

CONDITIONS OF APPROVAL – March 17, 2015

300 Marchmont Drive

Conditional Use Permit U-12-002

Environmental Impact Report EIR-13-001

Requesting approval to modify a Conditional Use Permit to increase school enrollment and modify operations of an existing private school (Hillbrook School) on property zoned HR-1. It has been determined that this matter may have a significant impact on the environment and an Environmental Impact Report (EIR) has been prepared as required by the California Environmental Quality Act (CEQA). APNs 532-10-001 and 532-11-011.

PROPERTY OWNER/APPLICANT: Hillbrook School/Mark Silver

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below.
2. **EXPIRATION:** The Master Plan approved May 7, 2001 (Resolution 2011-048) is vested. The Conditional Use Permit modification will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested. Pursuant to Town Code Section 29.20.335 an approval is vested when the activity approved is commenced in a substantial, as distinguished from tentative or token, manner. For this Conditional Use Permit, substantial shall mean any increase in student enrollment above 315.
3. **USE:** The approved use is a junior kindergarten (JK) through eighth (8th) grade educational institution/private school, with ancillary after school activities, after school care, and after school sports.
 - a. **HOURS: STUDENTS** and their families may be on campus Monday through Friday, 7:30 a.m. to 6:00 p.m., during the academic calendar year (mid-August through mid-June).
 - b. **EXTENDED HOURS:** Up to 10 times per year, hours may be extended past 6:00 p.m. up to 9:30 p.m. The school's management and maintenance staff do not count towards the 10 times per year for extended hours.
4. **AFTER SCHOOL ACTIVITIES:** Enrichment programs including but not limited to arts, mechanics, engineering, and language for the school's students are permitted, up to 6:00 p.m., Monday through Friday, mid-August through mid-June.
5. **AFTER SCHOOL SPORTS AND COMPETITIONS:** Any sports, competitive or not, and other competitions with at least one participating team from this approved school are permitted up to 6:00 p.m., Monday through Friday, mid-August through mid-June. These competitions are permitted to occur a maximum 3 days per week, up to 2 days per week outdoors.
6. **AFTER SCHOOL CARE:** Childcare for the school's students is permitted up to 6:00 p.m., Monday through Friday, mid-August through mid-June.
7. **VOLLEYBALL AND BASKETBALL TOURNAMENTS:** A tournament is a series of contests/matches/games between two or more schools/teams one of which must be the approved school. Tournament hours are 7:30 a.m. to 3:30 p.m. Monday through Friday,

and Saturday. Vehicles must be off campus by 4:00 p.m. on Saturdays. These tournaments may occur up to 2 Saturdays, mid-August through mid-June.

8. **EVENING/NIGHTTIME AND WEEKEND EVENTS:** Evening/nighttime events are events that occur between 6:00 p.m. and 9:00 p.m. Evening/nighttime and weekend events are permitted up to 10 times per academic year, mid-August through mid-June. These events must be listed by August 1st on a publicly accessible online School Calendar.
9. **OPEN HOUSE:** One weekend Open House per calendar year is permitted 7:30 a.m. to 3:30 p.m. (vehicles off campus by 4:00 p.m.), Saturday only (not Sunday), mid-August through mid-June. This event does not count as one of the 10 exception days from the maximum number of daily vehicle trips.
10. **DELIVERY HOURS:** Deliveries shall only occur between 7:00 a.m. and 7:00 p.m., Monday through Friday.
11. **SUMMER SESSION:** A summer program is permitted between mid-June and mid-August for six contiguous weeks. Summer hours are limited to 8:30 a.m. to 1:00 p.m., Monday through Friday.
12. **PROFESSIONAL DEVELOPMENT/CONFERENCES:** Training for the parents of enrolled students and/or the school's faculty only is permitted from 7:30 a.m. to 6:00 p.m., unless designated as a nighttime exception, Monday through Friday, mid-August through mid-June. No other conferences are permitted.
13. **THIRD PARTY USE/RENTAL/LEASE:** Third party use is allowed. A third party use is defined as a school program run by an entity that is under a contractual partnership agreement with the school, payments for participation in the activity are paid directly to the school, and the school has control of the operations of the activity. Any such third party use will be subject to all of the conditions contained in this Conditional Use Permit.
14. **ADDITIONAL ACTIVITIES:** Any activity that is not expressly identified in this Permit is prohibited.
15. **NUMBER OF STUDENTS:** The maximum number of students shall be limited to 414 students over the life of the Conditional Use Permit with an increase over 315 students of up to 33 in year 2016-2017, up to an additional 33 in year 2017-2018, and up to an additional 33 in year 2018-2019. The right to add any additional students is contingent on the school's compliance with the traffic count requirements. The maximum number of students during the summer session is 150.
16. **INITIAL REVIEW:** Six months after the date of this approval, the Town Council shall review the school's compliance with the maximum number of daily vehicle trips. At a publicly noticed hearing, Town Council will consider whether there is merit to increase the number of students from 315 based on compliance with the maximum number of daily vehicle trips. This review shall be completed at the school's expense.
17. **MAXIMUM NUMBER OF DAILY VEHICLE TRIPS:** The maximum number of daily vehicle trips shall not exceed 880 pursuant to the following:
 - a. The school may designate 10 days per year that can be removed from the maximum calculation, which shall be referred to as "exception days."
 - b. Exception days shall not exceed 960 maximum daily vehicle trips.
 - c. Exception days must be identified on a publicly accessible online School Calendar by August 1st.
 - d. The maximum number of daily vehicle trips shall not exceed 300 during the summer session as defined in condition 11.

18. **MANDATORY TRAFFIC DEMAND MANAGEMENT PLAN:** The school shall implement, at its expense, a Mandatory Traffic Demand Management Plan consisting of any of the following means to limit daily vehicle trips: carpools, busing, shuttle buses, traditional school buses, bicycling, walking management plans, or other methods submitted by the school. The school must inform persons and entities, covered by the plan, that pickup and drop-offs are prohibited on public streets in the immediate vicinity of the school. The school is solely responsible for enforcement of and compliance with a Mandatory Traffic Demand Management Plan.
19. **TRAFFIC COUNT MONITORING:** The school shall monitor its compliance using the existing embedded counter and by installing tube counters as a backup. The data from the counters will be used to determine whether the school has complied with the traffic requirements contained in condition 17. The Town shall conduct ongoing traffic data validation by contracting for a random manual traffic count for three days, each semester. The data shall be compared with Sensys data (i.e, the embedded counter data) and results provided to the Town Traffic Engineer. If the Town Traffic Engineer finds the school out of compliance, the Town shall contract for additional data collection, with a one week mechanical (hose) traffic count to verify the counts. The school shall be considered out of compliance if any mechanical readings exceed the Sensys counts by more than five percent and where the readings are above the maximum number of daily vehicle trips. If the Sensys data continues to demonstrate ongoing non-compliance, the discrepancy shall trigger the compliance proceedings portion of the CUP. The school is required to reimburse the Town for all staff and contract services associated with this condition.
20. **BUS STOPS:** The school may continue to use bus stop locations negotiated with private businesses. Any existing or new bus stop must be approved by the Los Gatos Parks and Public Works Department as a suitable and safe place for a bus stop.
21. **PARKING:** All parking shall be accommodated onsite.
22. **PICK-UP AND DROP-OFF AREA:** A pick-up and drop-off area shall be maintained on school grounds.
23. **EMERGENCY ACCESS ROAD:** The emergency access road to Ann Arbor Drive shall not be opened up at any time to public or school use. The road may be opened for construction access only if it is part of an approved construction plan for an Architecture and Site application.
24. **CURFEW AND NOISE:** The school shall comply with the Town Code governing curfew and noise levels with the exception of one amplified DJ event, mid-August through mid-June (not summer).
25. **ONGOING COMPLIANCE REVIEW:** Upon completion of the six-month initial review set forth in condition 16, the Planning Commission shall conduct an annual review to determine if the school is in compliance with this Conditional Use Permit. If, at any reviews, the Planning Commission finds that the school is in violation of this Conditional Use Permit or that new or more effective data collection methods are available to compute traffic counts, then the Conditional Use Permit may be modified and/or revoked as allowed under the Town Code. Compliance review shall be completed at the school's expense.
26. **PENALTIES FOR EXCEEDANCES OF THE MAXIMUM DAILY TRIP CAP:**
 - a. If the Town's Traffic Consultant's review of the trip cap monthly monitoring reports reveals that the number of trips exceeds the maximum daily trip cap, the applicant shall pay a penalty of \$1,000 per day and \$100 per excess trip.

- b. If the Town's Traffic Consultant's review of the trip cap monthly monitoring reports reveals that the number of trips exceeds the maximum daily trip cap for a second consecutive monitoring period, the applicant shall pay a penalty of \$2,500 per day and \$250 per excess trip.
 - c. If the Town's Traffic Consultant's review of the trip cap monthly monitoring reports reveals that the number of trips exceeds the maximum daily trip cap for a third consecutive monitoring period, the applicant shall pay a penalty of \$5,000 per day and \$500 per excess trip.
 - d. Penalty money shall be paid to the Town and used towards neighborhood traffic/pedestrian improvements as approved by the Town's Parks and Public Works Director.
 - e. The school is not subject to fines in the first six months after the date of this approval.
27. **NEIGHBORHOOD COORDINATION:** The school shall post a schedule of events on a website accessible to the public at the beginning of every academic calendar year.
28. **GYMNASIUM DOORS AND WINDOWS:** The loading doors on the Ann Arbor side shall be closed at all times whenever activities are being held inside the gymnasium. The other doors and windows in the gymnasium shall be allowed to remain open during activities.
29. **SQUARE FOOTAGE:** The maximum structural square footage is 55,715 square feet as approved by the Master Plan on May 7, 2001 (Resolution 2011-048). The existing campus is currently 52,683 square feet and an additional 3,032 square feet is permitted in the library and cafeteria/art classrooms with an approved Architecture and Site application.
30. **BUILDING FOOTPRINTS:** The footprints of the future buildings may be required to be modified during the Architecture and Site approval process to reduce tree impacts.
31. **TOWN INDEMNITY:** Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval, and may be secured to the satisfaction of the Town Attorney.