulatory agency should be conducted at the site prior to the new development or any construction. If any property adjacent to the project site is contaminated with hazardous chemicals, and since the proposed project appears to be within 2,000 feet of a contaminated site, then the proposed development may fall within the border zone of a contaminated property. Appropriate precautions should be taken prior to construction.

Will the project construction require soil excavation and soil filling in certain areas? Page 359 indicates that contaminated soil exists. Appropriate sampling is required prior to disposal of the excavated soil. If the soil is contaminated, will the soil be properly disposed of rather than placing it in another location? Land disposal restrictions may be applicable to these soils. If the project proposes to import soil to backfill the areas excavated, will proper sampling be conducted to make sure that the imported soil is free of contamination? The DEIR is conclusory and does not adequately address contamination of soil from transportation and into the water from storm drainage issue. The hydrogen sulfide could be very toxic if not properly monitored. There is minimal information provided concerning the 1990's - 2000 remediation project, and even then, it conflicts with what was alleged in the project owner's earlier discussion of the subject property in the FEIR to the Constellation Boulevard project. The report does not discuss soil testing from geological evaluation for the project – only past remediation.

Human health and the environment of sensitive receptors must be protected during the construction or demolition activities. A study of the site overseen by the appropriate government agency should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.

If it is determined that hazardous wastes are, or will be, generated by the proposed operations, will the wastes be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5)?

No construction should take place until a thorough site investigation and HRA have been performed, with oversight and approval by an appropriate regulatory agency. Institutional controls such as deed restrictions will need to be placed on the property prior to its development if soil contamination above levels suitable for unrestricted use is left in place at the site. Remediation and/or institutional controls may also be needed if groundwater is contaminated.

Where is the Methane Mitigation Plan?

A comprehensive Geologic report covering these issues as well as earthquake and related issues, including all nearby faults, should be made available for review prior to Lead Agency action.

ERRATA

While these may seem to be minor or typographical in nature, they also indicate a lack of care in the preparation of the document and a lack of familiarity with the project area. Errors in existing conditions do not bode well for the analysis accuracy.

Page 5, 1st bullet: Haul Route approval is by LADBS not Planning. (also page 78).

Figure 57, page 405: #8 should be Roxbury Park. # 11 near Cattaraugus Ave. is Reynier Park, and the #11's along Santa Monica Blvd. should be #9.

Page 143: Manning Avenue is NOT a secondary highway south of Pico; it is a collector street. Manning, on almost a block by block basis, has 6 or 7 different designations and the sloppy research and writing creates a misleading impression. How is it designated in the traffic model? Here are the Manning designations (from the Navigate LA website):

1. Local street north of Wilshire
2. Secondary highway between Wilshire & S.M. Blvd.
3. Local Street between S.M. Blvd. and Pico
4. Collector Street between Pico and Ashby
5. Local Street between Ashby and Butterfield
6. Collector Street between Butterfield and Motor
7. Secondary Highway from Motor to National.

Page 143: Overland Avenue between Pico and Santa Monica Blvds. is a collector street (has been for over a year now) and is NOT a major highway. Also, north of Pico, Overland does not have two lanes in each direction plus left turn lanes as stated. It is a narrow residential street with only one lane of traffic each way. It comes to an end at Santa Monica Blvd. South of Pico, Overland remains a residential street and is as described. How is the street listed in the traffic models?

Page 143: Motor Avenue does not provide two lanes in each direction between Pico and Monte Mar. It has only ONE lane in each direction. South of Monte Mar, numerous curb extensions reduce traffic volumes and speeds.

Page 143: The description of Beverly Glen should include that it is a residential street with numerous curves and driveways. Between Pico and Wilshire Blvds. it is two lanes and has limited left turn pockets, not a turn lane. At Wilshire Blvd., Beverly Glen becomes a winding single lane road in each direction to the San Fernando Valley.

Page 144: Patricia Ave. is a residential street and terminates approximately one block north of Olympic Blvd.

Page 158: Data collection date does not exist. August 8, 2004 was a Sunday not a Thursday.

Page 369 and 370: Station 92's area is presumably bounded on the west by the SAN DIEGO freeway, not the Santa Monica, and the station is located WEST of the golf course, not east.

It is inaccurate to say that the site is devoid of vegetation. See Hydrology discussion.

No mention is made of the proposed Beverly Hills condominiums in the related projects list.

Please clarify what project #12 is in the related projects list.

MITIGATION

Much of the mitigation listed in the EIR is of the nature of “we will follow the law”. This is laudable and proper and these should be made conditions of the project but hardly counts as mitigation to reduce the impacts of the project. Please list clearly those measures that are of this type and those that are actually reducing the impacts of the project once they have been accurately assessed.

The MMRP does not include those measures listed in the Initial Study as project conditions. Mitigation measures for potential impacts to archeological and paleontological resources are not stated. All measures need to be listed clearly and comprehensively in the MMRP.

The project’s contribution to the West LA TIMP should be clearly identified.

Once the true setting and impacts of the project have been properly identified and reviewed, the Coalition reserves the right to pursue project conditions and mitigations desirable to the community that would address impacts related to traffic, public services, infrastructure, and quality of life. It is clear that existing mechanisms of addressing cumulative impacts (of past, present, and future projects) have not been successful and that project proponents and the City must redress the effects on our community. It is also clear that the goals of existing plans have not been accomplished and that the City and project proponents must make these words become realities before stating that the project is consistent with these planning documents.

CONCLUSION

In conclusion, the fundamental issue is that a project of this size (consisting of 483 units, 1.3 million square feet, over 980 residents plus housekeepers, trainers, personal assistants, visitors, engineers, gardeners, and management staff, and causing an increase of 1.14 percent of the residential population of West Los Angeles) simply **CANNOT** rationally be expected to generate less peak hour traffic and less daily traffic than a bank which handles 50 cars per day at the drive through facility and 50 visitors and 25 employees per weekday in the bank, a restaurant closed at breakfast and dinner and with only walk in lunch traffic, and a nightclub that has at best 2.5 events per week with most of its business on Friday and Saturday nights. The impacts of developing the largely vacant site of a former oil well and processing site are also not detailed.

The EIR is incomplete, inaccurate, and too flawed to allow decision makers to rely on the information provided or the conclusions presented. We look forward to a comprehensive evaluation of these comments and complete responses and revised analyses.

Sincerely,

A Westside Coalition of Community Associations

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