

**DEPARTMENT OF
CITY PLANNING**
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
AND
6262 VAN NUYS BLVD., SUITE 351
VAN NUYS, CA 91401

CITY PLANNING COMMISSION

WILLIAM ROSCHEN
PRESIDENT
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VICE-PRESIDENT
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DIEGO CARDOSO
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DANA M. PERLMAN
BARBARA ROMERO

JAMES WILLIAMS
COMMISSION EXECUTIVE ASSISTANT II
(213) 978-1300

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

EXECUTIVE OFFICES

MICHAEL J. LOGRANDE
DIRECTOR
(213) 978-1271

ALAN BELL, AICP
DEPUTY DIRECTOR
(213) 978-1272

LISA M. WEBBER, AICP
DEPUTY DIRECTOR
(213) 978-1274

EVA YUAN-MCDANIEL
DEPUTY DIRECTOR
(213) 978-1273

FAX: (213) 978-1275

INFORMATION
www.planning.lacity.org

**DIRECTOR OF PLANNING
DETERMINATION OF COMPLIANCE**

May 8, 2013

Loyola Marymount University
University Hall
1 LMU Drive, Suite 4800
Los Angeles, CA 90045-2659

Latham and Watkins
Attn: George Mihlsten
633 West 5th Street
Suite 4000
Los Angeles, CA 90071

**CASE NO. CPC- 2009-2425-GPA-ZC-SP-DA
DEVELOPMENT AGREEMENT ANNUAL
REVIEW**

CEQA: ENV- 2008-1342-EIR
Location: 1 LMU Drive
Council District: 11
Plan Area: Westchester-Playa Del Rey
Neighborhood Council: Westchester-Playa Del Rey
Plan Land Use: High Medium Residential
Zone: R4-1

SUBJECT: FIRST ANNUAL REVIEW OF THE LOYOLA MARYMOUNT UNIVERSITY DEVELOPMENT AGREEMENT FOR THE PERIOD OF MAY 12, 2011 THROUGH MAY 12, 2012.

SUMMARY: As required by the terms and conditions of the original Development Agreement, the City shall review annually the applicant's compliance with the agreement. Such periodic review shall be limited in scope to good faith compliance with the terms of the Development Agreement. The public was afforded the opportunity to submit written and verbal comments at a public information meeting held on July 18, 2012. The Director of Planning has determined that the applicant has complied in good faith with the terms and conditions within the Development Agreement for this annual review period.

STAFF REPORT**Request**

On February 21, 2012 as per the provisions of Section 4.1 (Annual Review) of the Loyola Marymount University (LMU) Development Agreement and Section 65867.5 of the State Government Code, LMU submitted the first annual report for review regarding compliance with the terms and conditions of the approved Development Agreement (DA). A copy of the annual report is attached (Exhibit A).

Background

On February 25, 2011, the City Council authorized the signing of a 20-year Development Agreement between the City of Los Angeles and LMU (Ordinance Number 181,604). This Development Agreement provides for the continued improvement and modernization of the LMU campus in accordance with the regulations of the Loyola Marymount University Specific Plan and the Project Design Features and Mitigation Measures included in the Final Environmental Impact Report (EIR). The Development Agreement allows LMU to create enhanced academic, athletic, and recreation facilities; and additional student housing on campus while minimizing adverse impacts to the surrounding community. The Development Agreement also includes numerous public benefits that LMU provides or will provide to the community and the City.

Features of the Development Agreement

The Development Agreement is a commitment by the City and LMU to proceed in accordance with the terms of the agreement and the existing policies, rules and regulations that governed the site at the time the Development Agreement was executed. It continues for 20 years after the Effective Date or the completion of the Project, whichever is earlier. The Development Agreement assures LMU that regulations will not change as the University builds out its 20-year plan over time as funding permits. This will provide for the continued improvement and modernization of the LMU campus in accordance with the regulations of the LMU Specific Plan and all of the Project Design Features and Mitigation Measures in the Final EIR.

The Development Agreement will allow LMU to create enhanced academic, athletic, and recreation facilities, and additional student housing on campus and minimize adverse impacts to the surrounding community. As more particularly set forth in the project approvals, development would consist of uses permitted by and in accordance with the LMU Specific Plan, including general location of uses and functions on campus, height limits, and setbacks, parking and access routes, non-building setbacks, and a green landscaped buffer on the edge of campus adjacent to the residential community.

Development of the Project in accordance with the Development Agreement will provide for the orderly development of LMU in accordance with the objectives set forth in the General Plan, the Community Plan and the Specific Plan. This certainty assures installation of necessary improvements, assures attainment of maximum efficient resource utilization within the City at the least economic cost to its citizens. The Parties believe that such orderly development of the Project will provide many public benefits to the City through the imposition of development standards and requirements under the provisions and conditions of the Development Agreement, including: the formation of a Neighborhood Advisory Committee (NAC), public use of University facilities except during certain limited special events, meeting rooms for community groups, support for the formation of a preferential parking district upon request by the community, relocation of the recycling/waste management area, certification of all future

buildings to the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Silver rating, and maintenance of historic exhibits and collections open to the public.

This Agreement does not: (1) grant density or intensity in excess of that otherwise established in the Applicable Rules; (2) eliminate future Discretionary Actions relating to the Project if applications requiring such Discretionary Action are initiated and submitted by the owner of the Property after the Effective Date of this Agreement; (3) guarantee that the Developer will receive any profits from the Project; (4) prohibit the Project's participation in any benefit assessment district that is generally applicable to surrounding properties; or (5) amend the City's General Plan. This Agreement has a fixed term for 20 years. Furthermore, in any actions after the Effective Date applicable to the LMU Property, the City may apply such new rules, regulations and official policies as are contained in its Reserved Powers.

Environmental Status

The Development Agreement has been previously evaluated for environmental significance and has been processed according to the City's California Environmental Quality Act (CEQA) Guidelines in connection with Case Number ENV-2008-1342-EIR that was certified by the City Council on February 25, 2011. This annual review is a review of conformance with the existing contract.

Discussion

The Development Agreement is reviewed under the provisions of the City's development agreement procedures. The annual review is a review of LMU's compliance with the Development Agreement. As provided by the Development Agreement, LMU need only demonstrate good faith compliance with the terms of the Agreement to the Director of Planning. As noted in the Agreement, the parties acknowledge that LMU cannot predict when or at what rate the Property will be developed. LMU uses its best effort, taking into account market conditions and economic considerations to undertake any development of the Project in accordance with the provisions and conditions of the Agreement.

The agreement includes provisions requiring an annual review by the Director of Planning, as of the effective date of the Agreement (March 2, 2011). If, as a result of such periodic review the Director makes a finding and determination of non-compliance, LMU is entitled to appeal the determination to the City Planning Commission. Then if, after a public hearing, the City Planning Commission determines that LMU or its successor in interest thereto has not remediated a default identified in the Director's determination, the City may terminate or modify the Agreement. If a finding of compliance is made, the Director of Planning, the City Planning Commission, or the City Council requires no further action.

Current Annual Reporting Period

On February 21, 2012, and with a follow up letter on May 4, 2012, LMU submitted a review of activities that have been undertaken pursuant to the Development Agreement during the current reporting period from March 12, 2011 to March 12, 2012 (Exhibit A).

The following activities occurred during the current reporting period:

- In August 2011, the Recycling/Waste Management area was relocated from the east side of the campus to the lower level of the Drollinger Parking Plaza. Eighty parking spaces from the Drollinger parking lot were relocated to the prior location of the waste management facilities. Landscaping along the McConnell border has been completed.

- LMU had 26 events where alcohol was sold or dispensed (separate from the Crimson Lion Restaurant which has its own liquor license), see Exhibit A.
- The William H. Hannon Library is open to the public from 8:00 a.m. to 8:00 p.m. Monday through Friday and 11:00 a.m. to 8:00 p.m. on Saturday and Sunday with a few exceptions during breaks and holidays. The cost of the library card is a \$300 annual fee to check out materials.
- From May 2011 through May 2012, there were 14 events, collections and exhibits were open to the public and were advertised in various ways throughout the year.
- Non-profit use of facilities totaled 30 events for the reporting period.
- The student population is limited to a maximum of 7,800 full time Full Time Equivalents (FTEs). On October 31, 2011, the University filed a report to the Department of Transportation that there were 7,105 FTE students and 1,633 FTE employee/staff, for a total of 8,738 FTEs on campus. This excess required that a Transportation Demand Management (TDM) Plan be submitted to the Department of Transportation (DOT) in April 2012.

Public Comments

Pursuant to Development Agreement Section 4.3 (Director's Determination) a public information meeting was held on July 18, 2012 at the Westchester Senior Center regarding compliance with the Development Agreement. Approximately 30 people attended the meeting and 25 Speaker Cards were collected. Comments were made on topics relevant to the Agreement, the Loyola Marymount University Specific Plan and overall concerns. Below outlines the public comments and staff responses regarding the LMU Master Plan.

Neighborhood Advisory Committee (DA Sec. 3.1.3.1.)

Public Comment: A different member is requested from the Department of Communication and Governmental Relations to serve as community liaison to the Neighborhood Advisory Committee (NAC).

Staff Response: The NAC is comprised of: a representative from the LMU Department of Public Safety, a representative from the LMU Student Affairs division, the University's community liaison, two LMU Students, four community representatives appointed by Council District 11, two representatives appointed by the Westchester-Playa del Rey Neighborhood Council, one representative of Council District 11 and one representative of the Los Angeles Police Department.

Meetings were advertised to the public and the NAC has met on September 22, 2011, January 19, 2012, and April 19, 2012. Minutes of these meetings are posted on the LMU website at lmu.edu under "Neighborhood Advisory Committee"

(<http://community.lmu.edu/masterplan/neighborhoodadvisorycommittee/>)
The composition of this NAC and their meeting dates are consistent with the Development Agreement.

- Public Comment: Sub-committee meetings are not noticed and open to the public.
- Staff Response: Any internal working meetings that result from the NAC meetings to address issues and/or concerns from those meetings are not required to be open to the public so long as no decisions are made on behalf of the NAC. Any Sub-Committee that addresses new topics that have not been agendaized in the NAC meetings should be made open to the public.
- Public Comment: NAC meetings do not consider nuisance and/or overall concerns.
- Staff Response: Review of NAC Quarterly Meeting Notes illustrates that a variety of topics are part of the NAC agenda, including but not limited to, "Off campus student behavior," "Public Safety," and "Students in the Community." Therefore, this statement is unwarranted as the NAC does consider nuisance and overall concerns and is in compliance with the Development Agreement.

Meeting Room(s) for Community Groups (DA Sec. 3.1.3.3.)

- Public Comment: Usage of LMU facilities for meetings of community benefit such as the NAC should not require a parking fee.
- Staff Response: Non-profit use of facilities totaled 30 events for the reporting period, consistent with the terms of the Development Agreement (Section 3.1.3.3.). This provision addresses rooms or facilities on campus "waiving normal rental fees and only charging costs incurred for meetings or events outside of the Property Owner's normal operations or hours as specified in Exhibit F [of the Specific Plan]." This does not apply to parking fees and therefore, LMU is complying with this Section of the Development Agreement.

Note: Although outside of the reporting period, as of November 14, 2012 the NAC meets at the Westchester Senior Center where there is ample free parking.

Permit Parking District (DA Sec. 3.1.3.4.)

- Public Comment: A Preferred Parking District is not wanted and not practical for our neighborhood.
- Staff Response: The Development Agreement requires the University to fund the cost of two annual parking permits per household for an identified area, up to \$24,000 annually should a parking district be established by the Department of Transportation. During the current reporting period there is no agreement among the affected community that a Permit Parking District is desirable. During the time of the reporting period this request was not made by the community, and therefore the University is in compliance with the DA Section 3.1.3.4.

- Public Comment: Imposing fees upon residents is not fair and does not meet their need for more than two parking spaces.
- Staff Response: Pursuant to the DA, in the event that the community requests a Permit Parking District established by the Department of Transportation through the City's standard procedures, LMU will fund the cost of two annual parking permits per household for the area identified as Exhibit G in the Specific Plan, up to \$24,000 annually.

Parking

- Public Comment: LMU must permanently keep parking on campus free of charge.
- Staff Response: The current zoning on the Project Site is R4-1 (Ordinance Number 181603) and is subject to the provisions of the LMU Specific Plan (Ordinance 181605) effective April 16, 2011. This zone change from [Q]R4 to an unrestricted R4 with the proposed Specific Plan provides additional regulations that were previously imposed under the Qualified ("Q") conditions. Therefore, any conditions from a previous determination, including but not limited to a variance from the "Q" condition would not apply. The current zoning and the Development Agreement do not require free parking or prohibit LMU from charging for parking.

Note: Although outside of the reporting period, in order to reduce the number of cars on its campus and to fund various parking programs, LMU started charging for visitor parking in September 2012 and for faculty/student/staff parking in January 2013. Paid parking is enforced from 8:00 a.m. to 8:00 p.m. Monday through Friday. LMU provides assistance to faculty, staff and students to partially defray the charge to park on campus. Assistance was offered on a tiered scale based on payroll salary level or student financial need. Students may purchase a semester long parking permit via payment through their student account or may pay a daily rate using a parking lot pay station, online using any web enabled device, or via smart phone app.

Project Site Footprint

- Public Comment: Parking in the nearby neighborhood is increasing LMU's footprint.
- Staff Response: The LMU DA does not speak to an increase in the University's footprint. The Specific Plan does not provide for any changes in the University's footprint. Visitors to the LMU campus who park offsite in the residential community do not change the University's boundaries.

Any parking enforcement on city streets should be referred to the City of Los Angeles Department of Transportation.

Noise (Specific Plan Section 3.6 D.)

- Public Comment: Non amplified noise from University Hall is audible from midnight to 2:00 a.m.
- Staff Response: Organized use of the open space area behind University Hall is restricted to small classes or informal university activities of less than 25 people.

Amplification is not allowed in the area. Use is restricted to the hours of 8:00 am to 6:00 pm. There is no university sanctioned use of the space during that time of the morning. LMU is in compliance with the provisions of the DA on this matter.

Enforcement should be directed to the LMU Public Safety. If such enforcement is unsuccessful, the Los Angeles Police Department should be contacted to enforce the noise limits in the Specific Plan and the Municipal Code; serious cases can be referred to the City Attorney for prosecution.

Public Comment: Request a noise monitoring device to audit the decibel levels that arise from University Hall.

Staff Response: This request is not required by the provisions of the DA or Specific Plan.

Public Comment: Vocal noise using a megaphone from the pool area is audible Monday, Wednesday and Friday at 5:30 a.m.

Staff Response: The sound from the megaphone should not exceed 49 decibels pursuant to Exhibit 7 [in the Specific Plan (Existing Ambient Noise Levels)] for Night noise levels along the Eastern Boundary Parallel to McConnell Avenue.

Enforcement should be directed to the LMU Public Safety. If such enforcement is unsuccessful, the Los Angeles Police Department should be contacted to enforce the noise limits in the Specific Plan and the Municipal Code; serious cases can be referred to the City Attorney for prosecution.

Air Conditioning Equipment (Specific Plan Sec. 4.1.A.1.)

Public Comment: Newly installed air conditioning fans are not within the height limit of the Specific Plan.

Staff Response: Documentation provided by LMU (dated December 8, 2011) shows that per the Specific Plan (Height District 1) as measured to the highest point of any skylights, all newly installed air conditioning fans are below 139 feet above mean sea level, except for one. The single top of fan barrel that was $\frac{3}{4}$ inches higher than allowed was lowered on February 14, 2012 by Xcel Mechanical Systems, Inc., thereby meeting the requirement.

Specific Plan Language Changes (Specific Plan Sec. 4.1.I.1.)

Public Comment: In the Design Section of the Specific Plan LMU changed the language "all" to "new."

Staff Response: Section 4.1 I. 1. of the LMU Specific Plan reads "Any structures on the roofs of **new** buildings..." This language was adopted by the City Council as Ordinance (Number 181605) and effective on March 7, 2011.

Property Lines

- Public Comment: How do we determine where LMU thinks our property lines are?
- Staff Response: Consulting a professional surveyor can help determine where property boundaries exist.

Loyola Boulevard Entrance (Specific Plan Section 5.1.A.)

- Public Comment: The Loyola Boulevard entrance should be closed. Autos should enter only from Lincoln Boulevard.
- Staff Response: The Specific Plan identifies that LMU Drive is the primary vehicular route for visitors, deliveries, and truck traffic to Campus. The Loyola Boulevard entrance shall be gate-controlled and restricted to a limited number of vehicles, among other provisions identified in Sections 5.1.A 1.-2., B., and C. Closure of this entrance would require a Specific Plan Amendment pursuant to Municipal Code Section 11.5.7.I as well as new traffic analysis.

Fordham Fence (Specific Plan Sec. 5.1.D.1.)

- Public Comment: The fences along Altavan, 78th and Fordham should be well maintained and measure eight feet in height from the lowest point.
- Staff Response: A fence along Fordham Road and 78th Street has been raised by LMU to 8 feet per the Specific Plan. The fence walls are measured from adjacent natural grade or finish floor whichever is the lowest.

Trespassing McConnell & 77th Street Pedestrian Gate (Specific Plan Section 5.1.D.3)

- Public Comment: Students and Staff are using the McConnell gate for access to LMU.
- Staff Response: The pedestrian gate located along the McConnell Avenue property line shall remain permanently closed and locked except when there is an emergency. LMU has confirmed that the lock has been changed in May 2011 at the request of the neighbors.

Note: Although outside of the reporting period, the lock on the McConnell Avenue pedestrian gate was changed again in February 2013 at the request of the neighbors.

Security (Specific Plan Section 6.1 A. 7.-9.)

- Public Comment: LMU is not responding to security concerns as required by the provisions of the Specific Plan under *Security Regulations*.
- Staff Response: LMU maintains a 24-hour hotline to the Department of Building and Safety which anybody can call to address complaints and concerns. Public Safety officers are available from 6:00 p.m. to 2:00 a.m. Thursday, Friday, and Saturday to address complaints about student disturbances off campus. The total number of complaints filed from June 2011 to May 2012 was 239. Any off site disturbances on public streets should be reported to the Los Angeles Police Department.

Monarch Butterfly (Mitigation Measure BIO-2)

Public Comment: A liquid amber tree was removed without an evaluation by a certified biologist.

Staff Response: On January 6, 2012 a liquid amber tree was removed to stop damage that the root system was doing to a nearby road and to prevent damage of an adjacent fire hydrant. This action does not conflict with the Mitigation Measure since the monitoring phase is during construction and no construction has occurred.

The following concerns were raised at the public information meeting and are not governed by the DA or the LMU Specific Plan. These topics below can be addressed by the NAC.

- Effectiveness of the “Report a Concern” phone line
- Request a car alarm prohibition on campus
- Increased noise by students partying, gas powered blowers, lawn mowers and other gardening equipment.
- Increased traffic at the intersection of 80th and McConnell.
- LMU’s donations to the community.
- What happened to ducks and feral cats on campus that have not been seen since September 2011.
- Usage of McConnell setback for storage.

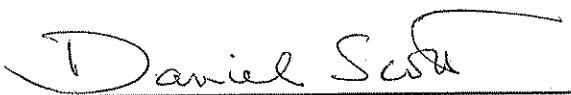
The following concerns were raised at the public information meeting and are not governed by the DA or the LMU Specific Plan; but are related because they are mitigation measures associated with the requested environmental review. Compliance with the Mitigation Monitoring Reporting Program will be required upon the approval of project permit applications pursuant to the LMU Specific Plan.

- Enforcement of the following Project Design Features and Mitigation Measures:
 - AQ-11 Requiring street sweepers continued use.
 - AQ-12 Requiring that a clearly visible sign at the construction site provide a phone number to call for information and complaints.
 - HIST-3 Regarding earth excavations in front of Sacred Heart Chapel.
 - PALEO-1 Regarding retention of a Paleontologist.
 - NOISE-2 Regarding heavily loaded trucks during construction be routed away from residential streets.
 - PDF-2 Regarding providing construction worker parking at an off-site location in the campus vicinity.

Conclusion

The Director of Planning finds that Loyola Marymount University has complied in good faith with the terms and conditions required under the Development Agreement, and has fulfilled the requirements for the first reporting period of May 2011 through May 2012.

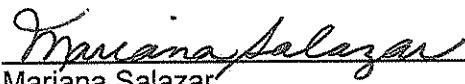
MICHAEL J. LOGRANDE
Director of Planning


Daniel Scott
Principal Planner

Reviewed by:


Shana Bonstin,
Senior City Planner

Prepared by:


Mariana Salazar
City Planning Associate
(213) 978-3034

Description of Exhibits

- Exhibit A: LMU First Annual Review Report
Exhibit B: Follow Up to First Annual Review Report