

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 6/15/05 Item 4.a.

File Number
CP 05-005

Application Type
Conditional Use Permit

Council District 2

Planning Area Edenvale

Assessor's Parcel Number(s) 687-35-003

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Sanhita Mallick

Location: Southwest corner of Shawnee Lane and Mescalero Drive (500 Shawnee Lane)

Gross Acreage: 11 acres Net Acreage: 11 acres Net Density: n/a

Existing Zoning: R-1-8 Single-Family Residence Existing Use: Vacant Public School, Church

Proposed Zoning: No Change Proposed Use: Private School, Church

GENERAL PLAN

Completed by: SM

Land Use/Transportation Diagram Designation
Public/Quasi-Public

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: SM

North: Single-Family Detached Residential R-1-8 Single-Family Residence

East: Single-Family Detached Residential R-1-8 Single-Family Residence

South: Single-Family Detached Residential R-1-8 Single-Family Residence

West: Comanche Park R-1-8 Single-Family Residence

ENVIRONMENTAL STATUS

Completed by: SM

Environmental Impact Report found complete
 Negative Declaration circulated on
 Negative Declaration adopted on

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: SM

Annexation Title: Alamitos No. 8

Date: February 19, 2005

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: _____

Approved by: _____
 Action
 Recommendation

PROPERTY OWNER/APPLICANT/CONTACT PERSON

Oak Grove School District
Attn: Hardy Childers
6578 Santa Teresa Boulevard
San José, CA 95119

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Sanhita Mallick

Department of Public Works

See attached memorandum

Other Departments and Agencies

See attached memorandum from the Fire Department, memorandum from the Police Department

GENERAL CORRESPONDENCE

See attached letter from Oak Gove School District and Challenger School.

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The property owner, Oak Grove School District, is requesting a Conditional Use Permit to allow a private school (Challenger School) on a former public school site. Private schools require a Conditional Use Permit in all residential Zoning Districts. Private schools have the potential to impact a neighborhood as a result of a greater percentage of students arriving by car, compared with a neighborhood school which serves students within a closer proximity. This Conditional Use Permit also functions as a Site Development Permit for minor building and site improvements.

The school district operated a public school (Maude Dickinson School) on the subject site until 1984, when the public school was closed due to budget constraints. For the last several years, the site was partially occupied by St. Stephen's Episcopal School, which was a private school. St. Stephen's School was relocated to another location in 2003. Challenger School is a private pre-school and elementary school that is opening a new branch at this location.

Surrounding land uses include detached single-family residential uses to the north across Shawnee Lane and to the east across Mescalero Drive, detached residential uses adjacent to the site to the south and Comanche Park and Herman Middle School to the west.

The southwest corner of the subject site has been leased by the South Valley Christian Church for the past nineteen years. The church use was allowed on this site through a Conditional Use Permit approved in 1990 (File No. CP90-062), and construction of one multi-purpose building was permitted through a Conditional Use Permit in 1992 (File No. CP92-056) and subsequent amendments to the permit. The multipurpose building is approximately 20,000 square feet in area which houses one 807-seat sanctuary, gymnasium, administrative offices, classrooms and community meeting rooms. Parking for the church is both on-site, and off-site at the adjacent Herman School site. Apart from regular weekly services, the Church offers a variety of community service programs.

Challenger School is operated by a for-profit organization that originated at San Jose in 1963 and is currently based in Utah. Currently the organization manages 20 schools in the states of California, Utah and Nevada, thirteen of which are in the San Jose-San Francisco Bay area. All expenses of the school are covered by the tuition fee collected from the students. A fee schedule and admission policy packet for the 2005-2006 academic year is attached with the staff report.

Project Description

Challenger School is proposing to utilize all of the existing buildings and associated facilities at the subject site. The facility has the capacity to enroll approximately 700 students.

Challenger School will offer pre-school through eighth grade education at this campus. The maximum number of students is set at 700. Of these, the pre-school will have a capacity of 120 students and each grade from kindergarten to 8th grade will have approximately 65 students. The regular school year will be in session from August/ September through mid-June of each year. The regular school day will be from 8:30 am to 3:30 pm, with extended care being offered before and after school from 7:00 am to 6:00 pm. There are no regularly-scheduled activities during the evenings or the weekends. Similarly to public elementary schools, approximately eight times a year, parents are invited to the school campus for typical events such as orientation nights and open houses, workshops and cultural performances, which will not extend beyond 9.00 PM at night. In addition, Challenger School will offer a 6-8 week summer school between June and August at this campus. Typical student enrollment in these programs are between 33 % to 50 % of the regular enrollment.

Minor exterior improvements proposed as part of the project include new street trees and on-site landscaping, parking lot re-striping and installation of new fencing and gates. Other improvements associated with converting this facility from a public to private school consist of painting, installing flooring and other small repairs.

ENVIRONMENTAL REVIEW

The Environmental Quality Act, Section 15301 Existing Facilities - Class 1, specifies that projects may be found *exempt* which consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Staff has concluded that the project involves the use and minor alteration of an existing facility involving negligible or no expansion of use beyond that for which the facility was constructed. Based on this analysis, the Director of Planning has determined that this project is exempt from environmental review under the provisions of the California Environmental Quality Act.

GENERAL PLAN CONFORMANCE

The proposed private school use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public. This designation allows public land uses such as schools.

PUBLIC OUTREACH

A community meeting was arranged by Challenger School at the project site on April 20, 2005. Three members of the public, along with the District 2 Councilmember attended the meeting. Issues discussed at the community meeting were hours of operation, the relationship of the school

operation with the existing church and church school, routing of vehicles and the traffic operation situation in view of the neighboring Herman School

A notice of the Planning Commission public hearing was mailed to all owners and tenants of property within a 500-foot radius of the project site. No comments have been submitted by the neighborhood. Staff has been available to discuss the project with members of the public.

ANALYSIS

The key issues analyzed for the proposed project are traffic congestion and operational safety, land use compatibility, parking, and security.

Traffic Congestion and Safety

Students of Challenger School are typically driven to school in private vehicles. The trip generation rate calculated at another Challenger School site is 1.1 per student, as opposed to the usual standard of 0.4 per student for public schools and 0.9 per student for private school as mentioned in the guidelines of the Institute of Transportation Engineers. Additionally, the project area is already impacted by traffic generated from the Herman Intermediate School operated by the applicant (Oak Grove School District). Herman school is situated to the west of the project site, at the intersection of Shawnee Lane and Blossom Hill Road. The school has an enrollment of approximately 800 students. The school hours are 8:05 - 2:30 on Monday, Tuesday, Wednesday, and Friday and from 9:20 - 2:30 on Thursday.

A Traffic Impact Analysis prepared by the applicant's consultant has been reviewed by the Department of Public Works. Under the City of San Jose and Santa Clara County Congestion Management Program (CMP) traffic impact analysis guidelines, the proposed project would not result in any significant transportation impact at the intersections surrounding the project site.

Challenger School has also submitted a draft "*Comprehensive Traffic Management Plan*" to the Director of Planning. According to the Plan, as part of standard operating procedure, the school will implement certain rules to manage the traffic generated by the school. Parents are instructed in these traffic management rules and policies, and the school oversees the implementation. Traffic management measures include: deploying school employees to help in traffic management, suggesting traffic routes for parents to follow, and providing on-site stacking and staggered starting/closing hours for different classes. Staff is continuing to work with the school on finalizing the traffic management plan. Staff has conditioned the permit so that the operation of the school will adhere to the revised traffic management plan.

On-site stacking of cars: As parents wait in their cars to drop off or pick up children, vehicles may stack up and clog the public right-of way. In order to minimize this, the school proposes to provide on-site stacking space for the vehicles. There are four existing driveway cuts on Shawnee Lane for two separate segments of the parking lot in front of the school. Challenger School is proposing to use these two parking lot segments for a drop-off/pick-up area for the pre-school and elementary school, as described hereafter. The proposed site plan shows that fifty-six (56) vehicles for elementary school use will be stacked in the westerly parking lot area, that will enter the site from the driveway closest to the west property line, and will exit through another driveway near the front of the school building.

The school is proposing to provide stacking space for 19 vehicles for the preschool that will enter and exit through the two driveways on the eastern property line of the site. The site plan attached shows the stacking of cars on site.

The school requires that parents remain in their vehicles while in the stacking-loading area. On arrival at the school, children will be escorted from the cars by designated employees to their respective classrooms, and will be dropped off at the vehicle door when being picked-up to leave by a designated employee. The proposed amount of on-site stacking in combination with the Traffic Management Plan will reduce minimize the potential for cars to stack on the public street.

Start and departure times: In order to further address concerns regarding traffic from child drop-off and pick-up from school, Challenger School has proposed to stagger start and departure times of different grades of the school. Drop-off times would be spread throughout the morning from approximately 7:00 am until 8:30 am, and the afterschool program would allow for pick-up from 3:30 p.m. to 6:00 p.m. The detailed chart that shows the exact drop-off/pick up time is included in the attachment. Staff has proposed conditions in the permit so that the schools drop off and pick up times are spread out as mentioned above.

Parents are assigned a specific 10-15 minute interval within their child's designated start or departure time to drop off of pick up their children. This schedule is also adjusted to minimize the conflict with the arrival and departure times of the students of Herman Intermediate school schedules whose arrival time is 7:50 AM to 8:05 AM and departure time is 2:30 PM to 2:45 PM.

Staff has concluded that staggering start times will spread the volume of traffic over a several-hour period each day, minimizing the potential for an excessive volume of traffic and overflowing of on-site stacking onto the public street.

For all of these reasons, together with the conditions in the draft permit, staff has concluded that the proposed project will result in an orderly traffic flow and a safe drop-off operation.

Land Use Compatibility

The proposed occupancy of the currently vacant school site by the private school will intensify the use of the property. The church use was allowed on the site when the public school was already closed. Therefore, in the past, there was either the church or the school on the subject site. The site is surrounded by single-family homes on the north, east and south side of the property. Among those, the homes on the east and the north are separated by existing public streets. The main impact of the project on these homes will be due to the traffic generated by the operation of the school. The traffic impact of the school has already been discussed in the preceding "traffic congestion and safety" section.

The residences on the south side of the property have their rear yards abutting the school property. The school play yard and a parking lot occupy this side of the property, providing a buffer between the school site and the existing residential neighborhood. The proposed project will intensify the use of the playyard to some extent, but only during the school hours. A six-foot solid wooden fence separates the school and the residences.

The school site and associated grounds will continue to be open to the public, with controlled access during hours that the private school is open. Challenger School is only proposing to utilize the existing buildings and is not proposing to construct any new buildings on the site.

From the above analysis, staff has concluded that the proposed private school operations and activities as described, would be very similar to those of a public school and would not result in new land use compatibility concerns.

Parking

There is sufficient parking to serve the proposed use. The parking space requirement for day care centers according to the Zoning Code is one parking space per six children, up to 5 spaces, and thereafter one space per 10 children, and for elementary schools (K-8) a minimum of one space per teacher plus one space per employee. Challenger School has indicated that they will have 28 employees at the new site, including 23 teachers. With the maximum enrollment of 120 students at pre-school, a total of 49 parking spaces are required to satisfy the parking requirements of the Zoning Ordinance. A total of 292 on-site parking spaces exist on the site. This would leave a surplus of 249 on-site parking spaces. Some of these parking spaces can be used by parents and visitors during office hours on weekdays.

The existing South Valley Christian Church located on the same site offers a variety of community programs, in addition to their regular services. Most of these programs/services take place during weekends or in the evenings, when the school will not be in session. However, the church offers a Women's Bible Study program on Wednesday between 9.00 A.M and noon, which is attended by approximately 110 attendees. There are 292 parking spaces on the site. Even when the school is in session, there will be 249 additional parking spaces for the church use. Therefore, no conflict in the usage of parking spaces is likely to occur.

From the above analysis, Planning staff has concluded that, as proposed, the project conforms to the parking requirements of the Zoning Code.

Security

The security issues faced by school today are more challenging than those in the past, when the existing school facility was originally designed and built. The Police Department raised several concerns regarding the existing condition of the site (see attached memo). In response to the comments from the Police Department requesting better access control, the school has added new gates, fencing and signage to restrict access and direct visitors to the right entry point on the school site. They have also indicated that they will implement other security measures, such as close-circuit TV security cameras, as budget constraints allow.

From the above analysis, Planning staff has concluded that, as proposed and conditioned, the project will provide an appropriate design for the security of the students.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The project site is located on the southwest corner of Shawnee Lane and Mescalero Drive (500 Shawnee Lane). This Permit would allow a private pre-school and elementary school for up to 700 students in a former public school facility.
2. The site has a designation of Public /Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
3. The project site is located in the R-1-8 Single-Family Residence Zoning District.
4. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
5. Surrounding land uses include detached single family residential uses to the north across Shawnee Lane, single family detached residential uses to the east across Mescalero Drive, detached residential uses adjacent to the site to the south and by Comanche Park and Herman Middle School to the west
6. The Zoning Ordinance requires a Conditional Use Permit for a private school in the R-1-8 Single-Family Residence Zoning District.
7. The project proposes to allow a private school with a maximum enrollment of 700 students.
8. A total of 292 parking spaces exist on the site.
9. The proposed project includes two on-site child drop-off areas. The project developer has proposed that start and departure times for the students at the new private school will be staggered to minimize potential traffic issues and stacking from overflowing onto the public street.
10. Minor modifications to the exterior of the buildings (including doors and windows) and the site (including new fencing, gates, and street trees) will occur as part of this project.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the

Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth are hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit and Development Exception shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Revised Traffic Management Plan.** Within 30 days of the issuance of the permit, the applicant shall submit a revised Traffic Management Plan, including the staggered departure and arrival schedule of the school, to the satisfaction of the Director of Planning.
2. **Payment of Recording Fees.** Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara should be submitted to the Director of Planning within 30 days of approval of this permit, but must be submitted prior to issuance of a Building Permit. Submittal of the recording fee less than one week prior to issuance of a Building Permit will delay the Building Permit issuance for up to one week to allow for recordation of the permit with the County Recorder. This Permit shall be effective at such time when recordation with the County of Santa Clara occurs.

3. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approve Site Development plans entitled, "Dickinson School 500 Shawnee Lane" dated, January 19, 2005, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
2. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
3. **Traffic Management/Operation Plan.** The facility shall be operated in conformance with the traffic management/operations plan on file with the Department of Planning.
4. **Number of Students/Operation of Facility.** This facility shall be limited to a maximum of 700 students.
5. **Arrival Times.** The arrival times of students shall be in conformance with the following schedule on file with the Department of Planning:
 - a. 7:00 AM to 7:45 AM for 70 students who arrive early
 - b. 8:10 AM to 8:30 AM for 414 elementary and middle school students
 - c. 8:45 AM to 9:00 AM for 216 students (108 preschool students and 108 kindergarten students)
6. **Signage.** One freestanding sign with a maximum sign area of 32 square feet is allowed for the site. The sign shall conform to the applicable sections of Sign Ordinance of the City of San Jose.
7. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
8. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
9. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
10. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an

orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted. Trash areas shall be maintained in a manner to discourage illegal dumping.

11. **Landscaping.** Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
12. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
13. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
14. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
15. **Fire Flow.** Required fire flow for the site is as approved in writing by the Fire Chief.
16. **Visible Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by use of reflective materials.
17. **Lock Box.** The project developer shall install a lock box on all gates, to the satisfaction of the City of San José, Building Official and Fire Chief.
18. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
19. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Interior work that does not result in any audible noise from outside the structure is permitted on Saturday between the hours of 8:00 a.m. and 7:00 p.m.
20. **Outside Storage.** No outside sales or storage is permitted.

21. **Noise.** The sound level generated on this site shall not exceed 55 dba DNL at any property line adjacent to a property used for residential purposes.
22. **Public Works Clearance for Building Permit(s):** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-16746) to the satisfaction of the Director of Public Works:
 - a. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - b. **Street Improvements:**
 - 1) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - 2) Close unused driveway cut(s).
 - 3) Proposed driveway width to be 26'.
 - 4) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
 - c. **Electrical:**
 - 1) Installation, relocation, and relamping of electrolier(s) may be required along project frontage.
 - 2) Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10' from high voltage lines; 3' from secondary voltage lines; and 1' from communication lines.
 - 3) Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.
 - d. **Landscape:**
 - 1) Install street trees within the public right-of-way along the entire street frontage per City standards.
 - 2) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - 3) Contact the City Arborist at (408) 277-2756 for the designated street tree.
23. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 05-005, shall be printed on all construction plans submitted to the Building Division.
 - b. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by

the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

- c. *American With Disabilities Act.* The applicant shall provide appropriate access as required by the American With Disabilities Act (ADA).
 - d. *Mechanical Equipment.* No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise level from such equipment will not exceed 55 DBA at the residential property line.
 - e. *Inlet Filters.* The project developer shall install inlet filters in all new on-site storm drainage inlets. These filters shall be installed, maintained and replaced by a qualified consultant hired by the property owner. Copies of all inspection and maintenance records shall be provided to the City upon request. The project developer shall implement a maintenance program for these inlet filters that includes but is not limited to the following measures:
 - 1) Installation. The inlet filters shall be installed by a qualified individual in conformance with the manufacturer's specifications. Installation records shall be maintained by the project developer and subsequent property owner.
 - 2) Maintenance Record. The property owner must keep a record available for inspection on the project site of all inspections and maintenance of the inlet filters.
 - 3) Regular Sweeping. Paved surfaces subject to runoff shall be swept regularly during dry periods to remove dirt, silt and other loose debris.
 - 4) Regular Inspections. The inlet filters shall be inspected monthly between September and April, and the absorbent material shall be replaced by a qualified individual as necessary to ensure the filters are functioning properly.
 - 5) Replacement of Absorbent Material. The absorbent material shall be replaced by a qualified individual in conformance with the manufacturer's specifications. Care should be taken to avoid spilling the contaminated material into the drainage system.
 - 6) Disposal of Used Absorbent Material. Used absorbent material shall be disposed of in conformance with all applicable local, state and federal regulations.
 - 7) Replenishment of Absorbent Materials Supply. The property owner shall keep a sufficient amount of absorbent material on hand to replace the amount of installed absorbent material plus a reserve to handle emergencies.
24. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

Attachment:

Planset

Location Map

Traffic Management Plan

Brochure and Fee Schedule for Challenger School

Letters and emails from Oak Grove School District and Challenger School

c:

Clay Stringham, Challenger School, Director of Development