



**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

File No. and Project Name/Description:

PDC10-017. Harker School Master Plan. Planned Development Zoning for a private school master plan to demolish approximately 85,000 square feet of existing buildings and construct approximately 316,440 gross square feet of new construction and a new turf field on a 15.9 gross acre site, with no proposed increase in student population, located at/on the northeast corner of Highway 280 and Saratoga Avenue (500 Saratoga Avenue). The project is located in Council District: 1.

California State Law requires the City of San José to conduct environmental review for all pending projects. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. Based on an initial study, the Director of Planning, Building & Code Enforcement has concluded that the project described above will not have a significant effect on the environment. The project location **does not** contain a listed toxic site. Pursuant to the conclusions of the Initial Study, the Director of Planning, Building & Code Enforcement has prepared a draft Mitigated Negative Declaration for this project.

The purpose of this notice is inform the public of the opportunity for public review and comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **August 24, 2011**, and ends on **September 13, 2011**. A public hearing to adopt the Mitigated Negative Declaration has not been scheduled as of the date of this notice. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance.

The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>

For additional information, please contact Jodie Clark at (408) 535-7818, or by e-mail at jodie.clark@sanjoseca.gov.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: 8/24/2011

John Danison
Deputy

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Harker School Master Plan

PROJECT FILE NUMBER: PDC10-017

PROJECT DESCRIPTION: The project consists of a master Planned Development Rezoning and subsequent Planned Development Permits and/or Planned Development Permit Amendments to implement a multi-year master plan for the Harker Senior High School Facility. The size of the site is 15.7 gross acres. The master plan calls for the removal of existing classroom, administrative and office buildings (62,300 square feet), a dance studio (3,200 square feet), locker rooms (4,900 square feet), a gymnasium (10,400 square feet), and library (4,200 square feet). The master plan also allows the construction of up to 316,440 square feet of new buildings (classrooms, gymnasium, student union building, performing arts center) and a new turf soccer field. The amount of existing building square footage to be demolished is approximately 85,000 square feet, so the total net new building square footage is 231,440. The master plan also includes the construction of a new entry plaza, an underground parking garage for up to 175 spaces, and new surface parking lots for 160 spaces. The maximum amount of parking provided by the proposed new facilities is 335 spaces. The plan includes 65 existing parking spaces to remain, for an overall total of 400 spaces.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Northeast corner of Saratoga Avenue and I-280; APN 303-25-055, 001

COUNCIL DISTRICT: 1

APPLICANT CONTACT INFORMATION: Mike Campbell, AICP, HMH Engineers, (408) 487-2200.

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release

of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

I. AESTHETICS – The project will not have a significant impact on this resource, therefore no mitigation is required.

II. AGRICULTURAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

III. AIR QUALITY –

Construction. Temporary Air Quality impacts may result from demolition of the existing structure(s), excavation of soil, and other construction activities on the subject site. Implementation of the mitigation measures listed below will reduce the temporary construction impacts to a less than significant level.

MITIGATION MEASURES: The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site.

- Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality; and
- Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);
- Enclose, cover, water at least twice daily, or apply not-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site;
- Limit traffic speed on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and
- Replant vegetation in disturbed areas as quickly as possible.
- Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site;
- Install wind breaks, or plant trees/ vegetative wind breaks at windward side(s) of construction areas.

- Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph; and
- Limit the area subject to excavation grading, and other construction activity at any one time.

IV. **BIOLOGICAL RESOURCES –**

Raptors. The project site may provide habitat for wildlife species associated with urban areas. Trees in urban areas provide food and cover for wildlife adapted to this environment, including birds such as house finch, mourning dove, house sparrow, and Brewer’s blackbird. In addition, mature trees on the project site may provide nesting habitat for raptors (birds of prey). Raptors and their nests are protected under the Migratory Bird Treaty Act of 1918 and California Department of Fish and Game (CDFG) Code Sections 3503 and 3503.5. Although no raptors or nests were observed on the site, mature trees suitable for raptor nesting occur on the site. Despite the disturbed nature of the site, there remains the potential for raptors to nest in these trees. No other rare, threatened, or endangered animal species were observed on the project site, nor are any expected to occur since the area is generally developed. Implementation of the mitigation measures listed below will reduce the disturbance to raptors to a less than significant level.

MITIGATION MEASURE: If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City’s Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

Trees. Construction of the project would result in the removal of approximately 96 trees from the site, including 30 ordinance sized trees. Removal of these trees would be considered a significant impact. Implementation of the mitigation measures listed below will reduce the impact to a less than significant level.

MITIGATION MEASURES: All trees that are to be removed shall be replaced at the following ratios:

Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12 - 18 inches	3:1	2:1	none	24-inch box
less than 12 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio

Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

The species and exact number of trees to be planted on the site will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.
- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement. Contact Jaime Ruiz, PRNS Landscape Maintenance Manager, at 535-3586 or Jaime.Ruiz@sanjoseca.gov for specific park locations in need of trees.
- A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. Contact Rhonda Berry, Our City Forest, at (408) 998-7337 x106 to make a donation. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.

Oak Trees: At the PD permit stage, the arborist report shall include a section that discusses transplanting any oak tree slated for removal and shall discuss the measures needed to ensure their long term survival.

The following tree protection measures will also be included in the project in order to protect trees to be retained during construction:

- Pre-construction treatments
 1. The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.
 2. Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent

as approved by consulting arborist. Fences are to remain until all grading and construction is completed.

3. Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

- During construction

1. No grading, construction, demolition or other work shall occur within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the consulting arborist.

2. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.

3. Supplemental irrigation shall be applied as determined by the consulting arborist.

4. If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.

5. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE.

6. Any additional tree pruning needed for clearance during construction must be performed or supervised by an Arborist and not by construction personnel.

7. As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement.

V. CULTURAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

VI. GEOLOGY AND SOILS – The project will not have a significant impact on this resource, therefore no mitigation is required.

VII. HAZARDS AND HAZARDOUS MATERIALS – The project will not have a significant impact on this resource, therefore no mitigation is required.

VIII. HYDROLOGY AND WATER QUALITY – The project will not have a significant impact on this resource, therefore no mitigation is required.

IX. LAND USE AND PLANNING – The project will not have a significant impact on this resource, therefore no mitigation is required.

X. MINERAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XI. NOISE –

Interior Noise. Interior noise levels in the proposed performing arts building are predicted to exceed American National Standards Institute (ANSI) standards due to the building's location in relation to the I-280 freeway and lack of shielding by other buildings.

MITIGATION MEASURES: Potential impacts will be reduced to less than significant levels through the implementation of the following mitigation measures:

- Maintain closed all windows and doors on the south, west and east sides of the performing arts building during classes and performances. In addition, mechanical ventilation of the performing arts building must be provided to allow windows to remain closed so that they will attenuate exterior noise levels;
- Install windows rated minimum Sound Transmission Class (STC) 32 at first floor elevations. Install windows rated minimum STC 42 at upper floor elevations;
- Design the theater building shell so there are no windows higher than 12 feet above ground;
- Maintain closed all windows and doors at the first floor elevations of the theater during classes and performances;
- At first (ground) floor elevations, install windows rated minimum STC 44 at the south, west and east elevations. At the north elevation, install windows rated minimum STC 36.

Construction Noise. Short-term construction noise impacts could be generated during the construction phases of the project. Although, no pile driving would be required for construction of the proposed project, residences near the east or north property lines could potentially be exposed to excessive noise levels generated by heavy equipment such as bulldozers, backhoes, scrapers and cement and diesel trucks.

MITIGATION MEASURES: Implementation of the following mitigation measures will reduce potential impacts to less than significant levels:

- Short-term construction noise impacts could be generated during the construction phases of the project. Although, no pile driving would be required for construction of the proposed project, residences near the east or north property lines could potentially be exposed to excessive noise levels generated by heavy equipment such as bulldozers, backhoes, scrapers and cement and diesel trucks. Demolition of buildings should occur in phases with the walls of the building closest to existing residences being removed last, as the walls can act as noise barriers.
- Scheduling noisy operations for the daytime hours of 7:00 a.m. to 5:00 p.m. Monday through Friday;
- All diesel powered equipment should be located more than 200 feet from any residence if the equipment is to operate for more than several hours per day;
- Dirt berming and stockpiling of materials whenever possible can also help reduce noise to sensitive receptor locations.

Operational Noise From the Project. Noise exposures at the property line and at the setback of the adjacent apartments (north of the site) for activities in the gymnasium were estimated using a potential worst-case scenario (intense event such as a basketball game, dance, or other activity involving live music with windows left open). The resulting noise levels at the property line exceeded the San Jose Zoning Ordinance and General Plan Noise Element standards.

Short-term maximum noise levels caused by whistles and shouts at the proposed new soccer field could exceed the 55dBA standard of the San Jose Zoning Code at the property lines of adjacent apartment buildings.

Roof-mounted or ground-mounted equipment that is near the residential areas to the east and north and not properly screened may produce excessive noise at the residences.

MITIGATION MEASURES: Implementation of the following mitigation measures will reduce potential impacts to less than significant levels:

- Maintain closed all windows and doors on the north, west and east sides of the gymnasium during noise-generating activity periods inside the gymnasium. Noise-generating activities include, but are not limited to, athletic games and practice, social events with music and P.E. events. Mechanical ventilation shall be provided to allow windows to remain closed so that they will attenuate exterior noise levels;
- Install windows rated minimum STC 32. The window assemblies shall contain at least one pane of 3/16" glass.
- Perform a detailed analysis of the practice fields activities to ensure compliance with the City standards under cumulative (traffic + afterschool activities + mechanical equipment, etc.) conditions.
- Perform a detailed analysis of the school mechanical equipment systems to ensure compliance with the City standards under cumulative (traffic + afterschool activities + mechanical equipment, etc.) conditions. The analysis shall be performed by a qualified acoustician prior to issuance of a PD permit.

XII. POPULATION AND HOUSING – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIII. PUBLIC SERVICES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIV. RECREATION – The project will not have a significant impact on this resource, therefore no mitigation is required.

XV. TRANSPORTATION / TRAFFIC – The project will not have a significant impact on this resource, therefore no mitigation is required.

XVI. UTILITIES AND SERVICE SYSTEMS – The project will not have a significant impact on this resource, therefore no mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **September 12, 2011**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;
or

2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

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Deputy