

Katherine Douglas

Public Comment

3



From: Lia Graham
Sent: Friday, November 1, 2024 9:30 AM
To: sbcob
Subject: FW: Music Academy: Comment Letter
Attachments: BHFS County Planning Commission Response to Appeal Letter re Music Academy of the West Case No. 23APL-00021pdf.pdf

From: Sargeant, Cody T. <csargeant@bhfs.com>
Sent: Friday, November 1, 2024 9:26 AM
To: Lia Graham <ligraham@countyofsb.org>; Villalobos, David <dvillalo@countyofsb.org>; Conner, Steve <conners@countyofsb.org>
Cc: Collins, Beth A. <bcollins@bhfs.com>; Heidi Jones <heidi@merakilanduseconsulting.com>
Subject: Music Academy: Comment Letter

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Good morning,

We noticed that the Brownstein Hyatt letter submitted on Wednesday had not yet been added to the record. We just wanted to resend and confirm that this is added.

We also made one small revision (removing a draft watermark on the traffic report). Could you please submit this revised version that is attached here and ensure that it is added to the record.

Please let us know if you have any questions or need anything further.

Thank you,
Cody

Cody T. Sargeant
Brownstein Hyatt Farber Schreck, LLP
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Brownstein - we're all in.

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October 30, 2024

Beth A. Collins
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VIA EMAIL: CONNERS@COUNTYOFSB.ORG; DVILLALO@COUNTYOFSB.ORG; SBCOB@COUNTYOFSB.ORG

Santa Barbara County Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101

RE: Music Academy of the West; Case No. 23APL-00021

Dear Chair Lavagnino and Supervisors Williams, Capps, Hartmann, and Nelson:

On behalf of Music Academy of the West (“Applicant or Music Academy”), we submit this letter and the enclosed supplemental noise and traffic reports. These documents provide further support for County’s staff’s recommendation to approve the project and reject the appeal of the Montecito Planning Commission’s (“MPC”) April 5, 2023 approval of a Conditional Use Permit (“CUP”) Revision and Coastal Development Permit (“CDP”) for requested minor changes to the Music Academy’s 2004 CUP (“Project”).

We are also in receipt of an October 24, 2024 letter from Appellant’s attorney Sabrina Venskus requesting a continuance of the November 5, 2024 Board meeting on the appeal. For the reasons outlined in this letter we do not support further delay of the Board’s hearing of this matter.

I. Appeal of MPC Approval and Request for Continuance

Mr. John Sanford filed an appeal of the MPC’s approval of the Project on April 14, 2023 – over 18 months ago. Since that time, the Music Academy has worked in good faith to settle this appeal. To that end, the Music Academy participated in three different mediation sessions with Mr. Sanford and his attorney. These sessions culminated in the Music Academy offering to make a number of changes to the Project that the MPC approved in 2023. Specifically, in response to concerns raised by the Appellant’s attorney in a June 8, 2023 letter,¹ the Music Academy offered in mediation on June 11, 2024 to revert the Project to attendance caps and other limits from the 2004 CUP. Although the parties did not ultimately settle, the Music Academy nonetheless honored the offer it made and

¹ In her 21 page letter, Ms. Venskus criticizes the Music Academy for 1) seeking to increase its maximum “any given time” attendance cap from 330 to 410, 2) seeking to increase attendance cap for meetings and seminars from 175 to 350, 3) eliminating seasonal summer/non-summer attendance caps, 4) adding additional 15 Significant Life Events to the 41 non-music events already allowed, and 5) allowing non-music use of studio space. (See e.g., p. 3.)

modified its project. Specifically, **Applicant modified the Project to maintain its summer and non-summer attendance caps, maintain the seminar attendance cap at 175, maintain the any-given-time cap at 330 visitors, maintain the total non-music related events limit to 41 per year, and maintain studio use for music only instruction.** With this modification, the Project will be maintaining the same daily cap, seasonal cap, annual cap, and any-given-time cap as was approved in the 2004 CUP and maintain the same number of non-music related events. Now, despite the fact that these changes revert the Project to attendance caps and restrictions in the existing 2004 CUP (as Appellant requested) and reduce potential impacts from the Project, Appellant is seeking further delay of the hearing on this Project.

Appellant argues on one hand that the project cannot be modified and on the other hand that it needs more time to consider the modifications. Neither argument is correct nor supports a continuance.

The Board hearing is *de novo* and thus the Appellant has a full and fair opportunity to present its position for the Board's independent review. This is especially true in this case given the history of the appeal and the source and type of project modifications.

With regards to Appellant's assertion that modifying the project violates CEQA—the requirement of a stable project description applies to the analysis within a certified environmental impact report. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193 [holding that a "finite project description is indispensable to an informative, legally adequate EIR."].) This requirement does not prohibit an Applicant or agency from modifying a project at any point during the public process. Indeed, that is the entire point of a public process, to allow the public to suggest potential changes. Projects are routinely modified up to and even during public hearings. The public process is intended to be iterative and to foster collaboration between applicants and members of the community. Appellant's arguments cut against this very policy.

Finally, it is important to note that it took months working with staff and the appellant to finally agree on this appeal hearing date of November 5. We do not believe further delay is appropriate and thus we respectfully request that the County not grant the requested continuance.

II. Project Modifications Do Not Result In Any New Significant Impact, In Fact They Reduce Potential Impacts And the County's CEQA Analysis of the Project Is Appropriate

As detailed in the Board Letter, the modifications proposed by the Music Academy simply revert the Project to various attendance caps and other limits that already exist in the Music Academy's 2004 CUP. The attached supplemental letters by Associated Transportation Engineers and 45dB Acoustics explain that these modifications do not result in any new significant impacts. Additionally, the 45dB letter counters various misstatements included with Ms. Venskus' June 8, 2023 letter. These letters

further support staff's CEQA analysis which appropriately concluded that approval of the Music Academy's proposed Project would not result in any new significant or substantially more severe direct or indirect environmental impacts. Accordingly, we ask that your Board support MPC's approval and deny this appeal.

Sincerely,

A handwritten signature in blue ink that reads "Beth A. Collins". The signature is written in a cursive style with a long horizontal line extending to the right.

Beth A. Collins

Enclosures

October 25, 2024 Letter from Associated Transportation Engineers

October 18, 2024 Letter from 45dB Acoustics

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ASSOCIATED TRANSPORTATION ENGINEERS

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Since 1978

Richard L. Pool, P.E.
Scott A. Schell

October 25, 2024

21026L03

Mimi Do
CFO & VP Administration
Music Academy of the West
1070 Fairway Road
Santa Barbara, California 93108

TRAFFIC, PARKING AND VMT ANALYSIS ADDENDUM FOR THE MUSIC ACADEMY OF THE WEST 2021 CUP AMENDMENT – SANTA BARBARA COUNTY

The following Addendum updates the analyses presented in the Traffic, Parking, and VMT Study for the Music Academy of the West 2021 Conditional Use Permit (CUP) prepared by ATE, dated July 5, 2022 (the “July 2022 study”). The Addendum addresses the changes to the Project description and attendance limits that have occurred since the July 2022 study was completed.

PROJECT DESCRIPTION

The July 2022 study assumed a number of changes to the attendance limits that were originally included in the 2004 Revised CUP. The changes reviewed in the July 2022 study included:

1. An increase any-given-time attendance from 330 to 410;
2. An increase in the maximum participants at seminars and meetings from 175 to 350; and
3. Elimination of a “summer” attendance cap of 22,000 and “non-summer” cap at 25,000.

These proposed changes to the 2004 CUP have been eliminated from the current request.

The current Project includes previously instituted measures to address potential concerns with noise, circulation, privacy, and general neighborhood compatibility, and includes new measures to ensure the proposed changes do not cause new impacts to the surrounding community. These include: maintaining the daily cap of 900 visitors; maintaining the any-given-time cap of 330 visitors; maintaining the annual cap of 47,000 visitors; maintaining the “summer” cap of 22,000 visitors; maintaining the “non-summer” cap of 25,000 visitors; maintaining the maximum seminar/meeting participant cap of 175; eliminating retail shop uses; repurposing of the Rack and Treasure House buildings (a reduction in traffic and parking demands); and implementing new noise control measures during outdoor events to protect surrounding sensitive noise receptors.

CHANGES TO JULY 2022 STUDY FINDINGS

The July 2022 study completed by ATE found that the then-proposed CUP revisions related to attendances limits would not increase overall traffic at the MAW campus on an annual basis, as attendees would not exceed the 47,000 yearly public attendance cap. The July 2022 study also found that the proposed increases to attendance caps for any-given-time, meeting and seminar participants, and “summer” versus “non-summer” months could generate increased parking demands, but those parking demands would be accommodated by the existing parking supply available at the campus. *With the current Project, there would be no changes to the currently approved attendance limits, thus there would be no potential increases in traffic and parking demands at the campus related to increased attendance at the campus.*

The two components of the Project that would affect traffic are the increase in the number of students and change in use at the Rack and Treasure House from retail to residential. Based on these changes, the July 2022 study indicated that the Project would result in an increase of 20 Average Daily Trips (ADT), 5 AM peak hour trips and 5 peak hour trips. *The July 2022 study found that this level of trip generation would not generate impacts or be inconsistencies with the adopted County of Santa Barbara’s and City of Santa Barbara’s traffic policies. These findings would not change with the current Project.*

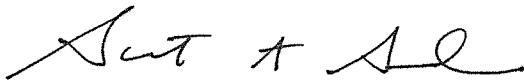
The July 2022 study found that the Project with would not exceed the County’s VMT thresholds of significance and was screened out from a full VMT study requirement. These findings would not change with the current Project.

Response to Venskus & Associates Letter

ATE has reviewed the appeal letter from Venskus & Associates dated June 8, 2023, as well as the attached letter from the RK Engineering Group. The main issue raised in the appeal letter was the increased attendance maximums of the any-given-time limit, meetings and seminars, seasonal “summer” and “non-summer” caps, and increased guest allowance at Significant Life Events could generate additional traffic and parking demands which would negatively impact access to nearby beaches and neighborhoods. *The issues raised in the appeal letter are no longer applicable as the current Project is not proposing to change any of the approved attendance limits.*

This concludes ATE’s Traffic, Parking, and VMT Analysis Addendum for the Music Academy of the West 2021 CUP Amendment. We appreciate the opportunity to assist you and the County with the Project.

Associated Transportation Engineers

A handwritten signature in black ink, appearing to read "Scott A. Schell". The signature is fluid and cursive, with a long horizontal stroke at the end.

By: Scott A. Schell
Principal Transportation Planner



October 18, 2024
45dB Project # 21023

Santa Barbara County Board of Supervisors
105 E. Anapamu St., 4th Floor
Santa Barbara, CA 93101

RE: Case# 21RVP-00000-00109, Board of Supervisors hearing November 5, 2024

45dB Acoustics, LLC (“45dB”) is providing this letter after reviewing a letter from Venskus & Associates “*Appeal of the Montecito Planning Commission’s Approval of Revised Conditional Use Permit for Music Academy of the West*” dated June 8, 2023 and the associated report by Marlund Hale of Advanced Engineering Acoustics (“Venskus Letter”) and the revised project description in the Board Letter. The letter responds specifically to various points related to noise in the Venskus Letter.

- A. There is no amplified music being proposed—only unamplified instrumental music and amplified voice are included in the permit application. We presume that if amplified music is desired for a life event, that must and would take place inside the MAW’s buildings.
- B. The Venskus & Associates’ letter states that the CNEL is a “poor fit for informational noise sources such as speech and music events”, and that “the Lmax standard is more appropriate to measure the impacts of sudden spontaneous noise events anticipated to occur at the MAW.” The letter also states that “[t]he 45dB report did not take into account that the CNEL standard is unequipped to deal with the unique noise issues presented by MAW.” **This is incorrect.** The County’s own Environmental Thresholds and Guidelines rely on CNEL standards and so it is appropriate to include this standard in our analysis. Second, **our analysis did include an evaluation of the Lmax standard.** (See Section 4.2 *Maximum Sound Levels* of our report dated September 1, 2021.)

Because the CNEL comprises of the twenty-four hourly LAeq levels that are combined into the single-number CNEL result, the duration of the event combined with its (again, hourly) level for each of the event hours, the level and duration of the event affects the final CNEL for that day. As such, reducing the event hourly sound level and/or the

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duration of the event to fewer hours will reduce the CNEL (and the corresponding the increase over the existing CNEL). This is why we proposed specifically designed noise reduction measures that are customized for different areas of campus, including restricting amplified sound levels and durations at each of seven outdoor locations. These measures are customized to ensure impacts on potential neighbors are less than significant.

- C. Traffic associated with the arrival and departure of event attendees can create audible sound, but the proposed changes to the CUP do not increase the number of events, the number of attendees, or the amount of traffic associated with the events; noise impacts associated with traffic will not increase from this project.
- D. The Venskus Letter raises concerns about noise related to generators and semi-trucks associated with audio equipment transport for these events; however, 45dB understands that neither generators nor semi-trucks are to be used or needed for the events.
- E. In our original analysis, we analyzed the noise impacts of the project using both the Lmax and CNEL standards and concluded that the project would not result in significant noise impacts. Since the time of our analysis, we understand that the applicant has agreed to reduce the intensity of the project in various ways such as decreasing the attendance cap for significant life events from 330 to 175, requiring carpooling for significant life events over 50 people, and reverting to the summer/non-summer attendance caps which further reduce the potential noise impacts. Accordingly, the conclusion in our prior report that the project would not result in a significant noise impact remains unchanged.

Please contact me with any questions.

for 45dB Acoustics, a California LLC:



Sarah Taubitz, Mem.INCE, ASA
Owner and Principal Consultant
ST@45dB.com

CC: Beth A. Collins bcollins@bhfs.com

CC: Heidi Jones, AICP, Meraki Land Use Consultants heidi@merakilanduseconsulting.org

Figure 1: MAW Miraflores Campus (from SEPPS)

MUSIC ACADEMY OF THE WEST MIRAFLORES CAMPUS

