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DAY OF HEARING SUBMISSIONS

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January 25, 2021

East Los Angeles Area Planning Commission
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Report of Potential Noise Impacts of Hyatt House Hotel Project

Master Plan Approvals at 1550 North San Pablo Street;
Hyatt House Hotel MPA (DCP Case Nos. ZA-2020-1128-MPA; ENV-2020-1129-CE);
USC Conference Center MPA (DCP Case Nos. ZA-2020-1097-MPA, ENV-2020-1091-CE)

Honorable Commissioners:

I have prepared this report in response to the Categorical Exemption issued for two Master Plan Approvals for the Hyatt House Hotel development ("Project"). My qualifications are attached hereto as "Attachment 1". This report shows that the Project's noise impacts will be significantly adverse under the California Environmental Quality Act, Pub. Res. Code § 21000 *et seq.*, ("CEQA") and will exceed permissible CEQA standards set by the City of Los Angeles ("City"). During this Project's operation as a hotel, the Project will subject neighboring graduate student housing residents to excessive noise levels. Because operational noise impacts will likely exceed applicable significant thresholds under the City's CEQA guidelines ("L.A. CEQA Threshold Guide" or "City CEQA Guide") and the Los Angeles Municipal Code ("LAMC" or "Code"), the use of a categorical exemption is inappropriate per 14 Cal. Code. Regs. § 15000 *et seq.* (the "CEQA Guidelines").

Hence, the City's Department of City Planning ("DCP") should require the Project applicant to prepare a more demanding CEQA review, such as an environmental impact report ("EIR") or mitigated negative declaration ("MND") to consider feasible mitigation measures.

Even if the Project utilized an MND, which it did not, CEQA requires a lead agency to recirculate the MND if additional mitigation measures are subsequently added after the MND's initial circulation in order to publicly-vet the adequacy of the new mitigation measures.

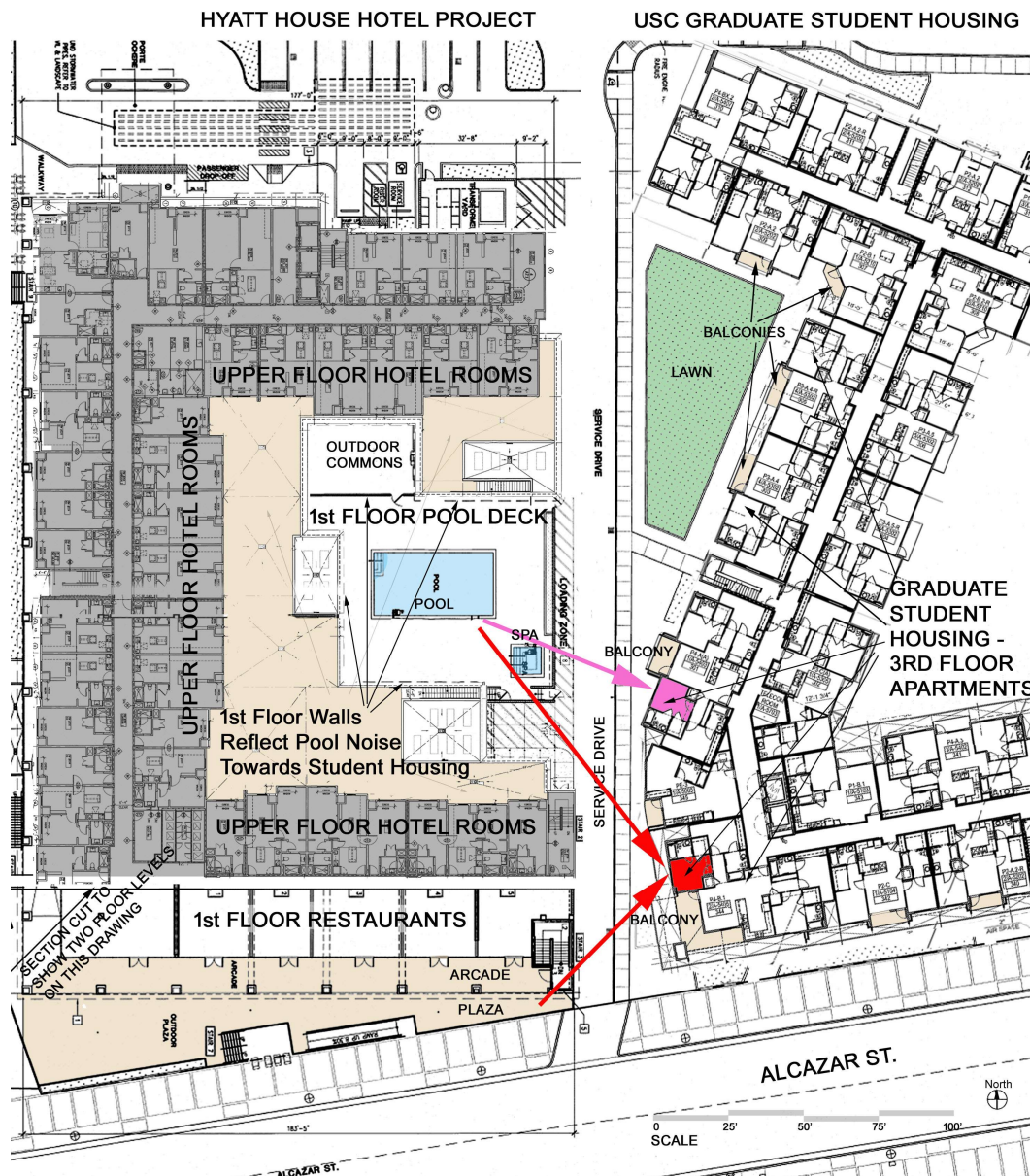
NOISE IMPACTS TO STUDENT APARTMENTS FROM POOL DECK AREA CROWDS MAY BE SIGNIFICANT

As compared to typical residential uses where residents have a vested interest to monitor their outdoor noise volumes (e.g., talking on front porches heard by adjacent homes), hotel guests or restaurant patrons have little reason to keep their voices down and respect neighboring graduate students because their stays will be short-term and they will not know these neighbors. At some graduate student apartments shown with red arrows in **Figure A** below, noise levels from pool deck area activities during loud crowds could reach about 70 dBA as discussed in this report. Also, noise levels from this Project's outdoor restaurant crowds along Alcazar Street at these nearest apartments could be as much as 62.0 dBA. The cumulative noise level from both sources would add to approximately 67.3 dBA at some of these apartments nearest to the intersection of Alcazar Street and the Service Drive. Since the presumed daytime ambient noise level here is 60 dBA, the magnitude of the noise level increase this Project would generate would be over 5 dB at either place and therefore would be potentially significant.

CALCULATION OF OUTDOOR NOISE LEVELS FROM CROWDS AT HOTEL'S OUTDOOR AREAS

The Hyatt House Hotel's outdoor pool deck area is permitted to have 24 seats plus standing room for a large crowd of hotel and restaurant guests who can use this space, including while consuming alcoholic beverages. The approximate 4,000 square foot ("SF") pool deck area (both with seating and with open floor area) could have an allowable occupancy load of well over 320 people (calculated at 15 SF per seated person, and 7 SF per standing guest per Cal. Bldg. Code § 1004.1.2, Table 1004.1.2). If 24 of these people are seated, then at this occupancy load, over 296 people could be standing on this pool deck. Realistically, that number would be somewhat smaller since crowds of people are unlikely to stand too close to a pool to prevent falling in while clothed. Nonetheless, there could be about 230 people in this outdoor pool deck area, which is less than half of what the building code's occupancy limit is for this area.

Figure A – Proximity of Hotel's Outdoor Activity Areas to Adjacent Graduate Student Housing Apartments



The adjacent “outdoor commons area” is about 990 SF in area and has been illustrated with 22 seats occupying about half the space.¹ In the other 495 SF without seats in this commons area, as many as 70 people could stand at the 7 SF per standing guest per the Cal. Bldg. Code. The “outdoor commons area” could therefore have about 92 guests at one time. (70 + 22 = 92 people.) In total, as many as about 322 people could occupy these two outdoor areas at one time. (230 + 92 = 322.)

This Project is large enough with enough guests that such combined occupancies are possible in these outdoor areas. The hotel includes 200 guest rooms that could accommodate 300 people,² and have up to 110 employees,³ for a total project population of 410 guests and employees, many of which could occupy this pool deck area and outdoor common area. In addition, patrons of the hotel’s numerous restaurants will have direct access to this pool deck area via a corridor from the restaurant bathrooms, so they too may also be consuming alcohol and speaking loudly near this pool. Because this outdoor pool area will sometimes have children playing, inevitably there will be loud shouts from either the children or their parents. With large crowds, typical speech levels will also be louder.

Alcohol has been just permitted for consumption in the pool deck area and outdoor common area. The Project provides in-room mini bars in each room, and patrons can still bring alcohol purchased off-site to imbibe in their rooms or possibly on the pool deck area. So, of the potential approximate 320 guests and employees outdoors on or near this deck, perhaps half of them (approximately 160 people) might be conversing at any one time. As illustrated in **Figures B and C** below, if just 160 of these potentially alcohol-charged people are conversing at one time in the outdoor pool area with very loud voices, with as many as 80 people talking at one time if speaking in pairs, then their combined vocal levels could create a significant noise impact to neighboring residents.⁴ Because alcohol consumption will be allowed on the outdoor pool deck area, some people will be speaking in louder voices than normal.⁵ Speech gets louder when people drink alcohol because alcohol dampens their hearing. Once someone has a few drinks, his or her sense of hearing is impaired. So, when people speak, they mistakenly think that they are talking more softly than usual. To compensate, people (without even thinking about it) automatically start talking louder. On average, once a test group drinking alcohol hit around 0.03 per cent, the men would lose between two and nine decibels (dB) of hearing, while women would lose more, between five and twelve dB in the frequencies where a lot of speech happens.⁶

¹ See 2015 First floor plan.

² Utilizing a rate of 1.5 patrons per room, a rate utilized by the City for similar hotel project. See 631 S. Spring St. (DCP Case No. ENV-2015-2356-EIR) DEIR GHG Section, PDF p. 24 (Table IV.E-7, table note “b”), <https://planning.lacity.org/eir/SpringStHotel/Deir/DEIR%20Sections/Spring%20St%20Hotel%20IV.E%20Greenhouse%20Gas%20Emissions.pdf>.

³ Utilizing a job-to-room ratio of roughly 0.55 jobs/room average based on similar projects. See e.g., *id.*, (120 employees for a 170-room hotel); 622 S. Lucas Ave. (DCP Case No. ENV-2015-3927-MND) MND, PDF pp. 1, 205 (69 new employees for the 126-room extended stay hotel component), http://cityplanning.lacity.org/staffrpt/mnd/Pub_102716/ENV-2015-3927.pdf; 6421 W. Selma Ave. (DCP Case No. ENV-2016-2602-MND) MND, PDF pp. 1, 144 (94 hotel jobs for the 200-room hotel), https://planning.lacity.org/staffrpt/mnd/Pub_010418/ENV-2016-2602.pdf.

⁴ The assumption that up to half the crowd in a gathering on an exterior deck could be talking at one time is reasonable and accepted by the City for other projects. See e.g., 333 S. La Cienega Blvd. (DCP Case No. ENV-2015-897-EIR) DEIR Appendix B-Noise Technical Report, p. 35 (“It was assumed that at any given moment, 50 percent of the people in those two areas would be talking at a “loud” voice level simultaneously.”), http://planning.lacity.org/eir/333LaCienega/files/Appendix%20B%20-%20Noise%20Technical%20Report_102015.pdf.

⁵ M.J. Hayne, *et al.* (Nov. 2011) “Prediction of Noise from Small to Medium Sized Crowds,” pp. 1-3 (noting alcohol and age have an influence on the level of crowd noise, such as drunk individuals becoming more boisterous and talk over other persons, and groups of intoxicated women tend to be noisier than same-sized groups of males who have not consumed alcohol), https://www.acoustics.asn.au/conference_proceedings/AAS2011/papers/p133.pdf.

⁶ See: [Why do people talk louder when they drink alcohol?](http://www.abc.net.au/science/articles/2016/04/26/4448817.htm) From Dr Karl's Great Moments In Science; 26 April 2016 <http://www.abc.net.au/science/articles/2016/04/26/4448817.htm>; Also see: “The Acute Effects of Alcohol on Auditory Thresholds,” by the National Center for Biotechnology Information; Sept. 18, 2007; <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2031886/>

A medium-size crowd of people could at times occupy this outdoor pool deck area as shown below.

Figure B –Hotel’s Pool Deck Activities Are Adjacent to Graduate Student Housing Apartments



Figure C –Noise Would Reflect from Courtyard Walls around Pool Deck Area Adding to Direct Noise Heard at Graduate Student Housing Units



As shown in **Figure C**, the hotel’s 8’-8” high masonry wall between the pool deck and the loading zone along the Service Drive provides insufficient noise interruption and noise protection since the lines-of-sight from the crowded pool deck area to many student housing apartments are unobstructed.

The assumption for many people using very loud voices is appropriate at the Hyatt House Hotel's pool deck area as well because a similar number of people using the deck were considered in other projects.⁷ In larger crowds, people tend to raise their typical speech levels so that they can be heard over the voices of others nearby. This phenomenon is known as the "Lombard effect" involving the involuntary tendency of speakers to increase their vocal effort when speaking in noisier environments to enhance the audibility of their voice. Studies confirm that broadband noise containing speech-similar frequencies "significantly increased" the intensity, duration, and frequency of adult speakers and not just a general response an increase in ambient noise.⁸ Because people tend to raise their voices to be heard in crowds, the noise level of voices as heard at neighboring graduate student housing units from the Project's outdoor pool deck area deck may be louder than if only a few people were speaking.

A scientific report⁹ measured as typical a person's very loud speech at 78 dBA at 1 meter (3.3 feet). Then at a distance of 25 feet, that noise level can be calculated to be reduced by distance to about **60.4 dBA**.¹⁰ However, if 80 people are speaking simultaneously at the same volume, their combined voice levels would be about **79.4 dBA at a distance of 25 feet**.¹¹ Or at 50 feet away from the center of that medium size crowd, their combined vocal noise levels would be about **73.4 dBA**. 50 feet is the distance from the center of the pool area to the property line adjacent to the graduate student housing building where one of the Project's conditions of approval prohibits this noise from being *audible*. These noise levels would be clearly audible there. And at 75 feet, the calculated noise level from the center of such a crowded outdoor pool deck area could be about **69.9 dBA**. 75 feet is the distance from the center of this pool deck area to the nearest graduate student housing building to the east.¹² (See **Figure A**.)

The daytime ambient noise level near the graduate student housing building is essential in determining the hotel's noise impact significance.¹³ However, the public has not been presented with acoustical facts supporting the Project's approval. The applicant has not submitted any noise tests of existing ambient noise

⁷ The 333 S. La Cienega Blvd. project EIR assumed 50 to 100 people using the deck at one time with half (25 to 50) speaking at once.

⁸ The Journal of the Acoustical Society of America (May 2013) Evidence That The Lombard Effect Is Frequency-Specific In Humans, PDF pp. 1, 7, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3985863/pdf/JASMAN-000134-000640_1.pdf; see also Ninth Iberian Acoustics Congress (June 2016) Analysis of The Acoustic Behavior of People in A Restaurant, p. 7 (confirming "substantial influence" of effect in 80-seat restaurant where one-third to one-half of the patrons would simultaneously talk with the Lombard effect adding up to 12 dB increase in sound levels), <http://www.sea-acustica.es/fileadmin/Oporto16/76.pdf>; Acoustical Society of America (2017) Analyses of Crowd-Sourced Sound Levels of Restaurants and Bars in New York City, PDF pp. 12-13 (noting average dBA for a New York City bars and restaurants is 78 and 81 dBA, respectively, and that a random person walking into these areas is "more likely than not to encounter a Loud or Very Loud auditory environment," which "approach levels that are known to be dangerous to hearing health." As such, local agencies should encourage public and venue employees to employ digital sound level meters to collect and report to the public recorded noise levels), <https://asa.scitation.org/doi/pdf/10.1121/2.0000674>.

⁹ See: M.J. Hayne, *et al.* (2011) "Prediction of Noise from Small to Medium Sized Crowds," Proceedings of ACOUSTICS 2011, p. 2, Table 1; this report is available to City officials if requested, and is available online at: https://www.acoustics.asn.au/conference_proceedings/AAS2011/papers/p133.pdf.

¹⁰ Noise level attenuation due to distance is calculated as reduced by about 6 dB for each doubling of distance from a point source. In this case, at a location 25' (d_2) from one person's voice, where $dB_1 = 78$ dB(A) at 3' (d_1) from the same person, $dB_2 = dB_1 - 10 \times A \times \text{LOG}(d_2/d_1) = 78 - 10 \times 2.0 \times \text{LOG}(25/3.3') = 60.4 \text{ dB(A)}$.

¹¹ Calculation based upon the logarithmic addition of the cumulative voice levels of 80 people.

¹² Calculation is based on formula above, but substituting for d_2 a distance of 75 feet instead of 25 feet.

¹³ As indicated in LAMC § 111.03, the baseline ambient noise level is either the actual measured ambient noise level or the City's presumed ambient noise level, whichever is greater. Where the ambient noise level is established by an actual measurement, the measurement must be averaged over a period of at least 15 minutes. Where the actual measured ambient conditions are not known, the City's presumed daytime (7:00 a.m. to 10:00 p.m.) and nighttime (10:00 p.m. to 7:00 a.m.) ambient noise levels defined in LAMC § 111.03 should be used. In the case of the Hyatt House Hotel project, the ambient noise levels are not known as previously discussed.

levels during daytime hours in the vicinity of the graduate student housing building. Such measurements are critical if the City is to protect nearby residential neighbors from adverse noise impacts from new hotel noise from allowing alcohol use in the pool deck area. Absent meaningful and credible noise measurements, the City's 60-dBA L_{eq} ambient daytime noise level must be presumed.¹⁴ As discussed above, the sound levels of voices from the pool deck area could be nearly 10 dBA above ambient noise conditions at nearby graduate student housing—well above the 5-dBA threshold under the City's CEQA Guide.¹⁵ Any increase greater than 5 dBA above ambient noise levels existing without this Project is considered to be a significant noise impact.

That calculated noise level at the graduate student housing resulting from activities in the hotel's outdoor pool deck area would be greater than the presumed 60 dBA daytime ambient noise level. These noise impacts would therefore at times be significant alone without consideration of additional noises sources (e.g., loading dock use, mechanical equipment, etc.). Thus, the crowded use of this outside pool deck area might increase daytime ambient noise levels at the graduate student housing building by nearly 10 dBA, significantly louder than the City's 5-dBA threshold of significance for allowable increases. This is evidence of a potentially significant noise impact that the City should evaluate under CEQA.

ECHO FACTOR WILL INCREASE NOISE IMPACTS TO STUDENT HOUSING TO EAST

Graduate student neighbors to the east of the Hyatt House Hotel will be exposed to higher noise levels than would be predicted by distance attenuation alone from sound waves directly radiating from the pool deck area activities such as voices from a crowd of people. Those student apartments will also be exposed to reflected noise that bounces off the hard wall surfaces of this five-story hotel building adjacent to the pool deck area, as shown in **Figures B and C** above.

It is well known to the City and others that:

“In some cases, external building facades can influence reflected noise levels affecting adjacent buildings. This is primarily a problem where high-rise buildings are proposed, and the effect is most evident in urban areas, where an urban canyon may be created.”¹⁶

"A smooth, hard barrier surface, such as masonry or concrete, is considered almost perfectly reflective (i.e., almost all sound striking the barrier is reflected back toward the source and beyond). A barrier surface material that is porous, with many voids, is said to be absorptive (i.e., little or no sound is reflected back). The amount of energy absorbed by a barrier surface material is expressed as an absorption coefficient value ranging from 0 (100% reflective) to 1 (100% absorptive). A perfect reflective barrier, ($\alpha = 0$) will reflect back virtually all noise energy (assuming a transmission loss of 30 dBA or more) toward the opposite side

¹⁴ See L.A. CEQA Threshold Guide, Exh. I.1-3 (showing commercially-zoned property, like the Project's site, has a presumed 60 dBA L_{eq} [daytime] and 55 dBA L_{eq} [nighttime] presumed ambient noise level); see also LAMC § 111.03 (codifying the presumed ambient noise levels).

¹⁵ Calculation is based upon a presumed ambient noise level of 60 dBA in the daytime, and predicted voice levels of 69.6 dBA at distances of 75 feet ($69.9 - 60 = 9.9$ dBA increase).

¹⁶ Michael Brandman Associates (9/29/11) DEIR Noise Section for Proposed City of Elk Grove Sphere of Influence Amendment, p. 3.12:4, http://www.saclafco.org/SphereofInfluenceInformation/Documents/elkgrovesoi/proposedsoi_amenddeir/sac_029402.pdf; see also 1020 S. Figueroa St. (DCP Case No. ENV-2015-1159-EIR) DEIR, p. 4.2:2 (noting “A receptor located on the same side of the wall as a noise source may actually experience an increase in the perceived noise level as the wall reflects noise back to the receptor, thereby compounding the noise.”), http://planning.lacity.org/eir/1020SoFigueroa/DEIR/4_G_Noise.pdf; 1211 W. Pico Blvd. (DCP Case No. ENV-2011-0585-EIR) DEIR, p. IV.E:2, <https://planning.lacity.org/eir/ConventionCntr/DEIR/files/IV.E%20Noise.pdf>.

of a highway. If the difference in path length between the direct and reflected noise paths to the opposite (unprotected) side of a highway is ignored, the maximum expected increase in noise will be 3 dBA.”¹⁷

In the circumstance this Hyatt House Hotel project poses, the reflected pool deck area noise that bounces from its courtyard building facades on the first floor nearby, as well as from the upper walls of four floors will add about 2 dBA to the directly-radiated pool deck area noise levels those nearby graduate student apartments will be exposed to.¹⁸ This hotel’s pool deck, first-floor walls are only about 100 feet from the closest apartments in the graduate student housing building. Because of the direct path of travel for pool deck area noise emits also at an upward angle, the facade-reflected noise from the hotel’s upper floors on all three orientations of the courtyard will not be interrupted or attenuated by the inadequately short, 8’-8” high barrier along the eastern side of the pool deck area and its adjacent Service Drive.

So not only does this hotel Project expose some residential neighbors to excessive noise levels that it generates, it additionally will expose them to additional noise levels reflecting from its tall walls around the U-shaped hotel building’s courtyard which the pool deck area is within, adding conservatively at those apartments another 2 dBA of reflected noise from outdoor pool area activities.

THE COMBINED NOISE LEVEL IMPACTS TO GRADUATE STUDENT HOUSING APARTMENTS FROM HOTEL’S OUTDOOR POOL DECK CROWDS AND RESTAURANT TERRACE CROWDS MAY BE SIGNIFICANT

This Project will create alcohol-fueled event noise from the outdoor pool area and from the outdoor commons dining area. It will also at times generate loud noise from crowds of people gathering, drinking or dining in front of the multiple new restaurants along Alcazar Street. Some residents in apartments near the corner of the graduate student housing building’s intersection of the Service Drive and Alcazar Street will be exposed to cumulatively significant levels of noise from both sources simultaneously. See **Figure D** below.

As depicted in the combined floor plans in **Figure B** above of the Hyatt House Hotel and the neighboring graduate student housing building, this hotel Project includes an outdoor ground-floor pool deck area and adjacent outdoor commons area. Loud noise from outdoor hotel guest activities could significantly impact neighboring graduate student housing residents. The center of the pool deck area is perhaps about 120 feet from some neighboring graduate student bedroom windows near Alcazar Street (shown in **Figure D**). Those apartments will be exposed to not only this pool deck area noise, but also to occasionally loud noise from alcohol-fueled patrons gathered outside nearby Project restaurants with their outdoor terrace and arcade uses.

¹⁷ CalTrans (Sep. 2013) Technical Noise Supplement Part 1, p. 1:1 (prepared to provide technical background information on transportation-related noise in general and highway traffic noise in particular), https://www.sandiegocounty.gov/content/dam/sdc/pds/ceqa/Soitec-Documents/Final-EIR-Files/references/rcref/ch2.6/2014-12-19_Caltrans_TrafficNoiseAnalysisProtocol_Part1.pdf; see also *id.*, Part 2, p. 2:37, https://www.sandiegocounty.gov/content/dam/sdc/pds/ceqa/Soitec-Documents/Final-EIR-Files/references/rcref/ch2.6/2014-12-19_Caltrans_TrafficNoiseAnalysisProtocol_Part2.pdf.

¹⁸ See: Noise Control Engineering Journal (Jan. 2014), Traffic Noise and Vehicle Movement at a Controlled Intersection, p. 10, (stating that: “It was found that the facade reflection correction was equal to 2 dB. The value of 2 dB for the facade reflection correction is a reasonable value. It is 1 dB lower than the value of 3 dB corresponding to incoherent summation of equal-amplitude direct and reflected sound waves. The value of 2 dB for the correction implies that the reflected sound is about 2 dB weaker than the direct sound, since the incoherent sum of 0 dB and –2 dB is 2 dB. The 2 dB attenuation of the reflected sound is caused by two effects: i) absorption of sound energy by the facade, and ii) partial screening of the sound field by the parapet.”), attached hereto as “Attachment 6”.

Figure D –Noise from Outdoor Restaurant Activities Combined with Noise from Pool Deck Area May Also Cumulatively Impact Graduate Student Housing Units Significantly



Loud noise from the voices of a crowded outdoor pool deck area 120 feet away, as discussed above, would reduce by the distance at these apartments to about **65.8 dBA**.¹⁹ That does not include the echoed noise of as much as about 2 dBA that reflects from the pool deck area’s tall building walls. At the outdoor restaurant arcade and terrace areas, where seated or standing patrons could also speak in loud voices, their voices would be audible at the graduate student apartments as close as about 60 feet away. (See red arrows on **Figure A** for the path of travel for such sound waves.) While the hotel’s corner stairwell enclosure adjacent to the Service Drive will partially block some of that outdoor noise in the direction of those apartments, there are many square feet outside the restaurants where pedestrians and patrons can gather near the apartments that have a direct line-of-sight in between. If even 10 people are speaking simultaneously in very loud voices there in plain view of the closest student housing, the combined daytime voice levels from outdoor restaurant crowds along Alcazar Street would be about **62 dBA** at the students’ windows or outdoor decks. The combined noise levels of both outdoor pool area activities and outdoor restaurant patrons or pedestrians would total to about **67.3 dBA** at these particular graduate student apartments illustrated in **Figure D** above. During the daytime, if the presumed ambient noise level is 60 dBA, then this Project’s magnitude of a noise increase at those apartments would be greater than 5 dB, and thus would constitute a significant noise impact. ($67.3 - 60.0 = 7.3$ dBA increase.)

PROJECT-SPECIFIC MITIGATION MEASURES ALLOWED ON VIA MNDs OR EIRS

It must be noted that the Hyatt House Hotel’s conditional use permit was approved only after the City adopted nine, Project-specific Conditions of Approval (“COAs”) to directly or indirectly mitigate noise

¹⁹ Noise level attenuation due to distance is calculated as reduced by about 6 dB for each doubling of distance from a point source. In this case, at a location 120' (d_2) from the center of the pool deck area, where $dB_1 = 73.4$ dBA at 50' (d_1) from that location, $dB_2 = dB_1 - 10 \times A \times \text{LOG}(d_2/d_1) = 73.4 - 10 \times 2.0 \times \text{LOG}(120'/50') = \underline{\underline{65.8 \text{ dBA}}}$.

impacts (e.g., COAs 7, 10-13, 17-19, 24), which is an admission that there is a fair argument that the Project may cause significant noise impacts and, therefore, a categorical exemption is inappropriate for this Project. While the City should be applauded for trying to ameliorate the Project's noise impacts, these COAs have not been vetted by the public nor tethered to a noise analysis as required by CEQA and the L.A. CEQA Threshold Guide.

Furthermore, CEQA does not allow an agency to use project-specific mitigation measures, like the nine noise-related COAs to reduce a project impacts as a means to qualify for a categorical exemption and evade a more demanding CEQA review.²⁰ Even if the Project utilized an MND, which it did not, CEQA requires a lead agency to recirculate the MND if additional mitigation measures are subsequently added after the MND's initial circulation in order to publicly-vet the adequacy of the new mitigation measures.²¹ As recognized by one court, lead agencies are not required to evaluate mitigation measures during its preliminary review of projects and therefore not appropriate in the context of categorical exemptions; instead consideration of mitigation measures are reserved (as relevant here) for MNDs subject to CEQA's fair argument standard whereby "[i]f there is a disagreement between experts over the significance of an effect . . . the lead agency shall treat the effect as significant . . ." *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1200-1201 (citing CEQA Guidelines § 15064(h)(2)). As discussed herein, there is a fair argument of operational impacts and, therefore, mitigation measures should be considered pursuant to a CEQA-compliant MND or EIR being prepared—such as those proposed below

PROPOSED MITIGATION MEASURES

A land-use permit allows cities to place conditions on the location, design and operation of new businesses to protect the health, safety and well-being of the community. When a CUP is required for alcohol-licensed businesses, new alcohol-licensed businesses must have a CUP to operate and must abide by the conditions of the CUP. The City enforces the CUP. Applications for a new CUP or for changes to an existing CUP are processed through the City's normal land-use permitting process, which includes public notice and review, public hearings, and decisions made by city officials. The following conditions or mitigation measures are recommended:

- Limit hours alcohol can be sold. Limit hours of operation for when alcohol can be sold. No alcohol after 12 a.m.
- Prohibit the consumption of alcohol in any outside areas of the hotel (e.g., outside restaurant/dining areas, etc.); limit alcohol consumption to inside the hotel only.
- Prohibit amplified sounds or music, including even unamplified instrumental music, in all outdoor spaces within 100 feet of the graduate student housing building and/or meet specified decibel levels that can be readily monitored. Prohibit any music in outdoor pool area, even ambient music.
- Since the Project's architectural elevation drawings show that some 2nd and 3rd floor hotel guest room windows are proposed being able to open, then sounds and music or video emanating from TVs, stereos or other noise sources within all interior guest rooms must also be limited so neighboring graduate student housing occupants are not annoyed or harmed.
- To reduce the outdoor noise level from alcohol-fueled patrons as heard at the close residences, designate the fast-food restaurant nearest the Service Drive and adjacent housing for non-alcohol service. Also prohibit outdoor seating at this easternmost fast-food restaurant to reduce noise

²⁰ See e.g., *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1102, 1108; *Azusa Land Reclamation Co. v. Main San Gabriel basin Watermaster* (1997) 52 Cal.App.4th 1165, 1200.

²¹ See *Gentry v. Murrieta* (1995) 36 Cal.App.4th 1359, 1380.

impacts from loud voices there. The Project is approved for serving alcohol at one restaurant and five fast food restaurants, so two would not be serving alcohol, and the easternmost one could be so restricted.

- Limit the hours of use of outdoor pool deck to at latest 9:00 p.m. and no earlier than 8:00 a.m. After-hour use of the outdoor deck/patio facilities, other than routine clean-up and maintenance is not permitted.
- When any of the Hotel's enclosed lobby, corridors, fitness room, restaurant and bar doors or windows are open between 7:00 a.m. and 12:00 a.m., any music, sound, noise, or vibration shall not be audible or felt beyond that part of the premises which is under the control of the applicant. The doors to the lobby area or corridors near the Service Drive area shall be closed whenever live entertainment, and/or amplified music is played in the hotel's indoor areas including the integrated ground-floor lobby area, dining area (restaurant and bar), and conference rooms.
- Require that a solid noise barrier wall to be higher than the existing 8'-8" high wall between the pool deck and the loading zone and service driveway to the east. This wall height increase would be installed to help block some noise emanating from the pool deck and reaching the adjacent graduate housing units unimpeded. Such a noise barrier wall should be approximately 18 feet high to match the height of the adjacent building's walls.

CONCLUSION

For the reasons discussed herein, the Project will have noise impacts based on applicable thresholds. This is implicitly admitted by the City due to its use of Project-specific mitigation measures. However, the current proposed COAs are not tethered to any noise analysis that looks at the Project specific factors at issue here. Nor do the current COAs include objective noise levels/monitoring requirements that ensure the COAs effectiveness.²² This should be cured via an MND or EIR with a new noise analysis that carefully considers the issues discussed herein and consider feasible mitigation measures.

Sincerely,



Dale La Forest

Professional Planner, Designer, INCE Associate (Institute of Noise Control Engineering)

Dale La Forest & Associates

Attachment 1 - Professional Qualifications

²² [or example, the COAs do not specify which numeric standards in the City's Noise Ordinance are to be enforced. Nor do the COAs define what standard of "audibility" the hotel will have to meet. When local traffic noise subsides, for example, hotel outdoor pool area noise might be starkly audible and annoying to students living nearby because voices carry informational content, even if such voices might not be *audible* at other times when masked by background noise. Also, the condition to limit amplified ambience music to a "low volume" is much too vague to be enforceable.

ATTACHMENT 1

Statement of Qualifications

EDUCATION AND EXPERIENCE

I received a Bachelor of Architecture Degree with Master of Architecture studies in architecture and planning from the University of Michigan (1966 – 1973). My university education included architectural acoustics and the math and physics related to analysis of sound transmission. In 45 years, I have designed hundreds of homes in California. During the last 20 years, I have also prepared expert acoustical studies for various development projects and reviewed and commented upon dozens of noise studies prepared by others. My expertise in environmental noise analysis comes from this formal educational training in architecture and planning, and from many years of evaluation of acoustics as relates to environmental analysis and challenging flawed project applications prepared by less-than-professional, industry-biased acousticians. I regularly measure and calculate noise propagation and the effects of noise barriers and building acoustics as they apply to homes near projects and their vehicular travel routes. I have also prepared initial environmental studies for noise-sensitive development projects including hotel and campground projects along major highways. I have reviewed dozens of quarry project and batch plant project environmental documents. I have designed highway noise walls, recommended noise mitigations, and have designed residential and commercial structures to limit their occupants' exposure to excessive exterior noise levels throughout California.

Dale La Forest