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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-S1**

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. ZA-2017-928-ZAD approved 1) a Zoning Administrator Determination to permit a total of 9,343 cubic yards of grading (cut and fill), in lieu of the maximum permitted cut and fill amount of 6,600 cubic yards otherwise permitted by LAMC Section 12.21 C.10(f)(1) and 2) a Zoning Administrator Determination to permit the following modification to the number and height of retaining walls at the Site: a) an allowance of 12 retaining walls per lot in lieu of the maximum limit of one retaining wall per lot otherwise permitted by LAMC Section 12.21 C.8 and b) a total of 12 retaining walls ranging in height from two feet to a maximum height of up to 17 feet in lieu of the permitted 12-foot height limit otherwise permitted by LAMC Section 12.21 C.8 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) Bundy Canyon Association (Representative: Jamie T. Hall, Channel Law Group, LLP and 2) 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).

The appeals pertain to the EIR, California Environmental Quality Act (CEQA) and the findings and conditions applicable to the grading and number and height of retaining walls 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: BUNDY CANYON ASSOCIATION

Appeal Statement 1-1

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 1-1

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 1-2

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 1-2

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

APPELLANT 2: BERNADETTE AND TIM LEIWEKE, BARBARA AND RICHARD BERMAN, VICTOR ANTOLA, AND MARY AND DAVID VENA

Appeal Statement 2-1

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 2-1

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 2-2

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 2-2

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 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 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 2-3

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 2-3

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 2-4

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 2-4

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 2-5

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 2-5

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 2-6

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 2-6

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.

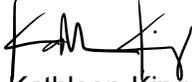
CONCLUSION

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. ZA-2017-928-ZAD be sustained.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Kathleen King
City Planner

VPB:LW:MN