Academic Senate
Santa Barbara Division

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TO: Marc Fisher, Senior Associate Vice-Chancellor, Administrative Services

FROM: Henning Bohn, Divisional Chair Henning Bohn

SUBJECT: West Campus Point Leak Remediation Project

The Council on Planning and Budget (CPB) and Council on Faculty Issues and Awards (CFIA) reviewed the Proposal for the West Campus Point Leak Remediation Project. Each Council spent considerable time discussing the proposal and meeting with administrators and homeowners. The proposed plan was discussed in two to three meetings which is an unusual amount of time given the other matters before them; CPB even scheduled an extra meeting for discussion of the proposal. The situation is particularly challenging for the reviewing Senate members because the individuals involved are colleagues with whom we work. We acknowledge their understandable frustration while needing to maintain a perspective that serves the entire campus.

Although both groups understand the difficult situation for the West Campus Point homeowners, the Senate is unable to endorse the proposal as presented. There are two primary concerns on the part of the Senate. First, neither group is convinced that the project plan is financially viable. Secondly, both groups have serious concerns about passing the majority of the anticipated remediation cost to future homeowners; they believe there is an inherent unfairness to that underlying premise which is also a fundamental component of the remediation plan.

CPB provided a thorough analysis and an alternative plan from which we quote extensively. They state:

We strongly recommend that a new proposal be developed after receiving input from the Academic Senate and from the "Business Case Analysis" that is discussed below. We suggest a set of principles that we strongly believe should underlie any subsequent proposal. Finally, in the appendix, we provide some additional ideas that might be useful in developing an alternative plan, though we do recognize that we do not have all of the information needed, nor the "charge" to fully develop an actual proposal.

One very important caveat to our response is the fact that the process seems to be inverted, especially from the point of view of having a full knowledge base for CPB to consider the financial implications of any proposal. It is stated in the document that we received that UCSB is required by the Board of Regents to have a full "Business Case Analysis" carried out that considers all possible options. Our understanding is that this analysis will be carried out after first consulting the Academic Senate for its opinion, not of the full spectrum of possible actions, but only of one of the several listed options. But, it is our view that the Business Case Analysis is exactly the input that is needed to fully assess any "Remediation" plan, at least in terms of its budgetary implications. Therefore, we strongly urge that further consultation occur with CPB after the Business Case Analysis is completed and after any new proposal is developed.

General Principles:

We believe strongly that any action to implement a process to modify the WCP project to eliminate or minimize leakage problems must be based on the following general principles:

1. *Costs to fix the leak and water intrusion problems, and any financing scheme to cover these costs, need to be localized within the West Campus project, and should not involve North Campus or any other faculty housing projects.*

2. *The cost of needed repairs is primarily the responsibility of the WCPHOA, and the costs should be balanced more evenly between current and future residents of West Campus Point. In particular, costs to future residents (as imposed by increases in the sales price of the units) should be limited to the capital value of any improvements, but (according to the CC&Rs) not the cost of repairs. A careful study (perhaps as part of the Business Case Analysis) should designate what fraction of this project is legitimately a repair and what part is a capital improvement.*

3. *The finance costs for repairs and for capital improvements should be borne by the WCPHOA. This would presumably require a special assessment to the homeowners. The campus may need to facilitate the acquisition of loans to individual homeowners from private lenders to cover their share of the cost to the HOA, but should serve as the lender only as a last resort if private lender loans cannot be obtained for a particular homeowner.*

If it were allowed by the CC&Rs, we believe that there could be a case for weighting the costs for current homeowners based upon the length of their residence in the WCP project. First, longer term residents have enjoyed the various benefits of WCP, such as below market housing prices in a prime location for a longer period, and they have also built up significant equity via the "buy-back" agreement with UCSB. Second, they have a greater ability to pay for the cost of these repairs, both because they are typically more senior faculty and because their initial purchase costs were lower. Newer homeowners (post 1995 or so) have already absorbed the costs of earlier repair work since it was included in the sales price for their units.

Discussion Points

Although CPB opposes the proposed plan based upon these general principles, it is important to note that we also do not believe that the financing plan suggested is viable from a strictly economic point of view. In other words, even if we agreed with the principle of basically charging this to future homeowners of North and West Campus, we would oppose the plan as being fiscally untenable. It would expose the campus (as the proposed lender) to an unacceptable risk that the cost of this project, which we view as the responsibility of the current HOA, would end up as a liability on the general campus budget. In the current uncertain real estate market, and with decreased rates of faculty hiring over at least the next several years, it is our opinion that there is a significant risk for a repayment plan that relies on projected sales both in the West Campus and North Campus complexes. We see no justification for spreading the cost of the West Campus project onto the North campus complex in any case, but whatever the current plans may be for North Campus, we believe that the uncertainties in the projected build-out and *purchase rates are too large to make this a part of the financing plan for the West Campus project.*

Another issue associated with the proposed plan is a question of "fairness". In part, this is a question of why new homeowners coming into West Campus should be expected to pay for the bulk of the costs of this project, rather than current owners many of whom have enjoyed the significant benefits of living at West Campus for many years (the full 25 years of the project in some cases). Even more egregious is the idea that a significant part of the cost should be borne by new homeowners in the North Campus project, who will receive zero benefits. Finally, and this has weighed significantly on a number of our members, is the fairness of a financing plan that provides campus based financing for repairs to residences for a small fraction of the faculty, which they would never have to repay (the costs having been passed forward to future residents), when other faculty with non-subsidized housing would not have access to a similar loan or financing for their own housing maintenance issues. Many faculty never had the opportunity to purchase WCP housing when they were recruited to UCSB, either because it was not offered or because it was not available in an acceptable time frame, and they have not had the benefit of below market price housing for the whole of their tenure at UCSB. Thus, again, any plan must recognize the financial responsibility of the WCPHOA for this project, and if the campus must be involved in some way in facilitating financing, it must be in the context of a plan that guarantees full repayment in a reasonable <u>specified</u> time frame that is not subject to the uncertainties of future sales.

While the West Campus Point faculty housing project was originally envisioned as a recruitment tool, which could provide an initial housing option for new faculty in an expensive housing market, and while this has been informally discussed as one of the university motivations for some involvement in financing this project, we do not believe that this should be a factor in the university response. CPB questions the current impact of West Campus as a major recruiting tool, in light of the low turnover and the long-term nature of many of its residents including some of our most senior faculty. This is especially true given that current rules allow ownership through the lifetimes of both partners for a married couple.

<u>***Appendix****: An alternative "plan"*</u>

In this appendix, we provide the outlines of a "plan" that would be consistent with the general principles presented in the body of this report. We recognize that any final plan must be based upon the full review of the "Business Case Analysis", and we also realize that a new plan must involve further discussion with the WCPHOA. We further empathize with current WCP residents, as we would with any colleague who was going to have to have a major repair done on his or her residence. However, we believe that this problem must be dealt with in a manner that reflects what would happen with any private homeowner who was faced with significant costs for maintenance and repairs of a residence, including problems that may have their origin in design inadequacies or even building faults, provided that these have occurred far enough in the past to have gone beyond any statute of limitations for design or builder liability. A series of steps that would be consistent with this general statement and with the general principles that we have recommended in the body of this report is:

1) The homeowner, either directly or indirectly via the HOA in the case of a condominium development, takes a loan for whatever part of the cost that they cannot afford out of savings or investments, and fixes the problem. In the case of repairs to roofs and other external surfaces, the cost to the homeowner would presumably be in the form of a *special assessment from the HOA, though there may be other ways for the HOA to finance the project.*

2) The alternative would be to sell the residence, and move on to other housing arrangements. In the present case, owners could be offered the option of selling their unit to the university at the current agreed upon price for their unit. CPB recognizes that this could cause hardship and disruption to residents and their families, but there may also be a significant benefit given that WCP prices have continued to increase by formula even during the current housing collapse, and also given that an owner of a private residence would be forced to sell the property via the standard real estate market, and would most likely be forced to make the repair prior to sale with no guarantee of recouping the expenditure.

3) In case UCSB buys a unit, it would then have to pay for that unit's share of the HOA expenses. At the conclusion of repairs, the unit could be resold assuming that the differential between purchase price and selling price is large enough to cover the "loan" cost for that unit (this would presumably be true for units that have been held for long periods, but perhaps not true for units that have sold more recently). An alternative is for UCSB to rent the unit. Holding West Campus Point units for rental for fixed maximum periods of time would be a step toward returning West Campus back to its original intended function as a recruiting tool.

4) As noted above, UCSB should work with individual homeowners to facilitate loans with private lenders if required to cover their share of the costs to the HOA. The degree to which the homeowner share of costs could be recouped at the time of sale would need to be worked out, but would depend significantly on whether the proposed project would be considered as "repairs" or "capital improvements". In the former case, our reading of the CC&Rs suggests that the cost would not be recouped at the time of sale, though there could be current tax implications for the homeowner. In the latter case, some fraction of the cost would likely be recovered at the point of sale according to the CC&Rs, though <u>CPB does not believe that it is reasonable that the full $100K+ cost should be recovered as this would then simply again pass the cost onto future owners via a different path.</u> A more reasonable plan would allow some amortized portion of the cost to be recovered if a sale occurred within 10 years or some similar time frame. Even that is more than a private homeowner could expect if they had to do this on their own. As noted in our general principles, an independent study should designate what fraction of this project is legitimately a repair and what part is a capital improvement.

CFIA also provides a careful analysis. They state that "the WCH units are 25+ years old and have been suffering from water infiltration issues from the outset. Roofs have leaked and there have been drainage problems. While there have been small fixes along the way, nothing done has been able to definitively address the problem." While CFIA is not in a position to comment on the issue of fault, they consider the question of remedy as a separate concern. They identify the following stakeholders: current residents of West Campus Point, the campus, and future residents (of West Campus Point and North Campus). In CFIA's view, the proposed plan largely "serves the interests of the first two at the expense of the latter."

CFIA is also concerned about the affordability of West Campus Point units for the next generation of buyers, especially if interest on the campus loan is added to the price of the units. They note that: "Apparently, with concern about the enormity of the project of repairing the units, the campus did offer to buy all of the units back from current owners, with an additional credit of what CFIA has been advised was nearly $50,000 per unit." If a formal buyout offer of this kind was made, we are surprised the specifics were not provided to the Academic Senate.

Furthermore, “CFIA questions the level of certitude that the plan set forth will fully, and permanently, remedy the problem, and we would like to see a more complete description of the basis on which such assurances are viewed as reliable. We would also appreciate more information on the alternatives. While the plan offers four options, it immediately discounts three of them. Are there other possibilities that have not been fully examined? CFIA appreciates that the “scrap and rebuild” option is understandably undesirable for current residents. There are clearly beneficial aspects of the complex – such as a sense of community – that are difficult to quantify monetarily and to recreate. Nonetheless, Council believes that this option should at least be explored as a possibility, perhaps with a temporary relocation of current residents.”

Overall, the Academic Senate has been asked to comment on a situation that is deeply troubling with no easy or good solution. The design flaws at issue are more than 25 years old. The failure to resolve these problems suggests – without assigning blame to anyone currently involved – a dysfunctional relationship between university officials in charge of WCP housing and WCP homeowners. The proposed solution appears to shift the majority of the cost onto other parties, notably future buyers of West Campus units, North Campus homeowners, and future buyers of university housing yet to be developed. It also creates substantial risk to the campus' core budget because the proposed loan appears to be an unsecured loan that may be difficult to recoup through higher resale prices, especially if the repairs turn out to be less durable than the proposal assumes.

A primary purpose of university-developed for-sale housing is to provide ***affordable*** homes to faculty, to help the campus recruit and retain outstanding faculty. This purpose is severely undermined when university housing officials and current homeowner agree to “fix” problems by increasing the resale price of existing units or to impose burdens on future housing developments. As we understand the operating rules for both WCP and North Campus, affordability is meant to be ensured by limiting resale price increases to an inflation/salary index plus the value of bona-fide home improvements. Administrative procedures or agreements that result in resale prices above the indexed level are in conflict with the principle of affordability and should be subject to Campus consultation.

Finally, the Academic Senate wishes to emphasize that, while we cannot not endorse the proposal as presented, we have tremendous sympathy for the WCP homeowners – our colleagues! We regret that the leak problems have not been addressed in a timely manner. However, the proposed options are either financially not viable (options 1-3) or shift cost onto other housing developments (option 4), which is flatly unacceptable. While we understand that WCP homeowners are eager to proceed with reconstruction, we encourage all parties to consider a wider range of alternatives.

Thank you for the opportunity to comment.