

**BOARD OF TRUSTEES  
MT. SAN ANTONIO COLLEGE**

**DATE:** February 11, 2015

**ACTION**

**SUBJECT:** Resolution No. 14-05 – Exempting the Parking Structure, a Facilities  
Master Plan Project, from the City of Walnut's Zoning Ordinances

**BACKGROUND**

Over the past 15 years, Mt. San Antonio College has developed, planned, updated, designed, and implemented several specific strategies to improve parking and pedestrian safety on campus, and to improve local and regional traffic congestion around the campus. For the last 10 years, a Parking Structure on campus has been a key element of the District's Facilities Master Planning efforts. This month, the Board of Trustees will consider for approval a contract for the first phase of construction of the Parking Structure designed for student use. At this time, the Board should consider a resolution documenting the history of the planning efforts and other important issues regarding the Parking Structure. On August 27, 2014, the City Council of the City of Walnut unanimously passed a resolution opposing the location of the Parking Structure and urging the District to consider other options.

**ANALYSIS AND FISCAL IMPACT**

The following Resolution clearly documents the planning history of the Parking Structure, identifies relevant code sections, and articulates the Board's position with respect to the project. Since 2001, the College has completed numerous facilities improvement projects of all types including classroom and non-classroom facilities such as new and modernized buildings, on and off-site traffic improvements, utility infrastructure, new parking lot construction, parking and roadway improvements, athletic facilities, a co-generation power plant, and various types of maintenance projects. Throughout this time period, the City has clearly and continuously indicated that the only construction work on campus that falls under City zoning ordinances is the installation of rooftop cellular telephone equipment. The City has provided zoning approval for several such projects. The College has relied on this information, has communicated diligently with the City regarding the Parking Structure throughout the planning and design process, and has responded to all City comments during the California Environmental Quality Act (CEQA) process. In no way admitting that the District is subject to the City's zoning requirements and, only in an abundance of caution, the Board should take the step authorized by statute to exempt the Parking Structure from the City's zoning requirements. The following Resolution, if adopted, would render the City's zoning ordinances (i.e., zoning requirements) inapplicable to the Parking Structure.

There will be no direct fiscal impact resulting from approving the Resolution.

Prepared by: Gary L. Nellesen

Reviewed by: Michael D. Gregoryk

Recommended by: Bill Scroggins

Agenda Item: Action #1

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Funding Source

Not applicable.

**RECOMMENDATION**

It is recommended that the Board of Trustees adopts Resolution No. 14-05 – Exempting the Parking Structure, a Facilities Master Plan Project, from the City of Walnut’s Zoning Ordinances, as presented.

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**RESOLUTION NO. 14-05  
MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT  
EXEMPTING THE PARKING STRUCTURE, A FACILITIES MASTER PLAN  
PROJECT, FROM THE CITY OF WALNUT’S ZONING ORDINANCES**

The following resolution is adopted by the Governing Board of the Mt. San Antonio Community College District:

**WHEREAS**, the Mt. San Antonio Community College District (“District”) owns the property located at 1100 North Grand Avenue, Walnut, California 91789 (“Campus”) that is currently operated and used as the Mt. San Antonio College (“College”); and

**WHEREAS**, the District was created in or about December 1945; and

**WHEREAS**, the District purchased from the State of California the majority of the Campus property consisting of approximately 446 acres on or about April 2, 1948; and

**WHEREAS**, the City of Walnut (“City”) was incorporated on or about January 19, 1959, at which time the City incorporated a portion of the Campus property within the City’s boundaries; and

**WHEREAS**, the City annexed the entirety of the Campus property into the City’s boundaries on or about March 27, 1964; and

**WHEREAS**, on or about January 4, 1965, the District acquired a strip of land on the northern boundary of the Campus within the City boundaries, which acquisition completed the present-day Campus; and

**WHEREAS**, construction of the residences to the north of the Campus commenced in or about 1988; and

**WHEREAS**, Government Code section 53091(a) requires a school district to comply with all applicable zoning ordinances of the city in which the school district is situated; and

**WHEREAS**, Government Code section 53094(a) does not require a school district to comply with the zoning ordinances of a city unless the zoning ordinances make provision for the location of public schools and unless the city has adopted a general plan; and

**WHEREAS**, since the Campus existed prior to the incorporation of the City and when the City incorporated, the City’s zoning ordinances and general plan only acknowledged the location of the College, but they do not provide for the location of college-level schools; and

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**WHEREAS**, if the zoning ordinances and general plan do provide the location of schools, Government Code section 53094(b) expressly authorizes a school district, at any time, by a two-thirds vote of its members, to exempt a school project from the city’s zoning ordinances where the project serves an educational or related purpose; and

**WHEREAS**, the Campus is shown in the City’s General Plan as school and is zoned Residential Planned Development Zone (“RPDZ”) which, per Walnut Municipal Code section 25-89.1(b)(4)(g), limits the height of structures to 35 feet; and

**WHEREAS**, since in or about 2005, the District has planned to construct a “Parking Structure” (as further described and defined herein) located along the northern boundary of the Campus to serve the College’s students by providing them with reasonable access to nearby classrooms and student facilities and, as such, the Parking Structure is for educational facilities within the meaning of Government Code section 53094(b); and

**WHEREAS**, the top tiers of the planned Parking Structure are between approximately 11.5 feet to 40 feet below the house pads of the adjacent residences to the north of the College along Edinger Way; and

**WHEREAS**, the District has unique expertise in educational programs and is best suited for designing and locating facilities to serve the District’s schools within the City; and

**WHEREAS**, the Parking Structure is also intended to be used at various times for student instruction in subjects such as astronomy, administration of justice, and fire technology; and

**WHEREAS**, the California Division of the State Architect reviews and approves the plans and specifications of educational facilities and oversees the construction of educational facilities, including the Parking Structure; and

**WHEREAS**, educational facilities including the Parking Structure are an integral and important part of the District’s mission to educate the District’s students; and

**WHEREAS**, over the past ten (10) years, the District has expended significant costs in planning the location and construction of the Parking Structure including State facilities planning, environmental review, and design costs in addition to the significant commitment and use of staff resources; and

**WHEREAS**, unless exempted, the City’s zoning ordinances would subject the Parking Structure to significant additional costs, undue delay, unreasonable and inapplicable requirements, or denial by the City that would significantly hamper, interfere with, or jeopardize the viability of the Parking Structure and the District’s master planning of its Campus.

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### **2002 Facilities Master Plan**

**WHEREAS**, in 2002, the District developed and approved the Campus Facilities Master Plan Project to redevelop the Campus and certified a Program Environmental Impact Report (“EIR”) for the project, neither of which included a parking structure.

### **2005 Facilities Master Plan Update**

**WHEREAS**, on August 25, 2005, the District issued a Notice of Preparation of the Draft Supplement to a Program Environmental Impact Report for the Facilities Master Plan Update 2005 project (“2005 Facilities Master Plan Update Draft Supplemental EIR”), which added to the project description a 2,250-space parking structure (the “Parking Structure”); and

**WHEREAS**, the Notice of Preparation for the 2005 Facilities Master Plan Update Supplemental Draft EIR solicited comments on the document for a 30-day period; and

**WHEREAS**, by letter dated September 27, 2005, the City commented on the Notice of Preparation for the 2005 Facilities Master Plan Update Draft Supplemental EIR but did not mention the Parking Structure or proposed parking improvements in general; and

**WHEREAS**, on December 27, 2005, the District published in the Inland Valley Daily Bulletin a Notice of Completion of the 2005 Facilities Master Plan Update Draft Supplemental EIR and public hearing that solicited comments on the 2005 Facilities Master Plan Update Draft Supplemental EIR for a 30-day period and identified a public hearing on the project and its Supplemental Draft EIR to be held on March 22, 2006; and

**WHEREAS**, on December 28, 2005, the District filed a Notice of Completion of the 2005 Facilities Master Plan Update Supplemental Draft EIR with the Clerk of the County of Los Angeles that solicited comments on the 2005 Facilities Master Plan Update Draft Supplemental EIR for a 30-day period and identified a public hearing on the project and its Draft Supplemental EIR to be held on March 22, 2006; and

**WHEREAS**, the 2005 Facilities Master Plan Update Draft Supplemental EIR identified the Parking Structure and depicted it to be located in the area adjacent and south of Edinger Way and further bounded by Bonita Avenue and La Puente Drive; and

**WHEREAS**, by letter dated January 30, 2006, the City commented on the 2005 Facilities Master Plan Update Draft Supplemental EIR but did not mention or comment upon the Parking Structure or parking in general; and

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**WHEREAS**, on February 22, 2006, the District published in the Inland Valley Daily Bulletin a Second Notice of Public Hearing on the 2005 Facilities Master Plan Update project and its Draft Supplemental EIR, which identified the Parking Structure and confirmed the March 22, 2006, date for the public hearing; and

**WHEREAS**, on March 22, 2006, the District postponed the public hearing on the 2005 Facilities Master Plan Update project and its Draft Supplemental EIR to an unspecified future meeting; and

**WHEREAS**, after March 22, 2006, the District published in the Inland Valley Daily Bulletin a Third Notice of Public Hearing on the 2005 Facilities Master Plan Update and its Draft Supplemental EIR, which identified the Parking Structure and changed the date of the public hearing on the 2005 Facilities Master Plan Update and its EIR to May 24, 2006; and

**WHEREAS**, in May 2006, the District completed the Final Supplemental EIR for the 2005 Facilities Master Plan Update project; and

**WHEREAS**, on May 24, 2006, the District’s Board conducted the public hearing on the 2005 Facilities Master Plan Update project and its Final Supplemental EIR; there were no public speakers, but the City submitted a letter requesting additional revisions to Mitigation Measures 2i and 2cc, none of which involved the Parking Structure; and

**WHEREAS**, on May 24, 2006, following the closing of the aforementioned public hearing, the District’s Board considered and unanimously certified the 2005 Facilities Master Plan Update Final Supplemental EIR and the 2005 Facilities Master Plan Update project.

### **2008 Facilities Master Plan Update**

**WHEREAS**, on March 1, 2008, the District issued a Notice of Preparation for the 2008 Facilities Master Plan Update Draft Subsequent EIR (“2008 Facilities Master Plan Update Subsequent Draft EIR”), which included the Parking Structure relocated to an area west of its original location adjacent and south of Edinger Way and further bounded by Mountaineer Road and La Puente Drive and solicited comments for a 30-day period; and

**WHEREAS**, although other public agencies commented on the Notice of Preparation of the 2008 Facilities Master Plan Update Draft Subsequent EIR, the City did not; and

**WHEREAS**, the Draft 2008 Facilities Master Plan Update identified the Parking Structure’s changed location and the 2008 Facilities Master Plan Update Draft Subsequent EIR identified and analyzed the Parking Structure’s relocation from its original location to a location adjacent and south of Edinger Way and further bounded by Mountaineer Road and La Puente Drive; and

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**WHEREAS**, on May 27, 2008, the District filed with the Clerk of the County of Los Angeles a Notice of Completion for the 2008 Facilities Master Plan Update Draft Subsequent EIR, which identified the Parking Structure and solicited comments on the 2008 Facilities Master Plan Update Draft Subsequent EIR for a 45-day period; and

**WHEREAS**, on May 28, 2008, the District published with the Inland Valley Daily Bulletin a Notice of Public Hearing on the 2008 Facilities Master Plan Update and its Draft Subsequent EIR for August 27, 2008, identified the Parking Structure, and announced the availability of the 2008 Facilities Master Plan Update Draft Subsequent EIR for review and comment until July 11, 2008; and

**WHEREAS**, on June 18, 2008, at a special Board meeting, the need for a Parking Structure was discussed; and

**WHEREAS**, on August 15, 2008, the District published with the Inland Valley Daily Bulletin a second Notice of Public Hearing on the 2008 Facilities Master Plan Update and its Draft Subsequent EIR for August 27, 2008, which identified the Parking Structure; and

**WHEREAS**, while other public entities commented on the 2008 Facilities Master Plan Update Draft Subsequent EIR, the City did not; and

**WHEREAS**, the District and the City negotiated a “Memorandum of Understanding Between Mt. San Antonio College and the City of Walnut Regarding Traffic Improvements (MOU 2008-01)” that did not raise any environmental issues on the 2008 Facilities Master Plan Update but provided implementation mechanisms and funding for traffic improvements for the project; and

**WHEREAS**, in August 2008, the District prepared responses to the comments on the 2008 Facilities Master Plan Update Draft Subsequent EIR and completed the 2008 Facilities Master Plan Update Subsequent Program Final EIR referencing the future MOU 2008-01; and

**WHEREAS**, on August 27, 2008, the District’s Board conducted the public hearing on the 2008 Facilities Master Plan Update project and its Final Subsequent EIR; there were no public comments on the EIR or the Parking Structure; and

**WHEREAS**, on August 27, 2008, following the closing of the aforementioned public hearing, the District’s Board considered and unanimously certified the 2008 Facilities Master Plan Update Final Subsequent EIR and the 2008 Facilities Master Plan Update project.

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### **2010 Facilities Master Plan Update**

**WHEREAS**, on October 12, 2010, the District completed the Mt. San Antonio College Draft Facilities Master Plan Update 2009 which identified the Parking Structure at its western location established in the Facilities Master Plan Update 2008 project, depicted the Parking Structure adjacent to the northwest side of the Primary Education Zone, noted its location is to reduce traffic impacts on Grand and Temple Avenues and San Jose Hills Road and Grand Avenue intersections, and explained that the Parking Structure will provide student parking where it is needed, closer to classrooms and student services facilities that do not have parking.

### **2012 Facilities Master Plan**

**WHEREAS**, in March 2012, the District completed the Mt. San Antonio College Draft Facilities Master Plan Update 2012 (“2012 Facilities Master Plan Update”), which increased the parking spaces in the Parking Structure from 2,250 spaces up to 2,300 spaces, depicted the Parking Structure adjacent to the northwest side of the Primary Education Zone, noted its location is to reduce traffic impacts on Grand and Temple Avenues and San Jose Hills Road and Grand Avenue intersections and explained that the Parking Structure will provide student parking where it is needed, closer to classrooms and student services facilities that do not have parking; and

**WHEREAS**, on May 16, 2012, the District issued a Notice of Preparation of the Mt. San Antonio College 2012 Facilities Master Plan Draft Subsequent EIR to Final Program EIR (“2012 Facilities Master Plan Update Draft Subsequent EIR”), which identified the Parking Structure at the same location established in the 2008 Facilities Master Plan Update and its Subsequent EIR; and

**WHEREAS**, on December 12, 2012, the District’s Director of Facilities Planning and Management, Gary Nellesen, gave a public presentation at the District’s Board meeting on the Draft 2012 Facilities Master Plan Update that included the Draft North Precinct Planning Report in which both the location and perspective views of the Parking Structure were shown; and

**WHEREAS**, on June 19, 2013, District staff met with City staff to review Parking Structure issues; during the meeting, the District reviewed the traffic study for the Parking Structure with the City; the City found that the Parking Structure traffic study was acceptable as written; the City noted that, with the exception of final engineering on the road mitigation, no additional City approvals were required; and the District submitted and discussed with the City a conceptual design package for the Parking Structure in the location identified in the 2012 Facilities Master Plan Update Draft Subsequent EIR; and



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**WHEREAS**, although other public agencies commented on the Notice of Preparation of the 2012 Facilities Master Plan Update Draft Subsequent EIR, the City did not; and

**WHEREAS**, on August 27, 2013, the District published in the Inland Valley Daily Bulletin a Notice of Availability and Public Hearing on the 2012 Facilities Master Plan Update project and its Draft Subsequent EIR and solicited comments for a 45-day period; and

**WHEREAS**, on August 30, 2013, the District filed with the Clerk of the County of Los Angeles a Notice of Completion of the 2012 Facilities Master Plan Draft Subsequent EIR; and

**WHEREAS**, the 2012 Facilities Master Plan Update Draft Subsequent EIR identified and analyzed the Parking Structure at the western location identified in the 2008 Facilities Master Plan Update; and

**WHEREAS**, while other public entities commented on the 2012 Facilities Master Plan Update Draft Subsequent EIR, the City did not; and

**WHEREAS**, on November 12, 2013, the District prepared responses to the comments on the 2012 Facilities Master Plan Update Draft Subsequent EIR and completed the 2012 Facilities Master Plan Update Final Subsequent EIR; and

**WHEREAS**, on November 20, 2013, the District published in the Inland Valley Daily Bulletin a Notice of Availability and Public Hearing on the 2012 Facilities Master Plan Update project and its Draft Subsequent EIR and solicited comments for a 45-day period; and

**WHEREAS**, on December 11, 2013, the District’s Board conducted the public hearing on the 2012 Facilities Master Plan Update project and its Final Subsequent EIR; several residents commented on the Parking Structure, and three residents opposed the location of the Parking Structure and suggested other locales; the City did not comment; and

**WHEREAS**, on December 11, 2013, following the closing of the aforementioned public hearing, the District’s Board considered and certified the 2012 Facilities Master Plan Update Final Subsequent EIR and the 2012 Facilities Master Plan Update project; and

**WHEREAS**, on December 19, 2013, the District produced a Notice of Determination on the 2012 Facilities Master Plan Update project and Final Subsequent EIR and thereafter filed the Notice of Determination with the Clerk of Los Angeles County; and

**WHEREAS**, on March 26, 2014, the District’s Director of Facilities Planning and Management, Gary Nellesen, made a presentation to the City Council on the 2012 Facilities Master Plan Update and more specifically on the Parking Structure at its western location identified in the 2008 Facilities Master Plan Update; and

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**WHEREAS**, on April 17, 2014, the District held a public outreach meeting and presented the Parking Structure’s location and alternative locations considered; and

**WHEREAS**, on May 28, 2014, the City Council received and filed a Council Report from its City Attorney through the City Manager, in which the report admits that the City has no jurisdiction over the Parking Structure: “Cities have minimum oversight authority for non-education-related uses and structures established within community college property.” The proposed parking structure does not fall within the category of ‘non-classroom facilities.’ The structure is intended to be used as an off-street parking facility for student vehicles, not a building that would store vehicles”; and

**WHEREAS**, on June 17, 2014, a joint meeting was held between certain City staff, two City Council members, District staff, and designated Timberline residents to discuss Parking Structure issues; and

**WHEREAS**, on July 23, 2014, several Timberline residents raised their concerns with the Parking Structure during the oral communications portion of the City Council meeting, and two Council members requested City staff to send a letter to the State Senate with all of the Timberline residents’ concerns; and

**WHEREAS**, on or about July 31, 2014, the District’s consultants delivered to City staff plans for improvements to the public streets and intersections adjacent to and serving the Parking Structure to mitigate the traffic impacts related to the Parking Structure; City staff has failed and refused to review and approve the plans; and

**WHEREAS**, on August 13, 2014, under agenda item No. 12, City staff presented a Council report to the City Council that explained: “City and Counties have minimum oversight authority for non-education-related uses and structures established with community college property”; examples of non-education-related uses were identified as entitlements for third-party uses of telecommunication facilities and farmers market; “Construction plan checking, building inspection functions as well as fire and life safety analysis, for the parking structure is DSA’s alone,” and “Any public-right-of-way improvements around the site (sidewalks, curb cuts, street improvements, etc.) are to be reviewed and approved by the City Engineer, but that is the limit to the City’s involvement.” During discussion, City Council members voiced opposition to the location of the Parking Structure, directed staff to send letters to the District and State Legislators opposing the location of the Parking Structure and other concerns, and prepare a resolution to oppose the location of the Parking Structure; various residents also voiced their opposition with the Parking Structure’s location; and

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**WHEREAS**, on August 27, 2014, despite its knowledge of the location of the Parking Structure for nearly ten (10) years and the District’s significant long-term investment in the planning of the Parking Structure, the City Council considered and adopted Resolution No. 14-45, City of Walnut’s Position on the Proposed Mt. SAC Parking Structure Project, in which the City urged the District to consider alternative locations for the Parking Structure; and

**WHEREAS**, on September 24, 2014, the City Attorney provided a memorandum entitled, “Mt. SAC Parking Structure” to the City Council in which he recognized that the zoning exemption in Government Code section 53094 applies to educational facilities that are directly for or related to educational purposes; and

**WHEREAS**, on November 12, 2014, the City Council reconvened its regularly scheduled meeting at the meeting of the District’s Board of Trustees, and the Councilmembers individually expressed their concerns with the Parking Structure; and

**WHEREAS**, on December 10, 2014, the City Council held a closed session to consider possible litigation concerning the Parking Structure.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Board of the Mt. San Antonio Community College District as follows:

**Section 1. Provision of School Location.** For good and sufficient cause, the Board of Trustees hereby finds the City’s zoning ordinances including, without limitation, the City’s General Plan and Walnut Municipal Code Title VI (Planning and Zoning) Chapter 25 (Zoning), and Title V (Public Works) Article IV (Public Tree Preservation) (collectively, “Zoning Ordinances”) do not provide for the location of schools, and thus, the District is not required to comply with the City’s ordinances for the District’s facilities.

**Section 2. Educational Facility.** For good and sufficient cause, the Board of Trustees hereby finds the Parking Structure is not a “non-classroom facility,” but is an educational facility used for or related to student instruction within the meaning of Government Code section 53094(b).

**Section 3. City’s Zoning Ordinances and Conduct Jeopardizes the Parking Structure.** For good and sufficient cause, the Board of Trustees hereby finds that the City’s attempted enforcement of its Zoning Ordinances and the City’s conduct concerning the Parking Structure would result in significant additional costs to the District, unduly delay the Parking Structure’s construction, impose unreasonable and inapplicable requirements upon the Parking Structure, or be denied by the City, which conduct would significantly hamper, interfere with, or jeopardize the viability of the Parking Structure and the District’s master planning of its Campus.

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**Section 4. Zoning Ordinance Exemption.** In no way admitting that the District is subject to the City’s Zoning Ordinances and, only in an abundance of caution, should it be adjudged that the District must comply with the City’s Zoning Ordinances, the Board of Trustees hereby exempts the Parking Structure from the City’s Zoning Ordinances, which includes all City permitting conditions and prohibitions that may otherwise apply to the Parking Structure to the maximum extent possible by law.

**Section 5. Notice of Action.** The Board of Trustees hereby directs the College President or his designee to serve notice of this action and this Resolution upon the City of Walnut’s Clerk within ten (10) days.

**PASSED AND ADOPTED** by unanimous vote of the members of the Governing Board of the Mt. San Antonio Community College District on the 11th day of February 2015 by a vote of:

AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

I, William T. Scroggins, Clerk/Secretary of the Governing Board of the Mt. San Antonio Community College District, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the said Board at a regularly called and conducted meeting held on said date.

\_\_\_\_\_  
William T. Scroggins  
College President/CEO and  
Secretary, Governing Board  
Mt. San Antonio Community College District