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July 14, 2005

VIA U.S. MAIL

Chairman Wayne Rew and Members of the Los Angeles
County Regional Planning Commission
Los Angeles County Regional Planning Commission
Hall of Records, Room 1390
320 West Temple Street
Los Angeles, California 90012

Re: County Project No. 98-062, SCH No. 98101060 (Heschel West School) –
Comments on the Revised Draft EIR for Heschel West School

Honorable Chairman and Members of the Commission:

I serve as City Attorney for the City of Agoura Hills (“the City”). I write on behalf of the City to submit a response to Mr. Benjamin Reznik’s letter to you, dated June 14, 2005 (“Applicant’s Letter”), regarding our comments on the Revised Draft Environmental Report (“RDEIR”) for the Heschel West School Project (“the Project”). Mike Kamino, Director of Planning and Community Development for the City, is preparing an additional, forthcoming response letter on behalf of the City.

I write in response to the Applicant’s Letter to make clear that this letter *does not* satisfactorily address the City’s concerns regarding the adequacy of the RDEIR. In fact, the Applicant’s Letter failed to summarize accurately many of our comments, and hence, failed to respond to all of our concerns. The Applicant’s Letter selectively responded only to certain questions and concerns, and then seems to represent to the Commission that the letter satisfies all of the City’s concerns. It is our position that the City’s concerns should be incorporated into the EIR, not in a response letter prepared by the Applicant’s attorneys.

As you know, Section 15088 of the CEQA Guidelines requires the lead agency to evaluate comments on environmental issues received from the City and other persons and entities who review the RDEIR. The Lead Agency is also required to respond in writing to the City’s comments either by revising the Draft EIR or including a separate section in the final EIR. Again, we respectfully request that the County, not the Applicant, include the City’s comments in the final EIR for the Project, respond in writing to the same, revise and recirculate the RDEIR accordingly and, when applicable, provide written proposed responses to the City at least 10 days prior to

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certifying a final EIR, as required by CEQA Guidelines Section 15088(b). We further request that the County provide ample opportunity for the City and members of the public to review and comment on any final EIR before the County takes final action on the Project.

Below, I provide some counter-responses to the Applicant's Letter, which in turn, responds to our first letter to Dr. Daryl Koutnik on May 18, 2005 ("May 18, 2005 Letter"). We do not intend to belabor our concerns, but we find it necessary to respond in light of the Applicant's Letter, which seems to imply that the RDEIR and the explanations provided in the Applicant's Letter already satisfy the City's concerns. Instead of summarizing or reproducing word-for-word the Applicant's Letter, I have included only our counter-responses to the Applicant's Letter. For your convenience, I have enclosed a copy of the Applicant's Letter, as well as a copy of our May 18, 2005 Letter.

Please note that we have chosen to focus our responses to those comments in the Applicant's Letter that caused us the most concern. Our decision not to respond to certain comments set forth in Applicant's Letter does not constitute concessions to those particular comments or any other portion of the Applicant's Letter. All of the comments set forth in our May 18, 2005 Letter still represent our position regarding the Project's RDEIR and we request a complete response from the County to each comment.

COMMENTS REGARDING PROJECT DESCRIPTION

Counter-response 1(a): Table 2.0-2 is incomplete. It does not include the CUP and grading permit from the County (mentioned on page ES-1). *All* of the permits and approvals required for the Project should be provided in one list, not multiple inconsistent lists as is the case now. CEQA requires that the Project Description include a list of required approvals for the Project, including required permits. One *complete list* of basic entitlements and permits is required to allow the Applicant to proceed.

Counter-response 1(b): Response 2(a) fails to address our original concern that the DEIR "does not specify how the number of students would be enforced at a maximum of 750."

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Counter-response 1(c): Table 2.0-2 is misleading, because it is listed under the heading “Proposed Structures.” Although the modular structures are not permanent, the modular structures will be utilized as structures on the Site for several years. Therefore, the presence of the modular structures on the Site will be environmentally significant. Accordingly, Table 2.0-2 should include the list of modular structures to give a more complete, comprehensive representation of the Project.

Counter-response 1(e): First, to the extent that the some of the comments in the Applicant’s Letter respond to our concerns, such responsive answers should be addressed in a subsequent version of the EIR. While we appreciate the Applicant’s efforts in clarifying various issues, the public is best served if such clarifications are set forth in the EIR.

Second, Response 1(e) makes unsupported conclusions that the aesthetic impacts will be minimal and that the removal of the modular units by trucks “would have no potential to cause short-term traffic impacts.” Data and analysis are warranted to support such conclusions.

Third, in our May 18, 2005 Letter, we requested that “the RDEIR’s Project Description should emphasize to the public that the ‘temporary’ school project would be the first to be built and the only improvements on the site for some period of time.” The Applicant’s Letter has not addressed this request. As we have previously highlighted, maintenance of an all-temporary school and then a lengthy transition to a permanent school will likely create environmental impacts over time that are not discussed in the RDEIR.

Counter-response 1(f): Again, the facts regarding the accommodation for an additional 110 vehicles on the football field and an additional 65 vehicles in the internal driveway must be reflected in the EIR, not in a separate letter written by the Applicant.

Also, the Applicant’s Letter does not address our concern that the RDEIR fails to analyze regarding the impacts of the Project’s special events, including the significant traffic impacts that could be associated with such events, especially weekend or evening athletic events which are likely to draw large crowds. The Applicant’s counsel seems to dismiss the need for such analysis by stating that special events will occur on “evenings and weekends – outside of peak-hour traffic conditions.” The

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simple fact that special events will occur on evenings and weekends, days which are allegedly outside of peak-hour traffic conditions, does not negate the fact that the impacts of special events must be analyzed, and if necessary, mitigated. Indeed, given that the proposed school is located adjacent to an established residential community, evening and weekend impacts on the existing neighborhood may be more pronounced.

In addition, the Applicant's Letter does not respond to our previous request that the RDEIR impose special use permit requirements, hours restrictions, and other such restrictions that will reduce the adverse impact of such events on the City's neighborhoods.

On page 2.0-10 of the RDEIR, the Project Description states that "in no case, would attendance exceed a maximum of 1,500 persons" for special events. The Applicant's Letter fails to respond to our concern regarding how this conclusion was reached and how it would be enforced. The RDEIR should be revised to provide support for this conclusion and proposed mitigation measures and/or project conditions that would ensure the long term accuracy of this assumption.

The Applicant's Letter also fails to respond to our concern that the RDEIR does not discuss whether special events will occur during all phases of construction. The RDEIR needs to be revised accordingly.

Counter-response 1(h): Response 1(h) explains that the removal of the modular units will occur during the summer months and will involve only a few dozen trucks over several days. The fact that the removal of the modular units will occur during the summer months must be documented in the EIR. Also, the EIR should reasonably estimate, as closely as possible, how many trips will be generated by the trucks removing the modular units, what route those trucks will take, and how all those factors impact the environmental analysis.

It also bears mentioning that CEQA Guidelines Section 15126 requires an EIR to consider the significant environmental effects of all phases of the proposed project. Therefore, the EIR should discuss and analyze the significant environmental effects of the modular units and their removal from the Site.

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Counter-response 1(i): Response 1(i) is not responsive to the original concern we posed in our May 18, 2005 Letter. CEQA Guidelines Section 15124(d)(1)(C) requires the Lead Agency to include a *list* of environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. The RDEIR does not include such a list. Although the RDEIR “already contains analyses of the project based upon various laws and policies,” the fact remains that CEQA Guidelines Section 15124(d)(1)(C) requires a *list* of those requirements in one place for the reader to evaluate.

Second, the fact that the RDEIR contains a list of persons and organizations consulted in preparation of the EIR does not respond to our point that the RDEIR fails to include a list of environmental review and consultation requirements.

ENVIRONMENTAL IMPACT ANALYSIS

Counter-response 3(a): The fact that the RDEIR identifies criteria for the thresholds of significance does not mean that those criteria are sufficient. As we have stated previously, the RDEIR’s methodology for measuring the significance of impacts after mitigation is inadequate. In several sections of the RDEIR, the RDEIR fails to provide enough information to allow the reader to evaluate the effectiveness of proposed mitigation measures.

COMMENTS REGARDING VISUAL RESOURCES

Counter-response 3(c): The threshold of criteria at page 4.1-16 of the RDEIR fails to provide enough information to allow the reader to evaluate the effectiveness of these proposed mitigation measures. The thresholds of significance, as they are currently presented in the RDEIR, are too broad, and do not allow the reader to make a meaningful determination as to whether the Project’s impacts or its mitigation measures are significant.

For example, on page 4.1-26 of the RDEIR, the criteria is whether the Project would have an adverse impact on neighborhood character and consistency of scale. The RDEIR then concludes that significant height and bulk impacts would be created. The RDEIR seems to conclude that 43 feet (the height of the tallest building in the Project) does not adversely impact the neighborhood character and consistency of scale in a neighborhood whose homes range from 15-30 feet in height. There is

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nothing in the RDEIR that allows the reader to conclude that 43 feet does not exceed the threshold of significance.

As for light and glare, it is not clear what the threshold of significance is for measuring the impacts of light and glare. On page 4.1-17, the RDEIR provides that the threshold of significance for light and glare is whether “the project result[s] in sun/shadow effects on adjacent land uses.” This criteria is too broad to enable the reader to make a meaningful determination of whether the Project has a significant impact. Our main concern on this point is that the RDEIR does not include objective data that measures light and glare. The RDEIR fails to provide enough information to allow the reader to evaluate the effectiveness of these proposed mitigation measures.

COMMENTS REGARDING TRANSPORTATION AND ACCESS

Counter-response 3(d)(i): Again, the RDEIR should be revised to require payment of “fair share” contributions to the City, in an amount to be determined by the City Engineer. In a meeting with the applicant and County staff we were informed that this change had “already” been made, yet the EIR still refers to a payment to the County. In addition, the Project must be conditioned to pay the City’s then-applicable Traffic Impact Fee since the project’s traffic impacts will be borne entirely by the City.

Counter-response 3(d)(ii): The facts regarding the extra capacity for parking (*i.e.*, 110 vehicles on the football field and 65 vehicles in the internal driveway) should be documented in the EIR. The impacts of the special events held at the Site must also be addressed in the EIR.

Counter-response 3(d)(iii): The EIR, rather than the Applicant’s Letter, should include the clarifications regarding trip generation.

Counter-response 3(d)(v): Mere reference to the CalTrans Traffic Manual is insufficient for discussing construction-related traffic impacts. This EIR is required to be informative to, and understandable by, the public and lay decision-makers, not just traffic engineers. The RDEIR fails to disclose and analyze the short-term construction related traffic impacts that would invariably result from a project of this magnitude. In particular, the RDEIR should disclose and analyze the short term

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construction-related impacts associated with the construction of the traffic mitigation measures the DEIR proposes.

In addition, the RDEIR, as well as the Applicant's Letter, fails to account for traffic generated by construction vehicles, parking needs of construction workers, and equipment storage.

Counter-response 3(d)(vii): Again, any clarifications regarding deferral of mitigation measures and "fair share" calculations should be incorporated into the EIR.

In addition, the Applicant's Letter does not address the issue of the occurrence of special events during Phase 1 of the Project. Because the DEIR inadequately addresses and analyzes the impacts from special events at the school – which events could occur during Phase 1 – it must be assumed that up to 1500 people could attend a special event at the school even during Phase 1. Again, this demonstrates the need to complete all traffic mitigation measures at the beginning of the Project.

As we previously stated in our May 18, 2005 Letter, the City objects to the County's stated intention of calculating the Project's "Fair Share" contribution to improvements in the City. Those "Fair Share" contributions should be calculated by the City since it is the City's taxpayers who will bear the burden of traffic generated by the Project if it is approved.

COMMENTS REGARDING NOISE

Counter-response 3(e)(i): Our original comment did not dispute the fact that the RDEIR identifies the Significance Threshold Criteria for noise associated with construction activity. Rather, our concern is that proposed mitigation measures are not tied to specific impacts, and there is nothing more than a conclusory statement of impacts after mitigation without specific data on which to base an evaluation of those conclusions.

On page 4.3-18, six mitigation measures are imposed without any description of the impacts each is intended to mitigate. In addition, no measurable data (*e.g.*, decibel levels or ranges) are provided for the level of significance after mitigation. Without any supporting data or analysis, the RDEIR then concludes that mitigation measures would reduce any significant impacts below a level considered to be significant.

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As an example, Mitigation Measure 4.3-5 should include an explanation that sound blankets reduce the decibel level of construction equipment activity by X number of decibels. Similarly, Mitigation Measure 4.4-6 should explain that portable acoustical barriers will reduce the decibel levels to X number of decibels.

Counter-response 3(e)(v): The Applicant's Letter fails to respond adequately to our previous comment regarding these particular noise mitigation measures. The Revised DEIR states that "[m]itigation measures outlined above would reduce this impact below a level considered significant." Again, as we have previously stated, the Revised DEIR fails to provide enough information to allow the reader to evaluate the effectiveness of proposed mitigation measures. No data (e.g., decibel levels, decibel ranges, or noise levels) are provided for the level of significance after mitigation. Without any supporting data or analysis, the Revised DEIR then concludes mitigation measures would reduce any significant impacts below a level considered to be significant.

COMMENTS REGARDING BIOLOGICAL RESOURCES

Counter-response 3(f): The fact that the Significance Threshold Criteria was taken directly from the County of Los Angeles Environmental Document Reporting Procedures and Guidelines does not mean that such criteria allow for meaningful analysis.

On page 4.5.-30, three of the thresholds of significance are defined by whether the project has a "substantial adverse effect" on any species, habitat, sensitive natural community, or wetlands. The RDEIR does not, however, quantify or define what constitutes a "substantial adverse effect," and it is unclear how the EIR preparer determined that mitigation measures would result in less than significant impacts, in the absence of more identifiable and quantifiable levels. The net result is that the reader is unable to compare, in any meaningful way, the impacts of mitigation against the threshold of significance in the absence of some measurement of what constitutes substantial and is left to suspect that these conclusions are wholly subjective.

COMMENTS REGARDING FIRE SERVICES AND HAZARDS

Counter-response 3(h)(i): The EIR, rather than the Applicant's Letter, should address the issue regarding whether the County has prepared alternative mitigation measures

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to address the various impacts that would typically be mitigated by the developer fee in the event a developer fee is no longer in place.

Counter-response 3(h)(ii): The fact that the Significance Threshold Criteria was taken directly from the County Los Angeles Environmental Document Reporting Procedures and Guidelines does not mean that such criteria allow for meaningful analysis. The fact remains that the thresholds of significance on page 4.7-1 are defined in a manner that is too general for meaningful analysis.

On page 4.7-13, the RDEIR states that a project has an adverse impact on fire services if the project creates a *potential for inadequate staffing* of fire stations or creates a *substantial decline in response times* to handle calls for services. What constitutes “inadequate staffing” and a “substantial decline in response times?” The RDEIR does not explain what constitutes “inadequate staffing” and a “substantial decline.” The public and surrounding governmental entities that would be most affected by this potential inadequacy would be best informed by the use of staffing formulas and actual response-time goals. In the absence of a more defined threshold of significance, there is no meaningful way to compare the impacts of mitigation against the threshold of significance, and the analysis in this section appears to be the subjective opinion of the drafter.

Counter-response 3(h)(iii): Again, the Applicant’s letter fails to respond to our previous concerns regarding the “Emergency Evacuation Plan” referenced on page 4.7-22 of the RDEIR. Such an “Emergency Evacuation Plan” has not yet been drafted. Therefore, there is no way to evaluate whether the Emergency Evacuation Plan would or would not result in hindering the evacuation of the residents in Old Agoura. Does the Emergency Evacuation Plan also contemplate the safe and orderly evacuation of Old Agoura residents? Neither the Applicant’s letter nor the EIR addresses this issue.

In addition, although the RDEIR states that evacuation of the school “will occur only when sufficient warning of a wildfire is provided to ensure that it would not hinder the evacuation of Old Agoura residents,” it is not clear how the RDEIR determines what constitutes “sufficient warning.”

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COMMENTS REGARDING HYDROLOGY AND WATER QUALITY

Counter-response 3(i): The fact that the Significance Threshold Criteria was taken directly from the County of Los Angeles Environmental Document Reporting Procedures and Guidelines does not mean that such criteria allow for meaningful analysis. On page 4.9-9, the DEIR states that a project would have a significant impact if it “substantially alters the existing drainage pattern or increases the rate of surface runoff such that it . . . results in substantial sedimentation or erosion” or it would “substantially degrade surface or groundwater quality.” The RDEIR does not, however, explain what constitutes “substantial.” What constitutes substantial degradation or substantial erosion? There is no way to compare the impacts of mitigation against the threshold of significance in the absence of some measurement of what constitutes substantial.

COMMENTS REGARDING ALTERNATIVES

Counter-response 4(a): Although Response 4(a) asserts that “simple logic governs the comparison of geological, air quality, and water quality impacts of Alternative 2 with the proposed project,” the EIR does not explicitly state those comparisons. If neither the proposed project nor Alternative 2 is considered environmentally superior from a seismologic point of view, because, for example, neither alternative results in the Project or part of the Project being located on a major fault line, or because the same number of people will inhabit the area, the EIR should state that. The reader should not have to infer why one alternative is superior to another.

As for air quality, on page 5.0-8, the RDEIR states that “[t]he area of land disturbed during grading would be greater under this alternative than the proposed project” There is no data, however, provided in the discussion of the effect of Alternative 2 on air quality, to support this conclusion. For example, this section should explain how many acres of land would be disturbed under Alternative 2 compared to how many acres of land would be disturbed under the original Project. If the construction of estate homes, rather than the proposed Project, results in more land disturbance during grading, the EIR should explain this.

Regarding hydrology and water quality, on page 5.0-8, the RDEIR states that “the project would contain a greater amount of non-erosive surfaces than this alternative, thereby reducing debris, so the amount of runoff (water plus debris) from the site

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would be less with the project than under this alternative.” Again, there is no data, or other information regarding the effect of Alternative 2 on water quality, to support such a conclusion. If the residential homes produce a greater amount of runoff, the EIR should explicitly state this. As we have previously pointed out, the CEQA Guidelines requires that the EIR include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.

In sum, although the reader could reasonably come up with possible reasons to support conclusions regarding the probable environmental impacts associated with Alternative 2, such a task is not the responsibility of the reader. Rather, the EIR should provide such reasons and data to support its own conclusions.

Counter-response 4(b): Figure 5.0-2 does not provide a comparison between the original site plan and the modified site plan so that the reader may meaningfully analyze the difference between the two site plans. A more detailed written description of the difference between the original site plan and the modified site plan is also warranted.

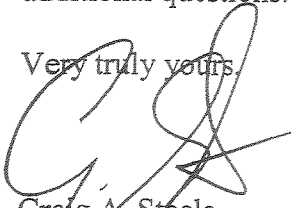
In addition, as stated in Response 4(b), page 5.0-9 of the EIR should be revised to reflect that maximum event attendance of events would be 1500 people and state how the County would enforce this.

Counter-response 4(c): Response 4(c) is not non-responsive. It states that the Reduced Density Alternative impedes two project objectives. We note, again, that CEQA favors the environmentally superior alternatives to proposed projects, even in cases where the alternative might, to some degree, impede attainment of the project objectives or be more costly. CEQA Guidelines Section 15126.6(b). Although the RDEIR suggests that this alternative would impede or not meet two specific objectives of the Project, there is no data presented in the RDEIR to support those claims. Bare conclusions without supporting facts and analysis are legally inadequate under CEQA. The RDEIR should provide specific, quantifiable facts and data to support the assertion that a school of 472 students and staff will not be of “sufficient size...”, especially where a school of 472 students is more than double the size of the existing school. Further, the RDEIR should specifically indicate why a smaller school, which presumably would still need classrooms and some recreational area, would not provide any opportunity for public and private youth-oriented recreational activity and a community meeting facility. Again, the simple fact that an alternative

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may be more costly or less successful than an applicant would like is not a sufficient reason to reject an environmentally superior and feasible alternative. We appreciate the opportunity to comment on the RDEIR and look forward to seeing these and other comments incorporated into a legally adequate and recirculated DEIR and, ultimately, a final EIR, as necessary. Please contact me should you have any additional questions.

Very truly yours,



Craig A. Steele

Enclosures

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cc: Mayor and City Council
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