

BRENTWOOD RESIDENTS COALITION

February 1, 2011

Diana Kitching, Environmental Review Coordinator
Department of City Planning
Environmental Review Unit
200 N. Spring Street, Room 750
Los Angeles, CA 90012

Re: Brentwood Residents Coalition Scoping Comments
Case No. ENV-2009-3085-EIR
Bel Air Presbyterian Church, 16190 Mulholland Drive

Dear Ms. Kitching:

The Brentwood Residents Coalition (“BRC”)¹ hereby submits its scoping comments for environmental review of the Bel Air Presbyterian Church’s application for a conditional use permit (the “Project”).

The Initial Study for the Project is defective because it fails to provide an accurate project description. An inadequate project description dooms any resulting environmental review because the CEQA Guidelines specify that every EIR must set forth a “project description” that is sufficient to allow an adequate evaluation and review of the project’s environmental impacts. *See* CEQA Guidelines, § 15124. Consequently, “an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.” *County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185, 199 (1977). Conversely, “[a] curtailed, enigmatic or unstable project description draws a red herring across the path of public input.” *Id.* at p. 197-198. “Only through an accurate view of the project may the public and interested parties and public agencies balance the proposed project’s benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal and properly weigh other alternatives.” *City of Santee v. County of San Diego*, 214 Cal.App.3d 1438, 1454 (1989). Where, as here, the project description is misleading by failing to alert the public to a project’s true scope and impacts, the resulting environmental review is incurably defective. *San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th 645, 654-655 (2007). The entire public notification process must therefore begin anew, with an adequate project description.

¹ The BRC is a grass roots, non-profit advocacy group whose purposes are to preserve and enhance the environment and quality of life in Brentwood, to protect the integrity of residential neighborhoods, to assist with planning, to uphold zoning and municipal codes, to encourage traffic safety, and to educate the public on issues that affect quality of life and the environment.

BRENTWOOD RESIDENTS COALITION

Here, the Initial Study inaccurately describes the project as the construction of a “preschool” facility. In fact, the Project is for a *multi-use facility*, not just a preschool, and the most impactful uses of the facility will be the non-preschool uses that will occur at night and on weekends, separate from any preschool activities. The Initial Study mentions none of the potential impacts due to these non-preschool uses. A project description that includes only a part of a project, such as the description of a multi-use facility as a “preschool,” fails to describe “the whole of an action,” in violation of CEQA’s mandate to define the “project” as “*the whole of an action*, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...” CEQA Guidelines, § 15378, subd. (a); see also § 21065. Thus, “the entirety of the project must be described, and not some smaller portion of it.” *San Joaquin Raptor Rescue Center*, 149 Cal.App.4th at 654 (citing *Santiago County Water District v. County of Orange*, 118 Cal.App.3d 818, 829-831 (1981)). The Initial Study in this case fails to include the whole of the Project, it improperly describes a multi-use facility as merely a preschool. This failure to properly describe the actual and entire project in the Initial Study fails to provide the required public notice and therefore renders any subsequent environmental review inadequate.

1. The Project must be mitigated to achieve compatibility with the adjacent residential zone by (1) precluding non-preschool weekend and evening uses and (2) limiting the number and size of preschool-related evening and weekend uses.

The Project is inconsistent with the Brentwood-Pacific Palisades Community Plan because it provides for uses that are incompatible with the Project Site’s zoning and that of the adjacent residential community. The Project calls for the construction of a large 23,100 square foot facility, which, although labeled as a “preschool,” will be used by the Bel Air Presbyterian Church for significant non-preschool uses, including evening and weekend uses. The *size* of the proposed facility, including a 4,500 square foot gathering room, 3,500 square feet of administrative offices, and large outdoor facilities, including covered courtyards, and the Church’s current plans for *evening and non-preschool uses* far exceed the type of low-intensity preschool-related uses that might otherwise be compatible with the existing zoning and the adjacent residential community. These non-preschool uses are therefore incompatible with the Community Plan and must therefore be carefully analyzed in the Draft EIR.

Community Plan Objective & Policy: The Project has the physical capacity to accommodate and the Church has indicated its intent to transfer non-preschool evening and weekend uses from the north side of its property to the Project Site on the south side. The use of the Project Site for non-preschool evening and weekend uses raises special environmental concerns because the Project Site is directly adjacent to and below the neighboring residential community, Bel Air Skycrest, which is zoned “minimum density residential,” as is the Project Site.

The Brentwood-Pacific Palisades Community Plan, Objective 6-1, is intended to protect such residentially zoned neighborhoods against the risk of incompatible school-related development and land uses. Objective 6-1 is “To site schools in locations complementary to existing land

BRENTWOOD RESIDENTS COALITION

uses and community character.” The potential evening and weekend uses that would occur on the Project Site directly adjacent to and below Bel Air Skycrest are not compatible within this “minimum density residential” zone given the proximity of the Project Site to the residential neighborhood. This incompatibility violates Community Plan Policy 6-1.1, which is to “encourage compatibility in school locations, site layout and architectural design with adjacent land uses and community character.” While preschool uses, *if properly mitigated*, are generally compatible with minimum density residential zones, non-preschool nighttime and weekend uses are not compatible in such close proximity to residential homes. In order to comply with Plan Objective 6-1 and Policy 6-1.1, the Project must be mitigated by (1) precluding non-preschool weekend or evening uses and (2) limiting the number and size of preschool-related weekend and evening uses.

The Draft EIR must accurately analyze the impacts and mitigation options arising from the potentially conflicting land uses, especially given the explicit objectives and policies of the Community Plan. The Draft EIR must therefore disclose (1) all planned and potential uses of the Project Site; (2) in identifying these uses, the Draft EIR should (i) distinguish between preschool and non-preschool uses, (ii) Church and non-Church uses, (iii) uses by persons, groups or entities other than the preschool or Church (“Third Parties”), and (iv) identify which of the planned and potential uses currently or previously took place on the Church’s property north of Mulholland and the location within that property where such uses occurred. For any use of the Project Site that currently or previously occurred on the Church’s property north of Mulholland, the Draft EIR should identify any actual, contemplated or potential replacement uses on the Church’s property north of Mulholland.

The Draft EIR must also disclose (1) all current uses of the Church property north of Mulholland; (2) in identifying these uses, the Draft EIR should (i) distinguish between preschool and non-preschool uses, (ii) Church and non-Church uses, and (iii) Third Party uses. The Draft EIR must also disclose (1) all planned, contemplated or potential uses of the Church property north of Mulholland; (2) in identifying these uses, the Draft EIR should (i) distinguish between preschool and non-preschool uses, and (ii) Church and non-Church uses.

The Draft EIR must analyze the potentially adverse impacts of the disclosed uses (actual, contemplated and potential) on the adjacent residential community. The Draft EIR must specifically analyze the adverse impacts of evening and weekend uses of the Project Site. With respect to weekend uses on the Project Site, the Draft EIR must analyze the adverse impacts in light of the already existing weekend (especially Sunday) use of the Church property north of Mulholland and the impacts that such has on the adjacent community.

The Applicant claims that proposed non-preschool uses from the Church property north of Mulholland are “merely” being transferred to the Project Site on the south side of Mulholland. The Draft EIR must analyze (1) the necessity or justification for transferring those uses to the Project Site – which is immediately adjacent to the Bel Air Skycrest community; (2) the replacement use or uses that will be made of the space on the Church property north of

BRENTWOOD RESIDENTS COALITION

Mulholland that will be made available for other uses by transferring the identified use to the Project Site; (3) the feasibility of precluding any such replacement evening or weekend uses on the Church property north of Mulholland; (4) the mechanism for precluding any such replacement evening or weekend uses on the Church property north of Mulholland, such as recorded covenants or other legal restrictions on the use of property that would run with the land; and (5) the feasibility of maintaining each of the above-identified uses on the Church property north of Mulholland (instead of transferring them to the Project Site).

The Draft EIR must analyze the feasibility of the following mitigation measures: (1) Precluding all non-preschool evening and weekend uses on the Project Site; (2) Limiting the number, hours and size of all preschool-related weekend and evening uses to minimize impacts on the adjacent residential community; and (3) Requiring advance notice to the adjacent community of all evening and weekend uses on the Project Site by distribution of a year-long calendar of such events on or before the first week of December of the prior year.

2. The Project would usurp weekend and evening parking that is already required to accommodate uses on the Church property north of Mulholland.

The planning history for the Church property on the north side of Mulholland and the Project Site reveals that 500 parking spaces on the Project Site are reserved *exclusively* to service the uses on the north side of Mulholland on weekends and weekday evenings. Although an EIR and corresponding Zone Variance and CUPs required that 500 parking spaces be maintained on the location of the Project Site for the Church's use of its property on the north side of Mulholland, the Initial Study ("IS") reveals that there are currently only 482 parking spaces on the Project Site. The Project, therefore, does not provide sufficient parking capacity to accommodate any weekend or evening uses on the Project Site and this deficiency will further exacerbate the adverse impacts on the neighboring community.

The entitlement history for the Church's two properties on either side of Mulholland clearly establish that 500 parking spaces are required to accommodate the weekend and evening uses on the property north of Mulholland. In 1986, the Church sought discretionary approval from the City to expand its Sanctuary on the north side of Mulholland and build a Middle School on its property on the south side of Mulholland, on the current Project Site. The City authorized the proposed development but required that the Church provide 500 parking spaces on the south side of Mulholland to accommodate these expanded uses on both sides of Mulholland. But in doing so, the City authorized the Middle School to use this parking only on weekdays and only during the daytime (i.e., school hours). The 500 parking spaces were exclusively dedicated to accommodate the Church uses on the north side of Mulholland on weekends and evenings. This 500 parking space requirement, imposed through administrative proceedings for discretionary entitlements, exceeded the normal code requirements for the Church property north of Mulholland. When the Church again expanded its uses on the north side of Mulholland, during the Fellowship Hall project, it assured the community that this expansion would cause no significant impacts because there were 500 parking spaces on the south side of

BRENTWOOD RESIDENTS COALITION

Mulholland dedicated exclusively to accommodate uses on the north side on weekends and evenings. But, as revealed in the “Book of Impacts” submitted by the Bel Air Skycrest Property Owners Association, the parking-related impacts on the adjacent community are already significant, even without any current uses on the Project Site.

The Draft EIR must analyze the parking demands flowing from the uses on the Church property on both the north and south sides of Mulholland. In doing so, the Draft EIR must (1) survey and disclose the current number of parking spaces on the Project Site; and (2) if there are less than 500 spaces, as indicated in the IS, the Draft EIR must disclose the reason that fewer than 500 parking spaces exist and whether (and if so, how) the number of parking spaces can be increased to the requisite 500. The Draft EIR must also survey and disclose the current number of parking spaces on the Church property north of Mulholland and the uses for which that parking is dedicated. The Draft EIR must also analyze the feasibility of maintaining 500 parking spaces on the Project Site (1) exclusively to accommodate weekend and evening uses on the north side of Mulholland and (2) accommodating uses on both sides of Mulholland on weekdays during daytime hours.

The Draft EIR must also analyze the impact of evening and weekend uses on the Project Site. This requires that the Draft EIR analyze the potential impacts of foreseeable future uses of the Project Site based on an assumption of maximum usage/occupancy of all such facilities. It also requires that mitigation measures, including enforceable limitations on such uses, be disclosed and analyzed. Among other things, the Draft EIR should consider the traffic impacts of the evening uses, which will draw traffic to the Project Site during peak hour evening commuting times. This study must also account for cumulative impacts of other projects in the area, including the I-405 Widening Project, replacement of the Mulholland Bridge, and the Sepulveda Tunnel Project.

3. The Initial Study does not properly describe the scope of the Project or analyze its potentially significant environmental impacts.

The Initial Study for the Project is defective because it (1) fails to adopt the CEQA-mandated “baseline” against which the Project’s likely environmental impacts must be measured and (2) fails to consider the environmental impacts of the Project’s non-preschool uses. These fundamental defects must be cured in the Draft EIR by adopting a proper baseline and considering the Project’s non-preschool impacts on the environment.

i. The “baseline” for environmental review is set by the existing physical conditions, not previously-existing conditions.

To determine the significance of a project’s environmental impacts, the reviewing agency must first determine the “baseline” against which the project’s potential environmental impacts are to be measured. *Communities For A Better Environment v. South Coast Air Quality Management Dist.*, 48 Cal.4th 310, 315 (2010). The existing physical condition at the time of environmental review

BRENTWOOD RESIDENTS COALITION

ordinarily constitutes the baseline for purposes of assessing a project's environmental impact. *Woodward Park Homeowners Assoc. v. City of Fresno*, 150 Cal.App.4th 683, 706-707 (2007). This standard for determining the CEQA baseline was recently confirmed by the Supreme Court:

“Section 15125, subdivision (a) of the CEQA Guidelines provides: ‘An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. *This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.*” *Communities For A Better Environment*, 48 Cal.4th at 320, quoting CEQA Guidelines §15125 (a)(italics added in opinion).

This holding affirms that “the baseline for CEQA analysis must be the ‘existing physical conditions in the affected area,’ that is, the ‘real conditions on the ground,’ rather than the level of development or activity that *could* or *should* have been present according to a plan or regulation.” *Communities For A Better Environment*, 48 Cal.4th at 320.

The IS does not properly analyze the potential environmental impacts of operating a preschool on the project site because it relies upon the permit authorizing the Stephen S. Wise Middle School (“SSW Middle School”) to operate a 240-student school on the property to establish the baseline for assessing the proposed preschool’s environmental impacts.² But the SSW Middle School ceased operating on the project site on June 11, 2009, and the modular units from which it operated that school were removed in January 2010.³ The Notice of EIR Preparation was published on December 20, 2010, which is the date on which the baseline must be measured. Thus, the existing physical condition of the property for purposes of an EIR is the existing condition of the property as an empty lot, with no uses other than the ongoing parking lot usage (to accommodate the Church’s property on the north side of Mulholland). The baseline against which the proposed preschool use must be measured is therefore its use as an empty lot, with no school, no students and no buildings.⁴

The IS, however, uses the SSW Middle School permit, allowing a 240-student school, as the baseline against which the project’s 155-student preschool is measured. But, as the Court of

² See IS at pages II-1/-3 (describing CUPs for the SSW Middle School); IV-70/-71 (describing the baseline for traffic analysis as the *prior* use of project site as a middle school accommodating 240 students in nine temporary modular units).

³ The CUP to operate a 240-student school on the project site also expired in January 2010.

⁴ The SSW Middle School, its students, and the structures from which the school operates are now located at 15900 Mulholland, still on the Mulholland Institutional Corridor, west of the 405 freeway, where this use continues to impact the local environment.

BRENTWOOD RESIDENTS COALITION

Appeal in *Woodward Park* explained, the proper baseline for a project to be developed on a vacant lot is the property's existing "vacant" condition, not what was once present on the site or could legally have been developed on the site:

"If an EIR for a construction project on vacant land uses something other than vacant land as its baseline, the EIR will report only a portion of the impacts the project will have. For instance, if a hypothetical project half the size of the proposed project is used as a baseline, the EIR will report only half the project's impact. The EIR would fail to inform the public of the other half. It would also necessarily lack consideration of mitigation measures for the omitted portion of the project's impact." *Woodward Park*, 150 Cal.App.4th at 707.

Here, the IS improperly treats the SSW Middle School's *permitted* 240-student population as the baseline, instead of the property's existing condition, which is an empty lot (used only for parking). By using an improper baseline, the IS fails to inform the public, and the Bel Air Skycrest residents in particular, of the potentially adverse impacts due to the project's proposed intensification of the project site from an empty lot to a 155-student preschool. Thus, the IS does not disclose or evaluate the project's likely noise, illumination, or aesthetic impacts on the immediate neighbors in the Bel Air Skycrest community. As recognized in *Woodward Park*, the assumption of an erroneous baseline improperly assumes away the environmental impacts that must be disclosed and analyzed in the environmental review process. The IS is therefore invalid and, in the Draft EIR, the baseline must be based on the existing condition of the Project Site as a vacant lot with parking to accommodate uses on the property north of Mulholland.⁵

ii. The IS ignores environmental impacts due to non-preschool uses.

The IS is also inadequate because it does not describe or assess the likely environmental impacts of the Project as actually proposed by the Applicant. The IS considers only one aspect of the Project – use of the proposed development for operation of a preschool facility. The Project, however, envisions and accommodates multiple uses of the proposed development – not just the preschool use. The Applicant is seeking approval to develop a multi-use facility, but has (so far) effectively subverted environmental review of that project by labeling the planned multi-use facility a "preschool." CEQA, however, requires environmental review of the entire project –

⁵ The Applicant's preschool will be vacating its current, non-permitted location at 16100 Mulholland, where an athletic field will be constructed. The less intensive athletic field use of the 16100 Mulholland property was required as an offset for major intensification of the 15900 Mulholland property. See Final Environmental Review, Stephen S. Wise Middle School Relocation Project, ENV-2003-4563-EIR. The elimination of a preschool use at 16100 Mulholland does not therefore offset the Applicant's proposed use of the 16190 Mulholland property for a preschool.

BRENTWOOD RESIDENTS COALITION

including all of the project's foreseeable uses and impacts – not just the limited uses that the Applicant chooses to highlight in an effort to deflect attention from the project's other foreseeable environmental impacts.

The law clearly prohibits this type of piece-meal review. For purposes of CEQA, a “project” is broadly defined to include “an activity which may cause a direct physical change in the environment, or a *reasonably foreseeable* indirect physical change in the environment.” *Public Res. Code* § 21065; *CEQA Guidelines* § 15378, *subds. (a), (c)*.⁶ Thus, “under *Bozung* [*v. Local Agency Formation Com.*, 13 Cal.3d 263, 283-284 (1975)] the focus must be not on the project alone, but rather on the project's reasonably foreseeable direct and indirect physical effects.” *California Unions*, 178 Cal.App.4th at 1244. This includes “the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.” *Laurel Heights Improvement Assoc. v. Regents*, 47 Cal.3d 376 (1988). This mandated assessment of a project's *future* impacts precludes “piecemeal review which results from ‘chopping a large project into many little ones--each with a minimal potential impact on the environment--which cumulatively may have disastrous consequences.’” *Rio Vista Farm Bureau Center v. County of Solano*, 5 Cal.App.4th 351, 370 (1992).

The IS here looks only at the use of the proposed development as a preschool. But it is “reasonably foreseeable” that the development would have multiple uses. The project description in the IS and Notice of EIR Preparation states that the proposed project is the construction of “a new 23,100 square-foot preschool,” which is to be comprised of a 14,000 square foot “preschool facility” and, in addition to the preschool facility, (1) a 4,500 square-foot “gathering pavilion”; (2) 3,500 square feet of space dedicated to “administrative offices”; (3) 1,100 square feet for storage; and (4) outdoor facilities including 12,388 square feet of outdoor classroom play yards and 6,712 square-foot outdoor, covered courtyards. This would be a remarkably large facility for accommodating 155 preschool attendees. Not surprisingly, the Applicant has no intention of using the proposed development solely for preschool uses. The foreseeable use of the development for multiple purposes is clear from the *size and design of the structure*, the Application and its stated conditions, and the Applicant's express representations that it intends to use the facility for substantial non-preschool uses.

First, a 4,500 square-foot gathering pavilion can accommodate more than 600 *people* under the applicable code. This large public-gathering structure is designed to expand the scope of the Applicant's church-related uses to the south side of Mulholland, not merely satisfy the

⁶ Indirect physical changes to the environment include future impacts that are likely to occur as a result of the project. *California Unions for Reliable Energy v. Mojave Desert Air Quality Management Dist.*, 178 Cal.App.4th 1225, 1244 (2009), applying *Bozung v. Local Agency Formation Com.*, 13 Cal.3d 263, 283-284 (1975).

BRENTWOOD RESIDENTS COALITION

independent needs of the preschoolers. *Second*, the 3,500 square-feet for administrative offices, divided among the preschool's six administrative employees, would be almost *600 square feet* for each administrator. Obviously, this 3,500 square foot space for offices is not needed and will not be used exclusively to accommodate the needs of the preschool's six administrative employees. Again, the Applicant will inevitably be using this space to expand its church-related operations onto the Project Site. *Third*, the more than 1,000 square feet of storage space and the 20,000 square feet of outdoor covered courtyards and play grounds are far more than needed for a functioning preschool – but well designed for a multi-use facility or a much expanded school facility, whether it be a K-5 or beyond. The Notice of EIR Preparation makes clear that the Applicant has designed the structure to accommodate church-related uses independent of the preschool, including use of the gathering pavilion for Sunday School classes, which is not a preschool use.

The Notice of EIR Preparation states that the Applicant intends to book or hold *non-preschool functions* on the site *five nights a week* – totaling *260 nights a year*, plus Sunday School classes and events, which adds *another 52 days a year*, and an additional 10 non-preschool events annually per previously submitted Application Condition No. 27, for a total of *322 non-preschool events* annually. Thus, despite the Applicant's characterization of the structure as a "preschool" facility, it is unquestionably a multi-use facility that would be used on a daily basis to expand the Applicant's church-related activities to the south side of Mulholland, thereby providing additional capacity for uses on the north side, further intensifying the Applicant's impact on the entire Corridor. This expansion of the Church to the south side of Mulholland would represent a tremendous intensification of the Project Site that is not even mentioned, much less analyzed, in the IS.

The scope of the Draft EIR must be expanded to encompass these uses.

iii. The IS fails to consider the non-preschool related impacts on the adjacent residential community.

The IS fails to consider any environmental impacts that are likely to result from the Applicant's non-preschool uses of the proposed structure. The Bel Air Skycrest neighborhood is located directly above the project site and would, for the first time ever, be exposed to evening uses five nights per week. Yet, there is no consideration of these potentially significant adverse impacts of the *non-preschool* uses.

CEQA, however, mandates that a project that *may* increase the levels of noise, illumination, traffic, and parking congestion, and impair viewsheds, to the detriment of a residential community, must be analyzed in the EIR to determine whether the project's impacts might be significant and how to mitigate any such impacts. See *Gray v. County of Madera*, 167 Cal.App.4th 1099, 1123 (2008); *Ocean View Estates Homeowners Ass. v. Montecito Water District*, 116 Cal.App.4th 396 (2004). The noise and light that may emanate from the project site during the *non-preschool* activities, and the potential for such noise and light to degrade the quality of life for Bel Air

BRENTWOOD RESIDENTS COALITION

Skycrest residents who live next to the project site, is not considered in the IS. Similarly, the IS fails to consider potential impacts of the non-preschool uses that may result in spill-over parking in the residential neighborhood, increased traffic, and impaired viewsheds, which must also be considered in the environmental review.

The impacts likely to result from the proposed non-preschool uses are significant. These likely impacts are a function of the proximity of the project site to the residential community and the unique geological conditions – the project site is in a “bowl” below the residential community, which functions as an undesirably efficient transmitter of sound from the project site to the surrounding homes. This is particularly true at night and on weekends when sound travels much more efficiently due to the significant reduction in ambient noise. Yet the IS does not even consider that, on *hundreds of evenings* annually and on every Sunday (and potentially Saturday) of the year, the neighboring residents may be exposed to non-preschool noise at levels inconsistent with the zoning and residential character of their community. This complete failure to consider these impacts from the non-preschool uses renders the IS inadequate under CEQA.⁷

The IS also fails to consider parking and traffic-congestion related impacts due to the non-preschool uses. The IS traffic analysis is based on the assumption that the proposed structure will be used only by 155 preschool enrollees and a handful of preschool teachers and administrators. But the facility will be used on a daily basis by an unspecified number of non-preschool users – both during the days and nights. The potential traffic impacts of these non-preschool commuters is not even mentioned in the IS or its traffic analysis. Given the excess capacity of the multi-use structure and the Applicant’s representation that non-preschool uses will occur daily, this defect renders the traffic analysis inadequate.

The scope of the Draft EIR must be expanded to encompass these impacts.

⁷ The IS does not consider the likely noise impacts due to non-preschool operations during evenings and on weekends. Noise emanating from the project site – *e.g.*, car doors, radios, alarms, horns and engines, buses, people talking in the parking lot and outside the structure, and within the structure’s outdoor spaces – will be most intrusive during *evenings and on weekend days* when ambient sound (“white noise”) is at a minimum. The reason that sound seems to “travel” greater distances at night, on weekends, and at non-peak traffic/activity hours generally, is because there is much less ambient sound at these times, which makes distant noise much more audible and therefore intrusive.

BRENTWOOD RESIDENTS COALITION

iv. **The failure of the IS to identify traffic and wildlife impacts as necessitating environmental review is a function of the inadequate baseline and improper failure to consider non-preschool uses.**

Traffic: The IS fails to identify the need for environmental review of the Project's traffic impacts because, among other things, the IS assumed that the Project will have no potentially significant impact on traffic. But if the proper baseline is applied, the Project's potentially adverse impact on traffic is obvious. There are no current uses of the Project Site except as a parking lot to accommodate uses on the Church's property north of Mulholland. When the proposed preschool is considered, however, the increase in traffic from the zero baseline is obvious. Moreover, the IS also fails to consider the traffic impacts of the Project's non-preschool uses, especially evening uses beginning during peak hour traffic times and weekend uses when the area is already overburdened from the Church's use north of Mulholland on Sundays. The scope of the Draft EIR must be expanded to encompass the Project's traffic impacts.

Wildlife: The IS also fails to identify any potential impacts on wildlife, despite the October 4, 2010 letter from the Santa Monica Mountains Conservancy, which has since been supplemented by its scoping comments, dated January 24, 2011. The scope of the Draft EIR must be expanded to encompass such wildlife impacts.

4. The Draft EIR must be based on new studies reflecting current conditions, properly-defined baselines, and the full range of impacts – including cumulative non-preschool impacts.

We recognize that legal counsel for the Applicant also represented the prior tenant of the Project Site and that environmental studies were previously conducted with respect to the SSW Middle School Project. It is essential that the Draft EIR not be based on such recycled studies. The Draft EIR for this Project requires new studies. Those studies must be based on existing conditions, not prior conditions. Further, the Draft EIR must specify properly-defined baselines and examine the full range of impacts, including impacts never considered before, such as cumulative impacts and impacts from non-preschool evening and weekend uses.

* * * * *

In conclusion, the IS fails to encompass the broad scope of environmental scrutiny required for the Project. Upon expanding the scope of environmental review, the Draft EIR must consider the compatibility of the Project with the zoning and neighboring residential uses and propose mitigation measures necessary to avert significant impacts on quality of life for neighboring residents, traffic, and wildlife; limit and/or condition the Project to assure sufficient parking to accommodate the Church's uses on both sides of Mulholland; consider and mitigate the adverse impacts of non-preschool uses on the environment and on the neighboring residential community.

BRENTWOOD RESIDENTS COALITION

Finally, the Draft EIR should carefully analyze the feasibility of (1) precluding all non-preschool evening and weekend uses on the Project Site; (2) limiting the number, hours and size of all preschool-related weekend and evening uses to minimize impacts on the adjacent residential community; and (3) requiring advance notice to the adjacent community of all evening and weekend uses on the Project Site by distribution of a year-long calendar of such events.

Respectfully submitted,



Thomas R. Freeman



Wendy-Sue Rosen

Donald G. Keller

Donald G. Keller

cc: Councilmember Bill Rosendahl
Councilmember Paul Koretz
Mulholland Design Review Board
Bel Air Skycrest
John Murdock, Esq.