

Attachment for Agenda Item No. 2

Letter dated May 18, 2005 from City Attorney Craig Steele to Dr. Daryl Koutnik, Department of Regional Planning, County of Los Angeles, regarding the County Project No. 98-062, SCH No. 98101060 (Heschel West School) – Comments on the Revised Draft EIR for Heschel West School.



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

Dear Dr. Koutnik:

I serve as City Attorney for the City of Agoura Hills (“the City”). I write on behalf of the City to submit comments on the Revised Draft Environmental Report (“Revised DEIR”) for the Heschel West School Project (“the Project”). Mike Kamino, Director of Planning and Community Development for the City, has provided separate and additional comments on behalf of the City.

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 Revised DEIR. 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. We respectfully request that the County include the City’s comments in the final EIR for the Project, respond in writing to the same, and provide written proposed responses to the City at least 10 days prior to 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.

I previously commented on the prior draft EIR prepared for the Project, by letter dated December 11, 2002. Despite representations that the issues raised in connection with the previous draft EIR have been “responded to” in this new and recirculated draft (*see, e.g.*, draft EIR pages ES-3 and 1.0-6, the Revised DEIR does not sufficiently incorporate or respond to the City’s past comments into the Revised

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DEIR. In fact, almost none of the comments I made in my earlier letter have been addressed appropriately in the Revised EIR. The brief discussion on pages 1.0-6 and 1.0-7 regarding “applicant response to public testimony” does not indicate that the applicant or the County have responded to any of the written comments regarding the previous draft EIR that the County received. That being the case, I must repeat those comments in addition to providing additional comments below.

1) INADEQUATE PROJECT DESCRIPTION

a) **Pages 2.0-2 and 2.0-17 – The DEIR contains inconsistent and incomplete descriptions of the various permits the Project will require.** CEQA requires that the Project Description include a list of required approvals for the Project, including required permits. The complete list of basic entitlements and permits being sought by the applicant are never even disclosed in the Project Description. *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.

On page ES-1, the Revised DEIR indicates, “the actions necessary to construct the project include...” a CUP and a grading permit from the County, and a “permit to connect utilities located within the City of Agoura Hills.” On page 2.0-2, the Project Description indicates only that the Applicant is requesting the approval of a CUP and grading permit. Table 2.0-2 in the Project Description section then identifies several permits, including permits not mentioned in the other sections of the Revised DEIR, are “known to be potentially needed at this time.” The latter list indicates that encroachment permits are required from the City of Agoura Hills to permit utility hookups and unspecified “roadway improvements.”

CEQA requires that the DEIR contain a complete list of permits necessary to complete the Project. While this list obviously must be comprised of information known to the Lead Agency, CEQA imposes a duty on the Lead Agency to consult with Responsible Agencies and perform reasonable due diligence as to the nature and extent of permits that the Project will require. The County has not met that burden in this case, at least with regard to consultation with the City.

The lack of consistent and complete information regarding required approvals, along with the legally inadequate project description as noted below, makes it impossible for Responsible Agencies such as the City to determine whether the information presented by the County in this DEIR is sufficient to allow Responsible

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Agencies to perform their duties pursuant to CEQA. If the applicant seeks approvals from Responsible Agencies after the certification of this EIR and the Responsible Agencies determine this EIR is inadequate for those purposes, the Responsible Agencies could face opposition and even legal action from the Applicant if they seek further CEQA documentation.

In addition to the basic inconsistencies between the three lists of potential permits, the list is incomplete, at least as it pertains to the City of Agoura Hills. It is unclear from the text of the DEIR what type of City “encroachment permits” the applicant will seek for utility hookups. Further information such as the timing and location of such hookups is required. However, if the applicant intends to seek permits for “roadway improvements” as indicated in Table 2.0-2, additional discretionary and legislative actions by the City might well be required to facilitate such permits. For instance, based only on the inadequate and minimal information regarding the “roadway improvements” planned by the Applicant, it appears likely that a proposal to direct more than 2600 new vehicle trips per day onto Canwood Street in close proximity to the existing on and off-ramps for the 101 Freeway may be inconsistent with the Circulation Element of the City’s General Plan, which disfavors such an unsafe proposal. That inconsistency might preclude the City from issuing the ill-defined “encroachment permit” for road improvements the draft EIR mentions.

The County should undertake the due diligence and consultation with Responsible and other local agencies required by CEQA, prepare an adequate and complete list of anticipated permits, and recirculate this portion of the EIR for adequately informed comment by Responsible Agencies and the public.

b) **Page 2.0-2** – The DEIR does not disclose how many staff members would be employed on the site to serve the proposed 750 students. It also does not specify how the number of students would be enforced at a maximum of 750. Under the student/staff ratio of approximately 1/4.5 disclosed for the existing school, the proposed school would need approximately 167 employees. I note that on page 5.0-15, the Reduced Density Alternative analysis indicates the proposed school would house 847 students and staff. It seems unrealistic to assume that as the student population quadruples, the staff would only double in approximate terms. As these facts influence traffic and parking assumptions, further information is needed.

b) **Page 2.0-4** – There is an inconsistency regarding the school population within the Revised DEIR. On page 2.0-4, the Project Description states that the

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school would provide education to grades pre-K-8. On page ES-2, however, the Executive Summary states that the school would provide education to grades pre-K-9. Please clarify.

c) **Page 2.0-5** – The Project Description fails to include in its list of proposed structures the temporary modular structures for the Interim School. Please revise accordingly.

d) **Page 2.0-9** – It appears that the hours described for the staggered arrival schedule should be changed to span 7:30 a.m. to 8:30 *a.m.*, not 7:30 to 8:30 p.m.

e) **The DEIR's Project Description is incomplete and legally inadequate.** The Project Description de-emphasizes and does not adequately describe the first phase of the proposed school, which will involve the import and maintenance of temporary school buildings for some lengthy period of time. The Revised DEIR'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. This disclosure will affect the visual and aesthetic impacts of the initial stages of the Project. Further, the 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 Revised DEIR. Additional questions include:

- What kinds of short-term traffic impacts will be created when temporary classrooms are delivered to the site?
- Where will the temporary buildings be placed? Will those temporary placements disturb areas of the site not to be disturbed by permanent construction?
- Will the temporary classrooms be moved elsewhere on the site during construction?
- How will the temporary structures be disposed of when they are no longer needed? (Note: The Revised DEIR generally evaluates impacts associated with the permanent construction of the ultimate plan on the site, and does not adequately discuss any impacts associated with temporary buildings).

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f) **The Project Description describes special events and uses, the impacts of which are not discussed or mitigated in the DEIR.** On Page 2.0-9, the Project Description indicates that the site will be used for special events cultural programs, graduations, seminars, recreational sports activities and “summertime, evening and/or weekend daytime special events.” There is no discussion in the Revised DEIR regarding the impacts of such 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 Revised DEIR indicates only a projected average of 79 additional PM peak hour trips, when dozens or hundreds of cars could be expected to be drawn to a weekend or evening athletic event or special event. The Revised DEIR must disclose these potential impacts and impose mitigation measures to deal with the heavy traffic that can be expected. Further, the Revised DEIR should impose special use permit requirements, hours restrictions and other such restrictions that will reduce the adverse impact of such events on Agoura Hills neighborhoods.

In addition, on page, 2.0-10, the Project Description states that “in no case, would attendance exceed a maximum of 1,500 persons” for special events. It is not clear how this conclusion was reached. The Revised DEIR should be revised to provide analysis for this conclusion and proposed mitigation measures and/or project conditions that would ensure the long term accuracy of this assumption.

Also, in the event that attendance for a special event does reach 1,500 persons, how will the site accommodate the parking needs for an event attracting 1,500 persons? The proposed 223 parking spaces are insufficient to meet the parking needs for such an event, and likely would result in the parking of automobiles in the neighboring residential areas surrounding the site.

The DEIR also needs to take into consideration whether special events will occur during all phases of construction. Will special events be held during phase one of construction? Will the project site be ready to accommodate hundreds of automobiles for special events that occur during phase one of construction, or any of the other construction phases? Please clarify.

g) **Page 2.0-16 (Phase II) –** The Project Description states that during Phase II, permanent athletic fields would be constructed. Because the Project Description does not include any mention of lighted athletic fields of other facilities, the City assumes that no lighted outdoor athletic facility is planned. The County

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should condition the Project to strictly prohibit any lighted outdoor athletic facility. If a lighted facility is planned, this Revised DEIR must be corrected to include night lighting in a generally unlit area and identify the significant impacts of incorporating such lighting into a rural area. The Revised DEIR should then be recirculated in accordance with CEQA.

h) Page 2.0-16 (Phase III) – The Project Description states that modular buildings will be removed during Phase III. The Revised DEIR fails to fully address the impact of the modular buildings. Again, how will the temporary structures be disposed of when they are no longer needed? The Revised DEIR generally evaluates impacts associated with the permanent construction of the ultimate plan on the site, and does not adequately disclose the impacts associated with temporary buildings. What kinds of short-term traffic impacts, or other types of impacts will be created when temporary buildings are removed from the site?

i) Section 2.0 - 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 Revised DEIR does not include such a list. Please revise accordingly.

2) ENVIRONMENTAL AND REGULATORY SETTING

a) The DEIR must address potential inconsistencies between the Project and the City's General Plan. CEQA requires that a legally adequate EIR must discuss any inconsistency between the proposed project and applicable general and regional plans. Although much of the actual Project site is located in the County, the DEIR proposes that traffic "improvements," including the entrance to the site, will be constructed in the City of Agoura Hills. The DEIR further acknowledges that the applicant must seek permits for such "improvements" from the City of Agoura Hills. Any such permits issued by the City must be consistent with the City's General Plan. Thus, at a minimum, and notwithstanding CalTrans' potential jurisdiction over one freeway-adjacent intersection in the City, the Circulation Element of the Agoura Hills General Plan is applicable to the Project. Yet the DEIR does not address the City's General Plan.

As an example, the Circulation Element of the City's General Plan states specifically that "Congestion at freeway ramp intersections, freeway overcrossings, and freeway frontage road intersections is one of the City's most significant

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circulation problems.” The Project apparently proposes to dramatically increase traffic in at least one such intersection in the City without any consideration of the City’s basic plans for such intersections or the City’s standards for traffic mitigation.

Mr. Kamino’s letter more completely lays out the City’s objections to the traffic mitigation measures proposed in the DEIR. I would only add that the City has its own standards for traffic signal warrants, Level of Service, and traffic improvements. It would seem fairly obvious that a legally adequate EIR must measure the significance of impacts and efficacy of proposed mitigation measures against the adopted standards of the jurisdiction in which the impacts will occur. Under the scenario proposed in the DEIR, the applicant and the County could approve a project in reliance on infeasible, ineffective or unacceptable mitigation measures that might meet County standards but would have to be imposed by another governmental entity in another jurisdiction. If the other entity refused to adopt those unacceptable mitigation measures, the County could then disavow the traffic problems its approval will create.

The fundamental problem with the DEIR’s traffic analysis and mitigation proposals has been and remains the County and the applicant’s complete failure to consult with and inform the City of Agoura Hills throughout the years leading up to the production of this DEIR. This basic failure to consult with the City violates CEQA and calls into question the legal adequacy of the DEIR. The analysis must be revised and recirculated to be accurate and to take into account the City’s traffic-related standards so that the DEIR is usable by the City as a Responsible Agency, and this section of the document recirculated.

3) ENVIRONMENTAL IMPACT ANALYSIS

a) **The DEIR’s methodology for measuring the significance of impacts after mitigation is inadequate.** In several sections of the Revised DEIR, the Revised DEIR fails to provide enough information to allow the reader to evaluate the effectiveness of proposed mitigation measures. One recurring problem is that thresholds of significance were not sufficiently defined in the Revised DEIR. Although an ironclad definition of “significant effect” is not always possible, determining whether a project may have a significant effect on the environment should be based on scientific and factual data and numbers. Without a clearly defined threshold of significance, a reader cannot meaningfully assess whether a mitigation measure indeed mitigates an impact to less than significant levels.

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b) **“Mitigation Measures already incorporated into Project” must be incorporated as conditions of approval.** The Revised DEIR takes the approach that the Project itself includes “mitigation measures” that tend to reduce the environmental impacts of the Project. If the Revised DEIR is correct that these measures are necessary to mitigate environmental impacts that would otherwise be associated with the construction and operation of the Project, these “incorporated” measures must be included as conditions of approval of the Project to ensure that all the environmental impacts of the Project are mitigated.

c) **Section 4.1 Visual Resources**

- On page 4.1-3, the Revised DEIR refers to an ordinance, which “requires grading activity to be performed in a manner that minimized disturbance to the natural landscape.” It is unclear to which ordinance the Revised DEIR is referring. Please clarify.
- **Significance Threshold Criteria** – On page 4.1-26, the Revised DEIR discusses the adverse impact of the project on neighborhood character and consistency of scale. It is, however, unclear what the threshold of significance is for neighborhood character and consistency of scale. The Revised DEIR states that the heights of residential homes in the area range from 15-30 feet. The Revised DEIR then proposes to place the smaller, less bulky multipurpose buildings (with heights of 38 feet and 33-1/2 feet toward the front of the site plans as to visually soften the impact. The Revised DEIR then concludes that this location plan would create no significant height and bulk impacts. The Revised DEIR fails to provide enough information to allow the reader to evaluate the effectiveness of these proposed mitigation measures. The significance of impacts after mitigation is not compared to a threshold of significance, and there is nothing more than a conclusory statement of impacts after mitigation without specific data. Without the clear determination of the threshold of significance, the reader can have no confidence that these proposed mitigation measures will result in insignificant height and bulk impacts.
- **Significance Threshold Criteria** – On page 4.1-27 (Light and Glare Impacts), it is not clear what the threshold of significance is for measuring the impacts of light and glare. The Revised DEIR does not include data that measures light and glare. If light and glare impacts are not

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measurable or quantifiable, the Revised DEIR should explain this. The Revised DEIR fails to provide enough information to allow the reader to evaluate the effectiveness of these proposed mitigation measures. The significance of impacts after mitigation is not compared to a threshold of significance, and there is nothing more than a conclusory statement of impacts after mitigation without specific data. Without the clear determination of the threshold of significance, the reader can have no confidence that these proposed mitigation measures will result in decreasing the impacts the project has on light and glare.

d) **Section 4.2 Transportation and Access**

- **The mitigation measures should require payment of “fair share” contributions to the City.** The Revised DEIR reveals that most of the traffic burdens of the Project will occur in the City, and traffic “improvements” are required to be constructed in the City. Certain mitigation measures require payment of “fair share” contributions for traffic improvements to the County. Those mitigation measures should instead provide for improvement payments to the City, in amounts to be determined by the City Engineer, and the Project must be conditioned to pay the City’s then-applicable Traffic Impact Fee.
- **On-Site Parking** – On page 4.2-12, the Revised DEIR states that “parking for the project will be provided by a total of 223 parking spaces located within several parking lots.” Neither the Revised DEIR nor the Traffic Study explains how it reached the conclusion that only 223 parking spaces would be sufficient to meet the needs of the school. The proposed number of employees at the new school was not disclosed. Given that the site may attract up to 1500 people for special events, 223 parking spaces appears to be insufficient to meet the parking needs for such events. The insufficient number of parking spaces may result in school visitors having to park in the residential areas surrounding the site. The Revised DEIR fails to address the impact of these special events on parking in the neighboring residential areas. The Revised DEIR also fails to include any mitigation measures to address this impact.
- **Trip Generation** – On page 4.2-14, under “Analysis,” the DEIR states that the “first step” in determining how the intersection of Driver Avenue

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and Palo Comado Canyon Road would operate during the peak commuting period when school is in session was to determine “the traffic generating characteristics of the existing Heschel West School. The existing school, it must be noted, has 187 students and 40 staff, according to the DEIR. The proposed school would house up to 750 students and an undisclosed number of staff, although approximately 167 staff members would be required if projected using the current school as a model, as the DEIR does for student-related trips. This section first states that the operations of the existing school were used as “a basis” for forecasting trip generation and describes the method of “data collection” on two days at the school. Two sentences later the DEIR states that “data was not directly collected to document daily traffic generation for the Herschel West School” and that the DEIR is making a trip generation “estimate” based on typical characteristics of “other private schools.” **Which is it?** Does the DEIR base its trip generation estimates on data collected from this school, or unspecified and unverifiable “characteristics of (unidentified) other private schools?” Without this clarification, the reader is unable to evaluate the accuracy of what the DEIR admits are, at best, estimates regarding the trips that will be generated by the new school at full capacity.

- **Employee and Staff Trips** – The DEIR does not state that traffic from the employees and staff of the proposed school are factored into the trip generation estimates. The DEIR implies that only student and visitor trips have been estimated. The additional traffic generated could be significant. If the estimated trip counts include staff and employee trips, that fact should be specified and the analysis supplied so that it can be evaluated. If not, this section of the DEIR should be revised to analyze the additional daily trips generated by employees and recirculated.
- **Construction-Related Traffic Impacts** – The DEIR 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 DEIR should disclose and analyze the short term construction-related impacts associated with the construction of the traffic mitigation measures the DEIR proposes. As one example, the “traffic roundabout” alternative, if adopted, would cause extreme traffic impacts in the vicinity of a very busy intersection. The DEIR should identify those impacts, and impose

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mitigation measures such as peak hour construction limitations, signage and other temporary measures to mitigate the impact on people traveling the roads of Agoura Hills. In addition, the DEIR fails to mention or account for traffic generated by construction vehicles, parking needs of construction workers and equipment storage. All of those temporary impacts should be identified and mitigated through the use of City-approved schedules and construction traffic routes that meet the requirements of the Municipal Code. Without the addition of this information and recirculation, the City as a Responsible Agency may not be able to rely on the DEIR as drafted as a basis for approving the ill-defined permits the DEIR indicates the Project will require from the City.

- **Inconsistency with County Master Plan of Highways and City's General Plan** – At pages 4.2-38 and 4.2-39, the DEIR indicates that the proposed project is inconsistent with the County Master Plan of Highways. A project cannot be made “consistent” with a lawfully adopted Master Plan simply by virtue of the applicant having obtained a “waiver,” the legal authority for which is not specified in the DEIR. The County should amend its Master Plan of Highways to be consistent with current conditions and the proposed Project, or the DEIR should be revised to indicate that the Project is inconsistent with the Master Plan. Such an inconsistency is by definition a significant impact under CEQA. In addition, this Section of the DEIR should be amended to disclose that the proposed access measures and traffic improvements are inconsistent with the City's General Plan, as specified above and in the comment letter from Mr. Kamino. Those inconsistencies, for which a “waiver” is not available under State law, make the identified traffic impacts significant and the proposed traffic mitigation measures infeasible.
- **Deferral of Mitigation Measures and Inadequate “Fair Share” Analysis** – The City objects generally to the DEIR's proposal to “phase in” traffic mitigation measures over an unspecified time schedule. The DEIR does not specify a schedule and does not connect the proposed phases of the Project to the specific numbers of trips that would be generated by each phase. Therefore, to guarantee that traffic is mitigated to the maximum extent feasible, if the project is approved full traffic mitigation measures acceptable to the City of Agoura Hills must be imposed and completed as conditions of the initial building and grading

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permits. Once the school commences even a small scale operation, the probability exists that serious traffic impacts will be felt immediately even if the full complement of 750 students is not in attendance on day one. 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. In addition, 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.

e) **Section 4.3 Noise**

- **Page 4.3-18 (Construction Activity)** – The Revised DEIR states that “[m]itigation measures outlined above would reduce this impact below a level considered significant.” The Revised DEIR fails to provide enough information to allow the reader to evaluate the effectiveness of proposed mitigation measures. 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 page 4.3-18, six mitigation measures are imposed without any description of the impacts each is intended to mitigate. In addition, no data (*e.g.*, decibel levels or ranges) 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. Without supporting data or analysis, the reader can have no confidence in this conclusion.
- **Page 4.3-19 (Point Source Noise Impacts)** – The Revised DEIR states that “[e]stimated noise levels experienced at the exterior residential property line due to kids playing . . . is estimated to be 40dB(A), and that “exterior noise levels at the residential property line are estimated to be approximately 57 dB(A) during the minute that a bell is activated.” The Revised DEIR, however, does not explain how these estimations were calculated. There are no references to specific noise studies, noise data or

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formulas used to calculate such estimations. The Revised DEIR fails to provide sufficient data or analysis to support these conclusions.

- **Page 4.3.-20** – The Revised DEIR contains inconsistencies as to the approximate number of parking spaces dispersed on site. Page 4.3-20 states that there will be 189 parking spaces, while other portions of the Revised DEIR provide that there will be 223 parking spaces. Please clarify.
- **Page 4.3-20** – The Revised DEIR concludes that adjacent residential uses will experience exterior noise levels generated by parking lot activity around 46dB(A) with a peak noise level of about 74 dB(A). Again, the Revised DEIR, however, does not analyze how these conclusions were reached. There are no references to specific noise studies, noise data or formulas used to calculate such noise levels. The Revised DEIR fails to provide sufficient data or analysis to support these conclusions.
- **Page 4.3-21** – The Revised DEIR states that “[m]itigation measures outlined above would reduce this impact below a level considered significant.” The Revised DEIR fails to provide enough information to allow the reader to evaluate the effectiveness of proposed mitigation measures. 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 page 4.3-21, four mitigation measures are imposed without any description of the impacts each is intended to mitigate. In addition, no data (*e.g.*, decibel levels or 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. Without supporting data or analysis, the reader can have no confidence in this conclusion.

f) **Section 4.5 Biological Resources**

- **Significance Threshold Criteria** – 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

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community or wetlands. The DEIR does not, however, quantify or define what constitutes a “substantial adverse effect.” Is it possible to determine that the destruction or displacement of a certain percentage of a particular plant or animal species would be deemed “substantial”? If there is no quantifiable way to measure a substantial adverse effect on any species or habitat, the DEIR should explain this. Otherwise, there is no meaningful way to compare the impacts of mitigation against the threshold of significance in the absence of some measurement of what constitutes substantial.

g) Section 4.6 Geotechnical Hazards

- On page 4.7-7, the Revised DEIR states that “[s]ufficient capacity is available in the existing system to accommodate the project needs.” This statement is not supported by any data, and there is no way for the reader to confirm whether this is true. Please provide the data necessary to confirm this statement.

h) Section 4.7 Fire Services and Hazards

- On page 2 of Appendix 4.7 (Fire Services and Hazards Data), a letter from the County of Los Angeles Fire Department states that “[i]n the event that the developer fee is no longer in effect at the time of building permit issuance, alternative mitigation measures shall be required.” If there is a possibility that the developer fee will no longer be in effect at the time the building permit is issued, has the County prepared alternative mitigation measures to address the various impacts that would typically be mitigated by the developer fee?
- **Significance Threshold Criteria** – On page 4.7-1, the thresholds of significance are defined in a manner that is too general for meaningful analysis. On page 4.7-13, the Revised DEIR 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 DEIR does not explain what constitutes “inadequate staffing” and a “substantial decline.” The public and surrounding governmental entities that would be

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most affected by this potential inadequacy would be best informed by the use of staffing formulas and actual response time goals. If there is no quantifiable way to measure what constitutes inadequate staffing or substantial decline in responses, which seems unlikely, the DEIR should explain this. 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.

- **Page 4.7-22** – The Revised DEIR poses the following question as one of the public issues it analyzes: “Would the proposed school hinder the evacuation of residents in the community of Old Agoura during a wildfire?” The Revised DEIR fails to answer this question sufficiently. The Revised DEIR refers to an “Emergency Evacuation Plan” that will outline the procedures and responsibilities to ensure a safe and orderly evacuation.” It appears, however, that 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? The Revised DEIR also fails to analyze whether the proposed school, in the event of an evacuation of *both* the proposed school and the community of Old Agoura, would ultimately hinder the evacuation of the community of Old Agoura.

i) **Section 4.9 Hydrology and Water Quality**

- **Significance Threshold Criteria** – 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 DEIR 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.

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- On page 4.9-10, the DEIR states that the project engineer has designed a drainage concept under which “all surface runoff within the developed areas of the site will be collected and conveyed by the drain network to a safe point of discharge at one of two off-site improved drainage channels.” Section 4.9 of the DEIR does not make clear where the drain network will be located and how the drain network functions. In addition, the DEIR does not include any analysis of whether the Project would substantially alter the existing drainage pattern.

4) **ALTERNATIVES**

a) **Alternative 2 – Subdivision**

- **Geology and Geotechnical Hazards** - On page 5.0-7, the Revised DEIR states that “[f]rom a seismologic point of view, neither the proposed project nor this alternative is considered environmentally superior.” There is no analysis, however, explaining how this conclusion was reached.
- **Air Quality** – On page 5.0-8, the Revised DEIR 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. Without supporting data or analysis, the reader can have no confidence in this conclusion.
- **Hydrology and Water Quality** – On page 5.0-8, the Revised DEIR 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 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. The CEQA Guidelines requires that the EIR include sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed project. Without supporting data regarding the effect of Alternative 2 on water quality, the reader can have no confidence in this conclusion.

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b) **Alternative 3 – Modified Site Plan**

- Alternative 3, discussed on page 5.0-9, does not sufficiently describe the location to where the project will be relocated. Please clarify.
- Also on page 5.0-9, the Revised DEIR states that “[i]n no case will event attendance exceed the student population.” Given that maximum student population of the project is 750 students, this assertion is inconsistent with other information contained in the DEIR, which states that some events will draw 1500 people. Please clarify.

c) **Alternative 4 – Reduced Density**

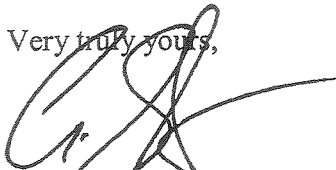
- The description of Alternative 4 indicates that the Reduced Density Alternative would accommodate 472 students and staff as compared to the current 227 students and staff at the existing school. It is inaccurate and misleading to state, as the DEIR does, that a facility that could more than double the school’s student and staff population is “only slightly larger than the current temporary facilities used by the school.” We note that Alternative 4 would allow for approximately six years of projected student growth under the assumptions adopted in the DEIR, as opposed to the approximately eleven years’ growth requested by the applicant. However, Alternative 4 clearly and dramatically reduces the significant environmental effects of the Project. 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 DEIR suggests that this alternative would impede or not meet two specific objectives of the Project, there is no data presented in the DEIR to support those claims. Bare conclusions without supporting facts and analysis are legally inadequate under CEQA. The DEIR 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...” Further, the DEIR 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

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fact that an alternative 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 DEIR 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,

A handwritten signature in black ink, appearing to read 'Craig A. Steele', with a long horizontal flourish extending to the right.

Craig A. Steele

cc: Mayor and City Council
Greg Ramirez, City Manager
Mike Kamino, Director of Planning and Community Development
Candice K. Lee, Esq.