



CITY OF CARSON

Legislation Text

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Report to Mayor and City Council

Tuesday, October 15, 2019

Discussion

SUBJECT:

DIRECT CITY STAFF REGARDING HOW THE CITY COUNCIL WISHES TO RESPOND TO THE INADEQUACIES OF THE ENVIRONMENTAL IMPACT REPORT ("EIR") OF THE CALIFORNIA STATE UNIVERSITY DOMINGUEZ HILLS ("CSUDH") 2018 CAMPUS MASTER PLAN AS IT RELATES TO THE PRIVATE, FOR-PROFIT PORTIONS OF SAME, APPROVED BY THE CALIFORNIA STATE UNIVERSITY BOARD OF TRUSTEES ON SEPTEMBER 24, 2019 (CITY COUNCIL)

I. SUMMARY

Since 2016, CSUDH has been processing the entitlement of a revision of their Campus Master Plan, which had previously been updated in 2010, including a Draft EIR that had been available for circulation for some time. On September 24, 2019, the Board of Trustees approved the Master Plan and certified the EIR.

The EIR materially fails to analyze important impacts that the for-profit, private portion of this development will impose on the City and the City's resources. Given the influx of the new development coming to the City and the anticipated toll on the city's resources to provide for public safety and development and maintenance of public infrastructure, the City has adopted city wide applicable to all developments impact fees and a city wide communities facilities district so new developers can contribute towards mitigating their fair share of the impacts their projects will impose on the City. Otherwise, the residents of the City through the local resources such as the Utilities User Tax end up paying for mitigating these impacts, while the impacts are solely caused by the new developments. That is unfair to the residents of the City.

CSUDH's proposed project has an educational component, for which the City is in full support not asking for any DIF or CFD payment. However, a component of the project is completely private and will be given to private developers for profit and has no educational purpose. In particular, a high private number of residential units are being proposed on the site, and the more than 500,000 s.f. of industrial space is proposed for the corridor along Central Avenue. Most of this development is not anticipated being built directly by the university, nor directly on behalf of the university, but as a mechanism for creating ground lease revenue for profit. The EIR fails to properly analyze the environmental impacts of

this private, for-profit part of the development. The City's analysis showed that CSUDH's traffic studies were inadequate, including failure to accurately assess both the baseline condition and new projects proposed in the City.

The City sent an EIR comment letter in April, 2019. The comments were extensive, extending from the City's earlier argument that it is the appropriate entity for the preparation of the EIR to concerns about biological resources, cultural resources, and mainly traffic. Fundamentally, however, much of the disagreement arose over whether CSUDH - and any private developers constructing on its property - would be subject to City-imposed mitigation requirements. The City felt that if at least CSUDH agrees to pay its fair share of the City wide DIF and CFD, then the City can try to itself provide proper mitigation of these impacts. However, CSUDH has argued, since it is an entity of the State of California, it is not subject, and has further extended that exemption even to private, for-profit companies developing on its land.

The DIF and CFD programs were adopted by the City of Carson in March and April, 2019, and are critical to the City's ability to provide the level of public safety and infrastructure it provides currently. In essence CSUDH is asking the City Council to waive millions of dollars that CSUDH's private developers would have had to pay towards their fair share of mitigation of impacts of their for-profit developments have on the City, or to trust that in the future CSUDH's private developers, on their own, will pay those citywide applicable fees.

Since June, the City Manager, Staff, and the CSUDH administration have worked to try to resolve these issues. But to date, CSUDH has not proposed anything beyond proposing to do traffic improvements which are based on a flawed methodology and analysis in their EIR. In other words, they have offered to perform what their EIR requires them to do, which the City has over and over objected to. To simplify things, the City offered a simple solution: The City and CSUDH enter into a simple MOU where in CSUDH agrees that at the time of development their for-profit private portion of their project is subject to City's citywide DIF and CFD. The City even agreed to provide certain discounts to CSUDH as authorized by law. However, CSUDH rejected the City's offer and certified its flawed EIR.

This item is on the agenda because the Board took action on the EIR on September 24, 2019, and there is a limited period during which a challenge can be filed. If the City waits, it would not have any potential legal recourse against the project and the City and its residents would be subject to paying for the mitigation of the impacts the for-profit, private part of the development of this project will impose on the City's resources and residents. The recommendation, then, is to direct Staff to file a lawsuit against the university under CEQA and any other applicable statutes to ensure that the courts address the City's concerns. The alternative is to seek and enter a tolling agreement to allow for more time to come to a voluntary, amicable settlement between the parties that provides for the mitigation of these environmental impacts.

II. RECOMMENDATION

1. PROVIDE Staff with direction to file a lawsuit against California State University

Dominguez Hills, related to the 2018 Campus Master Plan and its EIR under the California Environmental Quality Act and other applicable law.

III. ALTERNATIVES

2. PROVIDE Staff direction to seek and enter into a tolling agreement with the University to facilitate an opportunity for the University to enter into an agreement with the City to address the City's concerns and to provide a meaningful framework to mitigate the impacts on the City from the private, for-profit portion of the Master Plan project. If the University fails to agree to a tolling agreement, for Staff to file a lawsuit under the California Environmental Quality Act and other applicable law.

IV. BACKGROUND

On September 24, 2019, the California State University Board of Trustees, Committee on Campus Planning, Buildings and Grounds (the "Board") approved the CSUDH 2018 Master Plan Revision ("Master Plan"), which included the certification of the project's DEIR.

Prior to the approval of the Master Plan in September, the City was engaged with the university over a number of issues of concern in the Master Plan and the DEIR, and had asked CSUDH to consider requesting a postponement of the vote by the Board to allow for more time to resolve these issues. That postponement did not occur and the Board took action at the meeting.

As a Responsible Agency under CEQA, the City's only remedy for a concern about a deficiency in the environmental analysis is litigation, so this action is to direct the City Attorney's Office to file a lawsuit against CSUDH under CEQA, citing a number of the deficiencies the City has placed on the record through written comments on the DEIR.

Notwithstanding the City's pursuit of remedies through the courts for environmental deficiencies, it remains excited about the Master Plan and the proposed expansion of CSUDH in Carson. The enlargement of the university student body, additional academic choices, and new student housing will be a major benefit to the City of Carson, its residents, and the region. Therefore, the City supports the Master Plan concept in general since it will enhance the educational opportunities for the community and, furthermore, the City and CSUDH should be partners in ensuring the University and the City thrive together and provide educational excellence.

However, while supporting the portion of the Master Plan specifically related to educational purposes, the City has serious concerns regarding the extensive proposed private, for-profit development on the remaining portions of the University property. As indicated in the Master Plan and the DEIR, the private development consists of 2,150 residential units, 100,000 square feet of retail space, and 570,000 square feet of business park space. The Master Plan is not clear what percentage of these uses is purely for educational purposes or directly would support the students and what percentage is proposed as for-profit private

development.

The City is concerned that the uses proposed as for-profit private development will greatly impact the City's infrastructure and services just as much as other private developments in the City, and, additionally, that there is not a mechanism to provide for such developers to pay their "fair share" contribution to the City for mitigation of environmental impacts, as the City requires of *every other developer* in Carson. CSUDH has indicated that such for-profit private development is necessary to fund the portion of the Master Plan that is for educational purposes, and that CSUDH will enter into long-term land leases with these private developers who will build housing, retail, and business-park uses for a profit.

City staff's attempts to resolve the issues with CSUDH have not been successful. The following provides a summary of the major issues that have not been resolved:

1. During the public review of the DEIR, the City informed CSUDH that our Traffic consultant identified unsupported and missing traffic analysis that made reviewing the conclusions of the traffic study impossible, and requested an extension to the public review process. However, the requested information was not submitted and the review period not extended (previously, the review period was extended to address other missing information from the traffic study). Therefore, the City was forced to comment on the DEIR without a benefit of an adequate traffic study. Additionally, the City provided extensive comments on the Master Plan DEIR with a letter dated April 15, 2019.

The City's letter states that the traffic study included unsupported and missing traffic analysis. After submitting our comments, CSUDH's response was to agree to a Memorandum of Understanding (MOU) that would provide limited funding for certain traffic improvements in return for a full release from the City of its claims and rights in the review process.

3. A September 5, 2019, letter to City Manager Sharon Landers from Ron Coley, Interim Vice President for Administration and Finance, acknowledges that the City is generally supportive of the project and states that the City is generally receptive to CSUDH's offer to provide monetary contributions toward the costs of certain improvements related to the Master Plan, but that the City is concerned the MOU does not address the City's position regarding its CFD and its DIF program.

However, in CSUDH's view, the City's concerns relating to application of its CFD and DIF are not germane to the Project's Final EIR, and suggested they be addressed at a later date. To that end, CSUDH revised the proposed MOU to reflect the City's concerns and to reserve the City's ability to raise these issues outside of the CEQA context at a later date, if needed.

4. The MOU proposed a payment of \$3,826,419 to the City to mitigate the impacts of the project on all City roads. This amount is presumably based on the mitigation measures in the DEIR with which the City does not agree. As noted above, the City provided comments on the DEIR and the associated traffic study during the public review period for the EIR; in the City's April 15, 2019 comment letter, the City asserts that the traffic

study analysis was flawed and the traffic impacts of the project could be significantly different those included in the traffic study. Therefore, the resulting mitigation measures in the MOU would not necessarily mitigate impacts of the project: some of the mitigation measures are simply infeasible; some may require additional right-of-way acquisition that does not appear to be included in the cost estimate; the cost of the improvements are calculated in today's dollars but will not necessarily be constructed today; the MOU assumes that the City will be constructing all the improvements, which the City has not agreed to do; and, the cost estimate is a preliminary cost estimate that is not based on designed plans and cannot be relied on in the MOU.

5. CSUDH has offered to discuss the payment of City's DIF and CFD at a future date, even though the MOU states CSUDH disagrees with the City's position that DIF and CFD should be paid by the private, for-profit developers. This offer, therefore, does not provide the City *any assurances* and leaves the City with no choice but to decline the offer. The City believes the private, for-profit developers should pay the DIF just like any other developer in the City at the time they build their project. The City has offered to negotiate certain credits that may be applied toward the infrastructure improvements the developers construct. The DIF fees will mitigate the impacts of projects on the City's infrastructure and are applicable to all projects in the City.
6. In any other development the private, for-profit developers would also be required to pay an on-going CFD annual fee. As with the DIF, the City has offered to negotiate certain credits that may be applied toward some of the services, if the projects are eligible for such credits. The CFD amount will be applicable for each project prior to each developer for a proposed project pulling their first building permits. These fees will mitigate the impacts of projects on the City's services and are applicable to all projects in the City.
7. In addition, the following improvements are expected to be completed, just like any other private development. These are normal traffic impact mitigation measures that would be required of any developer, and not typically rolled into a citywide DIF:
 - a. Install full width sidewalk along the north side of University Dr. from approximately 150 feet east of Coslin Ave. to Pepperdine Ave.
 - b. Install street lights on concrete pole with underground wiring along the north side of University Dr. from Coslin Ave. to Pepperdine Ave.
 - c. Install missing trees in the public right of way abutting the proposed development.
 - d. Expand existing sidewalk along Victoria by filling in approximately 1-1/2 ft. wide strip of concrete next to the back of existing sidewalk to meet ADA requirements.
 - e. Developer should address soil erosion issue during rainy days along the north side of University Dr., this can be accomplished by installing slough wall along the back of existing sidewalk, on-site regrading and adjusting drainage pattern.
 - f. Upgrade existing streetlights on wooden poles along Avalon Blvd. to concrete

poles with LED lights and underground wiring.

- g. Expand existing concrete sidewalk along Avalon Blvd. by filling in approximately 3-foot wide strip of concrete next to the back of the existing sidewalk.
- h. Remove and replace existing broken and raised sidewalk abutting the proposed development site.

5. In addition, the following considerations are expected from all projects:

- a. Comply with City's Bike Master Plan.
- b. Cooperate with the City to provide transit services that benefit both the City and the University.
- c. Cooperate with the City to obtain grants to reduce the cost of implementing the University's Master Plan.

Based on the unresolved issues stated above, the City is not in a position "to waive any/all rights it may have to challenge on any legal grounds whatsoever CSU's certification of the CEQA adequacy of the CSUDH 2018 Campus Master Plan EIR and all related project approvals" as stated in the MOU. The City has urged the leadership at CSUDH to work with City staff to resolve these issues over the past several months, and requested that they request the Board not take action on the Master Plan on September 24, 2019. These efforts have not resolved the issues.

The recommendations and alternatives are discussed above in the Summary section.

V. FISCAL IMPACT

If applied per the Interim Development Impact Fee schedule adopted by the City Council in early 2019, private, non-profit developers could be subject to as much as \$31,159,431 in DIF costs at the construction stage. In addition, the CFD could be up to \$2,400,000 per year in later years, mostly attributable to the CFD assessed against the proposed 2,150 residential units on the campus.

VI. EXHIBITS

- 1. September 12, 2019 Letter to Dr. Thomas Parham, President of CSUDH (pgs. 7-9)
- 2. September 5, 2019 Letter to City Manager from Ron Coley, Interim VP (pgs. 10-15)
- 3. CSUDH Traffic Fair Share MOU (pgs. 16-18)
- 4. Draft IDIF and CFD Analysis (pgs. 19-20)

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