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December 2, 2020

**RE: Appeal Justification MB Hotel Partners, LLC Hotel Project (600 S. Sepulveda Blvd.);
City Planning Commissions 11/18/2020 Adoption of Resolution No. PC 20-****
(Master Use Permit and CEQA Class 32 Categorical Exemption)**

On behalf of UNITE HERE Local 11 and its members (“**Local 11**” or “**Appellant**”), this Office respectfully appeals (the “**Appeal**”) the City of Manhattan Beach (“**City**”) Planning Commission’s adoption of Resolution No. PC 20-**** granting MB Hotel Partners, LLC (“**Applicant**”) a Master Use Permit (“**MUP**”) and Class 32 Categorical Exemption (“**CE**”) allowing a new 162-room, 81,775-SF hotel with full alcohol service for hotel patrons and a new 16,348-SF retail and office building and reduced parking with 152 parking spaces (“**Project**”) at 600 S. Sepulveda Boulevard (“**Site**”).^{1, 2} Pursuant to Manhattan Beach Municipal Code (“**MBMC**” or “**Code**”) § 10.100.010.C, this Appeal is timely submitted within 15 days of the Planning Commission’s November 18, 2020 adoption of Resolution No. PC 20-**** granting the requested MUP and CE (collectively “**Project Approvals**”).

I. STANDING OF LOCAL 11

The MUP may be appealed by “anyone” (MBMC § 10.100.010.B). Local 11 represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix, Arizona. Members of Local 11, including hundreds who live and/or work in the City, join together to fight for improved living standards and working conditions. Making these comments to public officials in connection with matters of public concern compliance with applicable zoning rules and compliance with the California Environmental Quality Act (“**CEQA**”)³ is protected by the First Amendment, the *Noerr-Pennington* doctrine, and is within the core functions of the union. Unions have standing to litigate land use and environmental claims.⁴ So too, Appellant has public interest standing given the Project Approvals relate to the City’s public duty to comply with applicable zoning and CEQA laws, and where Local 11 seeks to have that duty enforced.⁵

¹ All page citations referenced herein this comment letter are either to the document’s stated pagination (referenced by “p.”) or to the pages’ location within the referenced PDF document (referenced by “PDF p.”).

² Department of Community Development (11/18/20) Memorandum RE Project (“**Staff Report**”), PDF pp. 1-2, 7-13, 89-97, https://cms6ftp.visioninternet.com/manhattanbeach/commissions/planning_commission/2020/20201118/20201118-3.pdf.

³ Pub. Res. Code § 21000 *et seq.* and 14 Cal. Code Regs. § 15000 *et seq.* (“**CEQA Guidelines**”).

⁴ See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.

⁵ See e.g., *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 914-916, n6; *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158-1159; *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205-206; *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166, 169-170.



II. THE BASIS FOR THE APPEAL

This Appeal challenges the Project Approvals on grounds of non-compliance with applicable land-use, zoning, and environmental requirements under the Code and CEQA, including but not limited to the following:

1. **Inconsistency with Code-Required Parking Requirements:** The Project includes only 152 parking spaces as compared to the 243 spaces required under the Code (Staff Report, PDF pp. 4, 7-8, 11, 90-93), which exceeds the maximum 15 percent reduction allowed under MBMC § 10.64.040 (id. at PDF p. 115). Additionally, the Project's parking analysis omits eat & drink parking requirements in violation of the Code (see MBMC § 10.64 subds. 010.A & .020.D), which artificially deflates the Code-required baseline for parking requirements. Furthermore, the Project's parking analysis fails to utilize the industry-standard 85th percentile parking-demand (Staff Report, PDF p. 115-122). These errors mask the Project's Code-deficient parking spaces that will cause overflow parking into nearby residential streets, as confirmed by expert traffic comments (attached hereto as "**Exhibit A**").
2. **Questionable FAR Consistency:** The Project's underlying zoning permits a maximum 1.5:1 floor-area-ratio ("**FAR**") or maximum floor-area-factor ("**FAF**") under the Code (Staff Report, PDF pp. 125-126; see also MBMC § 10.16.030). Here, at 98,123 square feet of total development, the Project is very close (or perhaps exceeds) the max 1.5:1 FAR depending on varying lot area sizes identified (Staff Report, PDF pp. 90, 125-126 [vary between 65,219 or 65,419 SF]). This discrepancy cannot wait to be cleared during plan check, as suggested by the CE (Staff Report, PDF p. 125), because the CEQA Class 32 exemption can only apply if the Project is consistent with all applicable zoning regulations, such as the FAR/FAF max limitations.
3. **VMT Impacts:** The CE claims the Project will have no Vehicle Miles Traveled ("**VMT**") impacts based on approximately 130 net average daily trips ("**ADT(s)**") generated by the Project after accounting for the Site's former use as a El Torito restaurant (generating 941 ADTs) (Staff Report, PDF p. 131). However, that restaurant vacated in late-2018 (id., at PDF p. 90)⁶ and, thus, the VMT baseline should be zero.⁷ So too, the Project's disclosed ADTs vary significantly in the CE analysis, ranging from 983-2,200 ADTs (Staff Report, PDF pp. 129, 132).⁸ This is further complicated by the CE's failure to account for ADTs associated with eat & drink uses discussed above. Not only does this mask further Level of Service ("**LOS**") impacts,⁹ but so too it entirely defeats the claim that the Project would not exceed the 110 ADT screening threshold recommended by the Governor's Office of Planning and Research

⁶ See also Yelp (last accessed 12/1/20) El Torito Manhattan Beach Webpage (comments noting closure), <https://www.yelp.com/biz/el-torito-manhattan-beach-3>.

⁷ Which is consistent with various traffic impact study procedures. See e.g., Los Angeles Department of Transportation, 2019 Transportation Assessment Guidelines, p. 38, https://planning.lacity.org/odocument/0ce2cd84-9034-4874-80d9-10d1cebcd9e9/ta_guidelines_-20190731_0.pdf; Los Angeles County, 2010 Congestion Management Program, p. D-3, http://media.metro.net/projects_studies/cmp/images/CMP_Final_2010.pdf.

⁸ The CE claims that the approximate 55 percent reduction in the Project's ADTs (i.e., from 2200 to 983 ADTs) is attributed to use of a March 8, 2020 traffic memo that utilized older ITE trip rates that did not account for pass-by-trips (Staff Report, PDF p. 132 [fn. 11]). However, this claim cannot be vetted given the Staff Report does not include the March 2020 traffic memo.

⁹ For example, two intersections at Sepulveda/Manhattan Beach and Sepulveda/Artesia are already at a LOS "F" level (Staff Report, PDF pp. 166, 173).

(“OPR”) (Staff Report, PDF p. 131). Moreover, OPR’s 110 ADT screening threshold was clearly intended for “small projects” like those seeking a CEQA Class 1 exemption that add up to 10,000 square feet to an existing structures¹⁰—which is not the case here where the Project seeks a Class 32 exemption that will demolish an 8,500-SF restaurant and construct a new 81,775-SF hotel and new 16,348-SF retail/office building (totaling 98,123 SF) (Staff Report, PDF pp. 90-91, 125). The Project cannot be consistent with OPR’s VMT guidance without applying an appropriate numeric threshold for the Project’s new VMTs.¹⁰

4. **Construction Noise Impacts:** Here, the residential uses located approximately 40 feet away would experience a construction Lmax of 91 dBA (Staff Report, PDF pp. 481-482). Yet, this very loud construction noise is deemed not significant because the City Code limits only allowable hours of construction (id.). CEQA requires the use of an actual significance threshold supported by substantial evidence, which allowable hour restrictions are entirely irrelevant as to the sound levels experienced by noise-sensitive receptors. Not only is the less than significant finding untethered to any relevant threshold—such as the 5 dBA hourly Leq threshold used by the City for other projects¹¹—but so too it arbitrarily deemphasizes significant noise levels suffered by nearby residents during the Project’s 18-month construction period (Staff Report, PDF pp. 108, 481-482). Furthermore, notwithstanding the Code’s lack of a quantitative threshold, the CE entirely avoids the consideration of feasible mitigation measures, such as those recommended for other City projects.¹²
5. **Operational Noise Impacts:** Here, the Project includes 25 pieces of HVAC equipment, but the CE analyzed only one piece of equipment. Additionally, the Project includes various noise-generating outdoor areas (e.g., rooftop bar, roof terrace, hotel bar patio), which the CE analyzed utilizing unrealistic outdoor speaking levels for a single talker as compared to the speaking levels from alcohol-charged crowds potential as large as 200. Furthermore, the CE failed to address noise impacts from amplified music or live performance. Collectively, these errors mask potential impacts to noise-sensitive receptors around the Project Site, as confirmed by noise expert testimony (see Exhibit A).
6. **Air Quality Impact:** Here, the CE claims the Project will have no air quality impacts, relying on CalEEMod modeling (Staff Report, PDF pp. 133-137). However, upon reviewing the CalEEMod output files, it is clear that numerous changes were made to the CalEEMod default values, such as CO2 Intensity Factor (reduced from 702.44 to 534 lb/MWhr), CH4 Intensity Factor (reduced from 0.029 to 0 lb/MWhr), N2O Intensity Factor (reduced from .006 to 0 lb/MWhr), and numerous vehicle emission factors (Staff Report, PDF pp. 650-693). These changes from default values must be supported with substantial evidence;¹³

¹⁰ See OPR (Dec. 2018) Technical Advisory on Evaluating Transportation Impacts in CEQA, pp. 12, 15-18, https://www.opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf.

¹¹ See City (Jun. 2012) Manhattan Village Shopping Center Project Draft EIR, PDF p. 19, 23-25, <http://cms6ftp.visioninternet.com/manhattanbeach/manhattanvillage/Final2014/files/IV.F.%20%20Noise.pdf>.

¹² See e.g., Ibid., at PDF p. 37-39 (recommending mitigation measures F-1 through F-2); City (Jul. 2016) Manhattan Beach Gelson’s Market IS/MND, PDF p. 114-116, 123 (recommending mitigation measures NOI-1 through NOI-8), <https://www.citymb.info/home/showdocument?id=23835>; City (May 2019) Aviation Boulevard at Artesia Boulevard Southbound to Westbound Right Turn Improvement Project IS/MND, PDF pp. 83-84 (recommending mitigation measures N-1 and N-2), <https://files.ceganet.opr.ca.gov/251146-2/attachment/huhYqk-h4p1izzE5KCMjZoC8MWg-bJJOFDQdt22jld8b8Uge6ejTjyV9NVohyHpW48MCPQfdrxpVCpUa0>.

¹³ CAPCOA (Nov. 2017) CalEEMod User’s Guide, pp. 12-13, http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4.

otherwise, the CE may underestimate air pollutant emissions which infects the CE's less than significant determination.

7. **GHG Impacts:** Here, the CE discloses annual greenhouse gas ("GHG") emissions will be approximately 2,445 MTCO₂e/yr (Staff Report, PDF pp. 694-695).¹⁴ The Project's maximum service population is 95 given there will be no residents and Applicant estimates 60-95 full/part-time employees served by the Project (Staff Report, PDF p. 108). Hence, the Project would result in a 25.7 MTCO₂e/yr/sp efficiency level, which exceeds the 6.0 MTCO₂e/yr/sp threshold previously used by neighboring City of Hermosa Beach,¹⁵ and the 4.8 and 3.0 MTCO₂e/yr/sp threshold for target years 2020 and 2035 (respectively) recommended by South Coast Air Quality Management District ("SCAQMD").¹⁶ Furthermore, due to the unexplained changes from CalEEMod default values (discussed above), the Project's total GHG emissions may also be understated and may exceed the 3,000 MTCO₂e/yr threshold proposed by SCAQMD¹⁷ and used by the City in past projects.¹⁸
8. **Code-Required Findings Cannot be Made:** Absent full compliance with CEQA, the City cannot make the Code-required land-use findings with substantial evidence (see MBMC §§ 10.64.040, 10.84.060), particularly those findings concerning public safety and welfare (see MBMC § 10.84.060.A., subs. 2 & 4).
9. **Premature Filing of NOE:** Because any timely-filed appeal stays actions of the Planning Commission (see MBMC §§ 10.100.010.E; 10.84.080), the MUP is not final and the filing of a Notice of Exemption ("NOE") is, thus, premature.^{19, 20}

In sum, the above-mentioned issues demonstrate that the Project does not qualify for a CEQA Class 32 exemption (CEQA Guidelines § 15332). So too, these issues have been echoed by numerous City residents (Staff Report, PDF pp. 27-33, 923, 937-938, 941-942, 954-955, 976-977, 981-1003, 1011-1060), including MB Poets who submit expert opinions to the City from traffic

¹⁴ Including 31.7 MTCO₂e/yr construction emissions amortized over 30-year period [(811 + 140)/ (30 years)] and 2,413.7 MTCO₂e/yr operational emissions.

¹⁵ City of Hermosa Beach (1/31/18) Final EIR for Skechers Design Center and Executive Office, p. 185, <https://www.hermosabeach.gov/Home/ShowDocument?id=10288>.

¹⁶ SCAQMD (9/28/10) Minutes for the GHG CEQA Significance Working Group # 15, p. 2, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf); see also SCAQMD (12/5/08) Interim CEQA GHG Significance Threshold for Stationary Sources, Rules and Plans, p. 5, 6, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2); SCAQMD (Oct. 2008) Draft Guidance Document – Interim CEQA Greenhouse Gas (GHG) Significance Threshold, [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgattachmente.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgattachmente.pdf).

¹⁷ Ibid.

¹⁸ See e.g., City (Jun. 2012) Manhattan Village Shopping Center Project Draft EIR, PDF p. 37, 54, <http://cms6ftp.visioninternet.com/manhattanbeach/manhattanvillage/Final2014/files/IV.B.%20Air%20Quality.pdf>; Manhattan Beach Gelson's Market IS/MND, supra fn. 12, PDF pp. 81-82; Aviation Boulevard at Artesia Boulevard Southbound to Westbound Right Turn Improvement Project IS/MND, supra fn. 12, PDF p. 55.

¹⁹ City (11/19/20) Project NOE, <https://files.ceqanet.opr.ca.gov/266039-2/attachment/1kkwijn9DLrtMg1nc1RkQWTOJCVEjSIQBc7qTyTAkwgu0ApAjK9yk4q7QCoEvuYE6WdpZUoli0kf4IVr0>.

²⁰ See e.g., *Coalition for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408, 418, 425 (a prematurely filed NOE is "invalid"); *McAllister v. County of Monterey* (2007) 147 Cal.App.4th 253, 274; *San Franciscans for Reasonable Growth v. San Francisco* (1984) 151 Cal.App.3d 61, 70 n9; *Alta Loma v. San Bernardino County Comm.* (1981) 124 Cal.App.3d 542 (CEQA decision not final if appeals not exhausted or remain pending).


engineer Craig Neustaedter, acoustic expert Steve Rogers, and former Department of Alcoholic Beverage Control official Lauren Tyson (attached hereto as “**Exhibit A**”), as well as additional comments from MB Poets’ counsel (attached hereto as “**Exhibit B**”). By this reference, this Appeal incorporates in their entirety these attached comments and all other comments raised by any commenting party regarding the Project’s compliance with applicable land-use and environmental laws.²¹ Furthermore, Local 11 reserves the right to supplement the Appeal at future proceedings for this Project.²²

III. CONCLUSION

Appellant respectfully requests the City Council grants the Appeal and stay any further action on the Project until the issues discussed herein (and elsewhere in the Project’s administrative record) are adequately addressed in an appropriate environmental review, such as a Mitigated Negative Declaration (“**MND**”) or Environmental Impact Report (“**EIR**”).

Finally, on behalf of Appellant, this Office requests, to the extent not already on the notice list, for all notices of CEQA actions, Appeal hearings and any approvals, Project CEQA determinations, or public hearings to be held on the Project under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them.²³ Please send notice by electronic and regular mail to: Jordan R. Sisson, 801 S. Grand Avenue, 11th Fl., Los Angeles, CA 90017, jordan@gideonlaw.net.

Sincerely,



Jordan R. Sisson
Attorney for Appellant

Attachments:

Exhibit A: MB Poets’ Comments inclusive of Expert Opinions (11/17/20)
Exhibit B: Chatten-Brown, Cartstens & Minter LLP Comments (11/17/20)

²¹ See *Citizen for Clean Energy v. City of Woodland* (2014) 225 Cal.App.4th 173, 191; see also *Citizens for Open Government v. City of Lodi* (2006) 144 Cal.App.4th 865, 875.

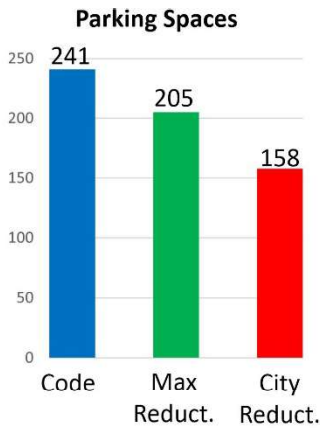
²² See e.g., Gov. Code § 65009(b); Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; *Communities for a Better Environment v. Richmond* (2010) 184 Cal.App.4th 70, 86; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120-1121.

²³ See Pub. Res. Code §§ 21092.2, 21167(f); Gov. Code § 65092; MBMC §§ 10.84.040.B, 10.84.050.B, 10.100.010.D, 10.100.020.B.

EXHIBIT A

PROJECT PARKING, TRAFFIC AND NOISE IMPACTS REQUIRE ENVIRONMENTAL REVIEW

MB Poets, an IRS 501(c)(4) public-benefit corporation, opposes the 600 S Sepulveda project ["600 PCH"], on behalf of nearby residents. Per below, the project violates city and state law, regarding parking, traffic and noise impacts, all substantiated by expert opinions.

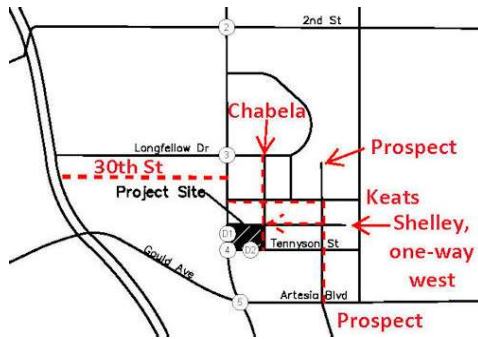


The city municipal code requires 241 parking spaces, although the shared-parking provision permits a 15% reduction, 36 spaces in this case, for a total of 205 spaces.

The November 18 staff report [STAFF, p. 116] cites *Parking Generation* published by the Institute of Transportation Engineers ["ITE"]¹ as the industry-standards for shared parking.

To calculate reductions, 600 PCH improperly understates peak-parking ratios, most notably, using the ITE average spaces per hotel room. This results in an 83-space reduction, or 131% higher than permitted by code. Use of the average demand also results in parking overflowing 50% of peak times. All this approved by staff.

Additionally, STAFF fails to include parking for eating and drinking use, which will require many more parking places in late evening, when the hotel parking peaks.

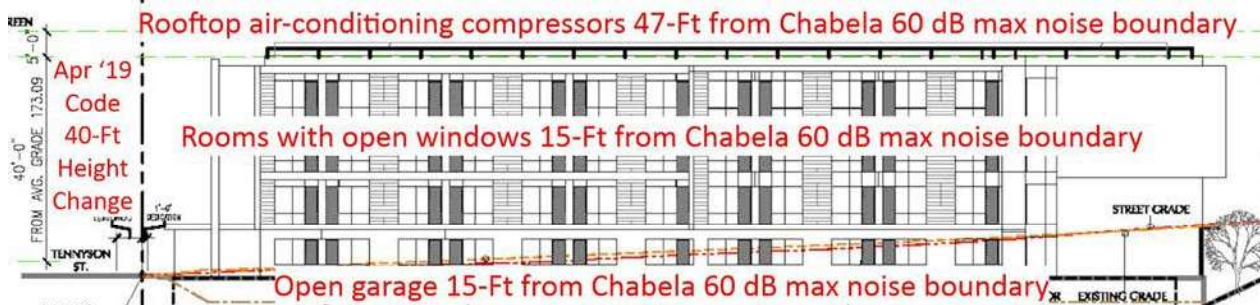


The 600 PCH traffic analysis improperly excludes residential streets marked in red, namely, Chabela, Keats Shelley and Prospect. STAFF, p. 109 claims Tennyson and Shelly barriers eliminate "Traffic impacts to the residential neighborhood directly east of Chabela." **Not true.**

Furthermore, the 600 PCH map eliminates 30th St, which carries project traffic to-from the beach area. This residential street also used by Skechers new buildings.

Consequently, CEQA² requires a cumulative traffic analysis, not just for 600 PCH, per transportation engineer Craig Neustaedter. [Exhibit 5, p. 3] More significantly, per CEQA Guidelines, the cumulative traffic impacts nullify the categorical exemption of In-Fill Development Projects assigned by city staff.

The east-elevation view below illustrates noise impacts from roof-top equipment, open hotel windows and garage ventilation openings. Noise from the 4th-floor outdoor bar will disturb residents west of Sepulveda, per acoustic expert Steve Rogers. [Exhibit 6, p. 5]



¹ *Parking Generation*, 5th Ed., Institute of Transportation Engineers, 2019

² CEQA: California Environmental Quality Act.

PARKING, TRAFFIC AND NOISE IMPACT SUMMARIES.

This section summarizes errors in the staff report, for the following CEQA factors:

- **Parking.** Both city staff and 600 PCH ignore MBMC § 10.64.040, which limits shared-parking reduction to 15% of total parking required by the municipal code. Furthermore, the 600 PCH analysis understates parking required, by using average parking-demand ratios, rather than the industry-standard 85th percentile values in *Parking Generation*.⁽¹⁾ Because the proposed 158 spaces do not comply with city code, parking becomes a CEQA factor, per Guidelines 14-CCR-15183 (f).
- **Traffic.** The 600 PCH analysis excludes nearby residential streets of Chabela, Keats, Shelley and Hermosa Beach 30th St, per transportation engineer Craig Neustaedter. Additionally, the analysis fails to include the cumulative traffic impacts from the Skechers office buildings currently under construction that straddle 30th St. This nullifies the categorical exemption of In-Fill Development Projects assigned by city staff, per CEQA Guidelines 14-CCR-15300.2 (b).
- **Noise.** The report by acoustic expert Steve Roger exposes the misrepresentations in the 600 PCH noise model, as follows:

- 1) For the open roof-top bar with upwards of 200 patrons, basing crowd-noise impacts on a single person speaking in an “unrealistically low-level of speech”; and,
- 2) Representing noise from roof-top equipment to only one of 25 HVAC and refrigeration units.

Furthermore, for the hotel east wall, a virtual wall of noise 20-feet from the Chabela property line, 600 PCH failed to consider the cumulative impulsive noise from 48 openable hotel-room windows and the open garage, such as laughter, shouts, screams, fights, squealing tires, slammed doors and loud vehicles.

Parking Violates Municipal Code and Misrepresents *Parking Generation* 5th Ed⁽¹⁾.

The municipal code limits the shared-parking reduction, as follows, “*The maximum allowable reduction in the number of spaces to be provided shall not exceed fifteen percent (15%) of the sum of the number required for each use served.*” [Emphasis added. Exhibit 1 MBMC § 10.64.040]

Neither city staff nor 600 PCH considers this code requirement, for which no exemptions or exclusions exist. Instead, staff and 600 PCH cite MBMC 10.64.050 (B).

This provision simply states that, “*the Planning Commission shall consider survey data submitted by an applicant or collected at the applicant's request and expense.*”

47 Space Parking Shortfall, MBMC 10.64.040.

Building/-Use ^a	Unit ^a	Quantity ^a	Parking-Rates ^{(1)a}		Required ^a Parking ^a
Retail ^a	KSF ^a	6.845 ^a	5.0 ^a	1st-5-KSF ^a	25 ^a
			4.0 ^a	KSF-over-5-KSF ^a	7 ^a
Office ^a	KSF ^a	9.264 ^a	3.3 ^a		31 ^a
Hotel ^a	Room ^a	162 ^a	1.1 ^a		178 ^a
15%-Mixed-use-Reduction ^{(2)a}					(36) ^a
TOTAL-Parking-Required-per-City-Code ^a					205 ^a
TOTAL-Parking-Provided-On-site ^a					158 ^a
Parking-Excess-(Shortfall) ^a					(47) ^a

⁽¹⁾Source: City-of-Manhattan-Beach-Municipal-Code; Chapter-10.64¶
⁽²⁾Source: City-of-Manhattan-Beach-Municipal-Code; Chapter-10.64-Section-.040^a

Although 600 PCH ignores the maximum 15 % shared-parking reduction permitted by code, they did evaluate the parking required by MBMC § 10.64.040 and determined it resulted in a 47-space shortfall from their proposed 158 spaces.

The adjacent table illustrates this calculation of reduced parking for a 15% maximum reduction, an excerpt from the October 14 staff report, Table 1, PDF p. 30.

Even if the municipal code did not mandate a 15% maximum reduction in shared parking, which it does, 600 PCH misrepresents the appropriate *Parking Generation*⁽¹⁾ statistics. 600 PCH purports that ITE recommends using average parking-demand ratios, rather than the 85th percentiles. **Not true.** As result, parking designed on average parking-demand will roughly overflow 50% of the time at peak use.

ITE clearly states that their parking-demand statistics “*not intended to recommend a policy about the level of parking that should be supplied.*” [Exhibit 2, *Parking Generation*, p. 2]

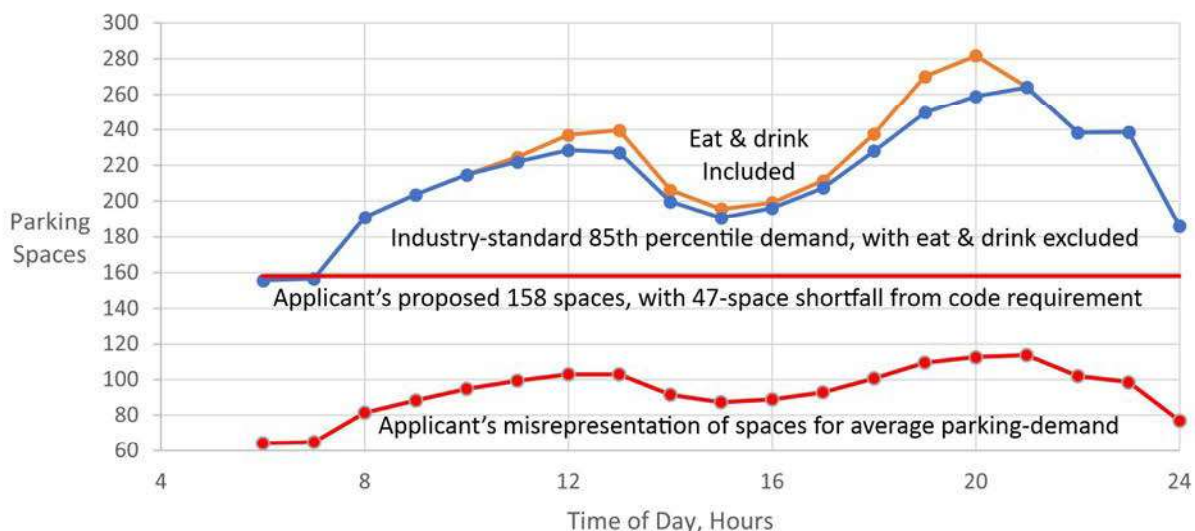
Per Mr. Neustaedter, “*Industry practice typically utilizes the 85th percentile peak parking rate to determine a site’s minimum parking need.*” [Exhibit 5, p. 2, last para.]

Also, 600 PCH cites the *Shared Parking* report as their reference, which states, “*Unless otherwise noted in the discussion of a particular land use, the 85th percentile of observed peak-hour accumulations...was employed in determining the parking ratios.*”³ [STAFF p. 121]

The graphic below for Saturdays, illustrates the 600 PCH misrepresentations regarding *Parking Generation* statistics for shared-parking. The two top curves show shared-parking demand determined from the ITE 85th percentile statistics, the industry standard.

The bottom curve shows the 600 PCH misrepresentation of ITE average parking-demand statistics, which will result in parking-overflow 50% of the time during peak demand.

The top curve illustrates that peak parking demand will exceed the proposed 158 spaces by over a hundred, if including the eat & drink demand that 600 PCH excludes.^{4, 5} Neither 600 PCH nor staff has stated the type of alcohol license or occupancies for eat & drink spaces. Consequently, this report assumes non-hotel guests will occupy 25% of chairs in the plans. Mr. Neustaedter made a different assumption, leading to different results, thus emphasizing the deficiency in the application and draft resolution regarding eat & drink parking.



³ *Shared Parking*, 2nd Ed., p. 22, Mary S. Smith, Urban Land Institute (2005)

⁴ For Saturdays, based on ITE 2019 *Parking Generation*, 5th Ed⁽¹⁾

⁵ For average-demand parking spaces, 600 PCH used occupancy statistics from 2005 *Shared Parking*⁽³⁾ [STAFF, p. 33, Footnote (a)]

Traffic Analysis Excludes Streets Nearby 600 PCH and Skechers Cumulative Impacts.

Per Exhibit 3 from their traffic analysis, 600 PCH deliberately excluded streets nearby the project, specifically, Keats, Chabela, Shelley and Prospect.

From their map, they also deliberately erased 30th St in Hermosa Beach, which the project will use to access the beach area, along with the Skechers 120,503 sq-ft office-building project. That project will have 430 employees and 514 parking places. [ibid]

The 600 PCH traffic analysis deleted residential streets nearby the project, by excluding their intersections with the major arterials, Sepulveda and Artesia, as illustrated in the lower half of Exhibit 3.

Based on Mr. Neustaedter's review of the 600 PCH traffic analysis, he states, "*However, the study does not address potential impacts to the adjacent residential neighborhood.*" [Exhibit 5, p. 2, 1st para.]

Most significantly, for CEQA evaluation, the 600 PCH traffic analysis fails to include cumulative impacts from the Skechers projects on residential streets near the project. Per Mr. Neustaedter, "*In addition, the project TIA must address cumulative traffic impacts, as previously identified for the Skechers project.*" [ibid, p. 3, Conclusion]

Consequently, the 600 PCH failure to provide a cumulative traffic impact study nullifies the categorical exemption of In-Fill Development Projects assigned by city staff, per CEQA Guidelines 14-CCR-15300.2 (b).

Noise Analysis Substantially Understates Impacts on Residents.

The graphic below illustrates the proximity of 600 PCH noise to residences. On the west across from Sepulveda, homes have line of sight to the rooftop bar with upwards of 200 patrons and music, within less than a football field length. To the east, homes face a virtual wall of noise sources 60 feet away, subject to raised voices, loud laughter, screams, shouts, fights, squealing tires, slammed car-doors, noisy vehicles and rumbling machinery, from 48 openable room windows, the open garage and rooftop equipment for HVAC and refrigeration.



Per acoustic expert Steve Rogers, *"This [noise] would be contrary to Condition of Approval #16 in the MBPC Draft Resolution PC 20-, which requires that noise emanating from the hotel "shall not be audible beyond the premises".*" [Exhibit 6, p. 4, last para.]

In his critique of the 600 PCH noise analysis, Mr. Rogers observes these discrepancies:

- *"MBI's analysis does not include ambient noise measurements on El Oeste Drive, nor does it address nighttime noise levels"* [Ibid, p. 3]
- *"MBI's calculations do not take into account the cumulative effect of 25 pieces of equipment operating simultaneously – which would increase noise levels by 10 dBA"* [ibid, p. 4]
- *"The MBI calculation of crowd noise appears to be based on a single talker"* [ibid, p. 5]
- *"...crowd noise from the outdoor gathering areas would be clearly audible at the homes on Chabela Drive and El Oeste Drive, because of the low ambient noise levels in each of these locations..."* [ibid, p. 5]

In addition to the above observations made by Mr. Rogers, the project will repetitively violate the noise ordinance, per MBMC § 5.48.160 (B) Table 5 and § 5.48.160 (E). For the commercial district after 10 PM, these provisions prohibit impulsive and periodic noise spikes at the property line from exceeding 75 dB, an acoustic level similar to raised-voice conversation.

Clearly, at the west side of the rooftop bar, hilarious laughter, screams and shouts from upwards of 200 patrons will exceed the 75 dB limit. Likewise, on the east, the virtual noise-wall of openable hotel-room windows, the open garage and the rooftop machinery will create impulsive and periodic noise greater than 75 dB at the Chabela curb, just 20 feet away. [Exhibit 4]

CONCLUSION: CEQA MANDATES ENVIRONMENTAL REVIEW.

The 600 PCH project requires environmental review for these reasons:

- 1) The shared-parking analysis violates the 15% maximum-reduction in spaces permitted by MBMC § 10.64.040, which makes parking a CEQA factor, per Guidelines 14-CCR-15183 (f);
- 2) The parking analysis omits eat & drink parking, which violates the zoning-code provision to *"Ensure that off-street parking and loading facilities are provided for new land uses"*, thus elevating parking to a CEQA factor [MBMC § 10.64.010 (A) and ibid];
- 3) 600 PCH failed to use the 85th percentile parking-demand statistics in ITE *Shared Parking*, which will result in overflow onto nearby residential streets;
- 4) For traffic analysis, 600 PCH arbitrarily excluded nearby streets, namely, Keats, Chabela, Shelley, Prospect, and in Hermosa Beach, 30th St;
- 5) 600 PCH neglected to conduct a cumulative traffic impact analysis, most notably for the Skechers office-buildings that straddle 30th St, thereby nullifying the categorical exemption of In-Fill Development Projects assigned by city staff, per CEQA Guidelines 14-CCR-15300.2 (b);
- 6) Project noise will be audible beyond the premises, in violation of the draft resolution; and,
- 7) Substantial evidence exists for potential significant environmental impacts on nearby homes.

EXHIBIT 1. STAFF AND 600 PCH FAILED TO CITE 15% MAX REDUCTION

Exhibit P1. Parking Reduction Limited to 15% of Code Requirement, Not Cited by Staff or 600 PCH

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1850, Amended, 04/02/92; Ord. No. 1891, Amended, 01/06/94; § 2, Ord. 1951, eff. July 4, 1996; § 2, Ord. 1963, eff. July 5, 1997; § 5, Ord. 1977, eff. March 5, 1998; § 2, Ord. 2050, eff. January 1, 2004; § 15, Ord. 2111, eff. March 19, 2008 and § 8, Ord. 2155, eff. February 17, 2012)

10.64.040 - Collective provision of parking.

Notwithstanding the provisions of Section 10.64.020(E), a use permit may be approved for collective provision of parking on a site of five thousand (5,000) square feet or more that serves more than one (1) use or site and is located in a district in which parking for the uses served is a permitted or conditional use. A use permit for collective off-street parking may reduce the total number of spaces required by this chapter if the following findings are made:

- A. The spaces to be provided will be available as long as the uses requiring the spaces are in operation; and
- B. The adequacy of the quantity and efficiency of parking provided will equal or exceed the level that can be expected if collective parking is not provided.

The maximum allowable reduction in the number of spaces to be provided shall not exceed fifteen percent (15%) of the sum of the number required for each use served.

An applicant for a use permit for collective parking may be required to submit survey data substantiating a request for reduced parking requirements. A use permit for collective parking shall describe the limits of any area subject to reduced parking requirements and the reduction applicable to each use.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91)

10.64.050 - Reduced parking for certain districts and uses.

A. **CD District.** The following parking requirements shall apply to nonresidential uses:

1. **Building Sites equal to or less than 10,000 Sq. Ft.** If the FAF is less than 1:1, no parking is required; if the FAF exceeds 1:1, only the excess floor area over the 1:1 ratio shall be considered in determining the required parking prescribed by Section 10.64.030.
2. **Building Sites greater than 10,000 Sq. Ft.** The amount of required parking shall be determined by first excluding 5,000 square feet from the buildable floor area and then calculating the number of spaces prescribed by Section 10.64.030.

B. A use permit may be approved reducing the number of spaces to less than the number specified in the schedules in Section 10.64.030, provided that the following findings are made:

1. The parking demand will be less than the requirement in Schedule A or B; and
2. The probable long-term occupancy of the building or structure, based on its design, will not generate additional parking demand.

In reaching a decision, the Planning Commission shall consider survey data submitted by an applicant or collected at the applicant's request and expense.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91)

10.64.060 - Parking in-lieu payments.

Within designated parking districts established by the City Council and shown on the map on the following page, a parking requirement serving nonresidential uses on a site may be met by a cash in-lieu



Parking Generation Manual

5th Edition

JANUARY 2019

INSTITUTE OF TRANSPORTATION ENGINEERS

Senior-used for Affordable Housing (Land Use 223) to denote a site with a minimum age threshold for its tenants (i.e., senior housing).

Single Room Only-used for Affordable Housing (Land Use 223) to denote a site with only single-room-only units. If the site also has a minimum age threshold, the site falls in the Senior subcategory.

Data Page Terms

33rd Percentile-the point at which 33 percent of the values fall at or below and 67 percent of the values are above. If the number of study sites for a combination of independent variable, time period, and setting for an individual land use is comprised of relatively few data points, the percentile value can represent an interpolation between actual values. This number is not intended to recommend a policy about the level of parking that should be supplied. It is provided solely as qualitative reference for the analyst.

85th Percentile-the point at which 85 percent of the values fall at or below and 15 percent of the values are above. If the number of study sites for a combination of independent variable, time period, and setting for an individual land use is comprised of relatively few data points, the percentile value can represent an interpolation between actual values. This number is not intended to recommend a policy about the level of parking that should be supplied. It is provided solely as qualitative reference for the analyst.

95 Percent Confidence Interval-a measure of confidence in the statistical data to the average. It indicates the range within which there is 95 percent likelihood the average will fall. This range is shown when data for 20 or more study sites are available. It is computed as two standard errors plus or minus the average.

Average Number of [Independent Variable]-the average value of the independent variable for data presented on the specific data page.

Average Peak Period Parking Demand-the observed peak period parking demand (vehicles parked) divided by the quantity of the independent variable (such as building area, employees) expressed as a rate. For examples, the rate is commonly expressed as vehicles per 1,000 sq. ft. GFA, vehicles per employee, or vehicles per dwelling unit.

Average Rate (or Weighted Average Rate)-the weighted average number of parked vehicles at a development site per one unit of the independent variable. It is calculated by dividing the sum of all parked vehicles for all contributing data point sites by the sum of all independent variable units for all contributing data point sites. The weighted average rate is used rather than the average of the individual rates because of the variance within each data set or generating unit. Data sets with a large variance will over-influence the average rate if they are not weighted. The data plot includes a dashed line corresponding to the weighted average rate, extending between the lowest and highest independent variable values for data points.

Coefficient of Determination (R^2)- the percent of the variance in the number of parked vehicles associated with the variance in the independent variable value. This value is presented for every fitted curve equation. If the R^2 value is 0.75, then 75 percent of the variance in the number of parked

Land Use: 310 Hotel

Description

A hotel is a place of lodging that provides sleeping accommodations and supporting facilities such as a full-service restaurant, cocktail lounge, meeting rooms, banquet room, and convention facilities. It typically provides a swimming pool or another recreational facility such as a fitness room. All suites hotel (Land Use 311), business hotel (Land Use 312), motel (Land Use 320), and resort hotel (Land Use 330) are related uses.

Time of Day Distribution for Parking Demand

The following table presents a time-of-day distribution of parking demand (1) on a weekday (four study sites) and a Saturday (five study sites) in a general urban/suburban setting and (2) on a weekday (one study site) and a Saturday (one study site) in a dense multi-use urban setting.

Hour Beginning	Percent of Peak Parking Demand			
	General Urban/Suburban		Dense Multi-Use Urban	
	Weekday	Saturday	Weekday	Saturday
12:00-4:00 a.m.	96	74	93	100
5:00 a.m.	-	-	-	-
6:00 a.m.	91	62	97	95
7:00 a.m.	89	62	100	95
8:00 a.m.	90	72	93	89
9:00 a.m.	100	74	72	85
10:00 a.m.	98	76	69	74
11:00 a.m.	89	77	65	61
12:00 p.m.	85	79	78	47
1:00 p.m.	75	78	78	42
2:00 p.m.	81	67	63	41
3:00 p.m.	70	64	59	43
4:00 p.m.	74	67	58	48
5:00 p.m.	65	73	52	53
6:00 p.m.	73	83	63	64
7:00 p.m.	78	92	74	67
8:00 p.m.	93	97	78	78
9:00 p.m.	96	100	72	81
10:00 p.m.	95	91	84	93
11:00 p.m.	95	83	92	98

Hotel (310)

Peak Period Parking Demand vs: Occupied Rooms

On a: Saturday

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 10:00 p.m. - 9:00 a.m.

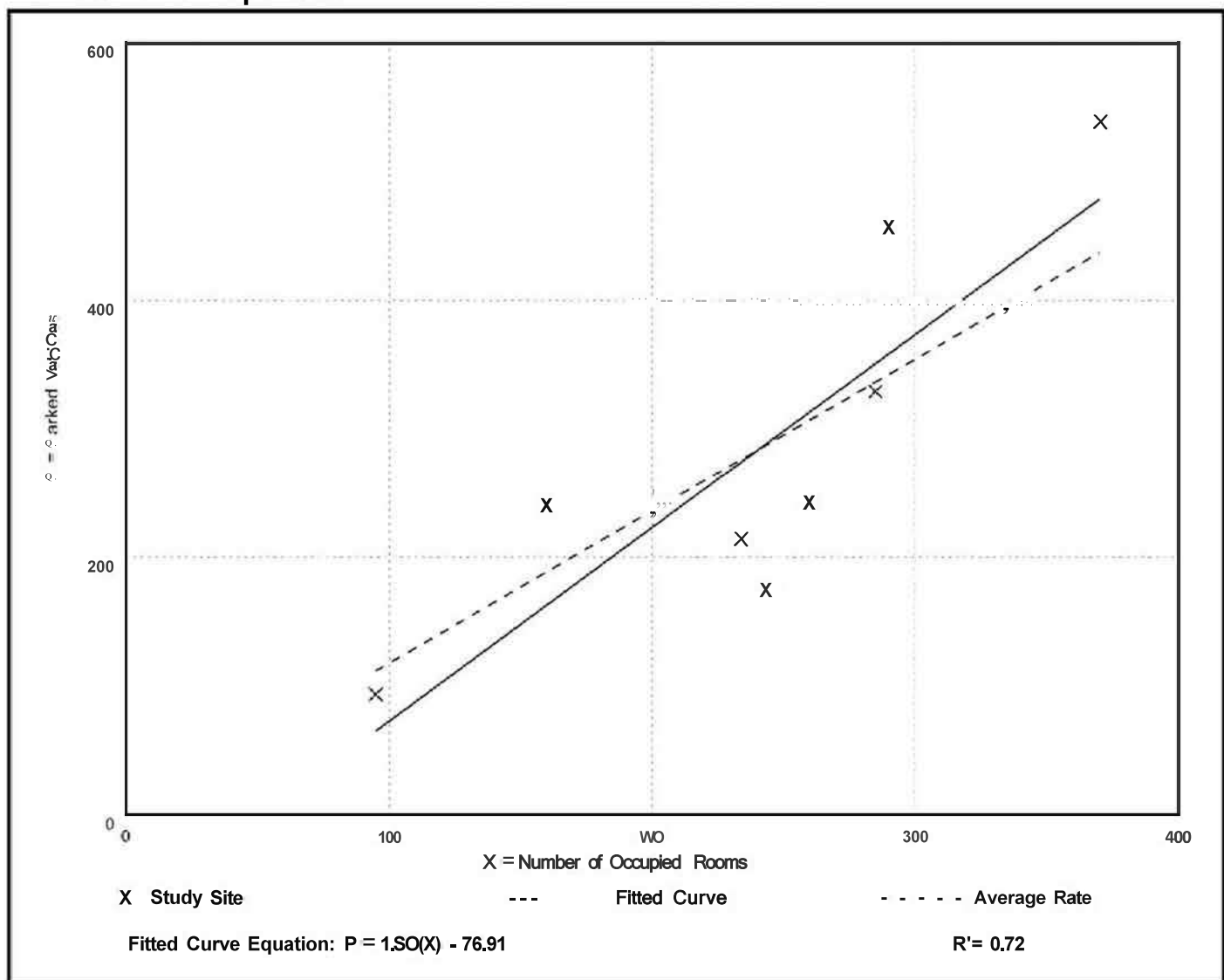
Number of Studies: 8

Avg. Num. of Occupied Rooms: 242

Peak Period Parking Demand per Occupied Room

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
1.18	0.72 - 1.58	0.93 / 1.55	1.18	0.32 (27%)

Data Plot and Equation



Hotel (310)

Peak Period Parking Demand vs: Rooms

On a: Weekday (Monday - Friday)

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 11 :00 p.m. - 8:00 a.m.

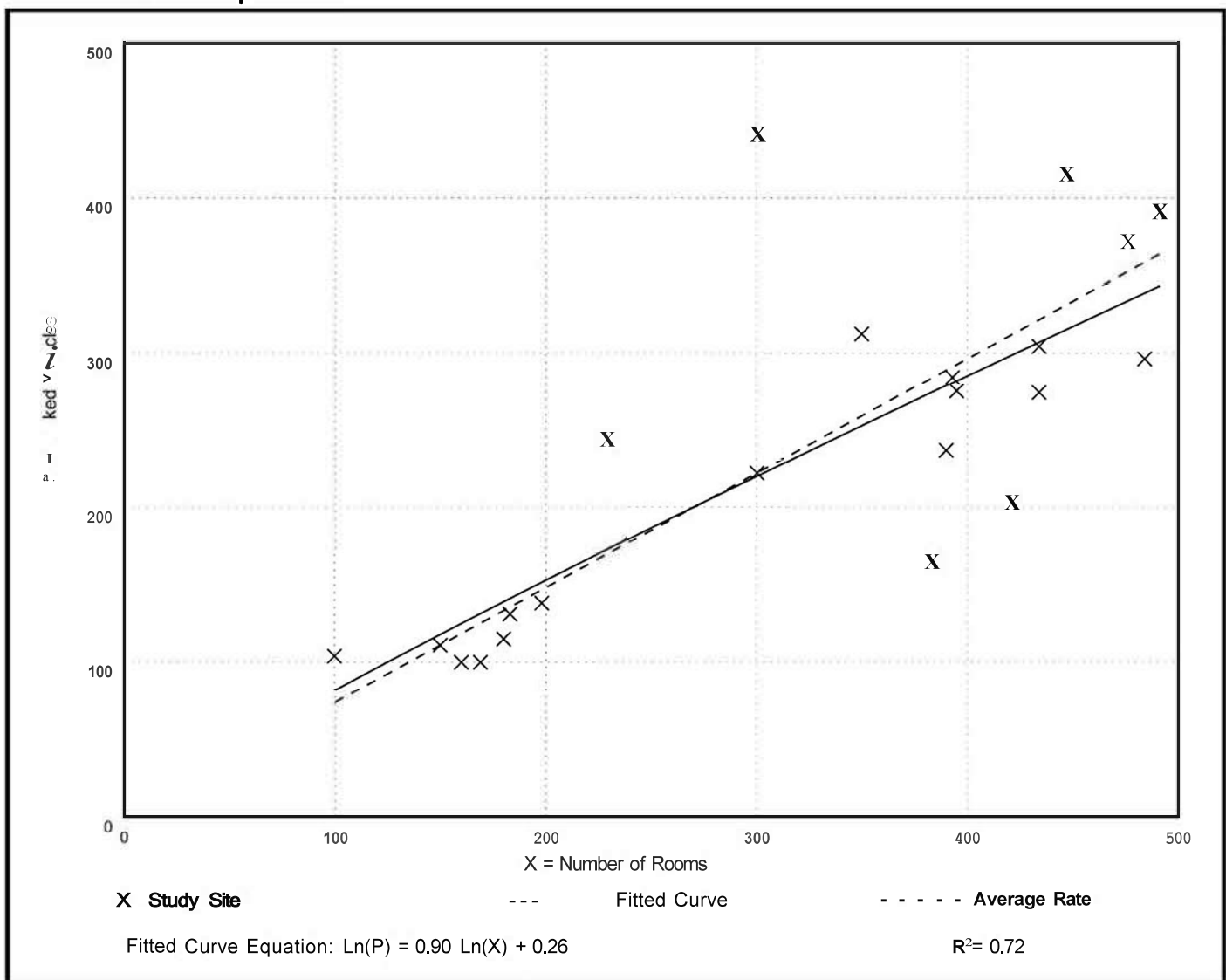
Number of Studies: 22

Avg. Num. of Rooms: 321

Peak Period Parking Demand per Room

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
0.74	0.43 - 1.47	0.64 / 0.99	0.65 - 0.83	0.22 (30%)

Data Plot and Equation



General Office Building (710)

Hour Beginning	Percent of Weekday Peak Parking Demand	
	General Urban/Suburban	Dense Multi-Use Urban
12:00-4:00 a.m.	—	—
5:00 a.m.	—	—
6:00 a.m.	—	—
7:00 a.m.	13	26
8:00 a.m.	48	65
9:00 a.m.	88	95
10:00 a.m.	100	100
11:00 a.m.	100	100
12:00 p.m.	85	99
1:00 p.m.	84	99
2:00 p.m.	93	97
3:00 p.m.	94	94
4:00 p.m.	85	90
5:00 p.m.	56	—
6:00 p.m.	20	—
7:00 p.m.	11	—
8:00 p.m.	—	—
9:00 p.m.	—	—
10:00 p.m.	—	—
11:00 p.m.	—	—

Additional Data

The average parking supply ratios for the study sites with parking supply information are as follows:

- 2.9 spaces per 1,000 square feet GFA in a dense multi-use urban setting that is not within ½ mile of rail transit (seven sites)
- 3.3 spaces per 1,000 square feet GFA (73 sites) and 12 spaces per employee (20 sites) in a general urban/suburban setting that is not within ½ mile of rail transit
- 3.0 spaces per 1,000 square feet GFA (seven sites) and 0.8 spaces per employee (two sites) in a general urban/suburban setting that is within ½ mile of rail transit

The sites were surveyed in the 1980s, the 1990s, the 2000s, and the 2010s in Arizona, California, Colorado, Connecticut, Georgia, Illinois, Massachusetts, Minnesota, Montana, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, Texas, Utah, and Washington.

Source Numbers

21,22,47, 122,124,142,172,201,202,205,211,215,216,217,227,239,241,243,276,295,
399,400,425,431,433,436,438,440,516,531,540,551,555,556,557,571,572,588

General Office Building (710)

Peak Period Parking Demand vs: 1000 Sq. Ft. GFA

On a: Saturday

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 10:00 a.m. - 1:00 p.m.

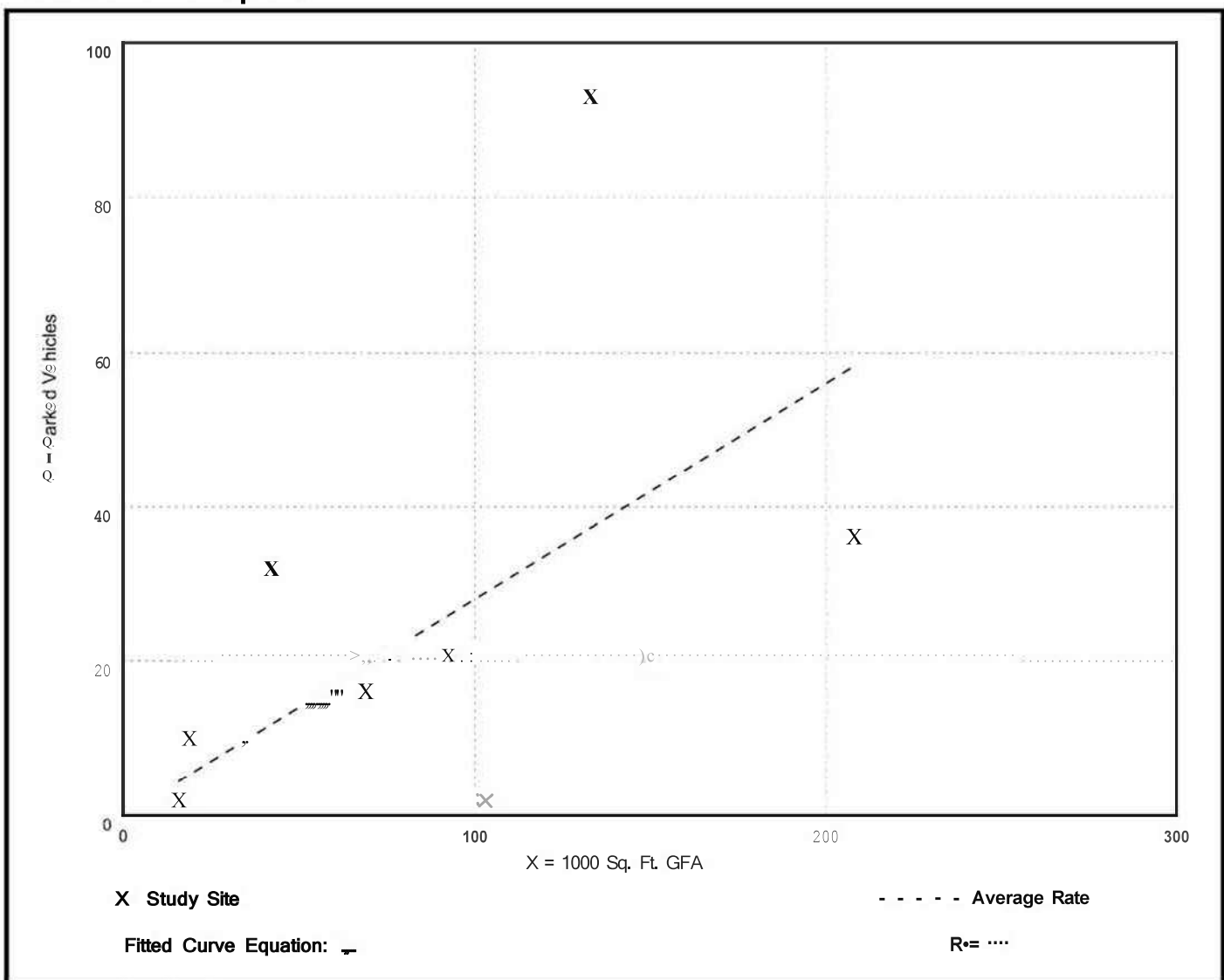
Number of Studies: 9

Avg. 1000 Sq. Ft. GFA: 92

Peak Period Parking Demand per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
0.28	0.02 - 0.76	0.14/0.73	***	0.25 (89%)

Data Plot and Equation



General Office Building (710)

Peak Period Parking Demand vs: 1000 Sq. Ft. GFA

On a: Weekday (Monday - Friday)

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 9:00 a.m. - 3:00 p.m.

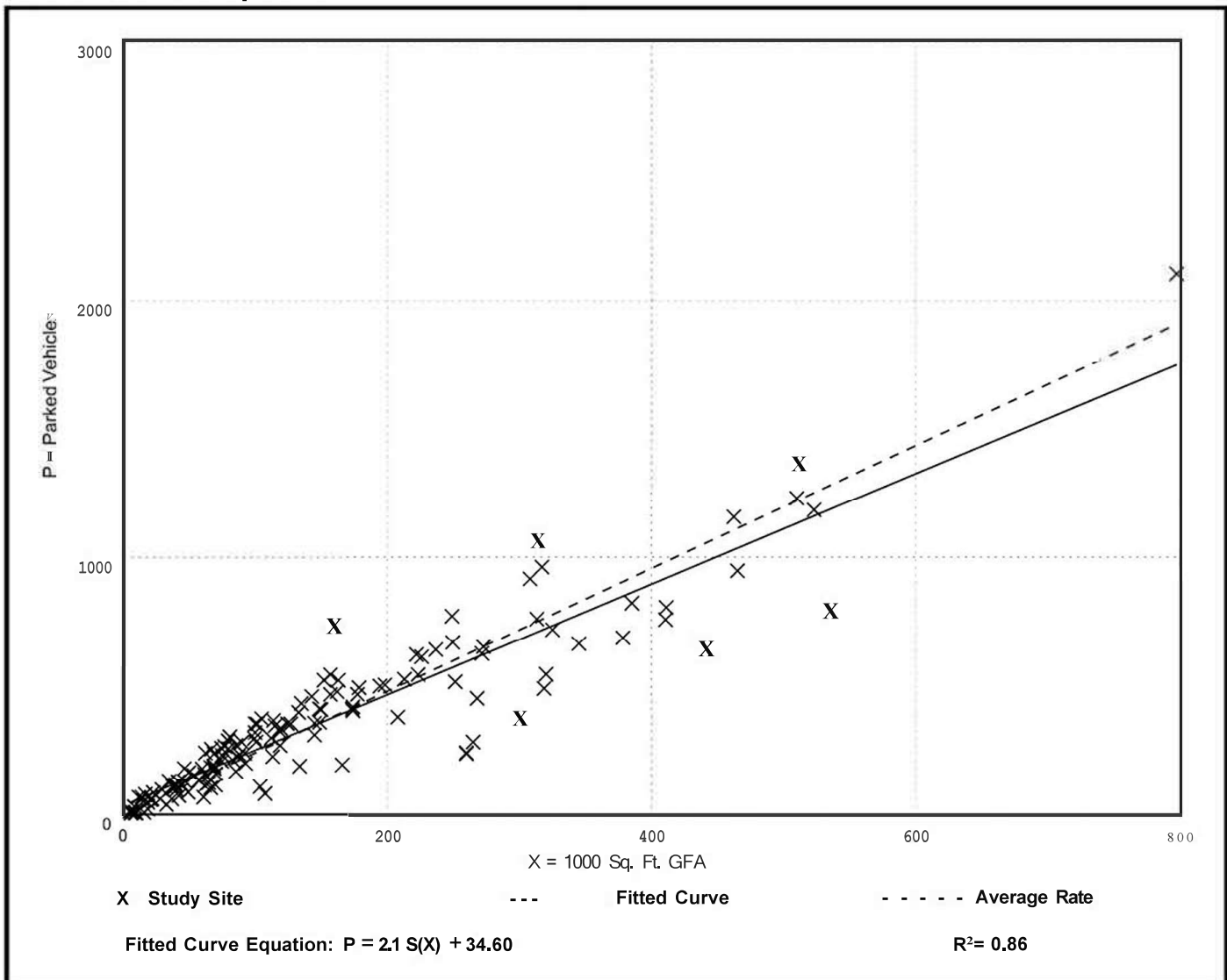
Number of Studies: 148

Avg. 1000 Sq. Ft. GFA: 145

Peak Period Parking Demand per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
2.39	0.50 - 5.58	2.30 / 3.30	2.28 - 2.50	0.69 (29%)

Data Plot and Equation



Shopping Center - Non-December (820)

The following table presents a time-of-day distribution of parking demand **during a non-December month** on a weekday (18 study sites), a Friday (seven study sites), and a Saturday (13 study sites).

Hour Beginning	Percent of Non-December Peak Parking Demand		
	Weekday	Friday	Saturday
12:00-4:00 a.m.	—	—	—
5:00 a.m.	—	—	—
6:00 a.m.	—	—	—
7:00 a.m.	—	—	—
8:00 a.m.	15	32	27
9:00 a.m.	32	50	46
10:00 a.m.	54	67	67
11:00 a.m.	71	80	85
12:00 p.m.	99	100	95
1:00 p.m.	100	98	100
2:00 p.m.	90	90	98
3:00 p.m.	83	78	92
4:00 p.m.	81	81	86
5:00 p.m.	84	86	79
6:00 p.m.	86	84	71
7:00 p.m.	80	79	69
8:00 p.m.	63	70	60
9:00 p.m.	42	—	51
10:00 p.m.	15	—	38
11:00 p.m.	—	—	—

Additional Data

The parking demand database includes data from strip, neighborhood, community, town center, and regional shopping centers. Some of the centers contain non-merchandising facilities, such as office buildings, movie theaters, restaurants, post offices, banks, health clubs, and recreational facilities.

Many shopping centers, in addition to the integrated unit of shops in one building or enclosed around a mall, include outparcels (peripheral buildings or pads located on the perimeter of the center adjacent to the streets and major access points). These buildings are typically drive-in banks, retail stores, restaurants, or small offices. Although the data herein do not indicate which of the centers studied included peripheral buildings, it can be assumed that some of the data show their effect.

Shopping Center - Non-December (820)

Peak Period Parking Demand vs: 1000 Sq. Ft. GLA

On a: Saturday

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 11 :00 a.m. - 5:00 p.m.

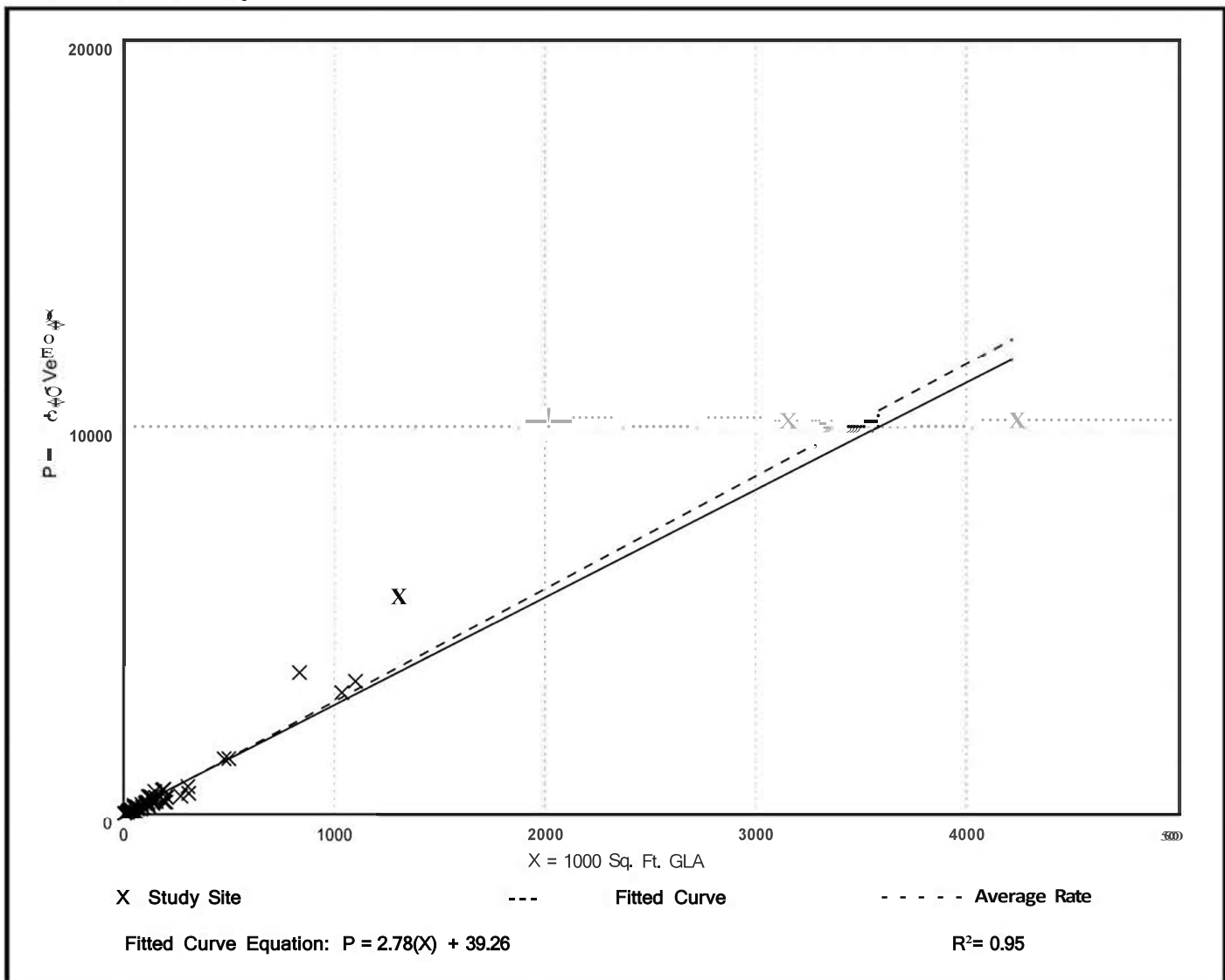
Number of Studies: 58

Avg. 1000 Sq. Ft. GLA: 313

Peak Period Parking Demand per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coef. of Variation)
2.91	1.15 - 4.72	2.27 / 3.74	2.72 - 3.10	0.74 (25%)

Data Plot and Equation



Shopping Center - Non-December (820)

Peak Period Parking Demand vs: 1000 Sq. Ft. GLA

On a: Weekday (Monday - Thursday)

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 12:00 - 6:00 p.m.

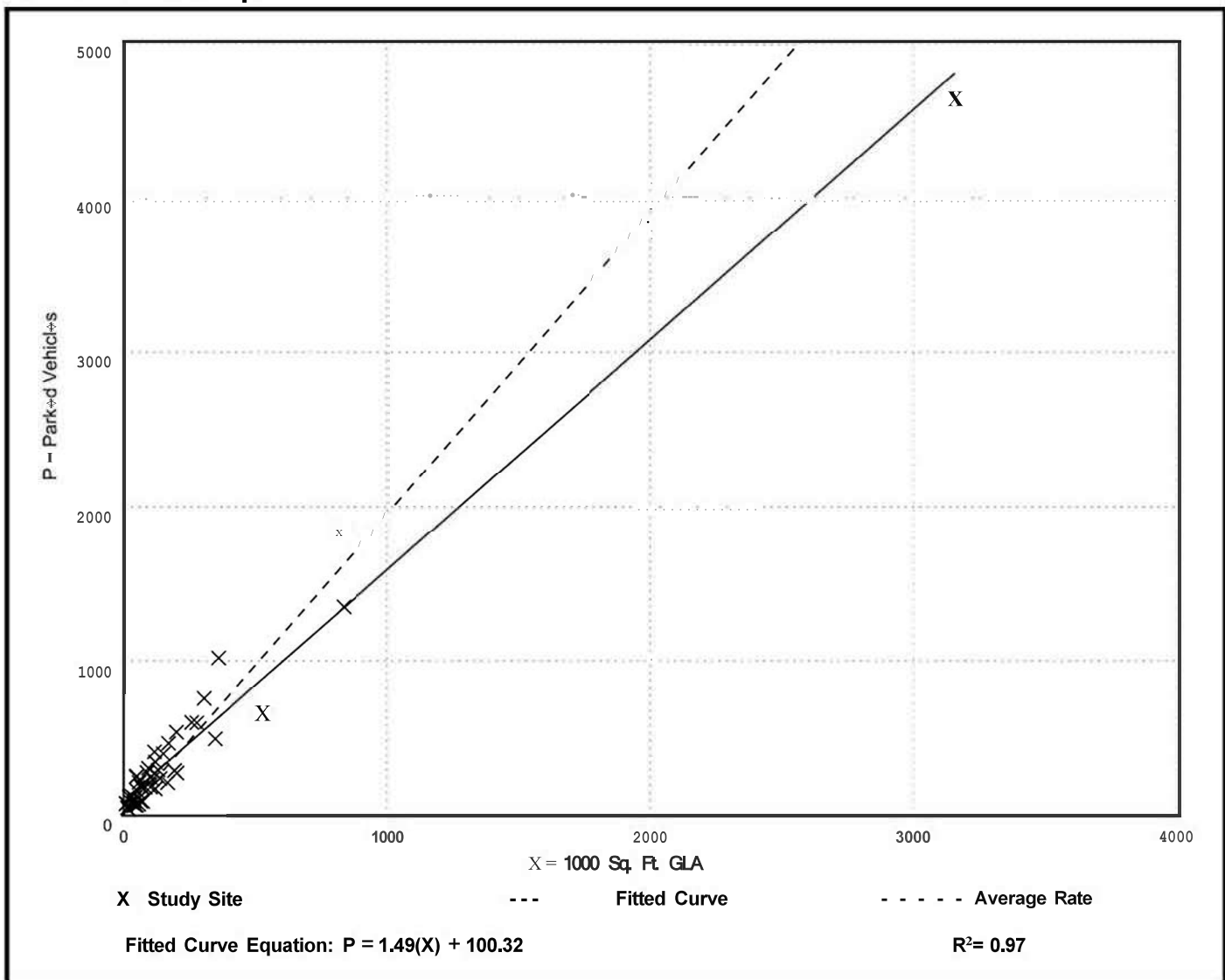
Number of Studies: 46

Avg. 1000 Sq. Ft. GLA: 218

Peak Period Parking Demand per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
1.95	1.27 - 7.98	1.99 / 3.68	1.73-2.17	0.75 (38%)

Data Plot and Equation



Land Use: 931 Quality Restaurant

Description

This land use consists of high quality, full-service eating establishments with a typical duration of stay of at least one hour. They are also commonly referred to as fine dining. Quality restaurants generally do not serve breakfast; some do not serve lunch; all serve dinner. This type of restaurant often requests and sometimes requires a reservation and is generally not part of a chain. A patron commonly waits to be seated, is served by wait staff, orders from a menu and pays after the meal. Some of the study sites have lounge or bar facilities (serving alcoholic beverages), but they are ancillary to the restaurant. Fast casual restaurant (Land Use 930) and high-turnover (sit-down) restaurant (Land Use 932) are related uses.

Time of Day Distribution for Parking Demand

The following table presents a time-of-day distribution of parking demand on a Monday-through-Thursday weekday (one study site) and a Friday (one study site) in a general urban/suburban setting.

Hour Beginning	Percent of Peak Parking Demand	
	Weekday	Friday
12:00-4:00 a.m.	—	—
5:00 a.m.	—	—
6:00 a.m.	—	—
7:00 a.m.	—	—
8:00 a.m.	—	—
9:00 a.m.	—	—
10:00 a.m.	—	—
11:00 a.m.	20	11
12:00 p.m.	51	37
1:00 p.m.	56	54
2:00 p.m.	40	29
3:00 p.m.	27	22
4:00 p.m.	27	14
5:00 p.m.	39	18
6:00 p.m.	71	42
7:00 p.m.	100	91
8:00 p.m.	97	100
9:00 p.m.	—	—
10:00 p.m.	—	—
11:00 p.m.	—	—

Quality Restaurant (931)

Peak Period Parking Demand vs: Seats

On a: Friday

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 7:00 - 9:00 p.m.

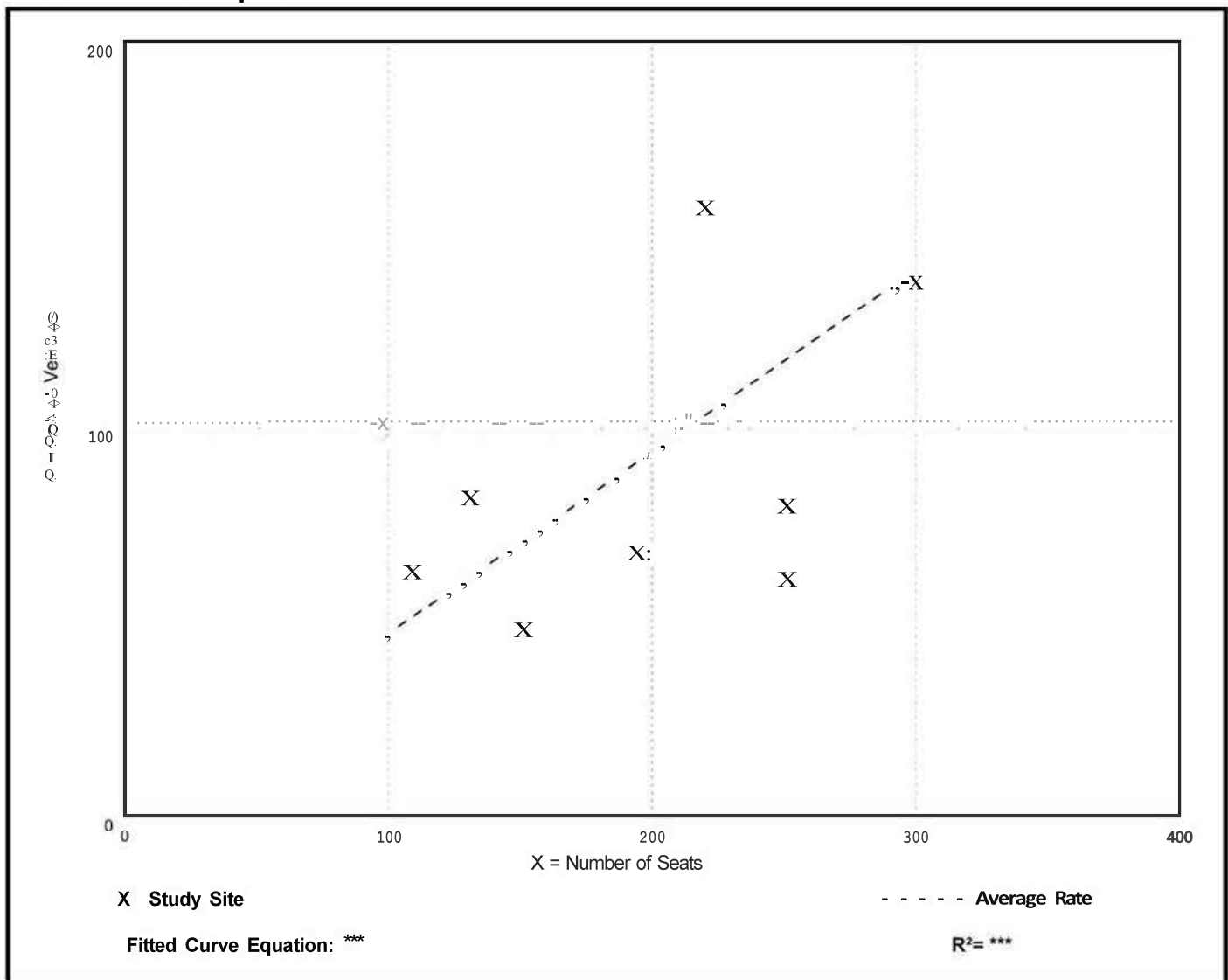
Number of Studies: 9

Avg. Num. of Seats: 189

Peak Period Parking Demand per Seat

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
0.47	0.24 - 1.00	0.33 / 0.86	***	0.22 (47%)

Data Plot and Equation



Quality Restaurant (931)

Peak Period Parking Demand vs: Seats

On a: Saturday

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 7:00 - 8:00 p.m.

Number of Studies: 4

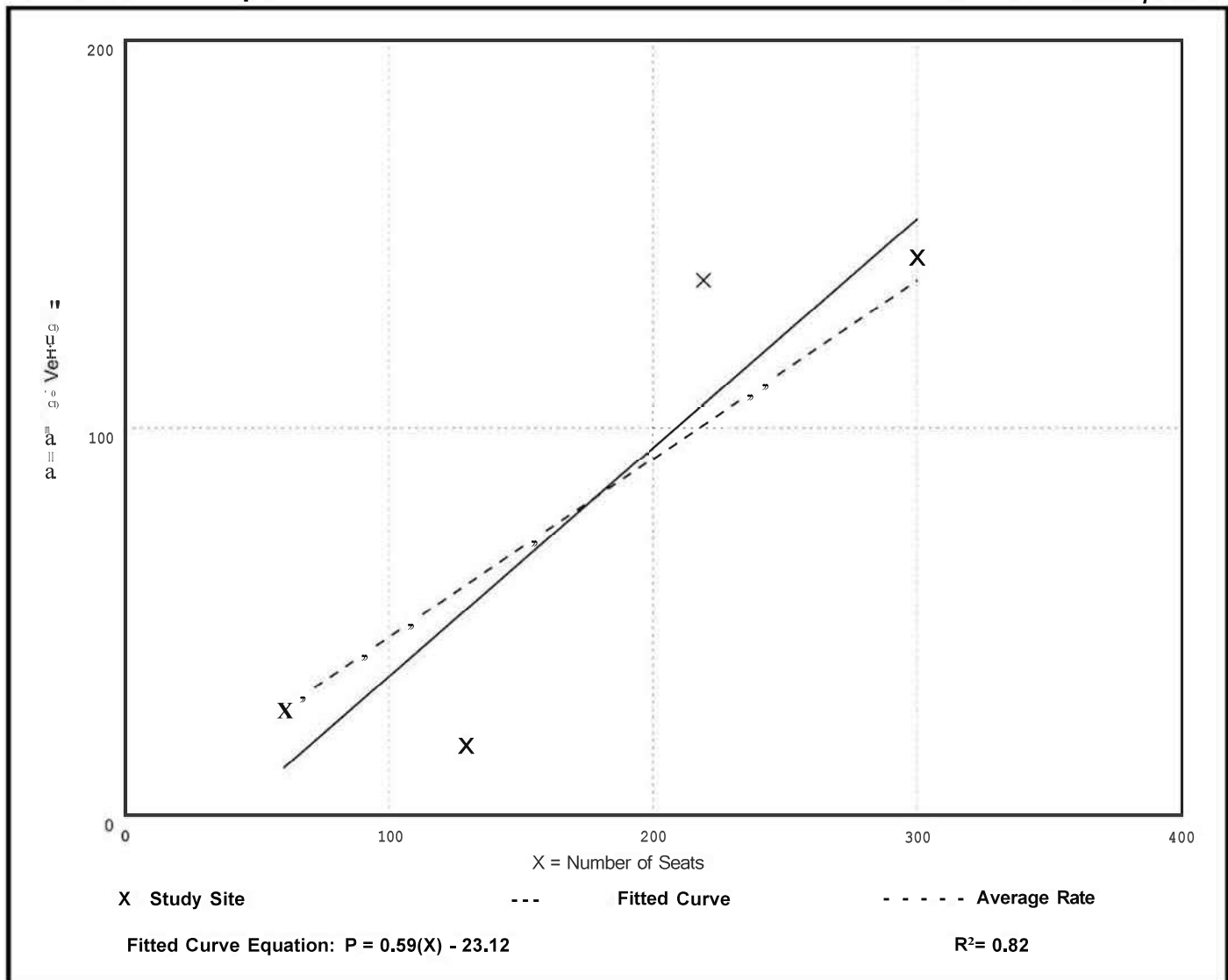
Avg. Num. of Seats: 177

Peak Period Parking Demand per Seat

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
0.46	0.14 - 0.63	0.34 / 0.63	***	0.19(41%)

Data Plot and Equation

Caution - Small Sample Size



Quality Restaurant (931)

Peak Period Parking Demand vs: Seats

On a: Weekday (Monday - Thursday)

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 7:00 - 8:00 p.m.

Number of Studies: 2

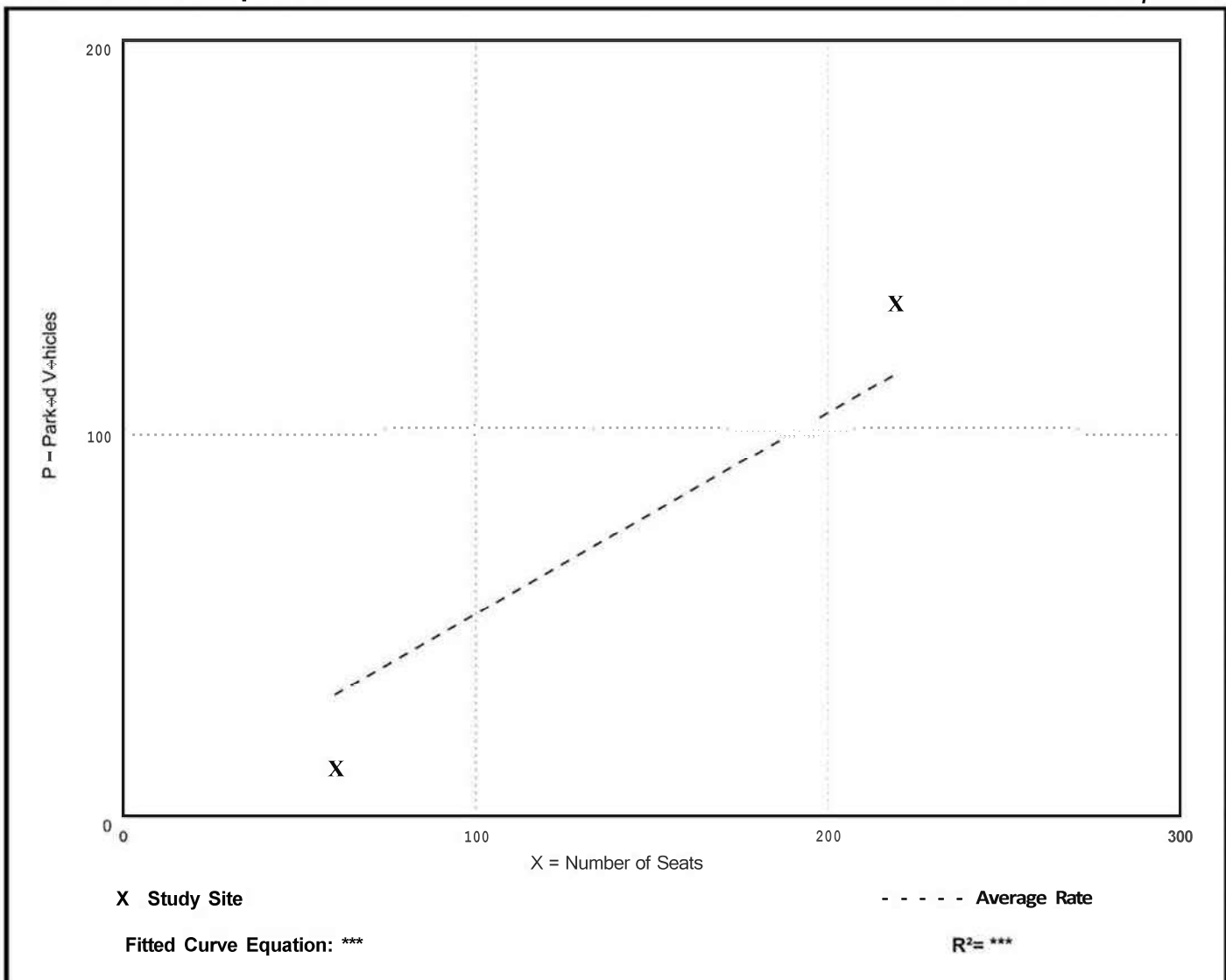
Avg. Num. of Seats: 140

Peak Period Parking Demand per Seat

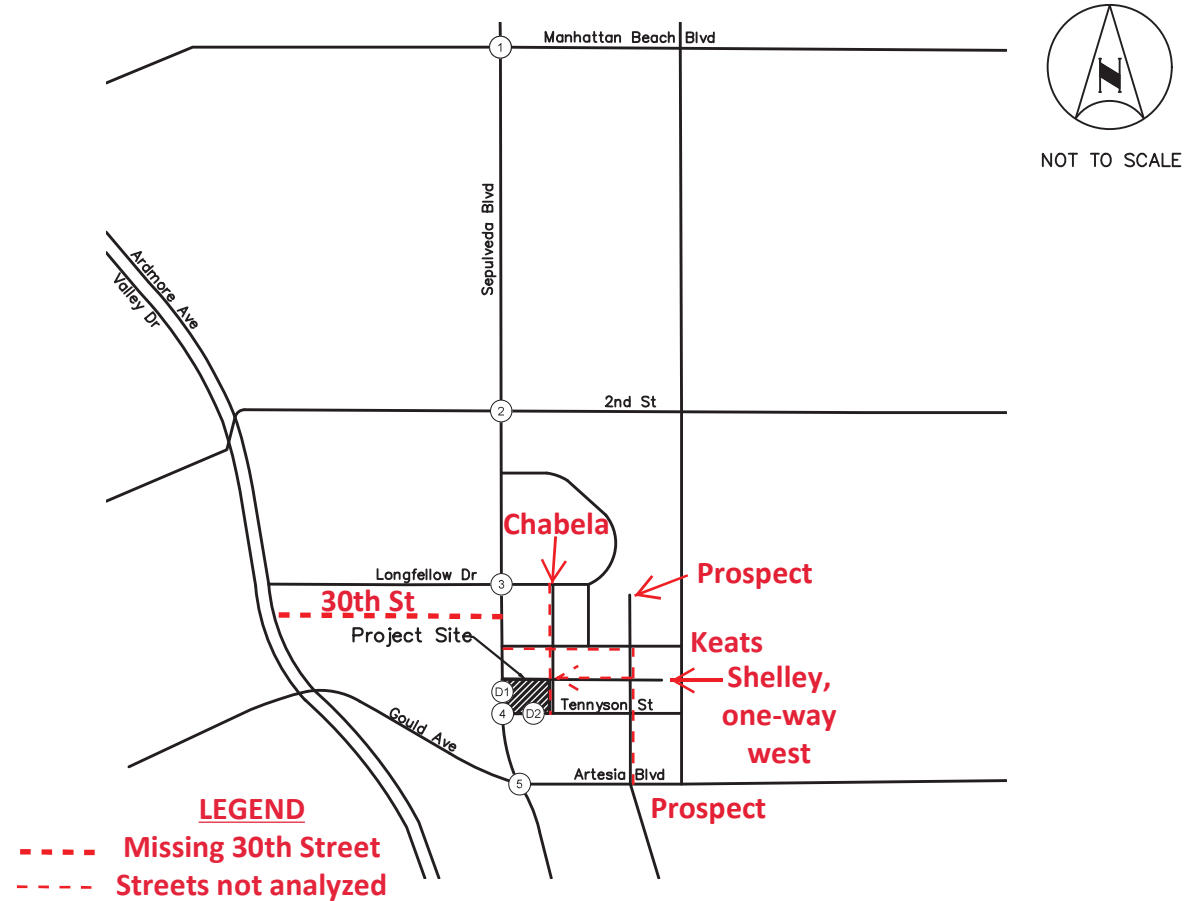
Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
0.52	0.20 - 0.60	*** / ***	***	*** (***)

Data Plot and Equation

Caution - Small Sample Size



PROJECT FAILED TO ANALYZE TRAFFIC IMPACTS ON RESIDENTIAL STREETS



1. Sepulveda Blvd at Manhattan Beach Blvd	2. Sepulveda Blvd at 2nd St	3. Sepulveda Blvd at Longfellow Dr	4. Sepulveda Blvd at Tennyson St
5. Sepulveda Blvd at Artesia Blvd/Gould Ave	D1. Sepulveda Blvd at Project Driveway 1	D2. Tennyson St at Project Driveway 2	

LEGEND:

- = Study Intersection
- = Turn or Through Lane
- = Signal
- OV = Right Turn Overlap

**FIGURE 3
EXISTING LANE CONFIGURATION
AND TRAFFIC CONTROL**

EXHIBIT 4. MUNICIPAL CODE MAXIMUM PERMITTED NOISE

If the one (1) minute per hour ambient level (L2) exceeds the level in Table 4, then the ambient L2 becomes the exterior noise standard which may not be exceeded for a cumulative period of more than one (1) minute in any hour.

Table 5

Exterior noise standard which may not be exceeded for any period of time--L0
TABLE INSET:

Designated Land Use or Zoning Classification	Time of Day	Exterior A-Weighted Noise Level
Residential	7:00 a.m.--10:00 p.m.	70 dB
	10:00 p.m.--7:00 a.m.	65
Commercial	7:00 a.m.--10:00 p.m.	85
	10:00 p.m.--7:00 a.m.	80
Industrial	7:00 a.m.--10:00 p.m.	90
	10:00 p.m.--7:00 a.m.	90

If the maximum ambient noise level (L0) exceeds the level in Table 5, then the ambient L0 becomes the exterior noise standard which may not be exceeded for any period of time.

Table 6

Exterior equivalent noise standard--LEE
TABLE INSET:

Designated Land Use or Zoning Classification	Time of Day	Exterior A-Weighted Noise Level
Residential	7:00 a.m.--10:00 p.m.	55 dB
	10:00 p.m.--7:00 a.m.	50
Commercial	7:00 a.m.--10:00 p.m.	70
	10:00 p.m.--7:00 a.m.	65
Industrial	7:00 a.m.--10:00 p.m.	75

EXHIBIT 4. MUNICIPAL CODE MAXIMUM PERMITTED NOISE

	10:00 p.m.--7:00 a.m.	75
--	--------------------------	----

If the ambient LEE exceeds the level in Table 6, then the ambient LEE becomes the exterior noise standard.

C. The ambient noise shall be measured at the same location as the measurement of the alleged intrusive noise with the alleged intrusive noise source not operating. If the operator of the alleged intrusive noise source cannot or will not stop the operation of the alleged noise source then the total noise level measured by the City employee or City's contractor shall be considered to be the alleged intrusive noise if in the opinion of the officer the alleged intrusive noise is the dominant noise sources at the measurement location.

D. If the ambient noise level is measured by stopping the operation of the alleged intrusive noise source, then the alleged intrusive noise source shall be determined by subtracting a value from the total noise level measured at the same location with the alleged intrusive noise source in operation. The values in the following table shall be utilized to determine the intrusive noise level based on the amount by which the noise level decreases when the noise source is turned off.

TABLE INSET:

Noise Level Decrease with Noise Source Off	Value to Subtract from Total Noise Level to Obtain Intrusive Noise Level
0	10 dB
1	7
2	4
3	3
4--5	2
6--9	1
10 or more	0

E. Correction for Character of Sound. For any source of noise which emits a pure tone or contains impulsive noise, the noise standards as set forth in this section shall be reduced by five (5) dB. Examples of impulsive noise include fire alarms, hammering operations, impact wrenches, and other mechanical devices that produce noise levels with a quick onset and delay. Examples of pure tone noises include whistles, bells, and other mechanical devices that emit a tone that is distinguishable by the City employee or contractor.

F. If the measurement location is on a boundary between two (2) different land use classifications, the noise level limit applicable to the more restrictive land use classification plus five (5) dB, shall apply.

(§ 6, Ord. 1957, eff. December 5, 1996)

5.48.170 Interior noise standards.

A. The following interior noise levels for common wall residential dwellings shall apply, unless otherwise specifically indicated, with windows open or closed.

1. Prohibition. No person shall operate or cause to be operated within a dwelling unit, any source of sound or allow the creation of any noise which causes the noise level when measured

EXHIBIT 5. TRAFFIC AND PARKING EXPERT OPINIONS



sm

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November 15, 2020

To: Don McPherson
1014 1st Street Manhattan Beach, CA 90266
Cell 310 487 0383
dmcphersonla@gmail.com

From: Craig S. Neustaedter, Registered Traffic Engineer (TR1433)
Ed Studor, Consulting Transportation Planner

Subject: Comments on 600 PCH Project
City of Manhattan Beach
Traffic and Shared Parking Evaluation by Kimley Horn (rev. 1)

Project Description

The project site is an approximately 1.5-acre parcel located at 600 S. Sepulveda Boulevard (Pacific Coast Highway), on the northeast corner of the intersection of Sepulveda Boulevard and Tennyson Street. The property is currently occupied by a vacant 8,500 square foot restaurant building and parking lot with approximately 137 surface parking spaces. All existing structures and improvements will be demolished to accommodate the proposed project. The project proposes the construction of a mixed-use development consisting of 162 rooms, four story, 81,775 square foot hotel. The hotel includes limited dining options with accompanying full alcohol service in the first floor lounge and the fourth floor terrace that will be limited to use by hotel patrons only. A separate two-story building will house 16,348 square feet of retail and office space. Project access will consist of one right-in/right-out only driveway on Sepulveda Boulevard, and one full-movement driveway on Tennyson Street. Parking consists of a surface parking lot with 28 parking spaces and a subterranean parking garage with 130 spaces, 158 spaces total.

Site Plan

The project site is bounded on three sides by public streets, Sepulveda Boulevard, Tennyson Street and Chabela Drive. The fourth side is a shared boundary with Pacific Place which consists primarily of medical offices. Sepulveda Boulevard is designated as California State Highway 1 and is a major artery serving businesses and through traffic along the California coast. Tennyson Street provides access to commercial businesses for the first block east of Sepulveda and then enters a residential neighborhood. At present a temporary barrier prevents any through traffic in either direction beyond Chabela Drive. Chabela is a very narrow residential street, with housing along the east side of the street and the project on the west side. No project site access is proposed to Chabela Drive, but a new sidewalk will be added along the project frontage. Shelley Street intersects with Chabela Drive at approximately the boundary line between the project site and the Pacific Place medical office complex. Shelley Street is a residential one-way westbound street that allows movement onto Chabela Drive.

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EXHIBIT 5. TRAFFIC AND PARKING EXPERT OPINIONS

Traffic Impact

The traffic analysis conforms to the study scoping agreement with the City contained in the project documentation. However, the study does not address potential impacts to the adjacent residential neighborhood. Given the measures which have already been implemented by the City to prevent through traffic infiltration into the residential neighborhood (road closures, one-way streets and barriers) this is an issue that clearly needs to be addressed.

The traffic study makes no attempt to address prospective additional impacts to the local residential streets due to the proposed project. See attached annotated exhibit from the Kimley Horn TIA which indicates street intersections that should be evaluated along Keats Street, Prospect Avenue, Chabela Drive and 30th Street.

It is also worth noting that the Skechers Design Center and Executive Offices project which is located on Sepulveda Boulevard in very close proximity and includes a very comprehensive traffic analysis of this area includes a discussion of cumulative traffic impacts some of which could directly impact the PCH 600 project site. Skechers Design Center and Executive Offices Final Environmental Impact Report SCH # 2015041081, Certified January 31, 2018, cumulative analysis does not include the 600 PCH project, as it was not proposed at the time, but does recommend the extension of the left turn lane on Sepulveda Boulevard by an additional 40 feet in order to accommodate the left turn queue waiting to turn onto Tennyson Street. While the intersection would continue to operate at LOS F, this lane extension would prevent the queue from backing up into the southbound through lane of Sepulveda Boulevard. With the addition of the 600 PCH project traffic the cumulative analysis should have identified this issue and discussed whether a further extension of the left turn lane is warranted, but instead finds: "Based on the Level of Service standards and significant impact criteria, the project-related impact would not be considered significant; therefore, no mitigation is required." It is true that the intersection currently operates at LOS F and even with the extension would continue to operate at LOS F, but the left turn lane extension would improve the traffic flow of the southbound through lanes on Sepulveda Boulevard.

Parking Analysis

Based on the uses proposed for the project site, the City Code requires a total of 243 parking spaces. Per the City's ordinance a 15% reduction in parking is permitted for mixed use development, which would reduce the overall requirement of 243 spaces to 205 spaces; a reduction of 38 spaces. The staff report indicates that a further reduction may be allowed with a Use Permit Application and a Parking Demand Evaluation. Based upon the parking demand analysis the project is proposing a total reduction of 85 spaces (34.9%) providing a total of 158 parking spaces. The parking demand analysis makes the conclusion that due to shared parking, the project provides sufficient parking to meet all peak on-site parking demand. On-site parking demand is further mitigated by the provision for transportation demand management measures, such as bicycle racks, public transportation, car-pooling, significant use of ride-sharing services, etc.

The Kimley Horn analysis has not used the most current and correct parking demand data in reaching this conclusion. While the Kimley Horn analysis cites the use of the latest *ITE Parking Generation Manual*, 5th Edition, the parking data utilized in the analysis do not reflect the 85th percentile data from the source document. Industry practice typically utilizes the 85th percentile peak parking rate to determine a site's minimum parking need. The 85th percentile is used to calculate a "reasonable worst case estimate" of a site's parking need. Also, the time of day factors used in the analysis are sourced from Urban Land Institute, *Shared Parking*, 2nd Edition. The *ITE Parking Generation Manual*, 5th Edition also provides these data and is the preferred source as it is based on more recent and comprehensive field surveys.

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EXHIBIT 5. TRAFFIC AND PARKING EXPERT OPINIONS

In addition, there is discussion in the staff report that the food service and bar would be for hotel guests only, likewise any live entertainment on the outdoor fourth floor terrace would be for hotel guests only. However, there is also discussion that the applicant is considering returning to the Planning Commission at a later date to classify the downstairs dining area and fourth floor terrace as restaurant uses. There is no analysis of the parking demand for the food service and bar, as they are currently proposed to be restricted to hotel guests only and thus would not generate any additional traffic or parking demand at project opening. Should these services be opened to the public at a later date, it would change the parking demand profile for the site. Once the project is completed with the proposed subterranean parking structure there would be no way to add more on-site parking. There is also discussion in the staff report that the hotel employees would discourage parking on Tennyson Street and Chabela Drive. That may well be, however, if the parking lot is full these adjacent streets become the only viable option for parkers.

Based on these concerns, TEP has developed a new matrix utilizing the *ITE Parking Generation Manual*, 5th Edition, 85th percentile parking generation rates and the ITE time of day factors. Using these most current and correct parking rates, the shared parking demand findings indicate a significant difference. The attached spreadsheets highlight the peak hour parking demands of our analysis. The SumSpace column provides the sum of parking demand by time of day for all uses currently proposed on the site. The PlusRest column adds the additional parking demand if the private dining and bar areas were opened to the general public. For purpose of this analysis, these areas are evaluated as a quality sit-down restaurant (Land Use Code 931).

The conversion of the dining and bar areas to public use would increase the on-site parking demand, and accounts for the highest peak hour demand for weekdays and weekends. The peak hour weekday parking demand equals 182 spaces between 12:00 Noon and 1:00 PM with public dining and bar service. Without the public restaurant use the peak hour weekday parking demand equals 177 spaces occurring between the hours of 9:00 and 10:00 AM. The peak weekend parking demand equals 287 spaces between 8:00 and 9:00 PM with public dining and bar service. Without the public restaurant use the peak hour weekday parking demand equals 251 spaces occurring between the hours of 12:00 Midnight and 4:00 AM. Our analysis indicates that on-site parking demand exceeds the current City zoning code requirements even without the conversion of the private dining and bar services to public use. As such, no parking reduction should be granted.

Please see attached spreadsheets and graphs.

Conclusion

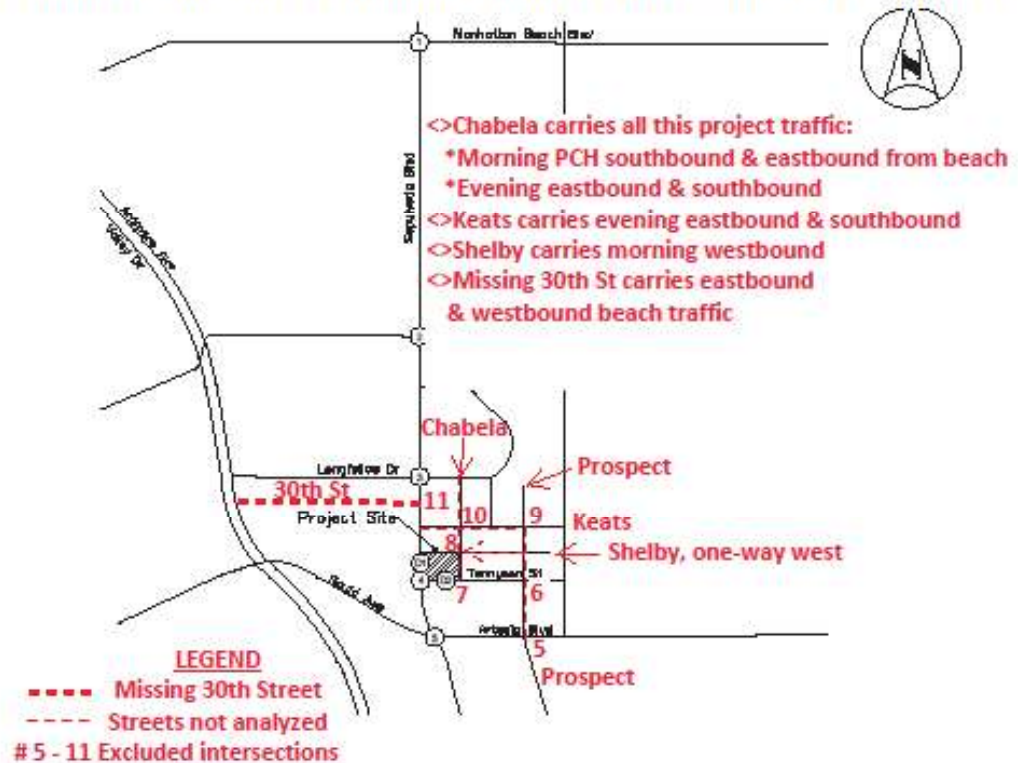
The study gives no analysis of the traffic impacts that may occur on the local neighborhood streets as a result of the project traffic. Measures have already been implemented by the City to discourage through traffic infiltration on the local adjacent streets. The project traffic study must address the prospective impact of the project on these streets and identify specific additional mitigation measures if needed.

In addition, the project TIA must address cumulative traffic impacts, as previously identified for the Skechers project.

While the City Code allows a reduction in on-site parking for mixed use projects, such as the proposed project, the Kimley Horn parking demand analysis proposes an excessive reduction in on-site parking demand based on an analysis using outdated and invalid data. The Kimley Horn analysis would result in a significant on-site parking deficiency. This would likely result in project generated parking demand spilling onto adjacent residential streets.

Transportation Engineering and Planning, Inc.

PROJECT FAILED TO ANALYZE TRAFFIC IMPACTS ON RESIDENTIAL STREETS



1. Sepulveda Blvd at Manhattan Beach Blvd	2. Sepulveda Blvd at 2nd St	3. Sepulveda Blvd at Longfellow Dr	4. Sepulveda Blvd at Tennyson St
5. Sepulveda Blvd at Artesia Blvd/Gould Ave	D1. Sepulveda Blvd at Project Driveway 1	D2. Tennyson St at Project Driveway 2	

FIGURE 3
EXISTING LANE CONFIGURATION
AND TRAFFIC CONTROL

LEGEND:

- (X) = Study Intersection
- = Turn or Through Lane
- [] = Signal
- OV = Right Turn Overlay

EXHIBIT 5. TRAFFIC AND PARKING EXPERT OPINIONS

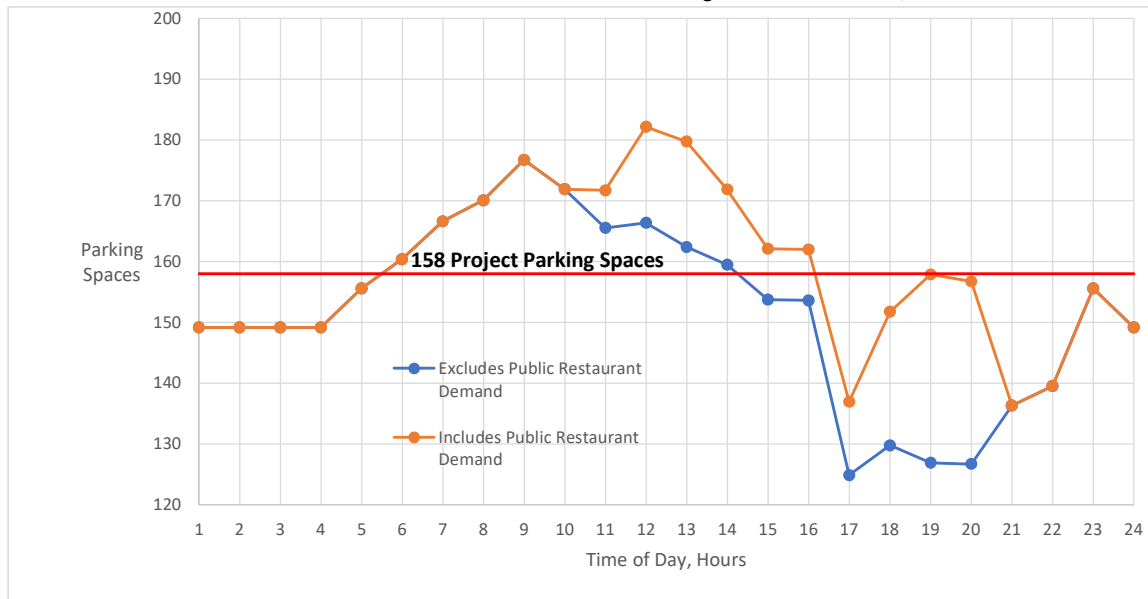
Weekday Parking Demand Evaluation - 600 PCH Hotel, Manhattan Beach

ASSUMPTIONS

				ITE85Pct	PkSpaces
Rooms	HRooms	162	HPeak	0.99	160
SqFt	OArea	9.264	OPeak	3.30	31
SqFt	RArea	6.845	RPeak	1.86	13
Seats	Restaura	144	RestPk	0.86	124

Hour	HPct	Hspace	OPct	Ospace	RPct	Rspace	SumSpace	RestPct	RestSpace	PlusRest	Baseline
1	0.93	149					149			149	158
2	0.93	149					149			149	158
3	0.93	149					149			149	158
4	0.93	149					149			149	158
5	0.97	156					156			156	158
6	1.00	160		0		0	160		0	160	158
7	0.96	154	0.26	8	0.37	5	167		0	167	158
8	0.90	144	0.65	20	0.46	6	170		0	170	158
9	0.87	140	0.95	29	0.64	8	177		0	177	158
10	0.82	132	1.00	31	0.77	10	172		0	172	158
11	0.77	123	1.00	31	0.90	11	166	0.20	6	172	158
12	0.77	123	0.99	30	0.99	13	166	0.51	16	182	158
13	0.75	120	0.99	30	0.93	12	162	0.56	17	180	158
14	0.73	117	0.97	30	1.00	13	159	0.40	12	172	158
15	0.70	112	0.94	29	1.00	13	154	0.27	8	162	158
16	0.71	114	0.90	28	0.96	12	154	0.27	8	162	158
17	0.70	112		0	0.99	13	125	0.39	12	137	158
18	0.74	119		0	0.87	11	130	0.71	22	152	158
19	0.75	120		0	0.52	7	127	1.00	31	158	158
20	0.79	127		0		0	127	0.97	30	157	158
21	0.85	136		0		0	136		0	136	158
22	0.87	140		0		0	140		0	140	158
23	0.97	156		0		0	156		0	156	158
24	0.93	149					149			149	158

SOURCE: ITE Parking Generation Manual, 5th Edition



CONCLUSION:

Peak Weekday Parking Demand without public restaurant - 177 spaces 9:00-10:00 AM

Peak Weekday Parking Demand with public restaurant - 182 spaces 12:00 Noon-1:00 PM

EXHIBIT 5. TRAFFIC AND PARKING EXPERT OPINIONS

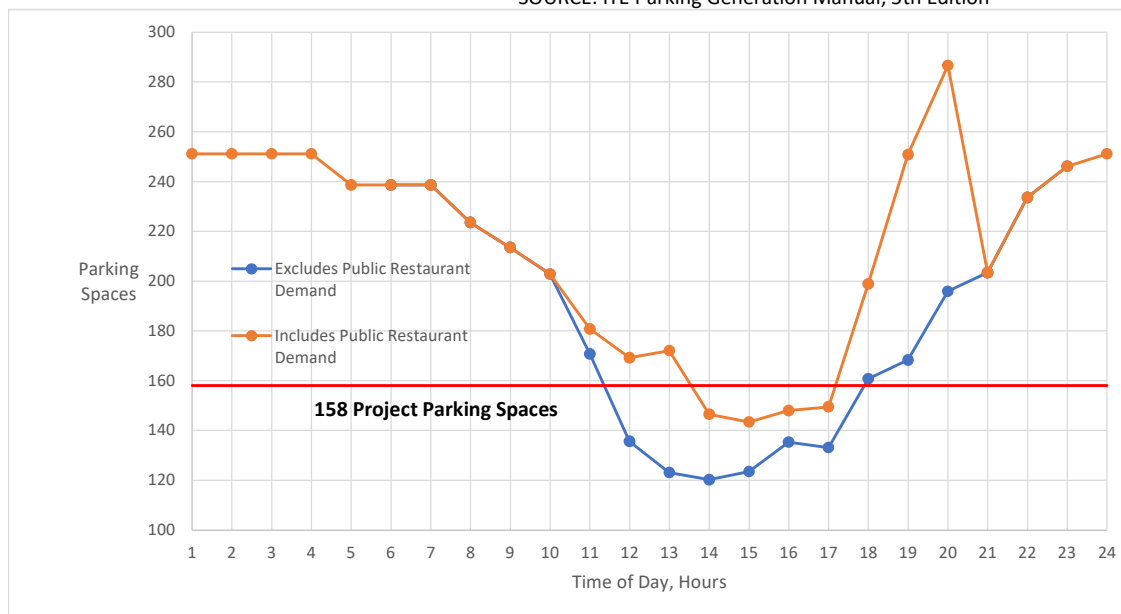
Weekend Parking Demand Evaluation - 600 PCH Hotel, Manhattan Beach

ASSUMPTIONS

				ITE85Pct	PkSpaces
Rooms	HRooms	162	HPeak	1.55	251
SqFt	OArea	9.264	OPeak	0.73	7
SqFt	RArea	6.845	RPeak	2.56	18
Seats	Restaurar	144	RestPk	0.63	91

Hour	HPct	Hspace	OPct	Ospace	RPct	Rspace	SumSpace	RestPct	RestSpace	PlusRest	Baseline
1	1.00	251		0		0	251		0	251	158
2	1.00	251		0		0	251		0	251	158
3	1.00	251		0		0	251		0	251	158
4	1.00	251		0		0	251		0	251	158
5	0.95	239		0		0	239		0	239	158
6	0.95	239		0		0	239		0	239	158
7	0.95	239		0		0	239		0	239	158
8	0.89	223		0		0	223		0	223	158
9	0.85	213		0		0	213		0	213	158
10	0.74	186		0	0.97	17	203		0	203	158
11	0.61	153		0	1.00	18	171	0.11	10	181	158
12	0.47	118		0	1.00	18	136	0.37	34	169	158
13	0.42	105		0	1.00	18	123	0.54	49	172	158
14	0.41	103		0	0.98	17	120	0.29	26	146	158
15	0.43	108		0	0.88	15	123	0.22	20	143	158
16	0.48	121		0	0.84	15	135	0.14	13	148	158
17	0.53	133		0		0	133	0.18	16	149	158
18	0.64	161		0		0	161	0.42	38	199	158
19	0.67	168		0		0	168	0.91	83	251	158
20	0.78	196		0		0	196	1.00	91	287	158
21	0.81	203		0		0	203		0	203	158
22	0.93	234		0		0	234		0	234	158
23	0.98	246		0		0	246		0	246	158
24	1.00	251		0		0	251		0	251	158

SOURCE: ITE Parking Generation Manual, 5th Edition



CONCLUSION:

Peak Weekday Parking Demand without public restaurant - 251 spaces 12:00 Midnight-4:00 AM

Peak Weekday Parking Demand with public restaurant - 287 spaces 8:00-9:00 PM

EXHIBIT 5. TRAFFIC AND PARKING EXPERT OPINIONS



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Craig S. Neustaedter, P.E., AICP Professional Resume

EDUCATION

M.S.C.E. received from the University of California, Irvine. Major fields of study: transit planning, environmental analysis, traffic engineering, and travel demand forecasting.

Honors: Recipient of National Highway Institute Fellowship for Graduate studies.

B.A. received from the University of Colorado, Boulder.

Graduate of Certificate Program in Engineering Management, University of California, Irvine

PROFESSIONAL CREDENTIALS AND AFFILIATIONS

Registered Professional Engineer (Transportation, CA license # TR 1433)

American Institute of Certified Planners (AICP)

Institute of Transportation Engineers, Fellow

American Planning Association

American Public Works Association

American Society of Civil Engineers (ASCE)

Forensic Engineering Technical Group

Orange County Traffic Engineers Council (OCTEC)

Riverside - San Bernardino Institute of Transportation Engineers (RSBITE)

Traffic Signal Association of the Inland Empire

PROFESSIONAL AND ACADEMIC ACTIVITIES

Advisory Board Member, Cal State University, San Bernardino - Leonard University Transportation Center

Instructor, University of California, Riverside Extension - Fundamentals of Transportation Engineering (1999 – 2014)

Chairman Riverside San Bernardino ITE Technical Committee, (1995 through 2004)

Member ITE Technical Council Committees: Refinement of Traffic Forecasts; Transportation Expert Information Notebook

Author: "Fontana Truck Trip Generation Study", September, 2003

"Arterial Access Management Issues and Opportunities, Three Southern California Case Studies", Transportation Research Board, August 4, 1993;

"Chorro Street Area Traffic Calming Plan, A Case Study of Residential Traffic Control", Institute of Transportation Engineers District 6, July, 1997;

"Demand Predictive Models Based On Omnitrans Route 61 Ridership Data", Institute of Transportation Engineers District 6, July, 2002.

REPRESENTATIVE PROJECT EXPERIENCE

On-call Traffic and Transportation Consultant to Local Governments – Monterey Park, Colton, Whittier, San Luis Obispo, Grand Terrace, Banning, Loma Linda, Fontana, Palm Desert, City of San Bernardino, Riverside County Transportation Department.

Transportation Engineering and Planning, Inc.

EXHIBIT 5. TRAFFIC AND PARKING EXPERT OPINIONS

Traffic Engineering Project Management – Port of Long Beach Sign Inventory Management System; Ontario New Model Community Access Management Plan; Traffic Control Plans/ Signing and Striping Plans/ Traffic Signal Plans for over 30 municipal agencies and developers in Southern California; Over 500 Traffic Speed Zone Studies for Palm Desert, Moreno Valley, Grand Terrace, Whittier and Colton. Traffic Calming Plans for Grand Terrace, and Moreno Valley.

Circulation Impact Fee Programs for the Irvine Business Complex and Cities of Grand Terrace, Moreno Valley, Colton, Yucaipa, and Whittier.

Grant applications preparation for federal surface transportation act (CMAQ, STP, TEA,) programs. Other programs including SB821, Safe Routes to School, HES, OTS, ATP.

Transit and TDM Studies - Demand Predictive Models Based On Omnitrans Ridership Data; North State Route 57 Corridor Transit System Opportunities and Options Study; Orange County Master Plan Study for Park and Ride Facilities; Study of the Effectiveness of Shared Ride Incentives; San Joaquin Hills Transportation Corridor Transit Demand Analysis, Anaheim Tour Bus Study.

Computer Modeling - Upland Traffic Demand Model, Fontana Travel Demand Model, North-South Corridor Model, Hawaii Kai Traffic Model, Santa Ana Heights/John Wayne Airport Traffic Model, Laguna Niguel Traffic Model, North Orange County Circulation Study Model.

Project and Corridor Traffic Studies – University Parkway Interchange at I-215 TEPA/PSR (San Bernardino), Whittier Blvd Specific Plan Traffic Study; Foothill Blvd. (SR-66) Improvement Plan (Fontana); Las Virgenes Road Corridor Design Plan; North/South (San Bernardino/Riverside Counties) Corridor Study; I-5/SR-133 Confluence Area Traffic Study; Moulton Parkway Super Street Feasibility Study; Foothill Blvd. Vision Plan (Upland) - Traffic Technical Report; Cajalco / SR 91 Systems and Funding Alternatives Analysis; San Joaquin Transportation Corridor West End Conceptual Design; Live Oak Canyon/I-10 Interchange PSR Traffic and Prioritization Study.

EIR/General Plan Traffic Studies – GPA 960, Riverside County, La Verne Circulation Element Update, Grand Terrace Circulation Element Update, Village 34 (Irvine) General Plan Amendment and Zone Change; Irvine Business Complex Supplemental EIR; Irvine Conservation/Open Space Element General Plan Amendment; John Wayne Airport/Santa Ana Heights; Laguna Niguel Comprehensive Traffic Study.

Parking Studies – University Village, Pomona Parking Study, Mission Promenade Shared Parking Analysis, City of Fontana Fast Food Restaurant Parking Analysis, Shared Parking Analyses for various projects throughout Southern California.

Site Impact Studies - Site impact studies for development projects in California and Hawaii, including residential, retail, commercial office, industrial, golf courses, hospitals, parking facilities, commercial and general aviation airports, parks, multi-modal facilities, mixed use developments, and government facilities.

Bicycle Facilities –Concept and Construction Design of 4 Corridor Bike Facilities, City of Monterey Park, San Sevaine Creek Bike Trail TEA Application, City of Fontana; City of Grand Terrace Bike Trail Plan (AB 1020); City of Moreno Valley Bike Trail Plan; Village 38 Bike Trail Study, City of Irvine; Moulton Parkway Bike Trail Study, County of Orange; California Aqueduct Bike Trail Conceptual Design, Moreno Valley.

EXHIBIT 5. TRAFFIC AND PARKING EXPERT OPINIONS



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Edwin D. Studor **TEP Consultant Transportation Planner** **Professional Resume**

EDUCATION

Bachelor of Science degree from the School of Architecture and Environmental Design at the California Polytechnic State University at San Luis Obispo
Associate of Arts degree from Mt. San Jacinto College

PROFESSIONAL CREDENTIALS AND AFFILIATIONS

Institute of Transportation Engineers, Life Member (# 19474)
Transportation Planning Council-ITE
Riverside-San Bernardino Institute of Transportation Engineers (RSBITE)

PROFESSIONAL AND ACADEMIC ACTIVITIES

Guest Lecturer, University of Riverside Extension-Fundamentals of Transportation Planning
Co-Author with Steve Smith: "Integrating Land Use and Transportation Planning-Riverside County RCIP", Transportation Research Board, June 2003

PROFESSIONAL EXPERIENCE

Background – Mr. Studor has a total of more than of 35 years experience as a transportation planning professional. He served as the senior transportation planning program manager for Riverside County for the *16 year period from 1989 through 2005*. During this period he supervised the Development Review Division of the County Transportation Department and was responsible for reviewing traffic impact reports for private development submittals as well as preparing recommended conditions of approval. He directed several updates of the Riverside County Circulation element as well as directing various mitigation fee nexus studies. Served as the Riverside County representative for the regional transportation mitigation fee programs for both the Coachella Valley and Western Riverside County Transportation Uniform Mitigation Fee (TUMF) programs. He was designated as the Project Manager for the transportation component of the Riverside County Integrated Project (RCIP); a comprehensive, countywide plan integrating land use, transportation and habitat conservation.

Consultant Experience – *From 2005 to current*, Mr. Studor has provided consultant service to various local jurisdictions throughout the greater Los Angeles area including: the Cities of Rosemead, Whittier, South Pasadena, Colton, Grand Terrace, San Bernardino and Perris, as well as the County of Riverside. In addition, Mr. Studor has provided consultant services for a number of private development proposals.

Consultant services provided include the following: On-call services to scope and review traffic impact reports, while also recommending conditions of approval for development proposals; assist in the preparation traffic impact analysis reports for municipal projects; parking utilization and parking demand studies; prepared various transportation related grant applications, including Safe Routes to School, Bicycle Lane Account, SB 821, and Highway Safety Improvement Program; ordinance updates; and project management for general plan updates and freeway interchange improvements, serving as city staff to assist with consultant selection and providing consultant oversight.



Manhattan Beach Hotel

Review of the Applicant's Noise Impact Analysis

November 15, 2020

Prepared for:

Don McPherson
1014 1st Street
Manhattan Beach, CA 90266

By:

Steve Rogers Acoustics, LLC

A handwritten signature in blue ink, appearing to read 'S. Rogers', is placed over a circular stamp.

Steve Rogers
Principal



1. Executive Summary

The proposed project is a new-construction hotel, office/retail building and subterranean parking structure to be located at 600 S. Sepulveda Boulevard in Manhattan Beach, CA. The main focus of this report is the hotel portion of the project, which includes an outdoor roof terrace, first floor exterior patio and rooftop HVAC equipment. The Applicant is proposing that the hotel will offer bar (and limited food) service until 1AM daily and there is also the possibility of live entertainment on the roof terrace until 9PM daily.

Concerns have been raised about the noise impact of hotel operations and, to address this issue, the Applicant has submitted a Noise Technical Memorandum dated September 21, 2020, prepared by Michael Baker International (MBI).

Steve Rogers Acoustics, LLC has completed a review of the MBI analysis, the findings of which are detailed in this report. Our conclusion is that the MBI analysis significantly understates the noise impact of the proposed project by:

- Assuming that only one of the 25 pieces of HVAC equipment on the roof will be operating at any given time. In reality, noise impact on the nearby residential uses would be the combined effect of multiple fans and condenser units operating simultaneously.
- Assuming an unrealistically low level of speech effort for each individual talker in the rooftop bar, roof terrace and hotel bar patio.
- Basing crowd noise impact evaluation on a single talker, whereas we estimate that the rooftop bar/terrace could accommodate 200 people, with room for dozens more on the first-floor patio.
- Not addressing potential noise impacts associated amplified music playback in the hotel, including live music performances and DJ sets on the rooftop terrace.
- Not addressing noise impacts on the residential uses located on El Oeste Drive, to the west of the project site. The homes on this street would have a direct line-of-sight to the rooftop bar/terrace, approximately 300-feet away.
- Not addressing the low ambient noise levels during the late evening or at night on the neighboring residential streets, nor the related issue of audibility of noise emanating from the hotel. Evaluation of audibility is necessary to demonstrate compliance with both the Municipal Code and the MBPC Conditions of Approval.

2. Project Location & Surrounding Uses

The project site is located at the northeast corner of Sepulveda Boulevard and Tennyson Street, as shown in Figure 1. To the east is Chabela Drive, which has single-family homes on it – as do nearby Shelley, Tennyson and Keats Streets. The topography of the single-family neighborhood to the east is significant to the noise impact analysis because there is a quite steep slope rising up to the north of Tennyson Street.



Figure 1: Project Site Vicinity Plan & Noise Measurement Locations



For example, on Chabela Drive north of Shelley Street, the ground level is as much as 20-feet above ground level on the project site, which means that the roofs of the two-story homes in this area are at approximately the same elevation as that proposed for the roof of the new hotel building.

To the west of the project site, on the opposite side of Sepulveda Boulevard, is El Oeste Drive – a residential cul-de-sac. The single-family properties on the east side of El Oeste are approximately 300-feet from the project site and many of these homes would have clear, unobstructed sightlines to the upper floors of the future hotel, including the rooftop bar and terrace.

3. Ambient Noise Levels

The main source of ambient noise in the area during the day is traffic flow on Sepulveda Boulevard. Additional noise contributions are made by sporadic traffic movements on the smaller surface streets, distant aircraft and HVAC equipment associated with commercial buildings nearby. At night, traffic on Sepulveda is greatly reduced and we noted very little movement on smaller streets.

A. Existing Ambient Noise Measurements

We measured existing ambient noise levels during the day and night on November 11, 2020 at two locations selected to represent the residential uses in closest proximity to the project site, shown as locations “1” and “2” in Figure 1. For each measurement, the sample period was 10-minutes, which we deemed to be representative of the noise climate for the hour in which each measurement was made.



Measured ambient noise levels are summarized as overall A-weighted Equivalent Noise Levels in Table 1. Equivalent Noise Level –conventionally denoted as “Leq” – is the same thing as the “LEE” noise descriptor used in the Manhattan Beach Municipal Code.

Table 1: Existing Ambient Noise Levels				
Location	DAY		NIGHT	
	Leq (dBA)	Time	Leq (dBA)	Time
1. Corner of Chabela Dr & Shelley St	55.4	12:46 AM	40.6	11:26 PM
2. El Oeste Dr	51.9	1:11 PM	38.0	11:46 PM

All noise measurements were made with a Bruel & Kjaer Type 2250 sound level meter, which satisfies the requirements for a Type 1 sound level meter (and exceeds the requirements for a Type 2 sound level meter) according to ANSI/ASA Standard S1.4. The calibration of the sound level meter was checked before and after use using a Bruel & Kjaer Type 4231 Acoustical Calibrator; we found that no change had occurred between the two calibration checks.

B. Comparison with MBI Noise Measurements

Our daytime noise level readings on Chabela Drive agree very closely with measurement results for this location reported by MBI in their September 21, 2020 memorandum. However, MBI’s analysis does not include ambient noise measurements on El Oeste Drive, nor does it address nighttime noise levels on the residential streets around the project site – which are significantly reduced compared to daytime conditions

4. Applicable Noise Regulations

A. MUNICIPAL CODE - EXTERIOR NOISE STANDARDS

Noise control requirements for the City of Manhattan Beach are contained in Chapter 5.48 “Noise Regulations” of the Municipal Code (aka the City Noise Ordinance). Section 5.48.160, Table 6 defines the exterior noise limits for the City in terms of maximum allowed exterior equivalent noise levels (LEE) as follows:

Designated Land Use or Zoning Classification	Time of Day	Exterior A-Weighted Noise Level
Residential	7:00 a.m.—10:00 p.m.	55 dB
	10:00 p.m.—7:00 a.m.	50
Commercial	7:00 a.m.—10:00 p.m.	70
	10:00 p.m.—7:00 a.m.	65
Industrial	7:00 a.m.—10:00 p.m.	75
	10:00 p.m.—7:00 a.m.	75



B. MUNICIPAL CODE – AMPLIFIED SOUND REGULATIONS

In addition to the exterior noise standards, the MBMC also prescribes specific requirements for control of amplified music, including paragraph 5.48.120, which reads:

5.48.120 Amplified sounds - Electronic devices.

It is prohibited for any person to permit the transmission of, or cause to be transmitted, any amplified sound on any public street, sidewalk, alley, right-of-way, park, or any other public place or property which sound is audible at fifty feet (50'). This section shall not apply to any noncommercial public speaking, public assembly, or other activity for which a permit has been issued.

C. CONDITIONS OF APPROVAL – NOISE PROVISIONS

Section 7 of the Manhattan Beach Planning Commission Draft Resolution PC 20-, dated November 18, 2020, lists the conditions attached to approval of the project. Condition number 16 under the Section 7 heading requires that:

Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to nearby property owners. Noise shall not be audible beyond the premises.

5. Project Noise Impact Evaluation

A. ROOFTOP HVAC EQUIPMENT

The architect's roof plans for the project show a total of 16 fans and 9 condenser units on the roof of the hotel and much of this equipment would be located within 100-feet of the nearest homes on Chabela Drive.

The MBI analysis is based on noise from a single piece of typical mechanical equipment, producing 55 dBA at a distance of 50-feet. And, based on this assumption, MBI calculates a mechanical equipment noise level of 42 dBA at the nearest homes on Chabela Drive – which would comply with noise limits in the MBMC.

However, MBI's calculation do not take into account the cumulative effect of 25 pieces of equipment operating simultaneously – which would increase noise levels by 10 dBA or more at any given location on Chabela Drive.

So, even if MBI's assumed noise level for a single piece of equipment is realistic and estimated distance/shielding losses are accurate, the combined effect of multiple fans and condenser units operating at the same time would cause the nighttime noise limit in the MBMC to be exceeded.

In addition, HVAC equipment noise would be clearly audible at the homes on Chabela Drive, because of the low ambient noise levels in the area during the late evening and nighttime. This would be contrary to Condition of Approval #16 in the MBPC Draft Resolution PC 20-, which requires that noise emanating from the hotel "shall not be audible beyond the premises".

**B. VOICES IN THE OUTDOOR GATHERING AREAS**

The project includes two outdoor gathering areas: (1) a patio at ground level, accessible to the hotel bar, and (2) a rooftop terrace. In addition, the enclosed portion of the rooftop bar is shown on the architect's drawings with retractable doors, which would allow the bar to be completely open to the outside on the west and south sides.

MBI has concluded that the noise of patrons' voices in the outdoor portion of the hotel bar and the roof deck would be approximately 23 dBA at the nearest residential uses and therefore less-than-significant. MBI also notes that the presence of the hotel building would further attenuate crowd noise received by the homes to the east.

We firmly disagree with MBI's analysis of crowd noise. In our opinion, crowd noise levels received at nearby residential uses would be substantially higher than MBI suggests and would exceed the nighttime noise standard in the MBMC. This is how we arrive at this conclusion:

- The MBI calculation is based on the assumption of "raised normal" speech effort and a noise level for each individual speaker of 60 dBA at 1 meter (3.28 feet). This reference noise level is taken from a recognized 2006 paper titled "Prediction of Crowd Noise" by M.J. Hayne et al. We believe that MBI's assumed noise level for individual talker is unrealistically low. In our experience, the speech effort of individual talkers in a lively, crowded bar would be at least "raised" and, more likely, "loud", with noise levels of 66 or 72 dBA at 1 meter respectively (according to Hayne et al, 2006); in other words, 6 to 12 dBA louder than MBI has assumed.
- The MBI calculation of crowd noise appears to be based on a single talker, whereas the roof deck and open-sided rooftop bar are sized for around 200 patrons, with capacity for dozens more on the ground floor patio. Total crowd noise during busy times in the bar/restaurant areas could therefore be approximately 20 dBA louder than the noise of a single talker.
- The MBI calculation does not take account of alcohol consumption, which has been shown to increase crowd noise by an additional 3 - 6 dBA, according to a 2011 paper on crowd noise by Hayne et al.

Combining all of the above factors, we would argue that the true impact of crowd noise in the outdoor gathering area of the hotel would be at least 30 dBA higher than MBI predicts – i.e. a net noise level of 53 dBA, which would exceed the nighttime exterior noise standard in the MBMC. We should also point out that, while the hotel building may provide some crowd noise shielding for homes to the east, homes to the west – such as those on El Oeste Drive – would have clear sightlines to the roof deck and bar and would not therefore benefit from any such shielding.

Furthermore, crowd noise from the outdoor gathering areas would be clearly audible at the homes on Chabela Drive and El Oeste Drive, because of the low ambient noise levels in each of these locations. This would be contrary to Condition of Approval #16 in the MBPC Draft Resolution PC 20-, which requires that noise emanating from the hotel "shall not be audible beyond the premises".



C. AMPLIFIED MUSIC, LIVE PERFORMANCES

In our experience, one of the most significant impacts of outdoor bar/gathering spaces is amplified music playback. While the Applicant may not have specifically stated that this project will be equipped with permanent, built-in loudspeakers, it is almost certain that this feature will be part of the final design and that the loudspeaker distribution will include the rooftop bar, rooftop terrace and hotel bar patio.

Also, the MBPC Draft Resolution PC 20-, dated November 18, 2020, would allow live entertainment on the rooftop outdoor terrace until 9PM, seven days a week.

The MBI noise impact analysis does not address amplified music or live performances and does not, therefore, demonstrate that hotel operations would comply with the MBMC requirement that amplified music be inaudible on any of the surrounding streets at a distance of 50-feet from the source(s).

Given the relatively low ambient noise levels on the surrounding streets – such as El Oeste Drive, where the homes would have a direct line-of-sight to the rooftop terrace and bar – audibility of amplified music emanating from the hotel seems very likely, especially during outdoor live performances, DJ sets etc. This would be contrary not only to the noise regulations in the Municipal Code, but also Condition of Approval #16 in the MBPC Draft Resolution PC 20-, which requires that noise emanating from the hotel “shall not be audible beyond the premises”.

8. Conclusion

In our opinion, the analysis presented in MBI's Noise Technical Memorandum dated September 21, 2020, downplays and significantly understates the noise impact the hotel portion of the proposed project would have on the surrounding residential uses.

In light of the various omissions and unrealistic assumptions in MBI's analysis, we dispute MBI's claims that hotel operations will comply with the noise limits in the City of Manhattan Beach Municipal Code and that noise impacts will be less-than-significant.

Furthermore, MBI's analysis does not include an account of existing ambient noise levels around the project site during the late evening or at night, nor does it address the important issue of audibility of noise emissions from the hotel – which is necessary to demonstrate compliance with the MBPC Condition of Approval (#16) that noise emanating from the hotel “shall not be audible beyond the premises”.



APPENDIX: Acoustical Terminology

dB	Human perception of loudness is logarithmic rather than linear. For this reason, sound level is usually measured on a logarithmic decibel (dB) scale. A change of 10 dB equates to a perceived as a doubling (or halving) of loudness, while a change of 3 dB is generally considered to be just perceptible.
dBA	A-weighting is the application of a frequency-weighted scale designed to reflect the response of the human auditory system, in which low frequencies are attenuated, while mid and high frequencies are emphasized. A-weighted sound levels are expressed as dBA.
Leq	The Equivalent Noise Level (Leq) is an energy-average of noise levels over a stated period of time. Leq is the basic unit of environmental noise assessment in the United States and is also the basis of the "LEE" noise standards in the Manhattan Beach Municipal Code.



Steve Rogers, Principal

Resume

Experience

Steve Rogers Acoustics, LLC
Los Angeles, California 2005 – Present

Principal

SRA was formed to offer architects, attorneys, developers, environmental consultants and planners a source of high-quality acoustical consulting, with a strong emphasis on attentive and responsive service. Current and recent projects include: Environmental Impact Reports for the Hermosa Beach Oil Project, Baldwin Hills Oilfield and Port of Long Beach Middle Harbor Redevelopment, Indiana Street Freeway Noise Impact Study, Santa Monica College Performing Arts Center and Concorde Music Group's headquarters in Beverly Hills.

Veneklasen Associates, Inc.
Santa Monica, California 1995 – 2005

Associate Principal

Over the course of a decade with the acoustics group at VA, Steve served as project manager and main point of client contact for the firm's largest and highest-profile projects, including the Getty Center in Los Angeles, the Aquarium of the Pacific in Long Beach, Lloyd D. George Federal Courthouse in Las Vegas and numerous landmark office headquarters buildings.

Hann Tucker Associates
Woking, Surrey, UK 1988 – 1995

Senior Consultant

During his seven years with HTA (at the time, Europe's largest independent acoustical consulting firm) Steve gained broad experience in all aspects of acoustical consulting and exposure to a wide range of project types, including office buildings, hotels, recording studios, performing arts venues, courthouses and schools.

Education

University of Surrey, Guildford, Surrey, United Kingdom
BSc (with Honors) Physics and Modern Acoustics, 1987

Professional Affiliations

- National Council of Acoustical Consultants
- Institute of Noise Control Engineering
- American Institute of Architects (Allied Affiliate)

ATTACHMENT 2.

**ABC REGULATIONS PROHIBIT ALCOHOL SERVICE FOR HOTEL PATRONS ONLY;
PUBLIC EAT & DRINK REQUIRES PARKING**

This letter addresses the specific issue that neither the application nor the draft resolution addresses parking requirements for eating and drinking use ["eat & drink"]. This omission violates Municipal Code MBMC § 10.64.010 (A), which states, *"Ensure that off-street parking and loading facilities are provided for new land uses."*

The exhibits provide citations to the October 14 testimony and ABC regulations.

ABC regulations have profound impacts on requiring how eat & drink areas operate, which both the city and the applicant dismiss. Their actions, in turn, exclude parking requirements for eat & drink use.

The applicant proposes a Type 47 on-sale general license, which permits public access to all areas in the premises with alcohol service. [November 18 staff report, Attch B, PDF p. 107]

Nevertheless, at the October 14 public hearing, Mr. Fatuross testified, *"The hotel will also have limited dining and full alcohol service for hotel patrons only. So you and I get if you're not staying in the hotel, you can't just walk in there and get a drink."* [Exhibit 1, p. 4; para 2]

Per ABC regulations, the city in their resolution may not discriminate against public access to any alcohol service area in the hotel, particularly the rooftop 4th floor outdoor bar, with its spectacular ocean views. [Exhibit 2, Item 9, p. 3]

Consequently, staff has misrepresented material fact regarding alcohol service in the hotel, which constitutes grounds for revocation of the use permit, per MBMC § 10.104.030 (D)(1).

The applicant is equally guilty in discriminating against public use of their rooftop nightclub, which acoustic expert Steve Rogers has established will disturb residents west of Sepulveda Blvd. The applicant's noise analysis states, *"These areas have the potential to be accessed by groups of people intermittently for various occasions (e.g., **private parties, events, and other social gatherings**, etc.).* [November 18 staff report, PDF p. 484, Emphasis added.]

In contrast, ABC regulations prohibit private use of Type 47 licensed areas. [ibid Exhibit 2]

This substantial evidence supported by the expert opinion of Ms. Lauren Tysen, a former ABC official, per Exhibit 3.

To conclude, the city and applicant have deliberately excluded parking impacts from the eat & drink use, in violation of the municipal code and ABC regulations.

EXHIBIT 1. TRANSCRIPT, PC 600 PCH HEARING, 14 OCTOBER 2020

This transcript was exported on Nov 10, 2020 - view latest version [here](#).

Commissioner Ma...: [00:00:00](#) ... uh, open the public hearing, uh, move to our main agenda item: the proposed master-use permit for a new 162-room, uh 81,755 square foot hotel with full alcohol service for hotel patrons, uh, and a new 16,348 square foot retail and office building, uh, and reduce parking with 158 parking spaces at 600 South Sepulveda Boulevard and also make an environmental determination in accordance with CEQA. [inaudible 00:00:33]. I'd like to, uh, go ahead and move, uh, this forward. Do we have a staff report on this item?

Commissioner Fo...: [00:00:39](#) Uh, Commissioner, uh, Martin, I'd like to, uh, recuse myself and this item and I do have an interest on [Shabella 00:00:48] and so I will exit, uh, and wait for, uh, the agenda item to go by. Uh, with that said, I just wanted to say, uh, publicly that I do have concerns of the policy for projects like this that I'd like to discuss under commissioner items.

Speaker 1: [00:01:09](#) Oh and um, I'm sorry, Commissioner [Forniet 00:01:11], can we just identify the address that's the financial interest?

Commissioner Fo...: [00:01:15](#) 448 Chabela.

Speaker 1: [00:01:19](#) Thank you.

Commissioner Fo...: [00:01:19](#) Welcome.

Commissioner Ma...: [00:01:20](#) Great. Thank you, uh, Commissioner Forniet for, uh, uh, your, uh, perusal on this based on, on your interest and we'd like to go ahead and bring you back in under, uh, commissioner items if that works.

Commissioner Fo...: [00:01:32](#) Thank you.

Commissioner Ma...: [00:01:36](#) Perfect. Um, do we have a, uh, a staff report?

Director Carrie...: [00:01:40](#) Yes. Uh, good afternoon, uh, [Tierra Mortin 00:01:42] and members of the planning commission and also members of the public. Uh, today's staff report will be presented by assistant planner [Ted Furturos 00:01:50]. So Ted will go ahead and share his screen and Ted, you can begin your presentation. Thank you.

Ted Furturos: [00:01:57](#) Hey, can everyone hear me?

Commissioner Ma...: [00:02:00](#) Yes.

Commissioner Fo...: [00:02:00](#) Yes.

EXHIBIT 1. TRANSCRIPT, PC 600 PCH HEARING, 14 OCTOBER 2020

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Ted Furturos:

[00:02:02](#)

Hi everyone. Uh, my name is Ted Furturos and I'm a c-, or the, I'm the, uh, assistant planner here in the planning division and I'm here to present a master-use permit request for a new hotel and office buildings, uh, at 600 South Sepulveda Boulevard. So I'd like to start with some background about the project and the site. Um, the site is located on the East side of Sepulveda on the 600 block and I wanna remind everyone that, that Sepulveda is technically a state highway and is under the jurisdiction of the California Department of Transportation. The site is located in the CG-D8 zone which is the general commercial zone with the Sepulveda Boulevard co-, Corridor overlays on. The site is 65,419 square feet and the site was formerly an El Torito restaurant that had full alcohol service in conjunction with food. The current side is being used by Skechers as overflow parking, um, and was, I suspect, uh, used as the, um, corporate cafeteria for Skechers.

I'm not sure if that's still the case with the coronavirus pandemic but that was, uh... Skechers obtained permits to convert the building into a cafeteria. The site is located here on the North, uh, East corner of Tennyson Street and Sepulveda Boulevard and there are commercial properties to the North, South and West of the site. There are residential properties to the East and Southeast and on the West side, across Sepulveda Boulevard, is the City of Hermosa Beach. And along Sepulveda and the City of Hermosa Beach is all commercial zoning. Uh, here this zoning map helps illustrate how the zoning works. So again, the red is the CG zone. The red with the green box is the CG-D8 overlay zone. The light color here is single-family residential and then the dark tan here is high-density residential. I want to take a moment to discuss the CG-D8 overlay zone which this property is located in. Um, the CG-D8 overlay zone allows for hotel building to, uh, have a maximum height of 40 feet and also allows mechanical equipment on top of the hotel building to exceed the maximum height by five feet if it, if the mechanical equipment is screened. Now, the CG-D8 overlay zone came out of the Sepulveda Boulevard initiative which was a city study, um, of the issues facing Sepulveda and that was ongoing from 2017 to 2019.

There were many public hearings as part of that initiative, both between the planning commission and the city council. Um, it w-, and, and the final adoption of this, uh, of the reso-, of the ordinance that implemented the CD-G8 overlay zone was adopted in March 2019. And again, the CD-G8 overloo-, over, uh, overlay the [inaudible 00:05:32], overlay zone is designed to have unique development standards for hotels to help en-,

EXHIBIT 1. TRANSCRIPT, PC 600 PCH HEARING, 14 OCTOBER 2020

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encourage hotel development on those properties that fall under, uh, the CG-D8 overlay zone.

So this is what the applicant is proposing. Uh, and then we're gonna get into the details on the s-, square footages and everything in just a second here but, um, this gives a good indication of what the site would look like once completed. What you have is a four-story, 162-room hotel here that's on the East and Northern side of the property like an L-shape. You have a detached, two-story retail and commercial building here with retail on the bottom and office on the top. Uh, you access the site from Tennyson Street over here as well as Sepulveda Boulevard here.

There is a subterranean parking garage and the way that people access that s-, or cars access the subterranean parking garage is through this ramp right here. Um, and for some context again, this is Sepulveda, this is Tennyson Street and this is Chabela Drive over here. Getting into the details here. Actually getting a little more into the details of the site. So, there are 28 surface parking spots on the surface lot which, again, is this area here. And then in the subterranean parking lot, there's, um, 130 parking spaces. And again, vehicular access is from this ramp here. There is a dedication here along Sepulveda that will be eight feet wide and this will allow a wider shoulder here so cars traveling North on Sepulveda will be able to tuck in here and turn into the hotel and this will help ease some of the traffic flow, uh, along Sepulveda so cars don't back up here.

There will also be a dedication here along Chabela Drive and that dedication will be used to build a six foot wide, uh, city sidewalk, um, that will be good for pedestrians. I also want to point out, uh, the landscaping here and you'll see this more in the next slide but what you see here along the perimeter here is landscaping that's actually kind of in between the subterranean parking garage and the area above. And this, uh, cross-section here shows that. And what this does is it allows the parking garage to, uh, have natural light and ventilation which means the, uh, uh, the operation of the building, uh, has a, a lower carbon footprint and is more sustainable because there's not energy spent on lighting, uh, the parking garage as much as it would if it was, there was no natural light and also not, um, ventilating the parking structure.

Um, so that is something I want to point out, this ventilation here along a lot of the perimeter of the, uh, structure. This is the, um, subterranean parking garage here. Uh, again, 130

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parking spots down here. Getting into the details here: so the new hotel building will be four stories and 40 feet tall. It will be 81,775 square feet with 162 rooms. It's an L-shaped building along the North and Eastern part of the property and there is a fourth floor outdoor terrace, uh, that is on the Sepulveda, uh, [inaudible 00:09:30] on the part of the building closest toward Sepulveda. This building meets all height requirements, setback requirements, FAR requirements and other development standards. And I really wanna emphasize that because, because, the applicant is not building, is not asking for a height variance or asking to build more square footage than the code allows.

The applicant is building a building that meets the height requirements, setback requirements, FAR requirements and everything else. As far as hotel operations, the applicant describes the hotel as a "select service hotel". So there's a small fitness center, a business center, a few meeting rooms. And again, all those are for hotel patrons only. The hotel will also have limited dining and full alcohol service for hotel patrons only. So you and I get if you're not staying in the hotel, you can't just walk in there and get a drink. Um, and the hours of operation for, uh, that will be 7 AM to 1 AM. And the con-, the resolution requires that with, with the service of alcohol that a limited menu be served at all times. So if they're serving alcohol, there also must be food available to order.

Um, there's also, um, uh... The resolution as proposed allows for some live entertainment if the applicant obtains an entertainment permit and that live entertainment must end by 9 PM every-, I'm sorry, 9 PM, uh, seven days a week. There is also a maximum stay of any des-, guest of 30 consecutive days. For the detached retail and office building, um, it is two stories and 30 feet tall. Again, the office building has a different height requirement than the hotel. So the office building is meeting, is going up to the max. height for non-hotel uses. Um, the ground floor is 6,893 square feet of retail space and the second floor office is 9,455 square feet.

Um, it is on the Northwest corner on the s-, of the site, uh, and the applicant has not identified any tenants, uh, that would be occupying the space. The surface parking lot is meant to be used by the retail and office patrons here with the subterranean parking garage meant more for the hotel guests. Although, but the resolution does allow for, um, retail and office, uh, uh, patrons to use the bottom, uh, subterranean garage and get to our free parking. Um, and I want to point out that this building here, because it's located close to the street, is in line with the

EXHIBIT 2. ABC REGULATIONS REQUIRE ALL TYPE 47 LICENSE AREAS OPEN TO THE PUBLIC

Department of Alcoholic Beverage Control

QUICK SUMMARY OF SELECTED LAWS FOR RETAIL LICENSEES

State of California



See Item 9 for no discrimination against general public, page 3

Introduction

This pamphlet explains, in simple terms, some State laws and rules that retail licensees must follow. There are other State and local laws not listed here. When in doubt, call your local ABC office. You can also buy the entire set of ABC laws and rules from your local ABC office for \$11.50 plus tax.

ABC Penalties. ABC decides penalties for licensees on a case-by-case basis. ABC gives consideration to the type of violation, the licensee's past record, and the facts of each case. ABC penalties may be probation, suspension of the ABC license, a fine of \$750-\$6,000, or revocation of the ABC license.

Definitions. "B&P" means the Business and Professions Code. "CCR" means the California Code of Regulations. "PC" means the Penal Code. "H&S" means the Health and Safety Code. The term "licensee" as used here, means licensees, their agents, and employees. "Alcohol" means an alcoholic beverage. "On-sale" means bars, restaurants, taverns, clubs, hotels, motels, etc. "Off-sale" means liquor stores, grocery stores, convenience stores, etc. "Minor" means person under age 21.

Subject	Possible Penalties
1. After Hours Licensees may not sell, give, or deliver alcohol (by the drink or by the package) between 2:00 a.m. and 6:00 a.m. of the same day. No person may knowingly purchase alcohol between 2:00 a.m. and 6:00 a.m. (Sec. 25631 B&P) Licensees may not permit patrons or employees to consume alcohol between 2:00 a.m. and 6:00 a.m. of the same day (even if someone bought the drinks before 2:00 a.m.). (Sec. 25632 B&P) Some ABC licenses have special conditions (restrictions) as to hours of sale that are stricter than the law. Those licenses are marked "Conditional." (23800-23805 B&P)	<p><i>Criminal:</i> For the licensee or employee who sells or permits consumption after hours and for the patron who knowingly purchases after hours, the penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
2. Attire and Conduct On-sale licensees may not permit these acts: "(1) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals. (2) To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph (1) above. (3) To encourage or permit any person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person. (4) To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof." (Rule 143.2 CCR. Also violates Sec. 311.6 PC if conduct is "obscene;" e.g., intercourse, sodomy, masturbation, etc.)	<p><i>Criminal:</i> Violation of Rule 143.2 CCR carries no criminal penalty. For violation of Sec. 311.6 PC, the penalty is a maximum six months in county jail and/or a maximum \$1,000 fine. (Sec. 19 PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>

EXCERPT FROM ABC FORM-608, SUMMARY OF SELECTED LAWS FOR RETAIL LICENSEES

<p>3. Authority of Peace Officers/Refusing Inspection Police officers, sheriffs' deputies, and ABC investigators are sworn law enforcement officers (peace officers) with powers of arrest. Whether in plainclothes or uniform, peace officers have the legal right to visit and inspect any licensed premises at any time during business hours <i>without a search warrant or probable cause</i>. This includes inspecting the bar and back bar, store room, office, closed or locked cabinets, safes, kitchen, or any other area within the licensed premises. It is legal and reasonable for licensees to exclude the <i>public</i> from some areas of the premises. However, licensees <i>cannot and must not</i> deny entry to, resist, delay, obstruct, or assault a peace officer. (Secs. 25616, 25753, and 25755 B&P; 148 and 241(b) PC)</p>	<p><i>Criminal:</i> For refusing to permit an inspection, the penalty is a \$100-\$1,000 fine and/or one to six months in county jail. (Sec. 25616 B&P) For resisting, delaying, or obstructing a peace officer, the penalty is a maximum \$1,000 fine and/or maximum one year in county jail. (Sec. 148(a) PC) For assaulting a peace officer, the penalty is a maximum \$2,000 fine and/or a maximum one year in county jail. (Sec. 241(b) PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p>4. Beer Keg Registration Licensees selling keg beer (six gallon capacity or larger): (a) Must tag all kegs and have the customer sign a receipt; (b) Must retain the receipts on the premises for six months and make them available to peace officers; (c) May not return any deposit upon the return of any keg that does not have an identification tag. It is against the law for a customer to: (a) Possess a keg containing beer knowing that the keg does not have an identification tag; or (b) Provide false information to the licensee. (Section 25659.5 B&P)</p>	<p><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail for (1) the licensee, (2) the person who possesses the unidentified keg; and (3) the customer who provides false information to the licensee. (Sec. 25617 B&P).</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p>5. Clerk's Affidavit; Posting of Sign Any person selling alcohol at an off-sale premises must sign a statement that he or she understands basic ABC laws and must disclose any ABC law convictions. The licensee must post signs in the store that warn customers. (See Form ABC-299 for wording.) (Sec. 25658.4 B&P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p>6. Concurrent Sales of Alcohol and Gasoline Licensees who sell both gasoline and alcohol must abide by the following conditions: 1. No beer or wine within five feet of the cash register or front door (unless in a permanently affixed cooler since 1/1/88); 2. No alcohol advertisements at the fuel islands; 3. No alcohol sales from a drive-in window; 4. No alcohol sales from an ice tub; 5. No self-illuminated beer or wine advertisements on buildings or windows; and 6. Cashiers selling beer or wine between 10:00 p.m. and 2:00 a.m. must be at least age 21. (Section 23790.5(d) B&P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p>7. Conditional Licenses Some ABC licenses have special restrictions (conditions) limiting the hours of alcohol sales, type of entertainment, etc. Licensees must keep a copy of any conditions on the premises, abide by them, and show them to any peace officer upon request. (Secs. 23800-23805 B&P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p>8. Contaminated Beverages Licensees and their employees may not sell, furnish or give away alcoholic beverages containing any deleterious or poisonous substance. (Sec. 347(b) PC) Licensees may not allow open bottles of alcoholic beverages to become contaminated with insects or other foreign matter. (Secs. 25620, 25623 and 25634 H&S)</p>	<p><i>Criminal:</i> For the licensee or employee who violates the penal code, the penalty is a fine up to \$2,000 and/or up to one year in county jail. (Sec. 347(b) PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>

EXCERPT FROM ABC FORM-608, SUMMARY OF SELECTED LAWS FOR RETAIL LICENSEES

<p>9. Discrimination A licensee, other than certain exempt club licensees, who refuses to provide full and equal accommodations, facilities, privileges, or services in the licensed premises by reason of one's sex, color, race, religion, ancestry, etc., may be subject to disciplinary action. There may be no discrimination as to the price of drinks based on race, religion, sex, marital status, membership or non-membership in an organization, or on any other conditions which would result in discrimination against the general public. (Sec. 51 Civil Code and Sec. 125.6 B&P)</p>	<p><i>Criminal:</i> None</p> <p><i>ABC:</i> Decided on a case-by-case basis</p> <p>600 PCH shall not discriminate against public-use of all Type 47 service areas</p>
<p>10. Disorderly Conduct Licensees may not permit these acts in or about their licensed premises:</p> <ul style="list-style-type: none"> (a) Lewd conduct in public (b) Prostitution (c) Accosting others for the purpose of begging (d) Loitering in or about public toilets for a lewd or lascivious purpose (e) Loitering without apparent reason and refusing to identify oneself upon the request of any peace officer (f) Being under the influence of alcohol and/or drugs in public and unable to exercise care for one's own safety or the safety of others. (647 PC) 	<p><i>Criminal:</i> For the person committing the illegal act, the penalty is a maximum six months in county jail and/or a maximum \$1,000 fine. (Sec. 19 PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p>11. Disorderly House Licensees may not permit their licensed premises to become a disorderly house. A disorderly house is a licensed outlet (on- or off-sale) that (a) disturbs neighbors with noise, loud music, loitering, littering, vandalism, urination or defecation, graffiti, etc., and/or (b) has many ongoing crimes inside such as drunks, fights, assaults, prostitution, narcotics, etc. The licensed premises includes the parking lot. (Sec. 25601 B&P; 316 PC)</p>	<p><i>Criminal:</i> The penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&P)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p>12. Drink Solicitation On-sale licensees may not:</p> <ul style="list-style-type: none"> (a) Employ hosts, hostesses, or entertainers who solicit others to buy them drinks, alcoholic or non-alcoholic (b) Pay or agree to pay such an employee a percentage of the receipts from the sales of drinks solicited (c) Permit any person, whether an employee or not, to loiter for the purpose of soliciting an alcoholic drink <p>(Secs. 24200.5(b) and 25657(a)(b) B&P; Rule 143 CCR; Sec. 303(a) PC)</p>	<p><i>Criminal:</i> For the licensee, the penalty is a maximum \$1,000 fine and/or six months in county jail. (Sec. 25617 B&P)</p> <p>For the drink solicitor, the penalty is a maximum \$1,000 fine and/or six months in county jail unless specific penalty. (Sec. 303(a) PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>
<p>13. Drug Paraphernalia Licensees may not sell any product knowing, or under circumstances where one reasonably should know, that the customer intends to use the product for illegal drug purposes. This includes, but is not limited to, scales and balances, diluents and adulterants, balloons, envelopes, containers, pipes, screens, syringes, needles, scouring pads, blow torches, or cigarette papers. (Secs. 11014.5, 11364.5, and 11364.7(a) H&S)</p> <p>The law presumes that a licensee, or his/her agent(s), knows that an item is drug paraphernalia if ABC or any other state or local law enforcement agency notifies the licensee in writing that a thing (e.g., a glass vial, pipe screen, wiry sponge or scouring pad, roach clips, etc.) is commonly sold or marketed as drug paraphernalia. (See also Form ABC-546-A, Notice to Licensees Concerning Drug Paraphernalia Under Section 24200.6 Business and Professions Code) (Sec. 24200.6 B&P)</p>	<p><i>Criminal:</i> The penalty is a maximum six months in county jail and/or a maximum \$1,000 fine. (Sec. 19 PC)</p> <p><i>ABC:</i> Decided on a case-by-case basis</p>

EXHIBIT 3. EXPERT OPINION THAT ALL TYPE 47 AREAS OPEN TO PUBLIC

LIQUOR LICENSE ADVISOR, INC.
425 Avenida Castilla, Unit B
Laguna Woods, CA 92637
Phone (951) 226-4038

January 4, 2019

Donald A. McPherson
1014 - 1st Street
Manhattan Beach, CA 90266

RE: Hotel 101, 186 N. Coast Highway 101, Encinitas 92024
Pending license #47-585825

Dear Dr. McPherson:

You asked me to review and give my opinions on whether the Hotel 101 can subdivide the Type 47 service area into public and private areas.

My opinions are based on my 29 years of experience working at the Department of Alcoholic Beverage Control (ABC), including 24 years as a sworn peace officer (Investigator, Supervising Investigator and District Administrator). Among other duties during that time, I designed and managed the state's *Licensee Education on Alcohol and Drugs Program* that provides training to licensees on laws, rules, regulations and how to prevent violating them. I have also been self-employed for 10 years as an independent liquor license consultant and expert witness on alcohol licensing, compliance, and standard of care matters. In addition, since 2016, I have been co-founder of Alcohol Policy Advisors dba Nuisance-Free Bars, which provides alcohol training to police, city planners, and bar owners/managers on preventing alcohol-related problems at bars.

This report contains my opinions on the issue mentioned above.

I have reviewed multiple documents: Protest against ABC application, including exhibits (12 pages), Email to Melissa Ryan (3 pages), Hotel 101 Project Description (8 pages) Attorney Tinkov's letter to City Attorney dated 11-17-18 (4 pages), set of architectural plans for Hotel 101 (10 pages), ABC License Query Summary as of 6-3-18 (2 pages), and Application with City of Encinitas (7 pages).

Facts:

On May 24, 2018, the Hotel 101 applied with the ABC for a Type 47 *On-Sale General Bona Fide Public Eating Place* license, Type 66 *Controlled Access Cabinet* license, a Type 68 *Portable Bar* license, and a Type 58 *Caterer's Permit*. The Hotel 101's architectural plans show among other areas, guest rooms and several private areas (not guest rooms) not accessible to the general public.

EXHIBIT 3. EXPERT OPINION THAT ALL TYPE 47 AREAS OPEN TO PUBLIC

Donald A. McPherson
January 4, 2019
Page Two

Opinions:

A Type 47 license inherently, by definition, is a public license. As such, it must be open to the general public. Except, per ABC Policy, a hotel with a Type 47 license may serve alcoholic beverages to guests in their private rooms rented as living quarters.

A Type 47 licensee who wishes to designate a private area (other than guest rooms) would require a *Duplicate License for Designated Persons*. The Type 68 *Portable Bar* license, which Hotel 101 has applied for, does NOT bestow any rights or privileges to exclude members of the public from being served. In addition, the applied-for Type 58 Caterer's Permit will only allow Hotel 101 to cater alcohol at private events *away from* their Type 47 licensed premises.

Several other ABC license types allow for restricted privileges (service of alcohol to members and bona fide guests). These include various club licenses, Type 70 *On Sale General Restrictive Service* for suite-type hotels that offer guests' "complimentary" happy hour, and Type 67 and 80 *Bed & Breakfast Inns*, which authorize service of alcohol only to registered guests of the establishment. Hotel 101 has NOT applied for any of these restricted or members-only licenses.

Any type of admission policy by a Type 47 licensee that is not "first come, first serve" may be subject to an investigation by the ABC to determine whether the licensee has a rational basis to exclude a potential customer. A rational basis may include, for example, excluding or escorting out a person who is a repeat troublemaker, obviously intoxicated, or who violates a written dress code such as "no gang colors/attire." Industry standards are that a licensee with a rational admission policy should document it in their house Policy & Procedure and post appropriate signage to make customers and potential customers aware of the expected behavior and attire.

Relevant References (all are B&P Code unless otherwise stated)

Sections 24200(a) & (b) – Grounds for Suspension of License

Section 125.6 & Civil Code Section 51 - Discrimination

ABC Appeals Board Decision No. AB-6124, in the Matter of the Accusation Against Fortune Three, Inc., G.P., et al., dba Vertigo, 333 Boyston Street, Los Angeles, CA 90017, on-sale general eating place license. Filed January 5, 1993. License revoked for discriminatory admission practices.

Sincerely,



Lauren C. Tyson

EXHIBIT 3. EXPERT OPINION THAT ALL TYPE 47 AREAS OPEN TO PUBLIC

LIQUOR LICENSE ADVISOR, INC.
425 Avenida Castilla, Unit B
Laguna Woods, CA 92637
Phone (951) 226-4038
Lauren@theliquorlicenseadvisor.com

May 10, 2019

Encinitas City Planning Commission
505 S. Vulcan Ave.
Encinitas, California 92024

RE: Rebuttal, Hotel 101, 186 N. Coast Hwy. 101, Encinitas 92024

Dear Commissioners:

I testified at the April 18, 2019 Planning Commission hearing. Additionally, for the April 18 hearing, I filed a letter with the city, which explains that Hotel 101 may not divide the Type 47 license service-area into public and private spaces. [April 18 Staff Report, p. 495]

This letter contains my rebuttal to erroneous testimony by project advocates, regarding the ABC liquor license, as illustrated in the enclosed graphic.

A. ABC Has Not Approved Licenses for Hotel 101.

Architect Lindsay Brown Testified: *“The ABC obviously approved the- the- permit and a license with the plans....”* [April 18 Transcript, p. 48-36]

Rebuttal: The ABC has not approved the alcohol licenses. My client, Donald McPherson, protested the application. Therefore, a hearing before an administrative law judge is required. McPherson filed his protest on these grounds:

- Premises lie within 100 feet of residences [4 CCR § 61.4]
- Noise violations of municipal code
- Traffic impacts from backups on Hwy 101, by parking queues
- Impacts from noncompliant parking and Melrose Avenue access

The ABC will not take any action on the Hotel 101 application for alcohol licenses, until the city approves the conditional use permit.

EXHIBIT 3. EXPERT OPINION THAT ALL TYPE 47 AREAS OPEN TO PUBLIC

Encinitas City Planning Commission
May 10, 2019
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B. Private Areas Within a Type 47 Licensed Premises Not Permitted.

Architect Lindsay Brown Testified: “. . . *the meeting space that’s not open to the public is intended to be for guests only . . .*” [April 18 Transcript, p. 49-7]

Rebuttal: The L-2 private meeting space requires a Duplicate License for Designated Persons, per BPC § 24042. The other private alcohol-service areas in the project, such as the roof-deck cabanas, do not qualify for Duplicate Licenses for Designated Persons, because they are not “rooms” as required by BPC § 24042.

Chef David Volk Testified: , “. . . *we would shut down for private events all the time, so addressing the ABC expert’s comments, um, that is not true.*” [April 18 Transcript, p. 36-31]

Rebuttal: Just because the chef’s business has been shutting down for private events doesn’t mean it has been doing it legally. He didn’t say whether he shuts down the whole premises and excludes the general public (illegal/discrimination) or he shuts down only a portion (legal). For example, many Type 47 licensees rent out their banquet rooms for private parties. That is legal as long as they keep the rest of the premises open to the general public, on a first-come, first-serve basis.

Hotel 101 proposes, however, to unlawfully deny public access in over half of their Type 47 service area, by permanently reserving it for a select group of patrons. Designating a permanently-private area within a Type 47 premises requires a “Duplicate on-sale general for additional rooms—for designated persons” per Business & Professions Code (“BPC”) § 24042. As the name implies, the license is for a room—not just an area—and the room must be reserved for the exclusive use of designated persons from an organization with a specific purpose.

Conclusion.

It behooves the city to resolve the noise, traffic and parking issues, particularly regarding the division of Type 47 service into public and private spaces, before the ABC application goes to an administrative hearing on the protest.

Sincerely,

Lauren C. Tyson

Enclosure

Liquor License Advisor

Expert Advice for your California business, Safe Alcohol Expert Witness

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Vast ABC experience means you get the best

Liquor License Advisor, Inc. provides expert advice, information and help with getting, exploring, and keeping an ABC license.

LAUREN C. TYSON founded Liquor License Advisor in 2009. Before this, Lauren **worked for the Department of Alcoholic Beverage Control (ABC) for 29 years** as an investigator, supervising investigator and district administrator. Some career highlights:



Lauren C. Tyson

- Designed and managed the state's award-winning **Licensee Education on Alcohol and Drugs (LEAD)** training program
- Instrumental in design of the **Grant Assistance to Local Law Enforcement (GAP) Program**
- Planned and directed field **ABC enforcement** in Southwestern and Western Los Angeles County (Inglewood District Office)
- Handled and supervised **hundreds of ABC licensing and enforcement investigations**
- ABC hearing advocate at **more than 300 ABC hearings** such as license application denials, protested license applications, and license suspension and revocations.

Philosophy

It takes a combined effort by State and local law enforcement, the alcohol industry, and the community to prevent alcohol-related harm. A liquor license is a privilege, not a right. Along with privilege come responsibilities. Business owners must be proactive in managing alcohol sales. Otherwise, they risk losing their license. We're committed to helping you prevent problems and improve your licensed business—for everyone's benefit.

Location

With offices in **Dana Point California**, we are close to Los Angeles County, Orange County, San Diego County, San Bernardino County and Santa Barbara County. We also consult with clients from throughout California and the United States.

Read about our [services](#), or [contact us](#) to get started. Phone (951) 226-4038.

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EXHIBIT B

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Direct Dial:
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November 17, 2020

Planning Commission,
City of Manhattan Beach
c/o Carrie Tai, AICP, Director of Community Development
and Mr. Ted Fatuross (tfatuross@citymb.info)
PlanningCommission@CityMB.info
CityClerk@CityMB.info
tfatuross@CityMB.info
ctai@CityMB.info
1400 Highland Avenue
Manhattan Beach, CA 90266

Re: Objections to Approval of Master Use Permit and Categorical Exemption for
600 S. Sepulveda Boulevard Proposed Hotel, Retail, and Office Project

Honorable Commission Members:

We write on behalf of the MB Poets opposing the 600 S. Sepulveda Boulevard project and opposing the reliance on a categorical exemption. MB Poets is a group of affected and concerned residents from the immediate area near the Project. This proposed project provides for the development of a new 162-room, 81,775 square-foot hotel and a 16,348 square foot retail and office building at 600 S. Sepulveda ("Project").

The proposal, including a 40 foot tall wall with hotel room windows overlooking the adjacent residential neighborhood to the east, would make this the tallest building along Sepulveda in Manhattan Beach. Parking would be problematic, as only 152 parking spaces (29 surface and 123 underground) would be provided, despite the Project requiring 243 parking spaces per the Municipal Code. Claimed reductions in spaces are not supportable. Cars in search of spaces will create environmental impacts and inevitably result in overflow parking on neighborhood streets.

The Project requires a discretionary approval of a Master Use Permit, thus necessitating compliance with the California Environmental Quality Act ("CEQA"). This discretionary review provides the City the ability to impose conditions of approval to reduce the impacts associated with the Project. For example, restrictions on the height,

design, building placement, and hours of operation can and must be imposed. The City has the discretion to approve a smaller project, more compatible with the adjacent residential neighborhood and more similar to other development along Sepulveda. The City also has the discretion to require mitigation measures as have been required for the majority of developments in the area to maintain compatibility with the adjacent residential neighborhoods.

The City proposes to approve this impactful Project based upon a Class 32 categorical exemption to environmental review under the California Environmental Quality Act (CEQA), which is California's premier environmental protection and public participation law. This categorical exemption is inapplicable because the Project would result in traffic impacts due to increased commercial traffic using quiet residential streets and busy city thoroughfares, increased traffic on a state highway (Sepulveda Boulevard) with short sightline distances in this critical area, and create a demand in severe excess of the parking capacity of the site. The Project would also have adverse noise impacts on the surrounding residential community both during construction and operations. The use of a categorical exemption is also improper because the Project may have aesthetic impacts, create significant impacts at a Project and cumulative level, and require conditions of approval to mitigate potential impacts. The Project would have severe impacts in an area of Manhattan Beach renowned for its peace and quiet, with streets named after Keats, Tennyson, and Shelley known as "the Poets Section."

For all of these reasons, we urge the City to continue the hearing of the proposed Project, to require a full environmental impact report (EIR) to determine the extent of the Project's impacts, and require Project revisions and mitigation measures to address those impacts. The mitigation measures contained in the Planning Commission's revised report and proposed resolution do little to address the serious and long-lasting impacts of the proposed development. Only on the basis of a proper understanding of the Project impacts and means to mitigate those impacts may a fully informed decision be made that could accommodate some level of development yet still fully protect the unique neighborhood known as the Poets Section surrounding the Project. If you do not continue the hearing, you must deny the Project outright, and the Project proponent must revise and resubmit a more appropriate development.

I. The Proposed Approvals Would Violate CEQA.

CEQA requires the City to conduct an adequate environmental review *prior* to making any formal decision regarding projects subject to the Act. (CEQA Guidelines § 15004). By improperly relying on a categorical exemption to environmental review, the City is failing to comply with applicable legal requirements.

A. The City Cannot Rely on a Class 32 Exception.

The City improperly seeks to rely on a Class 32 exemption to CEQA review for certain kinds of infill development that do not ordinarily have adverse impacts. (October 14, 2020 Department of Community Development Memorandum, p. 9 of 829 and November 18, 2020 Development Memorandum p. 5 of 1060 [“Development Memorandum”].) To rely on a Class 32 exemption, it is the City’s burden to demonstrate, based on substantial evidence, that the Project is “consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations,” and that approval of the Project “would not result in any significant effects relating to traffic, noise, air quality, or water quality.” (CEQA Guidelines § 15332.) The City has not met this burden.

Moreover, the City does not have discretion to interpret the requirements included in CEQA’s Class 32 exemption. The interpretation of the language of the guidelines implementing CEQA or the scope of a particular CEQA exemption presents “a question of law, subject to de novo review” by a court. (*Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243, 1252; *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192.) “[A categorical] exemption can be relied on only if a factual evaluation of the agency’s proposed activity reveals that it applies.” (*Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 386.) “[T]he agency invoking the [categorical] exemption has the burden of demonstrating” that substantial evidence supports its factual finding that the project fell within the exemption. (*Ibid.*)

Categorical exemptions from CEQA are subject to exceptions. Even if a project fits within a specified class of categorical exemption, the exemption is inapplicable if any of the exceptions to categorical exemptions apply. (CEQA Guidelines § 15300.2.) If an exception to a categorical exemption applies, CEQA review in the form of a mitigated negative declaration or an environmental impact report must be conducted.

1. The Project May Result in Extensive Adverse Parking Impacts.

Insufficient parking at a project can lead to environmental impacts from increased vehicle emissions and vehicle miles traveled and overflow parking in the nearby residential neighborhood. “CEQA considers a project’s impact on parking of vehicles to be a physical impact that could constitute a significant effect on the environment.” (*Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1051.)

Staff states that Manhattan Beach Municipal Code (MBMC) Section 10.64.030 requires 243 spaces be provided for the site based on proposed uses. (Oct. 14, 2020 Memorandum, p. 4 of 829; Nov. 18, 2020 Memorandum, p. 90 of 1060.). However, the

City claims this amount can be reduced pursuant to MBMC Section 10.64.050 (B) which allows reduction of required parking. The revised project thus has a total of only 152 parking spaces, 91 spaces fewer than required by the MBMC. (Nov. 18, 2020 Memorandum, p. 2 of 1060.)

The MB Poets has engaged the services of professional engineer Craig S. Neustaedter, P.E., AICP. His analysis, submitted concurrently with comments of MB Poets, confirms the following.

The applicant's parking analysis makes unjustifiable assumptions that are not based on substantial evidence. For example, the applicant's parking analysis uses unjustifiably low levels of parking provision based on unsupportable application parking ratios. The ITE- Institute of Traffic Engineer's standard requirement for spaces is 1.55 spaces per hotel room, but the applicant proposes a ratio of only .64. (See Neustaedter analysis submitted concurrently with MB Poets Letter, p. 6.) The result is that parking demand on site is 131% higher than permitted by code.

The impact of the significant underparking of the Project site would mean that cars not parked on-site would need to leave the site (adding further to disruption of traffic flow on Sepulveda and surrounding streets at the already overloaded junctions) and then try to park in the adjacent neighborhood, materially impacting an already-congested street parking scenario. Traffic impacts would result from hotel guests, guests of those guests, retail customers, and workers (of the hotel, retail establishments and offices) as well as any of the foregoing who do not want to pay whatever the not insignificant parking charge the hotel is likely to charge non-employees for parking- all circling the neighborhood looking for available parking.

In stark comparison to the current proposal the Planning Department is recommending stand the facts and findings that the City took into consideration in 2015 in reviewing possible land uses at the Parkview site (a couple of miles north on Sepulveda) and these should be noted in the record.

In 2015, the City commissioned Keyser Marston Associates to do a development use analysis which resulted in a memorandum dated November 24, 2015 to the City Finance Director (the "Parkview Memo"). The Parkview Memo determined, among other conclusions, that from a City revenue perspective a hotel was the best use (compared to offices or retail) for the site, that the site (which is more than double the size of 600 S Sepulveda) could support a hotel of 150 rooms and would require 1.1 parking spaces per room (165 spaces). The proposed hotel would have had broadly comparable restaurant/bar and meeting spaces to the ones proposed for this development and no retail or offices as part of the development. Any hotel overflow parking issues would have been mitigated by the additional 234 parking spaces immediately adjacent to the site that the City was also requiring be built. As the Planning Commissioners are aware the City went

on to issue an RFQ for the 150 room hotel with required hotel parking *plus* the adjacent 234 parking spots. When compared to Parkview there is no justification or analysis presented that can reasonably support a conclusion that this Project with 12 more rooms, plus offices and retail and no adjacent overflow parking should only have .64 spaces per room.

2. The Project Fails to Analyze Critical Streets Segments and Intersections So It Will Result In Traffic Impacts and Add to Cumulative Impacts.

The Project may result in adverse traffic impacts that prevent reliance on a Class 32 exemption.

In concurrently submitted comments on behalf of MB Poets, professional engineer Craig S. Neustaedter opines that the traffic analysis improperly omits Keats, Chabela, Shelley and Prospect, marked in red on the attached analysis. It is not true that Tennyson and Shelley traffic barriers would eliminate traffic impacts to residential neighborhood directly east of Chabela.

Furthermore, the traffic analysis fails to analyze impacts to 30th Street, which carries project traffic to and from the beach and is used by traffic from the multiple large new Skechers buildings currently under construction (which would still be under construction while this development is under construction) and would then be all occupied impacting the area immediately proximate to this development.

Reliance on a baseline traffic level that includes traffic from the former El Torito restaurant that was onsite is improper under CEQA. Normally, CEQA review requires using a baseline that is consistent with the “actual environmental conditions existing at the time of CEQA analysis . . . rather than the level of development or activity that could or should have been present according to a plan or regulation.” (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321.) The site is currently a private restricted access parking lot. Its existing usage and traffic levels should be used as the baseline for CEQA analysis.

A categorical exemption is “inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.” (CEQA Guidelines § 15300.2(b).) While the Project proponent attempts to rely on Skechers’ analysis, it fails to address cumulative impacts of the Skechers project and others nearby. One of the mitigation measures for the Skechers Project is to require a lengthened left turn pocket onto Tennyson for southbound traffic. This additional left turn capacity will have a significant effect in adding traffic to the Tennyson segment west of Chabela. In turn, additional Project generated traffic in the area creates the likelihood of additional traffic accidents.

The increase in traffic accidents including fatalities could be significant. There have been two recent fatal accidents right by the site of the proposed hotel. The most recent involved a young mother on a bicycle. The one prior involved a motorcyclist. (“Manhattan Beach Bicyclist Killed in Car Accident, Easy Reader News (Feb. 6, 2016), available at <https://easyreadernews.com/manhattan-beach-bicyclist-killed-in-car-accident>; “Driver In Manhattan Beach Motorcycle Crash Charged With Vehicular Manslaughter,” Easy Reader News (Mar. 5, 2013), available at <https://easyreadernews.com/driver-in-manhattan-beach-motorcycle-crash-charged-with-vehicular-manslaughter>.)

One of the MB Poets members who used to have offices at 500 S Sepulveda also had one of her employees at the time very seriously hurt in a road traffic accident at the Pacific Coast Highway (continued as Sepulveda in Manhattan Beach) and Artesia Boulevard junction.

It must also be noted that in responding to traffic related comments from the hearing on October 14, 2020, Messrs. Tarikere and Melchor of the applicant’s traffic consultants Kimley-Horn (see Nov. 18, 2020 Memorandum, pp. 35-36 of 1060) choose to reference 7 collisions over a five year period at the Sepulveda/Tennyson junction but omit to mention that at least two of those were the above referenced fatalities and further they chose to ignore that only two hundred yards from the proposed development at the Sepulveda/Artesia junction there were 37 road traffic accidents (over 7 per year) in the same analyzed period in the same report (Environmental Impact Report, Appendix F Traffic Impact Study, Sketchers Design Center and Offices Project, August 25, 2016, p. 98, available at <https://www.hermosabeach.gov/Home/ShowDocument?id=9483>.) One such accident at the Sepulveda/Artesia junction was a fatality that was reported last year. (<https://abc7.com/hermosa-beach-crash-car-deadly/5640653/>.)

These incidents as well as the detailed accidents analysis contained in the traffic report conducted as part of the EIR review conducted for the Skechers developments referenced above (appendix F of the Skechers EIR is incorporated by reference and available at <https://www.hermosabeach.gov/Home/ShowDocument?id=9483>) demonstrate that the area of Sepulveda adjacent to the project site is unusually dangerous, and that must be accounted for in a full EIR review of the impacts of the proposed Project.

The Project could require an encroachment permit from the California Department of Transportation (Caltrans) and otherwise impact Caltrans’ jurisdictional state highway (Sepulveda Boulevard), but it appears based on a conversation that one of MB Poets’ members had with Miya Edmondson at District 7 at Caltrans, that Caltrans has not been consulted at this point. Such consultation is required by CEQA where impacts to the state highway are likely, including public safety impacts.

3. Noise Impacts Could Be Significant.

The Project may result in adverse noise impacts that prevent reliance on a Class 32 exemption from CEQA. The MB Poets has engaged the services of Steve Rogers Acoustics LLC to review the noise impacts analysis of the project.

a. Independent Analysis Shows Noise Impacts Will Be Significant.

Mr. Rogers' independent analysis of the Noise Technical Memorandum submitted by the Applicant on September 21, 2020 concludes that the Applicant's noise analysis, prepared by Michael Baker International ("MBI"), "*significantly understates*" the Project's operational noise impacts in the following ways:

- MBI assumes that only one of the 25 pieces of HVAC equipment on the roof will be operating at any given time. In reality, noise impact[s] on the nearby residential uses would be the combined effect of multiple fans and condenser units operating simultaneously. (Manhattan Beach Hotel: Review of the Applicant's Noise Impact Analysis ("SRA Noise Report"), Steve Rogers Acoustics LLC, November 15, 2020, pp. 1, 4.)
- MBI assumes an unrealistically low level of speech effort for each individual talker in the rooftop bar, roof terrace and hotel bar patio. (SRA Noise Report, pp. 1, 5.)
- MBI bases crowd noise impact evaluation on a single talker, whereas Mr. Rogers' analysis estimated that the rooftop bar/terrace could accommodate 200 people, with room for dozens more on the first-floor patio. (SRA Noise Report, pp. 1, 5.) Taking into consideration the noise impacts of multiple speakers, as well as the noise analysis' inadequate assumptions for speech effort and failure to factor in alcohol consumption (which can increase crowd noise), Mr. Rogers' analysis estimates "that the true impact of crowd noise in the outdoor gathering area of the hotel would be at least 30 dBA higher than MBI predicts – i.e. a net noise level of 53 dBA, which would exceed the nighttime exterior noise standard in the [Manhattan Beach Municipal Code]." (SRA Noise Report, p. 5.)
- MBI does not address potential noise impacts associated [with] amplified music playback in the hotel, including live music performances and DJ sets on the rooftop terrace. (SRA Noise Report, pp. 1, 6.)
- MBI does not address noise impacts on the residential uses located on El Oeste Drive, to the west of the project site. The homes on this street would have a direct line-of-sight to the rooftop bar/terrace, approximately 300-feet away. (SRA Noise Report, p. 1.)

- MBI does not address the low ambient noise levels during the late evening or at night on the neighboring residential streets, nor the related issue of audibility of noise emanating from the hotel. Evaluation of audibility is necessary to demonstrate compliance with both the Municipal Code and the MBPC Conditions of Approval. (SRA Noise Report, p. 1.)

City staff notes the fact that construction activities will occur over approximately 18 months and that residential uses could be exposed to noise levels of approximately 91 dBA if a scraper is used. With the proposed development requiring excavation down 25 feet and the removal of approximately 27,000 square yards of hardscape and dirt and 2,466 tons of debris (Nov. 18, 2020 Memorandum, p. 124 of 1060) to be able to install foundations for 100,000 square feet of buildings and subterranean parking the use of such equipment and other similarly loud noise emitting heavy machinery is unavoidable. However, staff concludes construction noise impacts would be less than significant. This conclusion is unsupportable and impermissibly relies on mitigation measures such as a 6-foot concrete wall on Chabela Drive and masking by traffic noise. A categorical exemption may not be used to support approval of the Project.

b. Noise Impacts are Underestimated.

Noise impacts from the ground level parking lot and the open-to-the-air underground parking lot adjacent to the residential neighbors can be significant. There is no wall, acoustic sealing of the underground lot or other measure to reduce the impacts of cars and human activity in the parking lot. Noise impacts from heating and air conditioning equipment on the rooftop can be significant. A court explained: “There were also public comments at the hearings that the air conditioners are very noisy. Citizens claims this evidence was sufficient to raise a fair argument of significant noise impacts. (*Pocket Protectors, supra*, 124 Cal.App.4th at p. 937 . . .) We agree.” (*Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1340.)

The Project remains an atypical use that will adversely impact the surrounding residential neighborhood. The City lacks the necessary substantial evidence to support a finding that the Project would not result in any significant traffic or noise impacts, and as such, cannot rely upon a Class 32 categorical exemption for the Project.

c. Effective Mitigation Measures Are Needed to Reduce Noise Impacts.

The hours of operation of the Project must be reduced to reduce noise impacts.

Other hotels close by have been subject to significant mitigation measures to reduce their impact on the community when earlier-imposed measures were ineffectual to prevent significant impacts. Very recently, on October 12, 2020, the Residence Inn by Marriott, also on Sepulveda in Manhattan Beach, was reviewed by the City Council because additional restrictions were necessitated by its operations impacting residential neighbors. (Tyler Shaun Evains, “Manhattan Beach to modify operations of city’s Residence Inn by Marriott hotel,” The Beach Reporter (Oct. 26, 2020), available at https://tbrnews.com/news/manhattan-beach-to-modify-operations-of-city-s-residence-inn-by-marriott-hotel/article_483e3446-1552-11eb-a423-73ce986d8eca.html.)

The Beach Reporter reported that:

That activity has impacted the health, safety and welfare of those residing in the neighborhood, residents said, for which the hotel is to not cause detriment, per the permit.

The volume of police calls has also created demands that exceed the capacity of public services, Tai said. Manhattan Beach police have gotten 107 calls to the Residence Inn by Marriott over the past six months, she added, and the city has received reports from the adjacent neighborhood citing concerns with safety, crime, loud music, trespassing and smoking.

Council members at a Sept. 15 meeting ordered a review of the hotel’s permit ASAP after a Sept. 8 shooting occurred on the property.

Residents during public comment have complained to the Residence Inn as well as police about guests smoking, partying and fighting in the hotel’s parking lot, on its east side where a fence separates it from a residential neighborhood.

....

Per Barrow’s email, the city in September directed the hotel to:

- enforce two-day minimum stays;
- **not accept same-day or walk-in reservations or bookings;**
- **increase all room rates;**
- **assign three security guards per shift;**
- **require all guests to sign waivers regarding forfeiture of their \$1,000 security deposit if police get disturbance complaints about that guest;**
- **implement a parking control system allowing only guests to park in the lot and closely monitor room guests;**
- **install a security-supervised permanent parking gate that can only be accessed with room keys; and**
- **secure the east gate that separates the residential neighborhood for emergency purposes only.**

(Tyler Shaun Evains, “Manhattan Beach to modify operations of city’s Residence Inn by Marriott hotel,” The Beach Reporter (Oct. 26, 2020), available at

https://tbrnews.com/news/manhattan-beach-to-modify-operations-of-city-s-residence-inn-by-marriott-hotel/article_483e3446-1552-11eb-a423-73ce986d8eca.html, emphasis added). The measures highlighted in bold above or their equivalent should be made applicable to the proposed Project site as well, but no such measures are imposed.

4. Aesthetic Impacts of the 40 Foot Tall Hotel Structure Could be Significant.

Where a building creates a change in the aesthetic environment and interferes with scenic views of the public in general by introducing into a primarily single-family, residential neighborhood a large, high-density, residential building, impacts could be significant. (*Bowman, supra*, at p. 586, 18 Cal.Rptr.3d 814.) Aesthetic issues, such as public views, “are properly studied in an EIR to assess the impacts of a project.” (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 492, 14 Cal.Rptr.3d 308, citing § 21100, subd. (d).) See also *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1337–1338.)

People in the area have commented on the incompatibility of the Project design with the area. The windows in the hotel’s 40 foot wall facing Chabela allow an invasion of the residential street’s privacy and adversely impact the street’s aesthetics. This tall hotel would also interfere with existing scenic views.

Height limits for the Project site were increased from 30 feet to 45 feet without significant public input from City residents. It appears from local reports that the proponents of this height increase were out of town interests, with no local residents adjacent to Sepulveda weighing in. (Kirsten Farmer, “Manhattan Beach to consider raising height limits for future hotels along Sepulveda Boulevard,” *The Beach Reporter* (Feb. 8, 2019), available at https://tbrnews.com/news/manhattan-beach-to-consider-raising-height-limits-for-future-hotels-along-sepulveda-boulevard/article_3072af88-2b32-11e9-8b1b-77d08c088d59.html.) These business interests are now taking advantage of the increased height allowances to propose incompatible and aesthetically impactful projects to the detriment of local residents.

At a minimum, the City must require the erection of story poles to publicly disclose the potential aesthetic impacts of the Project before it is approved, and analyze those impacts and others in an Environmental Impact Report.

B. The City Cannot Rely on a Categorical Exemption When Mitigation Measures Are Required, as the Project Requires Permit Conditions to Reduce Likely Impacts.

Categorical exemptions cannot be relied upon for projects such as this one where mitigation measures and conditions are required to reduce its potentially significant impacts. (*Salmon Protection and Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108; *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1191, 1201 [agency may not “evade these standards by evaluating proposed mitigation measures in connection with the significant effect exception to a categorical exemption”].)

1. Conditions Are Necessary to Mitigate the Project’s Impacts.

The proposed conditions in Section 8 of the proposed “Resolution No. PC 20-” to approved the Project (and attached to the October 14, 2020 and Nov. 18, 2020 Memoranda) are extensive but likely to be ineffectual in reducing the Project’s significant impacts. Hours of operation, including alcohol service, are allowed seven days a week from 7 a.m. to 1 a.m. (Oct 14, 2020 Memorandum, p. 14 of 829; Nov. 18, 2020 Memorandum, p. 10 of 1060 [Section 8, condition 12]); live entertainment would be permitted on an outdoor terrace (*Ibid.* [condition 15]); conditions state “noise shall not be audible beyond the premises” but there is no enforcement mechanism; parking is to be “discourage[d]” on adjacent residential streets (Oct 14, 2020 Memorandum, p. 15 of 829; Nov. 18, 2020 Memorandum, p. 11 of 1060 [condition 34]) but there is no proof this mitigation measure would be effective.

The Planning Commission may not rely on these likely ineffective mitigation measures in determining the Project would be compatible with current uses in the immediate area. These measures are likely to be ineffective as shown by the experience of residents around the Residence Inn by Marriott further north on Sepulveda Boulevard in Manhattan Beach.

By definition, a project does not qualify for a categorical exemption unless the agency has determined environmental impacts cannot occur and mitigation measures are *unnecessary*. Here, the City has imposed conditions of approval to mitigate the Project’s likely impacts. For this reason, the City cannot rely on a Class 32, or any other, categorical exemption to CEQA review. Environmental review is required to assess the adequacy of the conditions to mitigate the Project’s impacts to a less than significant level.

2. Additional Modifications are Necessary to the Project.

a. Community Members Have Proposed Project Modifications.

Other modifications to the Project have been proposed including some in an October 13, 2020 letter by local resident Darryl Franklin. These included:

- closing the turn from Tennyson onto Chabela,
- constructing an acoustic wall next to Chabela and Tennyson,
- reducing the height of the hotel from 4 stories to 3 stories,
- introducing parking restrictions on Tennyson Street and strengthening those on other Poets Section streets,
- restricting commercial delivery times from 8am to no later than 8 pm,
- prohibiting construction on Saturdays and Sundays and holidays,
- restricting the use of the bar terrace to no later than 11 pm and music to no later than 9 pm, and
- closing off open section of the underground parking lot that abut adjacent residential streets.

Other modifications that could mitigate the Project as proposed include the following.

b. Moving the building running parallel to Chabela back 20 feet from its current proposed position a few feet from the street would reduce impacts.

As well as reducing adverse noise and visual impact on the nearby residents and mitigating privacy issues such a move would incidentally enable the preservation of the line of mature Carrotwood trees currently screening Chabela from the site and save having to underpin and shore up Chabela.

c. Removing the proposed offices and retail from the development plan would reduce impacts.

This modification would reduce parking demand and traffic to the site. In considering this modification it should be noted that the site is currently surrounded by many empty retail units. Further, with regards to a widely expected reduced need for office space in a post COVID world one might also have regard for the observation in the Parkview Memo that the City of Manhattan Beach had the highest rate of office space vacancy in the LA submarkets at almost 20% (see 1 (c) bottom of page 4 of the Parkview Memo). Against these facts one might reasonably conclude that the non-hotel uses in the Project plans as proposed are there simply to access a right to reduce otherwise required (but not available) parking spaces.

The above modifications are some of the reasonable measures that should be considered and imposed through a properly conducted EIR review process.

Conclusion

For all of the reasons set forth herein and in additional comments that will be submitted and presented at the Planning Commission hearing, we urge the Commission to continue the hearing pending the completion of an environmental review for this Project or to recommend denial of the Project.

We asked that you inform us of any future Project notices pursuant to Public Resources Code section 21092.2 and applicable Municipal Code requirements. We further request that you retain all Project related documents including correspondence and email communications as required by CEQA. (*Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 52 Cal.App.5th 837 [agency “must retain writings”].)

Thank you for your consideration.

Sincerely,



Douglas P. Carstens