



Concerned Citizens Coalition/Marymount  
Expansion, Inc

March 31, 2009 Rancho Palos Verdes  
Planning Commission Hearing  
Marymount College Expansion Project

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Google

33°44'05.99" N 118°20'02.00" W

elev 925 ft

Jul 31, 2007

Eye alt 1653 ft

# Letter from Chatten-Brown & Carstens

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March 25, 2009

*Via Email ([pc@rvp.com](mailto:pc@rvp.com)) and Overnight Express*

Planning Commission

City of Rancho Palos Verdes

30940 Hawthorne Blvd.

Rancho Palos Verdes, CA 90275

Re: Marymount College Facilities Expansion Project

Honorable Commissioners,

We have been retained by the Concerned Citizens Coalition/Marymount Expansion, Inc. ("CCC/ME") to present the following comments regarding the City's consideration of the Marymount College Facilities Expansion Project (the "Expansion Project" or "Project"). More detailed comments will be provided in future correspondence. CCC/ME and its members have submitted numerous comments about the proposed Project and many of them remain insufficiently addressed or answered.

## Important Excerpts

- The City may certainly deny the Project without certifying the EIR.
- Any decision by a City affecting Land Use and Development must be consistent with the General Plan.
- A statement of Overriding Consideration cannot be adopted for significant impacts stemming from the projects inconsistency with the General Plan.

# **The City cannot approve a project that is inconsistent with the General Plan**

- **Urban Environmental Element (UEEP) Residential Policies #13 through 15: Preservation of scenic views;**
- **UEEP Institutional Activity Policy 1: Requires adequate buffering between schools and residential uses;**
- **UEEP Institutional Policy 6: requires Plans to be closely reviewed for compatibility with residential uses;**
- **UEEP Noise Standards Policy 3: requires minimal degree of noise impact on adjacent land uses;**
- **Natural Environmental Public Health and Safety Policy 2: Allow only low intensity activities within areas with slopes greater than 35 %**
- **Natural Environmental Overall Policy 7: Encourage study and funding to preserve usual flora and fauna (such as the El Segundo**

# CEQA requires public agencies to deny approval of a project with adverse effects when a feasible alternative or feasible mitigation can substantially lessen the effects.

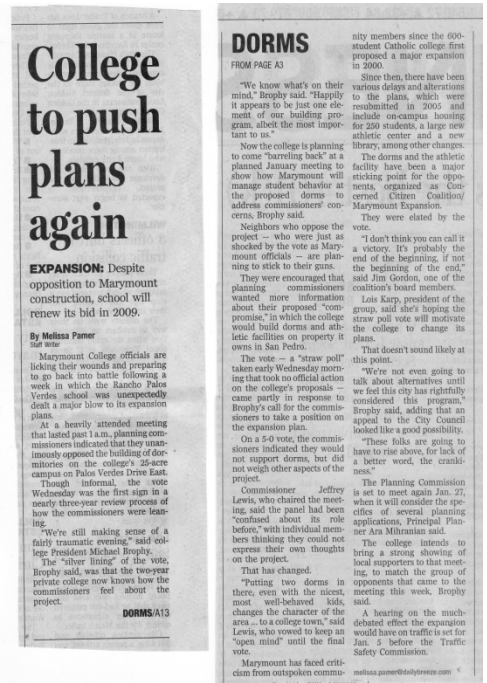
Impacts of The Project vs. the Environmentally Superior Alternative

IMPACT CHARACTERISTIC	THE PROJECT	ALTERNATIVE
Significant Unavoidable Impacts	5	0
Conflict with RPV/LA City Land Use? (24/7 vs. weekdays only)	Yes	No
Conflict with RPV Development Code?	Yes	No
Long-Term Change in Visual Character?	Yes	No
Construction Noise-Intermittent over 8 years?	Yes	No
Need Traffic Signalization and Reconstruction?	Yes	No
Mitigations Needed	49	Minimal
Compliance with Code Standards	No	Yes
Basic Project Objectives Met	Yes	Yes
Construction on/near Steep Topography	Yes	No
Grading Required (102,000 cubic yards)	Yes	Minimal
Geologic Restrictions	Yes	No
Setback Compliance	No	Yes
Adequate Parking on Site?	No	Yes
On-Campus site for Pre-School?	No	Yes
Youthful Drivers/Safety? (vs. "Baseline")	No	Yes
Buildable Space (210,000 sq. ft. total)	1.4 Million sq. ft.	Minimal
Construction Noise (Yes, over 8 years)	Yes	Minimal
Construction Cost (\$78,000,000)	Millions Less	
Aesthetic Degradation	Significant	No
Soccer Field Noise	Yes	No
Bulk & Mass	Avg. 2.8 times larger	N/A

- The EIR states “Living Campus/Academic Campus” alternative shows it is feasible (DEIR pp. 7-12 to 7-25:.. “This Alternative attains the basic Project objectives and reduces Project impacts..”
- The City has a duty to refrain from approving any portion of the Project that creates significant impacts that can be mitigated by choosing an alternative.
- “Under CEQA, the public Agency bears the burden of Affirmatively demonstrating that..the agency’s approval of the proposed project followed meaningful consideration of alternatives and mitigation measures.”

**CEQA requires public agencies to deny approval of a project with adverse effects when a feasible alternative or feasible mitigation can substantially lessen the effects.**

- Under CEQA, “the willingness or unwillingness of a project proponent to accept an otherwise feasible alternative is not a relevant consideration.”



# CEQA requires all mitigations measures for a project to be formulated during the environmental review process so their efficacy can analyzed in the EIR.

TR-6	Prior to issuance of any Certificate of Occupancy, the Applicant shall institute, to the satisfaction of the Director of Planning, Building, and Code Enforcement and the Public Works Director, parking management strategies to reduce secondary College-related parking demand by the following values: <ul style="list-style-type: none"><li>• 23 percent or greater for student enrollment between 751 and 793;</li><li>• 15 percent or greater for student enrollment between 701 and 750;</li><li>• 15 percent or greater for student enrollment between 651 and 700;</li><li>• 10 percent or greater for student enrollment between 601 and 650;</li><li>• 5 percent or greater for student enrollment between 551 and 600; and</li><li>• 0 percent or greater for student enrollment of 550 or less.</li></ul> Potential parking management strategies may include, but are not limited to, the following: <ul style="list-style-type: none"><li>• Provision of "carpool only" parking spaces;</li><li>• Implementation of parking pricing for campus parking permits;</li><li>• Utilization of remote parking;</li><li>• Provision of increased shuttle services;</li><li>• Offering financial incentives;</li><li>• Implementation of restrictions on parking allowed by dormitory residents;</li><li>• Implementation of restrictions on parking allowed by residents of the Palau Verdes North Facility.</li></ul>
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- Courts have prohibited the deferral of mitigation measures because “[t]here cannot be meaningful scrutiny [of an environmental review document] when the mitigation measures are not set forth at the time of project approval.”
- There can be no “to be determined” items used as mitigations; i.e. Hydrology – Drainage plans; detailing basin plans that are conceptual; parking management plans; geological studies; construction management plans for staging area and construction equipment; construction lighting and safety plan; final landscape plan; etc.

# Significant New Information requires Recirculation

If an agency adds “significant new information” to an EIR prior to certification but after consultation with the public and other agencies, it must re-circulate the EIR prior to certification. (Pub. Res. Code 21092.1)

- CEQA requires a stable Project Description. New information was added after comment period closed;
- Modular Buildings-14,000 sq. ft. ;
- New Hours of Operation extending to midnight;
- 150 night-time students 5 weekdays;
- Athletic Facility open ‘til midnight 7 days/week
- Overlapping Summer Camps (600 + 200);
- Public/student Library use ‘til midnight
- Changes in seating capacity
- No parking for Athletic Facility uses; Fences, Netting, etc.



# Important Findings cannot be Made

CONDITIONAL USE PERMIT FINDINGS	Finding No. 1 Subject Site is Adequate in Size and Shape	Finding No. 2 Streets are Sufficient to Carry Project Traffic	Finding No. 3 Significant Adverse Effect on Adjacent Properties	Finding No. 4 Contrary to the General Plan	Finding No. 5 Overlay Control Districts	Finding No. 6 Conditions of Approval Minimize Impacts
Residence Halls	Not Made	Made	Not Made	Made	N/A	Not Made
Athletic Building (gymnasium)	Not Made	Made	Not Made	Made	N/A	Yes
Library	Made	Made	Made	Made	N/A	Yes
Student Union	Made	Made	Made	Made	N/A	Yes
Faculty Building	Made	Made	Made	Made	N/A	Yes
Administration Building	Made	Made	Made	Made	N/A	Yes
Fine Art Studio	Made	Made	Made	Made	N/A	Yes
Maintenance Building	Made	Made	Made	Made	N/A	Yes
Athletic Field	Made	Made	Made	Made	N/A	Yes
Tennis Courts	Made	Made	Made	Made	N/A	Yes
Parking Lot	Made	Made	Made	Made	N/A	Yes
East Parking Lot	Made	Made	Not Made	Not Made	N/A	Yes
Lighting	Made	N/A	Made	Made	N/A	Yes

- The required Findings cannot be made for building Residence Halls and Athletic Facility on the south-facing slopes.
- An approval of CUP and Variance must be based on substantial evidence.
- Residence Halls are not needed to preserve and enjoy a substantial property right.

## Responses to Comments

In *Browning-Ferris Industries of California, Inc. v. San Jose* (1986) 181 Cal.App.3d 852, the court citing *Gallegos v. California Board of Forestry* (1978) 76 Cal.App.3d 945, *Twain Harte Homeowners Association, Inc. v. Tuolumne* (1982) 138 Cal.App.3d 664, and *Cleary v. Stanislaus* (1981) 118 Cal.App.3d 348, stated that the lead agency must respond to all significant environmental comments in a level of detail commensurate to that of the comment.

Further, while there is no legal requirement for an agency to respond in writing to comments submitted after the expiration of the comment period, an agency's failure to evaluate the substance of the comment and to respond appropriately to substantive comments in the proceedings may place the agency at risk in the event of legal challenge.

- CEQA requires detailed answers to detailed questions.
- Generally, responses were simply a re-statement of prior responses without truly addressing the issues raised.
- The response to comments attributed to (me) were not properly answered because they did not respond with any new information requested.
- Many answers given to Commissioner's questions were also lacking in specificity as well.



## Recent Comments Letters provided to the Commission (2009) – Partial Listing

- 5 January: re ITE Code 540 (Jr/Community Colleges)
- 4 February: Front Parking Setback issues/Findings
- 11 February: Re Credibility of Parking Mitigation
- 12 February: Student Seats and Parking
- 13 February: Youthful Drivers Safety Hazards
- 14 February: Community Colleges: ITE Codes Flawed
- 17 February: Re: PVDN LA City Plans: “Citizens Case”
- 20 February: Faulty Findings: Front Parking Setback
- 24 March: ITE Codes Redux
- 27 March: PC Memo Omissions
- 28 March: Validated Misuse of ITE Codes
- 29 March: Existing Traffic-Corrected Table 5.3-7

# Traffic & Circulation DEIR/FEIR

## Section: 5.3: Significant Issues and Problems

Institutional (Land Uses 500-599)		
Code	Land Use	Page
501	Military Base.....	890
520	Elementary School.....	901
522	Middle School/Junior High School.....	911
530	High School.....	920
534	Private School (K-8).....	945
536	Private School (K-12).....	950
540	Junior/Community College.....	961
550	University/College.....	989
560	Church.....	1002
561	Synagogue.....	1016
565	Day Care Center.....	1025
566	Cemetery.....	1053
571	Prison.....	1061
590	Library.....	1070
591	Lodge/Fraternal Organization.....	1089

Medical (Land Uses 600-699)		
Code	Land Use	Page
610	Hospital.....	1091
620	Nursing Home.....	1119
630	Clinic.....	1141

- Application of ITE Jr. College trip factors **misrepresents** and contradicts actual data (Appdx.13.2, p 165)
- Trips thus produced **are less than half of actual trips** observed (1.2 per student/day vs. 2.79 trips observed)
- Distribution/timing of such Code 540 is reversed from actual data: **Understates volume and Peak Hour impacts**
- ITE Codes use questioned by Both Traffic consultants;
- RBF states “schedule constraints” as reason for use
- ITE Codes representative of Marymount College (Code 550 – University/College), solve the age(17-22), Part-Time/Full-Time, & student status issues



# Traffic & Circulation

## DEIR/FEIR Section: 5.3

### Significant Issues and Problems

- Initiate weekend shuttle service with 52 riders during the Saturday mid-day peak hour.

To reduce project impacts to a level considered less than significant at the Western Avenue (SR-213)/Trudie Drive-Capitol Drive intersection, the shuttle ridership between the campus and the Palos Verdes Drive North housing facility would need to increase by a factor of approximately 23 (from 31 to 730 riders) during the a.m. peak hour. It is noted, shuttle ridership reduces trips from only some intersection movements affected by project trip assignment at the study intersections, therefore reducing the overall benefit of the shuttle ridership. For example, the Western Avenue (SR-213)/Trudie Drive-Capitol Drive intersection traffic volumes are increased at eight of the twelve intersection movements, while the shuttle ridership would only reduce trips at four of the intersection movements.

The increase in ridership needed to reduce significant traffic impacts is considered infeasible due to the high ridership values required.

- Mitigation TR-6 includes an infeasible Shuttle option, and a failed Car-Pooling Mitigation (Condition #13)
- Recent disclosure of Reduced Student seats by College demonstrates “unstable” Project Description.
- College now claims student seats are reduced (by 56) vs. increased by 131 (total impact 187) reduces parking req.
- Youthful Drivers represent documented Hazards if allowed with new Residence Halls. (Ken Goldman)
- FEIR fails to include significant traffic impact discovered at Crestwood and Western (Pat Carroll presentation).
- Parking analysis in DEIR/FEIR inconsistent with actuals