

# THE SILVERSTEIN LAW FIRM

*A Professional Corporation*

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March 12, 2007

## **VIA PERSONAL DELIVERY**

Mayor and City Council Members  
City of Pasadena  
117 E. Colorado Boulevard  
Sixth Floor  
Pasadena, CA 91105

Re: March 12, 2007 City Council Meeting, Agenda Item 6.C: Supplemental Public  
Comments on the Ambassador West Project by Harvest Rock Church

Dear Pasadena City Council Members:

### **I. INTROUDCTION.**

These written objections submitted on behalf of Harvest Rock Church ("HRC") are supplemental to our written comments dated March 7, 2007 objecting to portions of the Ambassador West Project and the Project's Final Environmental Impact Report ("FEIR").

We urge the City Council to deny certification of the project's FEIR because it does not comply with the requirements of the California Environmental Quality Act ("CEQA"). Among other things, the FEIR fails to analyze a reasonable range of project alternatives and to mitigate significant environmental impacts.

Furthermore, a portion of HRC's property is being used as part of the Project without HRC's permission. The issue of land ownership must be resolved before the project can move forward. The Project, if approved as currently before you, would involve an illegal taking of HRC's property, including pursuant to Article I, Sec. 19 of the California Constitution related to the use of the Great Lawn as a public park, when HRC owns a portion of the Great Lawn.

Because the Project intends to construct approximately 18 condominium units, the loading dock, and parking entrance on HRC's property, as well as construct an unknown number of parking spaces below HRC's property (see Exhibit 1 hereto), the Project description in the FEIR is fatally flawed, and on that additional basis, the FEIR cannot be approved.

Finally, pursuant to Government Code Section 66474, the City cannot legally approve the Vesting Tentative Tract Map for the Project because the project site, which includes a portion of HRC's property, is "not physically suitable for the type of development proposed." Govt. Code § 66474(c).

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**II. THE FEIR FAILS TO ANALYZE A REASONABLE RANGE OF PROJECT ALTERNATIVES.**

In order to meet the requirements of CEQA, the FEIR is required to identify a reasonable range of environmentally superior alternatives and to set forth facts and meaningful analysis of these alternatives. The City, not the project applicant, has a duty under CEQA to determine whether alternatives are feasible. The City must independently participate, review, analyze and discuss the alternatives in good faith.

The FEIR emphasizes the historic importance of the campus. The FEIR quotes from the West Gateway Specific Plan, explaining its goal of preserving “the significant historic buildings and gardens on the Worldwide Church of God property, including the Ambassador Auditorium,” and preserving “the high quality atmosphere that is the hallmark of this area, through complementary well-designed appropriately scaled buildings and landscaping.” See FEIR, page 3.4-7.

Yet the FEIR fails to consider feasible project alternatives that would meet the Project’s objective to provide senior housing while mitigating the admittedly significant environmental impacts to the aesthetics of the historically and culturally significant Ambassador campus.

Architect Kathrina Higashi prepared a rendering of a project alternative that reduces the size and mass envelope of the lower campus Sunrise building. Such an alternative could both accommodate senior housing while mitigating some of the aesthetic impacts of the project. While HRC does not say that this is the best or only alternative design, Ms. Higashi’s design demonstrates that alternatives could have been analyzed by the City that could mitigate the adverse environmental impacts of the Project. The City has a duty to analyze such alternatives before certifying the FEIR, but has failed adequately to do so here.

The City should not approve or certify the FEIR before an adequate alternatives analysis with a reasonable range of alternatives is prepared and reviewed.

**III. THE CITY CANNOT CERTIFY THE FEIR BECAUSE APPROXIMATELY 7,000 SQUARE FEET OF LAND OWNED BY HRC WAS ILLEGALLY DEEDED TO THE PROJECT APPLICANT, AND IS IMPROPERLY BEING USED AS PART OF THE PROJECT.**

As referenced in HRC’s written comments dated March 7, 2007 to the City Attorney, Mayor and City Councilmembers, and Planning Staff, HRC recently discovered that the City of Pasadena issued a “Certificate of Compliance” in 2006 approving a lot line adjustment whereby the project applicant illegally deeded to itself approximately 7,000 square feet of HRC’s land, without permission or the legal authority to do so.

The project applicant proposes to build a loading dock, parking access, the parking entrance, and approximately 18 residential units on land that belongs to HRC, not including portions of other units partly on HRC's property. (See Exhibit 1.)

The applicant insists that the land transfer was proper but fails to provide evidence that the person who applied for the adjustment, Mark Knapp, had the authority to do so. Further, the applicant has not yet rebutted HRC's facts that additional square footage amounting to approximately 7,000 square feet was illegally transferred during the process, which 7,000 square feet were never meant to be a part of the lot line adjustment.

The City must be certain that the issue of land ownership is resolved before the FEIR is approved. If HRC's land is being impermissibly used, there will be a significant, irreversible, adverse impact to HRC, the Ambassador Auditorium, and the environment.

Moreover, because the Project as proposed cannot go forward, the Project description in the DEIR and FEIR must be corrected. A finite project description is the *sine qua non* of an adequate EIR under CEQA. Here, the Project description must change to reflect the correction of excluding the portions of the Project shown in Exhibit 1 which are currently on HRC's property.

The Project description is also incomplete because a Project feature is the transformation of the Great Lawn (part of which HRC owns, thus subjecting the City to potential inverse condemnation liability) into a public park, with an unknown number of public events. One cannot analyze the Project, or the Project's impacts, when the full nature of the Project, including the number and types of public events that would be held on the Great Lawn, have been identified. This is again a fatal flaw in the Project description.

#### **IV. THE CITY CANNOT APPROVE THE VESTING TENTATIVE TRACT MAP.**

The City cannot approve the Vesting Tentative Tract Map because the proposed subdivision of property includes property owned by HRC. (Exhibit 1.) Pursuant to Government Code Section 66474, the City cannot approve the Vesting Tentative Tract Map as a result of at least the following [see in particular the bolded sections]:

- “(a) **The proposed map is not consistent with applicable general and specific plans.**
- “(b) The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- “(c) **The site is not physically suitable for the type of development proposed.**
- “(d) **The site is not physically suitable for the proposed density of development.**

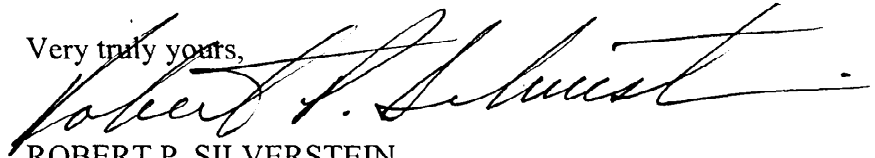
- “(e) **The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage.**
- “(f) The design of the subdivision or type of improvements is likely to cause serious public health problems.
- “(g) The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.”

(Govt. Code § 66474.)

**V. CONCLUSION.**

The Project in its current form violates CEQA, violates the Government Code regarding approving subdivisions, and illegally uses portions of HRC's property. We urge the City Council to deny certification of the FEIR and the Project in relation to the critical defects of the Project described above associated with the Sunrise lower campus building.

Very truly yours,



ROBERT P. SILVERSTEIN

FOR

THE SILVERSTEIN LAW FIRM

Encls.



# PARCEL EXHIBIT

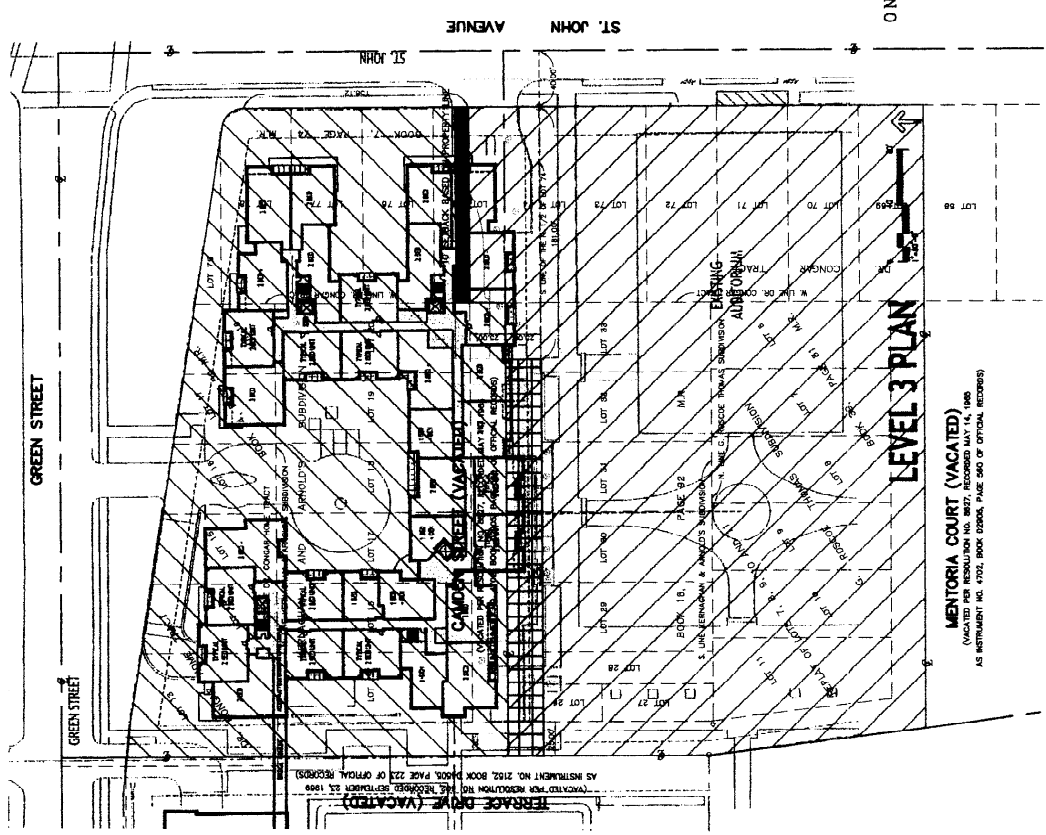
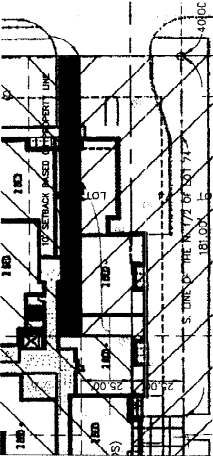
CITY OF PASADENA, COUNTY OF LOS ANGELES  
 STATE OF CALIFORNIA  
 DATE OF SURVEY: DECEMBER 14, 2006  
 DAVID E. WOOLLEY P.L.S. 7304  
 D. WOOLLEY & ASSOCIATES, INC.

**HATCH KEY.**

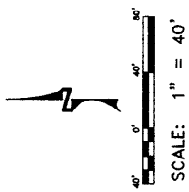
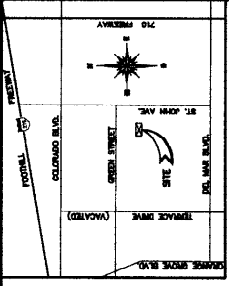
- INDICATES "HRC" PARCEL PER GRANT RECORDED MAY 14, 2004, AS INSTRUMENT NO. 04-1227597.
- INDICATES "HRC" PARCEL PER GRANT RECORDED MAY 14, 2004, AS INSTRUMENT NO. 04-1227598. THE PORTION OF THE REMAINDER AFTER A SUBSEQUENT GRANT "HRC".
- INDICATES EXISTING "HRC" PARCELS PER ENCUMBRANCE EASIMENT RECORDED MAY 14, 2004, AS INSTRUMENT NO. 04-1227598.

**NOTE.**  
 PARCELS EAST WHICH ARE NOT HATCHED HEREON.

## DETAIL OF PROPOSED BUILDING ON HRC PROPERTY



**MENTORIA COURT (VACATED)**  
 (VACATED PER RESOLUTION NO. 1867, RECORDED MAY 14, 1988  
 AS INSTRUMENT NO. 4702, BOOK 0268, PAGE 240 OF OFFICIAL RECORDS)



**PURPOSE OF SURVEY:**  
 TO DETERMINE THE LOCATION OF THE EXISTING BUILDING RELATIVE TO THE RECORD PARCEL LINES SHOWN.

**LEGEND:**  
 S - SOUTH  
 N - NORTH  
 W - WEST  
 E - EAST  
 C - CENTER LINE  
 M.R. - METEOROLOGICAL RECORDS  
 OF LOS ANGELES COUNTY

**SURVEYOR'S STATEMENT:**  
 I, DAVID E. WOOLLEY, A LICENSED SURVEYOR, HAVE PREPARED THIS SURVEY IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACTS OF THE STATE OF CALIFORNIA, AND I CERTIFY THAT I AM A LICENSED SURVEYOR IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, LICENSE EXPIRATION DATE: 12/31/08.



DAVID E. WOOLLEY  
 P.L.S. 7304  
 D. WOOLLEY & ASSOCIATES, INC.  
 LICENSE EXPIRATION DATE: 12/31/08

FILE NO. 6197	CLIENT: HARVEST ROCK CHURCH	SCALE: 1" = 40'
DRAWN BY: TDR	ADDRESS: CITY OF PASADENA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA	DATE: 01/09/07
PROJECT: PARCEL EXHIBIT	2832 WALNUT AVENUE, SUITE A, PASADENA, CA 92380	REVISIONS:
D. WOOLLEY & ASSOCIATES		



## **CURRICULUM VITAE**

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David E. Woolley  
Professional Land Surveyor  
D. Woolley & Associates, Inc.  
2832 Walnut Avenue, Suite A, Tustin, California 92780  
714-734-8462  
[dave@dwoolley.com](mailto:dave@dwoolley.com)

### **PROFESSIONAL LICENSES**

California License: PLS 7304  
Nevada License: PLS 13299

### **AFFILIATIONS**

California Land Surveyors Association-Orange County Chapter  
California Land Surveyors Association- Chapter Representative for the State

### **SPECIALIZED COMPETENCE**

Expert in the following: Land Surveying; standard of care; boundary line determination and analysis; boundary disputes; deed interpretation; boundary reconstruction; easement analysis and construction; map preparation; ALTA surveys; documentation of construction defects; settlement/displacement surveys; historical property analysis.

### **BACKGROUND AND HONORS**

- Geophysical Surveying Curriculum: National College, Rapid City, So. Dakota
- Land Surveying Curriculum, Santa Ana Community College, Santa Ana, California
- Legislative Chairman-California Land Surveyor's Association, Orange County Chapter 1996-Present
- Authored Assembly Bill 557 (AB 557) 1993, modifying the Subdivision Map Act
- Consultant to Professional Land Surveyor's (Peer to Peer) on boundary, mapping and survey analysis
- Engineering 118 and 119 Instructor at Rancho Santiago Community College 1991-1996

### **SELECTED PUBLICATIONS**

Authored "*The Wall of Fire*" Professional Surveyor, 1999  
Authored "*A Working Man's Guide to Laser Scanning*" California Surveyor, 2005

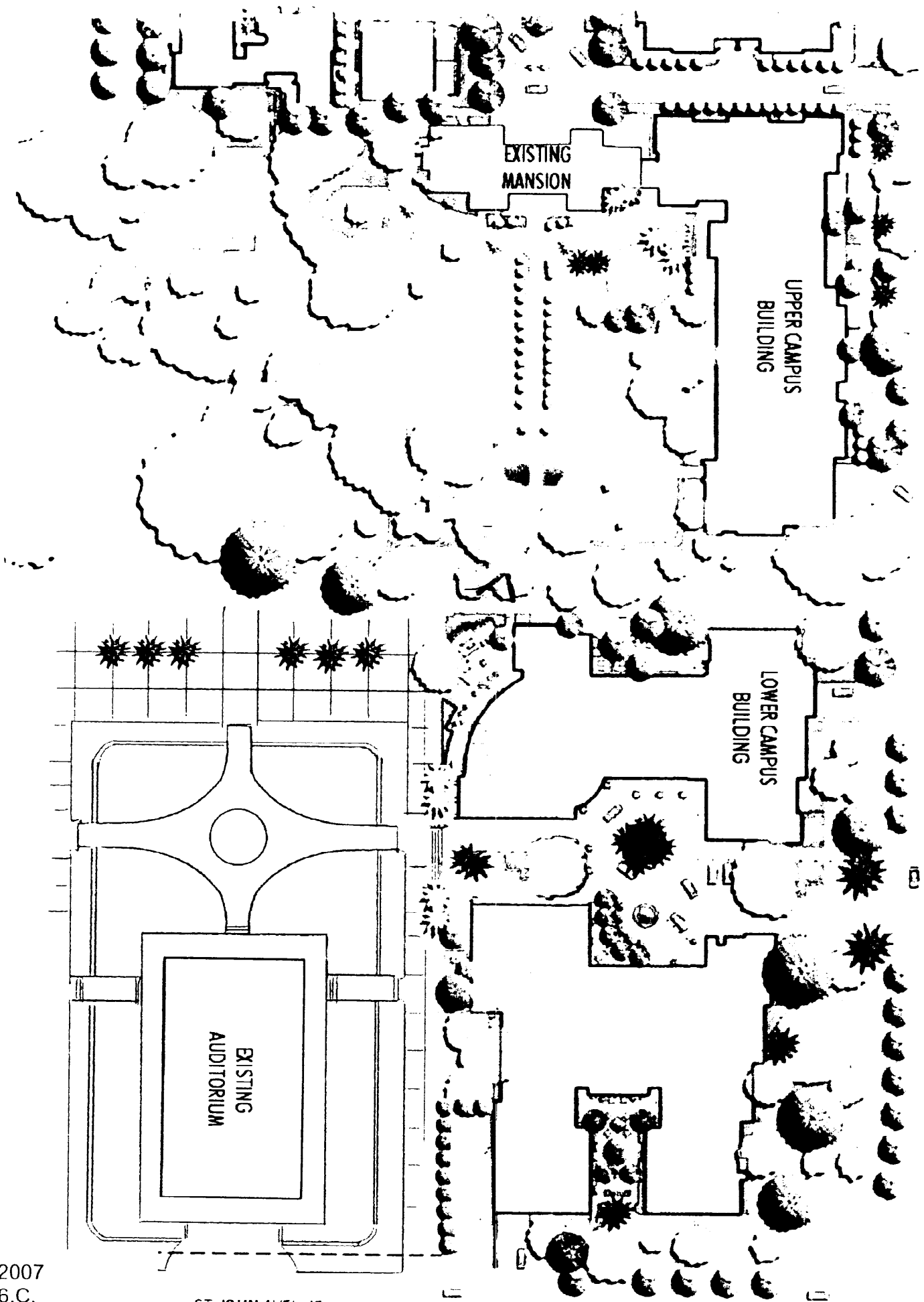


## **PROFESSIONAL EXPERIENCE**

President and Owner, D. Woolley & Associates, Tustin, California, 2003-Present  
Vice President, Johnson-Frank & Associates, Anaheim, California, 1998-2003  
Orange County Surveyor's office, Orange County, California, 1988-1998

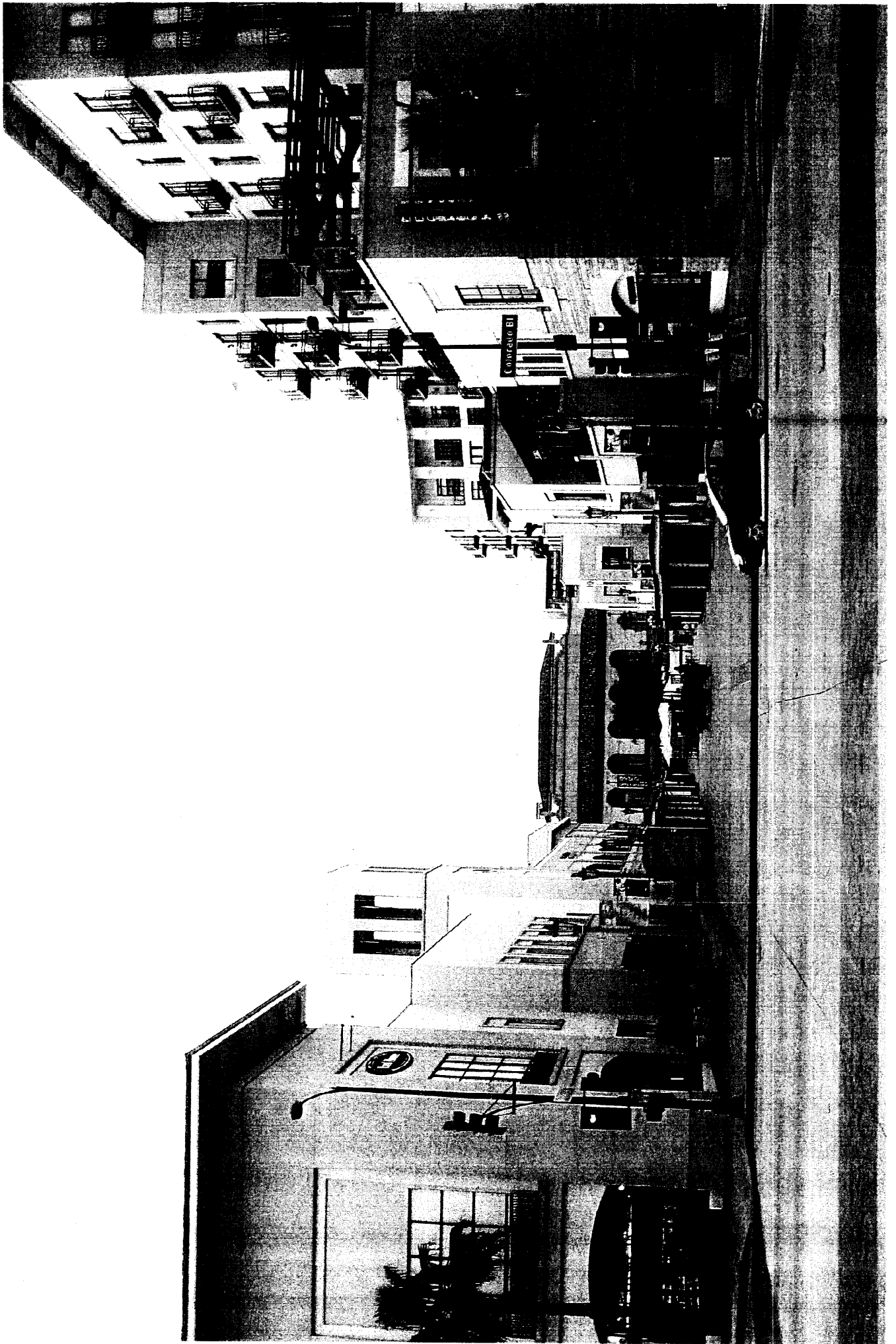
## **NOTABLE ACCOMPLISHMENTS**

- ❖ A cornerstone for D. Woolley and Associates is the ability to resolve complex boundary and title review issues and to provide surveys for cases involved in litigation. Mr. Woolley has performed twelve surveys in the last eighteen months that were subject to judicial review. To date, he has not been on the unfavorable side of a ruling. It should be noted that each of these cases were resolved in the mediation process.
- ❖ Mr. Woolley is a recognized authority in mapping and boundary surveying. He has been involved in the largest surveys undertaken in southern California in the last 18 years. His work has included the map checking of Record of Surveys along the Orange County boundary line. This map encompassed all of Orange County as well as the abutting counties of Los Angeles, San Bernardino, Riverside and San Diego. His work included research at all adjoining counties and the review of the map prior to recordation.
- ❖ Mr. Woolley was the former supervisor of the Record of Survey, Parcel Map and Tract Map submittals section of the Orange County Surveyor's office. He was responsible for compliance with state laws, local ordinances and boundary determination. In addition to the preparation of Records of Surveys, he reviewed over 1000 Tract Maps, 500 Parcel Maps and 300 Record of Surveys prepared by other Professional Land Surveyors.
- ❖ Working under contract for Southwest Division of the Navy, Mr. Woolley was the surveyor in responsible charge for filing a Record of Survey for Marine Corps Air Station - Miramar, a 24,000 acres military base in Southern California. The title work for this project was the most extensive work ever completed by First American Title Company. The survey, subsequent mapping and final recordation involved in the project required three years to complete. The supervisor of mapping checking for the San Diego County Surveyor's office recognized the work as the most extensive and complete survey seen in his 20 years with the agency.
- ❖ Mr. Woolley is recognized throughout Southern California as a boundary expert. He is often asked to review and/or perform surveys for other Professional Land Surveyors, particularly when such projects may be subject to litigation.
- ❖ Mr. Woolley was consulted - as an expert - to review a complete chain of title in a case against one of the wealthiest cities in Southern California. The result was a judgment favorable to his client.

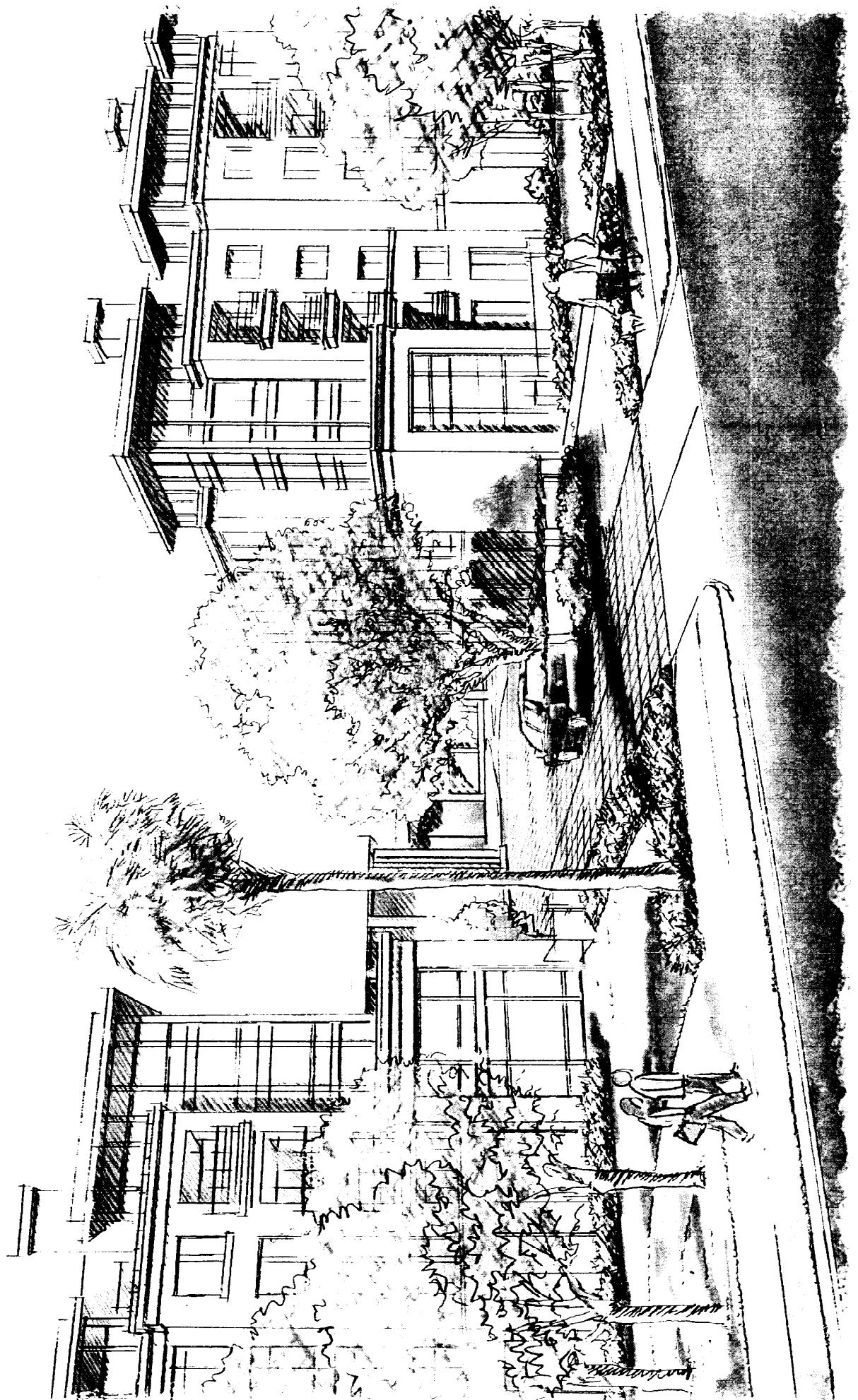


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ST JOHN AVENUE









**Memorandum**

TO: Jim Brock, President  
Environmental Planning Associates

FROM: Sam Silverman, Senior Environmental Scientist  
Terry A. Hayes Associates LLC

DATE: March 8, 2007

RE: Response to Memorandum Submitted by Hans Giroux and Robert Silverstein dated February 16, 2007 and Titled "Harvest Rock Church City Response to Comments"

Terry A. Hayes Associates LLC (TAHA) has reviewed the memorandum (Memo) dated February 16, 2007 and Titled "Harvest Rock Church City Response to Comments". The following analysis presents the comments in the Memo and followed by responses to each comment.

18.02 *The DEIR is stated as being based upon the SCAQMD CEQA Handbook and the City of Pasadena Municipal Code. As noted below, if any potential impacts are not included in these resources, they may be ignored. We respectfully beg to differ. Just because airborne dirt deposition is not contained in the SCAQMD Handbook, that is not justification to ignore the impact. Similarly, CEQA case law is very clear that reliance on compliance with an ordinance alone is not sufficient basis to verify the absence of an impact.*

See response to 18.03.

18.03 *The response states that the SCAQMD does not provide any analysis methodology for airborne dust deposition, so it may be ignored in an EIR. It purports that SCAQMD Rule 403 explicitly prevents the accumulation of visible dust beyond the property line. Both statements are incorrect. To suggest that the lack of a published methodology obviates the likelihood of an impact is a complete head in the sand response. Rule 403 further contains absolutely no prohibition against dust deposition. A copy of Rule 403 is attached. Please have the respondent highlight the "explicitly prevents" portion of the rule since such wording is nowhere to be found in the rule. The response also indicates that Harvest Rock has agreed to accept a specified amount of money for increased maintenance costs. It is our understanding that no such agreement has been reached.*



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Culver City, CA 90230  
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(Richard Bruckner)

Any potential for nuisance/maintenance impacts of the collection of fugitive dust off-site were not ignored, regardless of the fact that there is no set threshold of significance (EIR, p. 3.2-18). The air quality analysis utilized all available methodology and guidance published by the South Coast Air Quality Management District (SCAQMD) to ascertain potential project-related air quality impacts. The SCAQMD CEQA Handbook is entirely appropriate for analyzing project-level impacts. However, the SCAQMD CEQA Handbook does not contain guidance for assessing dirt deposition from construction activity onto nearby buildings.

SCAQMD Rule 403 (Fugitive Dust) prevents the accumulation of dust beyond the property line of the emitting source. Section (d)(1)(A) of Rule 403 states "No person shall cause or allow the emissions of fugitive dust from any active operation, open storage pile, or disturbed surface area such that the dust remains visible beyond the property line of the emission source." Contrary to the assertion in the Memo, this sentence is taken directly from SCAQMD Rule 403. SCAQMD requires implementation of many control measures that construction sites must apply to reduce fugitive dust emissions. These measures include, but are not limited to, watering, sweeping, and covering of stockpiles. The SCAQMD provides a hotline to report potential Rule 403 violations (1-800-288-7664). When a Rule 403 complaint is registered, an SCAQMD supervisor assigns an inspector to visit the project site. If a violation is apparent, the inspector may require further compliance or fine the contractor an unspecified amount. As such, fugitive dust and dust deposition will be greatly controlled by SCAQMD Rule 403.

The EIR specifically calls out compliance with Rule 403 as a regulatory means of reducing fugitive dust impacts, and the Memo does not present evidence that further mitigation is required or that compliance with Rule 403 will not mitigate the impact to below a level of significance. Compliance with Rule 403 is ensured by SCAQMD. The SCAQMD provides a hotline to report potential Rule 403 violations (1-800-288-7664). When a Rule 403 complaint is registered, an SCAQMD supervisor assigns an inspector to visit the project site. If a violation is apparent, the inspector may require further compliance or fine the contractor an unspecified amount.

The City understands that dirt deposition is a potential nuisance to Harvest Rock Church, and thus has gone beyond CEQA's requirements to ensure that the impact to the Church is further reduced. As such, the City has imposed a condition of approval requiring the Applicant to provide monetary compensation to the Harvest Rock Church for maintenance costs that may occur during construction (see Response to Comment 18.04 in the Final Environmental Impact Report (FEIR)). Therefore, potential dust deposition on the Harvest Rock Church has been previously addressed and considered in the FEIR. The commenter misreads the text of the responses to comments – the responses do not state that Harvest Rock Church has accepted a contribution, but rather that the applicant has gone beyond CEQA's requirements and has agreed to this condition of approval with the goal of making Harvest Rock Church "whole" with respect to any impacts from dust deposition.

Please refer to Response to Comment 18.03 in the Final EIR for a discussion of analysis methodology for airborne dust deposition.

- 18.04 *The response repeats the contention that the lack of a published methodology apparently eliminates the requirement for the analysis of an impact. The response again suggests that SCAQMD Rule 403 contains a prohibition against visible dust deposition. The response also reports that an agreement has been reached on possible increased maintenance costs. As noted in 18.03 above, none of these responses are correct or acceptable.*

This comment restates what was asserted in Comments 18.03 and 18.04. Responses to Comments 18.03 and 18.04 in the Final EIR address dust deposition and SCAQMD Rule 403.

- 18.05 *The response states that noise impacts will be mitigated by an 10-foot wall separating ground-level construction area activities from ground-level receivers on the Harvest Rock property. The project significance threshold is based upon the noise ordinance which limits the sound crossing the property line from any source at any location within the plane separating two properties, not the sound emanating from a ground-level source affecting a ground-level receiver. During construction, there will be noise generated at well above ground, impacting the façade of the auditorium well above ground, which will not be mitigated by a 10-foot barrier. The revised mitigation measure does not mitigate the sound from any elevated source, nor does it mitigate impacts to an elevated receiver, and it analyzes the impact at the receiver, not at the plane separating the properties as required by the ordinance which is the presumed significance threshold.*

The major noise source during construction activity is generated by heavy-duty construction equipment (e.g., excavators, front-end loaders, and backhoes). Any inference in the Memo that such noise generating construction equipment would be used above ground level is wrong. Construction equipment would be located on the ground level only. As such, the proposed ten-foot sound blanket would sufficiently shield engine noise. It is accurate that construction noise would be generated on levels above the first floor (e.g., hammering, stapling and shouting by construction workers). However, this noise would generally be less intensive than noise generated by heavy-duty construction equipment. It is important to note the strengths of Mitigation Measures 3.8-3 and 3.8-5. Mitigation Measure 3.8-3 would require an acoustical engineer be hired to ensure that the construction contractor will comply with the mitigation measures. Mitigation Measure 3.8-5 would severely restrict construction noise during Harvest Rock Church services and concerts. This mitigation measure would ensure that construction noise inside the Harvest Rock Church during services and concerts would not exceed 35 dBA  $L_{eq}$  and prevents construction activity from occurring within 325 feet of the Church during services and concerts. This further reduces any impact on elevated noise receptors to below a level of significance. Mitigation Measure 3.8-5 would also establish a "noise disturbance coordinator" for the project site. The disturbance coordinator would provide a way for Harvest Rock Church to register noise complaints. The disturbance coordinator would determine the cause of the complaint and implement mitigation measures to resolve the issue.

Therefore, Mitigation Measures 3.8-3 and 3.8-5 would ensure that construction noise would not significantly impact Harvest Rock Church services and concerts. These mitigation measures would provide sound barriers, restrict the location of construction activity, require an acoustical engineer to monitor noise, and provide a noise disturbance coordinator.



- 18.06 *The revised mitigation measure places the onus of establishing pre-construction conditions, of documenting any damage, of living with the damage until construction activity is completed at the senior/life care facility, of contracting any repairs, and of not being guaranteed that the repair will actually be reimbursed. Putting full responsibility on the recipient of possible damage instead of on the perpetrator is completely backwards, and does not take into account the level of personnel time and effort required in each step of the above numerous responsibilities to establish a claim.*

Based on the above comment, Mitigation Measure 3.8-8 has been revised to read:

The applicant shall request that Harvest Rock Church provide the applicant access to the Harvest Rock site so the applicant can take pre-construction pictures of previously damaged tiles in the fountain and reflecting pool. Pictures of any additional damaged tiles shall be taken when project construction activity at the senior life/care component is complete, to document whether any additional damage occurred as a result of construction. Upon documentation of any damage attributable to construction, Harvest Rock Church shall provide the applicant with a copy of two estimates for repair of the construction-damaged tiles. The applicant shall retain one of the two persons providing the estimate to complete the repairs, and the applicant shall pay Harvest Rock Church for those repairs. The applicant shall ensure that the repair work meets the Secretary of the Interior Standards for Preservation to the satisfaction of the Design and Historic Preservation Section of the Planning and Development Department.

- 18.07 *The response is a repeat of the DEIR which first adopts a 5 dB noise increase significance threshold, but then never tests that threshold against any project-related noise generation. The significance threshold is a quantitative threshold, and then the whole impact discussion is qualitative. The response states multiple times that project-related noise generation "would not be expected to increase ambient levels by more than 5 dB" without proper identification of the ambient level which changes substantially by time and location, or by quantification of the project-related noise level against which the 5 dB threshold could be compared.*

As discussed in Response to Comment 18.07 in the FEIR, the proposed project would be located in a typical ambient noise environment. The project site is bounded on all four sides by roadways and/or institutional land uses. The proposed project would potentially increase ambient noise levels through parking activity and vehicle access, mechanical equipment, and courtyard activity. The majority of parking would be located in subterranean garages. Any parking activity associated with subterranean garages would be inaudible at ground level. As a result subterranean parking activity would increase ambient noise levels by zero dBA. Audible vehicle noise would be generated by vehicles using the limited surface parking spaces and by vehicles accessing parking. Access for parking would be located off of Green Street, Orange Boulevard, and Del Mar Boulevard. An automobile traveling at 25 miles per hour generates a noise level of approximately 60 dBA  $L_{eq}$ . As shown in Table 3.8-1 of the FEIR, existing ambient noise levels along Green Street, Orange Boulevard, and Del Mar Boulevard are 62.9, 67.4, and 63.3 dBA  $L_{eq}$ .

When added to existing ambient noise levels, vehicle access noise would increase noise levels by less than two dBA at all access locations.

A pick-up/drop-off area for the senior life/care facility would be located along Green Street. As demonstrated above, project-related vehicle access from Green Street would not increase ambient noise levels by more than five dBA. In addition, the proposed building for the senior life/care facility would shield all pick-up/drop-off access noise from Green Street. As such, pick-up/drop-off noise would not be audible at the Harvest Rock Church.

Regarding surface parking, one lot would be located adjacent to Orange Grove Boulevard. As demonstrated above, project-related vehicle activity along Orange Grove Boulevard would not increase ambient noise levels by more than five dBA. The second surface parking lot would be accessed via Del Mar Boulevard and would be adjacent to single-family residences. The existing ambient noise level at these residential land uses is approximately 54.2 dBA  $L_{eq}$ . An automobile traveling at 25 miles per hour generates a noise level of approximately 60 dBA  $L_{eq}$ . The single-family residences are separated from the project site by walls ranging from three to six feet. The three-foot wall also includes a six-foot vegetation hedge. The existing walls would decrease parking noise by at least three dBA. As a result, the new ambient noise level at these residential land uses would be approximately 58.8 dBA  $L_{eq}$ . This would result in an increase of 4.6 dBA, which is less than the five dBA significance threshold. In addition, it should be noted that the location of the proposed surface lot is currently used for surface parking. As such, the proposed surface parking lot would not introduce a new noise source to the residential land uses. Therefore, parking and vehicle access noise would result in a less-than-significant impact.

Section 9.36.100 (Machinery, Equipment, Fans, and air conditioning) of the City of Pasadena Municipal Code states that the operation of mechanical equipment cannot exceed the ambient noise level by five dBA at the property line of operation. Therefore, mechanical equipment (e.g., parking structure air vents, heating ventilation and air conditioning (HVAC) equipment) would be designed to be located within an enclosure or confined to the rooftop of proposed structures. This required design feature would prevent mechanical equipment noise from exceeding the five dBA significance threshold.

The project site would not include a designated activity area. Low level noise would result from people traversing the walkways throughout the project site. Conversational noise along the pathways would be approximately 65 dBA at three feet. This would attenuate by three dBA with every doubling of distance. As such, conversational noise would be approximately 56 dBA at 18 feet, which is entirely reasonable for an urban area. The front entrance to the senior life/care facility would be located along Green Street. This would be the most likely location for gatherings of people. As such, the number of pedestrians traversing the paths near the Harvest Rock Church as a result of the proposed project would be minimal. It should be noted that the Noise Ordinance limiting noise level increases to less than five dBA above ambient was not designed to control pedestrian noise. It was designed to control nuisance noise.

- 18.08 *The revised mitigation measure does not identify which metric (Leq, mean, max, etc.) is included in the 35 dBA interior design limit, and again proposes to install sound barriers to shield ground-level receivers at the auditorium when the structure is more than four stories tall and its acoustics are affected not by what is happening at ground level, but at all levels of the impacted building. The most salient mitigation measure is the restriction of heavy equipment operations within 325 feet of the auditorium during services or concerts. This measure should be added as a bullet item in the suggested revised mitigation measure.*

This comment discusses three separate issues. First, the 35 dBA interior design limit is in terms of  $L_{eq}$ . Second, please refer to Response to Comment 18.06 in the Final EIR for a detailed construction noise discussion. Third, the 325-foot construction distance restriction is a part of Mitigation Measure 3.8-3; whether it is listed as a bullet or discussed in a paragraph has no bearing on the effectiveness of the mitigation measure. Therefore, there is no need to revise the mitigation measure.

- 18.09 *The responder reiterates that the equipment noise data presented in the DEIR is taken without mufflers. We would point the responder to the most recent compilation of construction equipment noise data prepared by the Federal Highway Administration (FHWA, 1995), and of measurements conducted during the Central Artery/Tunnel project in Boston of equipment with mufflers and ask again to revise the conclusion that the data in the DEIR represents unmuffled noise before claiming additional credit for muffling as follows (dBA):*

Equipment	DEIR	Central Artery	USDOT (1995)
Backhoe	85	83	82
Crane	83	87	83
Loader	79	86	85
Concrete Truck	85	85	88
Roller	74	--	74
Concrete Pumps	82	--	82

*Strangely enough, the average noise levels reported by recent noise measurement projects for equipment with standard mufflers is almost identical to the levels cited in the EIR as being amenable to considerable additional noise reduction. As with the heavy diesel equipment itself sometime, the responder is blowing smoke in providing a response that has no basis in fact.*

The noise analysis utilized construction equipment noise levels contained in the *Handbook of Environmental Acoustics* (Cowan, 1994). This is an acceptable source of noise information and is one of the sources used throughout the industry. The noise levels provided under the USDOT column are published in the *Transit Noise and Vibration Impact Assessment* (FHWA 1995). This document does not state that the construction noise levels are muffled. Furthermore, the project is not a transportation project like the Central Artery project or associated with the FHWA or

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USDOT. The analysis would have used equipment noise level information provided by the FHWA or the USDOT if it was a transportation project.

The information provided in the table does not show that the numbers under the Central Artery or the USDOT headings are more conservative than the numbers provided for the project analysis. Note that the noise levels presented in the DEIR for backhoe are higher than the other backhoe noise levels. In addition, roller and concrete pump noise levels are identical. The source for the construction noise analysis is acceptable and construction noise levels were reasonably and accurately presented in the FEIR.

18.10 *Response noted. Please see Comment 18.08 above.*

Please see Response to Comment 18.08 above.