

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

File No. and Project Name/Description:

File No. PDC11-023 and PD11-022. Challenger School Berryessa Campus Expansion **Planned Development (PD) Rezoning to A (PD) or CIC (PD) Zoning District, PD Permit, and subsequent development and use permit** applications to allow a private school to increase the enrollment by 160 students from 775 to 935 students and add 8 portable classrooms and associated administrative and training space to an existing private elementary school facility on approximately 7.23 gross and net acres on the northwest side of East Gish Road, approximately 500 feet southwest of Oakland Road (711 E. Gish Road). (Council District 3)

The City has performed environmental review on the project. Environmental review examines the nature and extent of any adverse effects on the environment that could occur if a project is approved and implemented. Based on the review, the City has prepared a draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment if protective measures (mitigation measures) are included in the project.

The public is welcome to review and comment on the draft Mitigated Negative Declaration.

The public comment period for this draft Mitigated Negative Declaration begins on **March 21, 2012**, and ends on **April 10, 2012**.

The hearing dates for this project are Wednesday, April 11, 2012, at 6:30 p.m. with the Planning Commission and **Tuesday, April 17, 2012 at 7:00 p.m. (note revised date)** with the City Council.

The draft Mitigated Negative Declaration, initial study, and reference documents are available online at: <http://www.sanjoseca.gov/planning/eir/MND.asp> .

The documents are also available for review 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, located at City Hall, 200 East Santa Clara Street; and at the Dr. Martin Luther King, Jr. Main Library, located at 150 E. San Fernando Street.

For additional information, please contact Jenny Nusbaum at (408) 535-7872, or by e-mail at jenny.nusbaum@sanjoseca.gov .

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: 3/21/2012

John Danks
Deputy

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: Challenger School Berryessa Campus Expansion

PROJECT FILE NUMBER: PDC11-023 and PD11-022.

PROJECT DESCRIPTION: **Planned Development (PD) Rezoning to A (PD) or CIC (PD) Zoning District, PD Permit, and subsequent development and use permit** applications to allow a private school to increase the enrollment by 160 students from 775 to 935 students and add 8 portable classrooms and associated administrative and training space to an existing private elementary school facility on approximately 7.23 gross and net acres.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The northwest side of East Gish Road, approximately 500 feet southwest of Oakland Road (711 E. Gish Road). APN 237-04-010

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION:

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 aesthetics or visual resources, therefore no mitigation is required.
- II. **AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.

III. **AIR QUALITY.** For most types of development projects, motor vehicles traveling to and from a project represent the primary source of air pollutant emissions associated with the project. The BAAQMD has established thresholds of significance for these indirect impacts from projects on local and regional air quality. If project vehicle emissions of carbon monoxide (CO) exceed 9 ppm (8-hour average) or 20 ppm (1-hour average); and if a project generates over 54 lbs/day of reactive organic gases (ROG), nitrogen oxides (NO_x) or suspended particulate matter (PM_{2.5} from exhaust) or over 82 lbs/day (PM₁₀ from exhaust), it would have a significant air quality impact. For construction-related PM₁₀ and PM_{2.5} fugitive dust, the threshold of significance is a requirement that the facility employ Best Management Practices (BMPs) to minimize dust.

Sensitive Receptors: The closest sensitive receptors (the mobile homes located east of the project site across Oakland Road) could be subjected to fugitive dust as a result of construction, as discussed below.

Temporary Construction Dust The project would produce short-term fugitive dust generated as a result of site preparation and construction. The effects of construction activities would be increased dustfall and locally elevated levels of PM₁₀ and PM_{2.5} downwind of construction activity. Construction dust has the potential for creating a nuisance at nearby properties. This is considered a potentially significant impact. The BAAQMD threshold of significance for construction dust impacts is whether Best Management Practices (BMPs) are to be utilized. Mitigation measures include all basic BMPs identified by the BAAQMD; according to the District threshold of significance for construction impacts, implementation of the measures would reduce construction dust impacts of the project to a less-than-significant level.

MITIGATION MEASURES:

Temporary Construction Dust

- The following Best Management Practices shall be required of construction contracts and specifications for all construction to prevent visible dust emissions from leaving the site:
 - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand or other loose material off-site shall be covered.
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - All roadways, driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by CCR Title 13). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly-visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints shall be posted. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

IV. BIOLOGICAL RESOURCES. The project will not have a significant impact on biological resources, therefore no mitigation is required.

V. CULTURAL RESOURCES. The project will not have a significant impact on cultural resources, therefore no mitigation is required.

VI. GEOLOGY AND SOILS. The project will not have a significant impact due to geology and soils, therefore no mitigation is required.

VII. GREENHOUSE GAS EMISSIONS. The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.

VIII. HAZARDS AND HAZARDOUS MATERIALS.

Offsite Sources: The school is currently surrounded by industrial uses on the north, south and west. Many of these industrial uses currently use, store or generate hazardous materials and hazardous waste, and hazardous materials are routinely transported through surrounding streets. Quantities of such materials are generally expected to be low to moderate. Most chemical handling and storage at these facilities appear to take place within buildings and not outdoors, where an accidental release would be more likely to affect the project site.

Although these uses and quantities may increase at some point in the future, the potential for accidental release of hazardous materials generally decreases over time due to improved process safety systems and advancements in chemical handling and disposal procedures. Compliance with San Jose Fire Department and Santa Clara County Department of Environmental Health regulations would further lessen the likelihood of an accidental release from these facilities. However, since the site is located in proximity to industrial uses, accidental spills and leaks can occur that might cause an impact to sensitive receptors at the project site.

Emergency Response Procedures: Challenger School has Emergency Response Procedures, a copy of which is included in the Technical Appendix to the Initial Study. These procedures include provisions to respond to airborne chemical release incidents, where the buildings will be used as shelter in place protection from the atmosphere. The procedures also include

provisions for evacuation of the site, if that is determined by the Fire Department to be a more appropriate response to a nearby release or other emergency.

Other provisions of the plan include:

- Coordination of emergency notification procedures with the San Jose Fire Department, San Jose Police Department, and Santa Clara County Environmental Health Department.
- Building surveys to determine practical protective actions for specific buildings.
- Procedures for implementing emergency and protective action plans.
- Designation and training of protective action coordinators.
- Procedures for shutting down ventilation equipment, if necessary.
- Areas within the buildings appropriate for emergency assembly.
- Training workers at the school on the steps to be taken during an emergency or implementation of protective actions.
- Procedures for communicating emergency instructions to everyone at the school.
- Procedures for notifying parents in the event of an emergency.
- Emergency supplies stored onsite (medical kits, flashlights, water).

MITIGATION MEASURES: The school's Emergency Response Procedures that include measures such as shelter in place, shall be implemented in the event of an accidental release of hazardous materials in the area.

IX. HYDROLOGY AND WATER QUALITY. The project will not have a significant hydrology and water quality impact, therefore no mitigation is required.

X. LAND USE AND PLANNING.

General Plan: The site has a land use designation of Combined Industrial/Commercial with a Density/FAR up to 12.0 (1 to 24 stories) in the *Envision San Jose 2040 General Plan Land Use/Transportation Diagram*. As stated in the General Plan text, this category allows a significant amount of flexibility for the development of a varied mixture of compatible commercial and industrial uses, including hospitals and private community gathering facilities. Properties with this designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. This designation occurs in areas where the existing development pattern exhibits a mix of commercial and industrial land uses or in areas on the boundary between commercial and industrial uses.

Development intensity can vary significantly in this land use designation based on the nature of specific uses likely to occur in a particular area. In order to maintain an industrial character, small suburban strip centers are discouraged in this designation, although larger big-box type developments may be allowed because they mix elements of retail commercial and warehouse forms and uses.

While this designation potentially accommodates a wide variety of uses and building forms, more specific guidance should be provided through the application of the Zoning Ordinance in order to establish use and form standards that will promote the development of a cohesive employment area across multiple adjoining properties that share this designation.

The project will conform to the Combined Industrial/Commercial Land Use/Transportation

Diagram designation with the inclusion of mitigation measures identified in this Initial Study. The project consists of a privately-operated elementary school that is a commercial enterprise.

Although private elementary schools are not allowed in the Combined Industrial/Commercial Zoning District until the amendment to the Zoning Ordinance approved on March 13, 2012 becomes effective on April 14, 2012, which would allow a private elementary school through approval of a Conditional Use Permit, they are allowed in the subject Planned Development Zoning District with the inclusion of environmental mitigation measures stated in the Planned Development Zoning District's General Development Standards. With the inclusion of these measures, the proposed expansion of the private elementary school use will be compatible with the surrounding industrial uses.

US 101/Oakland/Mabury Road Corridor: The project site is located within the US 101/Oakland/Mabury Road corridor Transportation Development Policy Area. As stated in the *Envision San Jose 2040 General Plan*, the US 101/Oakland/Mabury Road Transportation Development Policy was adopted on December 18, 2007 to support planned transit-oriented development in the US 101/Oakland/Mabury Road corridor. This Transportation Development Policy identifies freeway interchange improvements needed to accommodate future development and does not have specific area boundaries. The intent of this policy is to identify the appropriate interchange improvements, to allow development to proceed ahead of those improvements, and to require payment of a traffic impact fee by new development based upon traffic analysis. Level of Service of a few intersections within the corridor will experience interim congestion below Level D before the completion of the freeway interchange improvements.

Existing and Surrounding Uses: The project site has been developed as an elementary school since about 1928. Previous uses of the site include: agriculture. Land uses surrounding (within 500 feet of) the project site include: industrial to the north; public storage to the east; and industrial to the south and west.

Projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The proposed project will not physically divide an established community.

Compatibility: The project would not change the land use on the site, which is a private school. Although uses adjacent to the site are generally industrial in nature, impacts associated with these uses are not expected to be significant. As described in the preceding Hazards and Hazardous Materials section, the school has an emergency plan for potential accidents in the area. This use would have a minor change in the view of the site, and would generate increases in traffic, noise and air pollution in the area that would not be significant.

MITIGATION MEASURES:

Emergency Response Procedures

- The school's Emergency Response Procedures that include measures such as shelter in place, shall be implemented in the event of an accidental release of hazardous materials in

the area.

Sound Attenuation

- The portable classrooms shall be designed with sound attenuation walls, windows and doors, and proper ventilation to reduce interior levels to 45 dB DNL or lower.
- Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units to ensure that interior noise levels will be attenuated to 45 dB DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.

Traffic Impact Fee

- The Traffic Impact Fee established by the US 101/Oakland/Mabury Transportation Development Policy (TDP) shall be paid to fund and construct the planned interchange improvements at the US 101/Oakland Road interchange.

XI. MINERAL RESOURCES. The project will not have a significant impact on mineral resources, therefore no mitigation is required.

XII. NOISE.

Existing Noise Sources: Noise intrusion over the site originates primarily from vehicular traffic sources along Interstate 880 (I-880), U.S. 101, and Oakland Road. The City of San Jose General Plan establishes a policy of requiring noise mitigation from transportation noise for residential land use where the exterior level exceeds 60 dB DNL and/or the interior level exceeds 45 dB DNL. The project site is located in the 65 to 70 dB DNL traffic noise level area on the *Envision San Jose 2040 Environmental Noise Assessment 2008 and 2035 Maps*.

Standards: Noise criteria that apply to the project are included in the City of San Jose General Plan, which establishes a policy of requiring noise mitigation from transportation noise for public/quasi-public (school) land use where the exterior level exceeds 60 dB DNL and/or the interior level exceeds 45 dB DNL. It is recognized, however, that attainment of the exterior noise quality levels in the vicinity of San Jose International Airport, the Downtown Core Area and along major roadways may not be achieved within the time frame of the General Plan. In these areas, an exterior noise goal of 65 dB DNL is acceptable where it is not feasible to reduce the exterior noise level to 60 dB DNL.

Exterior and Interior Noise Exposures: The project site is located in the 65 to 70 dB DNL traffic noise level area on the *Envision San Jose 2040 Environmental Noise Assessment 2008 and 2035 Maps*. These maps do not take into account shielding from intervening barriers or structures; therefore, actual levels on the site are expected to be lower. The project does not add any new outdoor activity areas. Exterior noise exposures up to 65 dB DNL are acceptable according to the General Plan, since the noise exceedance is generated from a major roadway. The proposed portable classrooms will be designed and constructed to attenuate exterior noise to acceptable interior levels.

MITIGATION MEASURES

Sound Attenuation

- The portable classrooms shall be designed with sound attenuation walls, windows and doors, and proper ventilation to reduce interior levels to 45 dB DNL or lower.
- Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units to ensure that interior noise levels will be attenuated to 45 dB DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.

XIII. POPULATION AND HOUSING. The project will not have a significant population and housing impact, therefore no mitigation is required.

XIV. PUBLIC SERVICES. The project will not have a significant impact on public services, therefore no mitigation is required.

XV. RECREATION. The project will not have a significant impact on recreation, therefore no mitigation is required.

XVI. TRANSPORTATION / TRAFFIC. Hexagon Transportation Consultants, Inc. conducted a transportation impact analysis dated February 14, 2012 that is included in the Initial Study's Technical Appendix.

Street System

Regional access to the site is provided by US 101 and Interstate 880 (I-880). Local access to the site is provided via Gish Road, Oakland Road, Old Bayshore Highway, N. 10th Street, and Berger Drive. Gish Road is an east-west two-lane road that extends from Oakland Road in the east to the I-880 northbound ramps; Gish Road provides direct access to the existing Challenger School via one inbound driveway, one outbound driveway, and one full access driveway.

City Intersections

Under the existing plus approved condition, four City intersections operate at an acceptable level of service "D" or better during both the a.m. and p.m. peak hours. One City intersection currently operates at an unacceptable Level F during the a.m. peak hour: Oakland Road and Commercial Street

CMP Intersections

Under the existing plus approved condition, the following two CMP intersections operate at unacceptable levels of service (Level F) during the a.m. and/or p.m. peak hours:

- Oakland Road and US 101 North Ramps (a.m.)
- Oakland Road and US 101 South Ramps (p.m.)

Freeway Segment Analysis

Six freeway segments in both directions (northbound and southbound) in the vicinity of the project site were evaluated. The level of service for a given freeway segment is estimated based on vehicle density, as described in the report in the Technical Appendix. All twelve of

the directional freeway segments analyzed currently operate at an unacceptable level of service (Level F) during at least one of the peak hours.

Trip Generation

The project traffic generation is estimated in the following table.

Land Use	Size (No. of Students)	A.M. Peak Hour Trips			P.M. Peak Hour Trips		
		In	Out	Total	In	Out	Total
Challenger School	160	98	89	187	35	45	80

Significant Impacts at CMP Intersections

A project in San Jose is said to create a significant adverse impact on traffic conditions at a signalized CMP intersection if:

1. The level of service at the intersection degrades from an acceptable LOS E or better under background conditions to an unacceptable LOS F under project conditions; or
2. The level of service at the intersection is an unacceptable LOS F under background conditions and the addition of project trips causes both the critical movement delay at the intersection to increase by four (4) or more seconds **and** the volume-to-capacity (V/C) ratio to increase by 0.01 or more.

Project Impacts

The major intersections were analyzed for changes in average delay and level of service with the addition of project traffic.

The existing plus approved level of service at the intersection of Oakland Road and US 101 South Ramps would remain unchanged with the addition of project traffic; and the project would not add four seconds or more to the critical delay and 0.010 or more to the critical V/C ratio at the intersection that is projected to operate at F. However, the intersection level of service during the a.m. peak hour at Oakland Road and US 101 North Ramps is projected to remain at Level F with the addition of project traffic, but is projected to increase the critical delay by 4.5 seconds and is projected to increase the critical V/C ratio by 0.010. Therefore, the project's traffic impacts would be significant at this intersection and mitigation measures are required.

US 101/Oakland/Mabury Transportation Development Policy (TDP)

The City of San Jose has identified operational problems along the Oakland Road corridor at the US 101 interchange, which are due primarily to the capacity constraints of the interchange. As a result, the City has identified two key capital improvement projects: 1) modification of the US 101/Oakland Road interchange, including improvements to the Oakland Road and Commercial Street intersection; and 2) construction of a new US 101/Mabury Road interchange. Both interchange improvements will create additional capacity for accessing and crossing US 101, which will be crucial to accommodate future growth in the vicinity. To fund these necessary interchange improvements, the City has developed the US 101/Oakland/Mabury Transportation Development Policy (TDP).

Since the proposed Challenger School expansion project would send some p.m. peak hour vehicle trips through the US 101/Oakland Road interchange, the project would be required to pay a fair share contribution toward the planned interchange improvements. Payment of the TDP traffic impact fee also would serve as mitigation for the project, since the project would result in significant impacts at the Oakland Road and US 101 North Ramps intersection. Based on the TDP formula, the project would be required to pay a traffic impact fee of \$619,307 prior to Public Works clearance. Note that while the significant project impact would occur during the a.m. peak hour, the TDP traffic impact fee is based on p.m. peak hour project-generated trips; the planned interchange improvements would also address issues that occur during the a.m. peak hour of traffic.

MITIGATION MEASURES:

Oakland Road and US 101 North Ramps

- The Traffic Impact Fee established by the US 101/Oakland/Mabury Transportation Development Policy (TDP) shall be paid to fund and construct the planned interchange improvements at the US 101/Oakland Road interchange.

XVII. UTILITIES AND SERVICE SYSTEMS. The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE. As discussed in previous sections, the proposed project would have environmental effects that could cause substantial adverse effects on human beings, either directly or indirectly, with respect to air quality, hazards and hazardous materials, hydrology and water quality, and noise. With the implementation of the previously listed Standard Project Conditions and Mitigation Measures, these impacts would be reduced to less-than-significant impacts with mitigation.

Cumulative impacts from the 7 trips through the Oakland Road and Commercial Street intersection through the US 101/Oakland/Mabury Road corridor would not be cumulatively considerable.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **April 10, 2012**, 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

Circulation period from March 21, 2012 to April 10, 2012.



Deputy

Revised 5-6-11 jam