



# MIKE BONIN

City of Los Angeles  
Councilmember, Eleventh District

April 28, 2015

**RE: New West Charter School - CF 15-0038, Item No. 7**

Dear Colleagues:

The administration of the New West Charter School in my district has placed the City Council between a rock and a hard place: choosing between enforcing hard-fought conditions of a Conditional Use Permit and students seeking a better education.

Located in a residential neighborhood, New West is simultaneously a great school and a bad neighbor, with a stormy history in West LA. Despite neighborhood opposition, in 2012, the City allowed the school to open and operate under strict conditions outlined in a Conditional Use Permit (CUP) intended to address traffic and parking impacts and help make an incompatible use fit better into the surrounding neighborhood. When the City issued the CUP three years ago, the school said it would never need an enrollment of more than 750 students, promised it would meet strict parking and traffic management rules, and even agreed to reduce enrollment if it failed to meet those rules.

Last year, the school was required to undergo a review to measure how well it was meeting the conditions of the CUP. Neighbors, upset with a poor record of compliance with traffic and parking conditions, called for an enrollment decrease or revocation of the CUP and closure of the school. The administration, instead of offering additional neighborhood protections and making efforts to meet operating conditions, requested a sharp increase in enrollment.

While the school had improved its compliance from its first year, there were still many problems. Neighbors and my staff routinely observed violations of traffic and parking conditions. Instead of proposing ways to better meet those conditions, the school made the stunning decision to try to be released from the conditions and to seek a sharp enrollment increase. I proposed a reasonable middle ground; that the school redouble its efforts to comply with the conditions, demonstrate one year of solid compliance, and seek the enrollment increase a year later. I shared that position with the school and with the public in June 2014.

The administration didn't take that compromise, and instead pushed forward on the enrollment increase. When the City Planning Commission granted part of the requested increase, the administration of New West quickly accepted students beyond the enrollment cap of 750, even

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knowing the decision would be appealed to Council, and made promises to parents and students about what the new enrollment numbers would be. It was a callous, contemptible and unfair thing to do to families trying to plan the best futures for their children, and it undermined the City Council's ability to resolve this problem for the neighbors and the school. It led to the position in which we find ourselves today; having to choose between enforcing the basic promises that New West made to the local neighborhood, and telling children that they are not welcome to the 2015-2016 class.

It would be unfair to punish students and their parents for such unfair machinations on the part of the administration. It is equally unfair to the community to allow the administration to continue to act with contempt for the neighborhood and with disregard for the conditions of the CUP. For the City Council to affirm the decision of the CPC allowing an enrollment increase, it is imperative to attach a series of additional conditions, requiring new and stronger traffic and parking requirements, penalizing the school for noncompliance, and restricting the school's ability to seek future enrollment increases. Absent those additional conditions, the administration cannot be trusted to be a good neighbor, and there is a risk that the school will once again accept more students than they are permitted, and then dare the City to tell students they cannot go to school.

Therefore, I reluctantly make the following recommendation: I urge the Planning & Land Use Committee to allow the increase in enrollment to 825, and require the series of additional conditions attached, including a provision prohibiting the school from seeking additional enrollment increases for a period of seven years.

Regards,



**MIKE BONIN**

*Councilmember, 11<sup>th</sup> District*

**ADDITIONAL PROPOSED CONDITIONS OF APPROVAL**  
**PLANNING AND LAND USE MANAGEMENT COMMITTEE 04/28/2015**

1. **Enrollment Increase** – The enrollment increase shall not be effective until the applicant has submitted evidence to the Planning Department, in consultation with the Council Office, that all of the terms of these conditions have been met, or that there is a plan for compliance. No increase in the maximum enrollment of 825 students shall be permitted within the next seven years following approval by the final decision-maker.
2. **Offsite Parking** – If onsite parking is eliminated, the applicant shall file a building permit application with the Department of Building and Safety to modify the parking provisions of the existing Certificate of Occupancy. This condition does not preclude other standards or requirements as determined by Building and Safety or Planning.
3. **Traffic Officers** – The school shall hire one traffic officer through DOT's Special Events section. The traffic officer shall be present 5 minutes prior to, and after, the afternoon dismissal and shall be stationed at the ingress along Missouri. The officer will direct traffic coming into the school and work to prevent queuing in the right-of-way. Officer shall be present five days a week for one school year. After one year, New West staff may replace traffic officers. However, if more than ten unpermitted turns persist in any given month, the school will be required to maintain the traffic officer at said locations in perpetuity or file a plan approval to modify this condition. The school will also post one staff or parent volunteer at the egress along Armacost to help direct traffic at afternoon dismissal.
4. **Staff TMMP Monitors** – Staff or school volunteer monitors shall be placed at the ingress and egress locations to monitor compliance with the terms of the conditions. Staff shall wear bright orange or yellow safety vests and maintain tablets to track and document violations. Each staff monitor shall receive a training handbook with a copy of the conditions of approval and TMMP. Staff Condition Compliance Monitors shall be in addition to DOT Traffic Officers/Staff Traffic Officers. All monitors shall carry violation reports to issue written notice of violations on the spot in accordance with the school's progressive disciplinary system. The number, type, and date of tickets issued shall be recorded and published on the website, excluding personal information such as student names or parent names.
5. **Third Party Community Ombudsman** - In addition to any other standard inspections required by the City, the school shall engage a third party to oversee all issues related to condition compliance monitoring, evaluation, discipline and reporting requirements. The ombudsman shall work with the school to create a system where staff are vigilantly documenting violations. The ombudsman's name and contact information shall be provided to the Council Office, Neighborhood Council and residents within 500 feet of the school. Contact information shall also be displayed on both building frontages and remain unobstructed from view. The ombudsman shall be separate and apart from any community or government relations person and shall deal with issues around the CUP and TMMP only.
6. **Third Party Monitor** – The school shall engage a third party to monitor level of condition compliance three times during the school year, focusing on the following violations: 1) illegal turns, 2) queuing in the right of way, 3) parking on the streets, 4) single driver cars, and 5) double parking. The third party shall act independent of the school. The visit shall be unannounced, in consultation with the Council Office. A report of their findings shall be published on the school's website by the third party and publically accessible.

Personal information shall be redacted; however, the report shall indicate if the violator is a repeat violator and the status of disciplinary action.

7. **Website** - The school shall add a community tab to the website, where community members can report violations of the CUP electronically. A record of these violations shall be maintained by the third party Ombudsman, reviewed for redundant violations, and published on the website.
8. **Community Advisory Committee**. The school shall meet with a community advisory committee, consisting of two members of the School's Board of Directors and two members appointed by the WLANC, on a quarterly basis to discuss violations and other issues. Meeting shall be noticed on the NWS and WLASNC websites and open to the public.
9. **Plan Approval**. Notwithstanding the Condition above ("Enrollment Increase"), one year from the start of the 2015-2016 school year, the school operator shall file a Plan Approval application and associated fees together with mailing labels for all property owners and tenants within 500 feet of the property. This Plan approval shall occur in lieu of the five-year Plan Approval required by existing Condition no. 11 for the Conditional Use Permit. The matter shall be set for public hearing with appropriate notice. The purposes of the Plan Approval shall be to review the effectiveness of, and the level of compliance with, the terms and conditions of this grant, including the effectiveness of the carpool program, the adequacy of the parking plan, the promptness of the school's response to neighborhood complaints, and the management of circulation impacts associated with events and any documented noise impacts on the surrounding residential properties. Upon review of the effectiveness of and compliance with the conditions, the Zoning Administrator may add new terms and conditions or delete one or more of them, all as deemed appropriate. The application shall include the following minimum information:
  1. The number of students enrolled by grade level.
  2. Operational changes to the school such as hours of operation and parking policy.
  3. The implementation status of the Traffic Management and Mitigation Program (TMMP) set forth in Condition No. 15. Copies shall be simultaneously sent to the Council office and to all interested parties who have requested such notification.
  4. The log of inquiries filed with the school's designated representative and the Council Office, if any, pertaining to the school's operations and compliance with conditions.
  5. Minutes from the Community Advisory Committee Meeting.
10. **Park Use**. The school must strictly adhere to all permits and conditions for use of any public park.

**REVISED FINDINGS**

**PLANNING AND LAND USE MANAGEMENT COMMITTEE 04/28/2015**

**Finding “B” – Condition Compliance Findings**, should be amended to revise the “Compliance Status” column as follows:

**3. Site Plan.** Strike “In Compliance” and replace with “Not In Compliance.” Add the following language at the end of the finding: However, Exhibit A shows 53 onsite parking spaces. Council staff and the community have observed and submitted photographs showing that these spaces have not been maintained and that the parking area has been routinely used as a playground and picnic area.

**4. Parking.** Strike “In Compliance” and replace with “Not In Compliance.” Add the following language at the end of the finding: However, Council staff and the community have observed and submitted photographs showing that these spaces have not been maintained and that the parking area has been routinely used as a playground and picnic area. Because this condition has been violated for the last three years, an additional condition has been added that requires the school to file for the appropriate modifications to the Certificate of Occupancy if on-site parking is used for other purposes. This will better enable the City to track how parking is provided and monitor the need for a covenant.

**4.a.** Strike and replace with the following: “Not In Compliance.” As specified in Condition 15.c, students are required to commute by carpool, shuttle bus, bicycle, foot or public transit. Although the school has complied with the trip caps established in the CUP, the community and Council Office have observed drivers with single passengers routinely commuting to the school and parking in the street. Additional requirements for staff monitors have been included to address this violation.

**13.c.** Strike the status and replace with the following: While crossing guards are sometimes present during dismissal Council staff and the community have observed that the guards are not always present.

**13.e.** Strike “In Compliance” and replace with “Not In Compliance.” Add the following after the last paragraph: However, the TMMP states that: “All vehicles accessing the on-site parking lot during the normal weekday School operations (7:00 AM to 3:45 PM) shall be restricted to right-turn only movement form the Armacost Avenue driveway.” Council staff and the community have observed and submitted photographs showing that there have been numerous unauthorized lefthand turns on Armacost and Missouri. To address this, additional conditions are proposed that require Traffic Control Officers to be present during dismissal for a period of one year or until the school is able to show that this condition is no longer warranted. This will ensure that drivers comply with the turn restrictions established by the TMMP.

**15. Traffic Management & Monitoring (TMMP) Program.** Strike “In Compliance” and replace with “Not In Compliance.” Add the following after the last paragraph: However, the TMMP incorporates Conditions 1, 2, 4, 5, 7 and 12 through 16 of the School’s conditions of approval. As demonstrated in this table, while the school has been in compliance with many of the applicable conditions, it has been unable to substantially comply with several of the conditions related to traffic and parking, specifically Conditions No. 4, 13 and 15. Moreover, the TMMP is specifically designed to minimize the likelihood of school-related vehicles queuing on the public roadway. The community, Council Office and the school have observed daily queuing in the public roadway. The community has also submitted videos and photographic evidence of these violations. To address the lack of compliance, additional conditions have been added. These conditions specifically relate to: enrollment increase, offsite parking, traffic officers, staff TMMP monitors, third party community ombudsman, third party monitor, website reporting, community advisory committee and plan approval. These conditions will help to ensure that the conditions outlined in the TMMP are complied with and the school and neighbors have a common understanding of the extent of the violations.

**Finding “C” – Conditional Use Plan Approval Findings”**, should be amended as follows:

Finding C.2 –

Modify the fifth paragraph as follows: “NWCS has adhered to some of the conditions of approval, which were imposed by the City Council to address the impacts of the school's operations.”

Finding C.2 – “Increased Enrollment”

At the beginning of the third paragraph, add the following: “Despite neighborhood opposition, in 2012, the City allowed the school to open and operate under strict conditions outlined in the CUP intended to address traffic and parking impacts and help make the use fit better into the surrounding neighborhood. The City determined that the original request for an enrollment of 875 students was not appropriate for the site or the surrounding neighborhood. In order to determine that the school use would be appropriate for that location, the City limited the maximum enrollment. When the City issued the CUP three years ago, the school agreed to: a maximum enrollment of 750 students, to meet strict parking and traffic management rules, and to reduce enrollment if it failed to meet those rules.”

Modify the fourth paragraph as follows: “NWCS has been in compliance with some of the conditions of approval.”

After the fourth paragraph, add the following: “While the school has improved its compliance from its first year, there are still violations that continue to occur. The community and Council Office staff have routinely observed violations of traffic and parking conditions. The community has also submitted numerous photographs and video recordings as evidentiary support. To allow the incoming class to attend the school and address non-compliance issues, additional conditions are needed to better ensure conditions related to traffic and parking are complied with.”

The City has specifically included two conditions to ensure the City has the tools it needs to ensure compliance: a plan approval requirement and a limit of enrollment increase for seven years. The applicant will be required to file a plan approval one year from the start of the 2015-2016 school year. Upon review, the City will have the ability revisit the compliance issue and any terms of the grant that may better enable them to meet the conditions. In addition, a new condition has been added that caps enrollment at 825 students over the next seven years following approval by the final decision-maker. The City has determined in the initial grant as well as in connection with this grant, that the maximum enrollment of 875 requested by the school is not appropriate for the site and is not compatible with the community. Therefore, a lower enrollment cap was set in order to ensure continued compatibility with the surrounding area. It is standard practice in the City to issue grant term limits of ten years for some types of conditional use permits when the City desires the ability to revisit the terms of an entitlement. The school has now been operating for three years and has demonstrated difficulties complying with the conditions of the CUP. Restricting the enrollment for a period of seven years will allow the applicant time to work through operational changes it needs to comply with the conditions. It will also allow the City the time it needs to reasonably assess the schools ability to comply with conditions over the standard 10-year period of time for which a CUP applies.”

#### Finding C.2 – “Adequate Parking”

As stated in PLUM’s findings in 2012, modify the first paragraph as follows: “The City of Los Angeles Department of Building and Safety (LADBS) determined that no additional parking is required for the middle and high school-Use pursuant to the Department of Building’s written determination that no additional parking-is required for the school use. Specifically, the Department of Building and Safety’s finding was based on the existing site’s industrial designation which required parking at 1 per 500 square feet. Since the school does not have a gym or assembly area by which to calculate parking per current Los Angeles Municipal Code regulations, New West is permitted to retain the existing parking count at the 1 per 500 square foot ratio.”

Modify the third paragraph as follows: “NWCS has been in out of compliance with the conditions of approval related to onsite parking.”