



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/13/2023

ITEM NO: 6

DATE: December 8, 2023

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Annual Review of an Approved Conditional Use Permit for an Existing Private School (Hillbrook School) on Property Zoned HR-1. **Located at 300 Marchmont Drive.** APNs 532-10-01 and 532-11-011. Conditional Use Permit Application U-12-002. Applicant/Property Owner: Mark Silver/Hillbrook School. Project Planner: Jocelyn Shoopman.

RECOMMENDATION:

Accept this report for the annual review of the Conditional Use Permit (CUP) for an existing Private School (Hillbrook School) on property zoned HR-1, located at 300 Marchmont Drive.

PROJECT DATA:

General Plan Designation: Hillside Residential and Low Density Residential

Zoning Designation: HR-1, Hillside Residential

Applicable Plans & Standards: General Plan

Parcel Size: 14 acres

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:8, R-1:10, and R-1:20
South	Residential	Low Density Residential & Agriculture	R-1:10, R-1:12, and RC
East	Residential	Hillside Residential & Open Space	R-1:10, R-1:12, and RC
West	Residential	Low Density Residential	R-1:8 and R-1:10

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

Reviewed by: Planning Manager, Community Development Director, and Town Attorney

CEQA:

An Environmental Impact Report (EIR) was certified by the Planning Commission on October 6, 2014, and no further environmental review is required.

FINDINGS:

- An EIR was prepared for the CUP and was certified by the Planning Commission on October 6, 2014, and no further environmental review is required; and
- Compliance with CUP U-12-002.

ACTION:

Accept this report for the annual review of the CUP as required by Condition 25 (Exhibit 3).

BACKGROUND:

On October 6, 2014, the Planning Commission certified the EIR and approved a request to modify a CUP to increase school enrollment and modify the operations of Hillbrook School.

On October 8, 2014, the Town received an appeal of the decision of the Planning Commission from the applicant, Mark Silver. On October 17, 2014, the Town also received an appeal of the decision of the Planning Commission from Elliot et al. The appeal was considered by the Town Council on January 13, 2015, February 17, 2015, and March 17, 2015.

On March 17, 2015, the Town Council adopted Resolution 2015-018 approving the request to modify the CUP to incrementally increase school enrollment and modify the operations of Hillbrook School subject to modified Conditions of Approval (Exhibit 3).

On November 3, 2015, the Town Council held a public hearing for the initial six-month review of the CUP to determine whether there was merit to increase the number of students based on Hillbrook School's compliance with the maximum number of daily trips. The Town Council approved the initial review and request to increase the school enrollment by 33 students for a maximum of 348 students for the 2016-2017 school year. On August 31, 2016, Hillbrook School vested their CUP by increasing the number of students by an additional 23 students for the 2016-2017 school year as allowed by Condition 2 (Exhibit 3).

On October 17, 2016, the Planning Commission held a public hearing for the annual review of the CUP as required by Condition 25 (Exhibit 3) to determine whether there was merit to increase the number of students based on Hillbrook School's compliance with the maximum number of daily trips. The Planning Commission approved the annual review and request to

BACKGROUND (continued):

increase the school enrollment by an additional 33 students for a maximum of 381 students for the 2017-2018 school year.

On September 27, 2017, the Planning Commission held a public hearing for the annual review of the CUP as required by Condition 25 (Exhibit 3) to determine whether there was merit to increase the number of students based on Hillbrook School's compliance with the maximum number of daily trips. The Planning Commission approved the annual review and final request to increase the school enrollment by an additional 33 students for a maximum of 414 students for the 2018-2019 school year. Additionally, the Planning Commission provided the following recommendations for inclusion in future annual reviews:

1. Urge Hillbrook School to be diligent about ascertaining the operation of the monitoring systems and to that end to incorporate suggestions made by W Trans for calibration;
2. Urge Hillbrook School to follow the updated Data Collection Workflow from W Trans; and
3. Select three sporadic, non-consecutive days, including at least one sports event day, and conduct future counts in a 24-hour day period.

On October 24, 2018, and November 13, 2019, the Planning Commission held public hearings for the annual reviews of the CUP as required by Condition 25 (Exhibit 3). The Planning Commission found Hillbrook School to be in compliance with the CUP and approved the annual review in both cases.

On March 16, 2020, Hillbrook School closed for in-person learning due to the Santa Clara County Public Health Office order and began distance learning. Hillbrook School resumed in-person learning on September 23, 2020, until the end of the school year on May 28, 2021. Due to the Santa Clara County Public Health Office order, an annual review of the CUP by the Planning Commission did not take place in the fall of 2020.

On November 10, 2021, and November 9, 2022, the Planning Commission held public hearings for the annual reviews of the CUP as required by Condition 25 (Exhibit 3). The Planning Commission found Hillbrook School to be in compliance with the CUP and approved the annual review in both cases.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The project is located at 300 Marchmont Drive (Exhibit 1), at the east end of Marchmont Drive, south of Shannon Road and east of Los Gatos Boulevard.

PROJECT DESCRIPTION (continued):

B. Zoning Compliance

The zoning designation, Hillside Residential (HR), allows a school pursuant to the approved CUP.

DISCUSSION:

A. Conditional Use Permit Annual Review

The applicant, Hillbrook School, has provided a letter of justification (Exhibit 7) describing the actions taken to comply with the CUP (Exhibit 3) as outlined below:

- Posted a list of the School's exception days and evening events on their publicly accessible website as required by Condition 27; and
- No athletic competitions were held on campus as discussed in Condition 5 (Exhibit 3);
- Maintained a mandatory Traffic Demand Management Plan (TDM) as required by Condition 18;
- Installed and monitored the traffic count monitoring system as required by Condition 19;
- Worked with the Parks and Public Works Department to ensure approval of existing and proposed bus stops (Exhibit 6) as required by Condition 20;
- Enrolled no more than the maximum of 414 students for the 2020-2021 school year as required by Condition 15 (as of December 5, 2023, 353 students were enrolled); and
- Reduced the School's summer programs as required by Condition 11.

B. Traffic – Fall 2022 Semester

On November 16, 2023, the Town's traffic consultant, W Trans, submitted the Traffic Monitoring Report for the fall 2022 semester (Exhibit 4). The consultant completed a video review of the traffic count for December 6, December 8, and December 14, 2022, as required by Condition 19. On December 14, 2022, Hillbrook School held their "Winter Concert" during the evening, an exception day as noted by Hillbrook School's calendar. December 6, 2022, and December 8, 2022, were both typical school days. As detailed in the report, on December 6 and December 8, 2022, the vehicle trips (828 and 704, respectively) did not exceed the maximum of 880 daily vehicle trips as allowed by Condition 17, and on December 14, 2022, the vehicle trips (862) did not exceed the maximum of 960 daily vehicle trips for an exception day as allowed by Condition 17. The average difference between the video count and Sensys data for the three-day period was 3.49 percent.

DISCUSSION (continued):

Pursuant to Condition 26 (Exhibit 3), the Town's traffic consultant, W Trans', review of the monthly monitoring report identified that on October 26, 2022, 900 daily vehicle trips were recorded by the Sensys magnetometers, an existing embedded counter that is located within the roadway of Marchmont Drive, outside of the gates of Hillbrook School. October 26, 2022, was not recorded as an exception day as noted by Hillbrook School's calendar, and therefore exceeded the maximum of 880 daily vehicle trips as allowed by Condition 17. Pursuant to Condition 17, data from the pneumatic tube counters, located in the entrance and exit lanes just outside of the gates of Hillbrook School was requested by W Trans. The pneumatic tube counter data showed that there were 895 trips that were made on October 26, 2023. The pneumatic tube counters are considered more accurate than Sensys counts and were therefore used for determination on the number of vehicle trips over the 880-trip threshold (Exhibit 4). Pursuant to Condition 26, the applicant shall pay a penalty of \$1,000 dollars per day and \$100 dollars per excess trip. As a result, Hillbrook School would owe \$2,500 dollars in penalties.

C. Traffic – Spring 2023 Semester

On November 16, 2023, the Town's traffic consultant, W Trans, submitted the Traffic Monitoring Report for the spring 2023 semester (Exhibit 5). The consultant completed a video review of the traffic count for March 28, March 30, and April 5, 2023, as required by Condition 19. On March 30, 2023, Hillbrook School held their "Middle School SIL Impact Summit" event, an exception day as noted by Hillbrook School's calendar. March 28, 2023, and April 5, 2023, were both typical school days. As detailed in the report, on April 5, 2023, the vehicle trips (645 respectively) did not exceed the maximum of 880 daily vehicle trips as allowed by Condition 17 and on March 30, 2023, the vehicle trips (765) did not exceed the maximum of 960 daily vehicle trips for an exception day as allowed by Condition 17. However, on March 28, 2022, 930 daily vehicle trips were recorded. March 28, 2023, was not recorded as an exception day as noted by Hillbrook School's calendar, and therefore exceeded the maximum of 880 daily vehicle trips as allowed by Condition 17. Pursuant to Condition 17, data from the pneumatic tube counters, embedded within the roadway of Marchmont Drive, adjacent to the gates of Hillbrook School was requested by the W Trans. The pneumatic tube counter data showed that there were 901 trips that were made on March 28, 2023 (Exhibit 5). The average difference between the video count and Sensys data for the three-day period was 3.72 percent.

Pursuant to Condition 26, the Town's traffic consultant, W Trans', review of the monthly monitoring reports identified two additional days that Hillbrook School exceeded the maximum number of daily trips (Exhibit 5). On March 21, 2023, 934 daily vehicle trips were recorded and on April 18, 2023, 884 daily vehicle trips were recorded by the Sensys magnetometers. March 21 and April 18, 2023, were not recorded as exception days as

DISCUSSION (continued):

noted by Hillbrook School's calendar, and therefore exceeded the maximum of 880 daily vehicle trips as allowed by Condition 17. Pursuant to Condition 17, data from the pneumatic tube counters, located in the entrance and exit lanes just outside of the gates of Hillbrook School was requested by W Trans. The pneumatic tube counter data showed that there were 882 trips that were made on March 21, 2023, and 881 trips that were made on April 18, 2023. The pneumatic tube counters are considered more accurate than Sensys counts and were therefore used for determination on the number of vehicle trips over the 880-trip threshold (Exhibit 5). Pursuant to Condition 26, the applicant shall pay a penalty of \$1,000 dollars per day and \$100 dollars per excess trip. As a result, Hillbrook School would owe \$5,400 dollars in penalties.

The Town's traffic consultant, W Trans is recommending that a representative from Sensys visit the school to audit the sensors, as well determine why there is a discrepancy with the embedded sensors counting of vehicles entering and exiting the campus. W Trans will be available at the meeting to answer any questions from the Planning Commission.

Pursuant to Condition 25, if the Planning Commission finds that the school is in violation of the CUP or that new or more effective data collection methods are available to compute traffic counts, then the CUP may be modified and/or revoked as allowed under the Town Code. The Town's Traffic Engineer, and the Town's traffic consultant, W Trans, have confirmed that there is not new or more effective data collection methods available to compute the traffic counts, than the existing Sensys magnetometers and pneumatic tube counters.

D. Hillbrook School Response to Traffic Monitoring Reports

In response to the Traffic Monitoring Reports for the fall 2022 and spring 2023 semesters, Hillbrook School provided a letter describing the background of the CUP, how it has been managed, and traffic challenges during the 2022-2023 school year that may have contributed to exceeding the maximum of 880 daily vehicle trips. As described in Hillbrook School's letter, this is the first time since 2015 that the maximum number of daily vehicle trips have been exceeded. Hillbrook School has stated that the period of inclement weather during the months of March and April 2023 may have contributed to the increased number of vehicle trips in comparison to previous years, and as a result the school is proactively looking at ways to better prepare for such instances, including the creation of a new position at the school to manage activities on campus each day (Exhibit 7).

The letter provided by Hillbrook School also discussed a potential reason for the discrepancy between the Sensys magnetometers and the pneumatic tube counter vehicle trip readings, based on their location and proximity to other vehicles not associated with

DISCUSSION (continued):

the school, such as construction vehicles that are associated with nearby single-family homes. Additionally, Hillbrook School provided background in response to a modification that was made to the posting of the school's events for the academic year pursuant to Condition 27 (Exhibit 7). As result, Hillbrook School is requesting that the Planning Commission modify Condition 27 to allow for more flexibility in managing the 10 exceptions days, as allowed by Condition 17.

Condition 27 as described in the CUP is provided below, with potential modifications included in underlined text:

27. NEIGHBORHOOD COORDINATION: The school shall post a schedule of events on a website accessible to the public at the beginning of each semester of the ~~every~~ academic calendar year.

E. CEQA Determination

An EIR was previously certified by the Planning Commission on October 6, 2014, and no further environmental review is required.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 500 feet of the property.

CONCLUSION:

A. Conclusion

Based on the information in this report, staff has determined that Hillbrook School is in compliance with their CUP with the exception of the maximum number of vehicle trips, which will be addressed through payment of required penalties.

B. Recommendation

Based on the analysis above, staff recommends accepting this report for the annual review of the CUP as required by Condition 25, the required penalties as outlined in Condition 26, and providing recommendations, if applicable, to the applicant, Hillbrook School, for the next annual review, in addition to a modification of Condition 27. If the Planning Commission finds merit with the request, it should:

1. Find that no further environmental analysis is required (Exhibit 2);

CONCLUSION (continued):

2. Find that Hillbrook School is in compliance with their CUP with the exception of the maximum number of vehicle trips (Exhibit 2);
3. Find that payment of penalties is required per Condition 26 (Exhibit 3); and
4. Approve recommended modification to Condition of Approval 27.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Location Map
2. Required Findings
3. Conditional Use Permit U-12-002
4. Fall 2022 Traffic Monitoring Report
5. Spring 2023 Traffic Monitoring Report
6. Hillbrook School Bus Stops for 2023-2024 School Year
7. Hillbrook School Letter of Justification