

Carla Morreale

From: Davis, Donald M. [DDavis@bwslaw.com]
Sent: Monday, October 31, 2011 4:56 PM
To: cc@rpv.com
Cc: Rodriguez, Irene J.; Michael Brophy; Carol W. Lynch
Subject: FW: SENT ON BEHALF OF DONALD M. DAVIS - Marymount College Comments on Agenda Item No. 3
Attachments: Attached.pdf

Dear Councilmembers,

It appears that you were not copied on the original email transmittal to Mayor Long. Please see the attached comment letter submitted on behalf of Marymount College with respect to Agenda Item No. 3 of tomorrow night's meeting.

Regards,

Donald M. Davis
Partner

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From: Rodriguez, Irene J.
Sent: Monday, October 31, 2011 4:14 PM
To: 'tom.long@rpv.com'
Cc: 'mbrophy@marymountpv.edu'; 'jreeves@marymountpv.edu'; 'JoelR@rpv.com'; 'tomo@rpv.com'; 'clynch@rwglaw.com'; Davis, Donald M.

Subject: SENT ON BEHALF OF DONALD M. DAVIS - Letter to Tom Long

Re: Request to Stay the Proposed Improper Modifications to the Marymount College CUP Regarding Parking

<<Attached.pdf>>

October 31, 2011

VIA E-MAIL & OVERNIGHT DELIVERY

Tom Long, Mayor
Members of the City Council
City of Rancho Palos Verdes
30940 Hawthorne Boulevard
Rancho Palos Verdes, California 90275

**Re: REQUEST TO STAY THE PROPOSED IMPROPER MODIFICATIONS TO THE
MARYMOUNT COLLEGE CUP REGARDING PARKING**

Dear Mayor Long and Councilmembers:

On behalf of Marymount College, we respectfully request that the City Council take no action at its meeting of November 1, 2011 on agenda item No. 3 (Marymount College – [Purported] Parking Management Strategies) because, as set forth below, (1) the proposed action in fact seeks to modify the terms and conditions of Marymount's Conditional Use Permit (CUP), (2) the proposed modifications have not been properly noticed in accordance with the City's Municipal Code and also do not comport with applicable due process requirements, and (3) there is a lack of substantial evidence to support to the proposed modifications to the CUP.

**1. THE PROPOSED ACTION SEEKS TO MODIFY THE PARKING CONDITIONS OF
MARYMOUNT'S CUP.**

Under agenda item No. 3, City staff is asking the City Council to "affirm" one or any combination of three proposed measures "so that a minimum of 90 temporary parking spaces are provided on the College campus by...January 9, 2012." (Staff Report at p.3.) Although couched as "strategies" that the Community Development Director and Public Works Director have the purported discretion to implement under the CUP, in reality, the proposed action seeks to amend the terms and conditions of Marymount's CUP, which is readily apparent from a brief review of the record that led to the Council's approval of Revision "E" to CUP No. 9 in 2010, specifically as it pertains to Mitigation Measure TR-5 of the Final EIR (FEIR), which was restated as CUP Condition No. 158.

2 of 9

Marymount College Comments on Agenda Item No. 3
City Council Meeting of November 1, 2011
October 31, 2011
Page 2

Based on observed parking demand at the College, which has historically included legal street parking on Palos Verdes Drive East, it was determined that at full enrollment (793 students), there would be a peak hour demand for 519 parking spaces. Because the College was proposing to add 120 new spaces beyond the existing 343 spaces (463 spaces total) upon completion of Phase I of its campus master plan, the FEIR parking analysis estimated that there would be a potential deficiency of 56 spaces. (See attached FEIR Table 3.3-43.) In order to address this potential deficiency **at build out of the new parking areas**, Mitigation Measure TR-5 was recommended, which included parking management strategies **in order to reduce off-site parking demand following the completion of the additional on-site parking areas in Phase I.**

It is abundantly clear from the parking analysis of the approved FEIR that the primary intent behind the parking management strategies in Mitigation Measure TR-5 and the percentage reductions in demand associated with student enrollment, which terms were restated in Condition No.158, was to reduce parking demand at or just prior to completion of the expanded parking areas and not to eliminate all street parking during the interim two-year period in which the College was permitted to complete Phase I under Condition No. 60. Accordingly, the burdensome and premature "interim" actions that Staff is asking the Council to approve must be viewed as a modification to the CUP. This is particularly true where, as here, the only truly feasible manner to create the 90 additional parking spaces now being demanded without impacting existing and approved campus operations is to create a 30,000 square foot temporary parking lot on the site of the proposed new athletic field for which construction is scheduled to start in less than six months. (See Comment No. 4 below regarding the details of this proposed temporary parking lot.)

The City Council had the opportunity to preclude street parking and to require the construction of a temporary parking lot when it approved Revision "E" to the CUP in 2010. The Council chose not to do so at the time, and the CUP cannot now be amended without evidentiary support for such a change or in compliance with all applicable due process notice and hearing requirements.

2. THE PROPOSED MODIFICATIONS TO MARYMOUNT'S CUP HAVE NOT BEEN PROPERLY NOTICED IN ACCORDANCE WITH THE CITY'S MUNICIPAL CODE AND APPLICABLE DUE PROCESS REQUIREMENTS.

A CUP creates certain property rights that may not be modified arbitrarily without cause or without proper notice and a hearing that comports with constitutional rights of due process. (See *Bauer v. City of San Diego* (1999) 75 Cal.App.4th 1281; *Malibu Mountains Recreation, Inc. v. County of Los Angeles* (1998) 67 Cal.App.4th 359; *Community Development Com. v. City of*

Marymount College Comments on Agenda Item No. 3
City Council Meeting of November 1, 2011
October 31, 2011
Page 3

Fort Bragg (1988) 204 Cal.App.3d 1124; *Garavatti v. Fairfax Planning Com.* (1971) 22 Cal.App.3d 145; and *City of San Marino v. Roman Catholic Archbishop* (1960) 180 Cal.App.2d 657.) Staff, in its rush to modify the CUP not only tramples upon these well-established constitutional principles, but ignores the applicable provisions of the City's own municipal code.

Under Rancho Palos Verdes Municipal Code sections 17.60.100 and 17.86.060, the modification of any term of a CUP requires at least 10-day's notice and a hearing. No such notice was provided to Marymount, which only learned about the proposed City Council action through a list-serve message that was sent by email after regular business hours on Thursday, October 27, 2011 – less than five days prior to the proposed action item on the Council's agenda, which is not a public hearing.

The proposed action to modify the CUP violates not only Marymount's due process rights, but those of its neighbors as well who should have an opportunity to review and comment on the grading and construction activities associated with the creation of the 30,000 square foot, 90-space temporary parking lot that staff is requesting the Council mandate construction of within two month's time. (See *Scott v. Indian Wells* (1972) 6 Cal.3d 541 [neighbors entitled to due process notice on CUP matters].)

Because the City has failed to comply with all applicable due process requirements associated with the proposed action to modify Marymount's CUP, the matter may not be considered at the November 1, 2011 meeting, and Marymount will not be sending any representatives to participate in such an unlawful proceeding. This letter will preserve the College's right to challenge any unlawful action that may knowingly and willfully be taken by the City Council subsequent to this notice of the constitutional infirmities associated with the subject agenda item.

3. THERE IS A LACK OF SUBSTANTIAL EVIDENCE TO SUPPORT TO THE PROPOSED MODIFICATIONS TO THE CUP.

Equally as troubling as the deliberate avoidance of due process protections in this agenda item is the utter absence of any evidentiary basis to support the proposed modification of an existing condition/mitigation measure that seeks to "reduce" or "minimize" street parking to one that essentially seeks the eliminate all such lawful street parking before the expanded parking areas are even constructed. According to the staff report, staff has observed a maximum of 70-90 cars parked on the street during peak hours. As the proposed CUP modification would require the construction of a 90-space temporary parking lot, it is clear that the modifications seek to eliminate any such lawful overflow parking.

Marymount College Comments on Agenda Item No. 3
City Council Meeting of November 1, 2011
October 31, 2011
Page 4

In order to modify or revoke a validly issued permit, there must be substantial evidence to support such action. (See *City of San Marino v. Roman Catholic Archbishop*, *supra*, 180 Cal.App.2d 657, 669 [rejecting city interpretation of its own ordinance that a parking area must be constructed before issuance of building permit for a new building].)

What then are the bases for the proposed modification to the CUP? According to the staff report, there are none other than staff's erroneous and overly aggressive interpretation of Condition No. 158 as requiring the elimination of any street parking *prior to* the construction of the additional 120 parking spaces in Phase I of the College's master plan. Staff concedes that there have been no complaints from any of the property owners abutting the public streets where students and visitors to the campus are lawfully parking: "Neither the City nor the College has received complaints from area residents regarding the street parking in front of homes or related disturbances." (Staff Report at p.2.) Indeed, in accordance with CUP Condition No. 138, Marymount met at the end of September with the designated representatives of the neighboring homeowner's associations along with City staff to discuss campus operations. None of these HOA representatives called for the elimination of street parking near the Marymount campus or demanded that the City take any special action with respect to street parking particularly of the nature being proposed here by staff in their attempt to modify the CUP.¹

Staff's contention that the parking management strategies utilized to date by the College have not been effective is equally untenable in light of the findings made the Council in the Final EIR. As noted above, it was assumed that there would be a demand for 519 parking spaces with full enrollment of 793 students, which would result in a deficiency of 176 spaces until the 120 additional parking spaces were constructed by September 2012. Marymount is at full enrollment this semester, and yet the highest number of vehicles counted on the streets (90) is about 50% less than forecast deficiency of spaces (176). While Marymount is continuing to work towards reducing this number further (and Marymount believes current peak overflow is more in the range of 50 vehicles), it cannot be said that what it has been done to date to reduce parking demand has been ineffective, particularly where, as here, there is no evidence that the situation is creating a public nuisance to the level that would justify the proposed elimination all legal street parking. In the absence of such substantial evidence, the City Council must reject the proposed modifications to the CUP.

¹ Although this meeting took place over one month ago, City staff, to Marymount's knowledge, has never provided the City Council with a report on this meeting as required by Condition No. 138.

Marymount College Comments on Agenda Item No. 3
City Council Meeting of November 1, 2011
October 31, 2011
Page 5

4. THE COUNCIL SHOULD REFRAIN FROM ANY SIGNIFICANT MODIFICATION TO THE CUP PARKING CONDITIONS UNTIL IT IS CLEAR THAT THE COLLEGE IS UNABLE TO TIMELY COMPLETE THE ADDITIONAL PARKING AREAS.

The staff report omits two key interactions between the College and City staff. On September 28, 2011, Mr. Mihranian met with representatives of the College and was shown a revised site plan that would allow the College to provide upwards of 500 spaces instead of the 463 currently proposed as part of Phase I, and was also informed that the College was preparing to submit this modified plan to the City. On October 25, 2011, City staff and representatives of the College had a conference call to explore additional parking management strategies. Staff suggested that the College's faculty could be made to park in San Pedro and take a shuttle to the campus, to which the College's representatives told staff in no uncertain terms that such a measure was not feasible because the majority of the teaching staff are adjunct faculty who teach at multiple campus and operate on very tight schedules. As such, the only potentially feasible strategy to provide additional interim parking appeared to be the creation of a temporary lot on the undeveloped portion of the campus.² The College's representatives told City staff that the College would look into the temporary lot and get back to staff at the earliest opportunity (not knowing that staff had already made up its mind to impose several new conditions and was scheduling the matter for City Council action at this meeting).

On October 28, 2011, the College's project architect was advised by a civil engineering firm that the construction of a temporary lot of approximately 30,000 square feet sufficient to hold approximately 90 vehicles could potentially be constructed in the unimproved western area of the campus where the new athletic field is to be located and would cost around \$75,000 (not including any permitting or processing fees or stormwater mitigation measures that could raise the costs to upwards of \$100,000). A good portion of this work (e.g., gravel, drainage, etc.) would need to be removed and therefore would be wasted when the College proceeds with Phase I of its campus master plan.

At this time, the College is working diligently towards the goal of proceeding with Phase I next summer, which would include the construction of the expanded on-site parking areas. If the College is unable to complete the work within the current CUP schedule (i.e., September 2012), and an extension is required, then the College would be prepared to accept as a condition to such extension, the construction of a temporary parking area for up to 90 vehicles before the start of the fall term next year (August 2012). This would avoid any potentially

² Staff's suggestions to convert the existing athletic field or to convert its basketball and tennis courts into parking lots were also deemed not feasible or desirable during the call because of the negative impact on existing programs. The so-called "valet parking" strategy was not mentioned by staff during the call, but as conceded in the letter sent to the College following day (see letter dated 10/26/11 at p.4), it cannot independently achieve staff's proposed modification to the CUP to eliminate all street parking near the campus.

Marymount College Comments on Agenda Item No. 3
City Council Meeting of November 1, 2011
October 31, 2011
Page 6

wasteful expenditures and would be fully consistent with the two-year period to provide such parking that was incorporated into the City Council's 2010 approval of the project.

In closing, Marymount is disappointed by the precipitous recommendation being made by staff to modify Marymount's CUP in the manner proposed. For the reasons set forth above, the College respectfully requests that the City Council refrain from such action.

Sincerely,

BURKE, WILLIAMS & SORENSEN, LLP



DONALD M. DAVIS

Attachment: Portion of Final EIR Parking Analysis (Page 3.3-42)

cc: **(Via E-Mail only)**
Dr. Michael Brophy
Vice President Jim Reeves
Joel Rojas, Community Development Director
Tom Odom, Public Works Director
Carol Lynch, City Attorney

ATTACHMENT

8 of 9



**Table 3.3-43
 Mitigated Forecast Parking Demand Based on Observed Parking Ratio and RPVMC**

| Parking Component | Peak Hour Parking Space Demand |
|---|--------------------------------|
| 7 New Employees/Faculty ¹ | 4 |
| 793 Students | |
| - 543 AA Program students * 0.57 parked vehicles/student | 310 |
| - 250 BA Program students * 0.57 parked vehicles/student * 1.43 multiplier | 204 |
| 5 Net New Student Seats (City Code: 1 parking space per 5 student seats) ² | 1 |
| Subtotal Forecast Parking Spaces Required | 519 |
| Mitigation Measure: Parking Management Strategy (11% Reduction applied to 519 demand) | <u>- 57</u> |
| Total Forecast Parking Spaces Required | 462 |
| Parking Spaces Provided (343 existing + 120 added by proposed project) ³ | <u>463</u> |
| Parking Surplus/Deficiency | +1 |

1 - Based on City of Rancho Palos Verdes Parking Code for Colleges and Universities for employee/faculty category.
 2 - Based on City of Rancho Palos Verdes Parking Code for Colleges and Universities.
 3 - Based on site plan (Rasmussen and Associates, November 2005).

BA Program Existing Plus Project Parking Mitigation Measures:

TR-5 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 weekday College-related parking demand by the following values:

- 11 percent or greater for student enrollment between 744 and 793;
- 6 percent or greater for student enrollment between 694 and 743;
- 0 percent or greater for student enrollment of 693 or less.

Potential parking management strategies may include, but are not limited to, the following:

- Provision of "carpool only" parking spaces;
- Implementation of parking pricing for campus parking permits;
- Utilization of remote parking;
- Provision of increased shuttle services;
- Offering financial incentives;
- Implementation of restrictions on parking allowed by residents of the Palos Verdes North Facility.

From: bubba32@cox.net
Sent: Tuesday, November 01, 2011 10:00 AM
To: Ara M
Cc: cc@rpv.com
Subject: Re: FW: SENT ON BEHALF OF DONALD M. DAVIS - Marymount College Comments on Agenda Item No. 3
Attachments: Marympount Google picture img221.jpg

Ara

Thank you for Donald Davis's "Late Correspondence". This response was not unexpected by me. In my opinion, that communication is a PR travesty of the first order.

I have a few preliminary comments and observations:

- 1.) The excuse presented by Davis/Marymount for not proceeding or complying is simply that the City (Joel, et al), have exceeded their authority under the COA.
- 2.) That the COA #158 does not supercede the College's "right" to continually defer such requested new parking (temporary) until September 30, 2012. I have already provided the documentation that Phase I is "Infeasible" as presently written - due to the time it will take to implement these initial new entitlements, and that the College, as a consequence, will necessarily have to close the campus for an unacceptable extended period of time. (Another copy of that analysis is available upon request)
- 3.) That the requested alternative of building a 30,000 sq. ft. new parking area (on the proposed area of the new soccer field) is onerous and could cost upwards of \$100,000. The Tennis courts conversion would cost far less than that.
- 4.) **That the College is now at "Full enrollment"**, a code word that admits (in my view) that their latest enrollment report is fictitious as it does not show that result. This needs to be further explored to obtain a compliant report under Condition # 146 as we have previously discussed. They are most likely at well over 800 students now.
- 5.) The College is implicitly stating that they are willing - as a concession for extension of their expiring entitlements - to construct just such a requested parking lot for the Fall 2012 term - if a.) Their proposed Phase I is incomplete or not started at that time, and b.) an extension is granted. **Why not now?**
6. The College has ruled out the remaining three other alternatives **summarily**, without giving any detailed reasons other than "undesirable" or infeasible. Construction and modification of the Tennis Courts area is entirely feasible and beneficial to the College's own students (see my prior e-mail

data) and very cost-effective.

7.) Alternative arrangements can easily be made by the College to accommodate their ongoing athletic programs that might be affected. Not commented on for obvious reasons.

8.) In the DEIR, Don Davis made unsubstantiated, erroneous and obviously false statements and arguments against development of the College's PV North facility which have proven to be without merit and which are documented in the Comment letters to have been misleading and false at that time. (I wrote them). Nothing new from Davis here about misleading the City again.

9.) Fact! The College has had no problem adding 100+ new residential beds at PV North to date as well as adding 129 new parking spaces there. The College has therefore sacrificed its own students' parking convenience by not proceeding with added parking at the PVDE campus.

10.) The FEIR referred to by Davis allows operation of a 4-year program which the College is now enjoying. That study envisioned an additional 120 space parking addition that the College wishes now to defer until Fall 2012. That is the issue here - as so stated by Davis. The promise was to have one extra on-campus space (+1 in that table) for parking on campus. That is assuredly a guarantee of no-on-street parking, not 70 - 90 parked continually on adjacent streets.

11.) The alternative of converting the existing tennis courts (43,500 sq. ft. minimum) is **entirely feasible and cost-effective**. The College and Davis have failed to deliver and cogent or detailed reasons for rejecting this option out of hand. Why?

12.) Davis is contending that the College has a "right" to park on the streets notwithstanding their acceptance of the COA.

13.) I believe that the College is in fact well over their enrollment limit at this time and that is an Achilles heel issue for them to submit any further plans, etc. when fully explored.

14.) The Don Davis letter **conveniently omits the latest 99 Seniors** who would be allowed to audit the College's programs per Dr. Brophy's latest offer. That offer - by definition of the "full enrollment" situation, would obviously put the College over that limit. This is in need of further review.

15.) The ADA requirements for Marymount with any additional enrollments would also need to be included in any computation of extra parking. Such additions can easily be accommodated by the proposed alternate of using the Tennis Courts area.

16.) The Davis Letter is simply a **legalistic way of further snubbing the City** and the fundamental purpose of these agreements - not to mention the repeated promises by the College to take parking off these same streets.

17.) There have been complaints daily - by our review of overflow parking - some of which reports have been transmitted to the City from time to time.

18.) Whether or not there has not yet been City action to close on-street parking to College students is irrelevant and may now be an action that should be pursued. The College did not use this argument to avoid their acceptance of those conditions to remove on-street parking.

19.) I am shocked at the lack of consideration by Davis and the College at wanting to continue to inconvenience large numbers of their students with excessive additional transit and travel distances to get to and from classes. The solution is readily at hand and there are viable feasible alternatives to conversion of those Tennis Courts, etc.

20.) Contrary to Davis's contention that there have not been over 90 vehicles on the streets, see last Thursday's count of 103 vehicles, and **this does not include provision for the proposed added 99 Seniors** who would audit Marymount classes. **Are Seniors supposed to walk the extra distances as I have shown you in my last e-mail (average of an extra 1,684' (a third of a mile+))?**

21.) I do not believe that it is in the College's best interests to pursue this case as might be suggested by Davis's rather litigious and threatening letter. They have issues better left unrevealed. There are a number of vulnerabilities by the College since we are talking about a situation that is less than a year away from ultimate resolution (August 2012) by admission of Davis's letter. The College is most likely vulnerable to now having excess enrollments that are in fact over the limit which will be an issue in any contentious hearing and will support the City's position to deny further extensions, etc. in the first place. Further, if this proves true, the College will have been guilty of covering up this non-compliance.

22.) I believe that the City is actually in a position to obtain implementation of the alternative on-site parking as demanded now in the Staff Report recommendations and that the College is not in as strong a position to not comply as might otherwise seem the case superficially.

I have attached for your interest and reference a Google earth photo of the campus showing at least 80 vehicles parked on city streets. Using Google's available tools, computations were made as to the average distances from the mid-point of each of these streets to the front entry of the Classroom building. From the proposed alternative use of the tennis courts area to that front entry is 262'. From the weighted average of the on-street parking areas it is 1,104' to that same entryway, or an additional 842' (one way) for each and every on-street parked student, **or a total of 1,684' extra distance per each student, daily who parks off-campus.**

Where is the College's priority for its own students?

Jim

----- Ara M <aram@rpv.com> wrote:

> FYI.

>

> This is late correspondence.

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> Ara Michael Mihranian
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> P Do you really need to print this e-mail?
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> assistance and cooperation.
>

> _____
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> From: Davis, Donald M. [mailto:DDavis@bwslaw.com]
> Sent: Monday, October 31, 2011 4:56 PM
> To: cc@rpv.com
> Cc: Rodriguez, Irene J.; Michael Brophy; Carol W. Lynch
> Subject: FW: SENT ON BEHALF OF DONALD M. DAVIS - Marymount College Comments
> on Agenda Item No. 3
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> Dear Councilmembers,
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> It appears that you were not copied on the original email transmittal to
> Mayor Long. Please see the attached comment letter submitted on behalf of
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> meeting.
>

> Regards,
>
>

> Donald M. Davis
> Partner

11/1/2011

4 of 6

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> Subject: SENT ON BEHALF OF DONALD M. DAVIS - Letter to Tom Long
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> Re: Request to Stay the Proposed Improper Modifications to the Marymount
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> <<Attached.pdf>>
>



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6 of 6

From: bubba32@cox.net
Sent: Tuesday, November 01, 2011 12:29 PM
To: aram@rpv.com
Cc: cc@rpv.com
Subject: Don Davis and Misinformation submitted to the City of RPV

Ara. et al

As mentioned to you in my preceding e-mail that commented on Don Davis's questionable letter and misleading information regarding Staff's Parking Recommendations slated for review by the City Council this evening, I am submitting as follow-up documentation my referenced example of Attorney Davis's misstatements of August 27, 2007 to the City of RPV. Those misstatements relate to the proposed alternative use of the College's San Pedro PV North site for additional residential and classroom facilities. Such alternative uses have now been proven correct by the Colleges revelations of their 50 & 20 year plans for this site to the City of Los Angeles.

According to the College, "The Palos Verdes Drive North San Pedro Master Plan centers on developing a small college campus where students will live, attend classes and study" said Dr. Brophy. "First steps will be include the construction of an aesthetically pleasing parking lot (129 spaces) to curtail street parking on Palos Verdes Drive North, as well as a maintenance facility, and upgrading the existing townhomes to accommodate the growing need for student housing."

Don Davis, in his letter of August 27, 2007 had stated that all this was not feasible, making at least seven (7) specific points in denial: He disputed

- 1.) "The College was never consulted regarding this alternative" (Use of the PV North property for additional residential accommodations, etc.) In point of fact, "The College has been fully aware of the Alternative of a "Living Campus/Academic Campus" since the initial scoping sessions of the original EIR (2002)".
- 2.) Davis's first (#1) point that "The site is outside the lead agency's jurisdiction" and
- 3.) (#2) that "This site's land-use designation is inconsistent with the project" have proven to be irrelevant, false and misleading per CEQA and given present day events.
- 4.) His next controverted point (#4) was that "The site is not economically viable;" which has proven to be just the opposite based on Marymounts' 20 year plan. In fact, this is the site of choice over the next few years whereas the approved entitlements at the RPV campus have proven to be econometrically daunting by comparison.

5.) Davis's Point #5 that "The site is incompatible With Surrounding Land Uses" is laughable in that Rolling Hills Preparatory School (RHP) - a compatible-use neighbor) was actually up and running with a completely new campus under exactly the same deed conveyance conditions as Marymount College was given - all within three years of their property transfer.

6.) Davis's next brilliant point (#6) was that "The site Presents Seismic Constraints" seemingly contradicted and is not any problem at all given Marymount's planned uses as detailed in their 20 year Plan submitted recently to the City of Los Angeles.

7.) Davis's final complaint submitted (his point #7) was that "There are Significant Environmental Effects in Developing the Off-Site Location". The facts are that the College's own Environmental report describes no such Significant Environmental effects, and in fact states just the opposite with respect to Marymount's planned developments at that site. That Reports states "No impacts directly associated with implementation of the proposed action..were deemed to be significant."

Accordingly, and based on direct evidence of previous statements submitted to the City of RPV by Attorney Davis, I find that his presentations, claims and arguments are significantly misleading, false, improper and therefore should be received and dealt with as such. I believe that contained in Attorney Davis's latest submittal to the City of RPV (October 31, 2011) there are similar omissions, misstatements and allegations that are without merit and that have been purposely or otherwise been included to deceive and misrepresent the circumstances being considered by the City Council.

Jim Gordon

From: bubba32@cox.net
Sent: Tuesday, November 01, 2011 1:09 PM
To: aram@rpv.com
Cc: cc@rpv.com
Subject: Parking Conditions of Approval, parts One and Two

Ara, et al

In his October 31, 2011 letter to the City, Attorney Davis apparently is disputing Staff's Interpretation of part two of Condition #158 that "Prior to the completion of Phase I...) . This rejection is based on the presumption that the City is somehow seeking a modification of the terms of the COA.

Without further addressing that convoluted logic, there can be no such claim made regarding the basic COA #158 requirement - stated as an absolute - that "The applicant shall construct and maintain no fewer than 463 on-site parking spaces..."

This portion of COA #158 was modified on August 2, 2011 by a decision of the City Council to "interpret" that portion of Condition #158 as being related to the beginning of construction, rather than apply immediately. I believe that decision should be re-visited in the event the College continues to seek another 10 months of parking deferral.

The College has now admitted and conceded that they need to increase parking capacity on a temporary basis at worse, that they are willing to implement in August 2012. Why wait?

Please consider that the City Council - if necessary - has the ability to re-visit their August 2, 2011 "interpretation" and fully require what the College promised to do without any further time delay or qualification whatsoever.

Jim

1 of 1

3.

From: Mark R Wells [mtwells@pacbell.net]
Sent: Tuesday, November 01, 2011 10:15 AM
To: RPV City Council
Cc: Susan Brooks; Jerry Duhovic; Eric Alegria; Ken Dyda; Dave emenhiser; Jim Knight; Dora de la Rosa
Subject: Re: Regular New Business (Agenda Item 3) Marymount College – Parking Management Strategies / 30800 Palos Verdes Drive East (Mihranian)

Council members and future council members;

Tonight, our City Council members may affirm Staff's current approach of utilizing Condition No. 158.

I strongly urge council members to do more than simply affirm Staff's report concerning whether Marymount College officials are implementing the language within 'Condition No. 158.

I believe that there must be more than just 'good faith' measures from Marymount College officials if reports from these individual are true and they want a much longer period of time to implement The Marymount College Facilities Expansion Project's phasing and any increase in the student population limits at Marymount's Rancho Palos Verdes Campus.

As part of any vote by the council tonight, regarding this item, some new language could be created in any motion stating something similar to; *As a demonstration by representatives of Marymount College that they understand the need to follow all current conditions, especially successfully implementing Condition No. 158, any council vote to allow any request to extend the overall period of time to complete all phases of The Marymount College Facilities Expansion Project and any vote to allow an increase in student population at Marymount's main campus be contingent of the completion of the redevelopment of the main campus' parking lot by September 30, 2012.*

My thought on this addition to any motion made tonight is based on currently informal requests made by some Marymount officials at a time when Staff has been attempting to deal with conditions where it has be obvious some of those same Marymount officials have seemed to not take current conditions, seriously enough.

Even though reports have stated that Marymount College officials allowed for the expenditures of over 7 million dollars on recent projects in San Pedro, little has been demonstrated in ways to deal adequately with Condition No. 158, in Rancho Palos Verdes.

Marymount officials seem to be requesting what many feel are 'major' changes in the time line of The Marymount College Facilities Expansion Project, but it appears they are 'dragging their feet' on following current guidelines.

It seems to set a bad example when an institution is seemingly not following current guidelines when they are asking for more work by our Staff and more discussions, votes and agreements, and greater work by our council members.

I feel it is time for Marymount officials to demonstrate more good faith gestures when they may soon be requesting more from our city, its Staff and its residents.

Regards.

Mark Wells
Rancho Palos Verdes