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File 9999.90

February 19, 2014

Mulholland Design Review Board  
c/o Tom Henry  
Planning Department  
City of Los Angeles  
6262 Van Nuys Blvd., Suite 430  
Los Angeles, CA 91401

Re: ***Mulholland Design Review Board Hearing  
Curtis School Phased Campus Expansion  
15871 & 15801 W. Mulholland Drive  
ENV-2009-836-MND-REC-1  
CPC-2014-102-CU-SPR-DD-SPE-DRB-SPP-MSP***

Dear Members of the Mulholland Design Review Board:

This firm represents the Federation of Hillside and Canyon Associations, Inc. (“Hillside Federation”)<sup>1</sup> and is joined by the Bel Air Skycrest Property Owners’ Association (“BASPOA”) and the Brentwood Residents Coalition (“BRC”) in opposing the Curtis School’s application for approval of its phased campus expansion project.

The Curtis School’s application for approval of its phased campus expansion project cannot properly be considered by the Board at this time because Curtis has failed to provide the information and documentation statutorily required for Design Review Board review.

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<sup>1</sup> The Hillside Federation was founded in 1952 and represents 42 homeowner and residents associations spanning the Santa Monica Mountains, from Pacific Palisades to Mt. Washington. The Hillside Federation’s mission is to protect the property and the quality of life of its 200,000 constituents and to encourage and promote those policies and programs that will best preserve the natural topography and wildlife of the mountains and hillsides for the benefit of all the people of Los Angeles.

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Without a complete application (as defined under the Mulholland Specific Plan and Section 16.50 of the Municipal Code), this Board cannot meaningfully assess whether the phased development project complies with the Mulholland Specific Plan nor can the Board make recommendations for modifications and conditions necessary to bring the project into conformance with Specific Plan rules, policies and objectives. Thus, by failing to provide a complete application, Curtis effectively precludes the Board from subjecting this development project to meaningful review unless this Board asserts its authority to demand a complete application before considering the substance of the project.

Planning Staff has previously misadvised the Board that its review of Curtis' vague development plan may proceed in "phases," allowing Curtis to gain City approval of its so-called "Master Plan" *before* the Board has an opportunity to review Curtis' development plans for conformance with the Specific Plan. That, however, is not a real option. The Board's broad jurisdiction to review this project for conformance with the Specific Plan terminates once the project is approved by a City decision-maker, in this case the City Planning Commission. The Board cannot recommend conditions or suggest modifications of an already-approved project. Thus, the Board cannot defer consideration of any aspect of the project without forfeiting its authority and responsibility to determine whether the phased development project complies with Specific Plan rules, policies and objectives.

The Board's authority to make recommendations to assure development projects comport with the Specific Plan is the result of effective community action during the hard fought, decades-spanning battle to protect the Mulholland Scenic Parkway. The Curtis phased development plan is precisely the type of hugely impactful project that necessitated the Mulholland Specific Plan and the design review process. The Curtis project, if approved, will result in seven new buildings and additions totaling 82,440 square feet of new facilities and the demolition of 20,670 square feet of buildings—resulting in a total project build-out of 130,240 square feet phased over a 20-year time frame. Curtis will grade 149,048 cubic yards of earth, a sum previously characterized as "excessive" by the Planner assigned to an earlier version of this project. Curtis plans to carve an illuminated secondary access road into the scenic hillside, grade into the toe of a Prominent Ridge; erect multiple retaining walls (50 height levels have been identified), install outdoor lighting, require extensive landscaping for camouflaging the campus and access road, erect an over-in-height building within the Inner Corridor, expand and relocate its outdoor parking lot closer to Mulholland Drive, and connect the proposed secondary access road directly to Mulholland Drive. *See* Revised Mitigated Negative Declaration (Jan. 2014).

For this Board to have any meaningful input into this massive project that will significantly impact the Mulholland Parkway environment, it must demand that a complete application be

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filed *now*, not during later “phases” of development, so the Board has an opportunity to review and make recommendations necessary to protect the integrity of the historic Mulholland Scenic Parkway. The Board must consider the Curtis School application to be preliminary only, and defer final consideration of the application pending Curtis’ filing of the information and documentation required under the Specific Plan and Specific Plan Guidelines.

### **The Applicant Has Not Submitted A Complete Application**

Municipal Code Section 16.50.E provides that a Specific Plan applicant must submit a complete application and that the application “shall be deemed complete only if it includes” among other things “any material required in the applicable specific plan or ordinance.” The Specific Plan and Guidelines are clear about the documentation that is *required* for Board review. Yet the Planning Department has allowed Curtis to proceed despite its failure to submit the required documentation. As a result, the documentation before the Board is insufficient to enable the Board to satisfy its review and recommendation obligations.

While Curtis has failed to provide detailed information about many aspects of its phased development plan, it has not even complied with the Specific Plan’s most basic documentation requirements, which are unambiguously specified under the Guidelines, some of which include:

Guideline 28 requires applicants to provide site sections showing retaining walls. Curtis has not provided the required submission and has not disclosed the length or number of any retaining walls.

Specific Plan Section 11, Guideline 70, and Municipal Code Section 16.50 E(b)(13) require a landscape plan. Curtis has not provided a landscape plan.

Guidelines 19 and 66 require a viewshed analysis regardless of “whether the project site is upslope or downslope.” Curtis has not provided a viewshed analysis.

Guideline 40 requires an exterior lighting plan. Curtis has not provided an exterior lighting plan.

Beyond the specific documents required under the Guidelines, an applicant must also provide sufficiently detailed information to enable the Board to consider the broad range of issues within the Board’s purview under Section 11 of the Specific Plan (described below). Instead of submitting the documentation necessary for Board consideration of the Section

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11 issues and even ignoring the explicit Guideline requirements, Curtis has submitted a phased development proposal that lacks the detail necessary for meaningful Board review under the Specific Plan's stringent criteria. By doing so, Curtis is seeking the Board's "rubber stamp" of its vague plans by deferring meaningful review until sometime within the next 20 years of the phased development project. The Specific Plan does not authorize any such deferred review and doing so would deprive the Board of any meaningful opportunity for input into this highly impactful development project.

### **The Board Has Broad Jurisdiction To Review And Make Recommendations**

The hearing notice states that the Board's consideration of the Curtis project "shall be limited in scope to what is within the purview of the Design Review Board." But, contrary to the implication of a "limited" review authority, the scope of the Board's purview is extremely broad as defined under the Specific Plan and Municipal Code. The Board is charged with responsibility for reviewing and making recommendations on the project's consistency with the Specific Plan.

The Board's jurisdiction to review and make recommendations on projects impacting the Mulholland Scenic Corridor is set forth in Section 11.A of the Specific Plan: "*No permit* for the use of land; building permit; grading permit . . . *shall be issued* for a project, until plans, elevations and/or graphic representations of the project have been reviewed and approved by the Director acting on *a recommendation of the Board* . . ." (emphasis added).

The scope of the Board's authority to review and make recommendations on Curtis' project is broad, as specified in Section 11.F of the Mulholland Specific Plan:

The Board shall advise the Director on [1] aspects of exterior design; [2] site layout; [3] grading; [4] driveway access; [5] landscaping; and [6] height, bulk, materials, textures and colors of any building, structure, sign or other development of property or appurtenances or alterations thereto after reviewing plans, elevations and/or other graphic representations for a project to assure compliance with the criteria set forth in this Specific Plan. . . . [And] *with respect to development in the Specific Plan area and its consistency with this Specific Plan*, the Board may advise . . . the Area Planning Commission and the City Planning Commission on zone changes *and conditional uses*, the Zoning Administrator on variances and conditional uses, and the appropriate City decision-making body on any public project or discretionary action. (emphasis added).

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This broad scope of review and recommendation authority encompasses virtually any aspect of a project that may potentially impact the Mulholland Scenic Corridor. The broad scope of the Board's authority is further confirmed in Section 11.I.3 of the Specific Plan, which identifies the range of issues falling within the Board's purview.

[T]he Board shall consider compliance with the following criteria:

- a. Whether the proposed project conforms to all provisions contained within the Specific Plan and any applicable specific plans or design guidelines.
- b. Whether the grading and/or the location of the project are designed so as to minimize the impact on visibility from Mulholland Drive and the right-of-way.
- c. Whether all proposed buildings, structures and recreational facilities are located so as not to obstruct a scenic feature or resource.
- d. Whether all proposed buildings, structures and recreational facilities are designed to complement the views from Mulholland Drive and are compatible with the parkway environment.
- e. Whether the proposed buildings and structures are compatible with the surrounding buildings and parkway environment in terms of design, massing, height, materials, colors (subdued tones, natural materials and non-reflective materials and finishes shall be encouraged) and setbacks.
- f. Whether the landscape design has a variety and quantity of native-type, fire-resistant plant materials throughout the project which are compatible with the scenic parkway.
- g. Whether the landscape design representation of the plant materials accurately reflects their growth habit at maturity.
- h. Whether the grading is designed so as to create slopes with a natural appearance compatible with the characteristics of the Santa Monica Mountains.

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i. Whether the site layout is designed so as to require a minimum of grading and retaining walls and protects prominent ridges, streams and environmentally sensitive areas.

j. Whether driveway access to Mulholland Drive is designed so as to require a minimum of grading and retaining walls.

k. Whether the lighting is designed so as to reduce the visual intrusion of light onto Mulholland Drive and the right-of-way.

l. Whether proposed major vista points, core trails and projects near parklands conform to all provisions in the Specific Plan.

Thus, virtually any aspect of the Master Plan that touches upon this broad range of matters within the Board's purview is subject to Board review and must therefore be considered by the Board in making its statutorily mandated recommendations.

### **The Board Will Forfeit Its Review and Recommendation Authority Unless It Requires A Complete Application**

If this Board reviews and recommends approval of the Curtis project without first insisting that Curtis file a complete application, it will effectively forfeit its statutory power to subject highly impactful aspects of the project to meaningful review.

When this Board previously considered Curtis' application (which was later withdrawn) the Board was advised by Tom Henry of the Planning Staff that it need not consider aspects of the planned phased development project that were not being presented (as required by the Specific Plan) because Curtis planned to work in *phases* and would bring each deferred phase of the project back for review at a later date. That advice was incorrect. Despite Mr. Henry's assurance that "each phase" of the project would return for full Board review under the Specific Plan, Frank Quon, the Staff Planner for the project, recommended only that "All new *buildings or structures and additions* shall be subject to Design Review and Project Permit Compliance by the Mulholland Scenic Parkway Specific Plan." *Staff Report*, Recommended Project Conditions, p. C-2. Thus, the Planning Staff recommendation did not provide for Board review of each "phase" of the project, only that new buildings, structures and additions would be subject to future Board review. Moreover, even if Planning Staff were to recommend that each "phase" of the project return for Board review, such a recommendation would not be binding on the Planning Commission or City Council. Conditions recommended by Staff are commonly disregarded by the Commission and

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Council, so the Board would have no assurance that impactful aspects of the project would return for Board review.

It is clear, however, that even if the City Council were to condition its approval of the phased development project on a requirement that Curtis return to the Board during each phase of development, the Board would have no ability to recommend that the City modify or condition its approval of the already-approved project.

Specific Plan Section 11.F states that “[t]he Board shall be prohibited from changing, altering, modifying or amending any final discretionary actions previously approved by” the City or an Area Planning Commission, the City Council or any other discretionary decision making body. Thus, even if future Board review were to be “required” by the City Council though a condition of approval, Curtis may prevail in arguing that Section 11.F renders any such condition void.

Nor can the Board protect its jurisdiction by relying on Curtis’ promise to return for Board review at each phase of development. Any such voluntary condition for approval would, according to the Office of the City Attorney, be deemed a “voluntary condition.” The Office has instructed Planning that voluntary conditions are not binding and may therefore be ignored at the applicant’s whim.

But even if Curtis could be compelled to return for Board review in the future, that would still be too late to make recommendations that could have any meaningful impact on the *approved* phased development project. Once the project has been approved, the Board’s ability to make recommendations will be constrained by the prior approval. The Board cannot later recommend that the City deny approval of the already approved project. Nor could the Board recommend that project approval be conditioned to avoid adverse impacts because the project would have already been approved. Thus, deferring review of any aspect of the project, even if possible, would render any Board recommendation irrelevant—effectively removing the Board’s authority to review and make recommendations about highly impactful aspects of Curtis’ project.

Deferring meaningful Specific Plan review of a so-called “Master Plan” until after City approval would also set precedent that would undermine the Board’s critical role in effectuating the Specific Plan, and is contrary to state law. *Planning and Conservation League v. Castaic Lake Water Agency*, 180 Cal.App.4th 210, 234 (2009). If Curtis is granted approval of its “Master Plan” without being subjected to meaningful Board review of plan specifics, other institutions will know that they too can effectively gain pre-approval of future development plans without subjecting those plans to stringent Specific Plan review—and

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then rely on such approvals to eliminate the Board's authority to recommend effective mitigating conditions.

\* \* \* \* \*

The Board must require Curtis to submit a complete application. Curtis must file all documents explicitly mandated under the Specific Plan Guidelines, including retaining wall details, landscape plans, lighting plans, viewshed analysis, and colors and materials, among other requirements. Significantly, Curtis must also submit all information and documentation necessary to the Board's consideration of the broad range of issues within its purview under Section 11 of the Specific Plan. Otherwise, the Board will have effectively forfeited its responsibility to subject the project to Specific Plan review and will have established precedent allowing other institutions to do so as well. That would undermine the integrity of the Specific Plan.

Very truly yours,



Thomas R. Freeman

TRF:slp

cc:

- Councilmember Paul Koretz
- Councilmember Mike Bonin
- City Attorney Mike Feuer
- Santa Monica Mountains Conservancy
- City Planning Commission
- Planning Staff
- John Given
- Michael Gonzales