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Doheny Hotel Statement of Overriding Considerations and Findings of Fact



BEVERLY HILLS HOSPITALITY GROUP
JUNE 29, 2013
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the Doheny Hotel
DANA POINT, CALIFORNIA

LANGDON
WILSON
INTERNATIONAL
EXECUTIVE
PLANNERS
ARCHITECTS



Prepared for the City of Dana Point

33282 Golden Lantern
Dana Point, California 92629

April 2014

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1.0 INTRODUCTION

CEQA Guidelines (14 Cal. Code Regs § 15000 et seq.) require that the environmental impacts of the Doheny Hotel (proposed Project) be examined prior to project approval. If significant impacts have been identified, CEQA requires that certain findings be made before approval of the project. It is at the discretion of the decision makers certifying the Environmental Impact Report (EIR) to determine the adequacy of the findings. Section 15091 of the CEQA Guidelines provides:

- a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR (FEIR).
 - 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3) Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the FEIR.
- b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.
- f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

Should significant and unavoidable impacts remain after changes or alterations are applied to the project, a Statement of Overriding Considerations would be prepared. The statement provides the lead agency's views on whether the benefits of the proposed Project outweigh its unavoidable adverse environmental effects. Section 15093 of the CEQA Guidelines provides:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental

benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse

- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the FEIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the FEIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

1.1 Record of Proceedings

For the purposes of CEQA, the Record of Proceedings for the Doheny Hotel consists of the following documents:

- 1) The Notice of Preparation (NOP) and all other public notices issues by the City of Dana Point in conjunction with the proposed Project;
- 2) A public scoping meeting held on June 28, 2011 at the Dana Point Community Center;
- 3) Comments received during the NOP and public scoping meeting included as Appendix A of the Draft EIR;
- 4) The Doheny Hotel Draft EIR and all technical appendices (July 2013);
- 5) Comments on the Draft EIR received during the 45-day public review comment period;
- 6) The Doheny Hotel Final EIR, including comments received and responses for the Draft EIR;
- 7) The Mitigation Monitoring and Reporting Program (MMRP) for the proposed Project;
- 8) All reports, studies, memoranda, maps, staff reports, or other planning documents related to the Project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the proposed Project;
- 9) All documents submitted to the City by other public agencies or members of the public in connection with the Doheny Hotel up through the completion of the Final EIR;
- 10) Matters of common knowledge to the City, including, but not limited to, federal, state, and local laws and regulations;
- 11) Any other materials required for the record of proceedings by Public Resources Code Section 21167.6, subdivision (e).

1.2 Custodian and Location of Records

The administrative record for the City's actions related to the proposed Project is located at the City Dana Point Community Development Department, which serves as the custodian of the administrative record. Copies of these documents are available upon request. To obtain information regarding the administrative record, please contact the following:

Ms. Ursula Luna-Reynosa, Community Development Director
Community Development Department
33282 Golden Lantern, Suite 209
Dana Point, California 92629
uluna@danapoint.org
(949) 248-3567

This information is provided in compliance with Section 15091(e) of the CEQA Guidelines.

2.0 PROJECT SUMMARY

2.1 Background

The Draft EIR (SCH# 2011061041) considered the Lead project and a number of alternatives that would avoid or lessen the significant environmental impacts created by the Lead project. The City held a Planning Commission study session on November 18, 2013 to review the Lead Project and provide an opportunity for public comment. A duly noticed public hearing for the Lead Project was held on December 9, 2013 and continued to February 10, 2014, which allowed additional opportunities for public comment. Based on the analysis contained in the Draft EIR and input received from the public and the City Planning Commissioners, the Applicant decided to pursue a modified version of Alternative 4 – Option “B” considered in the Draft EIR. Many of the issues raised during the 45-day comment period were related to characteristics of the proposed Lead Project that have been eliminated or addressed through these changes. This modified option is hereby referred to as Modified Option “B” which is described more fully below.

2.1.1 Modified Option “B”

Modified Option “B” includes the 1.5-acre site for the proposed Lead Project and 0.76 acres of Lantern Bay Park located immediately south of the subject site. Modified Option “B” assumes the 0.76-acre portion of the adjacent City-owned Lantern Bay Park would be used to create an expanded driveway. Acquisition of the Lantern Bay Park land would need to occur prior to implementation of the Project. This acquisition would entail an additional 58,560 cubic yards of excavation.

Parking for Modified Option “B” includes a total of 375 on-site spaces. The Project would include access to the site from Dana Point Harbor Drive through an expanded entrance/driveway located on the 0.76-acre Lantern Bay Park land. The driveway would lead to two levels of subterranean parking beneath the hotel, and 50 public parking spaces provided at grade on-site for use by the public. For public parking, 20 of the 50 at-grade spaces would be self-parked, and the remaining 30 public parking spaces would be accessed through the valet service. The remaining parking spaces in the subterranean parking lot and porte cochere would be accessed through the valet service only.

Under Modified Option “B” the number of guest rooms would decrease to 250. Of the original 258 rooms in the Lead Project, 28 rooms would be removed in the Modified Option “B” by eliminating the fourth floor of the portion of the building that runs adjacent to Pacific Coast Highway and turns the corner at Dana Point Harbor Drive. The elimination of this portion of the building reduces the building height in this section from four stories at 48.5 feet to three stories at 38.5 feet. Another eight rooms are eliminated by the redesign of the floor plans. Construction of the newly proposed mezzanine would add 28 rooms in between the first and second levels. These reductions and additions for Modified Option “B” result in a net decrease of eight rooms from the Lead Project for a total of 250 rooms.

The overall building height of the Modified Option “B” would be similar to the proposed Lead Project; the building reaches 29.5 feet at its lowest point and 60.5 feet at its highest point (68.5 feet with mechanical equipment). However, in comparison to the Lead Project, a larger percentage of the height of the building for the Modified Option “B” is three stories (38.5 feet). This is due to the Modified Option “B” reducing sections of the building standing at 60.5 feet (five stories) and 48.5 feet (four stories). Refer to **Table 2-1** for a building height comparison between Modified Option “B” and the Lead Project.

Table 2-1
BUILDING HEIGHT PERCENTAGES

Height (feet)	Percentage of Building at Designated Height	
	Modified Option B	Lead Project
68.5 ¹	9%	9%
60.5	35%	41%
48.5	6%	25%
38.5	50%	25%

The total square footage of enclosed area is 210,175 square feet, including 15,580 square feet of banquet facilities and 7,464 square feet of restaurant. Additional landscaping beyond the Lead Project would occur on the first floor.

Additional changes to Modified Option “B” include:

- An increase in the setback of the roof terrace “lobby lounge” from Pacific Coast Highway from 14 feet to 30 feet;
- Relocation of the outdoor dining area adjacent to the restaurant eliminating a need for one of the setback variances;
- An additional loading dock located at the southwestern end of the building (facing Lantern Bay Park) to reduce the volume of deliveries received at the Pacific Coast Highway loading zone; and
- Additional striping on PCH to include a 3-foot bike gore for bicyclists.

Drawings and renderings for Modified Option “B” are shown in **Figure 2-1** through **Figure 2-10**.

2.2 Statement of Objectives

Pursuant to CEQA Guidelines Section 15124(b) and as described in Section 3.2 of the Draft Environmental Impact Report, the project has the following objectives:

- 1) Development of a commercially viable project that is complimentary to the coastal recreational character of the community and therefore enhances the hospitality facilities and amenities available to local residents and visitors.
- 2) Design and construct the uses in a manner that is attractive not only to the immediate users, but also the inhabitants of the specific plan area and residents of greater Dana Point.
- 3) Minimize the impact of new development on the character of surrounding residential neighborhoods, so that the streetscape and quality of existing public viewsheds are preserved.

¹ Building height is 60.5 feet plus 8 feet for roof-mounted, screened mechanical equipment.

2.2.1 Design

- 1) Provide a building design that is consistent with the Community Design Element for the Dana Point Specific Plan/1986 Local Coastal Plan and City of Dana Point Design Guidelines (Sections II, IIIB, and VC) that provides ample landscaping, parking, services, and pedestrian amenities.
- 2) Utilize creative architectural design that is integrated into all facades of a new building to provide a development that enhances the built environment with attractive aesthetic quality.
- 3) Reinforce the architectural design through the combining and manipulation of appropriate materials, colors and forms that are integrally composed and aesthetically pleasing.
- 4) The project shall be contextually appropriate to the surroundings, without being deferential to or mimicking neighboring facilities.

2.2.2 Circulation

- 1) Accommodate automobile traffic to the project in surface parking lots and structured garages, utilizing shared parking analysis and taking into consideration the different uses, times of use, and the likely sources of users for those facilities.
- 2) Separate surface parking facilities in order to avoid, as much as is practicable, large expansive parking lots.
- 3) Provide clear and direct pedestrian linkages, along landscaped and shaded pathways, between the various elements of the project.
- 4) Provide reasonable pedestrian access into the project for visitors from the adjacent area.

2.2.3 Environment

- 1) Build and operate the project in as environmentally sustainable manner as much as is practical by utilizing energy efficient technologies and sustainable design concepts, and adopting operational techniques that will insure these objectives for the subsequent life of the development.
- 2) Aim to achieve LEED Silver status for the hotel using measures such as, but not limited to, green roofs, dual-flush toilets, motion-activated lighting, drip watering systems, electric car charging stations, recycling programs, and development and implementation of an energy-monitoring program as part of the Building Management System.

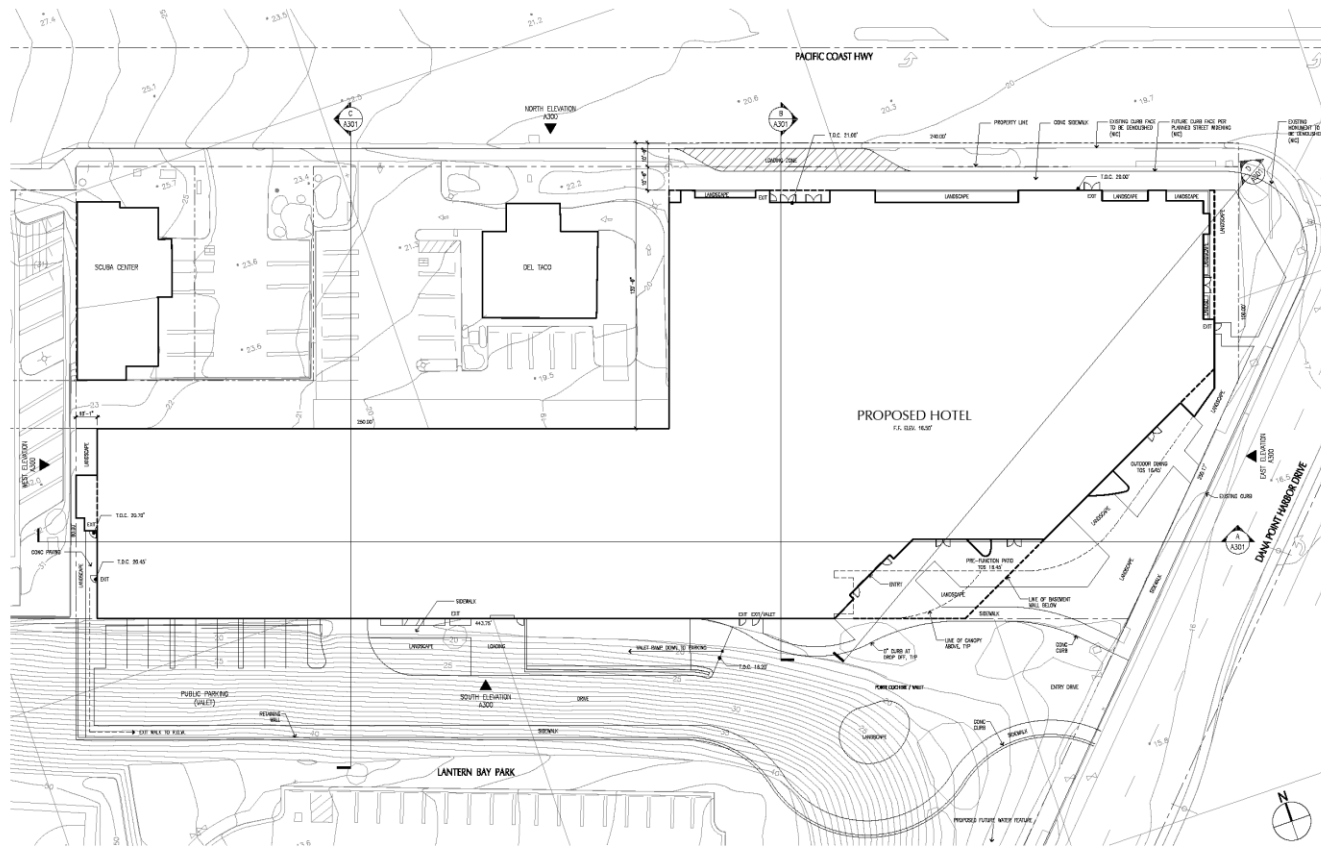
Figure 2-1
MODIFIED OPTION "B" ELEVATIONS



Figure 2-2
LANDSCAPE CONCEPT FLOOR PLAN



Figure 2-3
SITE PLAN



SITE PLAN
XX-SITING

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BEVERLY HILLS HOSPITALITY GROUP

PRELIMINARY CONCEPT PLAN
THE DOHENEY HOTEL
25325 DANA POINT HARBOR DRIVE
DANA POINT, CALIFORNIA 92629
LOCAL DEVELOPMENT PERMITS APPLICATION
PROJECT # 2011-001

REV/DATE	ISSUED FOR	REV/DATE	ISSUED FOR
		12/22/10	CONCEPT PLAN
		01/29/11	CONCEPT APP # 1
		04/09/11	CONCEPT APP # 2
		04/09/11	ACT 1 PERM
		06/15/11	OPTION # 1
		07/26/11	OPTION # 2
		08/10/11	OPTION # 3

GUEST ROOM MODULES

MEZZANINE	28
2ND FLOOR	84
3RD FLOOR	73
4TH FLOOR	44
5TH FLOOR	231
TOTAL	234

PARKING SUMMARY

PARKING REQUIRED	302
PARKING PROVIDED	304
PARKING BREAKDOWN	
HOTEL PARKING (VALET)	
BT PARKING	232
BE PARKING	72
STAIR TOWER	304
PUBLIC PARKING (VALET)	
1ST FLOOR/STAIR PARKING	30
TOTAL	304
PORTS COACHEX/DRIVE ABLE PARKING	
VALET/100-LONG SIGNING	21
CRAND TOTAL ON SITE PARKING	375

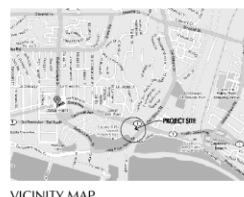
GROSS ENCLOSED AREA SUMMARY

BE BSHMENT / PARKING	23,220 SF
BT BSHMENT / PARKING	55,100 SF
1ST FLOOR	52,545 SF
MEZZANINE	24,648 SF
2ND FLOOR	42,520 SF
3RD FLOOR	38,409 SF
4TH FLOOR	25,963 SF
5TH FLOOR	25,060 SF
TOTAL GROSS AREA	288,510 SF

GROSS DECK / TERRACE AREA (EXCLUDES POOL AREA)

POOL DECK (2ND FLR)	8,400 SF
GARDEN TERRACE (3RD FLR)	1,750 SF
ROOF TERRACE (4TH FLR)	8,650 SF
GUEST ROOM MODULES	290
MEETING SPACE	15,980 SF
RESTAURANT SPACE	7,464 SF
PARKING	394 STALLS

*NOTE: SEE PARKING BREAKDOWN ON SHEETS ASD & ASD1



SHEET INDEX

A100	SITE PLAN COVER SHEET
ASD0	BT & BE BSHMENT FLOOR PLANS
ASD1	FIRST FLOOR PLAN
ASD2	MEZZANINE & SECOND FLOOR PLAN
ASD3	THIRD & FOURTH FLOOR PLANS
ASD4	FIFTH & UPPER ROOF PLANS
ASD5	EXTERIOR ELEVATIONS
ASD6	BUILDING SECTIONS
ASD7	LANDSCAPE CONCEPT FLOOR PLANS

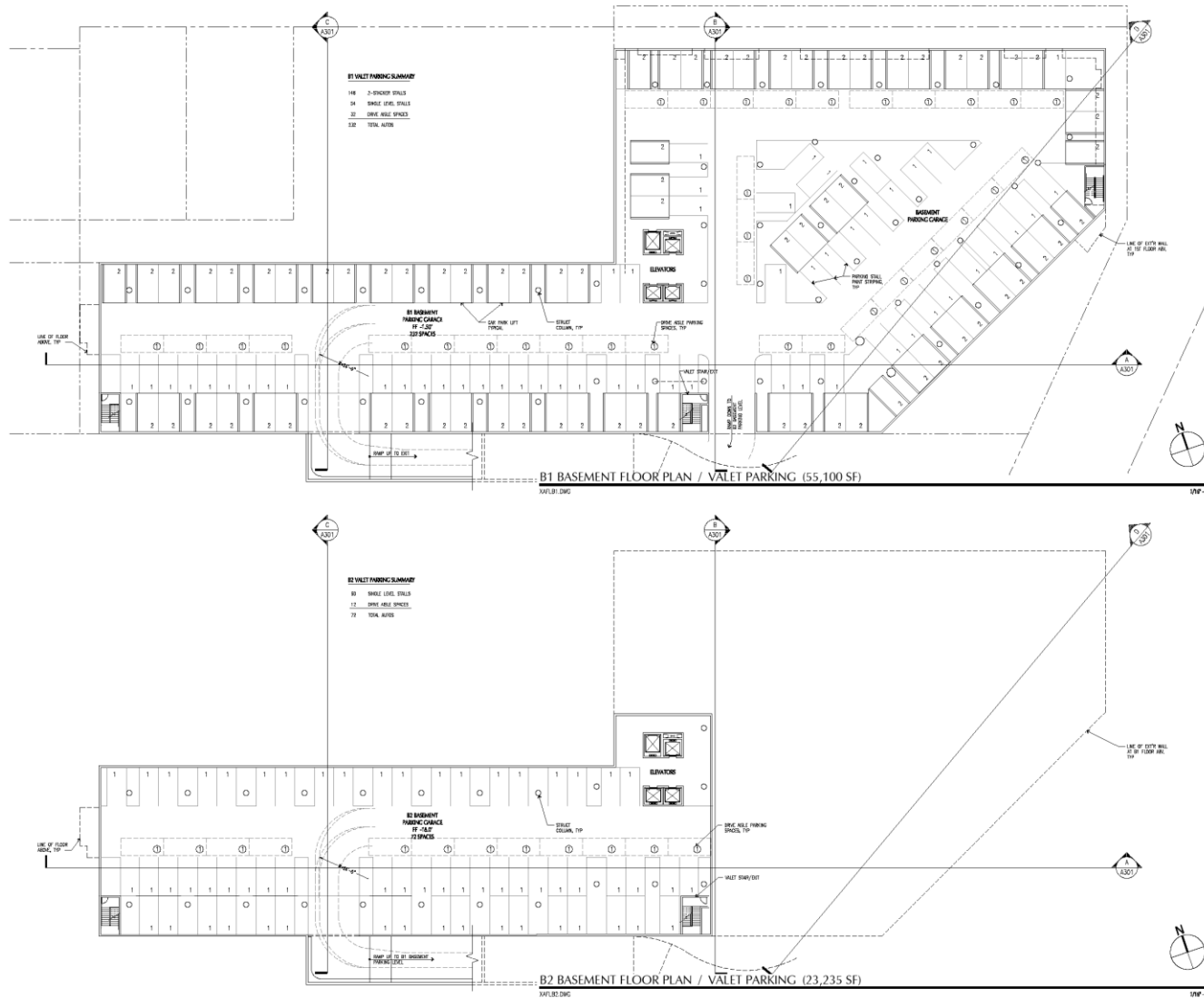
(REVISIONS & COLORADO ELEVATIONS HAVE ALSO BEEN SUBMITTED)

PROJECT INFO

OWNER: BEVERLY HILLS HOSPITALITY GROUP
PROJECT ADDRESS: 25325 DANA POINT HARBOR DRIVE, DANA POINT, CALIFORNIA 92629
PLANNING ACTIVITY NUMBER: PA-09-0183
COASTAL DEVELOPMENT PERMIT NUMBER: CD-09-001

BUILDING AREA SUMMARY

Figure 2-4
B1 AND B2 BASEMENT FLOOR PLANS



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1205 WILSHIRE PLACE, SUITE 111
 BEVERLY HILLS, CALIFORNIA 90210
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BEVERLY HILLS
 HOSPITALITY GROUP

PRELIMINARY CONCEPT PLAN
THE DOHENY HOTEL
 23325 DANA POINT HARBOR DRIVE
 DANA POINT, CALIFORNIA 92629
 CIVILIAN ARCHITECTURE GROUP/ARCHITECT
 CIVILIAN PROJECTS - LA (PROJECT)

REV DATE	ISSUED FOR	REV DATE	ISSUED FOR
		10/22/13	CONCEPT PLAN
		02/23/14	CONCEPT PLAN #2
		05/09/14	CONCEPT PLAN #3
		08/11/14	OPTION B
		08/12/14	OPTION B
		08/26/14	OPTION B SET
		08/27/14	OPTION B

Stamp

DATE: 11/02/14 SCALE: AS SHOWN
 DRAWN BY: J.S. CHECKED BY: J.S.
 APPR'D BY: J.S. DATE: 10/10/14
B1 & B2 BASEMENT FLOOR PLANS

PROJECT NO.:
 MODIFIED OPTION B
A200

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Figure 2-5
FIRST FLOOR PLAN LOADING OPTION

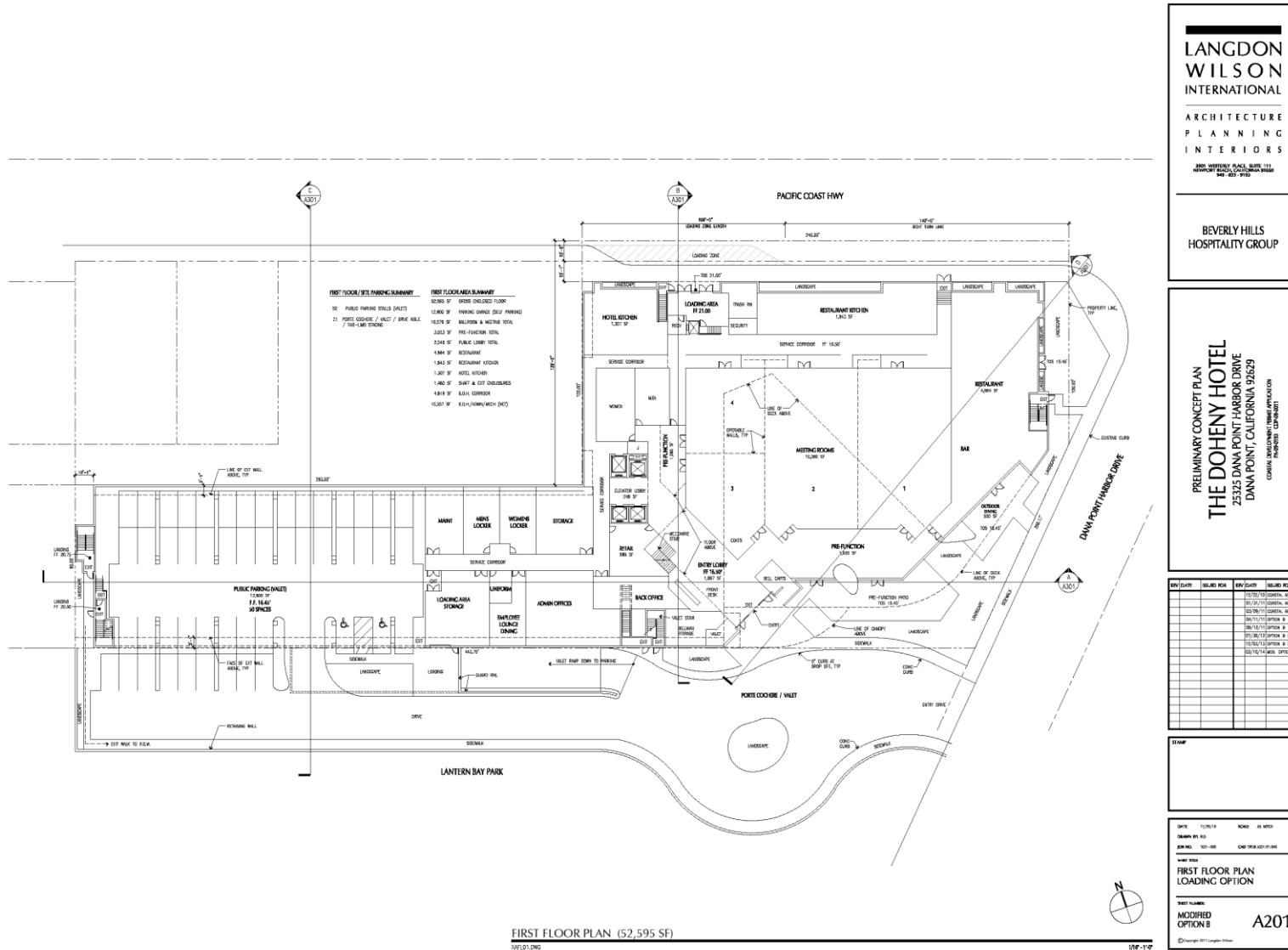
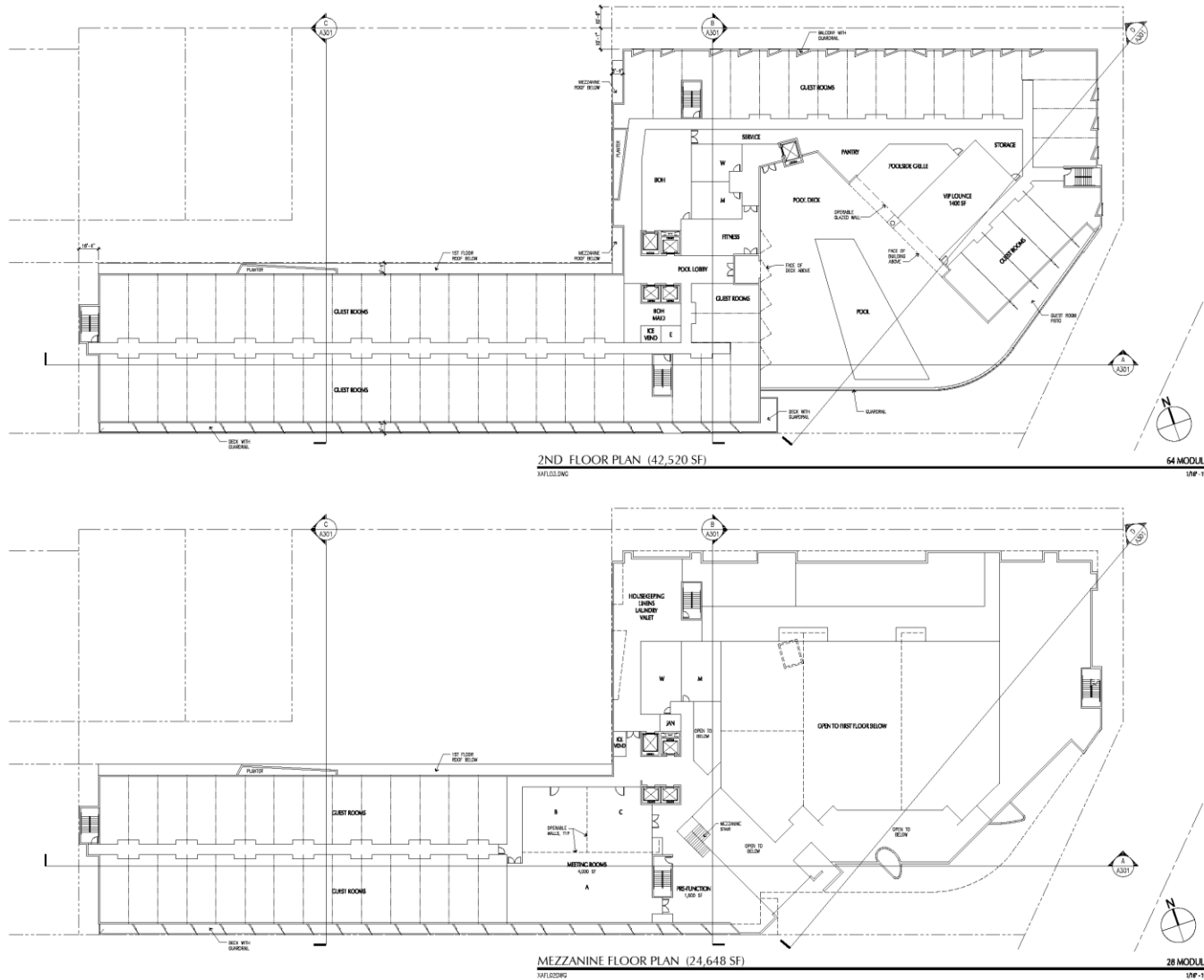


Figure 2-6
MEZZANINE AND SECOND FLOOR PLANS



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HERNDON, VIRGINIA 22042-4340
954-781-1910

BEVERLY HILLS
HOSPITALITY GROUP

PRELIMINARY CONCEPT PLAN
THE DOHENY HOTEL
25325 DANA POINT HARBOR DRIVE
DANA POINT, CALIFORNIA 92629

COURTESY: LANGDON WILSON INTERNATIONAL
PROJECT NO. 12040001

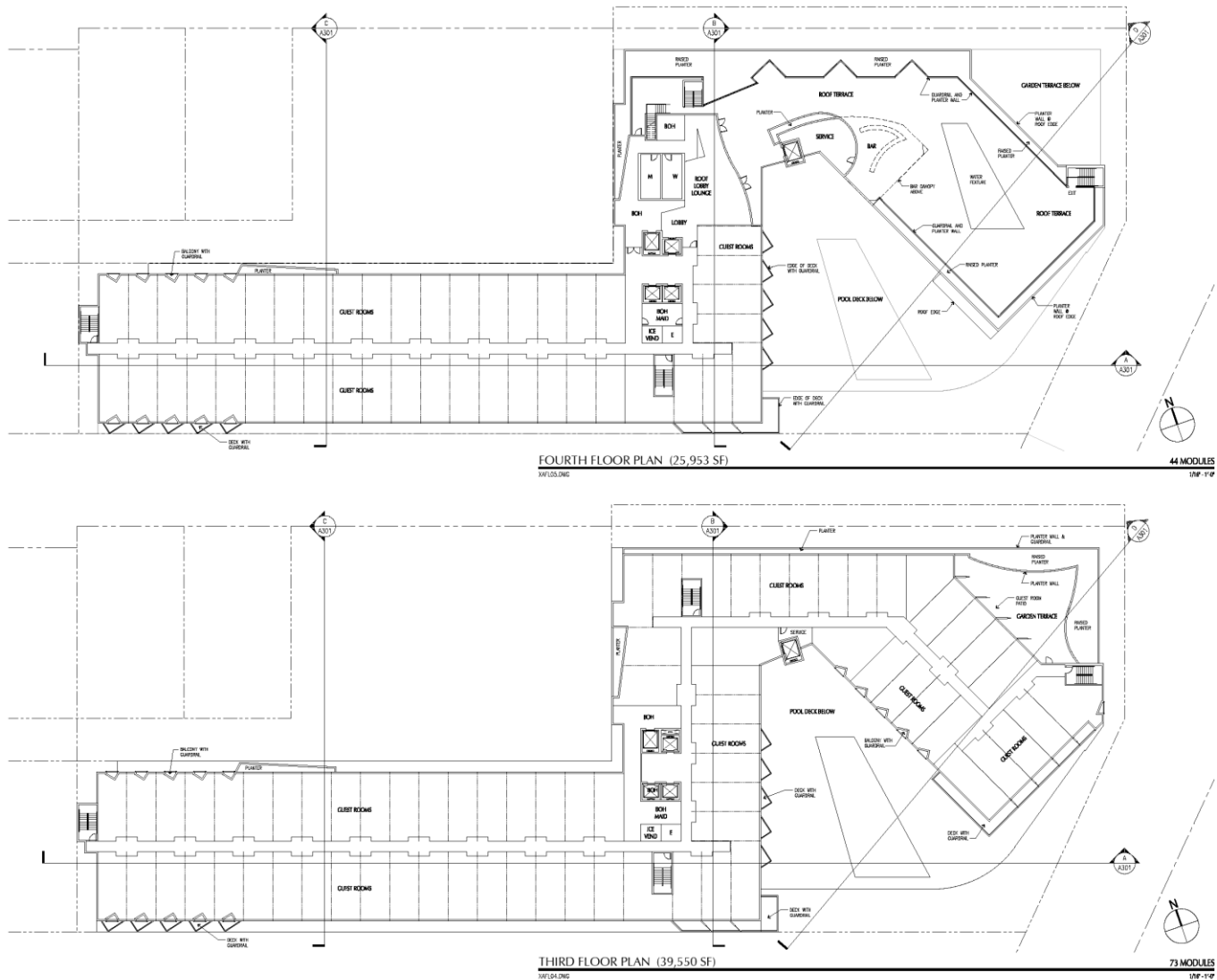
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	12/22/10	CONTRACT ADMIN.			
	02/03/11	CONTRACT ADMIN.			
	06/12/11	OWNER			
	09/06/12	OWNER			
	08/20/14	OWNER			

Sheet

DATE: 11/25/14
SCALE: AS SHOWN
DRAWN BY: JLD
CHECKED BY: JLD
DATE: 11/25/14
PROJECT: MEZZANINE & SECOND FLOOR PLANS
SHEET NUMBER: MODIFIED OPTION B
A202

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Figure 2-7
THIRD AND FOURTH FLOOR PLANS



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BEVERLY HILLS, CALIFORNIA 90210
909-977-9191

BEVERLY HILLS
HOSPITALITY GROUP

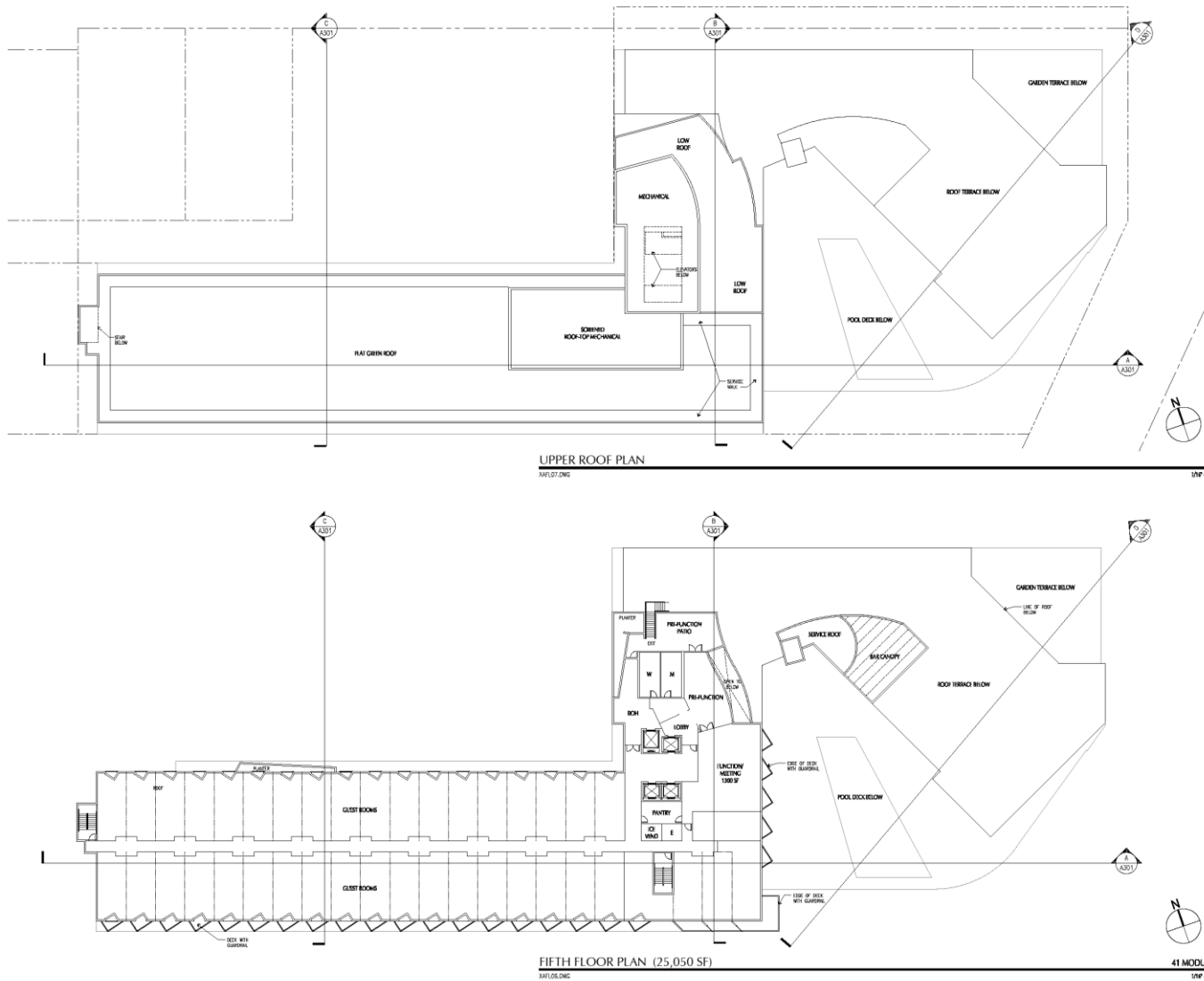
PRELIMINARY CONCEPT PLAN
THE DOHENY HOTEL
25325 DANA POINT HARBOUR DRIVE
DANA POINT, CALIFORNIA 92629
CONCEPT ARCHITECTURE CONSULTING

REV/DATE	REVISION	REV/DATE	REVISION
01/15/16	ISSUE FOR PERMIT	01/15/16	ISSUE FOR PERMIT
02/23/16	ISSUE FOR PERMIT	02/23/16	ISSUE FOR PERMIT
06/10/16	ISSUE FOR PERMIT	06/10/16	ISSUE FOR PERMIT
07/26/16	ISSUE FOR PERMIT	07/26/16	ISSUE FOR PERMIT
08/19/16	ISSUE FOR PERMIT	08/19/16	ISSUE FOR PERMIT

STAMP

DATE: 1/16/16 SCALE: AS SHOWN
DRAWN BY: JLS
CHECKED BY: JLS
DATE: 01/16/16
PROJECT: THE DOHENY HOTEL
SHEET: 03
THIRD & FOURTH FLOOR PLANS
MODIFIED OPTION B
A203

Figure 2-8
FIFTH FLOOR AND UPPER ROOF PLAN



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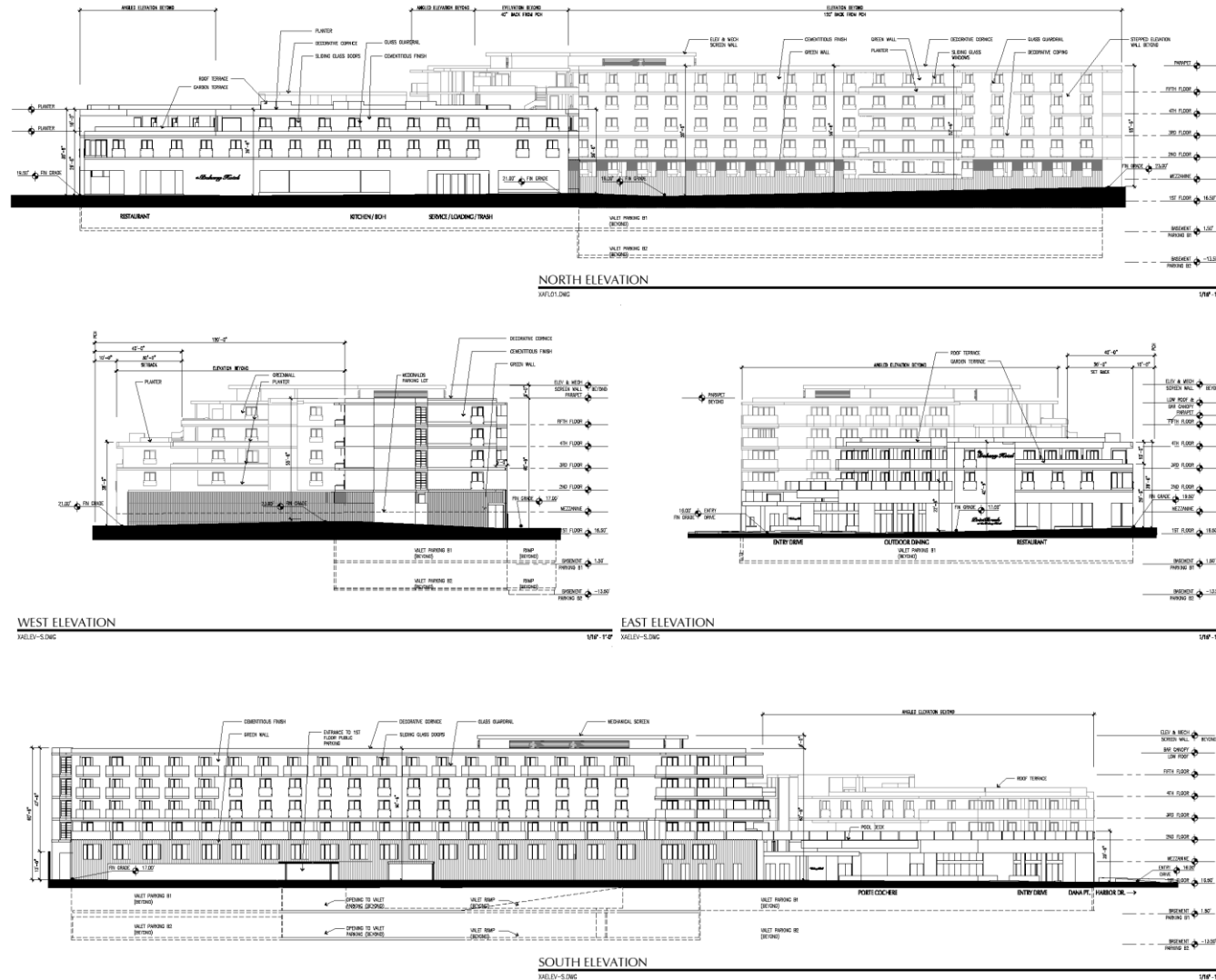
PRELIMINARY CONCEPT PLAN
THE DOHENY HOTEL
2525 DANA POINT HARBOR DRIVE
DANA POINT, CALIFORNIA 92629
GENERAL DEVELOPMENT (LAND USE/PLANNING)
PROJECT NO. 2011-0001

REV. DATE	ISSUED FOR	REV. DATE	ISSUED FOR
12/12/12	CONTRACT SET	02/27/13	CONTRACT SET
02/27/13	CONTRACT SET	05/01/13	CONTRACT SET
05/01/13	CONTRACT SET	07/26/13	CONTRACT SET
07/26/13	CONTRACT SET	09/12/13	CONTRACT SET
09/12/13	CONTRACT SET	10/17/13	CONTRACT SET

Stamp

DATE: 04/10/14
DRAWN BY: RJD
JOB NO.: 103-100
JOB TITLE: FIFTH FLOOR PLAN & UPPER ROOF PLAN
PROJECT NAME: MODIFIED OPTION B
A204
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**Figure 2-9
EXTERIOR ELEVATIONS**



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TEL: 310.274.1100

BEVERLY HILLS
HOSPITALITY GROUP

PRELIMINARY CONCEPT PLAN
THE DOHENY HOTEL
25325 DANA POINT HARBOR DRIVE
DANA POINT, CALIFORNIA 92629

CONCEPT ARCHITECTURE
LANGDON WILSON INTERNATIONAL

REV	DATE	ISSUED FOR	REV	DATE	ISSUED FOR

DATE: 11/26/13
DRAWN BY: RJ
REV: 001-001
SCALE: 1/8" = 1'-0"

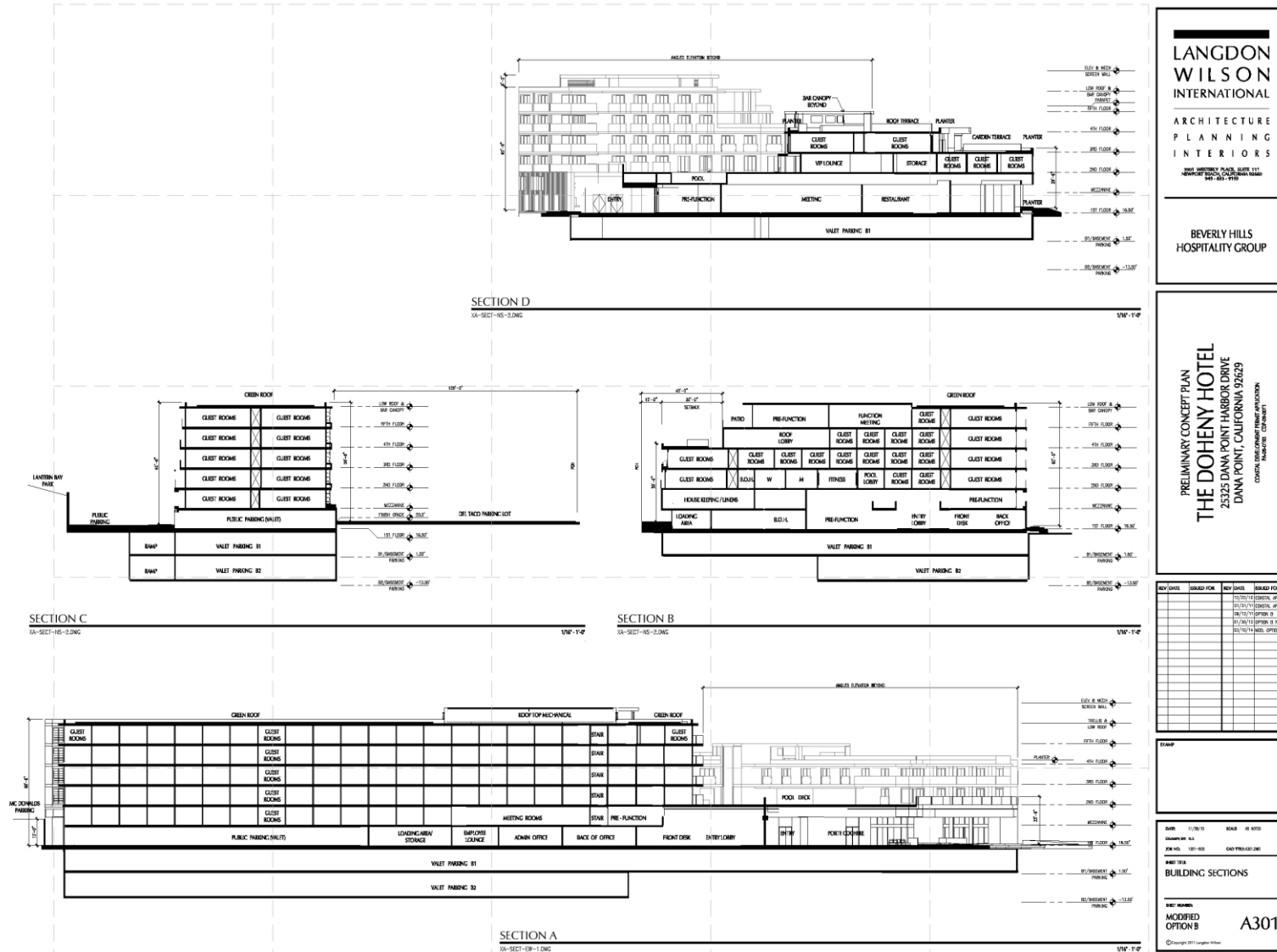
EXTERIOR ELEVATIONS

REV: 11-26-13
MODIFIED OPTION B

A300

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Figure 2-10
FIRST FLOOR PLAN LOADING OPTION



3.0 FINDINGS OF FACT

3.1 Introduction

The City, having reviewed and considered the information contained in the EIR, finds pursuant to Public Resources Code §21081(a) (1) and Guidelines §15091(a) (1) that changes or alterations have been required in, or incorporated into, the Project which would mitigate, avoid, or substantially lessen to below a level of significance potentially significant environmental effects identified in the EIR.

The following findings are based upon the environmental analysis performed for the Lead Project in the Draft EIR. After the findings are discussed, the level of impact of Modified Option “B” is compared to the Lead Project.

3.2 Aesthetics

Obstruction of Views

- A. **Less than Significant Impact.** The potential for proposed Project features to result in the change, removal, or degradation of the nature and quality of scenic highway, corridor, or other recognized or valued views from a length of a public roadway, bike path, or trail is less than significant. Public views of the ocean from residential areas, neighborhood parks, and public trail on the bluffs to the north of PCH would be preserved and minimally impacted after project implementation.
- B. **Facts in Support of Finding (1).** The proposed Project is not located within a designated California State Scenic Highway corridor. The project is located adjacent to PCH which is designated as a local scenic highway by the City of Dana point. The project area’s hilly topography offers visual relief and minimizes the visual impacts of the project to the visual resources along PCH.

Facts in Support of Finding (2). As part of the project, a new sign will replace the existing County of Orange Dana Point Harbor signage located at the intersection of PCH and Dana Point Harbor Drive and the corner will be embellished with new landscaping. Therefore, the project would improve the aesthetic quality of the existing gateway marker and would not affect the views of the pedestrian bridge on the east.

Facts in Support of Finding (3). The project attempts to lessen the massing effect of the 86.5 foot overall proposed building height and blend the building with the surrounding area through the utilization of a combination of varying setbacks and roofline heights. The proposed two-story façade and terraced back upper floors at the primary corner entrance would reduce the bulk of the building. The visual simulations provided in Chapter 3.1 in the EIR show that despite the bulk and mass of the project, it does not obstruct public views of visual resources, including the ocean. Existing plants removed during project construction, would be replaced with the project’s landscaping.

Visual Character of Site and Surroundings

- A. **Potentially Significant Impact.** The proposed hotel building would be incompatible in scale, mass and form with adjacent structures and existing development pattern in the project vicinity. Therefore, the project would have a potentially significant impact on the existing visual character or quality of the site and the surrounding area. During the

construction phase, views of construction activities, staging areas and equipment would have short term visual impacts on the visual quality of the surrounding area.

- B. Facts in Support of Finding (1).** With the implementation of **MM 3.1-1** provided below, short term visual impacts associated with the construction of the project would be mitigated to a less than significant level.

Facts in Support of Finding (1). The existing visual character of the site and surrounding area can be characterized as low density urban. Developments in the vicinity of the project site vary in size and range from undeveloped land to single-story and multi-story buildings. Majority of the buildings in the surrounding area are one or two story high. The proposed hotel building would be a two to five story structure, considerably larger and bulkier than some of the structures within the immediate vicinity and would transform the existing low-density project area into a higher density land use. The aesthetic and visual impacts of the proposed Project associated with incompatible building form cannot be mitigated to a less than significant level, and the City has adopted a corresponding Statement of Overriding Considerations.

Lighting, Glare, and Nighttime Illumination

- A. Potentially Significant Impact.** The proposed Project features include a rooftop lounge area that would include lighting to illuminate the rooftop establishment during its evening operational hours. The illumination would have the potential to have light spillover to neighboring properties that could affect nighttime views in the area.
- B. Facts in Support of Finding (1).** The Proposed Project's significant aesthetic impact related to having a substantial adverse effect on lighting, glare, and nighttime illumination would be mitigated to a level less than significant with the implementation of mitigation measures provided below. Particularly, **MM 3.1-2** includes a requirement to implement an Exterior Lighting Plan to minimize lighting spillover onto neighboring properties, and minimize impacts to nighttime views in the area.

Mitigation Measures

- MM 3.1-1** Prior to issuance of a grading permit, the contractor shall prepare a Construction Staging Plan that identifies the location(s) of staging areas, including equipment and vehicle storage areas. The Plan shall identify the manner in which the storage would be screened to ensure that the temporary visual impacts would be minimized within the viewshed.
- MM 3.1-2** Prior to the issuance of a building permit, an Exterior Lighting Plan for all proposed improvements shall be prepared. The lighting plan shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The Lighting Plan shall demonstrate that all exterior lighting has been designed and located so that all direct rays are confined to the property. The Lighting Plan shall be reviewed and approved by the Dana Point Planning Commission as part of a noticed public hearing.

Modified Option B

Due to reduction in height and bulk of the building, Modified Option "B" would result in lesser impacts to aesthetics than that of the Lead Project.

3.3 Air Quality

Short Term Construction Related Impacts

- A. Potentially Significant Impact.** Temporary construction-related dust and vehicle emissions would occur during site preparation and project construction. Construction activities for the proposed Project would generate airborne odors associated with the operation of construction vehicles (i.e., diesel exhaust), asphalt paving operations, and the application of paints and coatings. The project would potentially increase the concentration of P10 and P2.5 particulate matter and expose sensitive receptors to decreased air quality impacts during construction. Short term construction impacts of the project on regional air quality and those related to airborne odors would be less than significant.
- B. Facts in Support of Finding (1).** Maximum daily construction emissions of reactive organic gases, nitrous oxides, carbon monoxide and particulate matter for various project construction activities along with applicable South Coast Air Quality Management District's (SCAQMD) Significance Thresholds are provided in Table 3.2-6 in the EIR. According to Table 3.2-6, air emissions during the construction phase of the project would not exceed the SCAQMD thresholds.

Facts in Support of Finding (2). The nearest sensitive land use is a multifamily residence complex located approximately 100 feet away from the proposed Project site. The local air quality analysis was based on the analysis of SCAQMD's Localized Significance Thresholds (LSTs) for a one acre site 82 feet away from the nearest sensitive receptor. The proposed site is greater than one acre and is more than 25 meters (82 feet) away from all sensitive receptors. Therefore, unmitigated construction emissions, except PM10 and PM2.5, are below the LSTs for the proposed Project. With the implementation of fugitive dust control measures required under SCAQMD Rule 403 and **MM 3.2-1** through **MM 3.2-4**, provided below, daily PM10 and PM2.5 emissions would be below their significance thresholds and potential localized air quality impacts during the construction phase would be mitigated to a less than significant level.

Facts in Support of Finding (3). Air-borne objectionable odors during the construction phase of the project would occur during daytime hours only, odors would be isolated to the immediate vicinity of the construction site and activity, and would not affect a substantial number of people. After project construction is completed, odors from the proposed uses of the proposed Project would not significantly differ from odors emanating from typical hotels or restaurants.

Long Term Regional Air Quality Impacts

- A. Less Than Significant Impact.** The proposed Project would increase the overall local and regional pollutant load compared to the baseline conditions. The increase in operational air emissions and resulting long term regional air quality impacts as a result of the proposed Project would be less than significant.
- B. Facts in Support of Finding (1).** Daily emissions of reactive organic gases, nitrous oxides, carbon monoxide and particulate matter from both area and mobile sources for baseline year and project opening year are provided in Table 3.2-6 in the EIR. Table 3.2-6 also includes applicable SCAQMD's Significance Thresholds. According to Table 3.2-6,

operational air emissions as a result of the proposed Project would not exceed the SCAQMD thresholds.

Carbon Monoxide Hotspots

- A. Less Than Significant Impact.** Mobile sources associated with the proposed Project have the potential to create Carbon Monoxide (CO) “hotspots” that is increased CO concentration in small areas that result from motor vehicle emissions in heavy traffic. The traffic increases in nearby intersections may contribute to traffic congestion, which may create “pockets” of CO called hotspots. CO concentrations, as a result of the development of the proposed Project are anticipated to be less than significant.
- B. Facts in Support of Finding (1).** According to the California Department of Transportation (Caltrans) CO Protocol, CO hotspots are evaluated when a project degrades the Level of Service (LOS) at a nearby signalized intersection to “E” or worse. Traffic analysis for the proposed Project indicates that with the implementation of roadway improvements that have been included as project design features, the proposed Project would not degrade the LOS at any nearby key intersections to level “E” or worse. Therefore, CO hotspots analysis is not required for the proposed Project.

Conformity with Air Quality Management Plan

- A. Less Than Significant Impact.** The SCAQMD has established an Air Quality Management Plan (AQMP) that proposes policies and measures to achieve federal and State standards for healthful air quality in the South Coast Air Basin. The proposed Project would not conflict with or obstruct the implementation of the AQMP therefore, project impacts related to conformity with the AQMP would be less than significant.
- B. Facts in Support of Finding (1).** The AQMP incorporates land use assumptions from local general plans and regional growth projections to estimate stationary and mobile air emissions associated with projected population and planned land uses. If a proposed land use is consistent with the local general plan, then the impact of the project is presumed to have been accounted for in the AQMP. Consistency with the AQMP is also analyzed by determining if a project would generate population and employment growth. The proposed Project would not conflict with the land use designation specified in the Land Use Plan contained in the Dana Point Specific Plan/Local Coastal Program. The proposed Project is neither a source of new housing nor a significant source of new jobs. Therefore, the project would not be considered growth or population-inducing on a regional scale.

Mitigation Measures

- MM 3.2-1** During grading, water exposed surfaces at least twice daily. (PM10 reduction: 34-68%)
- MM 3.2-2** Enclose, cover, and apply water twice daily to exposed piles of earthwork with 5% or greater silt content. (PM10 reduction: 30-74%)
- MM 3.2-3** All trucks hauling earthwork or other loose materials are to be covered or should maintain at least two feet of freeboard. (PM10 reduction: 7-14%)

MM 3.2-4 When feasible, implement construction equipment with Tier 2 to Tier 3 diesel engines during grading. (NOX reduction: 38-39%)

Modified Option B

Due to decreased project-generated trips, Modified Option “B” would result in lesser impacts to air quality than that of the Lead Project.

3.4 Biological Resources

Sensitive Species and Nesting Raptors

- A. Potentially Significant Impact.** Project implementation and construction-related activities could potentially result in the disturbance of nesting special-status species and species protected under the Migratory Bird Treaty Act during the breeding season. Construction activities could potentially affect raptors and other birds roosting or nesting in vegetation, including the large trees in the area, and destroy or disturb active nests. Equipment noise, vibration, lighting, and other human-related disturbance could disrupt normal activities of birds.
- B. Facts in Support of Finding (1).** With implementation of **MM 3.3-1** through **MM 3.3-3**, provided below, impacts to sensitive species and nesting raptors would be mitigated to a less than significant level.

Mitigation Measures

- MM 3.3-1** A pre-construction survey (within three days before work in the project areas) will be conducted by a qualified biologist to determine the presence or absence of active nests within, or adjacent to, the project site. Project construction activities in staging areas shall only occur following surveys by a qualified biologist.
- MM 3.3-2** A pre-construction survey for nesting raptors shall be conducted if work is scheduled to begin within the month of January.
- MM 3.3-3** If no breeding or nesting activities are detected within 500 feet of the proposed work and staging areas, construction activities may proceed. If bird breeding/nesting activity is confirmed, work activities within 250 feet (or 300 feet for raptors, 500 feet for fully protected species, or a linear distance appropriate for the species approved by the project biologist) of any active nest may be delayed until the young birds have fledged and left the nest. The project biologist will confer with the contractor and agencies to determine the proper course of action. A work area buffer zone around any active nests shall be demarcated, indicating where work may not occur. Project activities may resume in this area once the project biologist has determined that the nest(s) is no longer active. Biological monitoring shall occur during vegetation removal activities, if any, to minimize impacts on foraging or nesting birds.

Modified Option B

Modified Option “B” would result in similar biological resources impacts compared to the Lead Project.

3.5 Cultural Resources

Archaeological and Historic Resources

- A. **Potentially Significant Impact.** Construction of the proposed Project would include ground-disturbing activities such as grading and excavation, that could potentially impact significant archaeological and historic resources located within the project area.
- B. **Facts in Support of Finding (1).** The results of the records search, outreach with the State of California’s Native American Heritage Commission and Native American community, and field reconnaissance completed identified no archaeological and/or historical resources within the project area. With implementation of **MM 3.4-1** (provided below) that requires all ground disturbing activities to be conducted in the presence of a qualified archaeological or Native America monitor, any potential impacts to Archaeological and Historic resources would be mitigated to a less than significant level.

Paleontological Resources

- A. **Potentially Significant Impact.** The current soils in the project area have the potential to contain paleontological resources. Earth-moving or earth-disturbing activities occurring as a result of implementation of the project have the potential to reveal fossiliferous strata and result in significant impacts to fossil remains.
- B. **Facts in Support of Finding (1).** Prior to the issuance of grading permit, the applicant shall provide written evidence to the City Engineer, City of Dana Point, that the applicant has retained a County-certified archaeologist, to observe grading activities and salvage and catalogue archaeological resources. If paleontological resources are found within the proposed Project area, the mitigation program developed and conducted by the qualified paleontological monitor would mitigate impacts on paleontological resources to less than significant levels. With implementation of **MM 3.4-1** provided below, impacts to paleontological resources would be mitigated to a less than significant level.

Mitigation Measures

- MM 3.4-1** To reduce project impacts on cultural resources to a less than significant level, all ground disturbing activities shall be monitored by a qualified archaeological monitor, a Native American monitor, and a qualified paleontological monitor.

Modified Option B

Modified Option “B” would result in similar cultural resources impacts compared to the Lead Project.

3.6 Geology and Soils

Earthquake Faults and Seismic Hazards

- A. **Potentially Significant Impact.** The proposed Project site lies in an area that could expose people or structures to potential adverse effects due to strong ground shaking in the event of a significant earthquake on an area fault. Earthquakes that can produce strong shaking at the project area may occur on active faults such as the Newport-

Inglewood Fault Zone which is located approximately 3.4 miles southwest of the proposed Project site.

- B. Facts in Support of Finding (1).** With the implementation of **MM 3.5-1** provided below, impacts due to seismic ground shaking would be mitigated to a less than significant level.

Ground Failure/Liquefaction/ Seismically Induced Settlement

- A. Potentially Significant Impact.** The proposed Project site is located within a State of California designated Seismic Hazard Zone for earthquake-induced liquefaction potential and the preliminary geotechnical report for the project identifies a potential for liquefaction at the proposed site. The preliminary geotechnical evaluation also indicates that some loose to medium-dense sandy layers were encountered in the fill soils underlying the project area, and the site is susceptible to seismically induced settlements during earthquake shaking.
- B. Facts in Support of Finding (1).** Appropriate seismic design provisions, such as proper foundation design and construction, would be incorporated into design and construction that are based on governing building codes. With the implementation of **MM 3.5-2** provided below, potential impacts due to seismic related ground failure including liquefaction and seismically induced settlement would be less than significant.

Landslides

- A. Less Than Significant Impact.** The project site is not located in an area that is prone to landslides and *project* impacts to people and structures due to landslides would be less than significant.
- B. Facts in Support of Finding (1).** No significant slopes exist within the project area. An approximately 20 feet high offsite slope located along the southerly property boundary is surficial and grossly stable.

Soil Erosion

- A. No Impact.** The proposed Project would not result in permanent and/or substantial soil erosion or loss of topsoil.
- B. Facts in Support of Finding (1).** The site is relatively flat, is currently developed with structures and paving and majority of the site's surfaces are currently impervious. Exposure of soils to wind and water erosion during construction would be temporary in nature and subject to the National Pollution Discharge Elimination System (NPDES) requirements. Construction of the proposed Project would increase onsite impervious area. With the implementation of **MM 3.5-3** provided below, impacts resulting from soil erosion or the loss of topsoil would be mitigated to a less than significant level.

Unstable Soils/ Landslides/ Subsidence

- A. Potentially Significant Impact.** The proposed Project features a subterranean parking structure and a storm drain system that requires deep excavation that will result in temporary cut slopes. The known groundwater beneath the subject site will be encountered during excavation of the parking structure and temporary dewatering of

the parking structure area will be necessary. The building foundation load would result in compression of the underlying soil layers. Therefore the proposed Project is susceptible to temporary impacts associated with landslides, subsidence and settlement due to unstable soils during construction.

- B. Facts in Support of Finding (1).** The project plan includes shoring where deep excavations are necessary to protect against temporary slope failures. The projected groundwater depth during dewatering is within the historical range of groundwater fluctuations at the site and would not cause significant additional settlement because the site soils have already been pre-consolidated. With the implementation of **MM 3.5-4A** through **MM 3.5-4C** provided below, impacts associated with landslides, subsidence and settlement due to unstable soils during construction would be mitigated to a less than significant level.

Expansive Soils

- A. Potentially Significant Impact.** According to the preliminary geotechnical report, the project site is located in an area with soils having low to medium expansion potential and recommends foundations that incorporate appropriate design parameters with respect to potential soil expansion at the site.
- B. Facts in Support of Finding (1).** With the implementation of **MM 3.5-5** that requires the design of mat slab supported by cast-in drilled pier foundations for the proposed structures, impacts resulting from project location on expansive soils would be mitigated to a less than significant level.

Mitigation Measures

- MM 3.5-1** The project shall be constructed with adherence to local building codes; therefore, effects resulting from seismic shaking would be less than significant.
- MM 3.5-2** The foundation for the structure will be appropriately designed by the engineer to mitigate for seismic related ground failure. With design and construction of the mat slab and cast in drilled pier foundation, effects resulting from potential liquefaction and seismically induced settlement will be reduced to a less than significant level.
- MM 3.5-3** Prior to construction, construction Best Management Practices (BMPs), a Storm Water Pollution Prevention Plan (SWPPP), and permanent BMPs will be developed to address potential soil erosion. With implementation of these plans by the construction contractor, effects of potential soil erosion will be reduced to a less than significant level.
- MM 3.5-4A** A shoring and monitoring system will be designed by the project engineer and constructed along the perimeter of the underground parking structure and storm drain excavations to allow for deep excavation. With the implementation of a shoring system and corresponding monitoring, effects of a landslide resulting from temporary cut slopes will be reduced to a less than significant level.
- MM 3.5-4B** A ground monitoring system will be designed by the project engineer and constructed along the perimeter of the underground parking structure. With the implementation of the ground monitoring system, effects of subsidence due to temporary dewatering will be reduced to a less than significant level.

MM 3.5-4C The foundation for the structure will be appropriately designed by the engineer to mitigate for settlement. With design and construction of the foundation system effects resulting from potential settlement will be reduced to a less than significant level.

MM 3.5-5 The foundation for the structure will be appropriately designed by the design engineer to mitigate for the expansive soil condition. With design and construction of the mat slab and cast-in drilled pier foundation, effect resulting from potential expansive soil on the project will be reduced to a less that significant level.

Modified Option B

Modified Option “B” would result in similar geology and soils impacts compared to the Lead Project.

3.7 Greenhouse Gas Emissions

Increased Greenhouse Gas Emissions

- A. Less Than Significant Impact.** Construction and operation of the proposed Project would increase the overall GHG emissions compared to the baseline existing conditions as of the Notice of Preparation date. With implementation of the energy efficient, water efficient, natural gas efficient and solid waste reduction project design features included in Table 3.6-9 of the EIR, impacts from GHG emissions would be less than significant.
- B. Facts in Support of Finding (1).** According to the GHG analysis for the proposed Project, in the year 2020 development of the project would result in GHG emissions savings of 1,076 tonnes, or 19 percent of what would occur under the Business As Usual (BAU) scenario. The approximately 1,076 tonnes of GHG emissions savings is less than the 30 percent savings required by Assembly Bill 32. Implementation of the project design features included in Table 3.6-9 of the EIR would result in an additional 12 percent savings in GHG emissions and a total of 31 percent GHG emissions savings when compared to the BAU scenario.

Modified Option B

Modified Option “B” would result in similar greenhouse gas impacts compared to the Lead Project.

3.8 Hazards and Hazardous Materials

Hazardous Materials

- A. Potentially Significant Impact.** According to the DTSC ENVIROSTOR database, the proposed Project is not located on a federal superfund site, state response site, voluntary cleanup site, school cleanup site, corrective action site or tiered permit site. The proposed Project is located on a site with known groundwater contamination from the Union 76 service station located across the street. Therefore the proposed site is susceptible to potentially significant impacts due to groundwater contamination.
- B. Facts in Support of Finding (1).** Remediation for on-site groundwater contamination is underway at the service station and two monitoring wells (MW18 and MW19) have been installed on the project site. Multiple work plans have been approved by the

Orange County Health Care Agency to remediate the groundwater contamination and continuous quarterly monitoring of wells 18 and 19 are included in these work plans. With the implementation of **MM 3.7-1** and **MM 3.7-2** listed below, potentially significant impacts due to groundwater contamination would be mitigated to a less than significant level.

Mitigation Measures

- MM 3.7-1** A Phase II Environmental Site Assessment shall be completed, which shall include an assessment of the on-site groundwater contamination (benzene and other contaminants, if any). If it is determined that the benzene (and/or other contaminants, if any) levels are of a level that requires on-site remediation, the remediation shall be conducted so that the contaminant presence is reduced to a less than significant level.
- MM 3.7-2** If vapor hazards are located, abatement of the vapor hazards shall be completed prior to any demolition activities that would disturb vapor hazards or create a vapor hazard. Prior to issuance of building permits, an on-site soil vapor test shall be conducted to determine if there are any vapor hazards on-site. If the vapor hazards are determined to be of a level that requires on-site remediation, the remediation shall be conducted so that the vapor hazard presence is reduced to a less than significant level.

Modified Option B

Modified Option “B” would result in similar hazards and hazardous materials impacts compared to the Lead Project.

3.9 Hydrology and Water Quality

Drainage Patterns and Urban Run-off

- A. Less Than Significant Impact.** The proposed Project would increase total impervious area on site and result in an increase in the quantity of stormwater. However, the project would not significantly alter existing drainage patterns of the site, including the alteration of the course of a river or stream and there would be no changes to the existing hydrologic system.
- B. Facts in Support of Finding (1).** The land use for the proposed Project would be unchanged and stormwater runoff generated from the project site would discharge into the same storm drain system as in the existing condition. The proposed Project features new storm drain improvements including one new catch basin onsite, new storm drain lines and relocation of an existing storm drain line. Although the project will lead to an increase in impervious area and runoff, the proposed new storm drain improvements will provide adequate capacity for the additional runoff. Prior to the issuance of any grading permits, further drainage studies will be submitted to the Public Works Department. Proposed drainage improvements would be constructed in accordance with the guidelines included in the approved Water Quality Management Plan for the project.

Soil Erosion

- A. **Potentially Significant Impact.** The proposed Project could potentially increase sedimentation as a result of soil erosion during construction.
- B. **Facts in Support of Finding (1).** With implementation of **MM 3.8-2** provided below, project impacts related to soil erosion and/or siltation onsite or offsite would be reduced to a less than significant level.

Short-term Construction Impacts on Water Quality

- A. **Potentially Significant Impact.** Grading, excavation, and construction activities associated with the proposed Project could result in erosion of exposed soils and subsequent deposition of particles and pollutants in drainage areas. The proposed Project features a subterranean parking structure and a storm drain system with deep excavation that would extend beneath the known groundwater and temporary dewatering of the parking structure area would be required. Therefore, the project could have potential impacts on water quality as a result of contaminated ground water entering the storm drain system.
- B. **Facts in Support of Finding (1).** The project would be required to obtain approval from the NPDES Statewide Stormwater Permit for General Construction Activities prior to issuance of grading permits. In order to control construction related impacts to water quality, a Stormwater Pollution Prevention Plan, a Runoff Management Plan and a Sediment Control Plan would also be prepared prior to the issuance of grading or building permits. Implementation of **MM 3.8-1** provided below would ensure proper treatment and disposal of extracted groundwater and potential project construction impacts related to contaminated ground water entering the storm drain system would be reduced to a less than significant level.

Long-term Impacts on Water Quality

- A. **Potentially Significant Impact.** The proposed Project would have potential impacts on the quality of stormwater and urban runoff, subsequently impacting water quality.
- B. **Facts in Support of Finding (1).** With implementation of **MM 3.8-3** requiring post-construction Best Management Practices for site design, stormwater source control, and stormwater treatment control, as specified in the project's Water Quality Management Plan (WQMP), the potential to violate water quality standards, objectives and beneficial uses and/or waste discharge requirements, threaten impaired water bodies with pollutant(s) of concern, discharge polluted runoff, increase quantity of runoff, significantly impact surface water quality, or otherwise degrade water quality or exacerbate water quality environmentally sensitive areas or impact aquatic habitat, would be reduced to a less than significant level.

Mitigation Measures

- MM 3.8-1** Extracted groundwater will be collected and transferred to an appropriate environmental disposal site. As an alternative, the extracted groundwater may be treated on-site and disposed of through use of the sanitary sewer system in accordance with requirements of the City of Dana Point and South Coast Water District.

MM 3.8-2 Prior to construction, an effective combination of erosion control and sedimentation control construction Best Management Practices (BMPs) will be designed to prevent erosion and siltation on and off-site during construction. In addition, non-stormwater and materials management construction Best Management Practices (BMPs) will be designed and implemented to prevent any construction materials and waste from leaving the site. The BMPs shall be shown and specified on the erosion & sedimentation control plan and/or grading plan and shall be constructed to the satisfaction of the Director of Public Works prior to the start of any other grading operations. Effective construction BMPs shall be implemented throughout the duration of the construction project. The project will also require coverage under the State Construction General Permit, administered by the State of California and will require a Storm Water Pollution Prevention Plan (SWPPP), which requires a construction BMP plan, regular inspections, and monitoring. Permanent soil stabilization measures, such as permanent vegetation/landscaping, as noted on the construction plans, will be implemented any bare ground to prevent soil erosion after construction of this project.

MM 3.8-3 In the proposed condition, a treatment train of Best Management Practices (BMPs) will be implemented to prevent pollutants from leaving the project site and manage and treat the water runoff to remove pollutants prior to discharge. The BMPs are described and designed in detail in the project's Water Quality Management Plan (WQMP). Site Design BMPs, which address low impact development and designing the site in sustainable ways, include a green roof, landscaped buffer areas, and California-friendly landscape design; source control BMPs, which are operation, management and housekeeping activities which control pollutants at the source, include staff and contractor training, street sweeping, storm drain system maintenance, efficient irrigation practices, litter management, etc.; and treatment BMPs, which remove pollutants from runoff prior to discharge include a green roof on a significant portion of the roof area, bio filtration planter BMPs and trench drain filters. All these BMPs will be implemented for comprehensive pollutant management program and management and treatment of the runoff generated from the project.

Modified Option B

Modified Option "B" would result in similar hydrology and water quality impacts compared to the Lead Project.

3.10 Land Use and Planning

Building Height

- A. Potentially Significant Impact.** The proposed Project conflicts with the Dana Point Specific Plan, which currently allows for a maximum height of 35 feet in the "Coastal Couplet Commercial" zone and "Coastal Visitor Commercial" zone.
- B. Facts in Support of Finding (1).** The proposed Project is located within the Dana Point Specific Plan area on land partially zoned as Coastal Couplet Commercial and partially Coastal Visitor Commercial. The proposed maximum building height is much higher (upto 70 feet) than the maximum allowable height (35 feet) for the area. The City will

grant a variance for height with a corresponding Statement of Overriding Considerations for the project.

Building Setbacks

- A. Potentially Significant Impact.** The proposed Project conflicts with the Dana Point Specific Plan, which currently requires a minimum building setback of 10 feet from the rear, 10 feet from the either side, and 20 feet in the front of any exterior property line in the “Coastal Visitor Commercial” zone.
- B. Facts in Support of Finding (1).** The proposed Project is located within the Dana Point Specific Plan area on land partially zoned as Coastal Visitor Commercial (C-VC). The site development standards for the C-VC zone specify minimum building setbacks of 20 feet from the front, 10 feet from the side, and 10 feet from the rear of any exterior property line. Under the proposed Project new development on land zoned as C-VC features a 12-30 foot setback in the front and zero-foot setbacks on the sides. The proposed setback is 10 feet from the rear, however, a stairwell would encroach into the 10-foot rear setback. The City will grant variances for the front, sides, and rear setbacks with a corresponding Statement of Overriding Considerations for the project.

Modified Option B

Modified Option “B” would result in similar land use and planning impacts compared to the Lead Project.

3.11 Noise

Temporary/Short-term Increase in Noise Levels

- A. Less Than Significant Impact.** Construction of the proposed Project would generate noise levels in excess of standards adopted in local ordinances and expose sensitive receptors to temporary increase in noise levels. Short term noise impacts as a result of project construction would be less than significant.
- B. Facts in Support of Finding (1).** The existing sensitive receivers nearest the project site include residents located approximately 100 feet north of the hotel project site and residents located approximately 260 feet northeast of the proposed off-site parking. In accordance with Special Provisions included in the City of Dana Point Municipal Code, the construction activities would be exempted from the noise limits provided that the associated construction activities do not occur between 8:00 p.m. and 7:00 a.m. on weekdays and Saturdays, or any time on Sunday or a Federal holiday. With the implementation of **MM 3.10-1** provided below, the project would be exempt from exterior noise standards established by the municipal code.

Temporary Ground-borne Vibration

- A. Potentially Significant Impact.** The proposed Project has the potential to expose sensitive receptors near the project site to potential ground-borne vibration impacts resulting from construction activities and operation of construction equipment.
- B. Facts in Support of Finding (1).** Vibration levels for construction equipment at distances of 50, 100, and 150 feet from the project site were calculated based on

standard vibration levels for construction equipment operations published by the Federal Transit Administration. The calculated vibration levels for different construction equipments are provided in Table 3.10-10 of the EIR. Based on the data provided in Table 3.10-10, groundborne vibration impacts at the nearest residential sensitive receptor as a result of project's construction activities would be potentially significant. With the implementation of **MM 3.10-2** through **MM 3.10-4** provided below, short term impacts related to ground-borne vibration during the construction phase of the project would be mitigated to a less than significant level.

Permanent Increase in Ambient Noise Levels

- A. Less Than Significant Impact.** On-site, groundborne, and roadway noise impacts to existing noise receivers during the operation phase of the project would be less than significant. Roadway noise could impact the hotel guests of the proposed Project.
- B. Facts in Support of Finding (1).** All hotel activities such as special roof top events, banquets, and air conditioning units that are generally considered significant sources of noise, would be subject to conditions imposed by the City's Noise Ordinance. Roof top terrace activities and other outdoor special events associated with the proposed hotel would typically require a special event permit and approval by the City prior to the event and would need to comply with the requirements imposed by such permits. The air conditioning units for the proposed Project will be located on the roof of the hotel in an enclosed area and adhere to the 2010 California Building Code, adopted by the City of Dana Point.

Facts in Support of Finding (2). The noise analysis for the project indicates that noise impacts on sensitive receptors along roadways, as a result of additional traffic induced by the project would be significant if the difference between pre-construction and post-construction noise levels is more than 3 dBA. An increase of 3 dBA would require a doubling of the strength of the noise source or a doubling of the daily traffic volume. Average Daily Traffic Volumes for the proposed Project are provided in Table 3.10-11 in the EIR. Based on the data provided in Table 3.10-11, the increase in total traffic would not double, so the increase in noise levels along studied roadway segments would not be significant.

Facts in Support of Finding (3). According to the Noise Element of the City's General Plan, the proposed Project is classified as Visitor/Recreation Commercial land use for which a clearly compatible noise level would be a less than 60 dB Community Noise Equivalent Level (CNEL). Calculated noise exposures for hotel guests are provided in Table 3.10-12 in the EIR. The noise exposure levels shown in Table 3.10-12 are above acceptable levels and are designated as normally incompatible based on the Noise/Land Use Compatibility Matrix within the City's General Plan. Implementation of project design features **PDF 3.10-1** through **PDF 3.10-6** provided below would ensure that interior exposures in guest rooms are below 45 dBA CNEL and potential noise impacts on hotel guests are less than significant.

Mitigation Measures

- MM 3.10-1** All construction activities are to be limited to between 8:00 a.m. and 6:00 p.m. on weekdays, including Saturday. No construction activities shall take place any time on Sunday or a Federal holiday.

All road work on the Pacific Coast Highway must be done at night between the hours of 9:00 p.m. and 5:00 a.m., Sunday through Thursday, excluding City designated holidays. Daytime work may be acceptable upon advanced written approval by the City Engineer, or his designee.

All grading operations are to be limited between the hours of 8:00 a.m. and 5:00 p.m. No grading operations on Saturday, Sunday, and City of Dana Point recognized holidays.

- MM 3.10-2** Consider the alternative of vibratory pile emplacement.
- MM 3.10-3** Pre-auger pile holes to reduce the duration of impact, when feasible.
- MM 3.10-4** On pile drivers, use a resilient pad between the pile and the hammer head, when feasible. This would reduce vibration impacts by a factor of two.
- MM 3.10-5** All rooftop activities must comply with the City's Noise Ordinance and consider noise attenuation barriers for the rooftop bar.
- MM 3.10-6** All events in excess of the City's Noise Ordinance, must receive a special event permit from the City.

Project Design Features

- PDF 3.10-1** Use acoustical (soundproof) glass for guest room windows and sliding doors (if applicable); the windows and door would each consist of two panes of glass, separated by at least 2 inches of air space.
- PDF 3.10-2** Use dense building materials and/or increase exterior wall thickness on the highway side of the hotel.
- PDF 3.10-3** Design an air gap between the exterior and interior panels so that sound is not transmitted directly from the exterior wall to the interior wall of the guest rooms.
- PDF 3.10-4** Use sound-absorbing carpeting, furniture, and other room furnishings.
- PDF 3.10-5** Design a central heating and cooling system instead of using wall-penetrating individual room units.
- PDF 3.10-6** Use compressible neoprene weather-stripping rather than felt or other fibrous types for sound insulation.

Modified Option B

Modified Option "B" would result in similar noise impacts compared to the Lead Project.

3.12 Public Services

Fire Protection Service

- A. Less Than Significant Impact.** The proposed Project would result in greater use intensity when compared to the existing land use on the project site. Impacts related to increased demand for fire protection services as a result of the proposed Project would be less than significant.

- B. Facts in Support of Finding (1).** The project site is not located within a Very High Fire Hazard Severity Zone/Special Fire Protection Area. Exposed building construction would meet all requirements for exposed sides, per OCFA requirements. The proposed Project would include a fire alarm system and automatic sprinklers will be installed per OCFA requirements. The project would require additional fire protection services but would not increase the need for fire protection beyond the capabilities of the Orange County Fire Authority (OCFA).

Police Protection Service

- A. Less Than Significant Impact.** The proposed Project would result in greater use intensity when compared to the existing land use on the project site. Impacts related to demand for police protection services as a result of the proposed Project would be less than significant.
- B. Facts in Support of Finding (1).** The project would not increase the need for police protection service beyond the capabilities of the County of Orange Sheriff's Department. Based on the study of police protection calls made by a similar use facility in the proximity of the proposed Project, it is anticipated that the proposed Project would result in a 24 percent decrease when compared to the number of police protection calls generated by the existing motel on site. The proposed hotel would include private security and at least one security guard will be on the premises at all times.

Modified Option B

Modified Option "B" would result in similar public services impacts compared to the Lead Project.

3.13 Transportation and Traffic

Increased Traffic at Roadway Segments and Key Intersections

- A. Less Than Significant Impact.** Roadway segments adjacent to and near the proposed Project site are expected to have an increase in Annual Daily Traffic (ADT) volume upon completion and commencement of operation of the proposed Project. The Level of Service (LOS) at key intersections in the vicinity of the proposed Project would also be reduced.
- B. Facts in Support of Finding (1).** Although the proposed Project is expected to increase ADT volumes along roadway segments in the vicinity of the project, the increase is expected to be minimal. The reduced LOS at key intersections as a result of the project would be a LOS C rating which is considered acceptable. With implementation of **PDF 3.12-1** through **PDF 3.12-8**, provided below, project impacts related to increased traffic volumes and reduced LOS would be less than significant.

Project Design Features

- PDF 3.12-1** Construct Del Obispo Street/Dana Point Harbor Drive from Pacific Coast Highway (SR- 1) to the project south boundary at its ultimate half-section width as a Primary Arterial (100 ft. right-of-way) including landscaping and parkway improvements in conjunction with development, as necessary.

- PDF 3.12-2** Construct Pacific Coast Highway from the project west boundary to Del Obispo Street/Dana Point Harbor Drive at its ultimate half-section width as a Major Arterial (120 ft. right-of-way) including landscaping and parkway improvements in conjunction with development, as necessary.
- PDF 3.12-3** Construct an eastbound right turn lane at the intersection of Del Obispo Street/Dana Point Harbor Drive. This right turn lane construction will result in traffic signal equipment relocations. Also the right turn lane area can be used as a lodging zone restricted to the hours of 9 p.m. to 5 a.m. daily. This right turn lane may remain unstrapped if parking is restricted to daytime hours. Implementation of these improvements will require review and approval from the City of Dana Point.
- PDF 3.12-4** Modify the intersection of Dana Point Harbor Drive at Park Lantern to allow for southbound U-turns which are currently prohibited. Implementation of this improvement will require the elimination of the existing westbound free right turn lane, physical modifications to the northeast corner of the intersection and the existing traffic signal. Implementation of these improvements will require review and approval from the City of Dana Point.
- PDF 3.12-5** Sufficient on-site parking shall be provided to meet parking requirements in accordance with the County of Orange Zoning Code.
- PDF 3.12-6** Sight distance at the project access should be reviewed with respect to California Department of Transportation/City of Dana Point standards in conjunction with the preparation of final grading, landscaping, and street improvement plans.
- PDF 3.12-7** On-site traffic signing and striping should be implemented in conjunction with detailed construction plans for the project.
- PDF 3.12-8** As is the case for any roadway design, the City of Dana Point should periodically review traffic operations in the vicinity of the project once the project is constructed to assure that the traffic operations are satisfactory.

Modified Option B

Due to decreased project-generated trips, Modified Option “B” would result in lesser impacts to traffic and transportation than that of the Lead Project.

3.14 Utilities and Service Systems

Short-term Construction Related Impacts

- A. No Impact.** Water supply would be required for construction activities and wastewater and solid waste would be generated on-site during the construction phase of the proposed Project. However, no short-term impacts to utilities and service systems are anticipated as a result of construction of the proposed Project.
- B. Facts in Support of Finding (1).** Water supply demand and waste generation during construction would be minimal and temporary in nature. The demand for these facilities would be accommodated through portable facilities by the construction contractor.

Long-term Increase in Water Supply Demand

- A. **Less Than Significant Impact.** The proposed Project would result in more intensive land uses than the existing land use on the project site and may require additional water supply. The anticipated increase in water demand from the project will not have a significant impact on the South Coast Water District's overall water system.
- B. **Facts in Support of Finding (1).** The proposed Project is located in the service area of the Metropolitan Water District of Southern California. The Metropolitan's 2010 Regional Urban Water Management Plan (RUWMP) reports on its water reliability and identifies projected supplies to meet the long-term demand within its service area. According to the RUWMP, over the next 20 years (i.e. years 2015 to 2035), the region can provide reliable water supplies under both the single driest year and the multiple dry year hydrologies. The proposed hotel contains 258 rooms and the approximate total buildable square footage of the hotel is 268,340 sq. ft. Development under the proposed Project is below the 500 hotel room and 500,000 sq. ft. threshold identified by Senate Bill 610 and a project specific water supply assessment is not required for the proposed Project.

Long-term Increase in Wastewater

- A. **Less Than Significant Impact.** The proposed Project will generate additional wastewater, however, project-generated wastewater will be adequately treated by the existing wastewater service provider and project impacts related to increased wastewater would be less than significant.
- B. **Facts in Support of Finding (1).** The proposed Project is located on a previously developed site that is covered by impermeable surfaces. Development of the proposed Project would not result in a significant change in impermeable surfaces at the project site that could potentially generate additional stormwater runoff. The project features new storm drain improvements, including three new onsite catch basins, two green roof systems, new storm drain lines, and relocation of an existing major storm drain line.

Facts in Support of Finding (2). The proposed Project would result in a 0.2 percent increase in total sewage generation, which is minimal and within the capacity of the existing sewage treatment plant. Therefore, the project would not result in a significant impact on existing wastewater treatment facilities, and would not require the need for additional wastewater treatment facilities.

Modified Option B

Modified Option "B" would result in similar utilities and service systems impacts compared to the Lead Project.

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires Lead Agencies to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed Project. In making this determination the Lead Agency is guided by the CEQA Guidelines Section 15093 which provides the following:

- CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the proposed project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- When the Lead Agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The Statement of Overriding Considerations shall be supported by substantial evidence in the record.
- If an agency makes a Statement of Overriding Considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination.

In addition, Public Resources Code Section 21082(b) requires that where a public agency finds that economic, legal, social, technical or other reasons make infeasible mitigation measures or alternatives identified in the EIR and thereby leave significant unavoidable adverse project effects, the public agency must also find that overriding economic, legal, social, technical or other benefits of the project outweigh the significant unavoidable adverse effects of the project.

The development of Doheny Hotel would result in significant and unavoidable adverse impacts to aesthetics and land use and planning. There are no feasible mitigation measures within the responsibilities and jurisdiction of the City that would reduce these impacts to a level of less than significant. Section 15093(b) of the State CEQA Guidelines specifies that when the decision of the public agency approves a project that will result in the occurrence of significant impacts that are identified in the EIR but are not avoided or substantially lessened, the agency must state in writing the reasons to support its action based on the completed EIR and/or other information in the record. Accordingly, the City adopts the following Statement of Overriding Considerations.

4.1 Unavoidable Adverse Significant Impacts

The City recognizes that significant and unavoidable impacts would result from the implementation of the proposed project. Having (1) adopted all feasible mitigation measures; (2) rejected the alternatives to the project discussed above; (3) recognized all significant, unavoidable impacts; and (4) balanced the benefits of the proposed project against the significant and unavoidable effects, the City finds that the benefits outweigh and override the significant unavoidable effects for the reasons stated below.

4.1.1 Aesthetics and Land Use

The project site is located within the Dana Point Specific Plan (DPSP) and limits building height to a maximum 35 feet. The Lead Project proposes 258 guest rooms, 275-vehicle subterranean parking structure, conference rooms, restaurant, and a rooftop bar and lounge. Maximum height of the building ranges between 29.5 feet and 60.5 feet (70 feet maximum with the inclusion of the screened mechanical equipment). The proposed building setbacks are not in compliance with C-VC or C-CPC zoning and would require a variance.

After public input, the Applicant decided to pursue the Modified Option “B” over the Lead Project. Modified Option “B” reduces the number of guest rooms to 250 and provides 375 parking spaces on-site within a two-floor subterranean parking structure, at-grade parking lot, and within the porte cochere. As with the Lead Project, the proposed setbacks are not in compliance with C-VC or C-CPC zoning and a variance is required. Maximum height of the building is similar to the Lead Project at 60.5 feet (68.5 with screened mechanical equipment); however, the overall bulk is reduced by decreasing height in certain sections of the building. Refer to **Table 2-1** in Chapter 2 Project Summary for a height comparison to the Lead Project. Although overall bulk of the building is reduced, impacts to aesthetics and land use remain potentially significant under Modified Option “B.”

Refer to **Figure 2.1** through **Figure 2.10** in Project Summary for further details regarding height and bulk of Modified Option “B.”

4.2 Overriding Considerations

There are reasons that summarize the benefits, goals, and objectives of the proposed project. The substantial evidence supporting the various benefits can be found in the preceding findings and elsewhere in the Record of Proceedings. These overriding considerations of economic and social benefits outweigh environmental costs and justify approval of the proposed project and certification of the EIR. Implementation of the Doheny Hotel would further benefit the City of Dana Point, as follows:

4.2.1 Economic

4.2.1.1 Provides New Employment

The proposed project would provide new employment opportunities within the Dana Point Harbor area. During project construction, temporary employment opportunities would be generated over an estimated 12-month period until construction is completed. Permanent jobs would be created during project operation that includes, but not limited to, hotel managers, hotel service, maintenance, and housekeeping. Although staff to room number ratios vary in different hotel operations, a one-to-one ratio is a conservative estimate. With 250 rooms in the Modified Option “B”, 250 permanent jobs are estimated.

4.2.1.2 Stimulates the Economy

The proposed project would stimulate the local economy of the City of Dana Point by bringing in revenue through the taxation of the project for the multiple hotel uses, including guest rooms, conference center/meeting rooms, and rooftop pool and bar. Furthermore, the Modified Option “B” would bring tourism into Dana Point Harbor and the surrounding areas. Increased tourism would bring in revenue for commercial areas in the vicinity of the Project, such as dining, shopping, and harbor activities.

4.2.2 Social

4.2.2.1 Enhances Dana Point Harbor

The City is implementing the Dana Point Harbor Revitalization Project and includes planning for marine services, commercial, recreation, visitor serving, and many other uses. Additionally, it calls for replacement and/or remodeling of all existing retail and restaurant buildings located in Dana Point Harbor. The proposed Project is located outside the Dana Point Harbor Revitalization Project lines but adjoins the northeast corner boundary. The proposed site is currently underutilized with a Jack-In-The-Box restaurant, a vacant commercial building, and a 46-room motel with associated surface parking lots. Although the proposed Project is just outside the Dana Point Harbor Revitalization Project boundary, it would be consistent with the redevelopment and remodeling of the area. This revitalization would create a social benefit for the City as a center for the community.

Modified Option B is anticipated to be a 4 star hotel, which would attract high-income clientele. The economic gain of consumers investing in the tertiary sector of the local economy will further increase tax revenue for the City and provide meaningful support to small, service oriented businesses which comprise the majority of the City's economic base. As these businesses grow, additional opportunities for investment in capital and job creation will stimulate the economy and provide additional tax revenue and more disposable income.

4.2.2.2 Enhances Entry to City

The current vacant, boarded up commercial building does not enhance aesthetics as a person enters the City at the site intersection. Further, under current conditions, the area of land adjacent to the existing motel that is part of Lantern Bay Park is often occupied by homeless encampments and individuals. Under Modified Option B, the area would be improved with a driveway feature, which would limit the occurrence of the encampments and utilization of the flat area would be improved.

4.3 Conclusions

For the reasons described above, the benefits of the development of the proposed Doheny Hotel outweigh its unavoidable adverse environmental effects, and consequently, the adverse environmental effects are considered "acceptable" in accordance with Section 15093(c) of the State CEQA Guidelines.

5.0 LIST OF PREPARERS

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