

Craig A. Sherman, Esq. (SBN 171224)
CRAIG A SHERMAN, A PROFESSIONAL LAW CORP.
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Shermanlaw@aol.com

Attorney for Plaintiff and Petitioner
UNITED WALNUT TAXPAYERS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES– CENTRAL DISTRICT**

UNITED WALNUT TAXPAYERS, a
California Nonprofit Fictitious Business
Entity,

Plaintiff and Petitioner,

v.

MT. SAN ANTONIO COMMUNITY
COLLEGE DISTRICT; WILLIAM
SCROGGINS, in his official capacity as
President and CEO of Mt. San Antonio
Community College, and DOES ONE
through TEN, inclusive,

Defendants and Respondents,

TILDEN-COIL CONSTRUCTORS, INC.
and DOES ELEVEN through TWENTY,
inclusive,

Real Parties in Interest.

Case No.: BC 576587

[Action Filed: March 24, 2015]

**DECLARATION OF CRAIG A.
SHERMAN IN SUPPORT OF
EX PARTE APPLICATION FOR
ISSUANCE OF A TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE: PRELIMINARY
INJUNCTION**

Hearing Date: March 30, 2015

Time: 8:30 a.m.

Dept.: 71

I/C Judge: Hon. Suzanne G. Bruguera

1 I, CRAIG A. SHERMAN declare:

2 1. I am counsel of record for plaintiff UNITED WALNUT TAXPAYERS (“United
3 Walnut”) in the above-captioned action. I am personally aware of all of the information
4 contained herein, and if I was called to testify, I could and would do so as set forth herein.
5

6 **Request to Cease and Desist and Multiple Advance Written Ex Parte Notices**

7 2. I first gave written notice to the college district defendants midday on Thursday,
8 March 26, 2015 by informing them and their legal counsel to cease and desist construction or my
9 client would appear in this Court on Monday, March 30, 2015 requesting a TRO. A true and
10 correct copy of said written cease and desist and ex parte notice is attached hereto as Exhibit A
11 (the date on the face of the letter is incorrectly stated as being March 24). There was no prior
12 need to request that Defendants withhold construction because no significant activities had
13 commenced through most of the month of March.

14 3. In the afternoon on March 27, 2015 I gave a further and final written notice of this
15 ex parte appearance by confirming the 8:30 a.m., Monday, March 30, 2015 ex parte appearance
16 and clarified that it would be in Department 71. A true and correct copy of said second
17 confirming written ex parte notice is attached hereto as Exhibit B (once again, the date on the
18 face of the letter is incorrectly stated as being March 24).

19 4. The need for the March 26, 2015 cease and desist letter in Exhibit A was
20 necessitated by my client’s reports that – the day after giving notice and filing the lawsuit – **in**
21 **the morning on March 25, 2015, the college district flagged-off the project site and began**
22 **making preparation for apparent site preparation and construction.**

23 5. The commencement of Project site preparation and construction on March 25,
24 2015 was suspect and appeared in immediate response to the lawsuit notice and filing given by
25 my office earlier in the day on Tuesday, March 24, 2015.

26 6. On March 24, 2015, I had transmitted electronically and mailed the required
27 statutory pre-filing written notice to agency defendants, Mt. SAC and Scroggins, that United
28 Walnut intended to file a lawsuit challenging the Project on multiple legal grounds. A true and

1 correct copy of said written notice is attached hereto as Exhibit C (the same is attached as
2 Exhibit A to the Verified Complaint).

3 7. The verified *Complaint for Declaratory and Injunctive Relief; Petition for Writ of*
4 *Mandate* (“Verified Complaint”) was filed later in the day on Tuesday, March 24, 2015. For the
5 Court’s convenience, a true and correct copy of the *Verified Complaint* is attached hereto as
6 Exhibit D.

7 8. A copy of the *Verified Complaint* has been provided to the agency and school
8 district defendants prior to this instant March 30 ex parte proceeding by both (1) one of my
9 client’s representatives hand delivering a copy to defendant Scroggins and the Mt. Sac board of
10 trustees at their Wednesday, March 25, 2015 regular board meeting, and (2) my sending an
11 electronic copy of Verified Complaint via email on Friday, March 27, 2015, along with the
12 above confirming ex parte written notice attached hereto as Exhibit B.

13 **Further Evidence of Hurried Post-Filing Site Preparation and Construction Activities**

14 9. Immediately after United Walnut gave notice of filing suit on March 24, the next
15 day Defendants responded hurriedly and recklessly launching into full-scale construction as
16 quickly as possible. Contemporaneous **photographs** taken by one of United Walnut’s
17 supporting members shows the hurried and recent progression of cutting trees, site preparation,
18 asphalt removal, and commencement of excavation throughout the Project site and along the
19 public sidewalk and slope without any safety fencing, with said safety fence seen laying on the
20 ground. (*See* concurrently filed Majors Decl. ¶¶ 6-10, and the photo exhibits thereto.)

21 10. My client is composed of Mt. Sac college district real property-owning taxpayers
22 who, by nature of the Proposition 39 taxpaying scheme, will be saddled with the debt and bond
23 repayment if and when the Project expenditures are found illegal. (*Verified Complaint*, ¶¶ 1.b, 2,
24 26-32.) Each spent dollar is a liability for taxpayers who must continue to pay interest on the
25 original expenditures, but then need to pay it back to reimburse and correct the harm. This is a
26 risk and harm imposed on tens of thousands of property owners throughout the defendant college
27 district.
28

1 11. In my over 20 years of environmental and government finance public interest
2 lawsuits I have found that is a common practice for public and private defendants, building in
3 violation of CEQA and the other causes of action, to implement a strategy of building as quickly
4 as possible after a claim is filed in an attempt to complete construction during active litigation.

5 12. Although applicants and developers such as Defendants in this case assume and
6 bear the risk that proceeding in the light litigation may necessitate them to tear down or replace
7 the subject property to prior or lawful conditions (*See Kriebel v. City of San Diego*, (1980) 112
8 Cal.App.3d 693, 707 [“Appellate rights survive the thrust of the bulldozer's blade.”]; *Bakersfield*
9 *Citizens for Local Control v. City of Bakersfield*, (2004) 124 Cal.App.4th 1184, 1203
10 [“[D]evelopers should not be permitted to effectively defeat a CEQA suit merely by building out
11 a portion of a disputed project during litigation”]), spending or wasting taxpayers’ money for a
12 project that is likely to be overturned requires those same taxpayers to pay back the funds – thus
13 resulting in an incredible waste and injustice.

14 **Support for Legal Claims**

15 13. Attached hereto as Exhibit E is a true and correct copy of Walnut Municipal Code
16 § 25-89.1 as obtained from the City’s website at <http://qcode.us/codes/walnut/> (last accessed on
17 March 29, 2015). Walnut Municipal Code § 25-89.1 (b)(4)(g) indicates that “All permitted
18 structures shall not exceed thirty-five feet in height.” Additionally, parking structures are not
19 one of types of structures allowed in the RPD zone without a conditional use permit. (*See Walnut*
20 *Municipal Code § 25-89.1 (b)(4) and § 25-89.1 (b).*)

21 14. Attached hereto as Exhibit F is true and correct copy of the Project description, as
22 obtained from Mt. Sac’s website at [http://www.mtsac.edu/news/2015-March-23-parking-](http://www.mtsac.edu/news/2015-March-23-parking-structure-construction-begins.html)
23 [structure-construction-begins.html](http://www.mtsac.edu/news/2015-March-23-parking-structure-construction-begins.html) (last accessed on March 29, 2015), indicating that the
24 currently proposed and planned Project is designed to be in excess of 35 feet above current
25 ground level.

26 15. Attached hereto as Exhibit G is a true and correct copy of a portion of Chapter 25
27 of the Walnut Municipal Code, including Section § 25-88, as obtained from the City’s website at
28 <http://qcode.us/codes/walnut/> (last accessed on March 29, 2015), that provides that the purpose

1 of the Residential Planned Development Zone (RPDZ) is to encourage “appropriate and
2 desirable use of land which is sufficiently unique in its physical characteristics and other
3 circumstances to warrant special methods of development[.]” (Walnut Mun. Code § 25-88
4 [entitled “Intent of Zone”].)

5 16. Attached hereto as Exhibit H is a true and correct copy of City of Walnut zoning
6 map, as obtained from the City’s website at [http://www.ci.walnut.ca.us/upload/Zoning%20Map-
7 %20Color-Layout1.pdf](http://www.ci.walnut.ca.us/upload/Zoning%20Map-%20Color-Layout1.pdf) (last accessed on March 28, 2015), showing that the subject Project site
8 is zoned RPDZ. Note the color purple with hashed diagonal lines and “RPD” designation
9 indicating that the original city-controlled and annexed college district campus land is not zoned
10 differently from the adjacent and required-to-be-compatible planned residential uses.

11 17. Attached hereto as Exhibit I are true and correct copies of selected pages from Mt.
12 Sac’s subsequent program EIR for its 2012 Facilities Master Plan dated September 2013 (pages
13 19, 98, 100, 101), showing campus-wide environmental protection measures and mitigation
14 measures that are purported to be required for all Master Plan Facilities’ construction projects,
15 including tree protections (p. 100) and strict biological surveys and monitoring for cutting trees
16 during the nesting season (February 1 through July 31), as obtained from the City.

17 18. I personally made inquiry that the college district defendant, did not file or post a
18 Notice of Determination with the County Recorder’s Office as required to give notice and
19 commence the early statute of limitations period as described in May v. City of Milpitas, (2013)
20 217 Cal.App.4th 1307, 1322.

21 I declare under the penalty of perjury under the laws of the State of California
22 that the foregoing is true and correct.

23 Executed on March 29, 2015 in San Diego County.

24 

25 _____
26 Craig A. Sherman
27
28



A Professional Law Corporation

1901 FIRST AVENUE, SUITE 219
SAN DIEGO, CA 92101

TELEPHONE
(619) 702-7892

FACSIMILE
(619) 702-9291

March 24, 2015

Via Email

bscroggins@mtsac.edu

Dr. William Scroggins, President and CEO
MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT
1100 N. Grand Avenue
Walnut, CA 91789

Re: Demand to Cease and Desist Construction of Parking Garage Structure
United Walnut Taxpayers v. Mt. San Antonio College District,
L.A. Super Ct., Case No. BC 576587

Dear Mr. Scroggins:

As you are aware, my client United Walnut Taxpayers has filed the above-referenced lawsuit seeking to suspend and overturn Mt. Sac's recent approvals to proceed with construction of the above Parking Garage Structure project.

Based on one or more rather clear legal defects in Mt. Sac's approvals, my client HEREBY MAKES THIS WRITTEN DEMAND that Mt. Sac and its contractor IMMEDIATELY CEASE AND DESIST all site preparation and other construction activities relating to the Project. Should Mt. Sac not agree in writing to cease all construction activities, and actually cease such activities, on or before the close on Friday, March 27, 2015, my client will appear on Monday, March 30, 2015 at 8:30 a.m. before a judge of the Los Angeles, Superior Court, Stanley Mosk Courthouse, 111 N. Hill Street and request an immediate stay and temporary restraining order.

Based on the strengths of my client's case and claims, and the inordinate waste of Mt. Sac and taxpayer funds that will be otherwise realized, it is both legally and practically prudent to cease construction activities until the claims in the lawsuit can be adjudicated.

My office and client look forward to your sensible and timely response to this request.

Sincerely,

Craig A. Sherman
Attorney for Plaintiff

cc: Jessica E. Ehrlich, Esq. ORBACH, HUFF, SUAREZ & HENDERSON
(via email: jehrlich@ohshlaw.com)

Michael B. Montgomery, Esq., CITY ATTORNEY, CITY OF WALNUT
(via email: mbmontgomery@hotmail.com)

EXHIBIT A PAGE 1

From: shermanlaw <shermanlaw@aol.com>

To: bscroggins <bscroggins@mtsac.edu>; dclindholm <dclindholm@mtsac.edu>

Cc: jehrlich <jehrlich@ohshlaw.com>; mbmontgomery <mbmontgomery@hotmail.com>

Subject: Demand to Cease and Desist - Notice of Ex Parte Appearance, March 30, 2015 at 8:30 a.m.

Date: Thu, Mar 26, 2015 1:57 pm

Attachments: Cease and Desist Letter (3-26-15).pdf (200K)

Via Email Only

see ATTACHED....

Re:

Demand to Cease and Desist Construction of Parking Garage Structure
United Walnut Taxpayers v. Mt. San Antonio College District,
L.A. Super Ct., Case No. BC 576587

Regards,

/s

Craig A. Sherman, Esq.
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email: shermanlaw@aol.com

EXHIBIT A PAGE 2



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March 24, 2015

Via Email

bscroggins@mtsac.edu,
jehrich@ohshlaw.com,
sbarankiewicz@ohshlaw.com

Dr. William Scroggins, President and CEO
MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT
1100 N. Grand Avenue
Walnut, CA 91789

Stan Barankiewicz, Esq.
Jessica E. Ehrlich, Esq.
ORBACH, HUFF, SUAREZ & HENDERSON
1901 Avenue of the Stars, Suite 575
Los Angeles, CA 90067

Re: NOTICE OF EX PARTE COURT APPEARANCE
REQUESTING A RESTRAINING ORDER

MONDAY, MARCH 30, 2015 AT 8:30 A.M.
DEPARTMENT 71 – HON. SUZANNE G. BRUGUERA
LOS ANGELES SUPERIOR COURT
111 NORTH HILL STREET, LOS ANGELES, CA 90012

United Walnut Taxpayers v. Mt. San Antonio College District,
L.A. Super Ct., Case No. BC 576587

Dear Messrs. Scroggins, Barankiewicz, and Ms. Ehrlich:

As communicated previously to both of your offices yesterday, my client United Walnut Taxpayers will be appearing Monday, March 30 in the Superior Court seeking a TRO and OSC re Preliminary Injunction to suspend all construction activities of Mt. Sac's Parking Garage Structure project.

I will appear Monday, March 30, 2015 at 8:30 a.m. before the above-mentioned assigned judge in Department 71 of the Los Angeles, Superior Court, Stanley Mosk Courthouse, 111 N. Hill Street to request an immediate stay and temporary restraining order.

In addition to the reasons stated in the attached and already received verified Complaint, construction near Mountaineer is taking place without a permit from the city, undercutting earth fill slopes of City streets, without safety fencing endangering the public because Mt. Sac is now speeding up the construction in light of the lawsuit and people could fall directly into excavated

Page Two
March 27, 2015

areas a good 10 feet down or walk straight into heavy earthmoving equipment in the full operation cutting down mature trees without a City permit outside the construction area and only 10 feet from the City sidewalk areas.

Attorney Michael Montgomery, counsel for the City of Walnut in the below related case, confirmed that Mr. Barankiewicz was aware of this proceeding, but just did not have the Department number. This notice now clarifies that the assigned Department for this case is Department 71 and that is where I will be appearing and making the above request. I will provide you copies of the moving papers over the weekend as soon as they are prepared.

If you have any questions, please do not hesitate to call.

Sincerely,



Craig A. Sherman
Attorney for Plaintiff

cc: Related Case: City of Walnut v. Hall, et al. Case No. BS 154389
Michael B. Montgomery, Esq., CITY ATTORNEY, CITY OF WALNUT
(via email: mbmontgomery@hotmail.com)

From: shermanlaw <shermanlaw@aol.com>

To: bscroggins <bscroggins@mtsac.edu>; jehrlich <jehrlich@ohshlaw.com>; sbarankiewicz <sbarankiewicz@ohshlaw.com>

Cc: mbmontgomery <mbmontgomery@hotmail.com>

Bcc: dnlmajors <dnlmajors@gmail.com>; hsassi2010 <hsassi2010@gmail.com>; cqtran97 <cqtran97@yahoo.com>; abousassi <abousassi@yahoo.com>; lawmanmcmc <lawmanmcmc@aol.com>

Subject: Monday, Ex Parte Court Appearance, L.A. Super Ct., Case No. BC 576587

Date: Fri, Mar 27, 2015 4:41 pm

Attachments: Ex Parte Notice (3-27-15).pdf (206K), Complaint (conformed).pdf (1917K)

See att ached confirming Monday's court appearance.

Re: NOTICE OF EX PARTE COURT APPEARANCE
REQUESTING A RESTRAINING ORDER

MONDAY, MARCH 30, 2015 AT 8:30 A.M.
DEPARTMENT 71 â HON. SUZANNE G. BRUGUERA
LOS ANGELES SUPERIOR COURT
111 NORTH HILL STREET, LOS ANGELES, CA 90012

United Walnut Taxpayers v. Mt. San Antonio College District,
L.A. Super Ct., Case No. BC 576587

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EXHIBIT B PAGE 3



A Professional Law Corporation

1901 FIRST AVENUE, SUITE 219
SAN DIEGO, CA 92101

TELEPHONE
(619) 702-7892

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March 24, 2015

Via Email

bscroggins@mtsac.edu, dlindholm@mtsac.edu

Followed by Certified U.S. Mail

No. 7007 0220 0002 1024 2591

Return Receipt Requested

Dr. William Scroggins, President and CEO
Dr. Kevin K. Hall, President of the Bd. of Trustees
MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT
1100 N. Grand Avenel
Walnut, CA 91789

Re: NOTICE OF INTENT TO FILE A CEQA PETITION
Decision to Approve the Project, Proceed with Construction and
Exempt the Project from City of Walnut Land Use and Zoning Ordinances
Decision Date: February 11, 2015

Dear Messrs. Scroggins and Hall:

NOTICE IS HEREBY GIVEN pursuant to the California Public Resources Code § 21167.5 that plaintiff UNITED WALNUT TAXPAYERS (Plaintiff) intends to file a lawsuit and petition for writ of mandate under the provisions of the California Environmental Quality Act (CEQA) against respondent MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT (District) and its CEO and President WILLIAM SCROGGINS (Scroggins) challenging the adoption and approval of the above-referenced matters due to failure to comply with CEQA, including, but not limited to: (1) that the District failed to conduct CEQA review for the zoning and planning exemption, (2) the District failed to make a determination that action(s) were sufficiently examined and covered within the scope of a prior studies and certified Program EIR, (3) the District failed to make or adopt any finding(s) regarding CEQA, and (4) the District has a policy and pattern and practice of approving and carrying out projects such as the above referenced project in violation of CEQA's review and approval requirements. Plaintiff also intends to challenge illegal spending under Measure RR for the Project and other projects as well as challenge the exemption decision on the grounds including but not limited to, it is unlawful, overbroad, and violates Cal. Government Code § 53094(b), and Cal. Education Code § 81951.

If you have any questions pertaining to this notice, please do not hesitate to contact the writer at the above address.

Sincerely,

Craig A. Sherman
Attorney for Plaintiff

cc: Kamala D. Harris, Attorney General, State of California

EXHIBIT C PAGE 1

From: shermanlaw <shermanlaw@aol.com>

To: bscroggins <bscroggins@mtsac.edu>; dlindholm <dlindholm@mtsac.edu>

Bcc:
<jeffery.anson@gmail.com>

Subject: NOTICE OF INTENT TO FILE A CEQA PETITION

Date: Tue, Mar 24, 2015 10:05 am

Attachments: Notice of Intent Sue.pdf (201K)

Via Email Followed by Certified U.S. Mail

see ATTACHED....

Re: NOTICE OF INTENT TO FILE A CEQA PETITION

Decision to Approve the Project, Proceed with Construction and
Exempt the Project from City of Walnut Land Use and Zoning Ordinances
Decision Date: February 11, 2015

Craig A. Sherman, Esq.
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email: shermanlaw@aol.com

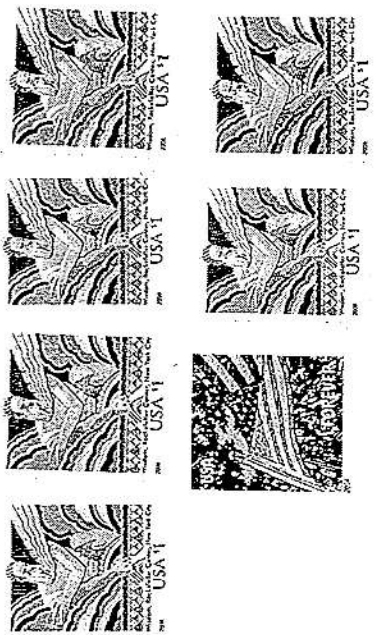
EXHIBIT C PAGE 2

CRAIG A. SHERMAN
LAW OFFICE OF CRAIG A. SHERMAN
1901 FIRST AVENUE, SUITE 219
SAN DIEGO, CA 92101-2382

CERTIFIED MAIL



7007 0220 0002 1024 2591



Dr. William Scroggins, President and CEO
Dr. Kevin K. Hall, President of the Board of
Trustees
Mt. San Antonio Community College District
1100 North Grand Avenue
Walnut, CA 91789

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7 Shermanlaw@aol.com

8 Attorney for Plaintiff and Petitioner
9 UNITED WALNUT TAXPAYERS

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAR 24 2015

Sherri R. Carter, Executive Officer/Clerk
By Myrna Beltran, Deputy

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES- CENTRAL DISTRICT

12 UNITED WALNUT TAXPAYERS, a
13 California Nonprofit Fictitious Business
14 Entity,

15 Plaintiff and Petitioner,

16 v.

17 MT. SAN ANTONIO COMMUNITY
18 COLLEGE DISTRICT; WILLIAM
19 SCROGGINS, in his official capacity as
20 President and CEO of Mt. San Antonio
21 Community College, and DOES ONE
22 through TEN, inclusive,

23 Defendants and Respondents,

24 TILDEN-COIL CONSTRUCTORS, INC.
25 and DOES ELEVEN through TWENTY,
26 inclusive,

27 Real Parties in Interest.

Case No.: BC 5 7 6 5 8 7

VERIFIED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF; PETITION
FOR WRIT OF MANDATE

BY FAX

I.

INTRODUCTION

1. This action challenges and seeks to redress three topics in which the Mt. San Antonio Community College District ("Mt. SAC") and its President and CEO William Scroggins ("Scroggins") (collectively "District") are in violation of California law.

(a) First, this action seeks to overturn and set aside the February 11, 2015 final decision of District to proceed with construction of a planned 2,300 space parking structure, at the northeast outer boundary of the Mt. SAC campus directly adjacent to a single family residential neighborhood, in violation of City of Walnut local planning and zoning ordinances (the "Project"). This action also seeks to overturn and set aside the approval to construct the Project based upon the lead agency District's failure to make a further and final project-specific environmental review determination for the Project as required by law according to CEQA.

(b) Second, Defendants are spending, and will continue to spend Measure RR bond revenues on the parking structure Project, the Athletic Complex East, and Retail/Solar Power Generating Plant projects in violation of Constitutional and statutory bond spending restrictions imposed by state voters via Proposition 39 and district voters via Measure RR.

(c) Third, Defendants have adopted and are implementing one or more policies and practices contrary to California state CEQA law. The policy and practice of District involves a pattern and practice that approves and carries out projects without project-specific environmental review or determinations.

2. District's initial and continuing actions spending Measure RR funds on the parking garage Project, Athletic Complex East, and Retail/Solar Power Generating Plant projects, are alleged herein to violate and unlawfully offend the spirit, intent, purpose and list of repair and safety projects, promoted and advertised to the public as a part of the Measure RR and Measure CC 2008 ballot measures for voters within the Mt. San Antonio Community College District (hereafter "Measure RR"). The District seeks to shoehorn, backdoor and substantially change known controversial, offensive, non-existing, non-educational and unlisted

1 development projects in a manner that violates Measure RR in that they were not listed in a
2 legally sufficient and detailed manner in the Measures RR project list that was approved by the
3 public.

4 3. For development of the parking garage project and retail and/or solar power
5 generating project, District is subject to the local government and community's zoning, general
6 plan regulations and land use controls that were enacted for all or part of those land parcels to
7 ensure development uniformity, compatibility, and ensure that public assets and resources are
8 being protected and not adversely impacted. This action alleges District cannot exempt itself
9 from these zoning ordinances under statutory laws of this state including but not limited to
10 Government Code § 53094 and Education Code § 81951.

11 4. In conjunction with the above, this action alleges that District has failed to
12 proceed in a manner required by law, has failed to adopt a decision or required findings for a
13 determination on the Project, and/or any finding or decision to approve and/or proceed with
14 construction on one or more of the project is not supported by the evidence.

15 II.

16 GENERAL ALLEGATIONS

17 5. Plaintiff and Petitioner is United Walnut Taxpayers ("Plaintiff" or "Taxpayers"),
18 a not-for-profit registered fictitious business entity in the State of California and County of Los
19 Angeles, which along with its members and supporters whom reside within the City of Walnut
20 and within the boundaries of the District, are residents and taxpayers within said geographical
21 area of the District who have paid taxes within at least the last fiscal and calendar tax years.
22 Plaintiff and its members have participated and voted in the general election pertaining to
23 Measure RR and the community college repair and safety measure, and who stand to benefit
24 through proper implementation and be harmed by the improper interpretation and improper
25 implementation of Measure RR. Plaintiff has collectively formed and is currently united for the
26 purpose to monitor and ensure that laws are faithfully and fully complied with during the
27 planning, implementation and spending of the subject community college bond money to
28 promote quality educational facilities, while at the same time preserving neighborhood values,

1 and ensuring strict and good faith compliance with the laws, regulations and ordinances
2 adopted to preserve the same. Plaintiff has standing to enforce such laws that are designed to
3 control the expenditure of public-approved community college bond money and protect and
4 enjoin against inappropriate use of said moneys. Plaintiff has standing to enforce such laws
5 that are designed to control development and degradation of community values, and
6 unmitigated adverse environmental impacts resulting from the same. The decisions of the
7 District will have detrimental impacts on Plaintiff, its members, and the general public, who
8 reside in and around the Project, Project site, other areas within the District boundaries.
9 Plaintiff and its members include those who use, visit and pay for those subject and affected
10 community college and educational facilities.

11 6. Respondent and defendant Mt. San Antonio Community College District
12 (“Respondent” or “District”) is an unknown type of public government agency and subdivision
13 of the State of California charged with complying with applicable provisions of state law,
14 including the California Environmental Quality Act (“CEQA”), the general laws of this State,
15 the California Constitution, city charter, municipal code and other regulations of the City of
16 Walnut. For the purposes herein, the “District” includes all of its departments, officers,
17 president, chief executive officer, and appointed and elected board of trustee representatives
18 charged with the duties and obligations as alleged herein. District, through its respective
19 officers, departments, elected officials, president, and chief executive officer, made the
20 principal and final approvals for the Project at the February 11, 2015 meeting of District’s
21 board of trustees.

22 7. Respondent and defendant William Scroggins (“Scroggins”) is President and
23 CEO of Mt. SAC and is sued herein in his official capacity of overseeing, creating, and
24 implementing the policies and decisions of the District’s board of trustees, including the project
25 actions, approvals and decisions alleged herein. Scroggins also authorizes and commences
26 expenditures of Measure RR funds for preliminary aspects of projects without public notice
27 and without approval of District’s board of trustees.

1 8. Real party in interest Tilden-Coil Constructors, Inc. ("Tilden") is alleged and
2 believed to be a corporation doing business within the state of California, including the County
3 of Los Angeles. Tilden is the general contractor approved by District for the lease/leaseback
4 construction services for the parking structure Project.

5 9. Plaintiff is ignorant of the true names and capacities of the defendants and
6 respondents sued herein as DOES ONE through TEN, inclusive, and therefore sues these
7 defendants by such fictitious names. Plaintiff is also ignorant of the true names and capacities of
8 any other real parties in interest named herein as DOES ELEVEN through TWENTY, inclusive,
9 and therefore sues these defendants by such additional fictitious names. Plaintiff will amend this
10 complaint to allege their true names and capacities when ascertained. Plaintiff also designates all
11 persons unknown claiming any interests in the Project as DOE parties.

12 10. This lawsuit has been commenced within the time limits imposed for actions
13 under the California Code of Civil Procedure and California Public Resources Code, as made
14 applicable to the District by its own policies, regulations, or by the general laws of this State.

15 11. Venue and jurisdiction in this Court are proper pursuant to the California Code
16 of Civil Procedure for a matter relating to subject property located within, and an
17 administrative action decided within, the Court's geographical venue jurisdiction.

18 12. Prior to and on the final decision date of February 11, 2015 Plaintiff or others,
19 by and through its members, its residents, attorneys, have made oral and written comments, and
20 have been present, participated in one or more District board of trustee meetings or have
21 otherwise raised the legal deficiencies asserted in this complaint and petition for writ of
22 mandate.

23 13. Plaintiff has performed all conditions precedent to filing this action by
24 complying with all requirements of the California Public Resources Code, including giving
25 written notice to District by certified mail on March 24, 2015 prior to filing this action (a true
26 and correct copy of which is attached hereto as Exhibit A), and has no other remedy other than
27 to bring this action. All other requests of District, having been previously made, would be
28 futile.

14. District is threatening and gearing up to proceed with construction of the Project, Athletic Complex East, and Retail/Solar Power Generating Plant projects within the immediate near future and which might occur during the pendency of this lawsuit and before this action will be heard and decided by this Court. Construction of the Project before this case is decided will cause irreparable harm to the environment. Construction of the Project, Athletic Complex East, and Retail/Solar Power Generating Plant projects prior to adjudication of this case will also result in a substantial waste of public funds. Because of this, a stay, temporary restraining order, and/or preliminary injunction should issue restraining District from proceeding with the Project, Athletic Complex East, and/or Retail/Solar Power Generating Plant projects.

III.

FACTUAL, LEGAL, AND PROCEDURAL BACKGROUND GIVING RISE TO THIS ACTION

15. In 1970, the California Legislature enacted the California Environmental Quality Act (“CEQA”) (Public Resources Code §21000, et seq.; 14 Cal. Code Regs. § 15000 et seq.) as a means of requiring public agency decision-makers such as Respondent to document and consider the environmental implications of their actions. CEQA’s fundamental goal is to fully inform the public and the decision makers as to the environmental consequences of its actions and to assure members of the public that their elected officials are making informed decisions. CEQA requires governmental authorities, such as Respondent, to use all feasible means to reduce or avoid significant environmental damage that otherwise could result from its actions. CEQA forbids agencies from approving projects with significant adverse impacts when feasible alternatives can reduce, eliminate, or otherwise lessen such impacts.

16. The cornerstone of the CEQA process is the preparation of an environmental impact report (EIR) which discloses the adverse environmental impacts which may result from the proposal or approval by a lead public agency such as the District. The primary function of the environmental impact report is to discuss the important environmental consequences and to inform decision-makers, responsible agencies and the general public of additional or alternative

1 mitigation measures, project elements, or project designs to the project that would lessen
2 adverse environmental consequences.

3 17. Under CEQA, where there is no reasonable probability (or "fair argument") that
4 any adverse impacts *may* result from an agency action, the preparation of a Negative
5 Declaration or Mitigated Negative Declaration is appropriate. The California Supreme Court
6 and the Legislature have clearly spoken and ruled that where a project *may have* a significant
7 effect on the environment, an EIR *must be* completed before a project is approved. (Cal. Public
8 Res. Code §§ 21100, 21151; CEQA Guidelines § 15064, subds. (a)(1), (f)(1)) When any
9 question, doubt or uncertainty is present about potential significant effects, there is a strong
10 presumption in favor of requiring preparation of an EIR.

11 18. Under California Government Code § 53091 and Government Code § 81951 the
12 District is required to comply with city zoning ordinances and general and community plans.
13 District is not authorized to exempt itself from the purview of such local ordinances and
14 adopted plans.

15 19. On November 4, 2008 Measure RR, entitled and otherwise known as the "A
16 Mount San Antonio Community College District bond proposition," appeared as a bond
17 proposal on the November 4, 2008 ballot for voters within the boundaries of the Mt. San
18 Antonio Community College District (including the city of Walnut). The measure authorized a
19 bond of \$353 million and to pass, a supermajority of 55% of those voting was required. It was
20 approved and passed with 69.95% [69.9%] of those District voters. The primary published and
21 entitled language on the ballot read:

22 Classroom Repair, Education Improvement, Public Safety/Job Training
23 Measure. To maintain academic excellence for students/nurses/firefighters by
24 upgrading classrooms/laboratories/fire alarms, repairing roofs/plumbing,
25 removing lead paint/asbestos, retrofitting buildings for earthquake
26 safety/handicap accessibility, increasing energy efficiency, expanding job
27 training, shall Mt. San Antonio Community College District repair, acquire,
28 construct, equip buildings/sites/facilities by issuing \$353,000,000 of bonds at
legal rates, with annual audits, citizens' oversight, no money for
administrators' salaries, and no tax rate increase?

1 and the express provisions for the plan for "Classroom Repair" improvements plan for Mt.
2 SAC was stated and reads as follows:

3 • COMPLETE ESSENTIAL REPAIR AND UPGRADE PROJECTS:

4 Upgrade, Repair, Equip, and/or Replace Obsolete Infrastructure Classrooms,
5 Science and Computer Laboratories, Library, Instructional Facilities, and
6 Utilities; Improve Disabled Access; Upgrade to Seismic Safety Standards:
7 Remove asbestos and lead paint from classrooms; make all buildings and
8 classrooms accessible as required by law; retrofit all buildings and classrooms
9 for earthquake safety as required by law; repair decaying walls, drainage systems
10 and leaking roofs; improve campus safety by upgrading existing fire alarms,
11 sprinklers, intercoms and fire doors; replace and upgrade 75-year old plumbing,
12 electrical and heating systems; improve energy efficiency by replacing outdated
13 heating and ventilation systems and expanding water recycling programs;
14 improve central chilling plant; upgrade streets, intersections and parking capacity
15 to improve traffic flow and prevent traffic congestion; upgrade buildings to
16 include educational equipment and laboratories, provide state-of-the-art
17 computer technology capability for students, repair, build, upgrade and/or
18 replace roofs, walls, ceiling tiles, exterior finishes and flooring, plumbing, sewer
19 and drainage systems, infrastructure, inefficient electrical systems and wiring,
20 restrooms, heating, ventilation and cooling systems, foundations,
21 telecommunications systems, classrooms, fields, courts and grounds, wire
22 classrooms for computers and other technology. Increase energy efficiency,
23 acquire equipment to increase safety, reduce operating cost through the
24 installation of energy efficient systems to direct resources to the offering of more
25 classes and job training, improve academic instruction, meet legal requirements
26 for disabled access.

18 20. Consistent with the Measure RR intent and purpose of "Classroom Repairs," the
19 measure contained a specific list of authorized and intended project classroom repairs, the
20 subject parking garage Project, Athletic Complex East, and Retail/Solar Power Generating
21 Plant projects were not included.

22 21. District has prepared one or more programmatic environmental impact reports
23 (PEIR) in association with campus-wide facilities master planning efforts and plan updates that
24 have mentioned, identified, relocated, and discussed moving around dirt and grading for one or
25 more of the projects that are the subject of this lawsuit, however District has not prepared any
26 project-specific CEQA document for this Project or the other projects identified and alleged
27 mentioned herein.

22. On February 11, 2015, at regularly scheduled District meeting of its board of trustees, one or more decisions were made to approve the parking structure Project by passing a resolution purporting to exempt the Project from zoning ordinances of the City of Walnut and entering into a lease/lease back agreement for construction of the Project. Hereafter these approvals and the approved Project are collectively referred to as the "Project" or "Project Approvals."

23. District is currently grading areas where the district plans to build the proposed Retail/Solar Power Generating Plant project on land subject to and in violation of zoning ordinances of the City of Walnut.

24. The decisions for the Project and the Project Approvals are “projects” under the given and legally interpreted definitions of CEQA such that compliance with CEQA, its regulations, and case law thereunder, is required. District made no CEQA decision or determination on February 11, 2015 in conjunction with the Project Approvals.

IV.

FIRST CAUSE OF ACTION – COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

(Violation of Restricted Government Spending; Waste and Misuse of Public Money)

(Cal. Code Civ. Proc. §§ 526(a), 1060)

25. Plaintiff hereby realleges and incorporates by reference ¶¶ 1-24 above, as though fully set forth herein.

26. Plaintiff is beneficially interested in the issuance of a declaration of law and injunction by virtue of the proposition of facts and law set forth herein.

27. Plaintiff has a clear, present and beneficial right to the proper performance by District with respect to its interpretation, application, spending and implementation of Measure RR and the authorized projects listed therein, as well as District's duties and compliance with the laws and legal principles as set forth herein. Plaintiff has no plain, speedy or adequate remedy in the ordinary course of the law other than the relief herein sought.

28. The declaratory relief requested herein is proper to delineate and clarify the parties' rights and liabilities and resolve, quiet, or stabilize an uncertain or disputed jural

1 relation. Without the grant of declaratory relief, the granting of an injunction, and/or the
2 issuance of a writ of mandate, the District will continue to proceed in a manner not allowed by
3 law and will continue to take action and spend and allocate Measure RR public money outside
4 of its authority, resulting in harm to Plaintiff, its individual members, and the citizenry of the
5 Walnut community for whom Measure RR was enacted by, and for who this public interest
6 litigation is being brought.

7 29. With formal and final approval of the Project, the District has and continues to
8 misinterpret the spirit, intent and purpose of Measure RR as it was titled, presented, advertised
9 and specifically described for the classroom repair improvements for Mt. San Antonio College.
10 Nowhere in the Measure RR Bond Project List is the subject parking structure Project
11 mentioned or included.

12 30. District is spending Measure RR money for the grading of sites intended for the
13 proposed (and ongoing) Athletic Complex East, and Retail/Solar Power Generating Plant
14 projects, continues to spend and has allocated future Measure RR money for the planning,
15 design, study, construction or building, and implementation of those projects, and continues to
16 misinterpret the spirit, intent and purpose of Measure RR as it was titled, presented, advertised
17 and specifically described for the classroom repair improvements for Mt. San Antonio College.
18 Nowhere in the Measure RR Bond Project List are the proposed Athletic Complex East, and
19 Retail/Solar Power Generating Plant projects.

20 31. Plaintiff requests a declaratory judgment and the issuance of an injunction to
21 enjoin and prevent any conduct or action of the District proceeding with spending Measure RR
22 bond sales revenue for the planning, design, study, construction or building, and
23 implementation of a new (and previously non-existing) parking structure Project, Athletic
24 Complex East, and Retail/Solar Power Generating Plant projects.

25 32. It is alleged and believed that the filing and purpose of a taxpayer declaratory
26 and injunctive relief action (such as this one) to prevent and suspend illegal spending includes,
27 as a matter of law, a right and remedy for repayment and restitution should District decide to
28 proceed with expenditures of restricted bond fund revenues funds on the Project, Athletic

1 Complex East, and Retail/Solar Power Generating Plant projects during the pendency and final
2 resolution of this action.

3 V.

4 **SECOND CAUSE OF ACTION - PETITION FOR WRIT OF MANDATE**

5 **Violation of the California Environmental Quality Act**

6 **(Cal. Public Resources Code § 21000 et seq.; 14 Cal. Code Regs. § 15000 et seq.)**

7 33. Plaintiff hereby realleges and incorporates by reference ¶¶ 1-32 above as though
8 fully set forth herein.

9 34. In conjunction with the Project Approvals, District was required to prepare an
10 EIR that is project specific or, in the alternative, District is required to make a determination
11 whether the master plan Project is fully compliant with CEQA as is may be contained within
12 the scope of a prior Program EIR.

13 35. On or about February 11, 2015, District made no determination and adopted no
14 finding whether the Project is within the scope of any earlier Program EIR.

15 36. Even had District made a determination on February 11, 2015 to rely on a prior
16 master plan update environmental study, District has improperly implemented CEQA by failing
17 to adopt sufficient and legally supportable findings, and failing to prepare project-specific EIR
18 prior to Project approval due to potential unanalyzed and/or unmitigated significant adverse
19 environmental impacts that were finally approved for the Project on February 11, 2015.

20 37. By approving the Project and not complying with CEQA, District has failed to
21 proceed in a manner required by law and/or the decision(s) and findings relating to District's
22 purported CEQA compliance are not supported by the substantial evidence. A peremptory writ
23 of mandamus is requested to be issued by this Court ordering District to rescind its February
24 11, 2015 final Project Approvals, and remand the matter to District to reconsider the Project
25 consistent with requirements of CEQA.

26
27 / / /

28 / / /

VI.

THIRD CAUSE OF ACTION - PETITION FOR WRIT OF MANDATE

(Violation of Local Ordinance, Zoning and/or General Plan Height Restrictions)

38. Plaintiff hereby realleges and incorporates by reference ¶¶ 1-37 above as though fully set forth herein.

39. The Project is located within the City of Walnut in an area zoned Residential Planned Development Zone ("RPDZ").

40. Structures that or permitted or allowed to be built within the RPDZ cannot exceed a height of 35 feet. (Walnut Municipal Code § 25-89.1 (b)(4)(g) ["All permitted structures shall not exceed thirty-five feet in height."].)

41. A parking garage structure such, as the one intended by the Project, is not a permitted or authorized use in the RPDZ, unless a variance or conditional use permit is obtained and the Project can meet special conditions and special findings can be made and adopted for the same.

42. District has not applied for or obtained a conditional use permit or variance from the City of Walnut or any other agency that would allow or authorize construction of the Project in the RPDZ.

43. One or more of the Project elements, including construction in excess of the 35-foot height restriction stands to violate local law, land use, and planning principles which are designed to protect quality of life, property values and consistency of neighborhoods for Plaintiff and its members.

44. The decisions and actions of District in proceeding with construction of the Project in violation of the above laws will prejudicially harm Plaintiff and its members.

45. District is alleged and believed to be a "community college district."

46. California constitutional and statutory law recognizes a difference between a "school district" and a "community college district."

47. In California, school districts are governed by the California Board of Education, community college districts are governed by the California Community Colleges Board of Governors.

48. According to California Education Code § 81951, District must comply with all applicable county and city zoning, and building regulations for the Project.

49. The school district exemption under California Government Code § 53094 does not apply to community college districts and District cannot exempt itself from local ordinance, zoning, or general plan restrictions under said statute.

50. In the alternative, even if District were entitled to exempt itself under California Government Code § 53094 (which it is not allowed to) the proposed parking structure Project does not qualify to be an exempt-able project because it is not a “classroom facility” as that term used and intended within the meaning of California Government Code § 53094.

51. District has failed to proceed in a manner required by law by approving and intended to proceed with the Project in violation of the above City of Walnut zoning and residential planning laws. A peremptory writ of mandamus is requested to be issued by this Court ordering the District to rescind and set aside its February 11, 2015 Project Approvals, and remand the matter to District to reconsider the Project consistent with requirements of applicable state and local laws as alleged herein, proven by Plaintiff, or as otherwise as directed by the Court.

VII.

FOURTH CAUSE OF ACTION - PETITION FOR WRIT OF MANDATE

(Violations of the Exemption Provisions of Cal. Gov. Code § 53094, subd. (b) and CEQA)

52. Plaintiff hereby realleges and incorporates by reference ¶¶ 1-51 above, as though fully set forth herein.

53. Plaintiff hereby challenges and seeks to set aside and render null and void the Resolution adopted for the February 11, 2015 exemption action on one or more of the following grounds:

1 (a) District did not make, consider, or adopts any determination(s) or
2 finding(s) with regards to compliance with CEQA;

3 (b) The February 11, 2015 decision to exempt the Project does not
4 qualify for any exemption under CEQA.

5 (c) Even assuming District contends that it did make a required CEQA
6 finding, any such determination is not supported by the February 11, 2015
7 decisional record because District did not address, evaluate or mitigate land use and
8 zoning conflicts as required by CEQA.

9 54. By adoption of the Resolution for the February 11, 2015 exemption action,
10 District has failed to proceed in a manner required by law, has not adopted required findings as
11 required by law under CEQA, and the decision(s), and finding(s), and/or purpose relating to
12 District's exemption are arbitrary and capricious and/or are not supported by the substantial
13 evidence.

14 55. A peremptory writ of mandamus is requested to be issued by this Court
15 remanding and ordering District to rescind the Resolution made for the February 11, 2015
16 exemption action, and proceed according to law as set forth herein or as otherwise proven and
17 ordered after trial or hearing on this matter.

18 **VIII.**

19 **FIFTH CAUSE OF ACTION – COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

20 **(Pattern and Practice Violations of CEQA)**

21 56. Plaintiff hereby realleges and incorporates by reference ¶¶ 1-55 above, as though
22 fully set forth herein.

23 57. Plaintiff alleges that District has an overarching, quasi-legislative policy of
24 relying on multiple piecemeal Master Plan Facility programmatic EIR updates without
25 performing required project-specific environmental review, as well as not making any CEQA
26 determination or compliance findings at the time of its final approvals to commence
27 construction of those master plan projects.

1 58. The above parking garage Project, as well as other District projects, including but
2 not limited to the “Athletic Complex East” and “Retail/Solar Power Generating Plant”
3 exemplify how District conducts piecemealed programmatic master planning updates instead of
4 performing project-level required environmental review. District also avoids and frustrates
5 project-specific CEQA disclosures and studies by commencing projects with substantial grading
6 and site preparation “dirt moving” and “dirt relocation” projects before the underlying and
7 intended development projects are defined, studied, and approved pursuant to CEQA. District
8 also avoids and frustrates project-specific CEQA disclosures and studies by changing the names,
9 characterizations, and substantially increasing the sizes of projects in a manner so that smaller,
10 misidentified, and segmented master plan projects go unnoticed or obtain preliminary or
11 ministerial approvals, thereby avoiding controversy, objection, and CEQA review.

12 59. District is required by law to perform an EIR for projects in the Master Plan,
13 including but not limited to the parking garage Project, Athletic Complex East, and Retail/Solar
14 Power Generating Plant projects, or, in the alternative, District must make a determination for
15 each of the projects that the projects are within the scope of an already performed program EIR.

16 60. The manner of commencing construction for large-scale projects solely under
17 segmented master plan CEQA reviews are symptomatic of the much broader problem this action
18 is designed to relieve and Plaintiff seeks to resolve District’s fundamental misunderstanding of
19 its responsibilities under CEQA to avoid continued violations and a multiplicity of lawsuits.

20 61. Plaintiff is beneficially interested in the issuance of a declaration of law and
21 injunction by virtue of the proposition of facts and law set forth herein.

22 62. Plaintiff has a clear, present and beneficial right to the proper performance by
23 District with respect to District’s duties and compliance with the CEQA laws and legal
24 principles as set forth herein.

25 63. Plaintiff has no plain, speedy or adequate remedy in the ordinary course of the
26 law other than the relief herein sought.

27 64. Plaintiff is informed, believes and alleges that District has not followed the
28 above referenced laws and legal purposes intended by the same, it does not follow such laws on

1 a regular and continuing pattern and practice manner, and has done so in contravention of
2 Plaintiff's and other members of the public's rights.

3 65. The declaratory relief requested herein is proper to delineate and clarify the
4 parties' rights and liabilities and resolve, quiet, or stabilize an uncertain or disputed jural
5 relation. Without the grant of declaratory relief, the granting of an injunction, and/or the
6 issuance of a writ of mandate, District will continue to proceed in a manner not allowed by law
7 and will continue to take action approving and completing projects that have significant
8 impacts without required environmental study resulting in harm to Plaintiff, its individual
9 members, and the citizenry of the Walnut and greater Mt. San Antonio College District
10 taxpayer community for whom this public interest litigation is being brought.

11 66. District has and continues to misinterpret the spirit, intent, purpose, and laws
12 under California Public Resources Code § 21000 et seq. and its regulations set forth at Title 14
13 of the California Code of Regulations § 15000 et seq..

14 67. Plaintiff requests a declaratory judgment and the issuance of an injunction to
15 enjoin and prevent any conduct or action of District proceeding with the overarching, quasi-
16 legislative policy of implementing projects without performing required environmental review
17 and making proper and adequate CEQA determinations for its master plan and programmatic
18 EIR projects.

19
20 **PRAYER FOR RELIEF**

21 **WHEREFORE**, Plaintiff respectfully prays for judgment as follows:

22 1. For Plaintiff's claims for declaratory and injunctive relief, that this Court order,
23 describe, and declare the proper interpretation and application of law(s) which are the subject of
24 this lawsuit, and grant an injunction or appropriate declaration of law to prevent repeated violations
25 of law by the agencies named in this lawsuit;

26 2. That this Court find that by making the final approvals for the Project and the
27 February 11, 2015 decision, District has not proceeded in a manner required by law, and has not
28 adopted requisite findings required by CEQA;

1 3. That this Court issue a peremptory writ of mandamus declaring that one or more of
2 the decision(s) rendered by District on February 11, 2015, and any additional resolutions of
3 District relating to, or dependent upon the same, are null and void and have no legal force effect;

4 4. That this Court order District to vacate and set aside each of the decisions made on
5 or about February 11, 2015, related to the subject of this suit, and each of the resolutions,
6 administrative approvals, permits, quasi-judicial, and legislative decisions of District with respect
7 thereto;

8 5. That there be issued a writ of mandamus ordering District to comply with CEQA
9 and Proposition 39 as alleged herein or as more specifically proven at trial, and until such time of
10 full compliance no construction or spending shall continue in contravention of the laws and proof
11 established by plaintiff in this action;

12 6. That until such time as Plaintiff's above claims can be adjudicated by this Court,
13 District and any real parties in interest be enjoined, restrained and stayed from taking effect to
14 preserve the status quo and prevent frustration of Plaintiff's and the public's rightful claims and
15 right to judicial review;


16 7. That District be suspended and precluded from spending any Measure RR funds as
17 alleged herein, including for the parking garage Projects, Athletic Complex East, Retail/Solar
18 Power Generating Plant projects, and any money illegally spent be ordered and ruled void *ab*
19 *initio* and with District ordered to repay such illegally spent funds for voter-authorized and
20 listed Measure RR projects;

21 8. That Plaintiff be awarded its reasonable costs incurred in this action, including
22 attorneys' fees under Cal. Code of Civil Procedure § 1021.5 for this matter brought in the public
23 interest; and

24 9. For such other and further relief as the Court deems just and proper.

25 Dated: March 24, 2015

26 LAW OFFICE OF CRAIG A. SHERMAN

27 
28 Craig A. Sherman
 Attorney for Plaintiff
 UNITED WALNUT TAXPAYERS

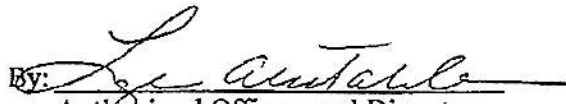
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XI.

VERIFICATION

I, Hayla Abou Taleb as a duly authorized officer and board member of the Plaintiff organization, United Walnut Taxpayers, hereby verify this *VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF; PETITION FOR WRIT OF MANDATE* of Civil Procedure Section 446. The facts herein alleged are true of my own knowledge, except as to the matters which are based on information and belief, which I believe to be true. I declare under the penalty of perjury under the laws of California that the above foregoing is true and correct and that this verification was executed on the below stated date in Los Angeles County, California.

Dated: March 27, 2015

By: 
Authorized Officer and Director
UNITED WALNUT TAXPAYERS



A Professional Law Corporation

1901 FIRST AVENUE, SUITE 219
SAN DIEGO, CA 92101

TELEPHONE
(619) 702-7892

FACSIMILE
(619) 702-9291

March 24, 2015

Via Email

bscroggins@mtsac.edu, dlindholm@mtsac.edu

Followed by Certified U.S. Mail

No. 7007 0220 0002 1024 2591

Return Receipt Requested

Dr. William Scroggins, President and CEO
Dr. Kevin K. Hall, President of the Bd. of Trustees
MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT
1100 N. Grand Avenue
Walnut, CA 91789

Re: NOTICE OF INTENT TO FILE A CEQA PETITION
Decision to Approve the Project, Proceed with Construction and
Exempt the Project from City of Walnut Land Use and Zoning Ordinances
Decision Date: February 11, 2015

Dear Messrs. Scroggins and Hall:

NOTICE IS HEREBY GIVEN pursuant to the California Public Resources Code § 21167.5 that plaintiff UNITED WALNUT TAXPAYERS (Plaintiff) intends to file a lawsuit and petition for writ of mandate under the provisions of the California Environmental Quality Act (CEQA) against respondent MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT (District) and its CEO and President WILLIAM SCROGGINS (Scroggins) challenging the adoption and approval of the above-referenced matters due to failure to comply with CEQA, including, but not limited to: (1) that the District failed to conduct CEQA review for the zoning and planning exemption, (2) the District failed to make a determination that action(s) were sufficiently examined and covered within the scope of a prior studies and certified Program EIR, (3) the District failed to make or adopt any finding(s) regarding CEQA, and (4) the District has a policy and pattern and practice of approving and carrying out projects such as the above referenced project in violation of CEQA's review and approval requirements. Plaintiff also intends to challenge illegal spending under Measure RR for the Project and other projects as well as challenge the exemption decision on the grounds including but not limited to, it is unlawful, overbroad, and violates Cal. Government Code § 53094(b), and Cal. Education Code § 81951.

If you have any questions pertaining to this notice, please do not hesitate to contact the writer at the above address.

Sincerely,

Craig A. Sherman
Attorney for Plaintiff

cc: Kamala D. Harris, Attorney General, State of California

From: shermanlaw <shermanlaw@aol.com>

To: bscroggins <bscroggins@mtsac.edu>; dlindholm <dlindholm@mtsac.edu>

Bcc:

<jeffery.anson@gmail.com>

Subject: NOTICE OF INTENT TO FILE A CEQA PETITION

Date: Tue, Mar 24, 2015 10:05 am

Attachments: Notice of Intent Sue.pdf (201K)

Via Email Followed by Certified U.S. Mail

see ATTACHED....

Re: NOTICE OF INTENT TO FILE A CEQA PETITION

Decision to Approve the Project, Proceed with Construction and

Exempt the Project from City of Walnut Land Use and Zoning Ordinances

Decision Date: February 11, 2015

Craig A. Sherman, Esq.

LAW OFFICE OF CRAIG A. SHERMAN

1901 First Avenue, Suite 219

San Diego, CA 92101

tel: 619.702.7892

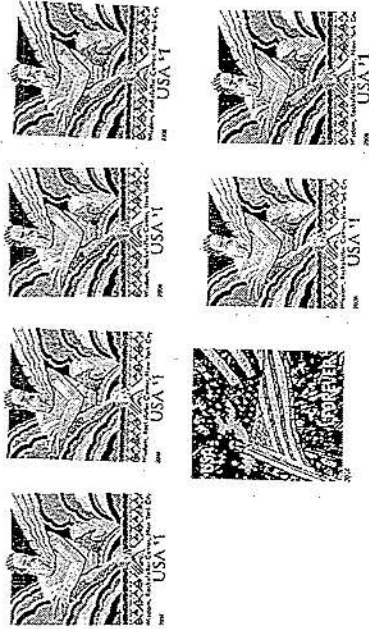
fax: 619.702.9291

email: shermanlaw@aol.com

CRAIG A. SHERMAN
LAW OFFICE OF CRAIG A. SHERMAN
1901 FIRST AVENUE, SUITE 219
SAN DIEGO, CA 92101-2382



7007 0220 0002 1024 2591



Dr. William Scroggins, President and CEO
Dr. Kevin K. Hall, President of the Board of
Trustees
Mt. San Antonio Community College District
1100 North Grand Avenue
Walnut, CA 91789

Tools ▾ Links ▾ 🔍 ◀ ▶

Walnut City Code

Title VI PLANNING AND ZONING

Chapter 25 ZONING

Article VIII. RPD Residential Planned Development Zone

25-89.1 Permitted uses and procedures.

Property in an RPD Zone may be used for:

(a) Any use permitted in an R-1 Zone, of the specific minimum lot size specified at the time of change of zone, e.g., RPD (10,000) — 3.5, under the same limitations and conditions including area requirements, front, side, and rear yards, garages and auxiliary uses.

(b) A residential planned development, if a conditional use permit has first been obtained as provided in article XIX, which will provide the same or a lesser density of dwelling units than specified in the RPD Zone designation as applicable to the subject property.

(1) Area Master Plan. A residential planned development application of an area greater than forty acres shall be accompanied by an area master plan (maps and explanatory text), for the entire area to be developed or under one ownership, whichever is the larger area.

The area master plan shall set forth the following:

- a. Location and boundary of the area proposed for the residential planned development.
- b. Present and proposed topography of the area including natural features that are to be retained (i.e., stands of tree, rock outcroppings, canyons, etc.).
- c. Proposed uses of all land including, but not limited to, residential, commercial and professional centers, school sites, public and private recreational facilities and all common open spaces.
- d. Proposed density of all areas scheduled for single family residential development. The overall density of all residential development cannot exceed an average of four and two tenths units per net acre.
- e. Proposed site development standards for all residential and commercial development.
- f. The location of all major and secondary highways.
- g. A statement regarding compliance with the general plan of the city adopted in 1967 and amended from time to time.

(2) Area. The proposed development plan shall include a parcel of land containing not less than ten acres; and exception to the ten-acre minimum is allowed when a new RPD is proposed adjacent to an existing RPD and it can be shown that the two developments can be blended.

(3) Density. The overall density of the proposed residential unit shall be that as set forth in the RPD zone designation, but in no event to exceed four and two tenths dwelling units per acre.

(4) Type of Structures.

- a. Detached single-family dwelling units.
- b. Attached single-family dwelling units.
- c. Accessory buildings.
- d. Recreation buildings and areas.
- e. Recreation courts, fields, courses and greens.
- f. Swimming pools.

g. All permitted structures shall not exceed thirty-five feet in height.

h. All dwelling units shall have a minimum floor area as follows:

1. All detached dwelling units within any unit of development shall have an average square footage of one thousand four hundred fifty square feet. As used herein, floor area shall be defined as the area within the outside perimeter of the bottom plates of each floor, minus any garage or patio. The average floor area shall be computed from all proposed dwellings within any approved tentative tract, or if such tentative tract is partially recorded, the floor area shall be computed from all proposed dwellings within the partial recordation. No building permit or group of building permits shall be issued to a single applicant wherein the average floor area requirement, as stated herein, is not met, unless a previous building permit or group of building permits within the same tract, when averaged with the permits requested, meets the average floor area required herein.

2. All attached dwelling units within any unit of development shall have an average square footage of one thousand three hundred fifty square feet. As used herein, floor area shall be defined as the area within the outside perimeter of the bottom plates of each floor, minus any garage or patio. The average floor area shall be computed from all proposed dwellings within any approved tentative tract, or if such tentative tract is partially recorded, the floor area shall be computed from all proposed dwellings within the partial recordation. No building permit or group of building permits shall be issued to a single applicant wherein the average floor area requirement, as stated herein, is not met, unless a previous building permit or group of building permits within the same tract, when averaged with the permits requested meet the average floor area required herein.

(5) Open Space. Open space, as defined in subsections (5)(a) through (e), shall comprise not less than twenty percent of the gross area. This requirement shall be in addition to any private individual open space provided within the development. Such private open space shall not be included when computing the twenty percent factor.

In approving the conditional use permit, the following open space uses shall be considered by the planning commission and city council and a determination made as to which of such uses shall, in their judgment, be necessary for the health, safety,

use and enjoyment of the residential planned development or appropriate phase thereof:

- a. Common open space developed for recreational purposes.
- b. Areas of scenic or natural beauty forming a portion of the proposed development.
- c. Present or future recreational areas of a noncommercial nature including parks and playgrounds.
- d. Present or future hiking, riding or bicycle trails.

e. Landscaped portions adjacent to streets or highways which are in excess of minimum required rights-of-way.

In approving such open space, consideration shall be given to the project to be developed, the characteristics of such open space, the manner in which the open space is to be improved and maintained and such other information as may be deemed pertinent. Reservation of open space shall be made a condition of approval. Such reservation shall be by public dedication, establishment of a maintenance district, common ownership or other satisfactory means as approved by the city council to insure the permanent reservation of, and where appropriate, perpetual maintenance of, required open space.

(6) Building Coverage. The area occupied by buildings and roofed structures shall not exceed forty percent of the total gross area of the residential planned development.

(7) Parking. Provisions of Article XX of this chapter relating to dwellings, places of public assembly and similar uses shall apply; except, that the minimum required for a dwelling unit shall not be less than two off-street parking spaces in a garage per dwelling unit. The conditional use permit may modify the required number of parking spaces for recreational facilities where circumstances justify and may provide additional off-street parking for guests.

(8) Utilities. The applicant shall submit, and it shall be made a condition of approval, satisfactory evidence that the applicant has made arrangements with the serving utilities to install underground all new facilities necessary to furnish service in the development.

(9) Development Schedule. The conditional use permit shall contain an approved progress schedule indicating the development of open space related to the construction of residential dwelling units, which shall become a condition of approval. Where development is to be completed in phases, such development may be coordinated between phases as approved in subsection (b)(14) of this section.

(10) Tentative Division of Land Map. A tentative map and a plot plan shall be filed indicating the precise location, width and type of improvements for private or public streets and pedestrian walks.

(11) Landscaping. A plan for landscaping and maintaining all open area, where appropriate shall be submitted and approved by the planning commission.

(12) Open Space Maintenance District. Special districts, such as park districts, lighting districts and open space maintenance districts (as provided by Chapter 2-5, Part 1 of Division 1 of Title 5 of the State Government Code), together with appropriate dedications for public ownership shall be provided and may include, but shall not be limited to, open land planting and maintenance, flood control facilities, lighting and local improvements.

(13) Distribution of Open Space. Planned development projects developed in phases shall be designed so that each successive phase will contain sufficient open space to independently qualify under the provisions of subsection (b)(6) of this section. A conditional use permit may approve a division of open space encompassing more than one phase if the applicant submits development plans indicating and guaranteeing, to the satisfaction of the city council, that the development will provide a better planned unit development within the intent of this section.

Where a division of open space will encompass more than one phase, the applicant shall provide a map indicating cumulative allocation and utilization of open space for each successive phase in each subsequent application.

(14) Division of Lots or Parcels. In addition to a tentative division of land map when required by Chapter 23, Article II of this code regarding subdivision regulations where lots or parcels of land are to be sold or separated in ownership from other property in the development or applicable phase thereof, a map shall be submitted indicating the proposed boundaries of the lots or parcels of land to be sold or separated in ownership. Where the proposed division would create one or more lots or parcels of land having an area of less than that specified if developed as provided in subsection (a) of this section, such map shall also delineate the relationship between such lots or parcels of land and open space provided as required in subsection (b)(5) of this section. The conditional use permit shall consider whether the proposed separation provides as well or better for planned development within the intent of this section.

(15) Sale or Separation of Lots or Parcels. Where lots or parcels of land are sold or otherwise separated in ownership, no dwelling unit, lot or parcel of land for a residential building shall be sold or encumbered separately from an undivided interest in the open space appurtenant to such dwelling unit, lot or parcel of land where required by subsection (b)(6) of this section. Such undivided interest shall include either: (a) An undivided interest in the open space, or (b) a share in the corporation or voting membership in an association owning the open space where approved as provided in subsection (b)(6) of this section. This provision shall not apply when such required open space has been accepted for public dedication, where held in separate ownership with recreational rights to the required open space reserved to the lot owners and maintenance district or where other satisfactory means to insure permanent reservation of required open space have been approved by the commission.

(c) Antennas, towers, telecommunication facilities and their support structures pursuant to Section 25-253 of Article XXV of this chapter. (Ord. No. 237, § 2; Ord. No. 600, § 6; Ord. No. 12-02, § 3)


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Work Begins on New Parking Structure



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Work Begins on New Parking Structure

After more than 13 years of planning, Mt. San Antonio College has begun work on a new \$48.5-million parking structure that will provide an additional 1,650 parking spaces and will help alleviate one of the top complaints of students at the Walnut campus—parking.

"The new parking structure will address Mt. SAC's current needs for student parking while preparing the college for the future," said college President Bill Scroggins.

Located on the northwestern edge of the campus on the site of what is currently a parking lot, the new parking structure will provide badly needed student parking for a campus that served 54,000 students last year. Currently, there are a little over 7,200 parking spaces at the college, while the maximum number of students on campus at any given time is just over 9,500. According to enrollment projections, the structure should provide enough parking for students until at least 2025.

"Regardless of the time of day, it is very difficult to find parking on campus, but it's especially difficult during the mornings," said Chris Nguyen, Mt. SAC's student body president. "This parking structure will make sure that every student will be able to find a parking space."

At peak periods during the first two weeks of the fall and spring semesters, students park along red curbs and drive in circles to find parking. This is despite Foothill Transit bus passes that have been provided at no cost to students for nearly two years as an introduction to the Class Pass program.

Throughout the 13 years of project planning, the college has made every effort to address possible concerns while adhering to the mandates of the State Architect's Office.

"We've tried to mitigate any of the possible issues with the parking structure. We've done each of the required steps in terms of environmental impact, traffic studies, the construction design, and approval by the state," Scroggins said.

EXHIBIT F PAGE 1

During the planning stages of the project, Mt. SAC and the City of Walnut worked together. Mt. SAC staff met with city planning and engineering staff and in 2007 presented a plan for the structure to the college's Board of Trustees. The college also submitted environmental impact reports to the city as required by the California Environmental Quality Act as early as 2002. The reports were then updated in 2005, 2008, and 2012. The California Division of the State Architect made the final decision to approve the parking structure.



The parking structure will take advantage of the hillside contours. It will be five levels on the west side and decrease to only two levels on the east side to protect neighboring residents' sightlines. It will provide 2,085 spaces. Because it will be built on an existing lot with 435 spaces, the total addition of spaces is 1,650. Temporary lot M was developed to ease the loss of spaces during construction.

The parking structure location is ideal for students, giving them easy access to classes and student support services. This will reduce the need for students to drive in circles to find a spot in prime lots.

The intersection of Grand Avenue and Mountaineer Road was designed to meet higher traffic levels than it accommodates today. Traffic to the parking structure is expected to generally flow in the opposite direction of traffic from the neighboring homes. During peak periods at the start of semesters, the intersection is forecasted to experience a 10 second increase in wait times. During the rest of the year, the intersection is expected to be much as it is today.

Construction of the parking structure will be conducted in two phases. The first phase includes preparations, such as demolition, underground utility improvements, and earthwork. The second phase, slated to begin this July, entails the actual construction. The parking structure is expected to be finished and ready for use by January 2017.

The parking structure and its related projects, including the addition of a bike lane and temporary lot M, will be paid for through Measure RR funds, Mt. SAC's \$353-million facilities bond passed by voters in 2008.

MORE INFORMATION

[Parking Structure Frequently Asked Questions](#)

[Current Construction Projects website](#)

Mt. San Antonio College

1100 N. Grand Ave., Walnut, CA 91789

Phone: 909.274.7500 • TTY: 909.594.3447

For emergencies, call **Campus Police**: 909.274.4555 | **Text-A-Tip**: 909.274.9560

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All college-printed materials and Web info are available in alternative formats upon request.
Contact **Disabled Student Programs & Services**: 909.274.4290 or TTY 909.594.3447.

The 504/508 ADA Coordinators are located in Bldg. 4-230 and can be contacted at 909.274.4225.



Quick Reference

Accreditation
Art Gallery
Athletics

Employment Opportunities
Library
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EXHIBIT F PAGE 2

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Walnut City Code

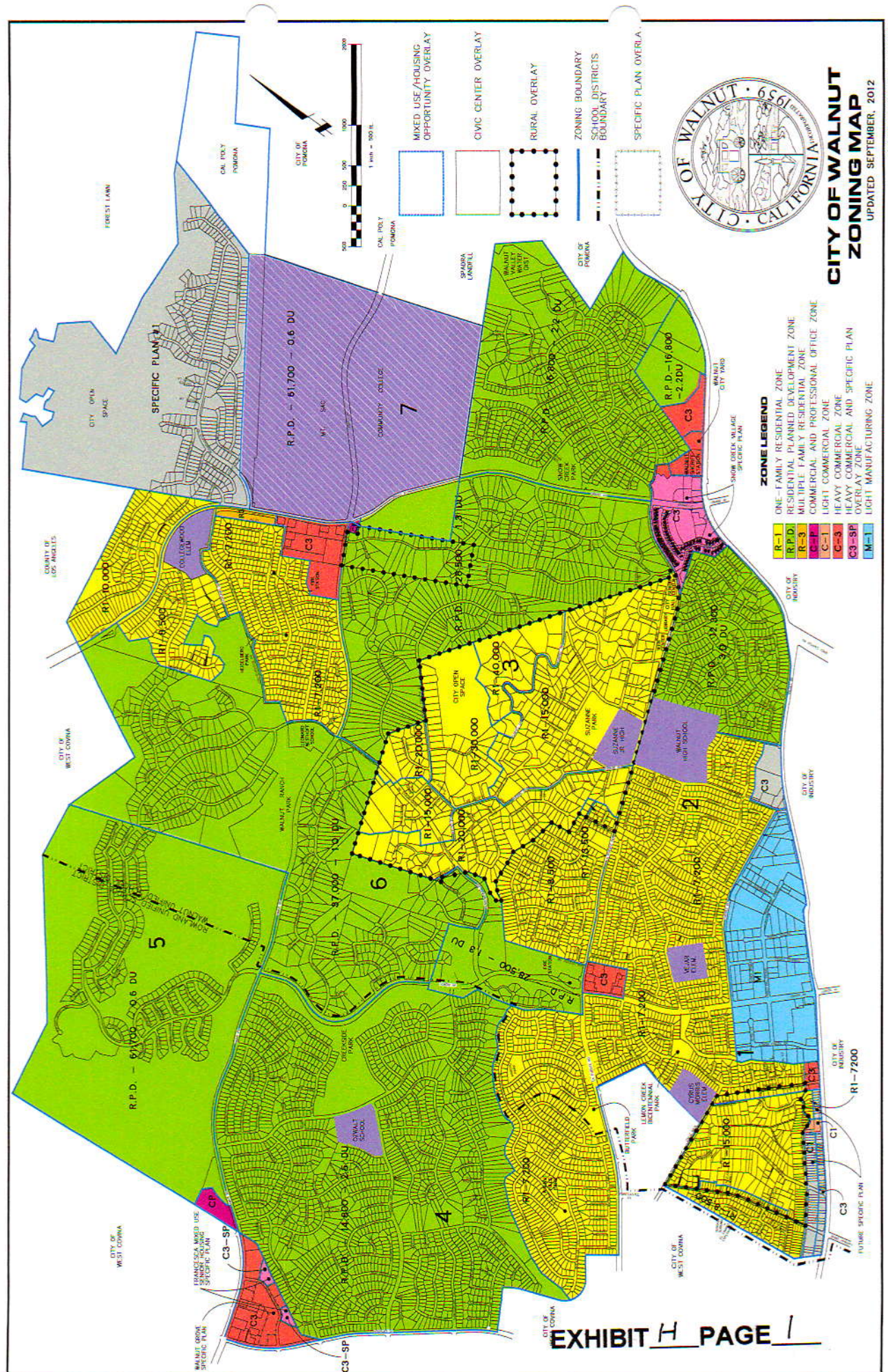
Title VI PLANNING AND ZONING

Chapter 25 ZONING

Article I. In General

25-1 Purpose of chapter.

The purpose of this chapter is to encourage, classify, designate, regulate, restrict and segregate the highest and best location and use of buildings, structures and land for agriculture, residence, commerce, trade, industry or other purposes in appropriate places; to regulate and limit the height, number of stories and size of buildings and other structures hereafter designed, erected or altered; to regulate and determine the size of yards and other open spaces; and to regulate and limit the density of population, and for such purposes to divide the city into zones of such number, shape and area as may be deemed suited to carry out these regulations and provide for their enforcement. Such regulations are necessary in order to encourage the most appropriate use of land; to conserve and stabilize the value of property; to provide adequate open spaces for light and air and to prevent and fight fires; to prevent undue concentration of population; to lessen congestion of streets; to facilitate adequate provisions for community utilities such as transportation, water, sewerage, schools, parks and other public requirements; and to promote the public health, safety and general welfare of the city. (Ord. No. 37, § 1)



State Clearinghouse Number 2002041161

*Mt. San Antonio College
2012 Facility Master Plan*

*Draft Subsequent EIR to
Final Program EIR (SCH 2002041161)*

*MT. SAN ANTONIO COLLEGE
Facilities Planning & Management
Walnut, California*

*SID LINDMARK, AICP
Planning . Environmental . Policy
September 2013*

Table 1.3.1

Summary of Impacts (New Impacts Due to 2012 FMP Only)

See Appendix B for the complete Mitigation Monitoring Program

Project Impacts	Mitigation Measures	Level of Significance With Mitigation Incorporated
LAND USE		
1.a. Future construction may conflict with the 2012 Facility Master Plan, which would be inconsistent with an adopted college plans and policies.	1.b. All future land uses on campus, building locations and square footage (ASF) shall be in substantially consistent with the 2012 Facility Master Plan. Facilities Planning & Management shall monitor compliance.	1.c. Less than Significant with Mitigation Incorporated.
2.a. The 2012 Facility Plan will result in inconsistencies in other plan documents.	2.b. The following Master Plan elements shall be revised to conform to the 2012 Facility Master Plan: (1) Land Use Plan, (2) Conservation Plan, (3) Circulation and Parking Plan. Facilities Planning & Management shall monitor compliance.	2.c. Less than Significant with Mitigation Incorporated.
2.d. The Master Plan should be revised to include the Land Use Management Plan area required in the 2008 FEIR and new habitat replacement for the 2012 Facility Master Plan. The responsible state and federal agencies will determine the final acreage.	2.e. The 2012 Facility Master Plan shall be revised to include approximately 25.6 acre Habitat Mitigation Area for removal of existing California Black Walnut, Coastal Sage Scrub and Non-Native Grassland habitats. Facilities Planning & Management shall monitor compliance.	2.f. Less than Significant with Mitigation Incorporated.
AIR QUALITY		
3.a. Construction activities and construction equipment may generate particulates in excess of SCAQMD thresholds.	3.b. All contractors shall comply with all feasible Best Available Control Measures (BACM) included in Rule 403 included in Table 1: Best Available Control Measures Applicable to All Construction Activity Sources. In addition, the project shall comply with at least one of the following Track-Out Control Options:	3.c. Less than Significant with Mitigation Incorporated.

	<p>Mt. SAC California Black Walnut Management Plan (Helix Environmental Planning, September 2012). Replacement habitat shall be completed prior to project completion. The required mitigation acreage for replacement walnut trees is 2.018 acres. The replacement specimens shall be preserved, maintained and monitored for a period of five years to ensure vitality. Facilities Planning & Management shall ensure compliance.</p>	
17.a. The Conservation Plan and Land Use Plan Elements of the 2008 Master Plan need to be consistent with the 2012 Facility Master Plan.	<p>17.b. The Campus Master Plan Coordinating Team (CMPCT) shall identify areas on campus suitable for preservation and revise the Conservation Plan and Land Use Plan elements of the 2012 Facility Master Plan. The highest priority shall be given to preservation of Californian Walnut Woodland, Riparian Habitat and Venturan Coastal Sage Scrub. Facilities Planning & Management shall ensure compliance.</p>	17.c. Less than Significant with Mitigation Incorporated.
18.a. Construction activities may impact active nesting sites.	<p>18.b. Prior to removal of any trees on campus in or near construction areas of the 2012 Facility Master Plan during March through May, a qualified biologist shall survey the trees for active nesting sites. If active nests are present, any removal of habitat of the Cooper's Hawks must occur outside of the hawk's breeding season. All recommendations of the final biological report shall be completed. Facilities Planning & Management shall ensure compliance.</p>	18.c. Less than Significant with Mitigation Incorporated.
19.a. Construction activities may impact raptor nesting habitat.	<p>19.b. If construction is planned during February 1-July 31 in potential raptor nesting habitat, pre-construction surveys of habitat</p>	19.c. Less than Significant with Mitigation Incorporated.

Fire Training Academy. The proposed Fire Training Academy may impact 0.1 acres of Venturan coastal sage scrub. The coastal sage scrub is habitat for the listed federally threatened coastal California gnatcatcher (*Polioptila californica californica*) and the state species of concern Coastal cactus wren (*Campylorhynchus Brunneicapillus sandiegenesis*).

A pair of Coastal California gnatcatchers was observed in coastal sage scrub on MSAC Hill on May 30, 2012 and on June 15, 2012. Individual Coastal cactus wrens were heard vocalizing in the coastal sage scrub on MSAC Hill on the same dates.

Since no site plan is currently available for the Fire Training Academy, it is probable that the site plan can be revised to avoid the impacted coastal sage scrub area. However, a noise barrier may also be needed along the western side of the project site.

The coastal sage scrub and extensive agriculture habitat for the Fire Training Academy site may also be suitable for burrowing owls. Burrowing owls (*Athene cunicularia hypugea*) are classified as a state species of concern (SCC). CDFG protocol level surveys (March 2012) consist of four visits: one between February 15 and April 15, a minimum of three surveys at least three weeks apart between April 15 and July 15, with at least one visit after June 15. The required surveys will commence after February 15, 2013.

California Horned Larks, a state species of special concern, were observed onsite in 2008 in disturbed habitat and may use the disturbed habitat for foraging and nesting. Any potential project impacts of development of the Academy on California Horned Larks are regarded as Less than Significant.

The Cooper's hawk is also a state species of special concern. A Cooper's hawk was observed in and around the Wildlife Sanctuary in 2008. If active Cooper's Hawks nests are present, any removal of habitat of the Cooper's Hawks must occur outside of the hawk's breeding season.

New Water Tanks. The development of two new water tanks near the existing water tanks may impact less than 0.1 acre of Californian walnut woodland. Raptors may also nest in the walnut trees. Specific site designs for the new water tanks should avoid the walnut woodland area if feasible.

Existing Sewer Line Encasement. The Preliminary Grading Plan indicates that the existing sewer line will be encased for 400 linear feet in its current location, because of

recommended mitigations below , the biological resource impacts of the project are Less than Significant with Mitigation Incorporated.

The Conservation Plan of the 2008 Master Plan Update will be revised following FEIR certification to designate the Expanded Wildlife Sanctuary and other habitat mitigation areas. The Wildlife Sanctuary Zone (approximately 20 acres) will include the existing Sanctuary, the Snow Creek Corridor and the MSAC Hill.

The 2012 FMP indirect impacts on biological resources are mitigated to Less than Significant With Mitigation Incorporated by the recommended mitigation measures listed below in Section C. The mitigation acreage requirements for the vegetation communities within the 2012 study area are listed below.

Table 3.4.3
Vegetation Mitigation Requirements

Vegetation Community	Impact Acreage	Minimum Mitigation Ratio	Mitigation Acreage
Californian walnut woodland	1.7	2:1	3.4 ^{§‡}
Coastal sage scrub (all phases)	0.1	2:1	0.2 [§]
Extensive agriculture	15.0	N/A	0
Disturbed habitat	1.2	N/A	0
Developed	13.3	N/A	0
TOTAL	31.3	--	3.6
[§] Preservation			
[‡] Plus replacement plantings in a preserve.			
Source: Table 5, Mt. San Antonio Master Plan Update Draft Biological Technical Report, Helix Environmental Planning, August 17, 2012.			

The 2012 FMP impacts on biological resources are mitigated to Less than Significant With Mitigation Incorporated by the recommended mitigation measures listed below.

C. Mitigation Measures for Project Biological Resource Impacts

BR-01: The college shall adopt a Land Management Plan to minimize impacts on California Black Walnut trees on campus. Any walnut trees with a diameter of six inches four feet above ground damaged or removed by construction activities shall be replaced according to the standards in Table 4 of the Mt. SAC California Black Walnut Management Plan (Helix Environmental Planning, September 2012). Replacement habitat shall be completed prior to project completion. The required mitigation acreage for replacement walnut trees is 2.018 acres. The replacement specimens shall be

preserved, maintained and monitored for a period of five years to ensure vitality. Facilities Planning & Management shall ensure compliance.

BR-02: The Campus Master Plan Coordinating Team (CMPCT) shall identify areas on campus suitable for preservation and revise the Conservation Plan and Land Use Plan elements of the 2008 Master Plan Update. The highest priority shall be given to preservation of Californian Walnut Woodland, Riparian Habitat and Venturan Coastal Sage Scrub. Facilities Planning & Management shall ensure compliance.

BR-03: Prior to removal of any trees on campus in or near construction areas of the 2012 Facilities Master Plan during March through May, a qualified biologist shall survey the trees for active nesting sites. If active nests are present, any removal of habitat of the Cooper's Hawks must occur outside of the hawk's breeding season. All recommendations of the final biological report shall be completed. Facilities Planning & Management shall ensure compliance.

BR-04: If construction is planned during February 1- July 31 in potential raptor nesting habitat, pre-construction surveys of habitat within 500 feet of the construction area shall be completed. All recommendations of the final report shall be implemented. Facilities Planning & Management shall monitor compliance.

BR-05: Prior to grading within areas of Venturan Coastal Sage Scrub, the college shall identify replacement 2:1 acreage. Facilities Replacement habitat shall be installed prior to project completion. Planning & Management shall monitor compliance.

BR-06: When a preliminary site plan is available, the college shall have a qualified noise consultant evaluate the potential construction and operational noise impacts of the Fire Training Academy on threatened and special status birds in the adjacent coastal sage scrub on MSAC Hill and riparian habitat along Snow Creek. The study shall also assess any noise impacts on residential uses to the south. All recommended mitigation measures of the final report shall be implemented. Facilities Planning & Management shall monitor compliance.

BR-07: Permanent development adjacent to any future wetland mitigation areas shall incorporate a 25-foot buffer during final project design. If un-vegetated, the buffer shall be planted with non-invasive species that are compatible with the adjacent wetland mitigation area habitat. A qualified biologist shall review the final landscape plans for the buffer area to conform that no species on the California Invasive Plan Council (Cal-IPC) list are present in the plan. Facilities Planning & Management shall monitor compliance.

Proof of Service

United Walnut Taxpayers v. Mt. San Antonio Community College District, et al.
Los Angeles Superior Court Case No.: BC 576587

I, the undersigned, declare under the penalty of perjury that I am over the age of eighteen years, my place of business is in the County of San Diego, located at 1901 First Avenue, San Diego, CA; and I served the below-named person(s) the following document(s):

**DECLARATION OF CRAIG A. SHERMAN IN SUPPORT OF EX PARTE
APPLICATION FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

on March 29, 2015 on the following person(s) in a sealed envelope or package, addressed as follows:

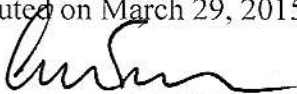
Dr. William Scroggins, President and CEO Mt. San Antonio Community College District 1100 North Grand Avenue Walnut, CA 91789 bscroggins@mtsac.edu	Stan Barankiewicz, Esq. Jessica E. Ehrlich, Esq. ORBACH, HUFF, SUAREZ, & HENDERSON 1901 Avenue of the Stars, Suite 575 Los Angeles, CA 90067 jehrlich@ohshlaw.com dbarankiewicz@ohshlaw.com
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in the following manner:

- 1) ☐ By personally delivering copies to the person(s) served.
- 2) ☐ By placing a copy in a separate envelope, with postage fully pre-paid, for each person and address named above and depositing each with an overnight carrier at San Diego, CA.
- 3) ☐ By faxing copies to the above person and printing confirmation of the success of said transmission and retaining a copy of said successful transmission
- 4) ☒ By sending to each person named above via electronic service at the above electronic notification address(es).

I declare under the penalty of perjury under the laws of the State of California that the above foregoing is true and correct.

Executed on March 29, 2015 at San Diego, California.



Craig Sherman