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(213) 978-1300

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200 N. SPRING STREET, ROOM 525  
LOS ANGELES, CA 90012-4801  
(213) 978-1271

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March 30, 2022

Los Angeles City Council  
c/o Office of the City Clerk  
City Hall, Room 395  
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**APPEAL RESPONSE FOR THE MOUNT SAINT MARY'S UNIVERSITY CHALON CAMPUS  
WELLNESS PAVILION PROJECT APPEALS; CF 22-0062**

On December 2, 2021 the City Planning Commission (CPC) certified the Mount Saint Mary's University (MSMU) Chalon Campus Wellness Pavilion Project Environmental Impact Report (ENV-2016-2319-EIR) and for the related Case No. CPC-1952-4072-CU-PA1 approved 1) a Plan Approval to allow for the development of Alternative 5 in conjunction with the continued use of a private school in the RE40-1-H Zone and 2) a determination to permit a building height of 42 feet for the Wellness Pavilion in lieu of the maximum height of 30 feet otherwise permitted by LAMC Section 12.21 C.10(d) in connection with the proposed Alternative 5, which involves the development of a 35,500 square-foot two-story Wellness Pavilion, a new outdoor pool area, roadway improvements, new landscaped areas, and several surface parking lots totaling 186 vehicle spaces on a 3.8-acre portion of the 45-acre MSMU Chalon Campus.

The CPC action was appealed by 1) Brentwood Homeowners Association (Representative: Kathleen Flanagan, Board President of Brentwood Homeowners Association); 2) Douglas P. Carstens, on behalf of Brentwood Residents Coalition, Brentwood Alliance of Canyons and Hillsides, and Residential Neighbors of Mount Saint Mary's University; 3) Bundy Canyon Association (Representative: Jamie T. Hall, Channel Law Group, LLP; 4) Bernadette and Tim Leiweke, Barbara and Richard Bergman, Victor Antola, and Mary and David Vena (Representative: Neill E. Brower, Esq., Jeffer Mangels Butler and Mitchell, LLP); and 5) Timothy D. Reuben and Stephanie I. Blum, Reuben Raucher and Blum.

The appeals pertain to the EIR, California Environmental Quality Act (CEQA) and the findings and conditions applicable to the Plan Approval and Height Determination for Alternative 5. A majority of the appeal points repeat many of the same arguments that have been provided by the appellants during the environmental review and the public hearing process.

The Department of City Planning provided detailed responses and/or previous analyses/explanations pertaining to many of the appeal points, supported by substantial evidence in the record, in the Draft EIR dated April 2018, the Final EIR dated June 2021, and the CPC Staff

Recommendation Report, dated October 21, 2021 (Staff Recommendation Report). However, for the record, provided below is a summary of the respective Appellants' appeal points and Staff's responses.

### **APPELLANT 1: BRENTWOOD HOMEOWNERS ASSOCIATION**

#### Appeal Statement 1-1

***The Appellant provides a list of reasons for the appeal and alleges that the City Planning Commission's (CPC) approval of the Wellness Pavilion will result in significant impacts.***

*The Appellant states that the CPC approval of Alternative 5 included inadequate conditions of approval and will result in significant and adverse impacts, due to an increase in vehicle trips along narrow hillside roadways as well as an increase in risk from fire and evacuation impacts as the Campus is located in a Very High Fire Hazard Severity Zone (VHFHSZ).*

#### Staff Response 1-1

The Appellant does not specify which of the Alternative's conditions are inadequate.

Regarding the surrounding roadways, the characteristics of the roadways are discussed in Section IV.K Transportation, of the Draft EIR. A majority of the surrounding streets in the hillside area are designated as Collector or Local Street-Standard and are not improved with sidewalks. Alternative 5 will not introduce any features that will change the physical dimensions of the surrounding roadways. Further, the Appellants claim that the operation of the Wellness Pavilion will result in significant impacts as a result of an increase in vehicle trips is inaccurate, as the implementation of Alternative 5 will require MSMU to limit the average daily total Campus vehicle trips, inclusive of trips generated by the Wellness Pavilion to one percent below the 2016 baseline trip counts taken for the Campus (PDF TRAF-18). These trip reductions shall be confirmed through trip counts conducted for at least two weeks each year to the satisfaction of LADOT. Further, Alternative 5 includes PDFs that will restrict Wellness Pavilion events' start/end times, to limit the number of vehicle trips accessing the Chalon Campus during AM/PM peak hours and establish a maximum number of daily vehicle trips permitted for each new event. Thus, contrary to the Appellant's claim, operation of the Wellness Pavilion will not result in an increase in the number of vehicle trips as compared to existing conditions and the EIR correctly concluded that operational transportation impacts will be less than significant.

Further, as noted in Staff Recommendation Report since the time the Draft EIR was published, SB 743 required the Office of Planning and Research (OPR) to change the way public agencies evaluate project transportation impacts under CEQA. The focus of transportation analysis shifted away from driver delay, which had been historically measured by traffic level of service (LOS), to a new measurement that better addresses the state's goals of reducing GHG emissions, creation of multi-modal transportation, and promotion of mixed-use developments.

On July 1, 2020, changes to the CEQA Guidelines took effect which require local agencies to analyze traffic impacts using vehicle miles traveled (VMT) instead of LOS. The Final EIR disclosed that both the Original Project and Alternative 5 falls below LADOT's Transportation Assessment Guidelines (TAG) screening criteria for VMT and would not warrant further analysis, as it does not generate a net increase of 250 or more daily vehicle trips. To ensure a meaningful comparison between the Original Project and Alternative 5, Alternative 5's transportation analysis also provided information under the LOS methodology, as this was the approved methodology in place at the time the Draft EIR.

Alternative 5, unlike an office or residential project, will not add daily vehicle trips. Instead, Alternative 5 will add new vehicle trips only on those days on which an Other Wellness/Sports Activities event, Health and Wellness Speaker Series event, or a Summer Sports Camp will be

held on Campus. Under Alternative 5 Health and Wellness Speaker series events will be permitted a maximum of eight times per year, Other Wellness/Sports Activities events will be permitted a maximum of 12 times per year, and Summer Sports Camps will be permitted during the summer months only. LADOT determined that Alternative 5 does not meet the VMT analysis threshold of 250 new daily trips because based upon the frequency of new events and the trip caps, Alternative 5 will generate approximately only 81 average daily weekday vehicle trips under a worst-case scenario.

Alternative 5 will be subject to PDF-TRAF-18, which requires an average daily trip reduction of 22 trips. New trips generated by Alternative 5 during the school year will be generated only by outside guests of new events, which generally will be the same or similar user groups as outside guests who come to the Campus for existing events (friends and family of students and faculty, faculty of other institutions in the Los Angeles area, members of the community, etc.), and drawn from approximately the same geographic area. During the summer, Alternative 5's new trips will be generated by campers and staff of Summer Sports Camps, with many of the campers expected to be from the surrounding community and no further than the geographic area of current outside guests who visit the Campus and MSMU students, faculty, and staff.

The potential impacts related to fire, including the Campus' location in a VHFHSZ and the evacuation of the Campus were discussed in detail in the EIR (Draft EIR Section IV.J.1 Fire Protection and Section II. Response to Comments, Topical Response No. 4, of the Final EIR). As discussed therein the Campus is located within a VHFHSZ and will be required to comply with applicable fire and safety regulations. Analysis of construction and operational impacts which considered factors such as existing facilities and equipment, response distance and emergency access, fire flow, and the location of the Project Site in a VHFHSZ, determined that Alternative 5 will not result in substantial adverse physical impacts that would require new or expanded fire facilities at either the project and/or cumulative level.

Further as explained in the Staff Recommendation Report (Pages A-39 and A-40) Planning Staff met with LAFD Inspector Miller, Chief Hogan and Chief Zimmerman in August 2020 to discuss MSMU's shelter in place policy and when individuals on the Campus would be permitted to leave. During the meeting LAFD confirmed that after the 2019 Getty Wildfire, MSMU submitted an Emergency Response Plan as well as met with LAFD to ensure moving forward better practices are implemented. A component of the Emergency Response Plan is the existing MSMU Chalon Campus Command Center, consisting of a Watch Commander, MSMU Incident Commander, Patrol Officer, Main Gate Officer, and Community Relations Officer who provide security and emergency management to ensure personal safety of students, fire prevention, evacuation management, and other duties. Watch Commanders are responsible for conducting vehicle patrols both on Campus and in the immediate surrounding area and responding to Campus emergencies as well as regular nonemergency calls for service. The 24-hour Command Center monitors MSMU's automatic fire/life/safety systems and receives emergency calls from within the Campus. In addition to its Emergency Response Plan, MSMU also maintains a Chalon Wildfire Emergency Plan that was developed in consultation with LAFD to ensure appropriate action during wildfires.

If a future emergency arose, school officials will first communicate with the City's Emergency Operation Center (EOC) Team, which is comprised of LAFD, LADOT, and other City agencies. After reviewing the situation, the EOC Team will confirm if individuals on the Campus have time to leave the Campus. (I.e., the emergency does not require the evacuation of the surrounding residential community). However, if LAFD issues evacuation orders for the surrounding residential community, the Campus will shelter in place and public safety professionals will direct Campus occupants to a safe location on the Campus to shelter in place. This will ensure there are no conflicts on the surrounding roadway between Campus occupants and surrounding residents as the residents evacuate.

LAFD has confirmed that the Campus is a defensible and safe space and may be used as a staging area. MSMU's shelter in place policy is consistent with that of other institutions of higher education near wildlands such as Pepperdine University in Malibu, which has successfully employed a shelter in place policy for wildfires since 1993. The Carondelet Center successfully sheltered in place during the 2019 Getty Fire. LAFD's goal in issuing an evacuation order is to ensure everyone can evacuate safely.

In addition, in the preparation of the Draft EIR, a list of questions was sent to the LAFD regarding fire safety in the Project area and any history of bottlenecks or street blockages during fire or wildfire emergencies (see LAFD Correspondence, November 7, 2016, in Appendix H, Public Services). The request for information contained maps of the Project Site and Project area, as well as ingress and egress routes within the Campus and surrounding area. In addition, LAFD is familiar with the Campus from their many visits to the Campus for emergency response planning and coordination, as well as the November 2019 Getty Fire. In response to the request for information, LAFD responded that, with the implementation of recommended on-site improvements listed in the letter, along with any additional recommendations to be made during permitting of the Project, all of which involved improvements within the Project Site, impacts to fire protection services would be reduced to an acceptable level and that with respect to mountain roads, Fire Station 19 Engine Company is equipped to manage mountain roads and the types of fires that occur in wildland areas.

Thus operation of the Wellness Pavilion will not result in significant and adverse impacts related to fire and/or evacuation of the Campus, and the appeal should be denied.

#### Appeal Statement 1-2

***The Appellant contends that the features and components of the Wellness Pavilion and surrounding area preclude the required findings from being made.***

*The Appellant claims that the Wellness Pavilion's height, size, and operations will adversely affect or further degrade adjacent properties, the surrounding neighborhood, and public health, welfare, and safety, while the surrounding area's features, the Campus' distance from public transportation, public services (fire and police), the traffic impacts and fire risks associated with the Wellness Pavilion, will result in the Alternative not enhancing the built environment in the surrounding neighborhood or perform a function or provide a service that is essential or beneficial to the community, city, or region.*

#### Staff Response 1-2

The Appellant's claim that the Wellness Pavilion's height, size, and operations will adversely affect the surrounding neighborhood is unjustified as MSMU has requested a Plan Approval and Height Determination to allow for the construction and operation of the Wellness Pavilion and all required findings were included in the Staff Recommendation Report including Finding 2a and 2b which required the City to demonstrate how "The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety" (Pages F-7 through F-12).

The Appellant is referred to Staff Response 1-1 regarding fire impacts and vehicle trips.

Contrary to the Appellant's statements, as analyzed in the EIR (Draft EIR Section IV.J.2 and Final EIR Section III, Revisions, Clarifications, and Corrections) LAPD will be able to continue to provide service to the MSMU Chalon Campus and the surrounding community. The Site is not located near public transit but as discussed in the Draft EIR, Section II, Project Description, MSMU offers various shuttle services, rideshare programs, and transit subsidies. Finally, regarding fire risk, a

wildfire analysis was provided in Appendix B of the Final EIR. Appendix B of the Final EIR was included for informational purposes only as the CEQA Guidelines Appendix G Thresholds were revised in December 2018 (after publication of the Draft EIR) and included the Wildfire impact category. The revised CEQA Guidelines only apply to steps in the CEQA process not yet completed by December 28, 2018. The Appellant's claim that the Wellness Pavilion will not enhance the built environment in the surrounding neighborhood or perform a function or provide a service that is essential or beneficial to the community, city, or region is unsubstantiated and no substantial evidence has been provided to support the claim. Further, the Staff Recommendation Report included Finding 1a and 1b which required the City to demonstrate how "The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region," (Pages F-1 through F-5). The Appellant has failed to demonstrate inadequacy of the City's findings and therefore the appeal should be denied.

#### Appeal Statement 1-3

**The CPC abused its discretion by granting a Plan Approval pursuant to LAMC Section 12.24 M for the development of the project on a lot or portion of a lot on which a Deemed-Approved Conditional Use was not permitted.**

*The Appellant states that the entire Campus cannot operate as a Deemed Approved Conditional Use, and alleges that the 17-acres which were purchased after the original 33-acres that established the Campus in 1929, are not eligible to request a Plan Approval.*

#### Staff Response 1-3

The Appellant's claim that the entire MSMU Chalon Campus cannot operate as a Deemed Approved Conditional use is inaccurate. This issue was responded to in the Staff Recommendation Report (Page A-47). As noted in the Staff Report, on May 23, 1952 under Case No. CPC-1952-4072-CU the City Planning Commission approved the addition of 17 acres to the existing MSMU 33-acre Campus. As stated in the letter of determination, "As required by Section 12.24 of the Municipal Code, and without a public hearing, the City Planning Commission on Thursday May 22, 1952, considered a conditional use application to add to the existing college site at 12001 Chalon Road... Since it will be in harmony with the objectives of the Master Plan, the addition was approved..."

As shown on ZIMAS, the entire 45-acre Campus is one lot. In 1981, the City approved Parcel Map No. 4303, which merged the 17-acre addition with the rest of the Campus and the City has correctly treated the MSMU Chalon Campus as one legal lot since 1981. Further, a review of the previous approvals suggests that the City has always treated the entire Chalon Campus as a deemed approved conditional use and buildings constructed on the Chalon Campus after the 1952 decision have been approved through a Plan Approval process and not as a new conditional use.

It should be noted that there are two primary cases associated with the Campus; the 1929 Case No. 3066 in which the Los Angeles City Council granted a zone variance allowing for the establishment of the Chalon Campus and Case No. CPC-1952-4072-CU to add 17 acres to the existing Campus and allow for the construction of buildings and athletic facilities. Because the 1929 case was approved prior to the LAMC's establishment of the CUP entitlement, the 1952 case number, which established the deemed to be approved conditional use and plan approval process, all subsequent plan approvals have been associated with the 1952 case number and approved by the City Planning Commission. This approach was followed for the March 1964 approval for a new Arts and Humanities Building, the January 1984 for the construction of a faculty residence hall and one story parking garage, and the July 1984 approval for Parking Lot A (the most recent Plan Approval). As noted on Page 4 of the July 1984 letter of determination, under the Prior Relevant Cases subheader, "The college has existed since 1929 under a zone variance

(Zoning Administration Case No. 3066) grant by the City Council. It is considered a “deemed to be approved” conditional use. Subsequent plan approvals permitted expansion of the campus facilities beginning in 1952. The most recent grant was on January 26, 1984 to permit the construction of a faculty residence hall in anticipation of enlargement of the student enrollment.”

Both the 1964 and 1984 approvals reference Case No. CPC-1952-4072. Further, it is worth noting that Condition No. 4 of the 1952 approval reads, “That a precise plot plan showing the location of all buildings on the property involved, parking areas, walls, fences, hedges, driveways, and paved parking areas, [shall] be submitted to the City Planning Department for approval prior to the issuance of any and all subsequent building permits or certificates of occupancy.” The 1952 approval does not include any conditions which set forth a requirement for a conditional use permit for any building constructed on the 17-acre addition, but instead clarifies through Condition No. 4 that new buildings shall be approved through an approval of plans process.

Therefore, Case No. 4072 permitted the addition of land to the MSMU Chalon Campus and extended the Campus’ deemed approved legal status to the 17-acre addition by allowing the use of the land for college purposes and providing an approval of plans process for new buildings. The approval of Case No. 4072 made the entire Campus consistent from the standpoint of land use regulations and the process to approve new buildings. Additionally, the text of LAMC Section 12.24 M supports the use of the Plan Approval process for new buildings anywhere on the Campus. LAMC Section 12.24 M provides that it is applicable to deemed-approved uses on “any lot or portion of a lot” and further provides that “existing uses may be extended on an approved site.” As the MSMU Chalon Campus is one legal lot, with college uses approved across the entire site, the appropriate process for the approval of new buildings anywhere on the Campus the Plan Approval process.

The Appellant’s objection to the use of the Plan Approval process for the Wellness Pavilion is based on an assumption that there is a difference in approval process for the original 33-acre portion the MSMU Chalon Campus and the 17-acre addition. However, the Appellant’s position in this regard is inconsistent with the City’s clear intent evidenced in Case No. 4072, which was to unify the 17-acre addition with the rest of the Campus and provide consistent land use regulations for the MSMU Chalon Campus.

The Appellant further asserts that a condition in the original 1929 Variance requiring that plans for buildings be approved by the City Council continues to apply to the Campus. This is not correct as the 1946 revisions to the City’s zoning code changed the City’s process to a Plan Approval and since 1964, the City has applied the 1929 Variance as requiring a Plan Approval pursuant to LAMC Section 12.24 M, which provides for approval be either the Zoning Administrator, Area Planning Commission or City Planning Commission. In 1964 CPC granted a Plan Approval for a new Arts and Humanities Building, and granted three subsequent Plan Approvals for new buildings, one in 1979 and two in 1984. Regardless, as a result of the appeal, the Plan Approval will be presented to the City Council.

The Appellant claims that MSMU filed and withdrew two cases filed with the Department of City Planning as an attempt (by MSMU) to remedy an alleged deficiency in the legal status of the 17-acre addition, with the Project description as an approval of the 17-acre addition as a deemed-to-be approved conditional use. The two cases referenced are the two current active cases being considered for the Project, which have not been withdrawn. As explained above, the City has not treated the legal status of the 17-acre addition and/or the remaining 33-acre portion of the Campus differently since approval of Case No. 4072 in 1952. The Department of City Planning’s Planning Case Tracking System (PCTS) requires a Plan Approval to be tiered off of the original case file; which is Case No. 4072, and the Project Description shows as the same between any parent case and tiered case. The Project description since filing was updated in PCTS to accurately describe

the Original Project. The Plan Approval entitlement is the appropriate land use entitlement required and therefore the appeal point should be denied.

#### Appeal Statement 1-4

**The CPC erred in granting the Plan Approval for the Project because it includes uses that are not consistent with the stated purpose of the Project.**

*The Appellant notes that the purpose of the Wellness Pavilion is to provide a comprehensive health and wellness facility for MSMU students and that the Wellness Pavilion's proposed new events do not comply with the original Campus approvals which were restricted for educational uses and/or the purpose of the Wellness Pavilion.*

#### Staff Response 1-4

The Appellant's allegation that the Plan Approval grants MSMU new rights to hold rental or external events and that the allowance of external guests at any of the new events is unlawful is incorrect. The MSMU Chalon Campus is not subject to any conditions that currently restrict the rental of Campus facilities. Additionally, a list of objectives were clearly stated in the Draft EIR (which were also identified as being applicable to Alternative 5), one of which was to enhance Campus programming. It specifically states, "Through improved facilities enable the potential for enhancement of Homecoming and Athenian Day events by incorporating fitness and wellness programming as part of the events, and create the opportunity for new external Summer Sports Camps, a Health and Wellness Speaker Series, and other activities or events that complement the purpose of the proposed Wellness Pavilion (i.e., MSMU community or external rental health, wellness, and sport activities). The proposed new events were analyzed as part of the Alternative's operational component in the EIR.

Further, Staff responded to this issue in Staff Recommendation Report noting that many, if not most, educational institutions rent their facilities for temporary events and/or uses such as filming, summer camps, and other annual events. Further, a similar concern was raised in the 1995 Revocation Request letter submitted on behalf of the Brentwood Homeowners Association and the Bundy/Norman Place Committee. At that time, the Department did not find any merit in the claim and stated, "The educational content of classes at universities and colleges has historically and consistently been broadly defined to not limit educational curiosity and inquiry. The fact that a few classes cited obviously would not have been intended for undergraduates of the school is not contrary to the fact that such classes are routinely offered at other colleges in the area." (Pages A-48 and A-49).

Further, the new events that will be held at the Wellness Pavilion are consistent with event types held on other university and college campuses. Under Alternative 5, three new event types will be permitted at the Wellness Pavilion: Summer Sport Camps, Health and Wellness Speaker Series and Other Wellness/Sports Activities. Club Sports, which is an existing activity offered by MSMU, will also be permitted. With respect to Summer Sports Camps, these are in alignment with the concept of health and wellness. The Health and Wellness Speaker Series and Other Wellness/Sports Activities are educational in nature. Pursuant to CPC-1952-4072-CU-PA1 Condition No. 12(a), Other Wellness/Sports Activities are the only new event in which MSMU will be able to rent the Wellness Pavilion to an outside party.

Finally, while 12 of the new events could be rental events, the MSMU students, attending class at the MSMU Chalon Campus, will be the most frequent user of the facility. The Wellness Pavilion will replace the University's outdated fitness facilities for student use and to support their healthcare programs and curriculum. As such, the appeal point should be denied.

### Appeal Statement 1-5

**The CPC abused its discretion by approving a non-conforming use for the Project without imposing conditions that would eliminate the Project's harmful effects on the public health, welfare, and safety.**

*The Appellant provides a list of project issues and contends that the issues could be addressed by imposing conditions. Additionally, the Appellant alleges that CPC abused its discretion by granting a Plan Approval for the Wellness Pavilion while not requiring certain changes to the Alternative that could mitigate harmful consequences.*

### Staff Response 1-5

The Appellant claims that in previous submissions to the City, the Appellant has detailed the Wellness Pavilion's consequences including fire risk, detriments to emergency evacuation, increased traffic, and dangerous hillside conditions. As noted by the Appellant these issues have been raised previously and Staff has provided responses to each issue both in the EIR and Staff Recommendation Report.

The Appellant is referred to Staff Response 1-1 and 1-3 regarding fire risk and evacuation of the Campus.

The Appellant is referred to Staff Response 1-1 regarding traffic and the surrounding hillside roadways.

The Appellant states that CPC could have mitigated these issues by imposing conditions that will reduce the building size, eliminate new events that are open to outside guests, impose vehicle trip caps based on 2018 data, impose a maximum construction length, and require annual compliance with condition reporting.

The Appellant is referred to Staff Response 1-1 regarding fire risk, emergency access, traffic impacts, and the MSMU Chalon Campus hillside location. The proposed new events and building size were analyzed in the EIR and the potentially significant impacts were disclosed as required by CEQA. As concluded in the EIR, Alternative 5 will not result in significant impacts related to fire, evacuation of the Campus, and or operational traffic.

The Appellant requests that the City Council impose an average daily vehicle trip cap of 1,600 vehicles, a maximum permitted enrollment of 1,072 students, prohibit new non-curricular events for outside guest, external summer camps, weekend access to the Campus by outside guests, outside filming, use of the Wellness Pavilion by anyone other than students, faculty and/or staff, and finally limit the construction period to 20 months.

The Appellant provides no justification for the request to restrict daily vehicle trips to to 1,600 vehicles. Alternative 5 imposes a maximum daily vehicle trip cap for vehicles associated with all proposed new events to be held at the Wellness Pavilion (refer to Project Design Features (PDFs) TRAF-12 through TRAF-14). PDF TRAF-18 will require the Applicant to limit average daily total Campus vehicle trips, inclusive of trips generated by the Wellness Pavilion, to one person below the 2016 baseline trip counts taken for the Campus. As concluded in the EIR, Alternative 5 will not result in any significant operational traffic impacts.

Regarding student enrollment, the EIR noted that the construction/operation of the Wellness Pavilion will not increase student enrollment but will require the addition of one new staff person. The EIR does not take any position on student enrollment and the Draft EIR correctly utilized the existing 2016 student enrollment of 1,498 students (which is consistent with the NOP date) to form the baseline conditions. While neither the Original Project nor Alternative 5 will increase student enrollment, the City Planning Commission granted two Plan Approvals in 1984 which

discussed/referenced student enrollment. A summary of those approvals as well as an explanation of the various interpretations in regard to the Campus' permitted maximum student enrollment was provided in the Staff Recommendation Report (Pages A-43 through A-47).

While the Appellant has requested that all proposed new events that permit outside guests be prohibited, this component was always proposed as part of the project (both the Original Project and Alternative 5) and was analyzed in the EIR. Lastly, the Appellant requests that the construction period be limited to 20 months. As stated in the Final EIR, the construction of Alternative 5 will occur over a 20 month period; a reduction of 2 months as compared to the Original Project. The Appellant has failed to demonstrate inadequacies in the EIR analysis or how the CPC erred or abused its discretion, and therefore the appeal point should be denied.

#### Appeal Statement 1-6

**CPC abused its discretion by approving the Project without substantial evidence in the record to support the findings of approval.**

*The Appellant states that the findings pursuant to LAMC 12.24 E, required for the Plan Approval request, in accordance with LAMC 12.24 M for the construction and operation of the Wellness Pavilion are not supported by substantial evidence.*

#### Staff Response 1-6

The Appellant claims that the Project will not enhance the surrounding neighborhood's built environment or perform/provide a service that is essential to the community, city, or region, noting that the operation of the Wellness Pavilion will allow for new multiple events with 400 outside guests, generating 310 vehicle trips per day as well as a new 12 week Summer Camp with up to 200 campers and 40 staff per day, generating 236 vehicle trips per day. Contrary to the Appellant's statements, Finding 1a and 1b were included in the Staff Recommendation Report and specifically address how the Plan Approval and Height Determination will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region (Pages F-1 through F-8). As explained therein, Alternative 5 will provide a greater and enhanced educational and wellness experience for MSMU students, faculty, staff, and outside guests, thereby providing a service that enriches and benefits the students, community, City, and region as a whole. In addition to the educational value that MSMU provides, Alternative 5 will implement traffic operational restrictions, including maximum daily vehicle trip caps for Health and Wellness Speaker Series, Other Wellness/Sports Activities, Summer Sports Camps, and Club Sports activities. Alternative 5 will also enhance the built environment in the surrounding neighborhood by creating a visually unified Campus with buildings and landscaping that respect the scale and character of the surrounding area. The Wellness Pavilion as proposed under Alternative 5 will demolish outdated fitness facilities and construct a building that includes a colonnade of columns and glazing, differentiating the ground level from the second level, and creating a pleasing pedestrian environment. The ground floor colonnade element will preserve the color, proportions and rhythm of the typical gothic arch colonnades found throughout Campus, while the second story will be constructed out of glazed glass allowing for the infiltration of natural light and reducing the demand on artificial lighting. The typical clay tile roof forms of older on Campus buildings will be reinterpreted as an expansive ceiling (an inverted roof) bringing the texture and color found on the clay roofs inside the building.

While the Project Site is located in the RE40-1-H Zone and subject to the LAMC single-family zone hillside development standards, MSMU has operated on the site since 1929. The continued use of the Campus and the proposed physical and operational components that will occur under Alternative 5 will be consistent with the intent of the Land Use Element of the General Plan which permits schools in residential zones including the nearby Archer School for Girls which has a land use of Very Low II Residential and Medium Residential and R3-1 and RE11-1 zones and Brentwood School which has a land use of Very Low II Residential and RE11-1 and RE15-1

zones. Thus, as concluded in the finding for the reasons discussed above, Alternative 5 will enhance the built environment on the Campus and will not impact the built environment of the surrounding neighborhood. Further, Alternative 5 will provide students, faculty, staff, with a modernized fitness/educational facility and wellness programming to encourage physical activity, to educate students on nutrition and health, and result in an upgraded and regionally competitive university campus.

The Appellant wrongly claims that the finding on page F-3 of the Staff Recommendation Report implies that a substantial number of residents attend the school and therefore the school is a function or service essential and beneficial to the community. This statement is inaccurate. The referenced finding reads, "Accordingly, Alternative 5 will allow MSMU to continue providing the essential and beneficial service of a private educational institution in the Brentwood Community." The Brentwood Community is located within the City of Los Angeles and is one of the many communities that makes up the City. Educational institutions such as MSMU contribute to the City's vitality.

The Appellant states that it is irrational for the findings to imply that the vehicle trip restrictions enhance the neighborhood and benefit the community. As stated in the Staff Recommendation Report findings (Page F-3) the reference to the vehicle trip restrictions highlights that the Wellness Pavilion design includes operational restrictions which establishes a maximum number of vehicle trips permitted for each new event. The Appellant also fails to recognize that there are no existing conditions or regulations in place that would prevent MSMU from holding such events today at the existing Campus facilities. Thus, establishing a maximum trip cap for the proposed new events, which ensures operation traffic impacts associated with the Wellness Pavilion are less than significant, is a benefit to the surrounding community as there is currently no maximum trip cap.

The Appellant alleges that the Wellness Pavilion will not enhance the built environment and/or the surrounding community and states that the City has failed to provide substantial evidence to show otherwise. The Appellant is directed to the Staff Recommendation Report Finding 1a and 1b (Pages F-1 through F-6). While the Appellant claims that the Alternative will violate the intent of the Hillside Mansionization Ordinance, the Appellant fails to recognize that the MSMU has requested the necessary entitlements to exceed the by-right height, grading and number and height of permitted retaining walls per lot, which are supported by required findings. The Appellant has not provided justification or substantial evidence that demonstrates that the decision makers erred or abused their discretion in making these required findings

The Appellant contends that prior approvals for the nearby Archer School for Girls and Brentwood School do not establish precedent for approval of the Wellness Pavilion, as the Wellness Pavilion will be located on the MSMU Chalon Campus, which is located two miles from Sunset Boulevard with limited ingress/egress, as compared to the two referenced schools, which are accessible via Sunset Boulevard. Further, the Appellant alleges that the finding fails to recognize hazardous and nuisance obstacles created by the Campus' location but does not state what these obstacles are. As noted through the EIR and CPC Staff Recommendation Report dated October 21, 2021, the Project Site is located on a portion of the MSMU Chalon Campus, which is accessible via Chalon Road (approximately two miles from Sunset Boulevard). The specific finding referenced by the Appellant states, "While the Project Site is located in the RE40-1-H Zone and subject to the LAMC single-family zone hillside development standards, MSMU has operated on the site since 1929. The continued use of the Campus and the proposed physical and operational components that will occur under Alternative 5 will be consistent with the intent of the Land Use Element of the General Plan which permits schools in residential zones including the nearby Archer School for Girls which has a land use of Very Low II Residential and Medium Residential and R3-1 and RE1-1 zones and Brentwood School which has a land use of Very Low II Residential and RE11-1 and RE15-1 zones." The finding does not assert that the location and operation of either nearby school

provides justification for approval of the Wellness Pavilion. Instead, the finding references both schools as other nearby examples of educational facilities that are operating on parcels with a land use designation of Very Low II Residential and Medium Residential and R3-1 and RE11-1 zones while maintaining consistency with the City's Land Use Element.

The Appellant states that the Project is intended for the aggrandizement of MSMU and in fact that the statement that the Project will provide students, faculty, staff with a new facility and will educate students is inaccurate as the facility will host events accessible to outside guests and will allow for 12 annual rental events. The Wellness Pavilion's daily users will be students, faculty, and staff. As stated in the Staff Recommendation Report the proposed new events that will be held at the Wellness Pavilion are consistent with event types held on other university and college campuses and the events proposed under the Wellness Pavilion will not lead to a commercialization of the Campus (Pages A-48 and A-49).

The Appellant provides general statements regarding the use of the Wellness Pavilion by outside guests, that MSMU misrepresented the reason for the Wellness Pavilion (i.e., to educate students enrolled in health care related fields), and that there is a lack of justification as to the overall size of the building, which would be more appropriately suited for the MSMU Doheny Campus, which offers degrees in health care field related fields. The Appellant fails to provide any substantial evidence to support these statements. The EIR and Staff Recommendation Report accurately described, analyzed, and provided findings for the construction and operation of Alternative 5.

The Appellant quotes a portion of a finding that speaks to the proposed new events, the number of outside guests permitted, and the trip caps established for each event and claims that this aspect of the Wellness Pavilion would adversely affect adjacent properties, the surrounding neighborhood, and the public health, welfare and safety, but provides no substantial evidence to support their claims. The Appellant is directed to the Staff Recommendation Report (Pages F-7 through F-13), specifically the required finding that states, "The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety."

The Appellant alleges that that the omission of any discussion and analysis of induced increased enrollment makes the EIR and the proposed Plan Approval deficient, erroneous, and unlawful. As explained further below neither the Original Project nor Alternative 5 will increase student enrollment but will require the addition of one new staff person.

The EIR does not take any position on student enrollment and the Draft EIR correctly utilized the existing 2016 student enrollment of 1,498 students to form the baseline conditions. While neither the Original Project nor Alternative 5 will increase student enrollment, the City Planning Commission granted two Plan Approvals in 1984 which discussed/referenced student enrollment. A summary of the past approvals as well an explanation of the various interpretations in regard to the Campus' permitted maximum student enrollment were included in the CPC Staff Recommendation Report (Pages A-43 through A-46). As stated in the CPC Staff Recommendation Report, given the various interpretations of the 1980s Plan Approvals associated with Case No. CPC-1952-4072, the past conditions of approval do not clearly outline what the permitted student enrollment for the Chalon Campus is. CPC-1952-4072-CU-PA1 Condition No. 6(c), included in this staff report prohibits any future vehicle parking spaces, including those proposed as part of the Wellness Pavilion, to be used as a mechanism to calculate student enrollment on the Chalon Campus. Additionally, as explained above, while the Wellness Pavilion will not increase student enrollment, and require the addition of one new staff member, the Draft EIR properly utilized the 2016 student enrollment (1,498 students) at the Chalon Campus to establish the environmental baseline against which Alternative 5 impacts were evaluated. This approach is consistent with the CEQA Guidelines.

The Appellant alleges that the Project does not substantially conform with the purpose intent and provisions of the General Plan and/or the Brentwood-Pacific Palisades Community Plan and as noted previously by the Appellant, Alternative 5 would be located on the 17-acre parcel, which the Appellant alleges is not subject to the Deemed Approved Conditional Use status. Further the Appellant notes that although the two parcels were joined by filing Parcel Map No. 4304 in 1981, the treatment of the two parcels differs under the LAMC and case law. As such the 17-acre addition is not subject to the Deemed Approved Conditional Use status and that any prior Plan Approvals that relied on a deemed approved conditional use status and were located on the 17-acre parcel were legally wrong and cannot now be used to rationalize the current Plan Approval application. Thus, the Appellant claims that the Plan Approval process may only be applied to the 33-acre portion of the Campus. The Appellant is directed to Staff Response 1-3 regarding the discussion of the approved 17-acre addition. Further, the Staff Recommendation Report including the required finding regarding the Alternative's conformance to the purpose, intent and provisions of the General Plan and Brentwood-Pacific Palisades Community Plan (Pages F-13 through F-28). As such, the appeal point should be denied.

#### Appeal Statement 1-7

**CPC erred and abused its discretion by not properly considering an alternative that sites a structure similar to Alternative 5 at the MSMU Doheny Campus instead of the MSMU Chalon Campus.**

*The Appellant states that the City maintains established policies including locating new development near public transit, while also prohibiting the construction of new buildings in VHFHSZ with one point of egress/ingress, and that exceed the maximum response distance from the nearest fire station.*

#### Staff Response 1-7

The Appellant is correct in that MSMU operates two campuses, the Chalon Campus and the Doheny Campus and, thus, would have access to an alternate location. However, even if space for the proposed Wellness Pavilion were available on the Doheny Campus, the relocation of the Wellness Pavilion to the Doheny Campus would defeat the primary purpose of Alternative 5 to develop a new on-Campus facility that provides MSMU's Chalon students with comprehensive health and wellness services including modern amenities needed for physical and health education. Nearly all of the Project objectives are specific to the Chalon Campus, most notably, the need to replace the Campus' inadequate fitness and recreational facilities, while also addressing student health and well-being, improving pedestrian safety, circulation and parking, design, and enhancing Campus programming. In addition to updating the outdated facilities, the events with potential to change and/or that may have increased attendance with development of the Wellness Pavilion are currently held on the Chalon Campus. Finally, if the Wellness Pavilion was constructed on the Doheny Campus, this could result in a greater number of trips to and from the Chalon Campus, as students who live and/or attend classes on the Chalon Campus, will now be driving back and forth from the Doheny Campus to access the Wellness Pavilion activities.

The Appellant's general reference to the various City policies is misguided. Various policies are in place that encourage mixed-use developments near transit, however access to public transit is not a requirement for new construction. The Appellant is directed to Staff Response 1-1 regarding the Campus being located in a VHFHSZ; the Wellness Pavilion will be designed and constructed in accordance with applicable regulations related to construction of structures in a VHFHSZ, will be located on a portion of the Campus that is currently developed, and will replace existing structures that were constructed in the 1950s and 1960s.

The Appellant correctly notes that the MSMU Chalon Campus is located outside the maximum response distance for an engine (1.5 miles) and truck company (2 miles). The closest Fire Station

to the Project Site is Fire Station No. 19 located 2.6 miles from the Site. Fire Station No. 16 houses an Engine, Brush Patrol, and a Paramedic Rescue Ambulance, however none of the surrounding fire stations house a Truck Company. In the event that a site exceeds the 1.5-mile emergency response distance, Fire Code Section 57.512, "Response Distances that if Exceeded Require the Installation of an Automatic Fire Sprinkler System," requires the installation of automatic fire sprinkler systems for buildings. Accordingly, because the Project Site's response distance will exceed the Fire Code response distance standard Alternative 5 is required to provide an automatic sprinkler system. Additionally, LAFD's Inter-Departmental Correspondence letter does initially note that based on the response distance from the Project Site to the surrounding fire stations, fire protection will initially be considered inadequate, however LAFD requires a number of measures and features be included as part of the Wellness Pavilion, including but not limited to noncombustible roofs, non-wood siding, fire resistant plants and materials, and boxed eaves. As noted in all three LAFD letters, "The inclusion of the above recommendations, along with any additional recommendations made during later review of the proposed project. [sic] Will reduce the impacts to an acceptable level." The measures will be enforced by LAFD during plan check and review of MSMU's plans and LAFD will continue to be able to provide protection to the Campus, including the Project Site. Therefore, the appeal point is unfounded.

#### Appeal Statement 1-8

**CPC erred and abused its discretion by not including a number of revisions and additions to the conditions of approval to improve their clarity, effectiveness and enforcement. Without these revisions and additions, the required findings to support the Plan Approval could not be lawfully made by CPC.**

*The Appellant provides a list of requested revisions to the conditions of approval and allege that the revisions are necessary to mitigate the harmful impacts associated with the Wellness Pavilion including, prohibition of outside guests, requirement that a master plan be implemented, parking restrictions along Chalon Road, event conditions, additional requirements regarding neighborhood outreach and notice, and conditions relating to the construction of the Wellness Pavilion.*

#### Staff Response 1-8

The Appellant's requested revisions to the Wellness Pavilion's conditions of approval are not supported by substantial evidence, however responses are provided below for the record.

The Appellant requests that Condition of Approval No. 2 be revised to restrict access to the Wellness Pavilion to only students, faculty, and staff. This request would require that any proposed new events not be accessible to outside guests and/or be rental events. Both of these components have always been part of the Original Project and Alternative 5. As analyzed in the EIR and the Staff Recommendation Report findings, the Wellness Pavilion will provide students, faculty, and staff with a gym, multi-purpose rooms, a physical therapy lab, dance and cycling studios, lockers, showers, restrooms, and an equipment storage area, will require the addition of one new staff person, and will introduce three new types of events which can be attended by outside guests, students, faculty, and/or staff. Alternative 5's new events will include: (1) Summer Sports Camps (which will operate over a 12-week period during the summer); (2) Health/Wellness Speaker Series (a maximum of eight annual events), and (3) Other Wellness/Sports Events/Activities (a maximum of 12 events per year). Additionally, two existing events, Athenian Day and Homecoming, with potential attendance increases, currently held at the Campus will be moved to the Wellness Pavilion, and Club Sports, but not intercollegiate sports, will be permitted. The Appellant claims that the Wellness Pavilion should not be open to outside guests as this is not consistent with the purpose of the Wellness Pavilion. The Appellant's suggestion is unsubstantiated as Condition No. 2 ensures that the Wellness Pavilion uses will be in line with the purpose, to promoted health, fitness, and/or wellness, of Alternative 5.

The Appellant requests that Condition of Approval No. 3 be revised to implement a moratorium until MSMU submits a 20-year Master Plan for the entire Chalon Campus. As stated above and as discussed in the Staff Recommendation Report (Pages A-46 and A-47) the Campus operates as a Deemed Approved Conditional Use with subsequent Plan Approvals granting the addition of building and modifications to the Campus. The Campus does not operate under a Conditional Use Permit (CUP). In accordance with the current LAMC, if a new school were to apply for approval today, the City of Los Angeles would require the approval of a CUP, as the City permits educational uses in residential zones with the approval of a CUP. The Campus exists as a Deemed to be Approved Conditional Use because its use as an educational institution predates such CUP requirement. Per prior approvals consistent with the Campus's Deemed to be Approved status, the construction of new buildings on the Campus is allowed pursuant to a Plan Approval. LAMC Section 12.24 M provides that on any lot or portion of a lot that has an approved Conditional Use, new buildings or structures may be erected, enlargements may be made to existing buildings, and existing uses may be extended on an approved site (in accordance with LAMC Section 12.24 L), provided that plans are submitted to and approved by the Zoning Administrator, the Area Planning Commission, or the City Planning Commission, whichever has jurisdiction at the time. The decisionmaker may deny the plans if the use is determined to not conform to the purpose and intent of the findings required for a conditional use.

Regarding the request for the submission of a master plan, the filing of a master plan is at the discretion of a particular school. If approved, a master plan can serve as a useful tool if a school is expecting to expand, develop, or redevelop significant portions of their campus in the near future or as part of a phased long-term plan. However, a school also has the legal ability to request a Plan Approval for additions and changes to its campus, in accordance with LAMC 12.24 M.

The Appellant requests that Condition of Approval No. 6, regarding vehicle parking be revised to prohibit MSMU students, faculty, staff, and outside guests from parking along Chalon Road or other residential streets. This revision is not necessary as PDF TRAF-17, which Alternative 5 will be required to comply with, states "Concurrent with the issuance of a Certification of Occupancy for the Wellness Pavilion, MSMU shall institute and thereafter maintain a policy prohibiting entry on to the Campus by all pedestrians except persons meeting one of the following conditions: 1). Persons residing within the community around the Campus; 2). Persons entering the Campus via bicycle or similar conveyance, as established to the satisfaction of LADOT; 3). Persons arriving to the area around the Campus via public transportation, as established to the satisfaction of LADOT; and 4). Persons re-entering the Campus after walking outside of the Campus on the same day. Thus, the PDF will prohibit persons who park in the surrounding neighborhood access to the Chalon Campus.

The Appellant claims that Condition of Approval No. 12 which defines events restrictions, should be revised to eliminate any events that are open to outside guests. The Appellant is directed to the response above which clarifies that a component of Alternative 5 included new events open to outside guests and 12 new rental events per year. Further, the Appellant's request to amend the new event end times is not supported by substantial evidence. The new event start and end times as conditioned ensure that traffic operational impacts will remain less than significant.

The Appellant requests that Condition of Approval No. 13 Neighborhood Outreach and Notice, be amended to include all Campus events (not just those with over 50 outside guests) and that the MSMU website should include a link for the community to register complaints, ask questions, resolve issues with a reply required within 48 hours, and to require the Community relations representative to conduct neighborhood meetings biannually to report on MSMU's compliance with the required vehicle trip caps. Condition of Approval No. 13 requires MSMU to maintain a publicly accessible calendar on their website, updated at least once per month, with all Campus events that will include over 50 outside guests, designate a Community Relations representative with their contact information accessible on MSMU's website, and a complain log that includes

the complainant's name, date and time of complaint, phone number, the nature of the complaint, the date and time of the response of the complaint, and a description of how the issue was responded to or resolved. The Appellant fails to provide any justification as to why the requested revisions are necessary.

The Appellant requests that the Alternative's 20-month construction period be conditioned to be consecutive, that no special events occur during construction, and that the Construction parking plan identify on and off-site parking locations for construction workers along with other specifics. As analyzed in the Final EIR, Alternative 5 will require a 20-month construction period. No new events proposed for the Wellness Pavilion will occur until the building is operational; however the existing Campus uses will continue to operate. Events that are currently held on the MSMU Chalon Campus will be permitted as long as the operation of these events does not conflict with the Alternative's PDFs, mitigation measures and/or Conditions of Approval regarding construction activities. Further, the Appellant's request to identify off-site parking locations for construction workers is not necessary as PDF TRAF-2, which the Alternative is required to comply with, will require that all construction workers park on the MSMU Chalon Campus and are prohibited from parking along residential streets.

In addition to the requested revisions above, the Appellant requests that a Transportation Management Program that includes a reporting mechanism be added as a condition of approval. As explained in the Draft EIR Project Description (Pages II-8 through II-10), transportation demand strategies are currently in place on the MSMU Chalon Campus including various shuttles, rideshare programs, free TAP cards, a carpool program and transit subsidies. The Appellant also suggests that a trip cap be implemented as well as a parking reservation system. These requests are already a component of the Wellness Pavilion. PDF TRAF-7 requires MSMU to develop and implement a Campus Event Coordination Plan that would define the parameters of the parking reservation system, shuttling, valet parking program and monitoring of on-Campus parking and parking at designated off-Campus parking locations during new events. The Campus Event Coordination Plan must be submitted to LADOT for review and approval prior to issuance of a certification of occupancy for the Wellness Pavilion. Additionally, PDF TRAF-10 requires MSMU to implement a parking reservation/ticketing system which will require that all outside guests to use the parking reservation/ticketing system to gain access to the MSMU Chalon Campus. Finally, in regards to the vehicle trip request, PDF TRAF-18 will require that MSMU limit average daily total Campus vehicle trips, inclusive of trips generated by the Wellness Pavilion to one percent below the 2016 baseline trip counts taken for the Campus. The trip reductions shall be confirmed through trip counts conducted for at least two weeks each year to the satisfaction of LADOT.

Regarding the Appellant's issues around student enrollment, the Appellant is directed to Staff Response 1-1.

The Appellant contends that additional fire protection measures should be included, specifically measures that relate to the shelter in place approach as well as evacuation measures. The Appellant is directed to Staff Response 1-1 regarding the MSMU Chalon Campus shelter in place and evacuation procedures.

#### Appeal Statement 1-9

**Approval of Alternative 5, including Certification of the EIR and approval of the Findings is a violation of CEQA.**

*The Appellant alleges that impacts from wildfire (including cumulative impacts), GHG emissions, and an increase in student enrollment were not disclosed, feasible mitigation measures were not implemented, an in-depth analysis of locating the Wellness Pavilion on the MSMU Doherty Campus was not provided, and the EIR failed to demonstrate Alternative 5's inconsistencies with the City's Safety Element.*

### Staff Response 1-9

The Appellant provides a list of issues with the EIR prepared for the Original Project and Alternative 5 but fails to provide any substantial evidence to support these claims. Contrary to the Appellant's statements, a wildfire analysis was provided in Appendix B of the Final EIR. Appendix B of the Final EIR was included for informational purposes only as the CEQA Guidelines Appendix G Thresholds were revised in December 2018 (after publication of the Draft EIR) and included the Wildfire impact category. The revised CEQA Guidelines only apply to steps in the CEQA process not yet completed by December 28, 2018. GHG impacts were analyzed in the Draft EIR (Section IV.F) for the Original Project and Section III, Revisions, Clarifications, and Corrections of the Final EIR for Alternative 5 and determined to be less than significant. The Appellant is directed to Staff Response 1-6 regarding student enrollment and Staff Response 1-7 regarding locating the Wellness Pavilion on the MSMU Doheny Campus. Regarding the Alternative's lack of compliance with the Safety Element, the goals and objectives of the Safety Element provide a guideline for the City's service systems and do not relate to actions of private development. However, regulations arising out of the objectives of the Safety Element are reflected in the Building and Safety Code and the Fire Code. Applicable policies of the Fire Code are discussed in Section IV.J.1, Fire Protection Services, of this Draft EIR.

### **APPELLANT 2: BRENTWOOD RESIDENTS COALITION, BRENTWOOD ALLIANCE OF CANYONS AND HILLSIDES, AND RESIDENTIAL NEIGHBORS OF MOUNT SAINT MARY'S UNIVERSITY**

#### Appeal Statement 2-1

***The Appellant provides a list of reasons for the appeal and claims that the City's failure to comply with CEQA and the Los Angeles Municipal Code (LAMC) regarding the approval of Alternative 5 will adversely affect the Appellant.***

*The Appellant includes a list of actions approved by the City to date, including Certification of the EIR and approval of the requested entitlements needed to build Alternative 5. Additionally, the Appellant notes the Campus' existing zoning permits Low Density Residential land uses, that the Site is located in a state-designated Very High Fire Hazard Severity Zone (VHFHSZ) and is accessible via substandard hillside streets that are subject to vehicle congestion. Lastly, the Appellant asserts that the Alternative is an expansion of use in an area which is not zoned or suited for such a use and that the findings fail to accurately disclose the Alternative's impacts.*

#### Staff Response 2-1

The Appellant correctly notes the approvals which have occurred for Alternative 5 to date.

The Appellant is correct in that the Campus' existing zoning is RE40-1-H and a Minimum Low Density Residential land use and the Site is located in a VHFHSZ, atop a ridgeline in the Santa Monica Mountains.

The Appellant is directed to Staff Response 1-3 regarding the Campus' past approvals and ability to operate in the RE40-1-H Zone; the Appellant's assertion that the Wellness Pavilion will be located on a Site that is not zoned for such a use and that the Wellness Pavilion's impacts were not disclosed is not support by substantial evidence.

The Appellant is direction to Staff Response 1-1 regarding the Campus' location in a VHFHSZ and the surrounding hillside streets. The Campus is located in a VHFHSZ. As explained in the Staff Recommendation Report (Page A-40), LAFD confirmed that "...with the implementation of recommended on-site improvements...along with any additional recommendations to be made during later reviews of the Project, all of which involved improvements within the Project Site, impacts to fire protection services would be reduced to an acceptable level." Further, in regards

to the Appellant's statement that the roadways providing access to the Site are substandard hillside roadways that are subject to vehicle congestion, LAFD has confirmed that Fire Station 19 Engine Company is equipped to manage mountain roads and the types of fires that occur in wildland areas.

Contradictory to the Appellant's claims, the EIR accurately discloses Alternative 5's significant and unavoidable impacts. Additionally, the required findings for the requested entitlements were provided in the Staff Recommendation Report. As such, the appeal point should be denied.

#### Appeal Statement 2-2

***The Appellant contends that the Chalon Campus' current student enrollment exceeds the permitted student enrollment.***

*The Appellant states that the Chalon Campus is operating above its approved student enrollment and claims that the increase in enrollment has led to traffic congestion, hazardous driving and roadway conditions, parking shortages, and the exacerbation of fire and evacuation hazards on the surrounding streets.*

#### Staff Response 2-2

The Appellant is directed to Staff Response 1-6 regarding the MSMU Chalon Campus past approvals regarding student enrollment. Further, there is no evidence in the record that the Wellness Pavilion will either directly or indirectly increase enrollment. While MSMU has previously taken the position that its maximum permitted enrollment at the Campus is higher than the maximum enrollment the Appellant believes is the case, MSMU is not seeking to modify any of the entitlements that govern enrollment, nor has MSMU expressed any intentions to increase its enrollment. In the absence of an application to modify permitted enrollment and an announcement of plans for a project that could reasonably be viewed as expanding the capacity of the Campus to accommodate additional students, there is no basis for Appellant's contention that the Campus is operating above its approved student enrollment.

As discussed in detail in the Final EIR (Pages II-62 through II-64) and Staff Recommendation Report (Page A-43), the Draft EIR relied on the existing student enrollment to form the baseline conditions and Alternative 5 will not increase student enrollment but will require the addition of one new staff person. The Draft EIR properly utilized the 2016 student enrollment (1,498 students) at the Chalon Campus to establish the environmental baseline against which Alternative 5 impacts were evaluated. This approach is consistent with the CEQA Guidelines. Further, the EIR analysis is more conservative because it assumes a higher student enrollment number as compared to 2020-2021 conditions, which has seen decreased enrollment.

While the Draft EIR contained language stating that the maximum permitted student enrollment on the Campus is 2,244 students, this language was deleted from the Draft EIR as shown on Page III-104, Chapter III, Revisions, Clarifications, and Corrections, of the Final EIR. This language had been included for background in describing MSMU and the Campus but was deleted to eliminate any confusion with respect to the Wellness Pavilion having any impact on the existing maximum permitted student enrollment. As stated throughout the Final EIR, the approval and construction of the Wellness Pavilion will not result in any change to the existing enrollment on the Campus. The Wellness Pavilion will serve MSMU's existing student body, and will demolish and replace existing recreational facilities on the Project Site. The Wellness Pavilion does not include housing or any increase in other Campus educational facilities, such as classrooms and dormitories. The Wellness Pavilion will be a new building on the Campus, but it will primarily serve the existing student body, which currently lacks an appropriate fitness and recreational facility.

The Appellant provides no substantial evidence that the existing student enrollment has resulted in traffic congestion, hazardous driving and roadway conditions, parking shortages and the

exacerbation of fire and evacuation hazards on the surrounding streets. Further, the City previously responded to these issues in the Staff Recommendation (Pages A-37 through A-42, A-43 through A-46, A-48 through A-50). As such, the appeal point should be denied.

#### Appeal Statement 2-3

***The Appellant asserts that the decision-maker erred in approving Alternative 5.***

*The Appellant states that CPC did not address the significant impacts raised by the surrounding community members, including implementing additional mitigation measures to reduce the Alternative's significant impacts. Additionally, the Appellant provides a list of reasons why the Alternative is opposed.*

#### Staff Response 2-3

The Appellant provides general reasons why the Alternative is not supported, while the Appellant fails to provide any justification or substantial evidence to support these claims, the City has provided detailed responses to these claims in the following responses below.

#### Appeal Statement 2-4

***The EIR for the Project is fatally flawed.***

*The Appellant states that the EIR fails to accurately characterize the impacts of the Alternative, mitigate the Alternative's impacts, improperly characterizes mitigation measures as PDFs, implements infeasible mitigation measures and PDFs, assumes that MSMU will implement the Alternative's mitigation measures and PDFs, and that the City cannot enforce the mitigation measures and PDFs.*

#### Staff Response 2-4

The Appellant alleges that the PDFs included in the EIR should have been categorized as mitigation measures and that the misclassification as PDFs allow for Project impacts to be concluded as less than significant. However, the PDFs and mitigation measures in the EIR are both appropriately classified, as the mitigation measures mitigate a significant impact while the PDFs are integral components of the Wellness Pavilion physical and/or operational design. Further, with respect to Alternative 5's PDFs, CEQA directs local agencies to "[p]revent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures." (CEQA Guidelines, § 15002(a)(3).) Thus, the formulation of alternatives such as Alternative 5 is one of the ways in which environmental impacts should be addressed under CEQA. Alternative 5 was introduced in the Final EIR and adopted by CPC as the environmentally superior alternative because it would avoid or reduce impacts in a wide variety of categories relative to the Original Project. Alternative 5's new transportation PDFs were designed to ensure that the Alternative truly reduced the Original Project's operational traffic impacts to a level of less than significant. The fact that the PDFs have the effect of ensuring Alternative 5 reduces impacts relative to the Original Project is in keeping with CEQA's direction to local agencies to reduce impacts through either alternatives or mitigation measures. Further, each of Alternative 5's PDFs is an integral element of Alternative 5 itself, similar to the Original Project's PDFs. Alternative 5's new transportation PDFs were therefore appropriately classified as PDFs rather than mitigation measures.

Additionally, as noted in the Staff Recommendation Report (Pages A-33 through A-35), Alternative 5 Transportation PDFs introduced in the Final EIR should not be mitigation measures, and all PDFs included in the Draft EIR as part of the Original Project and Alternative 5 are correctly categorized as PDFs. The table below provides a synopsis of Alternative 5's PDFs as well as an explanation as to why it is appropriate to include the component as a PDF.

<b>Alternative 5 Project Design Features</b>		
<i>Project Design Features</i>	<i>Summary</i>	<i>Justification</i>
<b>Aesthetics</b>		
PDF AES-1 and 2	The PDFs will require Alternative 5 to shield all outdoor light sources to ensure on-site lighting will not be seen off-site, that glass used to construct the building façade shall comply with existing building and energy code requirements, and that LADBS shall review the exterior building materials to ensure they do not exceed the reflectivity of current building materials.	Both PDFs are design features of Alternative 5. Alternative 5 will be required to comply with LAMC lighting requirements and LADBS requirements in regard to glass coating.
<b>Air Quality</b>		
PDF AQ-1 through PDF AQ-8	PDF AQ-1 will require Alternative 5 to comply with the Californian Green Building Code requirements in regard to EV ready and EV installed parking spaces.	Alternative 5 will be required to comply with the current Green Building Code regulations. This is a regulatory measure and not a mitigation.
	PDF-AQ-2 through PDF-AQ-7 ensure specific design features, including the inclusion of large expanses of insulated glass and skylights, and interior lighting system that will adjust accordingly based on the amount of natural light, a single-ply roof to reduce the building's heat absorption, water bottle filling stations to reduce the use of disposable water bottles, and solar panels.	These PDFs restate the certain architectural elements and building features will be included as part of Alternative 5.
	PDF-AQ-8 requires MSMU to use electricity from power poles and solar generators, in place of diesel generators, when available.	This PDF requires that options other than diesel be used, when available, but if there is no other option, then MSMU is permitted to use diesel generators for construction activities. This is a common condition of approval for discretionary projects.
<b>Biological Resources</b>		
PDF-BIO-1	PDF-BIO-1 requires MSMU to replace all non-protected significant trees that are 8 inches or more dbh that are removed during construction at a 1:1 ratio.	Alternative 5 will be required to comply with this LAMC requirement. This is a regulatory measure and not a mitigation.
<b>Geology and Soils</b>		
PDF-GS-1	PDF-GS-1 requires a qualified geotechnical engineer to be present on-site during grading/excavation activities to ensure the Final Geotechnical Report recommendations are implemented.	This was not a requirement of the Final Geotechnical Report but is an enforcement feature of Alternative 5 to ensure all of the geotechnical regulatory measures recommendations are monitored and complied with.

<b>Hydrology and Water Quality</b>		
PDF-H/WQ-1	PDF-H/WQ-1 will require the installation of an underground storm drain system to control sheet flow along the Campus' east and west facing slopes.	This feature is part of Alternative 5's design to ensure stormwater does not infiltrate the Site and instead is captured and directed to the local storm drain. This is a regulatory measure and not a mitigation
<b>Transportation</b>		
<ul style="list-style-type: none"> <li>PDF-TRAF-1, PDF-TRAF-2, PDF-TRAF-7, PDF-TRAF-9 through PDF-TRAF-18.</li> </ul>	<p>The two construction PDFs (PDF-TRAF-1 and PDF-TRAF-2) require the implementation of a Construction Traffic Management Plan and Construction Parking Plan.</p> <p>Alternative 5's operational PDFs require the implementation of a Campus Event Coordination Plan (to be reviewed and approved by LADOT), a parking reservation system establishing maximum daily trips for the three new events, hours of operation for certain events, restrict pedestrian access to ensure visitors are not parking off-Campus, and an average daily reduction of 22 trips, inclusive of trips generated by the Wellness Pavilion.</p>	<p>PDF-TRAF-1 and PDF-TRAF-2 are design features that are commonly included for most discretionary development projects.</p> <p>Alternative 5's operational PDFs form the thresholds that will govern the Alternative's operational component. These operational components are part of Alternative 5's design similar to how a building's maximum capacity is part of a building's design and establish restrictions that the Alternative's operational activities must comply with. Further, the design features speak to reducing impacts related to LOS which are no longer the adopted transportation metric under CEQA and has been replaced with the VMT metric.</p>

Finally, in regard to the Alternative's Transportation PDFs, the Level of Service (LOS) metric which was applied to both the Original Project and Alternative 5 is no longer an adopted metric and has been replaced by the Vehicle Miles Travelled metric as of July 1, 2020. Thus, the transportation "impacts" for which the Appellant claims the Transportation PDFs are mitigating are no longer impacts under CEQA and as shown in the table above none of the PDFs mitigate potential impacts and the EIR did not underestimate or fail to identify significant impacts. As demonstrated above the PDFs primarily serve to reinforce regulatory measures or to identify features that are integral to the project's design or capacity assumptions, and which do not serve as mitigations needed to reduce impacts.

The Appellant contends that the Alternative will result in significant wildfire related impacts as the Site is located on a ridgeline, in a VHFHSZ, 2.6 miles from the closest LAFD Fire Station, accessible via roadways less than 20 feet wide, and will be located on a Site that lacks adequate emergency access. The Appellant is directed to Staff Response 1-1 regarding the Campus' location in a VHFHSZ, emergency access, and the characteristics of the surrounding roadway. The Appellant is directed to Staff Response 1-7 regarding the Campus' exceedance of the maximum permitted distance from an engine and truck company.

The Appellant has not identified specific defects in the wildfire impacts analysis included in the Final EIR, and has not provided any substantial evidence in support of their belief that the construction of the Wellness Pavilion will decrease fire safety relative to existing conditions or cause any significant impacts under the Wildfire impact thresholds provided in the CEQA Guidelines. As discussed in the Final EIR and the CPC Staff Recommendation Report dated

October 21, 2021 (Pages A-37 and 38), the Wellness Pavilion will be constructed in a portion of the Campus that is already developed and will not expand the boundaries of the Campus into undeveloped areas. The Wellness Pavilion will expand the required brush clearance around the Project Site relative to existing conditions and will replace existing older buildings with a new Wellness Pavilion, which will be constructed to current Fire Code standards and safety requirements, including the provision of smoke/fire alarms, fully sprinklered indoor spaces, and irrigated landscaped areas. All of these factors would serve to improve fire safety as compared with existing conditions.

Potential impacts related to wildfire were first analyzed in the Original Project's Initial Study, which analyzed the Original Project's potential impacts under the only threshold related to wildland fires in the CEQA Guidelines which were in effect at that time, Hazards and Hazardous Materials Threshold (h). Threshold (h) asked whether the Original Project would "expose people or structures to significant risk of loss, injury or death involving wildland fires, including where wildland fires are adjacent to an urbanized area or where residences are intermixed with wildlands?" The Initial Study concluded that the Original Project would have less than significant impacts in this category on the basis that the Original Project would be constructed within an entirely developed area and would replace older buildings with the significantly more fire-safe Wellness Pavilion. Based on this substantial evidence, the Initial Study concluded that the Original Project would not result in significant impacts related to wildland fires and that further analysis of this issue was not required in the EIR. The Appellant has not presented any substantial evidence refuting the analysis provided in the Initial Study.

Following the release of the Draft EIR in April 2018, the CEQA Guidelines Appendix G Thresholds were revised in December 2018, with Wildfire added as a new impact category. While the revised CEQA Guidelines only apply to steps in the CEQA process not yet completed by December 28, 2018, Appendix B in the Final EIR includes analyses for the Wildfire Thresholds for both the Original Project and Alternative 5. The analysis in Appendix B of the Final EIR found that Wildfire impacts would be less than significant under either the Original Project or Alternative 5.

With respect to Appellant's assertions regarding potential ignition impacts from construction or operation of the Wellness Pavilion, a complete analysis of potential ignition risks was included on pages B-13 and B-14 of Appendix B of the Final EIR. The Applicant's fire safety expert, Michael A. Bowman, a retired LAFD Battalion Chief, has also submitted a response to Appellant's claims regarding ignition impacts, dated March 2, 2022. As noted in both the Final EIR and Mr. Bowman's letter, construction of the Wellness Pavilion will be subject to Chapter 33 of the City's Fire Code, which provides requirements designed to reduce the risk of fire ignition during construction. These include, but are not limited to, prohibition of smoking except in areas approved by the LAFD, refueling of equipment in appropriate locations, preparation of a fire prevention program, and designation of fire watch personnel during occurrence of hazardous construction activities.

The entire Project Site consists of paved surfaces and existing structures and is separated from undeveloped hillsides to the east and west by paved roadways. With required brush clearance around existing structures on the Project Site pursuant to Fire Code Section 57.322, potentially flammable vegetation on the undeveloped hillsides would be located a safe distance away from potential ignition sources during construction. Mr. Bowman's letter also indicates that the physical conditions of the Project Site in terms of distance to flammable vegetation and the availability of LAFD firefighting resources in the area support the Final EIR's conclusion that ignition impacts during construction will be less than significant.

With respect to ignition risks during operation, the Wellness Pavilion will be required to comply with Fire Code provisions applicable to projects in a VHFHSZ and would not result in the presence of any persons in wildland areas, as outside guests would remain on the Campus at all times. Outside guests arriving on the Campus in vehicles would travel up paved roads and would not

traverse wildland areas and therefore would not present an ignition risk from vehicles. Further, events similar in type to those that would be hosted in the Wellness Pavilion already take place on Campus, and some existing events have greater attendance than is anticipated from Wellness Pavilion events. The Appellant has not provided any substantial evidence that would indicate that the Wellness Pavilion would increase total Campus occupancy or otherwise fundamentally change the conditions on the Campus with respect to the presence of persons or vehicles in a VHFHSZ.

The Appellant claims no details are provided regarding fire protection and evacuation plans for the Wellness Pavilion and Campus, however both issues were addressed in the EIR and the Staff Recommendation Report. Section IV.J.1, Fire Projection, of the Draft EIR analyzed impacts to fire protection and emergency services, specifically whether the Wellness Pavilion would result in substantial impacts that would require the construction of fire facilities, the construction which could cause significant environmental effects. Analysis of construction and operational impacts which considered factors such as existing facilities and equipment, response distance and emergency access, fire flow, and the location of the Project Site in a VHFHSZ, determined that Alternative 5 will not result in substantial adverse physical impacts that would require new or expanded fire facilities at both the project and cumulative level. Additionally the Appellant is directed to Staff Response 1-1.

The Appellant references a previous letter submitted that cited the following issues with the EIR; inaccurate project description, incomplete list of related projects (underestimating cumulative impacts), inaccurate baseline, deferred mitigation measures, implementation of mitigation measures required by code, potentially significant impacts to mountain lions, failure to identify cumulative impacts to mountain lions habitat, significant VMT impact, significant cumulative impacts to wildfire associated risks in the area, significant cumulative impact to emergency access in the area during construction and operation, significant cumulative impact to evacuation responses times in the area during construction and operation, Project impacts to emergency access, and Project impacts to evacuation response times in the area. The City responded to the issues listed here in the EIR and/or Staff Recommendation Report. Additionally, the Appellant fails to provide any substantial evidence to support the issues listed above. Regardless, responses to the issues are provided below for the record.

The Original Project, is accurately described throughout Chapter 2 of the Draft EIR. Beginning on Page II-18 of Section 2, Project Description, of the Draft EIR, the proposed Project is described, including the demolition of the existing structures, the construction and operation of a 38,000 square foot Wellness Pavilion and two-story parking deck, and the change to the existing events as well as the proposed new events that could be held at the Wellness Pavilion. The Alternative 5 project description is included in the Final EIR Chapter III.

The introduction of Alternative 5 in the Final EIR is not an attempt to revise the Original Project Description without the Original Project Description appearing unstable, circumvent having to submit a new application, and/or avoiding recirculation of the Draft EIR. The majority of changes included as part of Alternative 5 were proposed to address concerns raised by the surrounding community and result in a more refined project with a greater number of operational restrictions.

The Original Project Description is a stable Project Description that meets the requirements of CEQA Guidelines Section 15124 including, the location and boundaries of the project site, objectives of the project, and a general description of the project's characteristics. Alternative 5 is similar to the Original Project in that it will result in the construction and operation of the Wellness Pavilion, including the introduction of three new event types, and will not increase student enrollment. However, unlike the Original Project, Alternative 5 includes PDFs which result in a far

more refined operational component. These PDFs were included in response to Draft EIR comments that expressed concern over the Original Project's traffic implications.

CEQA anticipates circumstances where new information can be included in a Final EIR without the need to recirculate the Draft EIR, if the new information is intended to clarify or amplify information in the Draft EIR and does not result in significant new effects. Further, CEQA gives lead agencies the authority to adopt a project alternative particularly where the agency finds the alternative to be more environmentally beneficial than the original project.

As stated above, Alternative 5 was introduced in response to comments received during the Draft EIR comment period and feedback conveyed during MSMU community outreach events. Alternative 5 is similar to the Original Project in that both scenarios will result in the construction and operation of the Wellness Pavilion on the Campus and allow for three new types of events, Summer Sports Camps, Health and Wellness Speaker Series, and Other Wellness/Sports Events/Activities. Overall, Alternative 5's construction, physical, and operational changes are less and/or will be more restrictive than the Original Project's.

For these reasons, the introduction of Alternative 5 in the Final EIR is not an attempt to revise the Original Project and no new significant information has been introduced in the Final EIR that would warrant recirculation as set forth in CEQA Guidelines Section 15088.5.

Contrary to the Appellant's claim, the related projects list for the Original Project and Alternative 5 was complete. CEQA requires that an analysis of cumulative impacts be included in a Draft EIR. For an adequate discussion of significant cumulative impacts, a list of past, present, and probable future projects producing related or cumulative impacts can be relied upon or a summary of projections contained in an adopted general plan, related planning document, or prior environmental document which has been adopted or certified, and which described or evaluated regional or area-wide conditions contributing to a cumulative impact may be used. A list of 67 related projects known at the time the NOP was published and within a five-mile radius of the Project Site was used to determine potential cumulative impacts. It should be noted that due to the location of the Project Site, the related project radius was increased from the then standard of one and a half to two miles to five miles to ensure a conservative number of related projects were captured. Additionally, since publication of the EIR, LADOT has updated the related project radius to now only be half a mile from a project site. The Appellant submitted a previous letter noting that the related projects list was incomplete and should have included additional projects, including the Berggruen Institute, the Benedict Canyon Project, the Curtis School Project and the Miriam School Project. As stated in the Staff Recommendation Report all of the referenced projects were filed after the Wellness Pavilion's NOP was issued and thus were not required to be included pursuant to CEQA, as the established baseline for analysis was based on existing conditions at the time of the NOP.

The Appellant's claim that the EIR relied on an inaccurate baseline is invalid. Under CEQA, the impacts of a project must be evaluated by comparing expected environmental conditions after project implementation to conditions at a point in time referred to as the baseline (e.g., the conditions at the time of the NOP is published). Thus, the changes in environmental conditions, between those two scenarios, represent the impacts of a project. An accurate baseline must be established to avoid an over or underestimated baseline which would cause project impacts to be inaccurate. The NOP was published on August 4, 2016. The Draft EIR properly utilized the 2016 student enrollment (1,498 students) at the Chalon Campus to establish the environmental baseline against which Alternative 5 impacts were evaluated. This approach is consistent with the CEQA Guidelines. Additionally, the EIR analysis is more conservative because it assumes a higher student enrollment number as compared to 2020-2021 conditions, which has seen decreased enrollment and a reduction of in-person events due to the unique circumstances of the pandemic. Similarly, it conservatively does not take into account efficiencies and reductions that

have since occurred from programs and regulations related to more stringent emission and energy standards, as well as more efficient or restrictive building codes.

It is unclear what the Appellant is referring to in regards to their claims of deferred mitigation measures and implementation of mitigation measures required by code. None of the Alternative's mitigation measures allow for deferral and the Alternative would be required to comply with all mitigation measures and code requirements.

The Appellant states that the EIR failed to study potentially significant impacts to mountain lions. As stated on Page IV.C-9, Section IV.C Biological Resources, of the Draft EIR, a biological survey was completed for a 7.2-acre Biological Study Area to document the existing biological conditions on the 3.8-acre Project Site and surrounding area. No special status species, including mountain lions, were found during the biological survey. As noted in the Draft EIR's biological resources analysis, the Project Site is currently developed, and construction of the Wellness Pavilion will not extend beyond the developed area of the Campus into open space or wildlands, and therefore will not result in bringing additional development or people into wildland areas. While Alternative 5 will result in an expansion of the required brush clearance area relative to existing conditions, the expanded fuel modification area includes 2.8-acres of vegetated, undeveloped slopes to the east and west of the Project Site. Of these 2.8-acres, 1.9 acres are disturbed vegetation that are currently subject to fuel modification requirements, 0.5-acres are laurel sumac scrub and 0.4-acres are greenbark ceanothus chaparral. Because they are adjacent to existing fuel modification activities, these areas are of marginal quality to support any wildlife, including mountain lions. The EIR's biological analysis was thus complete with respect to impacts to wildlife, including potential impacts to mountain lions.

The Appellant contends that the EIR failed to identify a significant VMT impact. This statement is false and not supported by substantial evidence. As explained below and as previously addressed in the Staff Recommendation Report (Pages A-28 and A-29) changes to the CEQA Guidelines requiring local agencies to analyze traffic impacts using vehicle miles traveled (VMT) instead of level of service (LOS), the metric used in the Draft EIR's Traffic Study, took effect on July 1, 2020. To implement the use of VMT, the LADOT has developed Transportation Assessment Guidelines (TAG) screening criteria that apply to any project that did not receive approval of requested entitlements prior to July 1, 2020. LADOT's TAG screening criteria provide that a project is not required to analyze VMT if it does not generate a net increase of 250 or more daily vehicle trips. As explained on pages B-5 and B-6 of Appendix B to the Final EIR, Alternative 5 would generate approximately 81 average daily weekday vehicle trips, and would therefore have no impacts with respect to VMT. Further, because Alternative 5 would incorporate PDF-TRAF-18, reducing total trips generated by the Campus, and overall trip lengths would not be increased as a result of Alternative 5, Alternative 5 would result in a reduction in total VMT generated by the Campus to below 2016 levels. Therefore, Alternative 5's VMT impacts would be less than significant.

The Appellant is referred to the discussion above regarding wildfire impacts and Staff Response 1-1 regarding emergency access and evacuation of the Campus. As discussed therein, there would be no impacts related to emergency access during construction and/or operation of the Wellness Pavilion. LAFD is familiar with the Campus from their many visits to the Campus for emergency response planning and coordination, as well as the November 2019 Getty Fire. With implementation of the recommended on-site improvements required by LAFD, along with any additional recommendations to be made during later reviews of the Project, all of which involved improvements within the Project Site, impacts to fire protection services would be reduced to an acceptable level. With respect to mountain roads, Fire Station 19 Engine Company is equipped to manage mountain roads and the types of fires that occur in wildland areas.

The Appellant alleges that the EIR understates and misclassifies impacts due to the inclusion of PDFs which should have been mitigation measures for the following issue areas: aesthetics, air

quality, biological resources, geology, greenhouse gas emissions, hydrology and water quality, and transportation. Further, the Appellant notes that impacts in the following categories, which included PDFs and mitigation measures, were also underestimated: noise, transportation and traffic, scenic resources, light and glare, consistency with the applicable air quality plan, air quality standard violation plan, cumulative increase of criteria pollutants in a nonattainment area, sensitive receptor exposure to pollutant concentrations, and consistency with local policies and ordinances for protection of biological resources. Finally the Appellant claims that impacts to the following categories would have been significant if the PDFs were accurately categorized as mitigation measures: exacerbation of existing hazardous environmental conditions, soil erosion/loss of topsoil, unstable geological unit/soils, expansive soils, greenhouse gas emissions, alteration of draining patterns, stormwater drainage systems/pollutants, fire and police protection, construction traffic impacts at intersection and street segments, and energy infrastructure and consumption. However, the Appellant fails to provide any any justification or substantial evidence to support these claims. The EIR prepared for the Original Project and Alternative 5 analyzed all potential impacts and disclosed all significant and unavoidable impacts associated with the Original Project and Alternative 5. Inclusion of the Wellness Pavilion's PDFs and mitigation measures did not result in impacts being underestimated as claimed by the Appellant.

The Appellant provides a list of impact categories and specific thresholds for which impacts were determined to be less than significant and states that the impact has been understated due to implementation of the applicable PDFs and thus recirculation of the EIR is required. The Appellant is directed to the response above which demonstrates that the PDFs primarily serve to reinforce regulatory measures or to identify features that are integral to the project's design or capacity assumptions, and which do not serve as mitigations needed to reduce impacts. Thus recirculation of the EIR is not required.

The Appellant states that the EIR is fatally flawed given MSMU's past behavior regarding lack of compliance with operational limitations. The issue regarding Enforceability of Project Design Features, Mitigation Measures, and Conditions of Approval was initially responded to in the Staff Recommendation Report (Pages A-31 and A-32). A summary is provided below for the record.

With respect to the enforceability of PDFs, PDFs, like mitigation measures, are included in a project's Mitigation Monitoring Program (see Section IV, Mitigation Monitoring Program, of the Final EIR). MSMU will be required to provide documentation to demonstrate compliance with Alternative 5's mitigation measures, PDFs, and Conditions of Approval prior to permits being issued by Planning staff. As such, as with mitigation measures, PDFs are fully enforceable.

Additionally, in regard to the Transportation PDFs introduced in the Final EIR as part of Alternative 5, prior to publication of the Final EIR, Planning and LADOT staff reviewed and vetted the Transportation PDFs. Further, several operational PDFs include enforcement components. For example, PDF-TRAF-10, which requires that MSMU provide a parking reservation/ticketing system to track the number of outside vehicles; the parking system can be audited by LADOT at any time. PDF-TRAF-18, which requires MSMU to reduce the number of average daily trips to one percent below the 2016 baselines conditions will also require biannual monitoring reports be submitted to LADOT for the first five years and thereafter every five years. Finally, separate from the CEQA requirement of enforceability of a Mitigation Monitoring Program, the City's standard project conditions include the enforcement of the entirety of the Mitigation Monitoring Program.

The Los Angeles Department of Building and Safety is responsible for enforcement of the Code, however Planning staff will be responsible for verifying compliance with the MMP prior to issuing permits for Alternative 5. Thus, prior to the issuance of permits, Staff will require documentation and agreements demonstrating that MSMU must comply with the operational Transportation PDFs which require MSMU to provide biannual monitoring reports.

Regarding conditions of approval, in accordance with LAMC Section 12.24 F (which Alternative 5 will be subject to), “The Department shall have the authority to conduct inspections to verify compliance with any and all conditions imposed on any conditional use or other similar quasi-judicial approval granted pursuant to this section...If upon inspection, the Department finds that the applicant has failed to comply with conditions of any conditional use or other similar quasi-judicial approval granted pursuant to this section, the Department shall give notice to the business operator or property owner to correct the specific deficiencies and the time in which to complete the correction. Evidence of compliance shall be submitted to the Department within the specified correction period. If the deficiencies are not corrected with the time prescribed by the Department, revocation proceedings pursuant to Subsection Z of this section may commence.”

Further LAMC Section 12.24 Z states, “If the applicant fails to comply with the conditions of any conditional use or other similar quasi-judicial approvals granted pursuant to this section, the Director or the appropriate Area or City Planning Commission (if the approval or conditional use was granted by an Area or City Planning Commission), upon knowledge of the fact of non-compliance, may give notice to the record owner or lessee of the real property affected to appear at a time and place fixed by the Area or City Planning Commission or Director and show cause why the decision granting the approval of conditional use should not be repealed or rescinded.” Thus the Appellant’s claim that any assumptions in the EIR that MSMU will comply with PDFs and mitigation measures is contrary to substantial evidence is incorrect.

The Appellant’s allegation that the Project is a commercial event center and that the size and use is inappropriate for the Campus is false and not supported by substantial evidence. This issue was initially responded to in the Staff Recommendation Report (Pages A-48 and A-49). A summary is provided below for the record.

The new events proposed under the Wellness Pavilion will not lead to a further commercialization of the Campus. Many, if not most, educational institutions rent their facilities for temporary events and/or uses such as filming. Further, a similar concern was raised in the 1995 Revocation Request letter submitted on behalf of the Brentwood Homeowners Association and the Bundy/Norman Place Committee. At that time, the Department did not find any merit in the claim and stated, “The educational content of classes at universities and colleges has historically and consistently been broadly defined to not limit educational curiosity and inquiry. The fact that a few classes cited obviously would not have been intended for undergraduates of the school is not contrary to the fact that such classes are routinely offered at other colleges in the area.” The new events that will be held at the Wellness Pavilion are consistent with event types held on other university and college campuses.

Under Alternative 5, three new event types will be permitted at the Wellness Pavilion: Summer Sport Camps, Health and Wellness Speaker Series and Other Wellness/Sports Activities. Club Sports, which is an existing activity offered by MSMU, will also be permitted. With respect to Summer Sports Camps, these are in alignment with the concept of health and wellness. The Health and Wellness Speaker Series and Other Wellness/Sports Activities are educational in nature. Pursuant to CPC-1952-4072-CU-PA1 Condition No. 12(a) Other Wellness/Sports Activities are the only new event in which MSMU will be able to rent the Wellness Pavilion to an outside party. Thus contrary to the Appellant’s statements the Wellness Pavilion will not result in the construction/operation of a commercial event center.

The Appellant states that traffic impacts associated with the proposed new events improperly rely on PDFs to ultimately conclude that impacts will be less than significant. As discussed above, this statement is inaccurate and the Alternative’s transportation PDFs should not have been classified as mitigation measures as the PDFs primarily serve to reinforce regulatory measures or to identify features that are integral to the project’s design or capacity assumptions, and which do not serve as mitigations needed to reduce impacts.

The Appellant claims that the City does not conduct the required mitigation monitoring/compliance enforcement and the PDFs and mitigation measures lack any penalty (for MSMU) for non-compliance or provisions for a mitigation monitor who is responsible to the surrounding residences. This issue of enforcement of PDFs, mitigation measures, and conditions of approval was previously addressed in the Staff Recommendation Report (Pages A-31 and A-32). As noted therein, in accordance with LAMC Section 12.24 F “The Department shall have the authority to conduct inspections to verify compliance with any and all conditions imposed on any conditional use or other similar quasi-judicial approval granted pursuant to this section...If upon inspection, the Department finds that the applicant has failed to comply with conditions of any conditional use or other similar quasi-judicial approval granted pursuant to this section, the Department shall give notice to the business operator or property owner to correct the specific deficiencies and the time in which to complete the correction. Evidence of compliance shall be submitted to the Department within the specified correction period. If the deficiencies are not corrected with the time prescribed by the Department, revocation proceedings pursuant to Subsection Z of this section may commence.”

Further LAMC Section 12.24 Z states, “If the applicant fails to comply with the conditions of any conditional use or other similar quasi-judicial approvals granted pursuant to this section, the Director or the appropriate Area or City Planning Commission (if the approval or conditional use was granted by an Area or City Planning Commission), upon knowledge of the fact of non-compliance, may give notice to the record owner or lessee of the real property affected to appear at a time and place fixed by the Area or City Planning Commission or Director and show cause why the decision granting the approval of conditional use should not be repealed or rescinded.”

In response to the Appellant’s claim that MSMU has past behavior with lack of compliance with operational limitations, as noted in the CPC Staff Recommendation Report (Pages A-48 through A-49), the City did investigate issues raised in a 1995 Revocation Request and at that time, the Department did not find any merit in the claims cited in the revocation request. Additionally, the Appellant fails to provide any substantial evidence to support their claim.

Lastly, the Appellant contends that recirculation of the EIR is required as Alternative 5 will result in significant unmitigated impacts to native habitat, the VMT analysis fatally flawed, the Final EIR Appendix B fails to recognize significant cumulative impacts, Alternative 5 will introduce new uses into a VHFHSZ, Alternative 5 will result in significant cumulative impacts, the required water pressure for the appropriate fire flow has not been demonstrated, the Wellness Pavilion will result in an increase in fire risk for the area, evacuation of the Campus, the inclusion of the wildfire impact category in Appendix B of the Final EIR, and the significant cumulative impacts on the mountain lion species. The Appellant’s claims are incorrect, not supported by substantial evidence, but are responded to for the record below.

Regarding a VMT analysis, as previously stated, LADOT determined that Alternative 5 does not meet the VMT analysis threshold of 250 new daily trips because based upon the frequency of new events and the trip caps, Alternative 5 will generate approximately only 81 average daily weekday vehicle trips under a worst-case scenario.

Appendix B of the Final EIR was included for informational purposes only as the CEQA Guidelines Appendix G Thresholds were revised in December 2018 (after publication of the Draft EIR) and included the Wildfire impact category. The revised CEQA Guidelines only apply to steps in the CEQA process not yet completed by December 28, 2018.

Contrary to the Appellant’s statements, the Alternative will not introduce new uses to the Campus. The Campus will continue to operate as a university. Alternative 5 will replace MSMU’s existing gym and pool with a new 35,500 square foot gym and pool. The Campus is located in a VHFHSZ

and Alternative 5 will be required to comply with all LAFD requirements for sites located in a VHFHSZ. Further, LAFD's Inter-Departmental Correspondence letters confirmed that the required fire flow needed is 4,000 gpm. As stated in Section IV.J.1, Fire Protection, of the Draft EIR, the hydrant system (four hydrants flowing simultaneously) serving the Project Site would have a total of 4,452 gpm, which would exceed the Fire Code's minimum requirement of 4,000 gpm, and residual psi's ranging from 88 to 163, which would exceed the Code's minimum requirement of 20 psi.

The Appellant has failed to demonstrate how the decision-makers have erred and abused their discretion in approving the project and certifying the EIR and therefore the appeal point should be denied.

#### Appeal Statement 2-5

#### ***The Conditions of Approval are problematic.***

*The Appellant provides a list of Conditions of Approval and reasons as to why the Conditions are deficient.*

#### Staff Response 2-5

The Appellant claims that the MSMU Fire Road is not appropriate for emergency access (the Fire Road is restricted for emergency access only in Condition of Approval No. 7). As stated in the Staff Recommendation Report and as discussed Section IV.J.1, Fire Protection, of the Draft EIR, emergency access for fire personnel and equipment would be available via the MSMU fire road. With regard to the MSMU fire road, this road is maintained by the Getty on the portion located on Getty property and by MSMU on that portion located on MSMU property, in accordance with LAFD requirements. The LAFD inspects the fire road on a regular basis and reports any issues to MSMU or the Getty regarding road conditions that need to be addressed. LAFD, MSMU, and the Getty have keys to MSMU's fire road entrance. Having been recently used by the LAFD during the November, 2019 Getty Fire, there is no indication that the MSMU fire road is not suitable for LAFD emergency access.

In the event of an emergency, LAFD would decide how the road would be used. The LAFD also has right of access to private, gated roads through the Mountaingate Subdivision that connect to the MSMU Fire Road. The purposes of the fire road in the Project area is to provide secondary access for the LAFD for the movement of engine units and other fire-fighting equipment, as needed. It would be atypical and highly unlikely that the road would be used for the evacuation of non-fire-fighting personnel. Thus, the MSMU Fire Road will be used by LAFD when necessary and is appropriate for emergency access by LAFD. The Appellant claims that a previous letter submitted by Wildfire Defenseworks demonstrates that the fire road is not appropriate for emergency access. The Wildfire Defenseworks letter, dated October 18, 2021, alleges that, "Evacuation is significantly hampered by the lack of a feasible secondary access route. The FEIR indicates that the evacuation plan provides for evacuations to the north of MSMU campus via the Mt. St. Mary's Fire Road. This dirt road is inadequate as a traditional evacuation path for several reasons. First, the road surface itself is not well maintained, and many vehicles, whether buses or passenger vehicles, would be unable to safely traverse the trail. In addition, should this route be needed for emergency equipment to gain access to the north side of the campus, there is inadequate room to accommodate two-way traffic on this narrow dirt road. Further, the Fire Road exits into the Mountaingate Community, whose residents may also need to utilize the road to evacuate. Therefore, the route is compromised due to the inadequate road surface from a stability standpoint, as well as inadequate ability to provide for access and egress to occur simultaneously."

This statement is incorrect. In Section IV.J.1, Fire Protection, of the Draft EIR, the fire road which is partially maintained by MSMU and partially maintained by The Getty, is discussed under the

existing conditions subheader. Specifically, in regards to the discussion of the MSMU Emergency Access and Response Plan the discussion states, "During events that would require the evacuation of the Campus, the Command Center would coordinate directly with the LAFD for the most appropriate routing of evacuees. Available shuttles would be used as well as multiple occupancy of private vehicles. Evacuation would occur to the east on Chalon Road to Norman Place and via Norman Place to Bundy Drive and to Sunset Boulevard; or to the west on Chalon Road to Bundy Drive and via Bundy Drive to Sunset Boulevard. The Project Site is also accessible by fire emergency vehicles from the Mt. Saint Mary's fire road. The fire road runs between the Campus and the Mountain Gate subdivision to the north of the crest of the Santa Monica Mountains and terminates at the north end of the Campus. The fire road provides LAFD access to undeveloped open space areas within the Santa Monica Mountains" (Page IV.J.1-18). The Appellant's reference to the Wildfire Defenseworks Letter and the Letter's allegation that the EIR stated that the Mt. Saint Mary's fire road would be used by the public to evacuate the Campus is false. Further, the Wildfire Defenseworks claim that the Mt. Saint Mary's fire road is inadequate and cannot be used by emergency vehicles is also invalid. As stated in the Staff Recommendation report (Pages A-41 and A-42) and as discussed Section IV.J.1, Fire Protection, of the Draft EIR, emergency access for fire personnel and equipment would be available via the Mt. Saint Mary's fire road, a physical continuation of MSMU's driveway off-Campus to the north, or via the Getty Fire Road, which is a continuation of Chalon Road to the east. With regard to the Mt. Saint Mary's fire road, this road is maintained by the Getty on the portion located on Getty property and by MSMU on that portion located on MSMU property, in accordance with LAFD requirements. The LAFD inspects the fire roads on a regular basis and reports any issues to MSMU or the Getty regarding road conditions that need to be addressed. LAFD, MSMU, and the Getty have keys to MSMU's fire road entrance. Having been recently used by the LAFD during the November, 2019 Getty Fire, there is no indication that the MSMU fire road is not suitable for LAFD emergency access.

Finally in regards to providing access to the Mountaingate Subdivision, as noted in the Staff Recommendation Report and EIR, the Mt. Saint Mary's fire road does not connect to a public street through the Mountaingate Subdivision (a residential development north of the Campus) and Stoney Hill Road, the roadway that the Mt, Saint Mary's fire road terminates at, is a private road. While all designated fire roads, including the Mt. Saint Mary's Fire Road, are gated and locked, keys are held by the LAFD and the property owner, with use and access to be determined by the LAFD. In the event of an emergency, LAFD would decide how the road would be used. The LAFD also has right of access to private, gated roads through the Mountaingate Subdivision that connect to the Mt. Saint Mary's Fire Road. The purposes of the fire roads (Mt. Saint Mary's Fire Road and the Getty Fire Road) in the Project area are to provide secondary access for the LAFD for the movement of engine units and other fire-fighting equipment, as needed. It would be atypical and highly unlikely that the road would be used for the evacuation of non-fire-fighting personnel."

The Appellant raises a number of issues with Condition of Approval No. 12, included in the Staff Recommendation Report. The Appellant claims that under Condition of Approval No. 12, MSMU will be able to rent/lease the Wellness Pavilion for "Other Wellness/Sports Activity Events" provided a fee is not charged. This is an incorrect statement. As noted in Condition No. 12a. "Renting/Leasing. Rental or lease of the Wellness Pavilion is not permitted, with the exception of Other Wellness/Sports Activities Events. The term "rental of facilities" is dependent upon the payment of a fee; for example, the use by homeowner or civic groups is permitted if MSMU does not charge a fee to use the Wellness Pavilion." As stated in the Condition, "A total of 12 Other Wellness/Sports Activities Events are permitted annually." The Appellant correctly notes that Condition No. 12 does not establish a maximum number of Club Sport Events and that the Club Sport Events are not limited to only faculty and students, however PDF TRAF-12 imposes a 310

outside guest vehicle trip cap and PDF TRAF-16 requires that Club Sports Events be scheduled during the week and not prior to 7:30 PM.

The Appellant claims that while Condition No. 12 restricts the start and end times for Other Wellness/Sports Activities, Health and Wellness Speaker Series Events and Club Sports, this restriction does not ensure that individuals will not access the Campus during peak hours. This statement is inaccurate. PDF TRAF-11 restricts the start and end times for the Other Wellness/Sports Activities or Health and Wellness Speaker Series events to not be scheduled with start times between 7 to 9:30 AM and 4 to 7:30 PM or end times between 6:30 to 9 AM or 3:30 to 7 PM to ensure that attendees are not travelling to the Campus at this time. It should be noted that Club Sports are not a new event as MSMU currently offers volleyball and basketball club sports practices and games (which currently practice and play games off-site). Once the Wellness Pavilion is constructed, practices and games for MSMU's existing club sports, basketball and volleyball, will be permitted throughout the school year on weekdays after 7:30 PM and anytime on weekends. The Appellant notes that Condition No. 12 does not prohibit the Summer Sports Camps from beginning or ending during the AM and PM peak hours and instead relies on a Campus entry reservation system to ensure the peak hour trips will not exceed the assumptions in the EIR, noting that there has been no showing that this will feasibly restrict peak hour trips. As the Wellness Pavilion is not operational, there is no substantial evidence or justification to show that the Parking and Transportation Management Plan will not be able to restrict peak hour trips. The Transportation PDFs implemented as part of Alternative 5 will require the establishment of a Parking and Transportation Management Plan which will establish vehicle trip caps and restrict new events' start and end times to be outside of the AM/PM peak hours. Further the Parking and Transportation Management Plan will be able to track the number of outside vehicles and can be audited by LADOT at any time.

The Appellant states that Condition of Approval No. 13c requires that a complaint log shall be kept but does not require that complaints be resolved, provide any mechanism for the community to enforce the PDFs and mitigation measures, to require City enforcement, or to impose a penalty for failure to resolve complaint issues. This statement is inaccurate as Condition No. 13c reads, "A complaint log shall be kept and include the complainant's name, date and time of complaint, phone number, the nature of the complaint, the date and time of the response of the complaint, and a description of how the issue was responded to or resolved. Record of all complaints must be maintained on the premise. Information on how the public can report concerns or complaints shall be posted online on the school's website, and prominently at the school visible from the public right of way, 10 days prior to the beginning of each school year for public reference." Additionally, in regards to City enforcement of conditions of approval, in accordance with LAMC Section 12.24 F (which Alternative 5 will be subject to), "The Department shall have the authority to conduct inspections to verify compliance with any and all conditions imposed on any conditional use or other similar quasi-judicial approval granted pursuant to this section...If upon inspection, the Department finds that the applicant has failed to comply with conditions of any conditional use or other similar quasi-judicial approval granted pursuant to this section, the Department shall give notice to the business operator or property owner to correct the specific deficiencies and the time in which to complete the correction. Evidence of compliance shall be submitted to the Department within the specified correction period. If the deficiencies are not corrected with the time prescribed by the Department, revocation proceedings pursuant to Subsection Z of this section may commence." Further LAMC Section 12.24 Z states, "If the applicant fails to comply with the conditions of any conditional use or other similar quasi-judicial approvals granted pursuant to this section, the Director or the appropriate Area or City Planning Commission (if the approval or conditional use was granted by an Area or City Planning Commission), upon knowledge of the fact of non-compliance, may give notice to the record owner or lessee of the real property affected to appear at a time and place fixed by the Area or City Planning Commission or Director and

show cause why the decision granting the approval of conditional use should not be repealed or rescinded.”

The Appellant alleges that Environmental Condition of Approval No. 1 which reads, “Implementation. The Mitigation Monitoring Program (MMP), attached as Exhibit E and part of the case file, shall be enforced throughout all phases of the Project. The Applicant shall be responsible for implementing each Project Design Features (PDF) and Mitigation Measure (MM) and shall be obligated to provide certification, as identified below, to the appropriate monitoring and enforcement agencies that each PDF and MM has been implemented. The Applicant shall maintain records demonstrating compliance with each PDF and MM. Such records shall be made available to the City upon request,” demonstrates that the City has no intention of conducting independent mitigation monitoring and enforcement. This is an incorrect assumption and not supported by substantial evidence. As stated in Section IV, Mitigation Monitoring Program of the Final EIR, “This MMP shall be enforced throughout all phases of the Project. MSMU shall be responsible for implementing each PDF and mitigation measure and shall be obligated to provide certification, as identified below, to the appropriate monitoring and enforcement agencies that each PDF and MM has been implemented. MSMU shall maintain records demonstrating compliance with each PDF and mitigation measure. Such records shall be made available to the City upon request. During the construction phase and prior to the issuance of building permits, MSMU shall retain an independent Construction Monitor (either via the City or through a third-party consultant), approved by the Department of City Planning, who shall be responsible for monitoring implementation of PDFs and mitigation measures during construction activities consistent with the monitoring phase and frequency set forth in this MMP. The Construction Monitor shall also prepare documentation of MSMU’s compliance with the PDFs and mitigation measures during construction every 90 days in a form satisfactory to the Department of City Planning. The documentation must be signed by MSMU and Construction Monitor and be included as part of MSMU’s Report. The Construction Monitor shall be obligated to immediately report to the Enforcement Agency any non-compliance with the MMs and PDFs within two businesses days if MSMU does not correct the non-compliance within a reasonable time of notification to MSMU by the monitor or if the non-compliance is repeated. Such non-compliance shall be appropriately addressed by the Enforcement Agency.”

Thus, Prior to issuance of any permits MSMU will be required to demonstrate compliance with applicable conditions, PDFs, and mitigation measures and as stated above, LADOT will be able to audit the Parking and Transportation Management Plan at any time. Finally, if MSMU is found to be in non-compliance with any conditions, PDFs, and/or mitigation measures, the Department has the authority to conduct inspections to verify compliance, give notice to MSMU to correct the deficiencies and the time in which to complete the correct; if MSMU fails to comply with the conditions, PDFs, and/or mitigation measures, the Director may repeal and/or rescind the applicable approvals. Thus, the Appellant’s claim that MSMU will not comply/enforce the conditions, PDFs, and/or mitigation measures is not supported by substantial evidence.

The Appellant claims that Environmental Condition of Approval No. 3 allows for substantial rather than strict conformance with the Alternative’s PDFs and mitigation measures and it would be inappropriate and contrary to CEQA for the City to allow modification or deletion of a PDF or mitigation measure without public notice and/or hearing. It should be noted that there have been no changes to the conditions, PDFs, or mitigation measures since certification of the EIR and approval of the Alternative. Further, contrary to the Appellant’s statement that Condition No. 3 inappropriately allows for substantial conformance rather than strict adherence, as stated in the Final EIR, Section IV. Mitigation Monitoring Program, “After review and approval of the final MMP by the Lead Agency, minor changes and modifications to the MMP are permitted, but can only be made subject to City approval. The Lead Agency, in conjunction with any appropriate agencies or departments, will determine the adequacy of any proposed change or modification. This flexibility is necessary in light of the nature of the MMP and the need to protect the environment.

No changes will be permitted unless the MMP continues to satisfy the requirements of CEQA, as determined by the Lead Agency.

The Project shall be in substantial conformance with the PDFs and mitigation measures contained in this MMP. The enforcing departments or agencies may determine substantial conformance with PDFs and mitigation measures in the MMP in their reasonable discretion. If the department or agency cannot find substantial conformance, a PDF or mitigation measure may be modified or deleted as follows: the enforcing department or agency, or the decision maker for a subsequent discretionary project related approval finds that the modification or deletion complies with CEQA, including CEQA Guidelines Sections 15162 and 15164, which could include the preparation of an addendum or subsequent environmental clearance, if necessary, to analyze the impacts from the modifications to or deletion of the PDFs or mitigation measures. Any addendum or subsequent CEQA clearance shall explain why the PDF or mitigation measure is no longer needed, not feasible, or the other basis for modifying or deleting the PDF or mitigation measure, and that the modification will not result in a new significant impact consistent with the requirements of CEQA. Under this process, the modification or deletion of a PDF or mitigation measure shall not, in and of itself, require a modification to any Project discretionary approval unless the Director of Planning also finds that the change to the PDF or mitigation measure results in a substantial change to the Project or the non-environmental conditions of approval.”

Lastly, the Appellant states that the inadvertent discovery of tribal cultural resources does not require that construction workers be trained and/or that a qualified person be onsite during construction of the Alternative. As noted in Section IV.L Tribal Cultural Resources, of the Draft EIR, the Project would not cause an impact to known tribal cultural resources and impacts would be less than significant. In the unlikely event that buried tribal cultural resources are encountered during construction, the Applicant will be required to comply with the City’s standard Conditions of Approval for the treatment of inadvertent tribal cultural resource discoveries. These standard City conditions require the immediate halt of construction activities in the vicinity of the discovery, the coordination with a Qualified Archaeologist, Native American tribes, and the City, and for the development and implementation of appropriate measures for treating the discovery. As a result, Project impacts to unknown tribal cultural resource would be less than significant with compliance to the City’s standard conditions of approval regarding Tribal cultural resources.

As the Conditions of Approval for the project are adequate, clear, and enforceable, this appeal point should be dismissed.

#### Appeal Statement 2-6

#### ***The Alternative is not consistent with the Conditional Use.***

*The Appellant alleges that the new events associated with the Wellness Pavilion will violate the 1952 conditions and that the Wellness Pavilion will be used for events which are not a school use involving educational subjects which are in conformance with the State Educational Code, religious services, or religious activities and thus are not necessary to provide the comprehensive health and wellness services to students.*

#### Staff Response 2-6

It is not clear from the Appellants statement which 1952 conditions the proposed new events will violate. Condition No. 3 of the 1952 approval reads, “That this grant shall only apply to a school use involving educational subjects which are in conformance with the State Educational Code, religious services, or religious educational activities.” The City previously responded to this issue

in the Staff Recommendation Report (Pages A-48 and A-49). The response is provided below for the record.

The California State Educational Code is a compilation of regulations for California Kindergarten through 12<sup>th</sup> grade public schools. Further, the condition does not indicate that MSMU cannot rent its facilities. Many, if not most, educational institutions rent their facilities for temporary events and/or uses such as filming. The new events that will be held at the Wellness Pavilion are consistent with event types held on other university and college campuses.

Under Alternative 5, three new event types will be permitted at the Wellness Pavilion: Summer Sport Camps, Health and Wellness Speaker Series and Other Wellness/Sports Activities. Club Sports, which is an existing activity offered by MSMU, will also be permitted. With respect to Summer Sports Camps, these are in alignment with the concept of health and wellness. The Health and Wellness Speaker Series and Other Wellness/Sports Activities are educational in nature. Pursuant to CPC-1952-4072-CU-PA1 Condition No. 12(a) Other Wellness/Sports Activities are the only new event in which MSMU will be able to rent the Wellness Pavilion to an outside party. Thus the events held at the Wellness Pavilion will not violate the 1952 conditions and will be in compliance with the objectives of the Project, and the appeal point should be dismissed

#### Appeal Statement 2-7

***The required findings cannot be made.***

*The Appellant states that the findings associated with the CPC and ZA approvals fail to accurately describe the true Project impacts and that the findings required for the requested entitlements cannot be made, including the findings for the Plan Approval, Height Determination, and Zoning Administrator Determination regarding the amount of grading and number of retaining walls.*

#### Staff Response 2-7

The Staff Recommendation Report included all of the required findings for the requested entitlements. The Appellant states that the first finding required by LAMC Section 12.24 E, "That the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region," cannot be made because the Wellness Pavilion is not essential/beneficial to the community, city or region and the additional traffic associated with the Alternative will not be beneficial to the community. The Appellant's statement is inaccurate as both the Staff Recommendation Report (Pages F-1 through F-6) include this specific finding for the requested entitlements, including the Plan Approval, Determination for Height Modification, and Zoning Administrator Determination for Grading and the number and height of retaining walls.

Additionally, the Appellant's claim that the Wellness Pavilion will create additional traffic is unfounded as concurrent with the issuance of a Certificate of Occupancy for the Wellness Pavilion, MSMU shall limit average daily total Campus vehicle trips, inclusive of trips generated by the Wellness Pavilion, to one percent below the 2016 baseline trip counts taken for the Campus (a reduction of 22 average daily trips).

The Appellant contends that second finding required by LAMC Section 12.24 E, "The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood or the public health, welfare and safety," cannot be made because the EIR concluded that the Alternative will result in significant and unavoidable impacts that will adversely affect the surrounding neighborhood and public health, welfare, and safety. The Appellant's statement is inaccurate as the Staff Recommendation Report (Pages F-7 through F-13) included this specific finding for the requested entitlements, including the Plan Approval, Determination for Height Modification, and

Zoning Administrator Determination for Grading and the number and height of retaining walls. The construction and operation of Alternative 5 will result in significant and unavoidable impacts as concluded in the EIR. Specifically Alternative 5 will result in significant construction noise impacts related to off-site construction truck trips along Chalon Road, during the Alternative's concrete pour phase; significant cumulative construction groundborne vibration impacts related to human annoyance; and construction traffic impacts regarding neighborhood street segments. Nevertheless, the Statement of Overriding of Considerations, included in Section IX of the Alternative's CEQA Findings, were adopted by the City and thus the City found that each of Alternative 5's benefits outweigh and override the Alternative's significant and unavoidable impacts.

The Appellant claims that the third finding required by LAMC Section 12.24 E, "That the project substantially conforms with the purpose, intent, and provisions of the General Plan, the applicable community plan, and any applicable specific plan," cannot be made because the Wellness Pavilion will exceed the permitted height, as well as the permitted grading amount and number and height of permitted retaining walls. Further, the Appellant provides a list of Goals, Objectives, and Policies from the City's General Plan Framework Element and the Brentwood-Pacific Palisades Community Plan, stating that the Alternative is not consistent with them. The Appellant's statement is inaccurate as the Staff Recommendation Report (Pages F-13 through F-28) includes this specific finding for the requested entitlements, including the Plan Approval, Determination for Height Modification, and Zoning Administrator Determination for grading and the number and height of retaining walls. Additionally, all of the Goals, Objectives, and Policies cited by the Appellant were included in the finding and supported by substantial evidence.

The Appellant alleges that the additional findings required by LAMC 12.24 X.28 cannot be made. Specifically, the first finding that "the project is in conformity with the public necessity, convenience, general welfare, and good zoning practice," as the Wellness Pavilion is not a public necessity, will harm the general welfare by locating a new facility and intensifying uses on a Campus with inadequate emergency access, the facility will be out of scale and does not comply with the permitted maximum height, and will require excessive grading amounts in addition to an increased number of retaining walls. The Appellant's statement is inaccurate as the Staff Recommendation Report (Pages F-28 through F-30) include this specific finding for the requested Zoning Administrator Determination for Grading and the number and height of retaining walls. As stated in the findings "...Alternative 5's operational restrictions will ensure that the general welfare of the surrounding community is not impacted with the interim outside guest vehicle trips associated with events held at the Wellness Pavilion" and "The Campus exists as a "deemed to be approved" conditional use with subsequent plan approvals, allowing for an educational use in the residential zone. Continuation of the school use and improvement of the site with upgraded athletic and wellness activities is consistent with good zoning practice. As such, the project is in conformity with the public necessity, convenience, general welfare and good zoning practice."

Additionally, as part of the Alternative's requested entitlements, pursuant to LAMC Section 12.24 F, MSMU requested a determination to permit a building height of 42 feet (for the Wellness Pavilion), in lieu of the maximum height of 30 feet otherwise permitted by LAMC Section 12.21 C; a Zoning Administrator Determination to permit a total of 9,343 cubic yards of grading in lieu of the maximum by-right cut and fill amount of 6,600 cubic yards as permitted by LAMC Section 12.21 C; and a Zoning Administrator Determination for an allowance of 12 retaining walls per lot, ranging in height from two feet to a maximum of up to 17 feet, in lieu of the maximum limit of one retaining wall per lot and maximum height limit of 12-feet as permitted by LAMC Section 12.21 C

The Appellant claims that findings related to the Zoning Administrator Determination case were inadequate. As the Appellant did not file an appeal on the ZAD case, this appeal point should be denied. Nonetheless, the following responses are provided for informational purposes only:

The Appellant claims that the second finding required by LAMC Section 12.24 X.28, "The action will be in substantial conformance with the various elements and objectives of the General Plan," cannot be made because of the reasons cited in regards to the third finding required for LAMC Section 12.24 E. The Appellant is referred to Staff's response above regarding the third finding for LAMC 12.24 E.

The Appellant claims that third finding required by LAMC Section 12.24 X.28, "That the grading in excess of the absolute maximum Grading quantities is done in accordance with the DCP Planning Guidelines Landform Grading Manual and is used to reflect the original landform and result in minimum disturbance to natural terrain. Notching into hillside is encouraged so that projects are built into natural terrain as much as possible, cannot be made as the Wellness Pavilion will be located atop a ridgeline in a VHFHSZ and that the Wellness Pavilion design necessitates a flat and level building pad to be able to accommodate the operation of the building," cannot be made as the Campus is located along a ridgeline and in a VHFHSZ, but provides no substantial evidence as to why these two characteristics prohibit the finding from being made. The Appellant's statement is inaccurate as the Staff Recommendation Report (Pages F-30 and F-31) included this specific finding. Further, in regards to complying with the Department's Planning Guidelines Landform Grading Manual, as clearly stated in the finding, "the Landform Grading Manual includes Specific Techniques for varying slope ratios, drainage devices, streets and sidewalks, and Hillside maintenance plans. The Project will comply with the guidelines contained in the Landform Grading Manual as appropriate." In regards to the need for a flat and level building pad, the Alternative will be required to comply with the City's Department of Building and Safety regulations and applicable Zoning Code requirements.

The Appellant claims that the fourth finding required by LAMC Section 12.24 X.28, "That the increase in the maximum quantity of earth import or export will not lead to the significant alteration of the existing natural terrain, that the hauling of earth is being done in a manner that does not significantly affect the existing conditions of the Street improvements and traffic of the streets along the haul route; and that potentially significant impacts to the public health, safety and welfare of the surrounding community are being mitigated to the fullest extent feasible, cannot be made because the EIR concluded that the Alternative will result in significant and unavoidable impacts related to construction noise, construction traffic, and cumulative vibration impacts related to human annoyance. The Appellant's statement is inaccurate as the Staff Recommendation Report (Pages F-31 and F-32) included this specific finding. Further, as noted in the specific findings, the analysis and conclusion of the Original Project's construction traffic impacts was a conservative approach as LADOT never adopted construction traffic thresholds and the Alternative has complied with CEQA in that all feasible mitigation measures and/or alternatives were considered that can reduce significant impacts to a level of less than significant and thus all of the Alternative's significant impacts are being mitigated to the fullest extent feasible.

The Appellant's claim that the EIR underestimates the Alternative's construction and operational impacts is also inaccurate. The Appellant is referred to Staff Response 2-4 which clarifies that the EIR conclusions are accurate.

The Appellant alleges that the first finding required by LAMC 12.24 X.26, "That while site characteristics or existing improvements make strict adherence to the zoning regulations impractical or infeasible, the project nonetheless conforms with the intent of those regulations," cannot be made as the Wellness Pavilion could be reduced in size to comply with the LAMC. It should be noted that under Alternative 5, the Wellness Pavilion will be reduced in size by 2,500 square feet. MSMU has requested the required entitlements (i.e., a Height Determination in accordance with LAMC Section 12.24 F and a Zoning Administrator Determination to permit modifications to the total grading amount permitted as well as the total number and height of retaining walls permitted. The Appellant's statement is inaccurate as the Staff Recommendation

Report (Pages F-32 and F-33) included this specific finding and demonstrates that the Alternative nonetheless conforms with the intent of the zoning regulations.

The Appellant claims that the second finding required by LAMC 12.24 X.26, "That in light of the project as a whole, including any mitigation measures imposed, the project's location, size, height, operations, and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety," cannot be made as the Project will result in a number of significant impacts that the EIR has failed to identify and as a result the Project will adversely affect the surrounding neighborhood, public health, and welfare and safety. The Appellant's statement is inaccurate as both the Staff Recommendation Report (Page F-33) included this specific finding. The Appellant is referred to Staff Response 2-4 which clarifies that the EIR conclusions are accurate.

The Appellant claims that the third finding required by LAMC 12.24 X.26, "That the project is in substantial conformance with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan," cannot be made as the General Plan and Community plan do not identify the need for a Wellness Pavilion to be located on the MSMU Campus. The Appellant's statement is inaccurate as the Staff Recommendation Report (Pages F-13 through F-28) demonstrated the Alternative's substantial conformance with the General Plan and Brentwood-Pacific Palisades Community Plan.

The appropriate entitlement and CEQA findings were made in approval of the project and therefore the appeal point should be denied.

#### Appeal Statement 2-8

***The decision-makers erred or abused their discretion.***

*The Appellant's conclusion relies on similar statements to those made in the introduction of the appeal justification as to why CPC erred in their discretion.*

#### Staff Response 2-8

The Appellant is referred to Staff Response 2-1.

### **APPELLANT 3: BUNDY CANYON ASSOCIATION**

#### Appeal Statement 3-1

***The Findings for the Plan Approval, Determination and Zoning Administrator's Determinations cannot be made.***

*The Appellant asserts that the decision-maker erred when concluding that the required findings for the requested entitlements can be made, specifically that, "the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region," and that "the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety."*

#### Staff Response 3-1

The Staff Recommendation Report included all necessary findings for the requested Plan Approval and Building Height Determination. Specifically, in accordance with LAMC Section 12.24 E Finding 1a and b (Pages F-1 through F-6) the findings demonstrate how the Wellness Pavilion will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region. Additionally, Finding 2a and b (Pages F-7 through F-12) confirmed that the Wellness Pavilion's

location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

The Appellant alleges that there is no evidence in the record that demonstrates that the project is essential or beneficial to the community, or will enhance the built environment. However as noted in Finding 1a and b, "The Wellness Pavilion will provide a practice facility to accommodate MSMU's club sport practices and games, fostering an improved educational experience and eliminating operational challenges by removing the necessity of locating club sport practices and games off-site. Accordingly, Alternative 5 will allow MSMU to continue providing the essential and beneficial service of a private educational institution in the Brentwood Community... Alternative 5 will also enhance the built environment in the surrounding neighborhood by creating a visually unified Campus with buildings and landscaping that respect the scale and character of the surrounding area. The Wellness Pavilion as proposed under Alternative 5 will demolish outdated fitness facilities and construct a building that includes a colonnade of columns and glazing, differentiating the ground level from the second level, and creating a pleasing pedestrian environment. The ground floor colonnade element will preserve the color, proportions and rhythm of the typical gothic arch colonnades found throughout Campus, while the second story will be constructed out of glazed glass allowing for the infiltration of natural light and reducing the demand on artificial lighting. The typical clay tile roof forms of older on Campus buildings will be reinterpreted as an expansive ceiling (an inverted roof) bringing the texture and color found on the clay roofs inside the building."

Further, as stated in the Staff Recommendation Report (Page F-5), "While the Project Site is located in the RE40-1-H Zone and subject to the LAMC single-family zone hillside development standards, MSMU has operated on the site since 1929. The continued use of the Campus and the proposed physical and operational components that will occur under Alternative 5 will be consistent with the intent of the Land Use Element of the General Plan which permits schools in residential zones including the nearby Archer School for Girls which has a land use of Very Low II Residential and Medium Residential and R3-1 and RE1-1 zones and Brentwood School which has a land use of Very Low II Residential and RE11-1 and RE15-1 zones.

Accordingly, for the reasons discussed above, Alternative 5 will enhance the built environment on the Campus and will not impact the built environment of the surrounding neighborhood. Further, Alternative 5 will provide students, faculty, staff, with a modernized fitness/educational facility and wellness programming to encourage physical activity, to educate students on nutrition and health, and result in an upgraded and regionally competitive university campus."

The Appellant contends that the Project will create a risk to public safety due to the Site being located in a VHFHSZ with inadequate roadway infrastructure. The Appellant is directed to Staff Response 1-1. As the decision maker did not err or abuse its discretion in adopting the appropriate entitlement findings, the appeal point should be denied.

#### Appeal Statement 3-2

#### ***The City's environmental review is legally flawed.***

*The Appellant alleges that the EIR is legally flawed in that the analysis understates the Alternative's impacts by relying on PDFs which should have been classified as mitigation measures.*

#### Staff Response 3-2

The Appellant is referred to Staff Response 2-4 which provides details regarding Alternative 5's mitigation measures and PDFs.

**APPELLANT 4: BERNADETTE AND TIM LEIWEKE, BARBARA AND RICHARD BERMAN, VICTOR ANTOLA, AND MARY AND DAVID VENA**

Appeal Statement 4-1

***The findings and particularly the Final EIR, attempt to dismiss the issue of maximum permitted enrollment and fail to account for the foreseeable cumulative effects of enrollment.***

*The Appellant asserts that the EIR draws a false and misleading characterization of the relationship between enrollment and the Project and that this failure of the EIR to account for the ultimate enrollment and associated impact analysis prevents the public and decision-makers from understanding the impacts and the effectiveness of the mitigation measures and PDFs.*

Staff Response 4-1

The Appellant contends that future increases in student enrollment are reasonably foreseeable and the EIR failed to consider both indirect and cumulative impacts of future increases in enrollment, as well as increased enrollment at the Campus' Doheny campus where students could travel to the Chalon Campus for classes. The Appellant is directed to Staff Response 1-6 regarding student enrollment. As stated in the EIR, the construction/operation of the Wellness Pavilion will not increase student enrollment but will require the addition of one new staff person. The EIR does not take any position on the maximum permitted student enrollment and the Draft EIR correctly utilized the existing 2016 student enrollment of 1,498 students (which is consistent with the NOP date) to form the baseline conditions. Thus construction/operation of the Wellness Pavilion will not result in an increase in student enrollment.

As the operation of the Wellness Pavilion will not result in an increase in student enrollment there is no justification for speculating what future impacts may arise from an action that is not a component of the Alternative.

Appeal Statement 4-2

***The proposed measures to control traffic contain no enforcement measures of any kind.***

*The Appellant alleges that the traffic PDFs and mitigation measures, specifically the vehicle trip caps and AM/PM peak hour restrictions are not enforceable as they either do not require implementation or provide no consequences or remedy in the event the measures are not complied with.*

Staff Response 4-2

The Appellant claims that PDF TRAF-18, which will require that MSMU limit average daily total Campus vehicle trips, inclusive of trips generated by the Wellness Pavilion to one percent below the 2016 baseline trip counts taken for the Campus, must clarify whether the feature will apply to future enrollment increases. PDF TRAF-18 clearly states that the one percent reduction in vehicle trips is based on the 2016 baseline trips and thus any increase/decrease in student enrollment will not change the overall reduction in vehicle trips. Further, as noted above, the Wellness Pavilion will not result in an increase in student enrollment.

The Appellant is directed to Staff Response 2-4 regarding the enforceability of the Wellness Pavilion's PDFs and mitigation measures. The Appellant states that PDFs TRAF-12, TRAF-13, and TRAF-18 do not include an enforcement mechanism. PDF TRAF-12 establishes a vehicle trip cap for Other Wellness/Sports Activities, Health and Wellness Speaker Series events, and Club Sports activities while PDF TRAF-13 sets AM and PM peak hour vehicle trip caps for Summer Sports Camps. As noted above, PDF TRAF-18 will require MSMU to limit average daily total Campus vehicle trips.

The Appellant states that the PDFs must define disciplinary procedures if MSMU fails to comply with the Alternative's operational thresholds and that none of the mitigation measures and/or Conditions of Approval provide for any enforcement of the traffic limitations. The Appellant is directed to LAMC Section 12.24 F (which Alternative 5 is subject to), "The Department shall have the authority to conduct inspections to verify compliance with any and all conditions imposed on any conditional use or other similar quasi-judicial approval granted pursuant to this section...If upon inspection, the Department finds that the applicant has failed to comply with conditions of any conditional use or other similar quasi-judicial approval granted pursuant to this section, the Department shall give notice to the business operator or property owner to correct the specific deficiencies and the time in which to complete the correction. Evidence of compliance shall be submitted to the Department within the specified correction period. If the deficiencies are not corrected within the time prescribed by the Department, revocation proceedings pursuant to Subsection Z of this section may commence."

Further LAMC Section 12.24 Z states, "If the applicant fails to comply with the conditions of any conditional use or other similar quasi-judicial approvals granted pursuant to this section, the Director or the appropriate Area or City Planning Commission (if the approval or conditional use was granted by an Area or City Planning Commission), upon knowledge of the fact of non-compliance, may give notice to the record owner or lessee of the real property affected to appear at a time and place fixed by the Area or City Planning Commission or Director and show cause why the decision granting the approval of conditional use should not be repealed or rescinded." Thus the City has established procedures in place if an applicant fails to comply with PDFs, mitigation measures, and/or Conditions of Approval, and the appeal point should be denied.

#### Appeal Statement 4-3

##### ***The Final EIR defers mitigation.***

*The Appellant claims that PDF TRAF-4, a PDF that will require MSMU to develop a Campus access plan when the school is in session during construction of the Wellness Pavilion, is deferred mitigation.*

#### Staff Response 4-3

As explained in Chapter III, Revisions, Clarifications, and Corrections, Alternative 5 incorporates modified versions of PDFs TRAF-1 and TRAF-2 which incorporate all of the substantive provisions of the Original Project's PDF TRAF-4. PDF TRAF-4 originally required MSMU to develop a construction access plan to ensure access to the Campus for construction workers, faculty, staff, and students when construction of the Wellness Pavilion and operation of the school are concurrent. PDF TRAF-1 which will require MSMU to implement a Construction Traffic Management Plan that includes street closure information, detour plans, and staging plans to be submitted and approved by LADOT. MSMU will be required to provide a Construction Traffic Management Plan, approved by LADOT, prior to issuance of a permit. The Appellant has failed to provide any substantial evidence demonstrating that the PDF is deferred mitigation. Further, it should be noted that the PDF is not being implemented to mitigate a potentially significant impact. As such, the appeal point should be denied.

#### Appeal Statement 4-4

##### ***The proposed restrictions applicable to external events will require events to be held during the evening hours where safety and noise impacts are more pronounced.***

*The Appellant notes that under Alternative 5 the new Other Wellness/Sport Activities or Health and Wellness Speaker Series events shall not be scheduled with end times between 3:30-7 PM and alleges this could result in noise and safety impacts.*

#### Staff Response 4-4

The Appellant's statement that noise and safety impacts will be increased with events ending in the evening is incorrect. The EIR prepared for the Original Project and Alternative 5 analyzed noise and safety impacts. Section IV.I Noise, in the Draft EIR, analyzed all associated operational noise impacts associated with the Original Project while Section III, Revisions, Clarifications, and Corrections of the Final EIR (Page III-59) provided additional operational noise impacts associated with the operation of Alternative 5. As noted, the Original Project was estimated to increase the ambient noise level by approximately 1.3 dBA at the nearest noise-sensitive receptor, which is less than the significance threshold of a 5 dBA increase for a location that currently experiences "normally acceptable noise levels."

Thus, operational impacts under Alternative 5 would be similar or incrementally less because of reduced traffic, a smaller building resulting in a reduction in on-site mechanical equipment, and the elimination of the parking structure. As such, composite on-site operational noise under Alternative 5 would not result in exposure of sensitive receptors to noise levels in excess of standards established by the L.A. CEQA Thresholds Guide and the City's noise regulations. Both Project-related and Alternative 5-related operational noise impacts would be less than significant.

Regarding the Appellant's concern over road safety, as noted in the Final EIR, Section II Response to Comments (Page II-533), "The applicable CEQA criterion for road safety, included in the current Appendix G of the CEQA Guidelines, was analyzed in the Initial Study prepared for the Draft EIR, which assessed the Project's potential to "[s]ubstantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)" and found that the Project would cause no environmental impacts within this category. (Initial Study, p. B-34) With the implementation of PDF-TRAF-18 under Alternative 5, total daily vehicle trips, inclusive of trips generated by the Wellness Pavilion, would be maintained to one percent below the 2016 trip counts (existing conditions). Because of the one percent reduction in existing traffic conditions, Alternative 5 could improve road safety compared to current conditions. As such, noise and safety impacts were adequately analyzed, were found to be less than significant, and the appeal point should be denied.

#### Appeal Statement 4-5

***The Project's treatment of wildfire is inadequate, and the EIR and determination letters failed to respond to comments from experts.***

*The Appellant claims that the MSMU shelter in place strategy lacks enforcement and provide an analysis of the failure of the EIR to adequately address these issues and that mitigation measures must be incorporated to effectively address the noted issues.*

#### Staff Response 4-5

The Appellant is directed to Staff Response 1-1 regarding fire access and evacuation of the Campus.

The Appellant is directed to Staff Response 1-2 regarding the inclusion of the CEQA Wildfire thresholds for informational purposes only.

The Appellant attached a letter issued by The McMullen Company, Inc dated October 1, 2021 to their appeal justifications. A majority of the issues included in the letter dated October 1, 2021 submitted by the Appellant were responded to in the Final EIR. Please see Section II, Responses to Comments, Final EIR, Response to Comment Chatten-Brown and Carstens for Bundy Canyon Association (CHATTEN-1. Specifically Response to Comment Chatten-1 9 and Chatten-1 70 which addresses the text of the McMullen letter). Responses to the letter dated October 1, 2021 are provided below for the record.

The Appellant asserts that information provided in the Final EIR was prepared by personnel not familiar, nor fully qualified, to render fire and life safety guidelines. This statement is incorrect. As noted in the Staff Recommendation Report (Pages A-39 and A-40) and Staff Response 1-1 above, Planning Staff met with LAFD Inspector Miller, Chief Hogan and Chief Zimmerman in August 2020 to discuss MSMU's shelter in place policy and when individuals on the Campus would be permitted to leave. Additionally, the Draft EIR analysis was based on the three LAFD Inter-Departmental Correspondence letters dated October 17, 2017, March 15, 2018, and April 3, 2018, all of which are included as part of Appendix H, in the Draft EIR. Lastly, Chief Hogan attended the Public Hearing for the Original Project and Alternative held on July 14, 2021.

The Appellant provides a list of past fires that have occurred in the surrounding area and alleges that the following conditions are necessary to maintain a safe environment: "1. Effective emergency access; Ingress of emergency vehicles and egress of residents, MSMU students, MSMU personnel, MSMU guests, and MSMU contractors/delivery personnel/occupants; 2. Functioning and effective emergency plans and procedures for the MSMU campus; and 3. Continuous fuel modification/brush clearance meeting the necessary and code requirements. It should be noted that in regards to the past fires that have occurred in the area, a similar list was provided in Appendix B of the Final EIR.

Regarding the Appellant's request for a condition that provides effective emergency access, as stated above and in the Staff Recommendation Report (Page A-40) LAFD is familiar with the Campus from their many visits to the Campus for emergency response planning and coordination, as well as the November 2019 Getty Fire. LAFD has confirmed that, with the implementation of recommended on-site improvements listed in the interdepartmental letters (included in the Draft EIR) along with any additional recommendations to be made during later permitting of the Project, impacts to fire protection services would be reduced to an acceptable level. With respect to mountain roads, Fire Station 19 Engine Company is equipped to manage mountain roads and the types of fires that occur in wildland areas. The Appellant states that the surrounding streets are below standards especially when street parking is permitted. It is not clear what standards the Appellant is referring to, however the Appellant is directed to Staff Responses 1-1 regarding the accessibility and existing conditions of the surrounding roadways. Further as noted in the Section IV.J.1, of the Draft EIR, LAFD policies also allow for parking restrictions under a Red Flag Alert Program. Red Flag Alerts may be enforced when winds are stronger than 25 mph, and humidity is less than 15 percent within the VHFHSZ. Under the Red Flag Alert Program, the LAFD may determine that parking on one or both sides of a street would create a hazard to life or property by interfering with emergency vehicle access and resident evacuation during a major brush fire. As such, the City of Los Angeles Department of Transportation (LADOT) is authorized to install and maintain at that place signs giving notice that no person shall park a vehicle during a Red Flag Alert. LADOT is further authorized to include notice, on any sign that prohibits the parking of vehicles on Red Flag days, that vehicles parked in violation of the sign may be removed. Roadways within the VHFHSZ include Chalon Road east of Bundy Drive, Chalon Road west of Norman Place, and Norman Place north of Bundy Drive.

The Appellant states that "MSMU should be mandated to implement immediate campus closure of all roads and control student pedestrian access and implement shelter in place when any wildland fire, storm, or earthquake occurs, until specific fire department direction can be received." The Appellant is directed to Staff Responses 1-1 above regarding the MSMU Chalon Campus shelter in place policy and evacuation plan. The Appellant contends that MSMU must improve secondary access to the Campus via the Mt. Saint Mary's fire road. The Appellant is directed to Staff Response 2-5 above regarding LAFD's maintenance of the fire road and permitted access. The Appellant requests that the MSMU Emergency Plan mandate that activities on Campus be canceled if an evacuation order is issued prior to an event. As stated in Appendix B of the Final EIR, "As with activities anywhere on Campus, activities at the Wellness Pavilion would be canceled if an evacuation order is issued prior to an event, whether preemptive by MSMU or

ordered by LAFD for the Brentwood Community.” The Appellant contends that MSMU should be mandated to provide a construction traffic officer who will communicate daily with LAFD and MSMU and will ultimately control construction traffic and stop construction traffic in the event of an emergency. The Appellant is directed to PDF TRAF-1 which will require MSMU to implement a Construction Traffic Management Plan which among other things will include, coordination with the City and emergency service providers to ensure adequate access is maintained to the Project Site and neighboring residences at all times; MSMU to attend bi-monthly (or at a frequency determined appropriate by City Staff) construction management meetings conducted by City Staff and the operators or contractors for the Archer School for Girls and the Brentwood School to coordinate the periods of heaviest construction activity in order to avoid overlapping hauling activities; and for MSMU to provide advance notification to LADOT, the Archer School for Girls, the Brentwood School, and St. Martin of Tours School of its upcoming construction activities, including durations and daily hours of construction, providing sufficient notice to forewarn students and parents/guardians when existing pedestrian and vehicle routes to school may be impacted. The Appellant is directed to Staff Response 1-7 regarding the distance of the nearest LAFD engine and truck company. In regards to the Appellant’s statement alleging that there is no practical means to ensure LAFD/LAPD have priority use of roadways in congested conditions, the Appellant provides no justification for their statement and as noted in Section IV.J.1, of the Draft EIR, emergency services have the first right to the use of roadways during high priority calls, may use sirens to clear a path of travel, drive in lanes of opposing traffic, and bypass signals and stopped traffic.

The Appellant provides three requirements that they claim are needed for the MSMU Emergency Plan to effectively function. As stated in Staff Responses 1-1 and the Staff Recommendation Report (Page A-40), regarding MSMU’s Chalon Campus emergency plans and procedures, LAFD confirmed that after the 2019 Getty Wildfire, MSMU submitted an Emergency Response Plan as well as met with LAFD to ensure moving forward better practices are implemented. In addition to its Emergency Response Plan, MSMU also maintains a Chalon Wildfire Emergency Plan that was developed in consultation with LAFD to ensure appropriate action during wildfires. The Appellant is directed to Staff Response 1-1 above regarding the MSMU Chalon Campus’ Emergency Response plan.

The Appellant claims that MSMU should be required to implement a brush clearance inspection program with an independent and qualified inspection firm and failure to comply with brush clearance requirements shall result in a six-month cancellation of all special non-school hour’s activities, and remain in effect until MSMU complies with the required brush clearance. LAFD regulates brush clearance requirements. As stated in Section IV.J.1, Fire Protection, of the Draft EIR and in the Staff Recommendation Report (Page A-36), Alternative 5 will require operational fuel modification activities where periodic thinning and/or removal of vegetation will occur. Pursuant to LAFD’s brush clearance requirements, MSMU will be required to maintain a 200-foot fuel modification buffer around the Wellness Pavilion. A total of up to 3.4-acres to the east, west, and south of the Project Site are within the 200-foot fuel modification buffer around the Wellness Pavilion. MSMU will be required to comply with LAFD’s Fire Code brush clearance requirements applicable to properties located in a VHFHSZ, specifically Los Angeles Fire Code Section 57.322.1 for general brush clearance, including vegetation within 100 feet of buildings (Section 57.322.1.1.1), trees within 100 feet of buildings (Section 57.322.1.1.2), road clearance (Section 57.322.1.1.6), and a second 100-foot fuel modification zone in which all hazardous vegetation and other combustible growth within the first 100 feet surrounding structures be cleared (Section 57.322.1.1.7). In accordance with Section 57.322.1.1.1, any dead trees would be removed from the property and all weeds and other vegetation would be maintained at a height of no more than three inches, if such weeds or other vegetation are within 100 feet of a building. Trees and shrubs (not ornamental landscaping) less than 18 feet in height would be trimmed up 1/3 their height. Thus, the Appellant’s suggested additional conditions are not necessary, as regulatory requirements exist to ensure appropriate brush clearance.

The Appellant is directed to Staff Responses 1-1 regarding the Campus being located in a VHFHSZ. The Project's impacts related to wildfire were adequately addressed in the EIR, mitigation program, and will be subject to other regulatory requirements, and the appeal point should be denied.

Appeal Statement 4-6

***The City cannot override the significant effects that the Draft EIR understated or failed to disclose, avoid, or reduce.***

*The Appellant states that the examples provided above demonstrate substantial deficiencies regarding the Wellness Pavilion EIR and thus the City must revise the EIR to provide a complete analysis of the Alternative.*

Staff Response 4-6

Contrary to the Appellants statements, the EIR fully disclosed the Original Project and Alternative's significant and unavoidable impacts. No revisions and/or recirculation of the EIR are necessary as explained in the Staff Recommendation Report (Pages A-29 and A-30). As such, the appeal point should be denied.

**APPELLANT 5: TIMOTHY D. REUBEN AND STEPHANIE I. BLUM**

Appeal Statement 5-1

***The CPC failed to adequately consider and address the concerns of the Appellant in approving Alternative 5.***

*The Appellant asserts that the CPC did not consider and address the Appellant's concerns or the concerns of other Brentwood residents and thus CPC erred or abused their discretion in approving Alternative 5.*

Staff Response 5-1

The Appellant provides a conclusory statement in lieu of a detailed list of justifications and provides no substantial evidence that CPC erred in their discretion in approving Alternative 5, and comments and concerns from the community have been addressed in multiple documents, including but not limited to the Draft EIR, Final EIR, and CPC Staff Recommendation Report. The CPC approvals included all necessary conditions and findings for the requested Plan Approval and Building Height Determination and certification of the EIR. The appeal point should be denied.

Appeal Statement 5-2

***Alternative 5 will have serious adverse effects and consequences with respect to health, safety, and welfare of both the students of MSMU and the Brentwood residents.***

*The Appellant states that due to the proximity of their home to the MSMU Chalon Campus, the Appellant has observed the vehicle traffic accessing the Chalon Campus. Further, the Appellant asserts that Alternative 5 will have serious adverse effects and consequences with respect to health, safety, and welfare for MSMU students and Brentwood residents.*

Staff Response 5-2

In regards to existing vehicle traffic generated by students, faculty, staff, and visitors accessing the Campus, in compliance with CEQA, the Draft EIR existing conditions were based on the Project's Traffic Study which was prepared pursuant to a Memorandum of Understanding with the Los Angeles Department of Transportation (LADOT). Existing traffic conditions including daily vehicle counts at study area intersections and neighborhood streets as well as the baseline

vehicle trips during the school year and summer months were provided in the Draft EIR, Section IV.K Transportation and Traffic.

As described in the Staff Recommendation Report (Page F-27) Alternative 5 will include construction and operational components to minimize disturbance to the existing traffic flow. Regarding construction of the Wellness Pavilion, Alternative 5's temporary construction period will be a total of 20 months and be comprised of seven phases: (1) Site Preparation; (2) Demolition; (3) Grading; (4) Concrete Pour; (5) Building Construction-Structural Steel; (6) Building Construction-Framing/Walls/Finishes; and (7) Paving. In accordance with PDF TRAF- 1, MSMU will be required to prepare and submit a Construction Traffic Management Plan to the City of Los Angeles Department of Transportation (LADOT) for approval. The Construction Traffic Management Plan will disclose street closure information, detour plans, haul routes, staging plans, require that access be maintained for surrounding residences, prohibit haul truck staging on surrounding roadways and truck loading and unloading, schedule construction related deliveries (excluding concrete related deliveries) between the hours of 7 AM and 3 PM to avoid PM peak hours, coordination with emergency service providers to ensure adequate access to the Campus and surrounding neighborhood is provided at all times, require MSMU to attend bimonthly construction management meetings with City staff, Archer School for Girls and Brentwood School to avoid overlapping hauling activities, provide advance notice to LADOT and the surrounding schools of upcoming construction activities and post a hotline on Campus, including at the entrance to the Campus, to provide the public with a number to call to report noncompliance with the Construction Traffic Management Plan. Additionally, PDF-TRAF-2 will require MSMU to prepare a Construction Parking Plan prior to issuance of a building permit. The Construction Parking Plan shall identify temporary on Campus parking areas for students, faculty, staff and construction workers and requires that all construction workers park on Campus. Thus Alternative 5 includes features to minimize its construction activities disturbance to existing traffic flow and will provide on-site parking for all construction workers.

Additionally, as stated in the Final EIR, Section III Revisions, Clarifications, and Corrections (Page III-65), with implementation of MM TRAF-1, which establishes a maximum of 37 passenger car equivalent (PCE) trips and six inbound PCE trips during each peak individual hour of the PM peak hour (4 PM to 6 PM), would reduce intersection capacity impacts during construction to a less than significant level. No feasible mitigation measures are available to address the Alternative's significant daily construction impacts at neighborhood street segments and the Alternative will result in significant and unavoidable traffic impacts during peak hours of construction at three street segments: Bundy Drive north of Norman Place, Chalon Road east of Bundy Drive, and Bundy Drive north of Sunset Boulevard. Nevertheless, the Statement of Overriding of Considerations, included in Section IX of the Alternative 5's CEQA Findings, was adopted by the City and thus the City found that each of Alternative 5's benefits outweigh and override the Alternative's significant and unavoidable impacts.

In regard to operational activities, as explained in the Staff Recommendation Report (Pages F-27 and F-28) Alternative 5 will implement maximum daily vehicle trip caps for the Health and Wellness Speaker Series, Other Wellness/Sports Activities, Summer Sports Camps, and Club Sports activities. Under Alternative 5, the maximum daily outside guest vehicle trips for Health and Wellness Speakers Series, Other Wellness/Sports Activities, and Club Sports activities will be restricted to a total of 310 (155 inbound and 155 outbound) (PDF TRAF-12). The daily total will be applicable to all types of vehicles, including shuttles, as further specified in PDF TRAF- 12. PDF-TRAF-11 will restrict the start and end times of these events such that no trips will be generated during peak periods. Summer Sports Camps will be limited to 236 daily trips (118 inbound and 118 outbound), with the requirement of shuttles or carpools when attendance would exceed 50 campers per day during peak periods (PDF-TRAF-14). Other vehicle trip limitations will apply to certain peak hours as included in PDF-TRAF-13. Finally, concurrent with the issuance of a Certificate of Occupancy for the Wellness Pavilion, MSMU shall limit average daily total

Campus vehicle trips, inclusive of trips generated by the Wellness Pavilion, to one percent below the 2016 baseline trip counts taken for the Campus (a reduction of 22 average daily trips). Overall trip reductions shall be confirmed through trip counts conducted for at least two weeks each year (two in the spring semester and two in the fall semester) to the satisfaction of LADOT. Biannual monitoring reports documenting the trip counts shall be provided to LADOT until such reports demonstrate compliance for five consecutive years and thereafter every five years. Thus, as part of the operation of the Wellness Pavilion, MSMU will implement the operational components summarized above and eliminate all peak hour outside guest vehicle trips for Health and Wellness Speaker Series, Other Wellness/Sports Activities and Club Sports, and place caps on total daily outside guest vehicle trips. Lastly, Alternative 5 will reduce the number of average daily vehicles accessing the Campus, as compared to 2016 conditions, by limiting the average daily total Campus vehicle trips, inclusive of trips generated by the Wellness Pavilion events, to one percent below the 2016 baseline trip counts taken for the Campus.

Thus the traffic generated during the Alternative's construction and/or operational activities will not adversely affect or degrade adjacent properties, the surrounding neighborhood, or public health, welfare and safety.

In regards to the health, safety, and welfare of students and residents, the Appellant provides a general statement but does not state a specific concern or provide justification as to how Alternative 5 will impact the health, safety, and welfare of students and/or residents. Alternative 5's entitlements require that the following finding be made, "The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety."

As stated in the CPC Staff Recommendation Report (Page F-7) Alternative 5 will replace the Chalon Campus' inadequate and outdated existing fitness and recreation facilities and include the construction and operation of a two-story 35,500 square-foot Wellness Pavilion, a new outdoor pool area, improvements to an internal roadway new landscaping, and three new surface parking lots. MSMU's current fitness and recreation facilities are not properly sized or proportioned to accommodate the physical education needs of its Campus. The Campus' existing fitness facilities include a pool area, two tennis courts, a Facilities Management building (a single-story 1,470 square-foot building) constructed in 1952, and a 1,030 square-foot Fitness Center building that was constructed in 1949. The Wellness Pavilion will provide students, faculty, staff, with a modernized fitness/educational facility and wellness programming to encourage physical activity and to educate students on nutrition and health and allow MSMU to continue providing the essential and beneficial service of a university. The location, size, height, and operations of Alternative 5 will not adversely affect or degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety. The Wellness Pavilion and Project Site is located entirely within a developed area of the Campus and will be replacing older facilities. Alternative 5 will result in the expansion of the Project Site's 200-foot fuel modification zone into 0.9-acres of native plant communities, however due to the proximity of the 200-foot fuel medication zone to developed areas of the Campus, the new fuel modification area is already subject to indirect biological resource effects associated with Campus activities, and would therefore not adversely affect or degrade the portion of the Campus site or adjacent properties. The nearest residences to the Project Site are located along Bundy Drive, to the north of the Bundy Drive/Chalon Road intersection. These residences are sited approximately 300 feet below the Project Site.

As described in detail in the CPC Staff Recommendation Report (Page F-8) the new Wellness Pavilion will not encroach upon or adversely impact existing visual resources, including the surrounding undeveloped open space, the Circle, and the Campus's historic buildings but will result in a compatible visual interface between the residence hall to the north and the lower

Campus while creating a visual break between the Wellness Pavilion's modernist architecture and the Spanish Colonial Revival architecture of the Campus Circle. Additionally Alternative 5's construction and/or operational activities will not adversely affect or degrade adjacent properties, the surrounding neighborhood, or public health, welfare and safety. As such, the appeal point should be denied.

#### Appeal Statement 5-3

***The Appellant asserts that the decision-maker erred due to the failure to adequately address three significant issues: student enrollment, fire safety, and traffic.***

*The Appellant states that MSMU is violating their Conditional Use Permit by exceeding the permitted student enrollment and the Letter of Determination and EIR fails to account for fire safety and traffic impacts associated with the larger student enrollment.*

#### Staff Response 5-3

As discussed in detail in the Final EIR (Pages II-62 through II-64) and CPC Staff Recommendation Report (Page A-43), the Draft EIR relied on the existing student enrollment to form the baseline conditions and Alternative 5 will not increase student enrollment but will require the addition of one new staff person. The Draft EIR properly utilized the 2016 student enrollment (1,498 students) at the Chalon Campus to establish the environmental baseline against which Alternative 5 impacts were evaluated. This approach is consistent with the CEQA Guidelines. Further, the EIR analysis is more conservative because it assumes a higher student enrollment number as compared to 2020-2021 conditions, which has seen decreased enrollment. The Appellant is directed to Staff Response 1-6 for additional information regarding the Conditional Use and enrollment.

Regarding fire safety, as discussed in the CPC Staff Recommendation Report (Page A-38), Section IV.J.1, Fire Projection, of the Draft EIR analyzed impacts to fire protection and emergency services, specifically whether the Wellness Pavilion would result in substantial impacts that would require the construction of fire facilities, the construction which could cause significant environmental effects. Analysis of construction and operational impacts which considered factors such as existing facilities and equipment, response distance and emergency access, fire flow, and the location of the Project Site in a VHFHSZ, determined that Alternative 5 will not result in substantial adverse physical impacts that would require new or expanded fire facilities at both the project and cumulative level. Additionally, in response to previous comments regarding the City of Los Angeles Fire Department's Protection of the Campus, Evacuation of the Campus, and Emergency Access to the Campus, these topics were thoroughly discussed in the Final EIR and CPC Staff Recommendation Report (Pages A-38 through A-41).

The Appellant notes that "Appendix B of the Final EIR fails to indicate any independent review of its findings." It is unclear if the Appellant is referring to the Wildfire discussion (Pages B-8 through B-17) or the entire appendix. As a point of clarification, the EIR has been prepared by an independent consultant under contract with the City of Los Angeles Department of City Planning, who is the Lead Agency for the Project. The EIR has been prepared in compliance with CEQA and the CEQA Guidelines which expressly allow the lead agency to "[a]ccept a draft prepared by the applicant, a consultant retained by the applicant and/or any other person." (CEQA Guidelines Section 15084(d)(3)). Moreover, in compliance with CEQA and the CEQA Guidelines, the Department of City Planning subjected the EIR to its own review and analysis, and the City is "responsible for adequacy and objectivity of the Draft EIR." (CEQA Guidelines Section 15084(e)).

Regarding traffic impacts, the Appellant is referred to Staff Response 5-2 which provides detailed information regarding the existing and future traffic conditions including during construction and operation of Alternative 5. The Appellant claims that, "...there is no evidence that the traffic analysis was independently reviewed by traffic experts or anyone other than parties interested in ensuring approval of Alternative 5." This is a false statement as LADOT issued an MOU dated

April 4, 2018 (included in Appendix I of the Draft EIR) concluding that the traffic study adequately describes the impacts.

Further, with respect to Transportation and Traffic impacts, the Draft EIR studied the Project's traffic impacts using the level of service (LOS) criteria, which involved an analysis of whether the Project would contribute to delays at area intersections and cause congestion on nearby individual street segments. On July 1, 2020, changes to the CEQA Guidelines took effect which require local agencies to analyze traffic impacts using vehicle miles traveled (VMT) instead of LOS. LADOT adopted Transportation Assessment Guidelines (TAG) screening criteria which provide that a project is not required to analyze VMT if it does not generate a net increase of 250 or more daily vehicle trips. As explained in Chapter III, Revisions, Clarifications, and Corrections, of the Final EIR, Alternative 5 would fall below the 250 weekday vehicle trips per day threshold.

A discussion of the potential VMT impacts of Alternative 5 are provided in Appendix B to the Final EIR. However, to provide a clear comparison to the Project's traffic analysis contained in the Draft EIR, a complete analysis of Alternative 5's traffic impacts using the LOS criteria was provided. That analysis is provided Chapter III, Revisions, Clarifications, and Corrections, of the Final EIR.

The Appellant has failed to substantiate claims that the City Planning Commission erred or abused its discretion in approving the project, and the appeal point should be denied.

Finally, the Appellant included previously submitted letters dated July 13, 2021 and October 19, 2021. The issues raised in each letter are similar and note the Site's location in a VHFHSZ, the roadway characteristics, distance from the nearest fire station, exceedance of maximum permitted student enrollment, and incorrectly states that Alternative 5's construction period would be 22 months (Alternative 5 will require a 20 month construction period). The issues raised in both letters were responded to in the Final EIR, CPC Staff Recommendation Report, and/or the above staff appeal responses.

## **CONCLUSION**

Upon careful consideration of the appeals, staff has determined the Appellants' objections lack merit and do not demonstrate that the City erred or abused its discretion in certifying the EIR and approving the Project. In addition, no new substantial evidence was presented that the City has erred in its actions relative to the EIR and the associated entitlements; nor was any new information to dispute the Findings of the EIR or the CPC's actions on this matter.

Therefore, staff recommends that the appeals be denied and that the actions of the City Planning Commission to approve Case No. CPC-1952-4072-CU-PA1 be sustained.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning



Kathleen King  
City Planner

VPB:LW:MN