



MEETING DATE: 03/18/2013  
ITEM NO: 4

## COUNCIL AGENDA REPORT

DATE: MARCH 12, 2013

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

SUBJECT: HILLBROOK SCHOOL PUBLIC DISCUSSION  
DISCUSS NEIGHBORHOOD CONCERNS AND STAFF INTERPRETATION  
OF HILLBROOK SCHOOL'S EXISTING CONDITIONAL USE PERMIT.

### RECOMMENDATION:

Accept staff's interpretation of the existing Conditional Use Permit (CUP) and direct staff to continue working with the applicant to provide evidence that Hillbrook School programs and operations are consistent with the CUP.

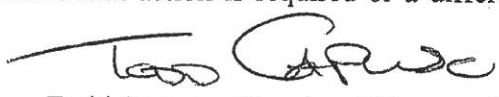
Alternatively, if Council does not concur with some or all of staff's interpretations, Council may direct staff to enforce the existing CUP in a different manner.

### BACKGROUND:

During verbal communications at the June 18, 2012, Town Council meeting, neighbors raised concerns regarding Hillbrook School, located at 300 Marchmont Drive. The neighbors requested that Council review the school's CUP modification application and alleged violations of the existing CUP (last page of Attachment 3).

The Council meeting on March 18, 2013, will serve as a public discussion of the existing CUP. The meeting is not to discuss the revocation of the CUP, nor to discuss the pending application for a CUP modification. The meeting allows the Town Council to review neighbors' concerns, discuss the status of alleged CUP violations, and Town staff's interpretation of the existing CUP conditions of approval.

After receiving input from the neighbors, Hillbrook School, and staff, the Town Council may determine that no additional action is required or a different interpretation of a condition(s) is warranted.

  
PREPARED BY: Todd Capurso, Director of Community Development

Reviewed by: PS Assistant Town Manager JP Town Attorney \_\_\_\_\_ Finance

DISCUSSION:

This report discusses a chronological record of recent responses to neighbors; current complaint issues; staff determinations regarding the current complaint issues; what Hillbrook has completed; and the status of the existing CUP modification application.

A. Chronological Record

Subsequent to a neighborhood meeting Hillbrook School staff held in June of 2011 to discuss future plans to amend their CUP, the Town began receiving neighborhood concerns about the proposed amendment and complaints about their existing CUP. The first complaint was received on June 30, 2011, which dealt with traffic concerns and CUP violations in regards to traffic counts and leasing to third parties. A chronological record of staff responses to these complaints for 2011 is included as Attachment 1. Since 2011, staff has met individually with Hillbrook School staff and several Marchmont-area neighbors on numerous occasions, has met with Ann Arbor-area neighbors two times, has had numerous email and phone correspondence with Hillbrook School staff and neighbors, and facilitated one mediation session between Hillbrook School staff and Marchmont-area neighbors.

B. Complaint Issues

Staff has received multiple written communications from concerned neighbors. One of the neighbors submitted a table of alleged violations that concisely compiles and summarizes the neighbor's concerns (Attachment 2). The other written communications are available in the public record located at the Community Development Department.

C. Staff Determinations

Staff reviewed the table of alleged violations along with several other written and verbal complaints from the neighbors and their interpretation of the CUP conditions of approval. Staff reviewed Town records for past communications, Planning Commission and Town Council meeting minutes and reports, and letters of justification for previous Hillbrook School applications. These records were made available to Hillbrook School staff and neighbors. Finally, staff reviewed recent written communications from Hillbrook School that describe Hillbrook School's understanding and position on its existing CUP conditions of approval.

Staff determined that the existing CUP allowed activities for children in grades K through 8, subject to the conditions of approval, including a maximum number of students, and a maximum number of vehicle trips during specific hours. Staff also determined that activities must be managed by Hillbrook School and that Hillbrook School could contract out to provide certain activities under Hillbrook's direction and control, just as the Town and many organizations contract for specific services; these would not constitute third-party leases. Staff determinations for each of the alleged violations are below. It is important to note that neither the neighbors nor Hillbrook School agree with all of staff's interpretations.

Activity	Staff Determination for Existing CUP	Further Action
Carpooling	<u>Resolved</u> : Hillbrook has restored providing twice yearly carpooling reports.	Hillbrook shall to continue to provide carpooling reports.
Staggered Start and End times	<u>Allowed</u> within the specified peak hours.	Hillbrook to include description of school hours in CUP modification application to clarify how Hillbrook will continue to meet the requirements of the CUP.
After School Programs	<u>Allowed</u> : Programs for children in grades K through 8 are allowed, but may not exceed the maximum allowed number of students.	Hillbrook to include description of after school programs in CUP modification application to clarify how these activities will continue to meet the requirements of the CUP.
After School League Sports	<u>Allowed</u> : The existing CUP does not prevent Hillbrook students playing another team on the Hillbrook campus.	Hillbrook to include description of sports programs in CUP modification application to clarify how these activities will continue to meet the requirements of the CUP.
Weekend Use of Campus	<u>Allowed</u> : The existing CUP allows Hillbrook students to play sports against another team.	Hillbrook to include description of weekend activities in CUP modification application to clarify how these activities will continue to meet the requirements of the CUP.
Nighttime Activities	<u>Resolved</u> : Number of nighttime activities exceeded maximum number allowed (10 per year). Since corrected.	Hillbrook to include description of nighttime activities, including defining hours of nighttime and continued monitoring to ensure compliance, in CUP modification application to clarify how these activities will meet the requirements of the CUP.
California Assoc. of Independent Schools**	<u>Not allowed</u> : Adult programs for non-Hillbrook School teachers are not allowed under existing CUP.	Hillbrook to include description of adult education programs in CUP modification application to clarify how these activities could meet the requirements of the CUP modification.
Saso High School Prep**	<u>Not allowed</u> for children in grades 9 through 12 or if run by third party. Note: High School Prep programs for children in grades K through 8 are allowed if run by Hillbrook School.	None, because Hillbrook School does not offer Saso High School Prep at this time.

Activity*	Staff Determination for Existing CUP	Further Action
Center For Teaching Excellence**	<u>Allowed</u> for "Trainee" teachers: Hillbrook may hire teachers and teaching assistants.	Hillbrook to include description of program in CUP modification application to clarify how this activity will continue to meet the requirements of the CUP.
Breakthrough Silicon Valley**	<u>Allowed</u> : Programs for children in grades K through 8 are allowed and run by Hillbrook but may not exceed the maximum number of students.	Hillbrook to include description of program in CUP modification application to clarify how these activities will continue to meet the requirements of the CUP.
Steve & Kate's Camp**	<u>Not allowed</u> : Third party lease, exceeded maximum number of students, drop off and pick up hours did not meet the intent of approval regarding regulating traffic counts.	None. This program is not offered at Hillbrook School at this time.
Hillbrook Summer Camps	<u>Allowed</u> : Programs for children in grades K through 8 are allowed but may not exceed the maximum number of students.	Hillbrook to include description of summer activities in CUP modification application to clarify how this activity will continue to meet the requirements of the CUP.
Way To Go Foundation, Inc.**	<u>Allowed</u> : Programs for children in grades K through 8 and run by Hillbrook are allowed but may not exceed the maximum number of students.	Hillbrook to include description of program in CUP modification application to clarify how this activity will continue to meet the requirements of the CUP.
Playful People Productions**	<u>Allowed</u> : Programs for children in grades K through 8 and run by Hillbrook are allowed but may not exceed the maximum number of students.	Hillbrook to include description of program in CUP modification application to clarify how this activity will continue to meet the requirements of the CUP.
Santa Fe Leadership Center (SFLC) Conference**	<u>Not allowed</u> : Third party lease. Adult programs for non-Hillbrook School teachers are not allowed under existing CUP.	Hillbrook to include description of adult education programs in CUP modification application to clarify how these activities could meet the requirements of the CUP modification.
John Hunter Master Class**	<u>Not allowed</u> : Third party lease. Adult programs for non-Hillbrook School teachers are not allowed under existing CUP.	Hillbrook to include description of adult education programs in CUP modification application to clarify how these activities could meet the requirements of the CUP modification.

\*The activity title is based on the table provided by neighbors that is included as Attachment 2.

\*\*Refers to CUP condition of approval regarding leasing to third parties.

D. What Hillbrook has completed

As a result of staff's interpretations, Hillbrook School has:

- Canceled Steve and Kate's Camp from their summer activities;
- Removed Santa Fe Leadership Conference from the Hillbrook campus;
- Removed the John Hunter Master Class from the Hillbrook campus; and,
- Included a request to clarify what activities may be included in the CUP modification application, including summer activities and adult education.

In addition, Hillbrook participated in a mediation session with the neighbors. The mediation session resulted in a list of possible solutions that could address some of the neighbors' concerns. Hillbrook School prepared an analysis of those solutions for further discussion with the neighbors. Unfortunately, the Hillbrook analysis was not acceptable to the neighbors and no further mediation between Hillbrook School and the neighbors has occurred.

E. Conditional Use Permit Modification Application Status

A focused EIR is currently being prepared for the Conditional Use Permit modification application. It is anticipated that this application will be scheduled for a Planning Commission hearing no earlier than Fall 2013. Based on current interpretation issues, as part of this modification, staff's goal is to modify several existing CUP conditions to provide better clarity on the intent of the conditions.

CONCLUSION:

Pursuant to Town staff's interpretation of the existing CUP, there are no current violations for Hillbrook School. Subject to alternative direction from Council, Town staff would continue to work with Hillbrook School and the neighbor's to address potential violations. It is important to note again that neither the neighbors nor Hillbrook School agree with all of staff's interpretations.

After receiving input from the neighbors and staff, the Town Council may determine that no additional action is required or a different interpretation of a condition(s) is warranted.

Attachments:

1. Chronological History for 2011
2. Conditional Use Permit Table of Violations received April 26, 2012 (nine pages)
3. Resolution 2001-48 (Architecture and Site Conditions are excluded from the attachment) with Exhibit A (Conditional Use Permit Conditions of Approval)

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MAYOR AND TOWN COUNCIL  
SUBJECT: Hillbrook School Public Discussion  
*March 12, 2013*

Distribution:

Mark Silver, Hillbrook School, 300 Marchmont Drive, Los Gatos, CA 95032  
Patricia Elliot, 269 Marchmont Drive, Los Gatos, CA 95032  
Barbara Dodson, 239 Marchmont Drive, Los Gatos, CA 95032

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**CHRONOLOGY OF RESPONSE TO PATRICIA ELLIOT  
CONCERNS REGARDING HILLBROOK SCHOOL'S CUP**

- 6/11 Hillbrook School met with neighbors to discuss future plans to increase student enrollment.
- 6/30/11 Patricia Elliot sent letter to Town regarding traffic concerns and CUP violations of Hillbrook School (traffic counts and leasing to third parties).
- 7/19/11 Staff discussed leasing issue with Town Attorney. Planning staff contacted Elliot to discuss matter. Town sent letter to Elliot summarizing status.
- 7/22/11 Staff met with representatives of Hillbrook School to discuss the matter. Main issues discussed were the operation hours with associated traffic concerns of their summer school program and potentially leasing their school to third parties. As a result of this meeting, it was determined that traffic counts would be conducted for a two week period by the Town's Traffic Consultant during the remaining portion of their summer program and staff would research the issue of leasing to third parties.
- 7/27/11 Elliot emailed Town requesting latest status.
- 7/28/11 Town emailed Elliot that traffic counts were still being taken and the third party leasing issue was still being evaluated.
- 7/22/11 thru 7/31/11 Staff had numerous conversations with Hillbrook School regarding the leasing of their facility. Leasing programs discussed included: summer school program – Steve and Kate's Camp, Breakthrough Silicon Valley – nonprofit organization to support students who are under resourced to get into high school and college, Saso High School Test Prep – tutor program which prepares students for getting better grades on high school placement test, and a team building seminar for teachers held one time by Hillbrook School and the Santa Fe Leadership Center. Staff informed Hillbrook that the summer school program using Steve and Kate's Camp and the Leadership Seminar was interpreted by the Town as a third party lease and should not be continued. The other programs were questionable in that they provided a service to the community, involved more than Hillbrook students but could be interpreted as a standard school program. Since Hillbrook was filing an application to modify their CUP, staff felt it was appropriate to incorporate these uses as part of their modification request to allow the deciding body to determine whether or not these and similar type uses should be permitted.
- 9/1/11 Elliot emailed Town questioning Town's plans for traffic counts during the regular school year and the status of the summer traffic counts.
- 9/2/11 Staff emailed Elliot that the Town traffic engineer who handles the traffic matters was on vacation and questioned if she could wait until the engineer returned so staff could have more complete data to discuss.
- 9/6/11 Elliott and staff scheduled a meeting for September 16, 2011.

- 9/15/11 Staff contacted Hillbrook School regarding the results of the summer school traffic counts. They were informed that although the trips generated during the hours regulated did not exceed what was allowed by their CUP, it was clear that the peak hour for the summer school program was not the same as the regular school program in that the outside agency allowed drop off and pick up throughout the day. They were made aware that staff had a concern that the operation of the summer school program did not meet the intent of the conditions of approval of the CUP regarding traffic counts. Hillbrook believed they were meeting the condition regarding traffic count hours and did not agree with staff's interpretation, but understood the basis for staff's concerns and interpretation.
- 9/16/11 Staff met with neighbors of Hillbrook School. Recollection of what was discussed:
- The hours noted in the conditions of approval regarding traffic counts are what the Town can enforce. Neighbors understood staff's interpretation of the condition, but did not agree with it.
  - During the summer school period, Town staff determined that the function of the summer programs in terms of drop offs and pickups for the summer school session, did not correlate with the regular school session, which was the intent of the traffic count condition. Therefore, although Hillbrook School was complying with their conditions of approval in terms of traffic counts during required hours, meeting the intent of the condition was a concern of Town staff. Hillbrook School was made aware of these concerns and that Town staff interpreted that the summer school contract was a lease to a third party.
  - Conditions of approval would be refined during the CUP modification process to more clearly define the use and operation of the school.
- 10/3/11 In response to several emails transpiring between Elliott and Hillbrook with statements regarding the CUP, conditions of approval, violations, etc., staff sent an email to both Elliot and Hillbrook to clarify the Town's perspective on the matter. Response included the following: "In terms of the condition of approval of the CUP for the car counts, during the regular school session, the hours noted in the conditions are what the Town can enforce. However, during the summer school period, Town staff determined that the function of the summer programs in terms of drop offs and pickups for the summer school session, did not correlate with the regular school session, which was the intent of that condition. I know we don't all agree on this interpretation. Assuming Hillbrook files an application to amend their CUP, as discussed with the neighbors and Hillbrook School staff, the conditions of approval will be refined to more clearly define the use and operation of the school. I hope this provides some clarity."
- 12/16/11 Email from Elliot asking if there has been any further progress on resolving the Hillbrook violations of its CUP.
- 12/20/11 Staff met with Hillbrook School and staff was informed that Hillbrook canceled their summer school contract with the organization they used. Based on the Towns and neighbors' concerns regarding this matter, the school agreed to change their summer school program to coincide the peak hour trips with their regular school hours and will not be hiring an outside agency (unless they request and get approval to use an outside agency for this program as part of a CUP modification).
- 12/22/11 Staff emailed Elliot that Hillbrook is actively working with the Town in addressing the neighborhood issues and that the traffic study for the proposed CUP amendment



application was being finalized. Elliot was informed that staff met with Hillbrook on 12/22 and that the school mentioned that they have canceled their summer school contract with the organization they used. Staff informed Elliot that PPW has verified that Hillbrook's CUP condition regarding traffic counts for the regular school session (not the summer program, which is no longer in operation) have still been in compliance when the Town has conducted their traffic counts. Elliot was reminded that Hillbrook's CUP amendment would allow an opportunity to tighten up and add to their conditions to make the conditions more clear and better define third party use of the site.

Current status: While the CUP modification is being process, staff has requested specific and detailed information for 2012 summer school activities to ensure these activities are not in violation of Hillbrooks existing CUP.

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**Hillbrook School CUP and Town Code Violations- Partial List 2010- present (and planned)**  
(from Hillbrook's public calendar)

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
<b>SCHOOL YEAR ACTIVITIES</b>					
<b>Carpooling</b>	Hillbrook is required to have an active carpooling program and to submit carpool reports to the Town each February and September.	<b>Carpooling-Violates CUP Condition #3<sup>1</sup></b> Hillbrook failed to file twice yearly required carpooling reports since 2007.	8	2007-12	
<b>Staggered start and end times for regular school day</b>	Instead of isolating traffic to specific peak periods, Hillbrook has staggered start and end times, thus generating excessive traffic outside of identified peak periods.	<b>Violates L.G. Town Code Sec. 29.20.200 (3)</b> A critical aspect of the car cap/carpooling provisions was that the start and end times for the regular school day NOT be staggered. This is "a substantial departure from plans which were the basis of the CUP approval." <b>Violates CUP Conditions #3 and #12.<sup>2</sup></b> Hillbrook has been staggering both the start and end times for regular programs for the past several years to evade the car caps/carpooling requirements.	Daily	? - current	Ongoing
<b>Afterschool Programs</b>	Hillbrook offers 27 recreation-department-type afterschool programs. Some are for adults.	<b>Violates L.G. Town Code Sec. 29.20.200 (1), (2). Activities exceed the scope of permissible uses in CUP.</b> An "intensification of use" and "new activities" that have a "material adverse impact on the surrounding area." <b>Violates CUP Condition #4<sup>3</sup></b> Exceeds enrollment cap. Enrolled adults, in addition to 315 "students." <b>Violates CUP Condition # 3</b> Negates afternoon carpooling.	Daily  Unknown number enrolled Daily	2010-12  2010-12	Ongoing  Ongoing  Ongoing

**RECEIVED**

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TOWN OF LOS GATOS

PLANNING DIVISION  
Hillbrook School shall

<sup>1</sup> CONDITION #3. CARPOOLING. The Town accepts the voluntary of Hillbrook School to maintain and promote a carpooling program for their students. Hillbrook School shall submit to the Town, a written report summarizing the carpool participation. This report shall be submitted twice a year for the months of February and September.

<sup>2</sup> CONDITION #12. TRAFFIC COUNTS. At the applicant's expense, the Town shall conduct traffic counts at the Marchmont Drive gate of Hillbrook School twice a year, during appropriate months chosen by staff. The maximum number of vehicles leaving the school during each of the hours of 7:30 AM to 8:30 AM and 2:30 PM to 3:45 PM shall not exceed 165 vehicles.

<sup>3</sup> CONDITION #4.ENROLLMENT. The enrollment shall be limited to 315 students.

# Hillbrook School Conditional Use Permit Violations 2010-2012

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
		<b>Violates CUP Condition #6</b> <sup>4</sup> Exceeds number of permitted nighttime activities.	Unknown		Ongoing
		<b>Violates CUP Condition #12</b> Excessive traffic outside of the permitted hours 2:30-3:45.	Daily		Ongoing
<b>After School League Sports</b>	Hillbrook hosted approximately 110 sports events against other schools in each of the 2010-2011 and 2011-2012 school years.	<b>Violates L.G. Town Code Sec. 29.20.200 (1), (2), (3)</b> Excessive number of home sporting events far exceeds the scope of permissible uses in CUP. Only intramural, not league, events are permitted in the CUP.	<b>2010-2011</b>		
			27 Home Volleyball games Sept.-Nov. 2010		
		This is an "intensification of use", "new activities" that have "a material adverse impact on the surrounding area" and is "a substantial departure from plans which were the basis of the CUP approval.	10 Home Football games Sept.-Nov. 2010		
		<b>Violates CUP Condition #6</b> Nighttime activities-Sporting events frequently go past 5:00 pm.	74 Home Basketball games Nov. 2010-Feb. 2011		
		<b>Violates CUP Condition #3</b> Negates afternoon carpooling.	<b>2011-2012</b>		Ongoing
		<b>Violates CUP Condition #12</b> Excessive traffic outside of the permitted hours 2:30-3:45.	31 Home Volleyball games Sept.-Oct. 2011; April 2012		
			12 Home Football games Sept.-Nov. 2011		
			62 Home Basketball games Nov. 2011-March 2012		
			4 Home Softball games April-May 2012		
			1 Home Cross Country Meet Oct. 2011		

<sup>4</sup> **CONDITION #6. NIGHTTIME ACTIVITIES.** The maximum number of nighttime activities is limited to ten per calendar year. All activities shall conclude by 9 P.M. and all vehicles belonging to persons participating in these activities shall be off the school premises by 9:30 P.M. All activities which draw an audience to the gymnasium shall take place after school hours.

# Hillbrook School Conditional Use Permit Violations 2010-2012

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
Weekend Use of Campus	Hillbrook is closed to all weekend use except an Open House in October and "volleyball and basketball tournaments for Hillbrook School only."	<b>Violates CUP Condition #7<sup>5</sup></b> Hillbrook has used its campus for sports activities with outside schools and for other non-permitted activities. ONLY Intramural events are permitted.	Volleyball Tourn.	10/29/11	Saturday
		<b>Violates CUP Condition #7</b> 6 <sup>th</sup> -8 <sup>th</sup> Grade Boys Invitational Basketball Tournament	Vs. St. Victors; Vs. Stratford	3/3/2011	Saturday
		<b>Violates CUP Condition #7</b>	Garden Work Party	9/10/11 9am-12 pm	Saturday
		<b>Violates CUP Condition #7</b>	Family Photo Day	9/24/11 8 am-4:20pm	Saturday
		<b>Violates CUP Condition #7</b>	Family Photo Day	9/25/11 8am- 2:20pm	Sunday
		<b>Violates CUP Condition #7</b>	ISEE Testing	12/3/11	Saturday
		<b>Violates CUP Condition #7</b>	ISEE Testing	1/21/12	Saturday
		<b>Violates CUP Condition #7</b> Hillbrook Invitational Girls Basketball Tournament	assuming other schools participate	1/28/12	Saturday
		<b>Violates CUP Condition #7</b>	ISEE Testing	2/4/12	Saturday
		<b>Violates CUP Condition #7</b>	JK/K Screening for New Applicants	3/3/12	Saturday
Nighttime Activities	Hillbrook has far exceeded the ten event maximum in both 2010 and 2011.	<b>Violates CUP Condition #6<sup>6</sup></b> The maximum number of nighttime activities is limited to ten per calendar year.	14 * (4 above max.)	2010	

<sup>5</sup> CONDITION #7. WEEKEND ACTIVITIES. During the weekend the campus shall be closed to any use by outside leagues or youth groups, the gym shall be used for Hillbrook School activities and the weekend use shall be limited to an Open House event in October, and volleyball and basketball tournaments for Hillbrook School only.

<sup>6</sup> CONDITION #6. NIGHTTIME ACTIVITIES. The maximum number of nighttime activities is limited to ten per calendar year. All activities shall conclude by 9 P.M. and all vehicles belonging to persons participating in these activities shall be off the school premises by 9:30 P.M. all activities which draw an audience to the gymnasium shall take place after school hours.

# Hillbrook School Conditional Use Permit Violations 2010-2012

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
		*The number of violations listed does not include dances or other activities not listed on Hillbrook's publically available calendar. Therefore, this is only a partial count of the violations.	24 * (10 above max.)	2011	
<b>OTHER ACTIVITIES</b>					
<b>California Assoc. of Independent Schools</b>	A fee-based professional development seminar for adults, run by a third party.	<b>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3).</b> Far exceeds the scope of permissible uses under the CUP. Amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."	Unknown number enrolled	2/3/2012	Future plans unknown
		<b>Violates CUP Condition #10<sup>7</sup></b> No lease or rental of facilities to third parties.			
		<b>Violates CUP Condition #4</b> Exceeds 315 enrollment cap. Enrolling adults and not "students" is not permitted in the CUP.			
		<b>Violates CUP Condition #10</b> No lease or rental of facilities to third parties.			
<b>Saso High School Prep</b>	Saso is a third-party, LLC, that runs tutorial programs for middle and high school students. The classes are open to the public.	<b>Violates CUP Condition #4</b> Exceeds 315 enrollment cap. Enrolling non-Hillbrook "students" is not permitted in the CUP.	Unknown number enrolled	10 week class Sept.-Dec. 2012	Planned
		<b>Violates CUP Condition #12</b> Excessive traffic outside of the permitted hours 7:30 a.m. - 8:30 a.m. and 2:30-3:45.			
		Saso's fall classes are scheduled for 3:30-5:15.			
		<b>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3).</b> Amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."			

<sup>7</sup> CONDITION #10. LEASE/RENTALS. No lease or rental of the campus facilities shall be permitted to third parties.



Hillbrook School Conditional Use Permit Violations 2010-2012

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
Center For Teaching Excellence	Teacher-training program, to begin in fall 2012, will grow to 12 teacher trainees and one administrator. Will also offer education conferences and a speaker series to outside participants	Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3). Far exceeds the scope of permissible uses under the CUP. Amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."	Daily		August 2012
		Violates CUP Condition #4 Exceeds 315 enrollment cap. Enrolling adults and not "students" is not permitted in the CUP.			
SUMMER ACTIVITIES All activities exceed the scope of permissible uses in the CUP. NO SUMMER ACTIVITIES ARE PERMITTED. Summertime activities are an "intensification of use", "new activities" that have "a material adverse impact on the surrounding area" and represent "a substantial departure from plans which were the basis of the CUP approval. L.G. Town Code Sec. 29.20.200 (1), (2), (3).					
Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
Saso High School Prep	Saso is a third-party, LLC, which runs tutorial programs for middle and high school students. The classes are open to the public.	Violates CUP Condition #10 No lease or rental of facilities to third parties.	2 classes per week for 5 weeks	Summer 2011	
		Violates CUP Condition #4 Exceeds 315 enrollment cap. Enrolling non-Hillbrook "students" is not permitted in the CUP. Enrolling high school students is not permitted under the CUP.		June 18- July 25 2012	2012 (planned)
		Violates CUP Condition #12 Summer classes are scheduled for 10:30 am -12:30 pm twice a week. This generates traffic outside of the permissible traffic periods of 7:30-8:30 am and 2:30-3:45 pm.			

Hillbrook School Conditional Use Permit Violations 2010-2012

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
		<b>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3)</b> Amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."			
<b>Breakthrough Silicon Valley</b>	Hillbrook has allowed this third-party summer program on campus since 2010. It brings over 100 7th - 9th graders plus 27+ "interns" to Hillbrook for a full-time six-week program.	<b>Violates CUP Condition #4</b> Approximately 100+ non-Hillbrook students enrolled, plus 27 high school and college age "interns." Exceeds 315 enrollment cap. Enrolling non-Hillbrook students is NOT permitted in the CUP. Enrolling 9 <sup>th</sup> graders is not permitted.	Daily 6 week program	Summers 2010-2011	Planned for 2012
		<b>Violates Condition #10</b> No lease or rental of facilities to third parties.			
		<b>Violates Condition #12</b> Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m. and 2:30-3:45.			
		<b>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3)</b> Amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval." Providing an internship program for high school and college age participants is far outside the permitted CUP uses.			
<b>Steve &amp; Kate's Camp</b>	Third-party summer camp program has at least 24 other sites. It had more than 900 campers at Hillbrook during summer 2011.	<b>Violates CUP Condition #3</b> School acknowledged it had NO Carpooling program in place.	Daily	June 13- August 19, 2011	Will not return in 2012
		<b>Violates CUP Condition #4</b> 900 "Campers" enrolled. Exceeds 315 enrollment cap. Enrolling "campers" and not Hillbrook "students" is not permitted in the CUP.			
		<b>Violates CUP Condition #10</b> No lease or rental of facilities to third parties.			
		<b>Violates CUP Condition #12-</b> Allowed Anytime drop off and pick up. Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m. and 2:30-3:45.			
		<b>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3)</b> Amounts to an "intensification of use," "new activities" that have a			

Hillbrook School Conditional Use Permit Violations 2010-2012

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
		"material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."			
<b>Hillbrook Summer Camps</b>	Hillbrook has advertised nine summer camps for the summer 2012. These camps are open to the public. Hillbrook conducted a similar number of non-conforming camps in the summer of 2011.	<b>All Camps Violate CUP Condition #4</b> Exceeds 315 enrollment cap. Enrolling "campers" and not Hillbrook "students" is not permitted in the CUP. Hillbrook acknowledges it has been at the maximum enrollment of 315 Hillbrook students for the past several years. No non-Hillbrook enrolled students are permitted.	Daily	Summer 2011	
	2012 Camps were advertised to the public in Log Gatos Weekly- 4/17/12, p.21.	<b>All Camps Violate Condition #12</b> Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m.	Daily	Summer 2012	Planned
		<b>All Camps Violate Los Gatos Town Code Sec. 29.20.200 (1), (2), (3)</b> Amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."			
	Camp Acorn #1- #4 Entering grades JK-2	9 am-3 pm * July 23-27; July 30 - August 3 (Open to Hillbrook staff and families only) The only potentially permissible advertised camps.	20 Days	June 11-15; June 18-22; June 25-29; July 16-20	
	Art-Rageous, For campers entering grades 4-8	9 am- 3 pm	5 Days	July 9 - 13	
	Artist Explorers, For campers entering grades 1-3	9 am-3 pm	5 Days	July 30 - Aug. 3	
	Tinkering Camp, For campers entering grades 5-8	9 am-3 pm	5 Days	June 11-15	
	The Art of Moviemaking, Entering grades 4-8	9 am-3 pm	5 Days	June 18-22	
	Math Snacks and Games, Entering grades 2-3	9 am-3 pm	5 Days	July 16-20	

Hillbrook School Conditional Use Permit Violations 2010-2012

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
	Soccer Skills, Drills and Games, Entering grades 1-4	9 am-3 pm	5 Days	July 2-6	
	Spanish Camp "Acampamento Angry Birds", Entering grades JK-K and 1-3	9 am-3 pm 9 am-3 pm	10 Days	June 11-15 June 18-22	
	Yoga and more!, For campers entered grades K-2	9 am-1 pm <b>Violates CUP Condition #12</b> Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m. and 2:30-3:45.	Unknown	Unknown dates	
<b>Way To Go Foundation, Inc.</b>	Stage Kids of California Theater Camp, for campers entering grades 2-8	<b>Violates CUP Condition #10</b> No lease or rental of facilities to third parties.	10 Days	July 9-20 2012 9am-3pm	Advertised to the public in Log Gatos Weekly- 4/17/12, p.21
		<b>Violates CUP Condition #4</b> Exceeds 315 enrollment cap. Enrolling "campers" and not Hillbrook "students" is not permitted in the CUP.			
		<b>Violates CUP Condition #12</b> Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m.			
		<b>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3)</b> Amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."			
<b>Playful People Productions</b>	Hillbrook will contract with this third party company to use its campus for a "Summer Stock Theatre" for campers entering grades 2-8.	<b>Violates CUP Condition #10</b> No lease or rental of facilities to third parties.		June 11-22 9am-3pm	Advertised to the public in Log Gatos Weekly- 4/17/12, p.21
		<b>Violates CUP Condition #4</b> Exceeds 315 enrollment cap. Enrolling "campers" and not Hillbrook "students" is not permitted in the CUP.			
		<b>Violates CUP Condition #12</b> Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m.			

Hillbrook School Conditional Use Permit Violations 2010-2012

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
<b>Santa Fe Leadership Center (SFLC) Conference</b>	5-day professional development conference for educators. SFLC is led by Head of School Mark Silver's wife, Carla Silver, and costs \$1,577-\$1,795.	<b>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3)</b> Amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."			
		<b>Violates CUP Condition #10</b> No lease or rental of facilities to third parties. SFLC is headquartered in Santa Fe, New Mexico and holds other conferences in Seattle and Santa Fe.	40 Adults	July 2011 5 Days	Planned for 2012
		<b>Violates CUP Condition #4</b> Exceeds 315 Enrollment Cap. Enrolling adults and not Hillbrook "students" is not permitted in the CUP.			
		<b>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3).</b> This activity, providing professional development classes for adult participants, is far outside the permitted uses in the CUP. Amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."			
<b>John Hunter Master Class</b>	Program offered through the third-party Martin Institute is a two-day session for adult educators at a cost of \$1,250. There is also a one-week program that follows.	<b>Violates CUP Condition #10</b> No lease or rental of facilities to third parties.	7 Days	August 2012	Planned
		<b>Violates CUP Condition #4</b> Exceeds 315 Enrollment Cap. Enrolling adults and not Hillbrook "students" is not permitted in the CUP.			
		<b>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3).</b> Providing professional development classes for adult participants, is far outside the permitted uses in the CUP and amounts to an "intensification of use," "new activities" that have a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."			

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RESOLUTION 2001 - 48

ADOPT RESOLUTION DENYING APPEAL OF THE PLANNING COMMISSION  
DECISION TO APPROVE A CONDITIONAL USE PERMIT FOR A MASTER PLAN OF  
HILLBROOK SCHOOL AND TO APPROVE AN ARCHITECTURE AND SITE  
APPLICATION TO DEMOLISH AN EXISTING CLASSROOM BUILDING ON PROPERTY  
ZONED HR-1.

PROJECT APPLICATION: PRJ-99-062 (CONDITIONAL USE PERMIT)  
PROJECT APPLICATION: PRJ-99-063 (ARCHITECTURE AND SITE)  
PROPERTY LOCATION: 300 MARCHMONT DRIVE  
PROPERTY OWNER/APPLICANT: HILLBROOK SCHOOL  
APPELLANTS: MARTIN D. DERMER AND MICHAEL W. TAYLOR.

WHEREAS:

A. This matter came before Council for public hearing on April 16, 2001, on an appeal by Martin D. Dermer and Michael W. Taylor, appellants, from a decision of the Planning Commission and was regularly noticed in conformance with State and Town law.

B. Council received testimony and documentary evidence from the appellant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report dated December 14, 2000, April 12, 2001, and April 13, 2001, the Addendum dated December 14, 2000 and December 15, 2000 and the Desk Item dated April 16, 2001, along with subsequent reports and materials prepared concerning this application.

C. The applicant is requesting Architecture and Site approval to demolish a 4,650 square foot building and to construct three one-story buildings connected by breeze ways totaling 6,986 square feet. The buildings will contain eight classrooms, a teacher's workroom, conference room, restrooms, two offices and a storage room. The applicant is also requesting approval of a

Conditional Use Permit for the Master Site Plan which includes the plan for demolition and reconstruction of the classrooms for the Architecture and Site Application.

D. Planning Commission considered this matter on April 12, 2000 and approved the applications subject to conditions. The decision of the Planning Commission was appealed. Town Council considered the appeal on June 5, 2000 and remanded the matter to the Planning Commission with directions that the plans and design be evaluated for traffic study and calming measures, enrollment limitations, and student activity scheduling.

E. Planning Commission reconsidered the matter on October 25, 2000 and approved the applications subject to conditions.

F. Appellants claim that the Planning Commission erred or abused its discretion and erroneously failed to consider traffic issues and that this was an issue or policy over which the Commission did not have discretion to modify or address, but which was vested in the Council for modification or decision. Appellant Dermer is concerned with traffic impacts on Marchmont Drive while appellant Taylor is concerned with the opening of the Ann Arbor gate and traffic impacts on Ann Arbor Drive.

G. Council finds as follows pursuant to Town Code section 29.20.300 that decision of the Planning Commission was correct, but that additional time was necessary to determine the efficacy of traffic volume control measures instituted by the applicant and to set appropriate numerical goals and other enforcement mechanisms as conditions of approval for the use permit and architecture and site approval.

**RESOLVED:**

1. The appeals of the decision of the Planning Commission on Project PRJ-99-062 and PRJ-99-063 are denied. Attached hereto as Exhibit A are Revised Conditions of Approval for Use

Permit PRJ-99-062, and as Exhibit B are Revised Conditions of Approval for Architecture and Site Approval PRJ-99-063.

2. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by State and Federal law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, on the 7<sup>TH</sup> day of May, 2001 by the following vote.

COUNCIL MEMBERS:

AYES: Randy Attaway, Steven Blanton, Sandy Decker, Steve Glickman  
Mayor Joe Pirzynski.

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:



CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

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## CONDITIONAL USE PERMIT CONDITIONS OF APPROVAL

### 300 Marchmont Drive

Project Application PRJ-99-062 (Conditional Use Permit)

Project Application PRJ-99-063 (Architecture and Site)

Requesting approval of a Conditional Use Permit for a Master Plan of Hillbrook School and approval of an Architecture and Site application to demolish an existing classroom building and to construct a new classroom building adjacent to the old building on property zoned HR-1.

PROPERTY OWNER/APPLICANT: Hillbrook School

### TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT: (Planning Section)

1. EXPIRATION. Vesting for the Master Site Plan includes the demolition and reconstruction of the new classroom building under Architecture and Site Application PRJ-99-063. Once the application is vested, there are no further time limits to for the Master Site Plan.
2. EMERGENCY ACCESS ROAD. The emergency access road to Ann Arbor Drive shall not be opened up at any time to public or school use. The road may be opened for construction access only if it is part of the approved construction plan for an Architecture and Site application.
3. CARPOOLING. The Town accepts the voluntary offer of Hillbrook School to maintain and promote a carpooling program for their students. Hillbrook School shall submit to the Town, a written report summarizing the carpool participation. This report shall be submitted twice a year for the months of February and September.
4. ENROLLMENT. The enrollment shall be limited to 315 students.
5. EMPLOYEES. The after school maximum number of employees on site during activities in the gymnasium which draws an audience shall not exceed 12.
6. NIGHTTIME ACTIVITIES. The maximum number of nighttime activities is limited to ten per calendar year. All activities shall conclude by 9 P.M and all vehicles belonging to persons participating in these activities shall be off the school premises by 9:30 P.M. All activities which draw an audience to the gymnasium shall take place after school hours.
7. WEEKEND ACTIVITIES. During the weekend the campus shall be closed to any use by outside leagues or youth groups, the gym shall only be used for Hillbrook School activities and the weekend use shall be limited to an Open House event in October, and volleyball and basketball tournaments for Hillbrook School only.
8. GYMNASIUM DOORS AND WINDOWS. The loading doors on the Ann Arbor side shall be closed at all times whenever activities are being held inside the gymnasium. The other doors and windows in the gymnasium shall be allowed to remain open during activities.
9. MUSIC. Music from live bands shall not be amplified. One amplified DJ event is permitted per year.
10. LEASE/RENTALS. No lease or rental of the campus facilities shall be permitted to third parties.
11. SIX MONTH REVIEW. This application shall be reconsidered by the Planning Commission six months from the date of approval.

### TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS (Engineering Section)

12. TRAFFIC COUNTS. At the applicant's expense, the Town shall conduct traffic counts at the Marchmont Drive gate of Hillbrook School twice a year, during appropriate months chosen by staff. The maximum number of vehicles leaving the school during each of the hours of 7:30 AM to 8:30 AM and and 2:30 PM to 3:45 PM shall not exceed 165 vehicles.

### (Parks and Forestry Section)

13. BUILDING FOOTPRINTS. The footprints of the future buildings may be required to be modified during the Architecture and Site approval process to reduce tree impacts.

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