

To: Ms. Allison Sherwood, Environmental Planner
City of San Diego Development Services Center
1222 1st Ave, Mail Stop 501
San Diego, CA 92101
Subject: University city planning group comments on the Salk EIR
From: Linda Colley, Chairperson, University City Planning Group
Date: May 3, 2007

Dear Ms. Sherwood:

Thank you for giving us the opportunity to comment on the Salk DEIR. While there is much that is good in the Salk Institute's DEIR, this report addresses a few issues that our committee has agreed are problematic. Our comments are indicated by bolding. The issues will be taken up in the following order: Acreage and Development Intensity; Parcel Subdivision; Environmentally Sensitive Lands and the MHPA; Project EIR vs. Program EIR; the South Mesa Location for the Day Care Facility; other alternatives. Please contact me if there are any questions about this submission.

Sincerely

Linda Colley

I. Acreage and Development Intensity

1. The UC Plan (p. 165) lists the following for Salk Institute: 26.88 acres, 500,000 SF for Scientific Research. Yet the DEIR (p. 3-16) lists the site at 26.3 acres, or 97.8% of the stated UC Plan acreage. **The DEIR should thus reduce the development intensity proportionately: an equivalent percentage applied to the proposed 500,000 square feet, reduces the development intensity to 489,211 square feet, a reduction of 10,789 square feet.**

2. The UC Plan states (p. 164): “The development intensity allocations . . . are not intended as a development right, but are subject to other considerations such as site and

building designing, zoning requirements and other limitations . . .” **The DEIR fails to disclose that the 500,000 SF (or 489,211 SF if the 26.3 acres is correct) is not intended as a development right, but is subject to other considerations as listed in the UC Plan.**

3. While the underlying zone is RS-1-7 (single unit residential), the UC Plan classifies the parcel’s use as scientific research within the Torrey Pines Subarea. The DEIR (p. ES-6) states: “Therefore all uses would be consistent with the development regulations for the residential designation.” Nevertheless, the DEIR (p. 3-18) states that in order to build the day care center, the Salk Institute is requesting:

- a. An amendment to the existing Conditional Use Permit (CUP), Permit No. 3841,
- b. An amendment to the existing Coastal Development Permit/Hillside Review Permit/CUP No. 90-1140.

In addition, the DEIR states the Salk Institute needs a Master Planned Development Permit “to allow expansion of previously conforming uses in conformance with the land use designation in the University Community Plan”. **Please confirm that these include both the temporary housing and the day care center. Please clarify what amendments or other changes are required to allow the temporary housing, and whether attached buildings, as proposed, require any amendments.**

4. The construction of the day care center and the temporary housing on the south mesa would involve very significant environmental impacts that would not occur were one or both built elsewhere on the project site. (The impact of this construction, particularly that of the day care facility, is taken up in greater detail in a subsequent section.) **Given the number of amendments needed to allow these uses, the DEIR should provide overwhelming justification for the location of each of them on the south mesa. Yet the DEIR fails to provide a reasonable range of alternative locations or a full explanation of why NO other alternative to the south mesa is possible for the day care center or the temporary housing.**

II. Parcel subdivision

1. Salk is requesting a Vesting Tentative Map (VTM) to divide the parcel into four legal parcels (ES-7, p. 3-16 and Figure 3-8). The DEIR fails to address the fact that this would allow Salk to sell off any of the parcels in the future. This possibility threatens the very basis of the understanding when the people of San Diego voted to donate what was public park land to the Salk Institute specifically for a scientific research institute. Appendix C describes this history:

“Soon after, on April 26, 1960, the San Diego City Council voted to grant the approximately twenty-seven-acre site to the Salk Institute, then known as The Institute for Biology at Torrey Pines.⁴⁷ This followed a public election in which San Diegans voted overwhelmingly to donate the parcel to Salk for the purpose of building a scientific research institute. Six months later, in a hearing dated January 18, 1961, the City signed an agreement with Jonas Salk, conveying a portion of Pueblo Lot 1324 to the Institute with the proviso that the name be changed to the “The Institute for Biology at San Diego.” (Appendix C)

The DEIR must fully analyze the legal and public trust issues that would result from dividing the land into four parcels. According to Salk spokespeople, the people of San Diego who voted to donate this land to the Salk Institute for a biological institute would have no say over whether the Institute sold off a portion (or all) of this gift. Nor would the people of San Diego receive any of the profit. The DEIR fails to address these issues.

The DEIR must include a full analysis that includes, but is not limited to the following: what would be legally possible in terms of selling off the parcels, what process the new owners would be required to go through in order to change the uses or intensities, what would happen with the proceeds of the sale, and any other legal, financial or land use issues that the subdivision of the property might entail in either the short or the long term.

In the face of this threat that the gift donated to the Salk Institute could be sold off, the DEIR must provide a compelling rationale for dividing the parcel into four legal parcels. The DEIR fails to do this. It states the purpose is construction financing.

However, the DEIR also states that the projects will be built out over “several decades” – 30 to 50 years. **The DEIR fails to acknowledge that this extended time frame would allow construction loans to be paid off sequentially, thus undercutting the rationale given in the DEIR for subdivision.** Moreover, the vagueness of the construction timing given in the DEIR means that there is no substantial evidence that construction financing would in fact be a problem, and if it were a problem, that it would be such an insurmountable impediment that it would justify the risk that this land donated to the Institute by the people of San Diego could be sold off. Moreover, in raising the problem of construction financing as such a major issue for the Institute, the DEIR actually raises the specter of one or more parcel being sold off in the future to help fund either new construction or on-going financial needs. **The DEIR must address all these issues and provide substantial evidence of its need to divide the parcel.**

2. The DEIR states that the VTM would also “vest certain project approvals to facilitate development of proposed facilities over the length of the project build out period (i.e., several decades). This language is far too vague. The DEIR fails to justify why Salk should receive project approvals for projects that would occur over a period that could stretch to 50 years with no further environmental review. **Please list exactly what these approvals are and how they would be justified.**

III. Environmentally Sensitive Lands and the MHPA

1. Of the total 26.34-acre campus, 6.2 acres of land will remain undeveloped, a portion of which will be donated to the City for habitat preservation (Appendix C, p. 51). There are currently .32 acres of MHPA on the project site, and additional MHPA land occurs immediately west of the Salk Institute property boundaries.

The DEIR states that the basic objectives include developing a project that “enhances and expands environmental protection for environmentally sensitive areas on site by adding land to the City’s MHPA.” (p. 3-3, p. ES-5) The DEIR states it will add a net 3.22 acres to the MHPA. **However, the DEIR should explain that placing the day care center and the temporary housing on the south mesa runs counter to this**

objective. The DEIR should explain that this is due to the multiple temporary and permanent impacts of these projects on the south mesa, including: the project footprint and construction impacts for each; the need to widen the road from 12' to 26'; the need to add 40 new parallel parking spaces and a fire truck turn around; and the need to conduct brush management regularly around the projects, which would require the regular removal and thinning of native vegetation. The DEIR should clearly state that locating these projects on the south mesa greatly increases the impacts environmentally sensitive areas and decreases the amount of land that could be added to the MHPA.

2. The DEIR misleads the public and decision makers by citing the mitigation required for putting the day care center and temporary housing on the south mesa to tout the environmental benefits of the proposed project. The DEIR thus uses backwards logic: we had to impact the south mesa in order to provide the benefits of mitigation. **The DEIR should clarify that in fact, if these projects were *not* placed on the south mesa, far greater environmental benefits of the project would be possible. The DEIR should explain how many acres on the south mesa would be preserved and that in addition, the Salk Institute could make a boundary adjustment to the MHPA and endow its maintenance even if the project does not impact the south mesa.**

3. The DEIR should clarify the following statement about the North Mesa Intensified Development Alternative: “Although this alternative would reduce direct project impacts to biological resources (upland habitat) to less than significant levels due to the elimination of grading on the south mesa, significant indirect impacts on the MHPA would still occur, while no increased protection of sensitive upland habitat on the south mesa or vernal pools on the north mesa would occur. Indirect biological impacts would be mitigable under this alternative.” (p. ES-14) The DEIR should explain that the North Mesa Intensified Development Alternative would actually result in far more protection of sensitive upland habitat on the south mesa.

4. Again, the DEIR should similarly correct the misleading implication in the following description of the North Mesa Intensified Development Alternative (p. 8-12):

“The purpose of this alternative would be to minimize direct project impacts to sensitive biological (upland) project areas.” (p. 8-12). It would eliminate development on the southern mesa by shifting the daycare facility and housing units to a location atop the parking structure on the north mesa. This is accurate. However, the DEIR goes on to state (p. 8-13): “the MHPA boundary adjustment would be much smaller in size and would only involve land on the north mesa since less biological habitat mitigation would be needed...” **The DEIR should clarify that the MHPA boundary adjustment would not have to be smaller and could in fact include *more* land on the south mesa.**

IV. Project EIR vs. Program EIR

The DEIR states that this is a project EIR (Executive Summary). Yet the projects are vague and to occur over “several decades.” This is an inappropriate use of a project EIR. Projects that are to occur over such a long period of time require subsequent environmental review. **The DEIR should be revised and re-circulated as a Program EIR.**

V. South Mesa Location for the Day Care Facility

The decision to place a day care center in the pristine south mesa is very problematic. There are several good reasons for Salk to provide day care for its staff. It would help to attract and keep staff, particularly younger staff and female staff who are mothers. It makes for better parenting by reducing the worrying that working parents may have about the welfare of their young children, and may provide convenient access to parents to visit their young children during the day, to breast-feed infants, or to bring home a child who has become sick. A daycare center handy to the workplace should reduce travel overhead, increasing staff productivity. The problem with the DEIR's day care proposal is that it would destroy a significant part of the south mesa. Salk should look at a wider range of alternative ways to provide day care that are less environmentally destructive.

Deleterious impacts of the south mesa location. There are some significant deleterious impacts of the current proposal that include:

1. The day care building itself has a 12,000 ft.² footprint (DEIR p. 3-4, Table 3-1) that will permanently eliminate native plants and wildlife from this area. **Please clarify if square footage of day care facility includes playground space or not.** This is not stated explicitly in the DEIR.
2. The plan is for a 10,000 square-foot playground (DEIR 3-9). This would also entirely destroy the local native environment that supports it. **Why is this playground planned to exceed the state requirement of 6000 square feet, particularly when the day care program will have a significant number of small and less mobile infants and toddlers?** [It should be noted that the alternative that relocates the center to the north mesa would reduce the size of this playground to 6000 square feet. If a north mesa location were chosen for the day care center, playground space could also be provided in the large area now planned for “turf” or native plants atop the parking structure.] **Please define the term "turf."**
3. The use of construction equipment and testing equipment on the south mesa, if required will destroy more native habitat. During our May 1 tour, it was evident where a large machine had left a path through the vegetation as it moved into the south mesa to drill down (as described by a spokesperson) 200 feet for core samples. Any other testing that is required presumably will leave a similar or larger swath of destruction. **Please describe any future tests that would have a deleterious environmental impact, as well as the consequences of these tests for the local environment. Also please describe anticipated damage to the south mesa caused by construction of the day care facility that is outside the footprint for the building and play area.**
4. A 780 foot linear extension of Salk Institute Road would be constructed to provide access to the day care facility and temporary housing quarters (DEIR, 3-16.) The existing 12-13 foot road would be doubled in width toward the residential area to the south increasing in width to 26 feet, and depressing the road's height. **Will construction of the temporary residences alone, assuming that the day care facility is sited elsewhere**

than the south mesa, require the same widening and depression of the existing Salk Institute road? Construction and the lowering of the road will require removal of a large quantity of soil. This will directly impact the mesa, and will create traffic by large trucks to cart away this soil. **The DEIR (in the Growth Inducement section 6-1, page 6-2) erroneously states that the project would not require the expansion of any roads. It also states that the development of the site would not open up a new area to construction since there is little or no undeveloped land in the vicinity. The reality is that the entire south mesa, approximately 8 acres, is undeveloped.**

5. We learned on a tour of the site on May 1, 2007 that there would be an additional paving of the area adjacent to the day care center to accommodate 26 parking spaces (another 14 parking spaces would be allocated to the temporary residences) for perpendicular parking as well as a fire engine turn around (described in DEIR, page 3-9) This would destroy another 18 foot swath of native habitat. **It was asserted that this additional paving was required by state regulations; please detail the relevant California day care regulations.**

6. Direct negative impacts to the south mesa will include:

- a. Loss of native vegetation and resident species,
- b. Increased runoff from the increased pavement square footage,
- c. Aesthetic impacts-the day care center will be constructed into a depression so as not to impact the world famous view, however the facility will be visible from some of the offices housing staff and labs. A local resident reported that she heard from Salk staff that they are unhappy about the impact that the day care center will have on the south mesa. Salk should ensure that aspects of their plan to enhance the institute's capabilities do not have the counter productive effect of demoralizing the Salk staff. **Salk should assess staff sentiment about this south mesa location for the day care center. Any objections by staff to a proposed approach should be taken into consideration in assessing alternatives.**

7. There are also will inevitably be impacts to the residential neighborhood that abuts Salk Institute Road (e.g. construction noise from widening/depression of road, traffic noise, increased traffic noise, aesthetics, playground noise, impact on local birds and other wildlife, impacts of the retaining wall etc.)

a. The parcel is zoned RS-1-7 residential -the purpose of RS zones is to promote neighborhood quality, character and livability (DEIR 5.1-15). **Therefore a CUP is required that must analyze and mitigate consistency with adjacent uses. The DEIR fails to conduct this analysis but concludes there will be no impact,**

b. The City's General Plan and the UC Community Plan similarly require that industrial land uses be compatible with adjacent non-industrial uses (DEIR 5.1-15). **Salk should elaborate how the proposed day care facility satisfies the City's General Plan and the UC Community Plan.**

c. Master PDP criteria include that the design be comprehensive and demonstrate relationships of the proposed development on-site with existing development off-site (DEIR 5.1-19). The scale of the project as well should be consistent with the neighborhood scale. **The DEIR should show sections of the elevations of the neighbor's residences together with the proposed south mesa developments.**

d. There is a 250 foot long retaining wall proposed along Salk Institute Road (ES-9). In Courtney Coyle's scoping letter (dated December 7, 2004, page 7), it was suggested that the effects of this wall on the operation of neighbors' gates, condition of their plantings, fencings, walls and soil stability should be studied. **The DEIR should analyze and report these effects if any. They should be included in the assessment of the south mesa location for the day care center Versus alternatives.**

e. Salk had earlier prepared visual simulations from a few of the homeowner's parcels. But such simulations did not appear in the DEIR even though the DEIR asserts conclusions regarding significance (DEIR 5.2-4). **Salk must prepare updated visual simulations of the project's impact to residential neighbors (as requested in the scoping comments.)**

Educational and security justifications for the south mesa location.

Educational arguments.

1. An argument has been made for the "educational opportunities" of the south mesa location for the day care center relative to a north mesa location (DEIR, page 8-13.) But these advantages appear to be questionable upon examination for the following reasons:

a. Certainly infants and toddlers, and most preschoolers would be too young to be beneficially exposed to the ecosystem on the south mesa (or the north mesa for that matter). Also, "field trips" or walks in this area might expose the children to rattlesnakes or harmful insects or plants. (The rattlesnake danger should also not be discounted for the 12,000 square-foot playground that is planned.) **The DEIR should present in some detail the anticipated age groupings in the day care center, how these children would benefit from a hands-on ecological curriculum, and how they would be protected from dangers inherent in the natural environment.** It seems unlikely that provisions could be made for their safety without having a ratio of at least one staff member for each child. This would be greatly in excess of State staffing requirements. **Please detail staffing requirements with reference to state day care requirements, and how much additional staffing would be required for a hands-on curriculum to be conducted safely.**

b. The aesthetics/view inherent in the south mesa location may well be irrelevant to small children, though not to staff or parents. In contrast, it will diminish the aesthetics from some staff and residents perspectives. **Please describe how the south mesa location would be superior to a north mesa location from the standpoint of aesthetics, and how it would benefit children and the day care program.**

c. To the extent that the natural environment might be presumed to be useful in a south mesa location, there is no reason to think that it would not be similarly useful if the day care center were located in a north mesa location. This natural environment could be equally accessible from a north mesa location. **The DEIR should compare the south and north mesa locations for all alternatives with respect to their educational usefulness.** It seems very unlikely that any real difference could be established.

Safety arguments.

1. The DEIR (8-13) sites safety as one of the advantages of the south mesa location. The DEIR elaborates on the reduced traffic on the Salk Institute Road to the proposed day care center and temporary residences.. In contrast, the North Mesa Intensified Development alternative would place the day care center on a busier road. However, most private day care centers or preschools in La Jolla are located near public roads, or have sidewalks next to them with public pedestrian traffic. Arguments may be made that a busier location would increase or decrease the security for a child care center. **The DEIR should explain why the south mesa location is superior to the north mesa location for the day care center to be safe and secure.**

2. Also, as discussed above, individuals have observed rattlesnakes on the south mesa. They are described in the DEIR as likely species to appear (DEIR, page 5.3-11). Interestingly, the DEIR lists only the Northern Red Diamond Rattlesnake and not the more commonly occurring in this area, Southern Pacific Rattlesnake. The DEIR presents no analysis of the risk of rattlesnake bites to children in the south mesa playground or on "field trips" on the south mesa. **The DEIR should present an analysis of these risks and include such risks in assessing the south mesa facility versus alternatives..**

3. The DEIR (8-13) also criticizes the north mesa location as compared to the south mesa location, because children in the center would be exposed to emissions and noise from the parking garage. It seems likely that these effects could be mitigated or eliminated by proper ventilation and soundproofing. **The DEIR should analyze and present the cost consequences, if any to mitigate or eliminate this potential problem, if any.** It must be noted that other north mesa design alternatives that we discuss in the next section would not locate the day care center a-top the parking garage. **The DEIR must consider more than just the single alternative presented for a north mesa location for the day care facility, to fairly consider safety differences between south mesa and north mesa locations .**

4. The DEIR states that an off street drop-off area required by the day care facility would not be provided by a north mesa location (DEIR, Page ES-15). **The DEIR must consider other alternatives for north mesa locations, and should be more specific about State requirements for day care drop off and pickup.** The DEIR also asserts that drop-off and pickup and staff parking would be relegated to the parking structure. It is not clear why this is a significant problem, or whether an alternative approach to drop-off and pickup might be possible. **Please describe the reasoning behind this assertion.** The danger of considering only one alternative for a north mesa of day care location, is that this single North Mesa Intensified Development Alternative design becomes a strawman that the DEIR knocks down. **The DEIR must consider other alternative designs for the north mesa day care location than just the North Mesa Intensified Development Alternative .**

5. The DEIR claims that the north mesa location would reduce the playground area by 40% (DEIR, page 8-13) from 10,000 ft.² to 6000 ft.². In This would not be true for alternative designs e.g. if the day care center were incorporated into the existing community center plan, and the playground were located a- top parking garage. **Again, the DEIR must consider alternative designs for the north mesa location.**

VI. The DEIR Is Deficient in the Presentation of Alternatives.

1. **Alternative location for day care (off-site).** The section (DEIR 8-3) that considers an off-site alternative does not include the possibility of locating a subset of the proposed uses, or possibly even a single facility like the day care center or the temporary housing, off campus. **The scoping letter proposal to consider an off- site implementation of a subset of the proposed uses, should be implemented** (scoping letter dated December 7, 2004, page 6.) For example, in other cities, nonprofit institutions have successfully partnered to offer day care services. This has the effect of spreading the cost, ensuring that the day care slots are filled, and providing resources to the day care center from the cooperating institutions. **Salk should pursue the possibility of partnering with UCSD,**

which has plans to greatly increase its day care capacity, or other institutions or employers in the area.¹ It was reported during May 1 meeting with Salk that UCSD, with plans to expand to 250 slots, could offer only 10 slots to Salk. **Salk should re-approach UCSD about a joint day care venture, and should also seek out opportunities with employers in the area who are considering offering day care, or expanding existing day care capabilities, then report on the results of this inquiry.** When the cost to build an on-site day care facility is factored in, there may well be an advantage to seeking these services off-campus but in the immediate neighborhood. Or a joint venture on the Salk campus, might obtain additional funding that would make development of a Salk on-campus day care facility more cost-effective.

2. Alternative location for temporary housing (off-site)

There are a large number of condominiums available for rent or purchase not far from the Institute. **The DEIR should address alternative methods of providing temporary housing. The DEIR must provide a financial analysis of the costs and benefits of leasing, renting or purchasing temporary housing off-site versus building temporary residences on-site.**

3. North Mesa Intensified Development Alternative for a Day Care Facility. This alternative eliminates the destructive biological impacts that inhere in a day care facility located on the sensitive south mesa area.

a. The current plan (described starting on DEIR page 8-12, and figure 8-2) would make no changes to the location of the community center (117,000 square fee), or the planned parking structure. But it would locate the day care center and playground, and the 12 residential units, on top of the parking structure. The parking structure would have to be upgraded to support these buildings, and the "park-like landscaped open-space" would be sacrificed. Discussions with Salk on May 1, suggested that this re-engineering of the parking structure would be a major cost driver of the project. **The DEIR should provide details about the**

¹ It is likely that UCSD could provide work-study students, or students from the developmental psychology program to act as a resource or to assist the day care center's staff. This would be facilitated by having day care located on the UCSD campus.

engineering changes and their cost consequences. There may be other approaches to locating the day care center in the north mesa that would be more feasible. **The DEIR should investigate alternative approaches to the North Mesa intensified development alternative, or if alternative approaches have already been investigated, they should be presented as alternatives in the DEIR.** For example:

b. Only build the day care center on the parking garage. If the temporary residences (totaling 12,000 ft.²) were left in the south mesa, then only the weight of the day care center would have to be supported by the parking garage. The weight of the playground would be negligible. **The DEIR should compare costs and engineering issues to build the parking garage for no facilities on top, both day care center and residences on top, only day care center on top.** It seems likely that a single story day care center would weigh quite a bit less than would two-story residences thereby substantially mitigating any cost driver effects associated with building on top of the parking garage.

c. Incorporate the day care center into the community center. The day care center would represent only about a 10% increase in the footprint of the community center. It would seem quite feasible to incorporate it into the community center as now planned in its present planned location (ES-13), without significantly impacting the design of the community center, the sightlines etc.. The proposed project would build the Community Center building in phases (p. 3-7). **The DEIR fails to explain why the day care center could not be built as part of this building in an early phase.** This would accomplish the Salk Institute's stated goal of building the day care center sooner and would negate several of the arguments against the North Mesa Intensified Development Alternative. (It would mean the day care center could be built before the expensive underground parking and would not place the day care facility directly on the parking garage. The playground could easily be placed on top of the parking garage without increasing the load factor, while allowing some of a landscaped natural garden to be

preserved. This native Plant Garden could be secured to permit the hands-on day care curriculum activities. The playground also should be less likely to attract rattlesnakes, than it would if located in the middle of the south mesa.)

Furthermore, the DEIR fails to discuss the advantages of having the day care center as part of the Community Center building. It would be easily accessible to parents during the day (nursing mothers would have easy access to their children and parents could easily have lunch with their children). Furthermore, the **DEIR fails to note the uncertainty of Salk's commitment to providing day over the next 50 years. Day care is not part of the Salk Institute's core mission, and can be an expensive and complex benefit to provide to employees.** Should the Institute decide not to continue this service, the day care center facilities located at the Community Center could be readily revamped for other uses.

d. Consider other locations for the day care center on the north mesa.

At a meeting on May 2 resident Joe Wong, a highly regarded local architect presented an architectural drawing that located the day care center at the far western tip of the North Mesa. He claimed that this layout left the historical view lines intact. There are other talented architects who live in La Jolla and who could make available pro bono designs to incorporate the day care center into the North Mesa effectively. Salk should be open to considering these alternatives. At the very least, they should be entertained as comments to the DEIR. **The DEIR should not be limited to a single approach to locating the day care center on the North Mesa. Other feasible alternatives should be solicited, and analyzed.**