




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

## COUNCIL AGENDA REPORT

DATE: MARCH 15, 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.

### REMARKS:

Attached are two online code compliance complaints (Attachment 4) and public comments regarding this matter through 12:00 p.m. March 15, 2013 (Attachments 5 through 7).

### Attachments 1-3 (previously received):

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)

### Received with this Addendum

4. Two Code Compliant Complaints, received February 6 and 26, 2013.
5. Letter and attachments from Barbara Dodson, received March 11, 2013 (122 pages).
6. Letter and attachments from Barbara Dodson, received March 13, 2013 (42 pages).
7. Public Comment received by the Town Council and Town Manager for the period of October 1, 2012 through March 15, 2013.

  
PREPARED BY: Todd Capurso, Director of Community Development

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

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## Lamonte Mack

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**From:** noreply@civicplus.com  
**Sent:** Wednesday, February 06, 2013 1:04 PM  
**To:** CodeCompliance  
**Subject:** Online Form Submittal: Code Compliance Complaint Form

The following form was submitted via your website: Code Compliance Complaint Form

Your Name:: Barbara Dodson

Your Address:: 239 Marchmont Drive

Phone Number:: 4083564344

Email Address:: [btdodson@aol.com](mailto:btdodson@aol.com)

Address or location of code violation: 300 Marchmont Drive

Brief description of Code Violation:: In November, I filed the complaint I am about to file again. I never heard from you.

Hillbrook School is in violation of the following Code item:

Sec. 29.20.200. - Conditional use modification A use authorized by conditional use permit shall not be modified unless a modification to the permit is approved. The following changes in use are modifications:

(2) Commencement of new activities that could have a material adverse impact on the surrounding area.

(3) Any change that is a substantial departure from plans which were the basis of the conditional use permit approval.

In 2001, when Hillbrook's CUP was approved, there were almost no afternoon activities. Now there are afternoon activities that the school does not show on a public schedule plus up to 3 hosted basketball, soccer, volleyball, or other sports games every afternoon. From September through February, Hillbrook will have hosted 94 after school games. This represents 80 percent of the games in which it participates. (It will have participated in 24 away games.)

These games create an unacceptable and excessive amount of traffic after 3:45. This amount of activity did not exist at the time of the passage of the CUP and violate Sec.2920.200(3). These activities also are a commencement of new activities with a material impact on the neighborhood in violation of Sec. 2920.200.(2).

Since I'm guessing this complaint form may not work, I'll try to submit this complaint in person in the next couple of days. You could save me a trip, however, by letting me know if you received this description.

How long has this code violation occurred? : at least 3 years

Additional Information:

Form submitted on: 2/6/2013 1:03:48 PM

Submitted from IP Address: 67.160.248.168

Referrer Page: <http://www.town.los-gatos.ca.us/index.aspx?NID=203>

Form Address: <http://www.town.los-gatos.ca.us/Forms.aspx?FID=59>

## Lamonte Mack

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**From:** noreply@civicplus.com  
**Sent:** Tuesday, February 26, 2013 1:39 PM  
**To:** CodeCompliance  
**Subject:** Online Form Submittal: Code Compliance Complaint Form

The following form was submitted via your website: Code Compliance Complaint Form

Your Name:: Barbara Dodson

Your Address:: 239 Marchmont Drive

Phone Number:: 4083564344

Email Address:: [btdodson@aol.com](mailto:btdodson@aol.com)

Address or location of code violation: 300 Marchmont Drive

Brief description of Code Violation:: Hillbrook School held a 3-day soccer tournament on its campus during school winter break in 2011, 2012, and 2013.

This is a code violation for these reasons:

Winter break is not a time period during which there were activities on campus when the CUP was adopted in 2001. Therefore, it violates Town Code Section 29.20.200 -- Conditional Use Modification, which states "A use authorized by conditional use permit shall not be modified unless a modification to the permit is approved. The following changes in use are modifications: (1) Intensification of use. Changes of use that will result in an increase of five (5) or more peak hour trips. (2) Commencement of new activities that could have a material adverse impact on the surrounding area.(3) Any change that is a substantial departure from plans which were the basis of the conditional use permit approval."

(Ord. No. 1316, § 5.20.230, 6-7-76; Ord. No. 1832, § III, 7-16-90; Ord. No. 1862, § I, 8-19-91; Ord. No. 2143, § I, 4-18-05)

This use will generate more than 5 peak hour trips; it is a commencement of new activities that will adversely impact the neighborhood in a material way; and it is a substantial departure from plans that were the basis of conditional use permit approval, since conferences like this were not occurring prior to or during the time of approval. No modification allowing this use has been approved.

How long has this code violation occurred? : since at least 2011

Additional Information:

Form submitted on: 2/26/2013 1:38:39 PM

Submitted from IP Address: 67.160.248.168

Referrer Page: <http://www.town.los-gatos.ca.us/index.aspx?NID=203>

Form Address: <http://www.town.los-gatos.ca.us/Forms.aspx?FID=59>

END OF ATTACHMENT 4

**March 8, 2013**

**TO: Mayor Barbara Spector, Vice-Mayor Steve Leonardis, Council Members Joe Pirzynski, Diane McNutt, and Marcia Jensen**

**FROM: Barbara Dodson for LG CATS (Los Gatans Concerned About Traffic and Safety)**

**SUBJECT: VIOLATION COMPLAINTS AGAINST HILLBROOK SCHOOL**

According to the Town's General Plan, "planning for neighborhood preservation and protection is one of the most important purposes of the Town's General Plan." Further, "maintaining neighborhood quality suggests ... traffic control in residential neighborhoods....Factors such as new or excessive traffic may cause disruption of neighborhoods."

Since 2009, under a new administration, Hillbrook has dramatically intensified the use of its property. The result has been substantial increases in street traffic and safety issues. Quality of life has been compromised, and there have been disruptions to our neighborhoods.

We ask the Town Council to follow through on land use policies and goals in the General Plan. Hillbrook is a nonresidential use of a property zoned HR-1, and we seek protection from Town Council against non-permitted and excessive uses of this nonresidential property. (See the Appendix for specific land use policies and goals and how expanded use of the property now violates these policies and goals.)

Many of Hillbrook's new uses of its property violate the Hillbrook School 2001 Conditional Use Permit and/or the Town Code. In this Overview, you will find:

- A summary of violations—past and present—on page 2
- Background and general information about each violation

Please use this overview in conjunction with the violations chart (titled "Hillbrook School CUP and Town Code Violations—Partial List 2010-present (and planned)").

As always, thank you for your attention and for your public service.

**RECEIVED**

**MAR 11 2013**

**TOWN OF LOS GATOS  
PLANNING DIVISION**

## **SUMMARY:**

### **HILLBROOK SCHOOL CONDITIONAL USE PERMIT AND TOWN CODE VIOLATIONS**

This page provides a snapshot of Hillbrook School violations of its 2001 Conditional Use Permit and Town Code provisions. For further details and discussion about each violation, please read the material that follows.

1. **Condition #3: Carpooling.**  
Ongoing Violation: No Carpooling Program for Summer Activities  
Past Violation: Failure to File Carpooling Reports  
Past and Ongoing Violation: No Increase in Carpooling from 2001 to Today
2. **Condition #4: Enrollment.**  
Ongoing and Past Violation: General Failure to Limit Campus Use to Hillbrook Students  
Ongoing Violation: After-School Activities  
Ongoing Violation: Planned "iPads Schools 2.0" Conference, June 19-21, 2013
3. **Condition #6: Nighttime Activities.**  
Ongoing and Past Violation: Failure to Limit Nighttime Activities to a Maximum of 10
4. **Condition #7: Weekend Activities.**  
Ongoing and Past Violation: Failure to Limit Weekend Activities to Those Allowed by the CUP
5. **Condition #10: Lease/Rental.**  
Ongoing and Past Violation: Permission to Allow Third-Party Use  
**Specific Non-resolved third-party violation complaints are:**
  1. **Breakthrough Silicon Valley**
  2. **Way to Go Foundation, Inc.**
  3. **Playful People Productions**
6. **Condition #12: Traffic Counts.**  
Ongoing and Past Violation: Failure to Isolate Traffic Mainly to Peak Periods
7. **Town Code Section 29.20.200. – Conditional use modification**  
Ongoing Violation: **Teacher Training Program**  
Ongoing and Past Violation: **Excessive After-School Hosted Sports Events**  
Ongoing and Past Violation: Increase in Number of Hours of Operation Through Activities Scheduled During Breaks and All Summer

Appendix: The General Plan Land Use Policy and Hillbrook's Violations



**HILLBROOK CONDITIONAL USE PERMIT VIOLATIONS: Ongoing and Past  
Condition #3:**

**1. Carpooling**

**Ongoing Violation: No Carpooling Program for Summer Activities**

Condition #3 of the 2001 CUP states the following: "CARPOOLING. The Town accepts the voluntary offer of Hillbrook School to maintain and promote a car-pooling 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."

Hillbrook has never promoted a carpooling program for summer students. Even though the CUP does not specifically allow summer sessions, if such sessions occur, then the enrollment cap, peak period traffic limits, and carpooling requirements apply to summer sessions as well. Head of School Mark Silver has acknowledged that Hillbrook has no way to control the situation since the parents and children involved are not members of Hillbrook families. That is precisely why there is an enrollment cap limiting attendance to Hillbrook students.

The worst violation of this commitment to carpooling occurred in summer 2011. At that time, Steve & Kate's Camp operated on campus with a policy of all-day, anytime drop-offs and pickups. The camp had 900 campers and local streets were inundated with cars throughout the day and into the evening. Even after neighbors objected to the heavy traffic, Hillbrook took no effective steps to mitigate the traffic impact.

**Past Violation: Failure to File Carpooling Reports**

From 2007 to January 2012, Hillbrook did not file the CUP-required twice annual carpooling reports. (When neighbors pointed out this lapse, Hillbrook retroactively submitted a report for October 2011 in January 2012.)

**Past and Ongoing Violation: No Increase in Carpooling from 2001 to Today**

Here is information from 2001 demonstrating Hillbrook's commitment to an aggressive carpooling program.

- Through its law firm Berliner Cohen, Hillbrook committed itself in a letter to the Mayor and Town Council dated December 15, 2000 to achieve a 60% carpool participation by families of Hillbrook students.
- The then head of school Sarah Bayne stated in a January 2001 letter to Hillbrook parents, "...we have no choice but to insist that 60% of our families carpool together."
- The school committed to 100% carpool participation over time by requiring an agreement to carpool during the enrollment process. In the Council Agenda Report of April 12, 2001, based on a guarantee Ms. Bayne made to the Town, Director of Community

Development Bud N. Lortz stated that "Each new family to Hillbrook will be accepted if they agree to carpool."

Hillbrook long ago ignored the promises made in 2001. Given its promise that all new families had to agree to carpooling as a condition of enrollment, Hillbrook should have had 100% of its students in carpools at least by 2010. The carpooling numbers that Hillbrook currently claims are no more than they were in 2001 when the voluntary carpooling provisions were implemented in the CUP. Hillbrook now says that because of its many afternoon programs, afternoon carpooling is not feasible.

Many private schools have mandatory carpooling programs for both the morning and afternoon. Hillbrook has steadfastly refused to consider mandatory carpooling.

Hillbrook's efforts to encourage voluntary participation in carpooling, busing, and walking/biking have had no impact on overall traffic. Traffic is actually higher now in 2013 than ever. Here are statistics.

#### 2011, 2012 : BEFORE NELSON\NYGAARD TDM MEASURES IN EFFECT

DATE	TOWARD HILLBROOK	AWAY FROM HILLBROOK	DAY TOTAL	SOURCE
5/18/2011	459	465	924	2011 TDKM Traffic Study
5/19/2011	469	464	933	2011 TDKM Traffic Study
5/23/2011	426	435	861	2011 TDKM Traffic Study
5/24/2011	395	405	800	2011 TDKM Traffic Study

5/14/2012	533	537	1070	Campbell Traffic Engineer
5/15/2012	548	492	981	Campbell Traffic Engineer
5/16/2012	501	500	1001	Campbell Traffic Engineer

#### 2012: AFTER NELSON\NYGAARD TDM MEASURES IN EFFECT

DATE	TOWARD HILLBROOK	AWAY FROM HILLBROOK	DAY TOTAL	SOURCE
10/25/2012	462	466	928	Marchmont Neighbors
1/10/2013	525	498	1023	Marchmont Neighbors
1/13/2013	534	515	1049	Marchmont Neighbors
1/15/2013	551	549	1100	Marchmont Neighbors
2/12/2013	537	504	1041	Marchmont Neighbors
2/26/2013	496	515	1011	Marchmont Neighbors
3/1/2013	517	532	1049	Marchmont Neighbors

Hillbrook can truthfully claim that it has reduced peak period traffic. However, this is because it has spread its traffic throughout the day, violating the understandings that were the basis for Condition #12: Traffic Counts. See p. 14-16 for more information on this.

## **2. Condition #4: Enrollment.**

### **Violation: General Failure to Limit Campus Use to Hillbrook Students**

Condition #4 of the 2001 CUP states the following: "Enrollment. The enrollment shall be limited to 315 students."

Hillbrook School, like most private schools, enrolls students under a school-year-long contract. Therefore, the 315 enrollment limit applies to those 315 students for whom Hillbrook has year-long enrollment contracts.

Hillbrook would like to change the definition of "enrollment" to allow a change in the enrollment roster from period to period. Under this interpretation, the school could run regular school sessions for the regularly enrolled 315 students, and then run other sessions during other times of the day and evening for others, including afternoon and evening sessions for adults and conferences for educators with no relationship to Hillbrook. The school could do this all year long. This is a mockery of the 315 student cap, making it entirely meaningless. This interpretation transforms the "enrollment" cap into nothing more than a building capacity-type limitation.

Using its own definition of "enrollment," Hillbrook has allowed itself to offer after-school activities to non-Hillbrook students and to adults. It has also opened up its summer programs to all comers.

While Hillbrook is now trying to alter the meaning of "enrollment" in the CUP, statements by the former Head of School Sarah Bayne and by current Head Mark Silver are admissions by Hillbrook that non-Hillbrook enrolled students are not permitted to participate in Hillbrook programs.

In an October 2000 letter from Sarah Bayne to the Planning Commission regarding traffic concerns, Ms. Bayne wrote, "*All school programs and activities after the six hour day have increased nationwide over the past 15 years. Day care, for example, was unheard of as part of school programs, as well as the other activities Hillbrook, as with all schools, now provides for its students. Day care and all after-school programs are only offered to Hillbrook students.*" (Emphasis in the original)

Clearly, only Hillbrook-enrolled students are permitted to participate after the "six hour day" Ms. Bayne refers to, and as clearly, all other programs Hillbrook runs are similarly limited to Hillbrook-enrolled students.

In an email to Marchmont Drive resident Patricia Elliot on July 2, 2011, Mark Silver wrote, "Hillbrook has a long history of summer camps, and year after year, one of our top requests from parents is good summer programming. Our programs for the past few summers, however, have not been especially popular and we have had relatively low attendance. Each year we try something different to try to please our parents and students. This year, we chose to work with Steve & Kate's Camp in running our summer program, and as you are well aware, it has turned out to be very popular."

Dr. Silver's statements not only acknowledge that, in the past, summer programs at Hillbrook have been minimal, but also that they are supposed to be for Hillbrook students.

Hillbrook School has violated Condition #4 over and over again during the summers by advertising its summer programs widely and accepting non-Hillbrook students and by running a program called Breakthrough Silicon Valley, which is aimed primarily at non-Hillbrook students.

Here is what Hillbrook tells people interested in its summer programs.

**Q. How do I register for a Hillbrook camp?**

- A.** Register online. If paying by check, submit payment to the summer office. Registrations are honored in the order payment is received. If you are not a current Hillbrook family, you must provide emergency contact information and permission to participate.

**Ongoing Violation: After-School Activities**

Hillbrook also violated Condition #4 during the school year by holding after-school classes for adults, such as woodworking for adults and ceramics for adults, and for non-Hillbrook students. Hillbrook appeared to want to create a recreation-department-style program.

The 2011-2012 listing of afterschool programs appears below; we do not know how many of these programs were actually held or what the attendance was. We do know that **before at least 2004, Hillbrook did not have any afternoon activities other than daycare and sports**. Thus these activities also represent a violation of Town Code Section 29.20.200 Conditional use



modification because they are "a substantial departure from plans which were the basis of the conditional permit approval."

Acting	Book Making	Hip-Hop
Advanced Soccer	Club Mud (Ceramics)	Improvisation
African Music Ensemble	Cooking	Intermediate Spanish
Basketball Clinic	Creative Drama	Jam Session (Rock Band)
Beginning Sign Language	Creative Writer's Workshop	Legos
Beginning Soccer	Exploring Mandarin	Math Facts using 9-Lines
Beginning Spanish	Fencing	Practice Typing
<b>Beginning Spanish for</b>	<b>Hands On Clay for <u>Adults</u></b>	Primary Chorus
<b><u>Adults</u></b>	Hands On Wood (Woodshop)	Techniques in Drawing
		Yoga

Here is a list of programs in addition to the above in which Hillbrook has enrolled non-Hillbrook students for on-campus activities.

Saso High School Prep  
Breakthrough Silicon Valley  
Steve & Kate's Camp  
Hillbrook Summer Camps  
Stage Kids of California/Way to Go Foundation  
Playful People Productions  
Most Hillbrook Camps  
Santa Fe Leadership Center conference

#### **Ongoing Violation: Planned iPad Schools 2.0 Conference**

Hillbrook plans a 3-day on-campus conference for June 19-21, 2013. This conference, "iPads Schools 2.0: Now What?," has a projected attendance of 50 adults. The cost is \$1,250 per person. The conference is for faculty and administration from outside schools; it is not aimed at Hillbrook's own employees. Members of other faculties and administrations cannot be considered "students" under the current CUP.

### **3. Condition #6: Nighttime Activities.**

#### **Violation: Failure to Limit Nighttime Activities to a Maximum of 10**

Condition #6 of the 2001 CUP states the following: "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 has routinely violated its current nighttime activity cap of 10. Hillbrook's public calendars for both 2010-2011 and 2011-2012 listed more than ten nighttime activities and failed to include all of the nighttime activities actually held. For example, four dances are held during evenings each year; these were not listed in the calendar. Many basketball games began at 5 P.M. In 2012, one began at 7 P.M. Neighbors also frequently observed streams of cars leaving the Hillbrook campus after 7:00 P.M. Town staff never contested the fact that Hillbrook School violated this condition.

In school year 2010-2011, 25 nighttime activities were shown on the public calendar. The four dances generally held each year were not included. Therefore, Hillbrook held at least 29 nighttime activities—19 more than permitted in the CUP. There were probably other nighttime activities that were simply not listed on the public calendar.

In school year 2011-2012, 12 nighttime activities were shown on the public calendar. Again, the four dances generally held each year were not included. Therefore, Hillbrook held at least 16 nighttime activities—6 more than permitted in the CUP. Again, there were probably other nighttime activities that were simply not listed on the public calendar. For example, the on-campus evening meeting with neighbors in January 2012 to explain the school's expansion plans was not included on the calendar. As indicated above, one basketball game began at 7:00 P.M.

This year, despite claims that it tries to be transparent, Hillbrook does not have a public list of school activities. However, we continue to see streams of cars leaving Hillbrook after 6:00 P.M.; this has occurred on more than 10 nights since September 2012. We would like Hillbrook to provide a list of its 10 nighttime activities before the start of every school year so that we can be assured that Hillbrook is conforming to Condition #6: Nighttime Activities.

#### **4. Condition #7: Weekend Activities.**

##### **Violation: Failure to Limit Weekend Activities to Those Allowed by the CUP**

Condition # 7 of the 2001 CUP states the following: "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."

Hillbrook has been routinely violating the weekend activity condition by holding numerous non-permitted activities on Saturdays and Sundays. Examples shown on the school calendar for school year 2011-2012 included: ISEE testing, a garden work party, family photo day, and JK-K screening for new applicants. However, neighbors have often seen streams of cars leaving the Hillbrook campus on weekends, indicating that there have been many weekend events not shown on the calendar. On the weekend of May 21-22, 2011 Hillbrook's January 2011 Traffic Study documented 112 vehicles entering and leaving the school on Saturday and 72 vehicles entering

and leaving the school on Sunday. This was a weekend on which there were no permitted activities.

Since September 2012, Hillbrook no longer publicly lists events that happen on campus, and it is difficult for neighbors to know when violations will or are occurring. All neighbors see is the resulting excessive traffic. But we sometimes stumble onto violations.

A case in point is a situation that occurred in December 2012 when a neighbor noticed a disallowed weekend activity listed on the neighborhood newsletter webpage (though not actually in the neighborhood newsletter itself). Here is the correspondence that resulted:

**On Thu, Dec 6, 2012, Barbara Dodson wrote:**

Dear Dr. Silver:

I noticed on your calendar that you plan a home basketball game (B' Boys Basketball vs. SC Stratford) on campus in Founders Hall on **Saturday**, January 5, 2013. As you know, your current CUP limits weekend sports events to volleyball and basketball tournaments for Hillbrook School only. Please reschedule this game so as not to violate the CUP.

I also noted that you have scheduled a Grades 3-8 Winter Indoor Soccer Tournament for Friday, **Saturday**, and **Sunday**, December 21 to December 23, 2012. This, too, is a violation of your CUP, which (as stated above) permits only volleyball and basketball tournaments on weekends. The violation is compounded by the fact that you have scheduled this tournament during winter break, a time when the neighborhood has a right to some relief from Hillbrook traffic. Please reschedule, relocate, or cancel this event in order to be in compliance with your CUP.

Needless to say, I am very surprised to see you violating your CUP at the very time when you are applying for modifications to your current CUP. I continue to believe that you should not be granted the changes you are requesting when you are unwilling even to comply with your current CUP. It is even more extraordinary when you realize that you are violating a CUP condition that you don't even want to change.

Sincerely,

Barbara Dodson

**On Friday, December 12, 2012, Head of School Mark Silver Responded:**

Barbara-

Thanks for bringing this to my attention. The January 5 date is a calendar error - there is no game scheduled for that day. We will make a correction to the calendar.

As for the soccer tournament, the PE department made an error and scheduled it for that weekend. This event, which is only for Hillbrook students and usually involves about 25-30 students, has been held for a number of years and has typically been the week before Christmas. The late start to the holiday break led to this year's confusion. We have rescheduled the event for January 2-4 to ensure we are in compliance with the CUP.

Sincerely,

Mark

Neighbors should not have to perform this watchdog function, yet we cannot depend on Hillbrook to adhere to its CUP.

**PAST VIOLATIONS.** Here are known examples of past violations of Condition #7.

- Saturday, July 9, 2011. The Summer Stock Theatre program scheduled a performance of "Advice-A-Palooza."
- Sunday, July 15, 2011. Opening evening of the Santa Fe Leadership Center conference. (When neighbors objected to this use, the meeting was moved to Carla Silver's home.)
- Saturday, September 10, 2011. Garden Work Party. 9-12 AM
- Saturday, September 24, 2011. Family Photo Day. 8 AM-4:20 PM
- Sunday, September 25, 2011. Family Photo Day. 8 AM-12:20 PM
- Saturday, December 3 2011. ISEE Testing
- Saturday, January 2012. ISEE Testing
- Saturday, February 4, 2012. ISEE Testing
- Saturday, March 3, 2012. JK/K Screening for New Applicants

Hillbrook no longer lists its activity schedule in the public section of its website. Therefore, we are no longer able to see (and object to) non-permitted weekend activities.



## **5. Condition #10: Lease/Rental**

### **Ongoing Violation: Permission to Allow Third-Party Use**

Condition #10 of the 2001 CUP states the following: "LEASE/RENTALS. No lease or rental of the campus facilities shall be permitted to third parties."

### **THREE VIOLATION COMPLAINTS HAVE NOT BEEN RESOLVED:**

- 1. Breakthrough Silicon Valley**
- 2. Way to Go Foundation, Inc.**
- 3. Playful People Productions**

In 2001, Condition #10 was understood to mean that there would be no third-party use of the Hillbrook campus. However, in violation of this understanding, Hillbrook has allowed many outside groups to use its campus, including Steve & Kate's Camp, Breakthrough Silicon Valley, Santa Fe Leadership Center, Saso High School Prep, and California Association of Independent Schools. None of these groups had as a primary goal to provide educational opportunities for either Hillbrook students, Hillbrook parents, or Hillbrook faculty/staff.

In an effort to claim that it is not violating this condition, Hillbrook has claimed "partnerships" with these organizations.

Statements from Hillbrook's law firm in 2000 have helped us to substantiate our claim that Condition 10 means that the campus cannot be used by any third parties. In its letter of December 15, 2000 to Mayor Joe Pirzynski and council members, Hillbrook's lawyer Jolie Houston of Berliner Cohen wrote that "To meet neighbors concerns, the School will no longer be available to outside groups." This commitment remains in place.

**BREAKTHROUGH SILICON VALLEY** One of several third-party usages planned for summer 2013 on the Hillbrook campus is Breakthrough Silicon Valley. This six-week summer program for non-Hillbrook students has been held on the Hillbrook campus for at least the last four years and is projected again for summer 2013. Neighbors have protested this third-party use of the campus for going on two years.

In a meeting with Planning Associate Jennifer Savage on May 9, 2012, Ms. Savage assured neighbors that the Breakthrough Silicon Valley program would not be permitted during summer 2012 because it was a third-party use. Then in a meeting on June 7, Ms. Savage reversed herself on the basis that Hillbrook had notified her that the Breakthrough Silicon Valley program "is a Hillbrook program." This is not the case.

In fact, Breakthrough Silicon Valley has its own website on which it clearly states that "Breakthrough Silicon Valley is a part of Breakthrough Collaborative, a national collaborative of sites engaged in the same students-teaching-students model. As one of 35 sites nationwide, we

work closely with our national collaborative to share ideas, recruit teachers, and coordinate fundraising." <http://www.breakthroughsv.org> This is clearly NOT a "Hillbrook program."

According to the Breakthrough Collaborative website, "At 33 locations across the nation and abroad, Breakthrough Collaborative launches motivated middle-school students on the path to college and prepares older students for careers in education." Hillbrook is one of the 33 "locations."

The Breakthrough Silicon Valley website describes its connection to Hillbrook this way: "Our summer campus, located at The Hillbrook School, has state-of-the art teaching facilities in the beautiful foothills of Los Gatos, California, making it an ideal place to teach and learn."

Hillbrook is allowing the Breakthrough Silicon Valley program to be "located at" the Hillbrook campus. Breakthrough Silicon Valley is obviously not a Hillbrook program, and therefore violates the no lease or rental to third parties provision of the CUP.

Two other third party usages that occurred in the past and are planned for summer 2013 are the following:

**WAY TO GO FOUNDATION, INC.** Way to Go Foundation runs one of its StageKids programs on the Hillbrook campus during the summer. Way to Go Foundation has its own website (<http://www.waytogoprograms.com/>) and runs many programs at many locations in the Bay Area; it uses Hillbrook as just one of its location. This is not a Hillbrook-run program. It appears that Hillbrook rents its campus to this group; however, we are unable to verify this.

**PLAYFUL PEOPLE PRODUCTIONS.** Hillbrook allowed this third-party company to use its campus for a "Summer Stock Theatre" for campers entering grades 2-8 in summer 2012 and will do so again in summer 2013. Playful People Productions has its own website (<http://www.playfulpeople.net/>), runs programs at many locations, and uses Hillbrook as just one of its locations. This is not a Hillbrook-run program. It appears that Hillbrook rents its campus to this group; however, we are unable to verify this.

#### **Past Violation: Permission to Allow Third-Party Use**

Here are specifics about some of the third parties Hillbrook has allowed to use its campus in the past.

**SASO HIGH SCHOOL PREP.** Hillbrook allowed the organization to hold classes on its campus in 2011 and probably before that. The SASO site listed classes at Hillbrook as well as at other schools and locations from at least 2010 through 2012. The classes listed for June 18-July 25, 2012 and for September 21-December 7, 2012 were canceled when neighbors mentioned them to Town staff. The program uses non-Hillbrook instructors and costs \$660-\$690.

This was clearly an outside group.

**STEVE & KATE'S CAMP.** This organization has at least 27 other locations in California and Washington. It is a for-profit camp and had more than 900 campers at Hillbrook in 2011. After protests from neighbors and intervention from the Planning Department, Hillbrook decided not to allow this group on campus in 2012.

This was clearly an outside group.

**SANTA FE LEADERSHIP CENTER CONFERENCE.** This was a 40-person 5-day professional development conference for non-Hillbrook educators, run by the Santa Fe Leadership Center and held in summer 2011. It was led by Head of School Mark Silver's wife Carla Silver and cost \$1,577-\$1,795. Ms. Silver is now executive director of this organization, which is a national group headquartered in Santa Fe, New Mexico. The organization holds conferences in Seattle, Santa Fe, San Antonio, and other locations. In summer 2012, the Hillbrook conference was again scheduled to be held on campus but was moved off-campus after repeated requests from the Planning Department.

This organization is clearly an outside group.

**MARTIN INSTITUTE/JOHN HUNTER MASTER CLASS.** This program offered through the Martin Institute was planned as a two-day session for adult educators at a cost of \$1,250 for summer 2012. It was moved off-campus after repeated requests from the Planning Department.

The Martin Institute is clearly an outside group.

**BREAKTHROUGH SILICON VALLEY.** Hillbrook has allowed this summer program on campus since 2010. It brings 110+ 7<sup>th</sup> – 9<sup>th</sup> graders plus 27+ college age interns to Hillbrook for a full-time six-week program. This is a nationwide program with sites throughout the country.

This is an outside group.

**CALIFORNIA ASSOCIATION OF INDEPENDENT SCHOOLS.** A CAIS event for adult educators, Visual Art Professional Day taught by Hillbrook teacher Ken Hay, was held on February 3, 2012 at Hillbrook at a cost of \$40-\$50/participant. We do not know how many participants attended.

CAIS is an outside group.

#### 6. Condition #12: Traffic Counts.

##### Violation: Failure to Isolate Traffic Mainly to Peak Periods

At the applicant's expense, the Town shall conduct traffic counts at the Marchmont Drive gate of Hillbrook School twice a year, during the months of March and October. 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.

The current CUP traffic cap of 165 vehicles was a guarantee to the neighborhood that student traffic would be confined to a morning peak period of 7:30 AM to 8:30 AM and an afternoon peak period of 2:30 PM to 3:45 PM. At all other times, student traffic was to be minimal, if any. The traffic caps were put into place in order to give some teeth to the "voluntary" agreement to carpool.

During summer 2011 discussions with neighbors, Head of School Mark Silver revealed his own interpretation of the traffic cap: During peak periods, traffic exiting campus was limited to 165 vehicles. During all other times, there could be as much traffic as Hillbrook wanted! This interpretation clearly makes a mockery of the intricate discussions from 2000-2001. It turns the cap into a meaningless number and eliminates the protections intended by the CUP.

School Year Problems. As evidence of the way traffic has been spread out throughout the day, here are some numbers: The TJKM traffic study numbers from May 2011 show that traffic continues to be heavy, long after the cap period ends. For example, the May 19, 2011 counts show that from 4:00 P.M. to 6:00 P.M., 92 vehicles exited Hillbrook. Those numbers are in addition to the "Peak Hour Data" for the 2:00 – 4:00 p.m. timeframe in which another 171 vehicles exited Hillbrook. Given that approximately 220 families attend Hillbrook, the total count of 263 vehicles (including two large buses) demonstrates that afternoon carpooling is ineffective at best.

A study done at the request of neighbors shows a similar pattern. Here are the numbers for May 14, 2012, May 15, 2012, and May 16, 2012 for cars entering and exiting the Hillbrook campus. Notice how much of Hillbrook's traffic is not accounted for by the peak period counts.

	May 14, 2012: Enter/Exit	May 15, 2012: Enter/Exit	May 16, 2012: Enter/Exit
2:30-3:45 (CUP peak period)	160/175	152/152	157/157
3:45-6:00	63/115	68/124	56/111
TOTALS FOR P.M. PERIOD	223/290	220/276	213/268

Here are more recent numbers showing that the problem is just getting worse. The numbers below were gathered by neighbors.

#### JANUARY

	January 10, 2013: Enter/Exit (Total)	January 14, 2013: Enter/Exit (Total)	January 15, 2013: Enter/Exit (Total)	January 24, 2013: Enter/Exit (Total)	January 25, 2013: Enter/Exit (Total)
2:30-3:45 (CUP peak period)	152/129 (281)	144/115 (259)	148/121 (269)	161/137 (298)	166/151 (317)
3:45-6:00	108/174 (282)	96/179 (275)	97/158 (255)	70/130 (200)	87/118 (205)
TOTALS FOR P.M. PERIOD	260/303 (563)	240/294 (534)	245/279 (524)	231/267 (498)	253/269 (522)

#### FEBRUARY/MARCH

	2/12/2013 Enter/Exit(Total)	2/26/2013 Enter/ Exit (Total)	3/1/2013 Enter/Exit(Total)
2:30-3:45 (CUP peak period)	135/100 (235)	134/114(248)	155/135 (290)
3:45-6:00	150/185 (335)	90/148 (238)	128/192 (320)
TOTALS FOR PM PERIOD	285/285 (570)	224/262 (486)	283/327 (610)

Notice how on many afternoons the post-peak period traffic exceeds the peak-period traffic. Notice, too, how extremely heavy afternoon traffic is. For example, on February 12, 2013, afternoon traffic to and from Hillbrook equaled 570 vehicles. Of these vehicles, 235, or 41 % used the roadway between 2:30 and 3:45 and 335, or 59% used the roadway between 3:45 and 6:00.

Hillbrook should be able to corroborate or dispute these numbers because in roughly September 2012 the school had Sensys Sytems install an automatic counter at its front gate to count exiting traffic. Neighbors have asked Hillbrook to share the information it gathers, but the school has refused to do so.



Hillbrook's actions make clear that the school is willfully ignoring the caps. Instead of planning its programs to conform to the 2001 agreement that traffic would be limited to one A.M. and one P.M. period, the school has designed its schedule and programs to spread traffic out throughout the day, a maneuver the cap was specifically designed to prevent. Hillbrook has also significantly expanded the types and number of after-school programs and opened them up to students and adults from the wider community. This has dramatically impacted the neighborhood with traffic all afternoon and into the evening.

Another way in which Hillbrook has ignored the caps is its dramatic increase in the number of league events it hosts. From a handful of events in 2000-2001, Hillbrook went to hosting more than 100 events (77% of the total events it participates in--30 home volleyball games; 11 home football games; 56 home basketball games; 4 home softball games; 3 soccer tournaments; and 1 home cross country meet) in 2011-2012. These events bring many students from other schools along with parents into the neighborhood between 3:45 and 8:00. All the traffic generated by these games happens outside of the peak hours when official counts are done.

Summer Problems. Hillbrook's failure to recognize its commitment to its morning and afternoon designated periods for traffic are worse in the summer. During the summer, Hillbrook willfully ignores the CUP by running all of its camps from 9 A.M. to 3 P.M. At the same time, it allows the third-party Breakthrough Silicon Valley to schedule programming from 8:30 A.M. to 4:30 P.M.

#### **7. Town Code. Town Code Section 29.20.200 Conditional use modification**

Town Code Section 29.20.200 Conditional use modification states the following:

A use authorized by conditional use permit shall not be modified unless a modification to the permit is approved. The following changes in use are modifications:

- (1) *Intensification of use.* Changes of use that will result in an increase of five (5) or more peak hour trips.
- (2) Commencement of new activities that could have a material adverse impact on the surrounding area.
- (3) Any change that is a substantial departure from plans which were the basis of the conditional use permit approval.

(Ord. No. 1316, § 5.20.230, 6-7-76; Ord. No. 1832, § III, 7-16-90; Ord. No. 1862, § I, 8-19-91; Ord. No. 2143, § I, 4-18-05)

Or

Sec. 29.10.215. - Modification of a nonconforming use. <sup>22</sup>

After March 22, 1986, for hotels and motels located in residential zones that were converted to multiple-family dwelling units, and after May 6, 1981, for all others, a use which is nonconforming shall not be modified without obtaining a conditional use permit therefor. For purposes of this section, a modification shall be defined as follows:

(1) Any change that is an intensification of use, including but not limited to: ...

e. Increase in the number of hours of operation or staying open later and such change of hours imposes a new burden on the surrounding neighborhood; or

(2) Any change that is a substantial departure from plans which were the basis of any approved; existing use.

(Ord. No. 1316, § 3.50.085, 6-7-76; Ord. No. 1496, 4-20-81; Ord. No. 1821, § II, 5-21-90; Ord. No. 2024, § II, 12-2-96; Ord. No. 2024, § II, 12-2-96; Ord. No. 2149, § I, 5-1-06)

**Ongoing Violation: Teacher Training Program**

Hillbrook began a Resident Teacher Program in fall 2012, called the Center for Teaching Excellence. This program was never submitted to the Town for approval, and neighbors were never informed about school plans to start this program. Such a program is not authorized as an appropriate use in the CUP.

The program currently has 5 participants—4 teacher trainees and 1 director. Under the Town Code, it is thus an “intensification of use” that was never approved by the Town. The program also represents a “substantial departure from plans which were the basis of the conditional use permit approval.”

Nothing in Hillbrook’s CUP permits the school to be in the adult education business. The current four trainees and the eventual twelve trainees are all adults being educated by Hillbrook. The conferences and speaker series to be conducted in conjunction with the Center are all adult education programs. The CUP does not specifically permit any adult education. Therefore such programming is not allowed.

The program was also started in violation of the Town’s Traffic Impact Policy, which states that

2. The deciding body may approve a project with a traffic impact of five to nineteen additional A.M. or P.M. peak hour trips only if it is determined that the benefits of the project to the Town outweigh the impact of increased traffic and subject to payment of a traffic mitigation fee.

and

4. Projects that generate additional traffic of five or more peak hour trips may only be recommended for approval if the projects benefits to the community override the traffic impacts as determined by specific sections of the General Plan and/or any Specific Plan. The deciding body must make specific findings which demonstrate that the benefit(s) of the project outweigh the impact in order to approve the project.

Planner Jennifer Savage said that this program was not a violation because the four teacher trainees were employees; according to Ms. Savage, the school can hire as many employees as it wants. Ms. Savage did not address the question that was raised as to whether the program violated (1) the Town Code and (2) the Town's Traffic Impact Policy. In a follow-up email, Barbara Dodson asked if the program would still be approved when it eventually reached its projected full size of 12 full-time "residents" as well as a director for a program totaling 13 participants and reiterated questions about the program's legitimacy in regard to the Town Code and the Town Traffic Impact Policy. Ms Savage never replied.

The discussion of number of participants begs the key question of whether Hillbrook's CUP permits the school to be in the adult education business. We hope the Council will address and resolve this question.

Here is Hillbrook's description of the program.

The Center for Teaching Excellence is an innovative learning institute that raises the level of teaching quality and education experience for children in both public and private institutions. The CTE supports the interest of lifelong learning by creating a dynamic environment that is committed to collaborative teaching and teacher development.

The CTE has three main components:

- ① A resident teaching program that allows university graduates who are bright aspiring teachers to be paired with master teachers to receive hands on learning.
- ② Education conferences where thought leaders in education collaborate and exchange ideas on cutting edge practices impacting teaching and educational excellence in Silicon Valley.
- ③ A speaker series designed to appeal to teachers, parents and students with a variety of interesting topics delivered by a phenomenal and diverse pool of thought leaders in the educational community as well as professionals from Silicon Valley's dynamic academic, business and non-profit sectors (including select Hillbrook parent superstars).



Here is a description of a resident teacher:

Our Resident Teacher Program is a two-year, hands-on teaching experience that incorporates both theoretical and practical aspects of teaching. Resident Teachers work shoulder-to-shoulder with a Mentor Teacher, engaging in all aspects of teaching and school-wide responsibilities. Professional development and a cohesive course of study is provided, along with regular support and coaching. Our emphasis on collaboration and co-teaching allows the Resident and Mentor Teacher to make deep inquiries into learning.

All applicants must be college graduates with significant coursework in the liberal arts and sciences. Demonstrated interest in and experience working with children is desirable, but previous education coursework is not necessary.

In addition to being concerned with the number of trainees and staff involved in this program, we are concerned by the incorporation of conferences and a speaker series. Given Hillbrook's past history of generating traffic without considering its impact on the neighborhood, we are concerned that the conferences and speaker series will occur on the Hillbrook campus and bring unknown numbers of people through our streets, possibly during the evenings and weekends.

#### **Ongoing and Past Violation: Excessive After-School Hosted Sports Events**

Before at least 2009, Hillbrook had minimal involvement in interschool sports events. Since 2009, Hillbrook has intensified its involvement in such after-school sports events. This constitutes a violation of the following element of the Town Code:

According to Hillbrook's calendar, the school held more than 100 sports events against other schools in its gym or on its fields in both academic years 2010-2011 and 2011-2012. This was more than ¼ of all events in which it played.

To provide some idea of the full extent of afternoon league sports at Hillbrook, see the list below of home basketball games for January 2012 alone.

JANUARY Home Basketball Games (32)	1/4, 4 PM 1/4, 5 PM 1/5, 3:45 PM 1/5, 4:45 PM 1/6, 3:45 PM 1/9, 3:45 PM 1/9, 4:45 PM 1/10, 3:45 PM 1/11, 3:45 PM 1/11, 4:45 PM 1/12, 3:45 PM
--	--

1/12, 4:45 PM
1/13, 3:45 PM
1/13, 4:45 PM
1/17, 3:45 PM
1/17, 4:45 PM
1/18, 3:45 PM
1/18, 4:45 PM
1/19, 3:45 PM
1/19, 4:45 PM
1/23, 4 PM
1/23, 5 PM
1/24, 4 PM
1/26, 3:45 PM
1/26, 4:45 PM
1/27, 3:45 PM
1/27, 4:45 PM
1/28 no time given
1/28 no time given
1/30, 3:45 PM
1/30, 4:45 PM
1/31, 4:45 PM

January 2012 was clearly a very bad month for the neighborhood with 32 home basketball games. Many games started at 4:45 or 5 P.M. and likely lasted long enough to be considered nighttime activities.

The situation is only getting worse. In October 2012 Hillbrook hosted even more home games—35. This was 72% of the total number of interschool games for the month. On 4 afternoons, the school hosted 3 games; on 8 afternoons it hosted 2 games.

Here are the numbers for school year 2012-2013 through February. They show that of the 118 games Hillbrook played with other schools, it hosted 94—80%. Not only is the number of games hosted on campus by Hillbrook excessive; so, too, is the percentage of games within a league.

#### **HILLBROOK AFTER-SCHOOL GAMES: SEPTEMBER-FEBRUARY 2012, 2013**

Month	Home Games	Away Games
September	6	2
October	35	13
November	2	0
December	11	1
January	20	6
February	20	2
Totals	94	24

League events bring visiting team players, other Hillbrook and non-Hillbrook students, Hillbrook and visiting team parents, and other onlookers to the Hillbrook campus over and beyond peak hour traffic. Having so many of these after-school events causes severe disruption and safety hazards in the neighborhood at the same time neighborhood children are coming home from school and want to enjoy playing in their own neighborhood. The sports activities also create a great deal of noise, which disturbs residents, particularly on the Ann Arbor side of the neighborhood.

It would seem, at the very least, that within a league other schools could host their fair share of these games.

The 2001 CUP and the discussions surrounding it did not address the issue of weekday afternoon interschool sports events because Hillbrook was not hosting a significant number of such events at that time. The sheer number of after-school sports events occurring now and during the past three years is clearly a violation of the Los Gatos Town Code Section 29.20.200-Conditional use modification because it represents (1) an "intensification of use"; (2) is the commencement of new activities "with material adverse impact" on the neighborhood; and (3) is a change that is "a substantial departure from plans which were the basis of the conditional use permit approval."

Another piece of information that should be part of this discussion is a comparison with a local school, Fisher Middle School. As we've said, in academic year 2011-2012, Hillbrook hosted approximately 100 of its roughly 130 league sports events (basketball, football, volleyball, cross-country, etc.). This is 77% of the school's interschool sports events. In comparison, in the same time period Fisher Middle School, with its approximately 1,100 students, hosted fewer than 50% of its interschool sports events (approximately 67 of roughly 139 interschool sports events).

	# of Middle School Students	# of Home Games	# of Away Games	Percent of Home Games
Hillbrook School	c. 90	c. 100	c. 30	77%
Fisher Middle School	c. 1,100	c. 72	c. 67	48%

It's easy to see how this kind of activity makes a complete mockery of the traffic caps under Condition #12. The clear intent of the CUP was to create specific periods during which Hillbrook students would be dropped off and picked up. The neighborhood would anticipate a large volume of traffic—up to 165 vehicles—between 7:30 and 8:30 and then again between 2:30 and 3:45. In all other periods, there would be almost no traffic related to Hillbrook. Obviously these after-school interschool games create a great deal of traffic outside of peak hours.

Starting in March 2013, Hillbrook stopped listing its after-school games on a public calendar. We are no longer able to see how extensive Hillbrook's afterschool sports programming is.

**Ongoing and Past Violation. Increase in Number of Hours of Operation Through Activities Scheduled During Breaks and All Summer**

When the 2001 CUP was approved, Hillbrook was open only during weekdays and specified weekends during the regular school year and for six weeks during the summer. Now Hillbrook is allowing use of its campus for soccer tournaments during winter break and has extended its summer usage so that it begins as soon as school ends in June and continues through the entire summer. This use constitutes a "commencement of new activities that could have a material adverse impact on the surrounding area" and a "change that is a substantial departure from plans which were the basis of the conditional use permit approval." It is also an "increase in the number of hours of operation" and thus a violation of Sec. 29.10.215. - Modification of a nonconforming use.

An indication of Hillbrook's plans to expand its programming into time periods not in use at the time of the conditional permit approval is given by its plan last year to hold a conference called the John Hunter Master Class in mid-August. Town staff told Hillbrook that this adult-education conference could not be held on campus.

## Appendix: The Los Gatos General Plan Land Use Policy and Hillbrook's Violations

This table lists land use policies and goals from the General Plan and explains way in which Hillbrook's greatly expanded use of its property and the resulting traffic have violated these policies and goals.

GENERAL PLAN LAND USE POLICY/GOAL	HILLBROOK ACTIONS THAT GO AGAINST THE POLICY/GOAL
Protect existing residential areas from the impacts of non-residential development. (Policy LU-6.1.)	Hillbrook is a nonresidential development in a solely residential area. Surrounding streets are already heavily impacted by Hillbrook traffic. Since 2009, afternoon traffic generated by Hillbrook's new afterschool activities has inundated the neighborhood. We seek the Town's protection from this increased traffic, which did not exist in 2001 when the current CUP was adopted.
To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos. (Goal LU-1.)	Hillbrook was once a small country day school. It now seems intent on becoming a much larger school and major educational activity center. These goals are NOT consistent with the small-town character and quality of life within Los Gatos.
Allow non-residential activity in residential areas only when the character and quality of the neighborhood can be maintained. (Policy LU-6.2.)	Hillbrook traffic, particularly in the afternoons, is disrupting the character of the neighborhood and compromising quality of life. Dog walkers, bike riders, and pedestrians no longer feel safe or comfortable on local streets because of the heavy Hillbrook traffic. Hillbrook traffic needs to be restricted and reduced to restore the character and quality of the neighborhood.
Prohibit uses that may lead to the deterioration of residential neighborhoods, or adversely impact the public safety or the residential character of a residential neighborhood. (Policy LU-6.4)	Hillbrook's intensification of use has already resulted in significant neighborhood deterioration. For example, people are already afraid to have their children walk or bike to school. Neighbors ask that current conditions be mitigated to make our streets, which have no sidewalks and no bike lanes, safe for neighborhood residents.

<p>The type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood. (Policy LU-6.5.)</p>	<p>The intensity of Hillbrook's land use fit into the neighborhood while the school retained its small country day school character. Now that it has drastically expanded its activities, the property use is no longer consistent with the immediate neighborhood.</p>
<p>Allow development only with adequate physical infrastructure (e.g. transportation, sewers, utilities, etc.) and social services (e.g. education, public safety, etc.). (Policy LU-4.2.)</p>	<p>Hillbrook currently generates too much traffic for neighborhood streets. All this traffic funnels into one street. There is NOT "adequate physical infrastructure" for the increased traffic that Hillbrook now generates all afternoon. Further, we have many anecdotal reports of near misses between cars and biker riders or pedestrians.</p>



March 8, 2013

RECEIVED

MAR 11 2013

TO: Mayor Barbara Spector, Vice-Mayor Steve Leonardis, Council Members Joe Pirzynski, Diane McNutt, and Marcia Jensen

TOWN OF LOS GATOS  
PLANNING DIVISION

FROM: Barbara Dodson for LG CATS (Los Gatans Concerned About Traffic and Safety)

**TIMELINE OF EVENTS RELATING TO CUP AND CODE COMPLIANCE ISSUES**

The following timeline shows that neighbors around Hillbrook School have reported many CUP and code compliance violations since July 29, 2011. Of the many violations reported, the Town has recognized only three and has not actually labeled them violations. The Town has simply told the school that it could not hold the following activities on campus: Santa Fe Leadership Center conference, Steve & Kate's Camp, John Hunter Master Class.

Hillbrook continues to claim that the current CUP allows it to hold the Santa Fe Leadership Center conference and the John Hunter Master Class on campus, but it moved the events off campus. (Hillbrook's website now shows that the school plans to "co-host" a similar conference with Santa Fe Leadership Center on campus in June. The school also plans a second adult-education conference in June.) Hillbrook continues to claim that it did not violate the CUP by having Steve & Kate's Camp on campus (with its approximately 900 campers) because it "partnered" with Steve & Kate's "to jointly operate a camp" rather than renting or leasing the campus to them. However, it no longer offers this camp program.

- |                    |  |
|--------------------|--|
| June 29, 2011      | Barbara Dodson, Patricia Elliot, and Tom Driscoll meet with Mark Silver to find out why there is so much traffic on Marchmont Drive. Dr. Silver claims that fewer than 315 participants are enrolled in summer programs and that, therefore, there is no CUP violation. (The true number later turns out to be more than 900.) He indicates that he is unable to control the traffic because the parents involved are not part of the Hillbrook community but that he will try to address the problem. |
| Mid-July, 2011     | Patricia Elliot writes to Mark Silver to point out that the heavy traffic is continuing despite Dr. Silver's claims that he will address the situation. She also questions the claim that there are no more than 315 participants in summer programming.   |
| July 15, 2011      | Barbara Dodson writes to Greg Larson asking the Town to look at the problem of excessive traffic on Marchmont Drive and to check into whether Hillbrook is renting its campus to Steve & Kate's Camps in violation of the CUP. (She does not receive a response.)  |
| September 16, 2011 | Barbara Dodson, Patricia Elliot, and Tom Driscoll meet with Sandy Bailey, who offers advice and information.   |
| January 2012       | Mark Silver hosts a meeting for neighbors to describe the changes Hillbrook will be proposing. About 70 neighbors attend. There is general opposition neighbors to enrollment and traffic increases. Hillbrook offers no solutions or recommendations other than to say that perhaps the Town can take additional traffic mitigation measures. )   |

- February 11, 2012 Neighbors submit 10 questions to planner Jennifer Savage. Questions include "What does the current CUP mean?" "What does the CUP condition about enrollment mean?" The violations projected for summer 2012 below are reported.
- Failure to limit summer enrollment to Hillbrook students
  - Third-party use by the Santa Fe Leadership Center, Breakthrough Silicon Valley, and Playful People Productions
  - Planned summer change in the drop-off period from the CUP-specified 7:30-8:30 to a drop-off time of 9 A.M. for most summer programs
- Questions are also asked about the following:
- Planned Center for Teaching Excellence with its accompanying use of the Hillbrook campus as a conference center
  - Excessive after-school activities that produce high levels of traffic
  - Excessive traffic outside of peak periods
  - Apparent failure to file CUP-required carpool reports between 2007-2011
- February 14, 2012 Jennifer Savage meets with 6 neighbors. No clear answers to any questions are provided. Jennifer does not identify any of the school's activities as violations. Jennifer says she will look for the missing carpool reports.
- February 25, 2012 Barbara Dodson and Joe Sordi meet with Mayor Steve Rice during a Meet the Mayor session to discuss the Hillbrook problem. Mayor Rice introduces the idea of "de novo," that neighbors can write their own version of the modified CUP.
- March 22, 2012 Barbara Dodson sends Jennifer Savage the article from *Inside Los Gatos* by Patricia Elliot titled "Hillbrook Is Violating Its Current CUP." The article is an extensive discussion numerous activities identified as violations.
- March 24, 2012 Glenda Burrows and other neighbors meet with Mayor Steve Rice during a Meet the Mayor session to discuss the Hillbrook problem.
- March 28, 2012 Jennifer Savage notifies Barbara Dodson and Patricia Elliot that the Santa Fe Leadership Center conference and Steve & Kate's Camp will not be permitted on the Hillbrook campus for summer 2012.
- March 31, 2012 Barbara Dodson sends Jennifer Savage an email detailing (1) her understanding of what a CUP does; (2) information from the Town Code about conditional use permits and conditional use modification; (3) explanations of why Breakthrough Silicon Valley and Hillbrook's other summer programs are violations of Hillbrook's CUP.
- April 7, 2012 Barbara Dodson notifies Jennifer Savage that Hillbrook continues to advertise the Santa Fe Leadership Center conference even though the Town has told the school



that the conference cannot be held on campus. Ms. Dodson provides documentation showing why two other programs—the John Hunter Master Class and the Center for Teaching Excellence--violate Hillbrook's CUP.

- April 20, 2012      Barbara Dodson reports additional CUP violations to Jennifer Savage—SASO High School Prep and Way to Go Foundation, Inc./Stage Kids California, and she reports Playful People Productions again.
- April 2012          Neighbors submit a detailed, 9-page chart summarizing past and present CUP and Code Compliance complaints against Hillbrook School to Town staff.
- April 24, 2012      Barbara Dodson makes a specific CUP complaint about excessive afternoon sports. (No response is ever received.)
- April 27, 2012      Barbara Dodson, Glenda Burrows, and other neighbors meet with Mayor Steve Rice during a Meet the Mayor session to discuss the Hillbrook problem. Neighbors review the chart of Hillbrook violations with Mayor Rice. Mayor Rice asks for a "soft" version to send to Town Manager Greg Larson. (Greg Larson had already been sent the chart, but Mayor Rice says that he will personally resend it.) Barbara Dodson sends a "soft" version of the chart that evening.
- May 4, 2012          Neighbors meet with Jennifer Savage, using the chart as a basis for discussion. Ms. Savage identifies the following activities as third-party uses and, thus, CUP violations: Saso High School Prep, Breakthrough Silicon Valley, Steve & Kate's Camp, Way to Go Foundation/Stage Kids of California Theater Camp, Playful People Productions, Santa Fe Leadership Center conference, John Hunter Master Class. Ms. Savage says that a formal letter to Hillbrook stating that these activities are violations will be issued within a week.
- May 4, 2012          Greg Larson writes to Steve Rice about Hillbrook's summer program. He says he will have the formal letter written by the following week. His letter includes the statement that he "will annotate the chart provided as to the violations which are being enforced and those which are pending further application review." This has never been done. No annotated chart has ever been received.
- May 25, 2012        Barbara Dodson tells Steve Rice about what Jennifer Savage has said about third-party use, but reports that no formal letter has been written. She asks Mayor Rice to encourage Greg Larson to have the formal letter written.
- June 4, 2012          The Town finally issues a formal letter about Hillbrook's summer programs. It tells Hillbrook it cannot hold the Santa Fe Leadership Center conference or the John Hunter Master Class on campus unless it provides documentation giving cause why such programs are permitted. (No documentation is ever provided.) It allows Breakthrough Silicon Valley. It fails to include any reference to two of the third-

party programs listed in the chart and scheduled for the summer—Way to Go Foundation/Stage Kids of California Theater Camp and Playful People Productions—or to the other summer camp programs.

- June 6, 2012 Hillbrook insists that the Santa Fe Leadership Center conference and the John Hunter Master Class are both permitted under the CUP, but agrees to hold the events off campus.
- June 7, 2012 Neighbors meet with Greg Larson and object to the June 4 ruling. Jennifer Savage claims that neighbors “misheard” her during the May 4 meeting when she identified numerous programs, including Breakthrough Silicon Valley, as violations.
- June 11, 2012 Patricia Elliot writes to Greg Larson reviewing the June 7 meeting and objecting strongly to: (1) the Town’s allowing summer campus use by Breakthrough Silicon Valley; and (2) the Town’s apparent support for a redefinition of enrollment to mean that changes can be made in the enrollment roster from period to period. (She does not receive a response.)
- (probably June 2012) Neighbors, school officials, and representatives from Nelson\Nygaard traffic consultants meet to review the draft Traffic Demand Management (TDM) plan. Neighbors request an advance copy, but the school refuses to give this out.
- July 12, 2012 A facilitated discussion led by Attorney Mark Strombotne is held between neighbors and representatives from Hillbrook School (Mark Silver, Chuck Hammers, Christine Kennedy) to address summer issues. There is discussion of summer issues, and during brainstorming Mr. Strombotne lists 9 ways in which Hillbrook could meet neighbors’ requests. He asks the school to come up with a plan to respond to neighbors’ issues.
- August 14, 2012 Patricia Elliot has a telephone conversation with Jennifer Savage to ask about the status of code compliance complaints. Ms Savage expresses surprise at the question because she believes all issues have been resolved. She says that staff had determined that there were “currently no existing violations.”
- August 14, 2012 Greg Larson suggests additional facilitated discussions. Neighbors and the school would have to share the cost of such discussions with the Town.
- August 17, 2012 Mark Silver responds to the suggestions made at the July 12 facilitated meeting. He fails to provide a plan as requested by Mark Strombotne and fails to agree to any of the 9 suggestions. He says that he is not “comfortable agreeing to specific terms about summer usage in isolation of the broader conversation about the revised CUP (i.e., inclusive of regular session school usage.)” This reflects Chuck Hammer’s comment during the facilitated discussion that the school would rather “take its

chances" with Town Council rather than agree to any summer arrangements requested by neighbors.

- End of August 2012 Neighbors decline Greg Larson's suggestion for more facilitated discussions because (1) the first discussion has turned out to be so unfruitful; and (2) it does not seem worthwhile to raise money to support talks that are unlikely to be productive.
- August 2012 Neighbors find out that the final Nelson\Nygaard Traffic Demand Management (TDM) plan is about to be released. Since neighbors were told at the first meeting that there would be more discussion before the plan is finalized, neighbors ask for a meeting with school officials and Nelson\Nygaard representatives.
- September 2012 Neighbors, school officials, and Nelson\Nygaard representatives meet about the Traffic Demand Management (TDM) plan.
- September 2012 Sandy Bailey notifies Barbara Dodson and Patricia Elliot in writing that Hillbrook has no outstanding violations.
- September 14, 2012 Hillbrook's final Traffic Demand Management (TDM) Plan is released.
- September 20, 2012 Hillbrook submits a revised Letter of Justification for Modification of Conditional Use Permit.
- September 20, 2012 Hillbrook submits a response to the Town's Planning Comments from August 15, 2012. The response includes 13 Draft Conditions. The Draft Conditions are different from the conditions in the Letter of Justification submitted on the same day. With several of the conditions, Hillbrook is clearly aiming to "legalize" its current violations. For example, Draft Conditions ask for permission to (1) rent and lease the facility; (2) increase nighttime activities so that there would be an unlimited number with fewer than 25 participants; and (3) redefine "enrollment."
- October 18, 2012 Barbara Dodson has an impromptu desk meeting with Jennifer Savage. She asks which of the conditions, those in the Letter of Justification or those in the Response to Planning Comments, will be recommended by staff. Ms Savage says that there will be a mix and that neighbors will see what is recommended when the staff report comes out.
- October 19, 25, 2012 Barbara Dodson, through email, tries to get a clear understanding from Jennifer Savage of which conditions—those in the Letter of Justification or those in the Response to Planning Comments—will be recommended by staff. Ms. Savage does not give a clear response.

November 2012	Barbara Dodson submits a code compliance complaint through the online form to the Code Compliance Officer about excessive afternoon traffic generated by Hillbrook School. (She never receives a response.)
November 2012	A Planning Commission meeting is scheduled for November 14 but then canceled because the MND is not ready.
December 2012	A Planning Commission meeting is scheduled for December 12 but then "continued to a date uncertain" because staff needs more time to address environmental concerns raised in response to the Initial Study.
February 6, 2013	Barbara Dodson resubmits a code compliance complaint through the online form to the Code Compliance Officer about excessive afternoon traffic generated by Hillbrook School. She copies the complaint to Jennifer Savage. (She never receives a response from either the Code Compliance Officer or Jennifer Savage as to whether the Town will address the complaint.)
February 12, 2013	Barbara Dodson is informed that Hillbrook-related CUP and code compliance issues are tentatively scheduled to be on the Town Council agenda for March 4, 2013. The item is later moved to the agenda for March 18, 2013.
End of February 2013	Barbara Dodson submits two more code compliance complaints: (1) Hillbrook is scheduling events during breaks, including winter break; and (2) Hillbrook plans an adult education conference—iPads Schools 2.0—for June 2013, to be held on campus.

RECEIVED

MAR 11 2013

TO: Los Gatos Town Council  
FROM: Barbara Dodson  
Date: February 22, 2013

TOWN OF LOS GATOS  
PLANNING DIVISION

SUBJECT: WHAT A CONDITIONAL USE PERMIT DOES AND DOES NOT ALLOW

Hillbrook lawyers in their June 4, 2012 letter to Town lawyer Judith Propp contend that "Use permits are generally considered to be inclusionary—all activities considered to be incidental to the use expressly allowed by the use permit are themselves allowed in the absence of a specific exclusion or prohibition in the use permit itself. (*Halaco Engineering Co. v. South Central Coast Regional Com.* (1986) 42 Cal.3d 52, 71...)

Based on material in The Planner's Training Series: The Conditional Use Permit (published by the State of California and used to train planners throughout California), Neighbors strongly disagree with the Hillbrook lawyers' assertions. According to these materials, "(t)he conditions which are imposed on a conditional use permit must be expressly attached to the permit and cannot be implied. (*Pacifica Homeowners' Association v. Wesley Palms Retirement Community* (1986) 178 Cal.App.3d 1147)." (Source: The Planner's Training Series: The Conditional Use Permit. [http://ceres.ca.gov/planning/cup/condition.htm#conditions\\_anchor](http://ceres.ca.gov/planning/cup/condition.htm#conditions_anchor))

These materials further state the following:

- "(t)he approval of a conditional use permit is an administrative, quasi-judicial act. It is not a change of zone, but rather a project-specific change in the uses allowed on a specific property. ..."
- "(a)s a rule, conditional use permits do not authorize uses that the zoning ordinance does not authorize, nor uses not expressly authorized by the permit. The conditional use permit includes conditions which limit the applicant's authority to use the property. (*Sports Arena Properties, Inc. v. City of San Diego* (1985) 40 C.3d 808). "
- "(to) obtain a use permit, the applicant must generally show that the contemplated use is compatible with the policies in terms of the zoning ordinances, and that such use would be essential or desirable to the public convenience or welfare, and will not impair the integrity and character of the zoned district or be detrimental to the public health, safety, morals or welfare" (*O'Hagen v. Board of Zoning Adjustment* (1971) 19 Cal.App.3d 151).

Source for all quotations: [http://ceres.ca.gov/planning/cup/condition.htm#conditions\\_anchor](http://ceres.ca.gov/planning/cup/condition.htm#conditions_anchor)

Clearly, Hillbrook plans to use the incidental use argument to generate an ever-increasing number of activities on its campus. This is made clear in the draft performance standard the school wants to have included in the revised CUP. (This appears at the end of the school's July 26, 2012 letter to Jennifer Savage titled "Re: Response to Planning Comments—February 15, 2012.)

2. USE. Approved uses are those associated with private schools for students from kindergarten through 8<sup>th</sup> grade, including but not limited to regular session and summer session curriculum, after-school sports, drama and other student activities, festivals, dances and similar activities for the student

population, educational opportunities for parents of current students which are open to other interested parents, educational opportunities for current faculty which are open to other educators, and all other uses typically incidental to the operation of a private school for students from kindergarten through 8<sup>th</sup> grade.

Hillbrook's location, deep inside a residential neighbor with only one narrow, dead-end access road in and out, makes incidental uses that may be appropriate to other private schools completely inappropriate to Hillbrook. Other schools not similarly located are likely not to have the traffic-impacted location that Hillbrook has and therefore should not be referenced as examples of appropriate school uses.



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

Items in yellow are updates from the previous chart.

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. None of these existed at least before 2004.	<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	2010-12	Ongoing
			Unknown number enrolled	2010-12	Ongoing
			Daily		Ongoing

**RECEIVED**

TOWN OF LOS GATOS  
PLANNING DIVISION  
FEB 11 2013

<sup>1</sup> **CONDITION #3. CARPOOLING.** The Town accepts the voluntary offer of Hillbrook School to maintain and promote a carpooling program for their students. Hillbrook 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 2010-2013

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
		<b>Violates CUP Condition #6<sup>4</sup></b> 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
Soccer Tournaments During Winter Break	Hillbrook has held 3-day soccer tournaments during winter break. No activities were taking place during winter break at the time of CUP approval.	<b>Violates L.G. Town Code Sec. 29.20.200 (2) (3); Sec. Code 29.10.215. (1)(e)- Modification of a nonconforming use</b> Activities exceed the scope of permissible uses in CUP.  This is an "intensification of use", "new activities" that have a "material adverse impact on the surrounding area," "a substantial departure from plans which were the basis of the CUP approval," and an "increase in the number of hours of operation."	At least the past three years		Ongoing
After School League Sports	Hillbrook hosted approximately 110 sports events against other schools in each of the 2010-2011 and 2011-2012 school years. So far, through February 2013, it has hosted 94 games. Hillbrook has stopped listing games on its public calendar, so we no longer know how many games are occurring.	<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.	2010-2011		
			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.	2011-2012		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		

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



# Hillbrook School Conditional Use Permit Violations 2010-2013

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."		4 Home Softball games April-May 2012		
			1 Home Cross Country Meet Oct. 2011		
		Violates CUP Condition #7	Garden Work Party	9/10/11 9am-12 pm	Saturday
		Violates CUP Condition #7	Family Photo Day	9/24/11 8 am-4:20pm	Saturday
		Violates CUP Condition #7	Family Photo Day	9/25/11 8am- 2:20pm	Sunday
		Violates CUP Condition #7	ISEE Testing	12/3/11	Saturday
		Violates CUP Condition #7	ISEE Testing	1/21/12	Saturday
		Violates CUP Condition #7	ISEE Testing	2/4/12	Saturday
		Violates CUP Condition #7	JK/K Screening for New Applicants	3/3/12	Saturday

<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.

# Hillbrook School Conditional Use Permit Violations 2010-2013

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
<b>Nighttime Activities</b>	Hillbrook has far exceeded the ten event maximum from 2010-2012.	<b>Violates CUP Condition #6<sup>6</sup></b> The maximum number of nighttime activities is limited to ten per calendar year. *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.	14 * (4 above max.)	2010	
			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." <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.	Unknown number enrolled	2/3/2012	Future plans unknown
<b>Saso High School Prep</b>	Saso is a third-party, LLC, that runs tutorial programs for middle school students. The classes are open to the public.	<b>Violates CUP Condition #10</b> No lease or rental of facilities to third parties. <b>Violates CUP Condition #4</b> Exceeds 315 enrollment cap. Enrolling non-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. 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	Unknown number enrolled	10 week class Sept.-Dec. 2012	Canceled

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

# Hillbrook School Conditional Use Permit Violations 2010-2013

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	a "material adverse impact on the surrounding area," and "a substantial departure from plans which were the basis of the CUP approval."			
		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	Aug-2012 - present	Ongoing
		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 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.		June 18- July 25 2012	Canceled
		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 2010-2013

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
		Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3) 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."			
Breakthrough Silicon Valley	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.	Violates CUP Condition #4 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 9th grade, high school and college age "interns" is not permitted.	Daily Five days per week, six week program	Summers 2010-2013	Planned for Summer 2013 8:25 am-4:30 pm
		Violates Condition #10 No lease or rental of facilities to third parties.			
		Violates Condition #12 Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m. and 2:30-3:45.			
		Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3) 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.			
Steve & Kate's Camp	Third-party summer camp program has at least 24 other sites. It had more than 900 campers at Hillbrook during summer 2011.	Violates CUP Condition #3 School acknowledged it had NO Carpooling program in place.	Daily	June 13-August 19, 2011	Will not return
		Violates CUP Condition #4 900 "Campers" enrolled. Exceeds 315 enrollment cap. CUP does not permit enrolling "campers" and non Hillbrook "students."			
		Violates CUP Condition #10 No lease or rental of facilities to third parties.			
		Violates CUP Condition #12- 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.			
		Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3)			

# Hillbrook School Conditional Use Permit Violations 2010-2013

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
		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."			
Hillbrook Summer Camps	Hillbrook listed nine summer camps for the summer 2012. All but one were open to the public. Hillbrook conducted a similar number of non-conforming camps in the summer of 2011.	All but One Camp Violate CUP Condition #4 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	Summers	Planned
		All Camps Violate Condition #12 Excessive traffic outside of the permitted hours 7:30 a.m. - 8:30 a.m.			
		All Camps Violate Los Gatos Town Code Sec. 29.20.200 (1), (2), (3) 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	2012: June 11-Planned June 18-22; June 25-29; July 16-20	
	Art-Rageous, For campers entering grades 4-8	9 am- 3 pm	5 Days	2012: July 9 - 13	
	Artist Explorers, For campers entering grades 1-3	9 am-3 pm	5 Days	2012: July 30 - Aug. 3	
	Tinkering Camp, For campers entering grades 5-8	9 am-3 pm	5 Days	2012: June 11-15	
	The Art of Movie-making, Entering grades 4-8	9 am-3 pm	5 Days	2012: June 18-22	
	Math Snacks and Games, Entering	9 am-3 pm	5 Days	July 16-20	

Hillbrook School Conditional Use Permit Violations 2010-2013

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
	grades 2-3				
	Soccer Skills, Drills and Games, Entering grades 1-4	9 am-3 pm	5 Days	2012: July 2-6	
	Spanish Camp "Acompañamiento Angry Birds", Entering grades JK-K and 1-3	9 am-3 pm 9 am-3 pm	10 Days	2012: June 11-15 June 18-22	
	Yoga and more!, For campers entering grades K-2	9 am-1 pm Violates CUP Condition #12 Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m. and 2:30-3:45.	5 Days	July 9-13, 2013	
Way To Go Foundation, Inc.	Stage Kids of California Theater Camp, for campers entering grades 2-8	Violates CUP Condition #10 No lease or rental of facilities to third parties.	10 Days	July 9-20 2012 9am-3pm	At least last 2 summers
		Violates CUP Condition #4 Exceeds 315 enrollment cap. Enrolling "campers" and not Hillbrook "students" is not permitted in the CUP.			
		Violates CUP Condition #12 Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m.			
		Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3) 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."			
Playful People Productions	Hillbrook contracts with this third party company to use its campus for a "Summer Stock Theatre" for campers entering grades 2-8.	Violates CUP Condition #10 No lease or rental of facilities to third parties.	10 Days	2012: June 11-22 9am-3pm	At least last 2 summers
		Violates CUP Condition #4 Exceeds 315 enrollment cap. Enrolling "campers" and not Hillbrook "students" is not permitted in the CUP.			
		Violates CUP Condition #12 Excessive traffic outside of the permitted hours 7:30 a.m.- 8:30 a.m.			



Hillbrook School Conditional Use Permit Violations 2010-2013

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
		Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3) and Sec. Code 29.10.215. (1)(e)-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," and an "increase in the number of hours of operation."			
Santa Fe Leadership Center (SFLC) Conference	5-day professional development conference for educators. SFLC is led by Head of School Mark Silver's wife, Carla Silver. The conference costs \$1,570-\$1,795.	Violates CUP Condition #10 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 15-19, 2012	Planned for July 15-19, 2012 8:30 am-4:30 pm Moved off-campus to comply with Town letter
		Violates CUP Condition #4 Exceeds 315 Enrollment Cap. Enrolling adults and not Hillbrook "students" is not permitted in the CUP.			
		Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3). 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."			
John Hunter Master Class	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.	Violates CUP Condition #10 No lease or rental of facilities to third parties.	25 Adults	August 14-15, 2012	Planned for August 2012 8:30 am-4:30 pm Moved off-campus to comply with Town letter
		Violates CUP Condition #4 Exceeds 315 Enrollment Cap. Enrolling adults and not Hillbrook "students" is not permitted in the CUP.			
		Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3). 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."			

# Hillbrook School Conditional Use Permit Violations 2010-2013

Activity	Description	CUP and Town Code Violations	Number of Incidents/ Violations	Dates	Status
iPads Schools 2.0: Now What?	Program offered to adult educators at a cost of \$1,250 per person. The conference is for faculty and administration from outside schools; it is not aimed at Hillbrook's own employees. A similar conference probably took place last year.	<p>Violates CUP Condition #4 Exceeds 315 Enrollment Cap. Enrolling adults and not Hillbrook "students" is not permitted in the CUP.</p> <p>Violates Los Gatos Town Code Sec. 29.20.200 (1), (2), (3) 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."</p>	50 Adults	June 19-21, 2013	Planned

March 4, 2013

TO: Mayor Barbara Spector, Vice-Mayor Steve Leonardis, Council Members Joe Pirzynski, Diane McNutt, and Marcia Jensen

RECEIVED

FROM: Barbara Dodson for LG CATS (Los Gatos Concerned About Traffic and Safety)

MAR 11 2013

SUBJECT: Lack of Effectiveness of the Hillbrook Traffic Mitigation Plan

TOWN OF LOS GATOS  
PLANNING DIVISION

Hillbrook School instituted a traffic mitigation program in September 2012. The school now claims that it has dramatically reduced traffic. We challenge this claim. In fact, traffic in the neighborhood around Hillbrook School has actually increased.

The Nelson\Nygaard December Study Gives a False Picture

To support its claim that it has reduced traffic, Hillbrook had traffic consultants Nelson\Nygaard do a traffic count analysis. In their analysis dated December 3, 2012, these consultants supported their contention that Hillbrook has reduced its traffic by using a limited amount of data. If they had used data that was truly representative of Hillbrook's total traffic, their conclusion would necessarily have been very different.

**The data was too narrow...**

- Counts. The study provides *counts* only of vehicles exiting Hillbrook during the peak periods (defined in the current CUP as 7:30-8:30 AM and 2:30-3:45 PM.)

To provide a true picture of Hillbrook traffic, counts and analysis should also be provided for (1) entering peak period traffic; (2) total peak period traffic—entering + exiting; (3) total daily (24-hour) traffic. Counts should not be restricted only to those times dictated by the current CUP. Counts should be taken of vehicles entering during peak periods as well and analysis done on total peak period traffic, not just of exiting traffic. Total counts should also be taken of vehicles entering and exiting during the entire day.

- Comparisons. The study provides *comparisons* only for exiting peak period traffic.

Historical counts of Hillbrook traffic are available for both entering and exiting peak period traffic. Nelson\Nygaard should not have limited itself to comparing only exiting peak period counts to six-year historical averages. To create an accurate and complete picture, it should also have compared (1) current peak period entering traffic to historical averages; and (2) current total peak period traffic to historical averages. Furthermore, Nelson\Nygaard should have conducted counts of total daily traffic and compared these to available total daily traffic numbers from the 2011 traffic study and other sources.

Without those complete counts and a more complete analysis, the Nelson\Nygaard analysis is much too restrictive in its scope.

**The study is not inclusive enough...**

The traffic mitigations recommended by Nelson\Nygaard in the Final TDM Plan dated September 12, 2012 included steps that cannot be measured by car counts. It recommended (1) expanded car pooling; (2) expanded bus ridership; (3) and increased walking and bike riding. Information about the success of

these measures should be included in any study of the success of traffic mitigation methods. The Nelson\Nygaard study should have answered these questions:

**Carpools.** How many students are involved in carpools? What is the total number of cars that take part in carpooling?

**Buses.** How many students ride the bus to school in the morning? How many students use the mid-afternoon bus? How many students use the late-afternoon bus? What verification is there of the accuracy of these numbers?

**Walkers/bikers.** How many students walk or bike to school every day?

Neighbors have noted that the number of students who walk to or from school is in the low single digits and that virtually no students ride bikes to school. Any effort on Hillbrook's part to encourage walkers and bikers should be deemed a failure unless Hillbrook can provide verifiable numbers that prove the contrary.

#### **Hillbrook's Traffic Mitigation Efforts Have Not Worked**

Traffic counts done by neighbors in October 2012 and again in January 2013 demonstrate clearly that, if anything, Hillbrook traffic has increased since September 2012 when traffic mitigation efforts began. Daily traffic in the months of January-March 2013 was higher than in any previous period for which there are counts.

Here are some numbers:

Spring 2011: Average Daily Traffic (TJKM study)	880
Spring 2012: Average Daily Traffic in spring 2012 (Campbell engineer)	1017
Fall 2012, winter 2013: Average Daily Traffic (Marchmont Neighbors)	1029

#### **Conclusion:**

- Traffic was higher than ever during school year 2012/2013 despite traffic mitigation measures.

Here are the data on which the averages are based. The blue tables show numbers for before the implementation of traffic mitigation measures. The brown table shows numbers for after the implementation of traffic mitigation measures. Note how the numbers in the brown table are generally higher than the numbers in the blue tables.

#### **2011, 2012 : BEFORE NELSON\NYGAARD TDM MEASURES IN EFFECT**

DATE	TOWARD HILLBROOK	AWAY FROM HILLBROOK	DAY TOTAL	SOURCE
5/18/2011	459	466	924	2011 TJKM Traffic Study
5/19/2011	469	461	933	2011 TJKM Traffic Study
5/23/2011	426	435	861	2011 TJKM Traffic Study
5/24/2011	395	405	800	2011 TJKM Traffic Study

Effectiveness of Hillbrook Traffic Mitigation from September 2012 through March 1, 2013

5/14/2012	533	537	1070	Campbell Traffic Engineer
5/15/2012	489	492	981	Campbell Traffic Engineer
5/16/2012	501	500	1001	Campbell Traffic Engineer

### 2012: AFTER NELSON\NYGAARD TDM MEASURES IN EFFECT

DATE	TOWARD HILLBROOK	AWAY FROM HILLBROOK	DAY TOTAL	SOURCE
10/25/2012	462	466	928	Marchmont Neighbors
11/10/2012	505	98	1024	Marchmont Neighbors
11/14/2012	524	55	1049	Marchmont Neighbors
11/15/2012	534	549	1103	Marchmont Neighbors
2/12/2013	537	504	1041	Marchmont Neighbors
2/26/2013	496	515	1011	Marchmont Neighbors
3/1/2013	517	532	1049	Marchmont Neighbors

The Nelson\Nygaard TDM measures as implemented by Hillbrook have had no effect on Hillbrook's overall traffic. Hillbrook is able to claim that it has reduced peak period traffic, but a close look at overall traffic, particularly afternoon traffic, shows that Hillbrook has simply spread its traffic so that traffic is heavy for far longer periods than ever before. The table below shows how afternoon traffic has been spread out.

### AFTERNOON TRAFFIC: COMPARING "PEAK PERIOD" AND POST-PEAK PERIOD TRAFFIC

JANUARY	January 10, 2013: Enter/Exit (Total)	January 14, 2013: Enter/Exit (Total)	January 15, 2013: Enter/Exit (Total)	January 24, 2013: Enter/Exit (Total)	January 25, 2013: Enter/Exit (Total)
2:30-3:45 (CUP peak period)	152/129 (281)	144/115 (259)	148/121 (269)	161/137 (298)	166/151 (317)
3:45-6:00	108/174 (282)	96/179 (275)	97/158 (255)	70/130 (200)	87/118 (205)
TOTALS FOR P.M. PERIOD	260/303 (563)	240/294 (534)	245/279 (524)	231/267 (498)	253/269 (522)



FEBRUARY, MARCH	2/12/2013 Enter/Exit( Total)	2/26/2013 Enter/ Exit (Total)	3/1/2013 Enter/Exit(Total)
2:30-3:45 (CUP peak period)	135/100 (235)	134/114(248)	155/135 (290)
3:45-6:00	150/185 (335)	90/148 (238)	128/192 (320)
TOTALS FOR PM PERIOD	285/285 (570)	224/262 (486)	283/327 (610)



FEBRUARY, MARCH	2/12/2013 Enter/Exit( Total)	2/26/2013 Enter/ Exit (Total)	3/1/2013 Enter/Exit(Total)
2:30-3:45 (CUP peak period)	135/100 (235)	134/114(248)	155/135 (290)
3:45-6:00	150/185 (335)	90/148 (238)	128/192 (320)
TOTALS FOR PM PERIOD	285/285 (570)	224/262 (486)	283/327 (610)

Just as an aside, Dr. Mark Silver claims traffic has decreased steadily since 2001. This is not the case. Traffic did NOT decrease in 2002 after the 2001 CUP despite Hillbrook's promises to increase carpooling and other traffic mitigation measures.

RECEIVED

MAR 11 2013

March 8, 2013

TO: Mayor Barbara Specfor, Vice-Mayor Steve Leonardis, Council Members Joe TOWN OF LOS GATOS  
Pirzynski, Diane McNutt, and Marcia Jensen PLANNING DIVISION

FROM: Barbara Dodson for LG CATS (Los Gatans Concerned About Traffic and Safety)

SUBJECT: Emails, Letters, and Opinion Pieces Relating to Hillbrook CUP Violations

At our very first meeting with planner Jennifer Savage on February 14, 2012, neighbors tried to get a clear understanding of how the Town interpreted the Conditional Use Permit (CUP). (See the email exchange dated February 13, 2012.) It was clear from the start that Hillbrook School was twisting and reshaping the CUP to allow itself a much more major use of its campus than had ever occurred before. Ms Savage refused to provide definitions for such things as "student," "enrollment," and what a CUP actually is. From the very start, neighbors were left on their own to interpret the CUP and try to control Hillbrook's ever-increasing violations of its CUP.

The attached letters, emails, and opinion pieces say many of the same things that are said in the document titled "Hillbrook School Conditional Use permit and Town Code Violations: Ongoing and Past." By providing these documents, I am not offering new information but rather am simply trying to show how the Town has failed in its responsibility to address our concerns. For almost two years, we have carefully supported our claims that Hillbrook has violated its CUP; we have used references to the Town Code and to statements made in 2000-2001 showing the intent of CUP conditions. But the Town, in its responses, has failed to explain why our arguments are not legitimate and has simply made blanket statements to the effect that there are no outstanding violations.

I've boldfaced emails and other items that I hope you will take the time to read.

There has never been any correspondence from the Town describing actions or judgments in response to complaints about these specific current, ongoing CUP violation complaints:

- Excessive afterschool sports programming
- iPads Schools 2.0: Now What?—an adult education conference scheduled for June 2013
- Afterschool activities open to non-Hillbrook students and adults
- Weekend use of the campus
- Way to Go Foundation/Stage Kids California. Third-party use of the campus. (This was on the schedule for summer 2013, but as of today it has been removed. We do not know whether or not Hillbrook still plans to hold this program this summer.)
- Playful People Productions. Third-party use of the campus. (This was on the schedule for summer 2013, but as of today it has been removed. We do not know whether or not Hillbrook still plans to hold this program this summer.)
- 3-day soccer tournaments during winter break
- More than 10 nighttime activities per year

There has been correspondence from the Town about actions on these CUP violation complaints:

- The Santa Fe Leadership Center conference, held in summer 2011 on campus and held in summer 2012 off campus as a result of a Town ruling
- The John Hunter Master Class, scheduled for summer 2012 on campus and moved off campus as a result of a Town ruling
- Breakthrough Silicon Valley. Staff permitted this activity. No response was ever given to neighbors' protest and to evidence that this activity represented a CUP and Town Code violation.
- Center for Teaching Excellence. In an email, our planner said that the Center was all right because it had only 4 participants and that these people were considered employees. However, when I asked if the Center would still be all right if it had 13 participants, I received no response. The key issue of the school providing adult education was not addressed.

Here is a list of the letters, opinion pieces, and other information that are attached.

June 30, 2011	Letter to Mark Silver from Patricia Elliot about the summer traffic situation
July 2, 2011	Letter to Patricia Elliot from Mark Silver responding to her letter. Mark Silver claims summer attendance is 250. He later admits (in January 2013) that there were more than 900 campers in Steve & Kate's camp alone.
July 15, 2011	Letter to Greg Larson from Barbara Dodson about CUP violations in summer 2011 (There was no response.)
July, 2011	Letter to Mark Silver from Patricia Elliot about continuing CUP violations, focus on summer 2011
September 16, 2011	Notes from a meeting between neighbors and Sandy Baily
February 11, 13, 2012	Email between Barbara Dodson and Jennifer Savage with questions for a February 14, 2012 meeting
February 14, 2012	Notes from the February 14 meeting between neighbors and planner Jennifer Savage
March 16, 2012	Email from Barbara Dodson to Jennifer Savage providing support for the CUP violation complaints about the Santa Fe Leadership Center conference then scheduled for summer 2012 and about Breakthrough Silicon Valley program, also scheduled for summer 2012

March 20, 2012	Opinion Article by Patricia Elliott in <i>Inside Los Gatos</i> : "Hillbrook School Is Violating Its Current CUP" (includes comments from readers)
March 29, 2012	Email from Barbara Dodson to Mayor Steve Rice about summer programming
March 31, 2012	Email from Barbara Dodson to Jennifer Savage about summer programming and ways in which it violates the Hillbrook CUP
April 7, 11, 2012	Email exchange between Barbara Dodson and Jennifer Savage containing a complaint about the John Hunter Master Class and the Center for Teaching Excellence as violations of the CUP and the Town Code
April 9, 2012	Opinion Letter in the <i>Los Gatos Weekly-Times</i> from Cindy Vindasius: "Hillbrook School Is Violating Its CUP Each Summer"
April 20, 2012	Email to Jennifer Savage from Barbara Dodson identifying/reidentifying 3 CUP violations/code compliance issues: Saso High School Prep, Way to Go Foundation Inc./Stage Kids California, and Playful People Productions
April 24, 2012	Email to Jennifer Savage from Barbara Dodson about excessive after-school hosted sports events as a CUP/Town Code violation
May 4, 5, and 25, 2012	Email correspondence between Barbara Dodson, Steve Rice, and Greg Larson about violations identified on the chart. Greg Larson says that he will use the chart as a checklist; he says he will "annotate the chart provided as to the violations which are being enforced and those which are pending further application review." Neighbors never see or hear about an annotated chart.
June 4, 2012	Letter from Jennifer Savage to Mark Silver about permitted and non-permitted summer programming
June 5, 2012	Email from Patricia Elliott to Greg Larson requesting a meeting about summer programming for summer 2012 (Greg Larson had not previously met with neighbors despite repeated requests from neighbors for a meeting.)
June 11, 2012	Letter from Patricia Elliott to Greg Larson reviewing the June 7, 2012 meeting between neighbors and Greg Larson and objecting to decisions made about programming for summer 2012 (No response was ever received.)

August 14, 2012	Notes on a telephone conversation between Jennifer Savage and Patricia Elliot in which Ms Savage says there are no outstanding violations
August 14, 2012	Greg Larson suggests additional facilitated discussions to be paid partially by the Town and partially by participants (By September, neighbors have declined because of Hillbrook's failure to respond positively to any suggestions made during the first facilitated discussion.)
August 17, 2012	Response from Mark Silver to mediation facilitator Mark Strombotne's request that Hillbrook come up with a response to ideas for resolving summer problems (The mediation was held on July 12, 2012.)
September 5, 2012	Opinion piece in the <i>Los Gatos Weekly-Times</i> by Sue Jamieson: "Hillbrook School Neighbors Want Town to Listen"
October 2, 2012	Opinion piece in the <i>Los Gatos Weekly-Times</i> by Joe Sordi: "Hillbrook Is in Violation of Its Use Permit"
February 6, 2013	Code compliance complaint about excessive afternoon sports/games forwarded by Barbara Dodson to Jennifer Savage
March 2, 4, 7	Email exchange between Barbara Dodson and Jennifer Savage. Barbara Dodson tries to make sure that four reported violations will be on the Town Council agenda: Way to Go Foundation/Stagekids; Playful People Productions; 3-day soccer tournaments during winter break; adult education conference/iPads 2.0-What Next?

**Patricia Elliot**

269 Marchmont Drive  
Los Gatos, CA 95032

Tel: 408.623.6634  
Fax: 408.358.4494

Email: [Elliotlaw@mail.com](mailto:Elliotlaw@mail.com)

June 30, 2011

Via email and regular mail

Dr. Mark Silver, Ph.D.  
Head of School  
Hillbrook School  
300 Marchmont Drive  
Los Gatos, CA 95032

Dear Dr. Silver:

Thank you for meeting with Tom Driscoll, Barbara Dodson and me on June 29th.

In addition to requesting information about Hillbrook's proposed expansion plan, my neighbors and I expressed our significant concerns regarding the recent dramatic increase in traffic as a result of the new Hillbrook summer programs. These new summer activities have had a material adverse impact on the neighborhood, represent a substantial departure from plans which were the basis of the Conditional Use Permit approval and amount to an intensification of use which requires a modification of Hillbrook's Conditional Use Permit.

In implementing these new programs, Hillbrook blatantly disregarded the restrictions in its CUP and failed to consider the substantial negative impact of its actions on the neighborhood. Your response that there is nothing Hillbrook can do this summer to rectify the situation is irresponsible and wholly unacceptable.

To reiterate our concerns, since I moved to Marchmont Drive in July 1995, the summers have allowed the neighbors a welcome and well-deserved respite to the noise, pollution and unsafe traffic conditions caused by the Hillbrook School traffic. In years past, the Hillbrook summer programs, if any, have been quite small and have had minimal impact on the neighborhood.

However this year, without prior notice or consultation with neighbors, Hillbrook implemented at least three new summer programs, all of which violate Hillbrook's CUP in several respects.

In our meeting, you acknowledged that Hillbrook is currently at its enrollment capacity of 315. However, you also acknowledged that beginning in June 2011, Hillbrook added approximately 250 additional students over and above the currently enrolled 315. The enrollment cap has always meant 315 during the school year: not 315, plus another large group in the summer. The enrollment of the additional students violates the CUP.

Further, the schedule for the summer programs also imposes an undue burden on the neighborhood and violates both the letter and the spirit of the CUP. The traffic burden as defined by the CUP is to be limited to the morning hours of 7:30 am-8:30 am and the afternoon hours of 2:30 p.m. to 3:45 p.m. The schedule Hillbrook has implemented for its summer programs imposes an undue traffic burden on the neighborhood for most of the day.

According to Hillbrook's web site, drop off is at 7:30 a.m. for "Steve and Kate's camp and Extended Care" and at 9:00 a.m. for "Hillbrook camps." However, you also stated that parents may drop off and pick up campers at



Dr. Mark Silver, Ph.D.  
June 30, 2011  
Page Two

anytime. Pick up times are described as 3:00 p.m. for "Hillbrook camps" and 6:00 p.m. for "Steve and Kate's camp and Extended Care." According to the web site, "Steve and Kate's Camp" operates from June 13th to August 19<sup>th</sup>.

On June 30, 2011, I counted a steady stream of vehicles going to and from Hillbrook beginning at 7:00 a.m. and continuing beyond 10:00 a.m. From 7:00 a.m. to 8:00 a.m., I counted 51 vehicles going up the hill and entering the Hillbrook lot. 92 vehicles and two large busses entered Hillbrook from 8:00 a.m. to 9:00 a.m. Between 9:00 a.m. and 10:00 a.m., another 78 vehicles entered Hillbrook. Although I stopped counting at 10:00 a.m., the traffic continues as I write. In the three hour period from 7:00 a.m. to 10:00 a.m. today, 223 vehicles went up to Hillbrook and 161 came down again. There is no doubt that at least by 10:30 a.m., Hillbrook far exceeded the 165 vehicle morning traffic cap. Again, this clearly violates the CUP's traffic restrictions.

Further, the CUP obligates Hillbrook to maintain and promote a carpooling program for their students. You stated in our meeting that there is no carpooling program in place for these additional 250 students. You explained that carpooling is not feasible because the students are permitted to come at flexible times and because since these are not "Hillbrook families," you do not feel you can control or dictate that these students carpool. Hillbrook cannot simply choose to ignore the requirements of the CUP.

Finally, the Hillbrook web site describes another summer program that directly violates the CUP. Hillbrook has apparently leased or rented the facility to a third party, Santa Fe Leadership Center, for a program for an additional 40 adult students to take place from Sunday, July 10<sup>th</sup> to Thursday, July 14<sup>th</sup>. The Santa Fe Leadership Center program violates both the no lease or rental restriction and the Weekend activity restrictions in the CUP.

Please be advised that I will be filing a complaint against Hillbrook for these violations of its CUP and request that Hillbrook immediately cease the unauthorized activities.

Sincerely,



Patricia Elliot

Cc: Town Manager, Town of Los Gatos  
Code Compliance Officer, Town of Los Gatos

**Patricia Elliot**

From: Mark Silver [msilver@hillbrook.org]  
Sent: Saturday, July 02, 2011 10:36 AM  
To: Patricia Elliot  
Subject: Responding to your letter of June 30

Dear Patricia,

It was a pleasure to meet you, Tom and Barbara earlier this week. Thank you for taking the time to come in to the school and meet with me, Chuck Hammers, and Mary Babbitt in person.

One of my goals during my first two years at the school has been to increase our communications with our neighbors, and I think we have made some real progress. The communication about our summer programs, however, clearly did not meet your expectations or ours. While we shared news about the offerings we had on campus in a letter this spring, I recognize that we did not make it clear that we hoped the programming would be more popular this year. We apologize for our failure to communicate that effectively.

Hillbrook has a long history of summer camps, and year after year, one of our top requests from parents is good summer programming. Our programs for the past few summers, however, have not been especially popular and we have had relatively low attendance. Each year we try something different to try to please our parents and students. This year, we chose to work with Steve & Kate's Camp in running our summer program, and as you are well aware, it has turned out to be very popular.

As we explained during our meeting, we are definitely focused on meeting the traffic counts from 7:30 -8:30 am and 2:30 - 3:45 pm as articulated in our CUP. We are also committed to sending a strong message to families about the importance of obeying traffic laws and driving safely through the neighborhood.

I should also clarify our summer attendance. Our summer school attendance of 250 is not in addition to the 315. The regular school attendees had their last day on June 7th and the summer programs started June 13th, thus we remain in compliance with the enrollment cap as outlined in the CUP.

Following our meeting, I sat down with the Steve & Kate's camp coordinator and we discussed how we can address some of the concerns you raised during the meeting and also in your letter. At this point, we are taking the following steps:

- We will be e-mailing all summer camp parents to remind them of the 15 mph speed limit on upper Marchmont and 25 mph speed limit on lower Marchmont. In addition, we will be having a staff member in the street a few times each week in order to remind people of the need to slow down and obey traffic rules.
- In our e-mail to summer camp parents, we will also be encouraging them to carpool to camp. We will also offer to help them coordinate carpool groups. The Director of Steve & Kate's will also encourage staff members to carpool.
- We have asked the Town of Los Gatos to place the radar speed sign on Marchmont, as well as asking police officers to patrol the area looking for speed and traffic law violators.

In terms of your concerns about the Santa Fe Leadership Center, I want to make it clear that we are not leasing or renting the facility to this non-profit group. Several of our senior administrative team members are participating in the conference and I will be one of the co-leaders of the conference (I am a member of the

SFLC advisory board). The opening event on Sunday evening will not be held on campus.

Again, thank you for meeting with me on Wednesday. Thank you also for notifying me of your plans to address our concerns with the Town of Los Gatos. A constant goal throughout the 75 year history of Hillbrook School is to be a good neighbor to the surrounding community. We continue to work on this every day.

Sincerely,

Mark Silver  
Head of School

On 6/30/11 3:14 PM, "Patricia Elliot" <[elliottlaw@mail.com](mailto:elliottlaw@mail.com)> wrote:

Patricia Elliot  
269 Marchmont Dr.  
Los Gatos, CA 95032

Tel: 408.358.4455  
Fax: 408.358.4494  
Cell: 408.623.6634

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Mark Silver, Ph.D.  
Head of School  
Hillbrook School  
300 Marchmont Drive  
Los Gatos, CA 95032  
[msilver@hillbrook.org](mailto:msilver@hillbrook.org)  
408 356-6116 ext 300

"A Life Preparatory School"

239 Marchmont Drive  
Los Gatos, CA 95032  
July 15, 2011

Mr. Greg Larson, Town Manager  
Town of Los Gatos  
110 East Main Street  
Los Gatos, CA 95030

Dear Mr. Larson:

I am a homeowner on Marchmont Drive and am writing to object to the current traffic situation on my street. According to the current conditional use permit granted to Hillbrook School, "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." I believe that Hillbrook is currently exceeding both the letter and the spirit of this section of the CUP.

Since it began its summer camp programs this summer, there appear to be many more than 165 vehicles leaving the school during the times indicated above. In addition, there has been a heavy flow of vehicles between 8:30 and 2:30 and between 3:45 and 6:00. The likely reason is that one of the camps using Hillbrook's facilities, Steve and Kate's Camp, allows its campers "to attend Any Day, Anytime." (<http://www.steveandkatescamp.com/index.html>) There is no evidence of car pooling and, according to headmaster Mark Silver there is little chance that there will be carpooling since (I am paraphrasing) "these are not Hillbrook people and we really can't tell them what to do." In a talk with Dr. Silver, Dr. Silver indicated that when it set up its summer programs, it didn't actually take into account the traffic impact on the neighborhood.

The heavy flow of traffic this summer in what should be non-peak hours may not violate the letter of the CUP, which makes no mention of traffic during these hours. However, it certainly goes against the understanding the neighborhood reached with the school. This understanding was that there would be little traffic during non-peak hours and that the heavy traffic would be limited to specific dropoff and pickup times in the morning and afternoon.

Further I believe Hillbrook is violating its CUP in a second way; the school appears to be leasing its facilities to a third party. According to the CUP, "No lease or rental of the campus facilities shall be permitted to third parties." Hillbrook is currently hosting two independent camps, one called Hillbrook Camp and one full day camp which is operated by the previously mentioned Steve and Kate's Camp. Steve and Kate's Camp has nineteen locations in the Bay Area; (<http://www.steveandkatescamp.com/index.html>) it is an operation that is separate from Hillbrook School.

I, of course, do not know the agreement Hillbrook has made with Steve and Kate's Camp, but I suspect the school is in fact leasing its facilities to the camp. I know, for example, that parents make payments to Steve and Kate's Camp, not to Hillbrook, for their children's activities. Even if through some special kind of agreement Hillbrook is not leasing its facilities to Steve and Kate's Camp, it appears to me that, again, if Hillbrook has not violated the letter of the CUP, it has certainly violated its spirit.

I ask that you investigate the violations I have described and take appropriate action against the school.

Sincerely,

Barbara Dodson

July 2011

~~February 18, 2013~~

Via email and regular mail

Dr. Mark Silver, Ph.D.  
Head of School  
Hillbrook School  
300 Marchmont Drive  
Los Gatos, CA 95032

**RE: Hillbrook School Continuing CUP Violations**

Dear Dr. Silver:

I am writing in follow-up to your July 2, 2011 email in response to my June 30, 2011 letter to you. Copies enclosed. Despite being on notice that as a result of its summer programs Hillbrook was in serious violation of the CUP, Hillbrook has failed to remedy the situation and the CUP violations continue unabated.

Hillbrook's summer programs violate Hillbrook's CUP in several respects, as described below.

I did a videotaped car count yesterday afternoon with the following results:

Time	Up	Down
2:30-3:00 pm	14	14
3:00-3:30 pm	13	26
3:30-4:00 pm	27	20
4:00-4:30 pm	45	31
4:30-5:00 pm	38	61
5:00-5:30 pm	34	49
5:30-6:15 pm	34	52
<b>Totals</b>	<b>205</b>	<b>253</b>

You stated in your July 2<sup>nd</sup> email that "(A)s we explained during our meeting, we are definitely focused on meeting the traffic counts from 7:30 -8:30 am and 2:30 - 3:45 pm as articulated in our CUP" these numbers reflect that the measures Hillbrook has taken, if any, have been ineffective.

Not only does the volume of traffic far exceed the maximum 165 vehicles permitted in section 12 of the CUP, but the timeframe during which the traffic is imposed on the neighborhood also violates section 12. Whatever measures Hillbrook has taken since our June 29<sup>th</sup> meeting, have been wholly insufficient to bring Hillbrook into compliance with its CUP.



Further, the sheer number of vehicles leaving the school during the 2:30 p.m. to 6:15 p.m. timeframe indicates that Hillbrook has far exceeded the 315 student enrollment cap (even if you assume there is a separate and additional enrollment number for the summer), in direct violation of section 4 of the CUP.

In our meeting on June 29<sup>th</sup> you stated that over 100 students are enrolled for the summer in the Breakthrough Silicon Valley program. Hillbrook's website states: "More than 100 students entering 7th, 8th, and 9th grades use our facilities during an intensive six-week summer program." You also stated that the Breakthrough Silicon Valley students are bused to and from Hillbrook in the two large school busses evident in the videotape.

There were undoubtedly more than 215 students in the 250 vehicles that left Hillbrook yesterday between 2:30 p.m. and 6:15 p.m. If we assume that at least some of the parents are carpooling (another CUP requirement, section 3) and that there are some families with more than one child enrolled, with the 100+ students transported in the two busses, Hillbrook has far exceeded its 315 enrollment cap, in those summer programs alone.

In addition to the programs mentioned above, Hillbrook has also apparently contracted with Saso High School Prep to run a test preparation class at Hillbrook from June 26 through July 26<sup>th</sup>. Presumably there are additional students enrolled in those classes, also in excess of the 315 enrollment cap.

After sending my June 30<sup>th</sup> letter, I perused the Hillbrook web site and realized that all of the following summer programs at Hillbrook also violate the CUP's no lease or rental to third parties provision in section 10:

- Breakthrough Silicon Valley
- Steve and Kate's Camp
- Saso High School Test Prep
- Santa Fe Leadership Center

The no-lease/rental CUP provisions were put in place precisely to prevent the onslaught of traffic, the inevitable CUP violations by unrelated entities, and the unsafe conditions Hillbrook has created in the neighborhood this summer. The fact that the Head of School or any member of the Hillbrook staff or Board of Directors is a member of the Board of some third-party entity does not somehow magically negate the clear terms of the CUP.

Although you state in your July 2<sup>nd</sup> email response to my June 30<sup>th</sup> letter that, "A constant goal throughout the 75 year history of Hillbrook School is to be a good neighbor to the surrounding community," that is not at all evident in Hillbrook's actions of late. It is stunning just how little regard Hillbrook has for the provisions of its CUP and by extension the neighborhood in which it resides.

Given the above, and in order to fully document the violations described, please supply me with the following no later than July 22<sup>nd</sup>.

1. Complete list of all individuals enrolled in all Hillbrook Camps at any time during the summer of 2011.
2. Complete list of all individuals enrolled in Steve and Kate's Camps at any time during the summer of 2011.
3. Complete list of all individuals enrolled in Breakthrough Silicon Valley at Hillbrook at any time during the summer of 2011.
4. Complete list of all individuals enrolled in Saso High School Test Prep at Hillbrook at any time during the summer of 2011.
5. Complete list of all individuals enrolled in Santa Fe Leadership Center at Hillbrook at any time during the summer of 2011.
6. All Memoranda of Understanding, facilities use agreements, leases, contracts, or other documents describing financial or other arrangements between the Hillbrook School and Breakthrough Silicon Valley for the use of Hillbrook School at any time during the summer of 2011.
7. All Memoranda of Understanding, facilities use agreements, leases, contracts, or other documents describing financial or other arrangements between the Hillbrook School and Steve and Kate's Camp for the use of Hillbrook School at any time during the summer of 2011.
8. All Memoranda of Understanding, facilities use agreements, leases, contracts, or other documents describing financial or other arrangements between the Hillbrook School and Saso High School Test Prep for the use of Hillbrook School at any time during the summer of 2011.
9. All Memoranda of Understanding, facilities use agreements, leases, contracts, or other documents describing financial or other arrangements between the Hillbrook School and Santa Fe Leadership Center for the use of Hillbrook School at any time during the summer of 2011.

Sincerely,

Patricia Elliot

Cc: Greg Larson, Town Manager, Town of Los Gatos  
Sandy Bailey, Town of Los Gatos

## Notes/Sandy Bailey Meeting on September 16, 2011

Sandy is a member of the Planning Department who can freely give advice to people on both sides of a planning issue. She indicated that recent CUP documents and documents going forward will be much more detailed than the CUP from 2001. She encouraged us to do our own modification/recommendation for a new CUP. She emphasized that the Planning Department looks forward—not backward—in making policy.

The question of why the Ann Arbor gate is never considered seriously for opening. Sandy seemed to indicate that the fact that Ann Arbor created such a massive and united front against the opening at the 2001 hearings had a big impact. We should keep this mind and try to present our own massive and united front.

Sandy emphasized the importance of the neighborhood coming out in force on the Hillbrook issues and having one spokesperson, so that our message does not become confused or diluted. She advised that we come up with what we want as a resolution to the problems as a neighborhood.

We emphasized that our main neighborhood issues are the heavy traffic and safety challenges for neighborhood children.

Mark Silver and other Hillbrook School people met with Sandy earlier this week.

Sandy recommends NOT bringing our issues to Town Council before the appeal of the Planning Commission ruling.

Sandy did not think the "breach of faith" issue would be of much value; that is, she didn't think the fact that Hillbrook made a commitment not to raise enrollment back in 2001 would make any difference now. She said "things change" and entities can ask for a change in a CUP at any time.

The statistics gathered by the traffic engineer for the summer session showed the school to be in compliance with the CUP. The commission found that the leasing, renting, or other arrangement the school with entities that ran summer camp programs this summer were not in compliance with the CUP.

Tom and Sandy were able to make quite clear to Sandy that Hillbrook Head of School Mark Silver is a "nice guy" who is certain to comply with the letter of any agreement while not necessarily complying with its spirit.

Hi Barbara,

Sincerely,

phone: 408.399.5702

Hello, Jennifer. Patti Elliot and I, along with four other neighbors are looking forward to meeting you on Tuesday. We hope that we will come to a mutual understanding of what the current Hillbrook CUP means and that you will be able to answer the questions listed below.

1. How is the Town handling an environmental determination (under CEQA) of the suitability of the project?

- Condition #4. "Enrollment" has always meant currently enrolled Hillbrook students. Hillbrook is

opening up its summer programs to anyone.

Condition #7. The school is closed to weekend activities unless specified. At least one nonspecified event, the opening of the Santa Fe Leadership Center conference, is already scheduled for a Sunday (Sunday, July 15, 1 PM)

Condition #10. This "no lease/rental" condition is meant to prevent all third-party use of the campus. Three major third-party uses are already projected for the summer:

Santa Fe Leadership Center conference, July 15-July 19, 2012 (40 attendees projected);

Breakthrough Silicon Valley, 6-week program (100+ attendees, plus 27 college age interns, dates not currently given). In the summer of 2011, Hillbrook's website noted, "This is the second summer Hillbrook has hosted Breakthrough, free of charge, donating campus space and other resources to the program."

Playful People Productions Summer Stock Theatre, June 11- June 22, 2012.

Condition #12. The specified morning drop-off period is 7:30-8:30 AM. Hillbrook plans to begin all of its summer camps at 9 AM. Can Hillbrook simply ignore the CUP provisions?

3. Hillbrook plans to use its campus as a conference center for adults. This is not a use permitted by the CUP. One already planned conference is the Santa Fe Leadership Center conference (July 15-July 19, 2012, 40 attendees projected). Hillbrook also plans a second adult use, the newly created (for Fall 2012) Center for Teaching Excellence, described on the website as "a state-of-the-art teacher-training program." This function is also not permitted by the CUP and is well outside the established mission of the school. Conference and speaker programming is projected in association with this new teacher-training program.
4. The school is now offering many afterschool activities, which generate traffic outside of the permitted traffic hours that are supposed to be enforced by the traffic caps. In doing this, Hillbrook is evading the traffic caps and acting more like a Recreation Department than a school. Aren't these activities outside the scope of the CUP?
5. The twice-yearly daily vehicle counts we obtained from the Town only account for peak-hour traffic. They do not reflect the before and after peak-time student traffic. Has the Town really not been counting the traffic before and after the specified hours for traffic? We would like to see the traffic count data for the hours before and after the specified hours during which the traffic was supposed to occur. Hillbrook has been evading the Condition #12 caps by staggering and holding back student vehicles until after the timeframes in the CUP. How will that evasion be addressed?

6. We have not been able to locate Hillbrook's carpool reports since 2007, as required by Condition #3. Did Hillbrook submit these?
7. We would like to find out the proportion of Hillbrook students who live in Los Gatos, but we have not been able to get a student directory. Could you get one? We are not interested in names and addresses. We just want to find out how many children who would otherwise use Los Gatos public schools are using Hillbrook. Also, how has the Town been enforcing the enrollment cap? Has Hillbrook been required to submit its enrollment lists to the Town?
8. Does the requested increase require a new evacuation plan? Is such a plan part of the application? We are wondering if evacuation measures have been kept current.
9. There is no statement of benefit in Hillbrook's application. The Town Traffic Policy stipulates that when there is an increase of more than 20 cars, the applicant must show a benefit. Doesn't Hillbrook have to show some benefit to the town in order for its proposal to be considered?
10. What is the history of the Ann Arbor gate? Why is it considered off-limits for discussion?

Sincerely,

Barbara Dodson



## MEETING NOTES

### PLANNING DEPARTMENT MEETING: February 14

Patti Elliot, Joe Sordi, Terry Anderson, Susan Beritzhoff, Gretchen Moore, and I met with town planner Jennifer Savage on Tuesday, February 14. Here are highlights.

**APPLICATION PROCESS.** We asked for a review of the application process. Here are the steps now that Hillbrook has submitted its Letter of Qualification.

1. **Staff Technical Review.** Staff checks on whether the application is complete and talks with the applicant. Meetings are held. The first meeting was held yesterday, February 15; Jennifer plus representatives from the fire department, engineering department, and police department were present. No decisions are made, but we know that the application was incomplete because Hillbrook will be asked at least for a statement of community benefits (which was missing). This review typically recurs two or three times.

2. **Planning Commission.** A staff report goes to the Planning Commission. The Commission holds its meeting. Usually a decision is made on the first night. Neighbors within 300 feet are notified of the meeting 10 days in advance.

3. **Appeal.** There is a 10-day appeal period.

4. **Town Council.** If the appeal has sufficient grounds, it goes to Council.

### **OUR QUESTIONS (submitted in writing and in advance). TOWN ANSWERS ARE IN BOLD FACE.**

1. How is the Town handling an environmental determination (under CEQA) of the suitability of the project?

**The traffic study is part of the environmental determination. There will be some additional environmental study needed.**

2. Neighbors are already worried about the coming summer because of the enormous volume of traffic last summer. Hillbrook has already published plans for programs for the coming summer that will again violate the CUP. What steps will the town take to prevent these violations, listed below?

- **Condition #4. "Enrollment"** has always meant currently enrolled Hillbrook students. Hillbrook is opening up its summer programs to anyone.

- **Condition #7.** The school is closed to weekend activities unless specified. At least one nonspecified event, the opening of the Santa Fe Leadership Center conference, is already scheduled for a Sunday (Sunday, July 15, 1 PM)

- Condition #10. This "no lease/rental" condition is meant to prevent all third-party use of the campus. Three major third-party uses are already projected for the summer: Santa Fe Leadership Center conference, July 15-July 19, 2012 (40 attendees projected); Breakthrough Silicon Valley, 6-week program (100+ attendees, plus 27 college age interns, dates not currently given). In the summer of 2011, Hillbrook's website noted, "This is the second summer Hillbrook has hosted Breakthrough, free of charge, donating campus space and other resources to the program."; Playful People Productions Summer Stock Theatre, June 11- June 22, 2012.

- Condition #12. The specified morning drop-off period is 7:30-8:30 AM. Hillbrook plans to begin all of its summer camps at 9 AM. Can Hillbrook simply ignore the CUP provisions?

Jennifer said the Town will not tolerate violations and will be asking Hillbrook for details. The Planning Department will work to rectify the violations. The Department begins from the "verbal perspective"; they talk to the violator. They try to avoid have to "red tag" the violator. We were advised to call the Department in about a month to see what is happening. The Town cannot tell us what they will ask of Hillbrook or how Hillbrook responds. However, we can get periodic progress reports.

3. Hillbrook plans to use its campus as a conference center for adults. This is not a use permitted by the CUP. One already planned conference is the Santa Fe Leadership Center conference (July 15-July 19, 2012, 40 attendees projected). Hillbrook also plans a second adult use, the newly created (for Fall 2012) Center for Teaching Excellence, described on the website as "a state-of-the-art teacher-training program." This function is also not permitted by the CUP and is well outside the established mission of the school. Conference and speaker programming is projected in association with this new teacher-training program. The answer for this question was the same as for question 2.

4. The school is now offering many afterschool activities, which generate traffic outside of the permitted traffic hours that are supposed to be enforced by the traffic caps. In doing this, Hillbrook is evading the traffic caps and acting more like a Recreation Department than a school. Aren't these activities outside the scope of the CUP?

We tried to make clear to Jennifer that public schools do not offer the range of afterschool activities that Hillbrook offers. We helped her understand that afterschool activities are provided through the recreation department and that Hillbrook is not authorized to function like a recreation department. We also explained that the afterschool activities generate much of the after-peak-hour traffic that is not supposed to occur.

5. The twice-yearly daily vehicle counts we obtained from the Town only account for peak-hour traffic. They do not reflect the before and after peak-time student traffic. Has the Town really not been counting the traffic before and after the specified hours for traffic? We would like to see the traffic count data for the hours before and after the specified hours during which the traffic was supposed to occur. Hillbrook has been evading the Condition #12 caps by staggering and holding back student vehicles until after the timeframes in the CUP. How will that evasion be addressed?

Jennifer will check with the traffic engineer to see if these numbers are available. The overflow outside of cap periods will be discussed with Hillbrook. The traffic period issue need to be clarified in any new CUP.

6. The submission of car pool reports is required by Condition # 3. We could not find these reports after 2007. Did Hillbrook submit these?

**Jennifer also could not find these reports. She will continue to look for them. They may not have been submitted. (We think submittals appear stopped when Mark Silver took over.)**

7. We would like to find out the proportion of Hillbrook students who live in Los Gatos, but we have not been able to get a student directory. Could you get one? We are not interested in names and addresses. We just want to find out how many children who would otherwise use Los Gatos public schools are using Hillbrook. Also, how has the Town been enforcing the enrollment cap? Has Hillbrook been required to submit its enrollment lists to the Town?

**Jennifer said she would check into how many children attend Hillbrook and whether the school enrollment was over the 315 cap. She did not address the question of how many Hillbrook children would otherwise attend Los Gatos schools.**

8. Does the requested increase require a new evacuation plan? Is such a plan part of the application? We are wondering if evacuation measures have been kept current.

**Jennifer answered this question only in so far as she thought there was a plan. She said that the fire department would be at the February 15 meeting with Hillbrook, implying that his issue would come up.**

9. There is no statement of benefit in Hillbrook's application. The Town Traffic Policy stipulates that when there is an increase of more than 20 cars, the applicant must show a benefit. Doesn't Hillbrook have to show some benefit to the town in order for its proposal to be considered?

**Jennifer will be asking for a statement of benefits to be added to the Letter of Qualification.**

10. The TJKM traffic study does not address many key issues, such as children's safety and traffic volume, and does not include some key intersections, the Shannon/Cherry Blossom intersection, for example, and the access using Short Road. Can we have a meeting with the consultants and traffic engineer to ask questions about the study?

**We cannot speak directly with TJKM or the Town traffic engineer. However, we can send questions to Jennifer. She can try to answer them or have us meet with the traffic engineer in her presence.**

As asides, we were able to alert Jennifer to the fact that Hillbrook is using the term "partner" to sidestep its allowing third-party usage of its facilities. Jennifer seemed most concerned about the adult usages of the campus. She listened to our information about how a car count can be sidestepped and manipulated. At the end of the meeting, she seemed very grateful that we had all behaved civilly!

**SUPPORT FOR CUP VIOLATION COMPLAINT ABOUT THE SANTA FE LEADERSHIP CENTER  
CONFERENCE THEN SCHEDULED FOR SUMMER 2012**

Email to Jennifer Savage. March 16, 2012 from *Barbara Dedson*

Hello, Jennifer. I'm writing with background information about Santa Fe Conference Center and Breakthrough Silicon Valley because I think it is clear that both of these are independent (third party) organizations that should not be permitted to use Hillbrook facilities.

**Santa Fe Leadership Center**

Santa Fe Leadership Center is registered as a nonprofit, was founded in 2011, and has its address in Placitas, New Mexico. It offers "leadership training for current and aspiring school leaders." It is required to file an IRS Form 990 but has not yet done so. Mark Silver's wife, Carla Silver, is a director of the organization and is the organizer of the Hillbrook seminar projected for summer 2012. The Center scheduled four programs for 2012; I am guessing that Hillbrook is the only location at which there may have been free access to the facility, thus avoiding having to rent or lease in violation of the CUP.

**Programs in 2012**

**Seattle, Central Library, March 3, 2012, 9-4**

**Seminar fee: \$350 for early registration, \$450 thereafter**

**For this event, the Seattle Central Library would have charged the Center between \$100 and \$1,000, depending on room size.**

**Santa Fe, Hotel La Fonda, March 8-March 11**

**Seminar fee: \$750 for early registration; \$850 thereafter**

**Meeting rooms can be rented.**

**Santa Fe, Hotel La Fonda, April 22-April 25**

**Seminar fee: \$875 for early registration; \$950 thereafter**

**Meeting rooms can be rented.**

**Los Gatos, Hillbrook School, July 15-19, 2012, 40 attendees projected**

**Seminar fee: \$1,575 for early registration; \$1,795 thereafter**

**Breakthrough Silicon Valley**

Breakthrough Silicon Valley was founded in 2002 as a partnership between the San Jose Unified School District, Breakthrough Collaborative, and Applied Materials. It is a six-year, year-round, tuition-free academic and college readiness program. It has an annual budget of approximately

\$500,000 and the budget is projected to grow to 1M in the next three years. It is a member of the Breakthrough Collaborative, which has more than 30 programs across the country.

Training of teachers for this program is projected to begin on the Hillbrook campus on June 21, 2012.



239 Marchmont Drive  
Los Gatos, California 95032  
March 22, 2012

Associate Planner Jennifer Savage  
Planning Department  
Town of Los Gatos  
110 E. Main Street  
Los Gatos, California 95030

Dear Jennifer:

Patti Elliot wrote a good article for *Inside Los Gatos* summarizing the history of the North Kennedy neighborhood's relations with Hillbrook School and identifying the recent and current Hillbrook CUP violations we discussed with you when we met on February 14. I'm sending the article to you because I think it expresses our point of view well and contains information you might use as you evaluate Hillbrook's summer programming plans.


Sincerely,

Barbara Dodson  
(408)356-4344  
btdodson@aol.com

Enc.: LG Resident Opinion: HILLBROOK IS VIOLATING ITS CURRENT CUP, *Inside Los Gatos*

# INSIDE LOS GATOS

LG Resident Opinion: HILLBROOK SCHOOL IS VIOLATING ITS CURRENT CUP - Submitted by Patricia Elliot

Published on 03-20-2012 09:25 AM 22 Comments 

## **Forget Its Expansion Plans, Hillbrook School Is Already Violating Its CUP, Causing Substantial Harm to the Surrounding Neighborhoods**

Hillbrook School has been operating under its latest Conditional Use Permit (CUP) since 2001. After much study and negotiation, the 2001 CUP was crafted to allow neighbors as much quiet and privacy as possible, while permitting Hillbrook to operate its K-8 school in this purely residential neighborhood. Those who would say that Hillbrook was here first and the neighbors shouldn't complain are not aware of the evolution of Hillbrook. It began as a very small quiet country day school and grew to a larger enrollment in the 1970's and 1990's. During those years, 15% of the students were in the half-day preschool. By 2000, Hillbrook had eliminated the preschool and become a school of 315 full-time K-8 students.

The 2001 CUP protections for the neighborhood were designed specifically to address the increased traffic burden Hillbrook's program expansions placed on the neighborhood. The enrollment cap (at 315, in place since 1984) was reiterated, and Hillbrook gave assurances that it would NOT seek to expand. The 2001 CUP specified that our streets would have school traffic during a one-hour period on weekday mornings and a 1 1/4 hour period on weekday afternoons. At all other times, the neighborhood could expect just normal residential traffic. The summers (with Hillbrook's minimal summer programs only available to enrolled Hillbrook students) offered the neighborhood a welcome respite from the daily traffic, pollution, and noise we endure throughout the school year. In fact, there are no summer programs sanctioned in the 2001 CUP.

The Town of Los Gatos acted to preserve our neighborhood's right to quiet enjoyment of our homes by enacting the 2001 CUP protections. For many years thereafter, Hillbrook generally conformed to the CUP conditions and acted as a good neighbor. That all changed in the last 2-3 years, when under the leadership of a new head of school, Dr. Mark Silver, Hillbrook began to simply ignore the CUP provisions, creating a far greater traffic burden in our neighborhood. Through its recent actions, Hillbrook has demonstrated that it has little regard for the CUP provisions or its detrimental impact on its neighbors.

Hillbrook has been violating the CUP by exceeding its enrollment cap; conducting programs for non-enrolled children, high school students, and adults; ignoring the carpool requirements; and inflicting traffic on the neighborhood well beyond the time frames specified in the CUP, all year long, including the summers.

Some of the violations have continued unabated all year long. This article will focus mainly on the recent summertime violations. For example, last summer, Hillbrook contracted with a for-profit company and enrolled over 900 children in camps that allowed parents to drop off and pick up children at any time throughout the day. In essence, Hillbrook ran a for-profit public country club, and inundated the neighborhood with traffic all day, all summer long.

Under the CUP, here is what Hillbrook **IS**:

- o A day school for 315 children grades pre K-8

Under the same CUP, here is what Hillbrook **IS NOT**:

- o A public country club
- o A recreation center
- o A conference center for educators
- o A site for multiple summer camps
- o A teacher training institution

Here are some of the specific CUP violations by Hillbrook in the past few summers:

**ENROLLMENT.** One group of violations falls under CUP Condition #4, which states: "The enrollment shall be limited to 315 students." This Condition has two important elements:

- o Hillbrook has permission to enroll pre K- 8 students. It does not have permission to enroll summer campers, high school age children, college graduate teachers or conference attendees.
- o The maximum number of students is 315.

As mentioned above, last summer, Hillbrook contracted with Kate & Steve's Camp, a for-profit summer camp company which enrolled over 900 children at Hillbrook for the summer. On top of that, Hillbrook allowed Breakthrough Silicon Valley to bring another 100 7<sup>th</sup> – 9<sup>th</sup> graders, plus 23 college age interns to Hillbrook for a full-time six-week program; contracted with an SAT test prep company to bring an unknown number of high school students to Hillbrook; and contracted with the Santa Fe Leadership Center to bring 40 adults to a 5-day conference. Although last summer several neighbors complained and asked Hillbrook to stop violating its CUP, Hillbrook denied that it was in violation and claimed there was nothing it could do about the increased traffic.

Before Dr. Silver came on board, the school, in keeping with its CUP, conducted minimal summer programs for Hillbrook enrollees only. Hillbrook is open only to the 315 enrolled Hillbrook students, and this stipulation covers the entire year. The CUP enrollment cap had, until recently, allowed the residents around Hillbrook a welcome and well deserved respite from the heavy school-year traffic.

Unfortunately, Dr. Silver has made it clear that Hillbrook plans to continue to ignore the clear intent of the CUP enrollment cap. Hillbrook is currently advertising 2012 summer camp programs that are once again open to non-Hillbrook-enrolled children. In addition, Hillbrook's website is again advertising the use of Hillbrook by Breakthrough Silicon Valley and the Santa Fe Leadership Center.

In yet another planned violation, Hillbrook has created "The Center for Teaching Excellence", to open in the fall of 2012. This is a teacher-training program with a "cohesive course of study," to be "supported by a conference and speaker series." The school says that it eventually expects to have 12 resident college graduate trainees in this program. A teacher training program is far outside the scope of what the CUP permits. Yet, the school is currently advertising to hire a Director for this Center.

**LEASE/RENTALS.** Another group of violations involves CUP Condition #10. Condition #10 prohibits Hillbrook from leasing or renting its facilities to third parties. Again, this protection was intended to insure that Hillbrook facilities were limited to use by Hillbrook enrolled students, and only for the day school purposes. For its past violations of this provision, Hillbrook claims it was merely "partnering" with third parties.

For instance, last summer, Hillbrook argued that it did not violate Condition #10 because it simply "partnered with" Steve & Kate's camp, a for-profit summer camp with at least 24 other locations, charging \$75 per child per day, to run a 900-child camp at Hillbrook. It claimed that

this partnership was no different than its "partnerships" with food service and transportation companies providing services to students. If anyone is surprised at the outcry from Hillbrook's neighbors, imagine how that one went over.

Another of its clever explanations for its violations of the no third-party use provision, in the case of the Santa Fe Leadership Center, was that Dr. Silver's wife was on the Board of the Santa Fe Leadership Center. (Mrs. Silver is now the Center's Executive Director). Somehow that meant Hillbrook and the Center are one in the same? The Santa Fe Leadership Center runs conferences. The five-day conference at Hillbrook had up to 40 attendees and cost \$1,575-\$1,795 per participant. The SFLC is running three other conferences in 2012; one at the Seattle Public Library and two at the La Fonda on the Plaza Hotel in Santa Fe, New Mexico. Perhaps the Seattle Public Library and the La Fonda Hotel are "partnering" with the organization as well?

Hillbrook has also "partnered with" Breakthrough Silicon Valley. Hillbrook's support for this valuable organization aimed at middle school students with "limited educational opportunities" is laudable. However, part of the group's program is a six-week summer session held at Hillbrook in violation of the CUP. More than 100 students and at least 23 college age intern/teachers use the Hillbrook facilities in violation of the CUP. This violation is two-fold: Hillbrook allows third-party use of its campus and it allows use of its campus by non-Hillbrook students. Hillbrook should continue its support of this worthy program at another location so that it does not continue to violate its CUP. The fact that this is a worthy cause does not justify Hillbrook in violating its CUP. While also laudable, the neighbors hope that the fact that Mrs. Silver recently joined the Board of Breakthrough Silicon Valley does not somehow justify the CUP violations in Hillbrook's perspective.

**CARPOOLING.** Yet another of Hillbrook's repeated violations is its failure to comply with the CUP's carpooling requirements in Condition #3. Condition #3 states: "The Town accepts the voluntary offer of Hillbrook School to maintain and promote a carpooling program for their students." Back in 2001, the Town wanted to, but could not legally require, carpooling; hence the term "voluntary." Condition #3 continues: "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 September and February." That part of Condition #3 is mandatory. Yet, Hillbrook has failed to submit ANY carpool reports since 2007. Unfortunately, no one at the Town enforced this requirement.

When neighbors complained last summer about the excessive traffic and asked what Hillbrook was doing to maintain and promote carpooling, Dr. Silver responded that they could not have a carpooling program because these are not Hillbrook families and they could not control how they came and went to Hillbrook. Notice the circularity of the situation? There are not supposed to be non-Hillbrook enrolled students on campus in the first place!

Hillbrook is located deep within a residential neighborhood with just one access road in and out. Even the much more accessible public schools recognize that their nearby neighbors need some relief from traffic during the summer. The public elementary schools host a summer school program with the Los Gatos Saratoga Recreation Department on a revolving basis, with each school hosting summer school only every third year. Even then, the programs only last four weeks and conclude for the day by around noon. The neighbors near the public schools get relief from traffic during the summer afternoons.

Hillbrook's Dr. Silver understands the need for a break during the summer. Here are his remarks on that subject at the beginning of last summer:

In just a few days, we will say good-bye to the fabulous Class of 2011, put students in the car for the last time for the summer, and then take a few days to hold end-of-year meetings, clean up classrooms, and close out gradebooks. By the end of next week, the faculty will have started scattering for their summer adventures. Some of these adventures involve intensive

work -- a significant number of our faculty are engaged in meaningful summer fellowships -- but the rhythm, the pace, and the intensity of summertime will be different from what we experience during the school year. This shift is a good thing.

It is important to work hard and it is also important to disconnect, to relax, and to provide time for reflection and rejuvenation. I hope that everyone has an opportunity this summer to take some time to reconnect with your family. I'm looking to take advantage of the slightly slower pace of summer to get out of the office a little earlier on many days, spend more time playing outside with my family, read books that are not connected to school, and maybe even take a risk and try something new.

It has been a fantastic 2010-2011 school year. I wish everyone much rest, relaxation, and renewal this summer.

Mark Silver, Ph.D.

Head of School

The neighbors of Hillbrook School likewise hope that the "rhythm, the pace, and the intensity of summertime will be different from what we experience during the school year." It certainly was not that way last summer. Although we have made formal complaints to Hillbrook and to the Town of Los Gatos about these violations, Hillbrook has already advertised programs for the coming summer that violate the CUP. We hope that Hillbrook will stop sidestepping its legal obligations and accept its responsibility to play by the rules, as I hope it teaches its students to do. By repeatedly violating its CUP, with no regard for its neighbors, Hillbrook's leaders are not being good role models for its students.

Hillbrook should comply with the CUP and relocate the unauthorized programs. We need the Town to make sure that Hillbrook complies with the conditions of its CUP so that we can again enjoy our neighborhood, at least during the summertime.

-Patricia Elliot

Mama Bookworm - 03-20-2012, 10:57 AM

very thoughtful and thorough article - thanks to Ms. Elliot for bring all the issues of the CUP to light.

I recently spoke to a town official re: enforcement of CUP's. I was told the proper procedure for citizens impacted by violations of a CUP. You should write your Town Council, and describe the violations clearly. Write one or more members, your choice. Then the Council-person directs the complaint to the appropriate department within the Town staff. Follow-up with them and make sure the staff takes the appropriate actions.

This article is great, and should be forwarded into that formal process immediately.

btrodson - 03-20-2012, 02:44 PM

Thanks for this great article. I'm guessing most Hillbrook parents don't know the recent history of the school much less the fact that the school has been committing a great many violations of its CUP.

I live on Marchmont Drive, so personally experienced the excessive traffic last summer,



and I am a witness to the continuing heavy traffic throughout the school year. Last summer, because the heavy traffic was so unexpected and unusual (summers have always been quiet on our street), we talked personally with Head of School Mark Silver about it. When we asked him what was causing the heavy traffic, he was familiar enough with the CUP to claim that there were fewer than 315 children on campus. This, of course, turned out to be false. At a heavily attended neighborhood meeting, he had to admit that there were more than 900 children on campus. Again during the summer, when we asked what steps were being taken to control traffic, Dr. Silver looked as if he had never even thought about the issue. He then remarked, as you noted, that there was nothing he could do about the traffic since he really couldn't tell the parents what to do.

I'm hoping the Town will recognize how little regard the school has for its neighbors and for the safety of local children. . When Hillbrook comes before the Planning Commission to ask to be allowed to increase its enrollment and thus traffic (by 32%!!!), I hope the Commission will answer with a resounding NO.

Not a NIMBY - 03-20-2012, 05:37 PM

To point out Hillbrook's affiliation with Breakthrough Silicon Valley as somehow negatively impacting the enjoyability of your neighborhood just goes to show how selfish some people are. This affiliation with Breakthrough has been going on for years with Hillbrook donating their campus and underwriting the cost to bus these students in from San Jose. This is a wonderful opportunity for low-income students to get the motivation to succeed in High School and on to College. To be so put off that a bus goes by your house twice a day in the summer to even suggest that this program should be kicked out and sent to another location really makes me wonder how some people can live with themselves. That's a real good message to send to these low income students from the poorest sections of San Jose. "We really think that your program is great and all, but it's impacting my property value here in Los Gatos so please leave."

Gatekeeper - 03-20-2012, 06:39 PM

NIMBY, Hillbrook's affiliation with Breakthrough has NOT been going on "for years". It is a relatively recent event. Believe me, no one would complain if that was ALL that Hillbrook was doing during the summer months. No one is "put off" that a bus goes by their house just twice a day.

You either ignore or are not aware of the chaos the school brought down upon the neighborhood this past summer by taking payment from Steve&Kate's Camp to allow its campus to be used for non Hillbrook children. This was a flagrant violation of the school's Conditional Use Permit. I've lived nearby for many, many years and I've never seen anything like the heavy volumes of traffic and the speeding through the neighborhood at all times of the day.

If anyone is sending a "real good" message, it is the Head of School, who flagrantly violates the school's Conditional Use Permit. Is that the kind of message YOU want to send to your children? That the head of a prestigious and highly regarded school can just ignore its permit and do just as they please? That he can run roughshod over the good will and mutual trust established over many years between the school and its neighbors?

Unregistered - 03-20-2012, 06:49 PM

NIMBY: This issue isn't how wonderful any of the programs are - the issue is that extra activities and the associated traffic are a violation of the CUP. Conditional Use Permit. If you stick to these CONDITIONS, we PERMIT you to have these USES. If you violation the CONDITIONS, we can pull your PERMIT. period.



kitn-car - 03-21-2012, 08:54 AM

Great job Patricia. This has really been a sore subject for the neighbors of Hillbrook. I really don't understand why the town has not sited the school for all its violations. How are they getting away with such things when other business's are not? Dr. Silver does not seem to care about the CUP or Hillbrooks neighbors, let alone what message he is sending to Hillbrook students. SHAME ON DR. SILVER.

Unregistered - 03-21-2012, 03:57 PM

@kitn-car - well said! CUP's exist for a reason and serve as a tool to keep systems in check. However, Mark Silver appears to have rolled into Hillbrook with the goal of increasing bottom line - no matter what the CUP, town or neighbors have to say! He cites gender balancing in the middle school classrooms as a reason to increase enrollment by 99 students. Not sure that I am willing to buy that! He disregarded the CUP when offering Hillbrook to Steve and Kate's for summer camp. Did he even acknowledge the impact the constant traffic had on the neighborhood...nope! His strategy looks a lot like swiss cheese, and as a result the neighborhoods of Los Gatos should be concerned, very concerned!

Unregistered - 03-21-2012, 04:20 PM

Lets all remember that the residents of the Marchmont area are in fact part of unincorporated Santa Clara County and not part of the town of Los Gatos, hence no sidewalks and homes that appear to lack any adherence to the historical virtues of our great town of Los Gatos. It is time for the real citizens of Los Gatos to band together and to stand up for what is right, CHOICE, we deserve to have the right to the best public and private schools in the country. The FASCIST mob of Marchmont needs to be thoroughly investigated, they are a danger to our great land.

Unregistered - 03-22-2012, 11:41 AM

As a resident of Los Gatos not directly involved in this back and forth. I am struck by the ferociousness of the Dodson & Eliot down show. I have to scratch my head as to why these two have become obsessed with the topic of Hillbrook School. I personally feel having a top quality K-8 private school in our town in fact attracts new residents who might otherwise settle in towns along the Peninsula. There is a tech boom occurring in the Bay Area, however these jobs are created in Palo Alto and north to San Francisco. Convincing East Coast transplants to settle here is a challenge, but many of these highly educated families look to private school options for their children. It seems Hillbrook / St. Mary's are anchor schools along with are wonderful public schools in keeping this town growing. Could Dodson / Eliot, not like the changing demographics of our town? It appears they want the Los Gatos of the past where people of color rarely ventured. I hope they can look in the mirror and ask themselves why they are against people who don't share their same ethnicity, sad.

Unregistered - 03-22-2012, 01:16 PM

Dear Unregistered 10:41,  
Nothing Dodson and Eliot have posted or said has anything to do with people of color. This is not a race issue - this is a traffic issue. This is an issue of enforcement of a CUP by local town officials and policies. And finally, for the love of GOD, stop referring to our "wonderful public schools". Have you been to one lately? Have you read anything else on this site? That's where the real down show is, so keep the comments on the topic at hand. If you really want to get involved, check out what our schools are doing compared to those Palo Alto ones you mention above.

Unregistered - 03-22-2012, 01:47 PM

Hit the nail on the head!!!!!! The Marchmont neighborhood is NOT part of our town. These are county residents who get to claim that they live in Los Gatos, yet they don't provide anything to Los Gatos and they don't have to follow the codes and guidelines of Los Gatos. The hypocrisy runs deep to claim that others aren't following the rules when you yourself are allowed to thumb your nose at these very rules.

Gatekeeper - 03-22-2012, 04:02 PM

☒ Originally Posted by Unregistered ☒

*Hit the nail on the head!!!!!! The Marchmont neighborhood is NOT part of our town. These are county residents who get to claim that they live in Los Gatos, yet they don't provide anything to Los Gatos and they don't have to follow the codes and guidelines of Los Gatos. The hypocrisy runs deep to claim that others aren't following the rules when you yourself are allowed to thumb your nose at these very rules.*

LOL. Are you saying Hillbrook school at 300 MARCHMONT Dr is not part of our town, that the school therefore doesn't provide anything to Los Gatos, that they don't have to follow the codes and guidelines of LG and that they thumb their noses at town rules? LOL. You need a geography lesson. The good people of the unincorporated portion of Marchmont might also think you need lessons in civility and logic.

Unregistered - 03-22-2012, 05:36 PM

Gatekeeper, a simple pull of the unincorporated section of Santa Clara County map will show that Hillbrook is part of the TOWN of Los Gatos, while the vocal minority that blathers on this blog who reside on the the streets leading to Hillbrook are UNINCORPORATED. What that means is that there is no symmetry with TOWN building guidelines, you can have half-built homes on Englewood for years without a care in the world and rundown bungalows on Marchmont. As the "gatekeeper" I would expect that you would have a map of what constitutes the TOWN of Los Gatos. People in glass houses should not throw stones, your bunch is a mean lot that tries to dispel untruths for your own selfish reasons. Unfortunately your side is skirting the law by trying to access student directories (illegal) and other subversive acts, Los Gatos of the 1970's is gone forever much to your chagrin, your house could sell in a matter of weeks and you could move to more rural parts of the Bay Area, where all this could be a long last memory. There would be a line of folks ready to move into your neighborhood who would embrace our growing semi-urban landscape. Progress is painful for some but that is the high class problem of success.

G.Moore - 03-22-2012, 08:28 PM

Please do not assume that it is only the unincorporated residents on Marchmont Drive that are opposed to Hillbrook's proposed 32% student increase and the resulting increase in traffic. Town residents in the neighborhood are also opposed. I live on Willow Road and am zoned town as well as several other neighbors on my street, and surrounding streets, that will be directly impacted by Hillbrook's proposed expansion. Specifically, the section of Marchmont Drive directly leading up to Hillbrook School is zoned town. Hillbrook's proposed expansion affects the community of Los Gatos.

I applaud and thank the residents who have given valuable hours of their personal time to educate the community on the negative impact that Hillbrook's expansion will have on the surrounding neighborhood and the Town of Los Gatos. Hillbrook certainly has made little effort to address the concerns of its neighboring residents. I was not notified by Hillbrook of a meeting held at the school earlier this year regarding its proposed expansion plans. I

did however attend the meeting. I asked Dr. Silver at the meeting if Hilow Road was impacted by Hillbrook traffic; he answered yes. I asked why I was not notified of this neighborhood meeting; Dr. Silver did not give a response.

I have lived on Hilow Road 4-1/2 years. The traffic created by Hillbrook has steadily risen each year. Sure, in the last two months, I have witnessed three or four times, a Hillbrook traffic monitor on Hilow Road signaling to Hillbrook School traffic to slow down. Where has he been the last 4-1/2 years that I have lived on this street and why is he not in place everyday? Yes, in the last two months I have seen a "Hillbrook Community Slow Down" placard placed on Hilow Road near the intersection of Shannon Road. Where has that placard been the last 4-1/2 years? And alas, it is no longer there. These two sporadic attempts by Hillbrook to appear as if they are calming neighborhood traffic have coincided with their submission of their proposed expansion plan to the Town. I compare this behavior by Hillbrook School to my three children who are extremely well behaved in the month leading up to Christmas and then once Santa Claus has left the presents under the tree their previous behaviors return.

I can only hope the Town of Los Gatos will be more perceptive than Santa Claus and stand up for its residents by holding Hillbrook School accountable to its previous commitment not to increase enrollment and to adhere to the traffic cap and other limits set in its current CUP.

Unregistered - 03-22-2012, 08:34 PM

Great point by Ms. Moore concerning Hilow road. I personally feel Hilow road should be pedestrian only and to not be used by motorized vehicles. Regardless of Hillbrook, this road is used as a throughway by the Kennedy Road folks to get to Shannon and beyond. I will get a petition going on this topic shortly.

Pelliot4455 - 03-23-2012, 12:07 AM

Originally Posted by Unregistered

*As a resident of Los Gatos not directly involved in this back and forth, I am struck by the ferociousness of the Dodson & Elliot down show. I have to scratch my head as to why these two have become obsessed with the topic of Hillbrook School. I personally feel having a top quality K-8 private school in our town in fact attracts new residents who might otherwise settle in towns along the Peninsula. There is a tech boom occurring in the Bay Area, however these jobs are created in Palo Alto and north to San Francisco. Convincing East Coast transplants to settle here is a challenge, but many of these highly educated families look to private school options for their children. It seems Hillbrook / St. Mary's are anchor schools along with are wonderful public schools in keeping this town growing. Could Dodson / Elliot, not like the changing demographics of our town? It appears they want the Los Gatos of the past where people of color rarely ventured. I hope they can look in the mirror and ask themselves why they are against people who don't share their same ethnicity, sad.*

How you get from any of this some racial component, is beyond me. I only hope your bullying tactics don't scare off others who may want to express their concerns about the excessive traffic that is endangering our neighborhood. Just to be clear, the skin color of the people in the cars zooming past my home all day does not concern me.

Gatekeeper - 03-23-2012, 05:45 AM

Originally Posted by Unregistered

*Gatekeeper, a simple pull of the unincorporated section of Santa Clara County map will show that Hillbrook is part of the TOWN of Los Gatos, while the vocal minority that blathers on this blog who reside on the the streets leading to Hillbrook are UNINCORPORATED. What that means is that there is no symmetry with TOWN building guidelines, you can have half-built homes on Englewood for years without a care in the world and rundown bungalows on Marchmont. As the "gatekeeper" I would expect that you would have a map of what constitutes the TOWN of Los Gatos. People in glass houses should not throw stones, your bunch is a mean lot that tries to dispel untruths for your own selfish reasons. Unfortunately your side is skirting the law by trying to access student directories (illegal) and other subversive acts. Los Gatos of the 1970's is gone forever much to your chagrin, your house could sell in a matter of weeks and you could move to more rural parts of the Bay Area, where all this could be a long fast memory. There would be a line of folks ready to move into your neighborhood who would embrace our growing semi-urban landscape. Progress is painful for some but that is the high class problem of success.*

You STILL don't get it. Marchmont Drive east of Hilow IS in the town of Los Gatos. Of course that includes the Hillbrook School. The rest of what you have to say is just childish blather and not worthy of a response.

Unregistered - 03-23-2012, 07:26 AM

Hi,

In response to the above comment: I can't speak for Ms. Dodson, but Ms. Elliot just so happens to be one of those highly educated East Coast transplants. Perhaps the kind you have in mind? Please read her post again and see it for what it is: An intelligent, well written, meticulously researched argument for why Hillbrook should honor its commitment to the neighborhood, and for the town to enforce that commitment. Read it again and realize it's NOT a racist, fascist, xenophobic rant.

Ms. Elliot and the Marchmont families (many of whom are new to the neighborhood and have young children) know too well the anxiety of watching their children learn to ride their bikes on the street, as Hillbrook drivers careen up and down the hill (often carrying one child in a massive SUV).

It comes down to this: Hillbrook needs to honor the CUP for the safety and well-being of the neighborhood. It's not too much to ask, and it's not an inappropriate request.

✎  ReplyThe Kitties - 03-23-2012, 08:58 AM

As a resident of the neighborhood it is clear that during morning and afternoon slots our neighborhood experiences a greater amount of motorized and pedestrian traffic. This makes sense given the amount of pre-school (Shir Hadash / Presbyterian) and grade schools (Van Meter, Blossom Hill and Hillbrook) in vicinity to our homes. Safety is the key word that permeates throughout the discussion, what is really needed is a consortium composed of Santa Clara County and Los Gatos civil engineering departments to find a long-term sustainable approach to make the streets safer to all, i.e. possibly exploring the installation proper sidewalks and make the streets safer by installing speed bumps/humps at appropriate spots. The schools and homes are here to stay, creating a police state in which all cars are inspected for proper paperwork as to destination and reason for visit does not sound like the outcome we are fighting for. I would love to find a win/win solution where all residents and visitors can co-exist peacefully.

Unregistered - 03-24-2012, 08:11 AM

☞ Originally Posted by Unregistered ☞

*NIMBY: This issue isn't how wonderful any of the programs are - the issue is that extra activities and the associated traffic are a violation of the CUP, Conditional Use Permit. If*

*you stick to these CONDITIONS, we PERMIT you to have these USES. If you violation the CONDITIONS, we can pull your PERMIT. period.*

The threats and intimidation continue, it is a sad state of affairs when people take the law in their own hands. We saw what happened to Trayvon Martin in Florida and neighborhood vigilantism. The fine residents of this little tight-knit community are close to exploding, with that level of emotion only trouble and violence follows. Lets hope they can contain their rage and not act out against innocent children. The police forces of both Santa Clara County and Los Gatos need to be on heightened alert against the vigilantes who appear to want to take justice into their own hands. While on patrol they should also nab speeders.

Unregistered- 03-27-2012, 09:28 AM

Originally Posted by Unregistered

*The threats and intimidation continue, it is a sad state of affairs when people take the law in their own hands. We saw what happened to Trayvon Martin in Florida and neighborhood vigilantism. The fine residents of this little tight-knit community are close to exploding, with that level of emotion only trouble and violence follows. Lets hope they can contain their rage and not act out against innocent children. The police forces of both Santa Clara County and Los Gatos need to be on heightened alert against the vigilantes who appear to want to take justice into their own hands. While on patrol they should also nab speeders.*

Are you seriously comparing this dispute to the murder of an innocent boy? You need a lesson in hyperbole. Or you need to move to a big city. Clearly Los Gatos is not slaking your thirst for drama.

Unregistered- 04-03-2012, 07:55 AM

16586 MARCHMONT DR, Los Gatos, CA 95032  
Offered at: \$1,268,000 — Pending W/O Release (Show)

What is one of the supposed busiest streets in Los Gatos has seen another home sell in days! With all the publicity and disclosures required of the Beirut of Los Gatos can you imagine people still want to live on this street. This is reality, this is one of the most desirable areas of Los Gatos , the good news is I am sure we will have another reasonable family move into the neighborhood. I wonder how many folks are on the fence, should I



EMAIL FROM BARBARA DODSON TO MAYOR STEVE RICE, March 29, 2012

### Summer Programming at Hillbrook School

Barbara Dodson to srice, gsburrows, jsavage, bspector, sleonardis, jpirsynzki, dmcnutt, elliotlaw, joesordi - 4 days ago More Details

Glenda Burrows, a neighbor on Hilow, talked with you this afternoon and told you that Hillbrook was still advertising summer programs. I gather, though, that you were not able to find the listings. I've given the URL's at the end of this email. However, I'd like to take this opportunity to provide some information about the current feeling in the neighborhood about Hillbrook's summer programming.

In reviewing Hillbrook's 2001 CUP, we in the neighborhood have come to realize that no summer programming is allowed at Hillbrook. The CUP does not even mention summer programming. The school seems to be taking the view that the absence of restrictions means it can do whatever it pleases. In fact, the reverse is true. The school can do only those things that are specifically allowed in the CUP. It is true that summer programs have taken place at Hillbrook. That is because over the years a tradition arose through which Hillbrook held small summer programs for its own students. Neighbors did not object to these programs because they did not generate a lot of traffic. However, this summer programming was not countenanced by the CUP.

Everything changed last summer when, with the many, many programs Hillbrook offered and the more than 900 students on campus, traffic zoomed up and down neighborhood streets all day and into the evening.

We believe that Hillbrook should be allowed no summer activity at all until summer activity is specifically defined through a new CUP. Since Hillbrook has violated the CUP in so many ways, we ask the Town to refuse any Hillbrook requests for summer programming. We believe Hillbrook should wait until a new CUP is in place.

Jennifer Savage has informed me that the Planning Department has given Hillbrook until the end of April to identify the summer programs it will be offering. She told me that the Department feels that will give them enough time to evaluate the programs. As indicated above, we don't think any evaluation is needed because, under its CUP, Hillbrook is not allowed to have any summer programs at all. And even if evaluation were appropriate, the end of April is, we believe, way too late to begin to evaluate programs projected to begin in mid-June.

Here are the URLs for Hillbrook's projected summer programming and some information taken from the indicated websites.

#### FOR SUMMER CAMPS

<http://www.hillbrook.org/podium/default.aspx?t=147838>

**Art-Rageous**, For campers entering grades 4-8

**Artist Explorers**, For campers entering grades 1-3

**Tinkering Camp**, For campers entering grades 5-8

**The Art of Moviemaking**, Entering grades 4-8

**Camp Acom**, Entering grades JK-2

**Math Snacks and Games**, Entering grades 2-3

**Soccer Skills, Drills and Games**, Entering grades 1-4

**Spanish Camp "Acampamento Angry Birds"**, Entering grades JK-K and 1-3

**Summer Stock Theatre**, Entering grades 2-8

#### FOR A 5-DAY CONFERENCE

<http://events.r20.constantcontact.com/register/event?oeidk=a07e5jn7a6udec8e11d&llr=sqggsadab>



The conference is scheduled for July 15, 2012 through July 19, 2012. Forty participants are expected. It will be run by the Carla Silver, the wife of Hillbrook's Head of School. Cost to participants is \$1,575-\$1,795.

**FOR BREAKTHROUGH SILICON VALLEY**

<http://www.hillbrook.org/breakthrough>

Hillbrook is honored to host BSV on our campus each summer. More than 100 students entering 7th, 8th, and 9th grades use our facilities during an intensive six-week summer program. Students are selected for BSV after a rigorous application process and commitment of parental involvement. Most graduates of BSV are the first in their families to attend college.

<http://www.breakthroughcollaborative.org/locate/find-an-affiliate>

**How does Breakthrough Silicon Valley work?**

Dates for teachers: Training 6/21 – 6/29, Summer Program 7/2 – 8/10, Celebration Night 8/11, Wrap-up Week 8/13 – 8/17

- Location: The Hillbrook School, Los Gatos, California.
- Home-stays: Limited to 4 to 5. We strongly encourage you to seek housing with family or friends whenever possible.
- Stipend: \$1,100 for high school students, \$1,500 for college students.
- Number of students: 110
- Number of teachers: 28

Sincerely,

Barbara Dodson

## SUMMER PROGRAMMING AND EXPLANATIONS WHY IT VIOLATES THE HILLBROOK 2001 CUP

March 31, 2012

Dear Jennifer:

Thank you for your email of March 28. I'm happy to hear that the Santa Fe Leadership Center conference will not be allowed this summer.

I would like to provide information that we believe should be used as you evaluate Hillbrook's remaining summer programs.

### Information from California's Planner Training Series

([http://ceres.ca.gov/planning/cup/condition.htm#conditions\\_anchor](http://ceres.ca.gov/planning/cup/condition.htm#conditions_anchor))

In doing my own research about exactly what CUPs are and how their conditions are to be implemented, I came across the website titled The Planner's Training Series: The Conditional Use Permit. Based on information on this site, a CUP is "a project-specific change in the uses *allowed* on a specific property." (*emphasis added*) Further, "As a rule, conditional use permits do not authorize uses that the zoning ordinance does not authorize, nor uses not expressly authorized by the permit." (*Sports Arena Properties, Inc. v. City of San Diego* (1985) 40 C.3d 808).

Based on the information at this site, we conclude that activities not expressly authorized in the CUP are not allowed on the designated property.

### The Town Code, Chapter 29

In checking into the Los Gatos Town Code, I came across this information from Chapter 29:

The adoption of this chapter is based on the premise that there are uses which can be *specified (emphasis added)* for each zone which, in practically all instances, will be mutually compatible. In addition, there are other uses which might be compatible with ordinarily allowed uses if properly located and regulated. These are called conditional uses.

This information from the Town Code further confirms our understanding that activities not expressly authorized in the CUP are not allowed on the designated property.

Further, Chapter 29 of the Town Code contains a Conditional Use Permit Table of appropriate conditional uses. The Table lists conditional uses and puts an X next to uses that are considered appropriate for a zone if such uses are specifically listed in the CUP. Based on the Table, none of the activities being projected for the Hillbrook campus for the coming summer are appropriate for property zoned HR or R-1. (Hillbrook is zoned HR-1.)

As one more point, Section 29.20.200 of the Town Code, titled "Conditional Use Modification," states:

A use authorized by a conditional use permit shall not be modified unless a modification to the permit is approved. The following changes in uses are modifications:

1. Intensification of use. Changes of use that will result in an increase of five (5) or more peak hour trips.

2. Commencement of new activities that have a material adverse impact on the surrounding area.
3. Any change that is a substantial departure from plans which were the basis of the conditional use permit approval.

Based on this section of the Town Code, all summer activities are a violation of Hillbrook's CUP.

#### **SUMMER ACTIVITIES PROJECTED FOR THE HILLBROOK CAMPUS, SUMMER 2012**

Based on the general definition of a CUP, what is contained in Hillbrook's CUP, and what is stated in the Town Code, we believe these summer activities—currently listed on Hillbrook's website as activities that will take place during Summer 2012—are not permitted on the Hillbrook campus.

#### **BREAKTHROUGH SILICON VALLEY**

**Reason 1.** The Hillbrook CUP does not have any conditions for summer programs. Since an activity must be specifically allowed on a property and no summer activities are specifically allowed in the CUP, hosting Breakthrough Silicon Valley is a violation of the CUP.

**Reason 2.** The table in Chapter 29 of the Town Code lists "nonprofit youth groups" as item g. under (3) Community Services. Breakthrough Silicon Valley can be considered a nonprofit youth group. Nonprofit youth groups are not marked with an X for HR and R-1 zones and therefore are not appropriate conditional uses for such properties.

**Reason 3.** Breakthrough Silicon Valley could be considered a summer camp. The table in Chapter 29 does not list summer camps as an appropriate conditional use for any property zoned HR or R-1.

**Reason 4.** The table in Chapter 29 of the Town Code does list private schools as appropriate uses for HR and R-1 zones. Breakthrough Silicon Valley might be considered a private school. However, Breakthrough Silicon Valley as a school would need its own CUP. It does not have such a CUP.

**Reason 5.** Even if Hillbrook's CUP allowed summer use, the launching of Breakthrough Silicon Valley as a summer usage of the campus in the summer of 2010 was clearly an intensification of use since traffic created by students and interns/teachers at peak hours clearly exceeded five trips. Furthermore, Breakthrough Silicon Valley constituted the "Commencement of new activities that have a material adverse impact on the surrounding area" and represented a change that was "a substantial departure from plans which were the basis of the conditional use permit approval." Hosting Breakthrough Silicon Valley on the Hillbrook campus is clearly a violation of Section 29.20.200 of the Town Code.

#### **SUMMER CAMPS, SUMMER 2012**

<http://www.hillbrook.org/podium/default.aspx?t=147838>

**Art-Rageous**, For campers entering grades 4-8  
**Artist Explorers**, For campers entering grades 1-3  
**Tinkering Camp**, For campers entering grades 5-8  
**The Art of Moviemaking**, Entering grades 4-8  
**Camp Acorn**, Entering grades JK-2  
**Math Snacks and Games**, Entering grades 2-3  
**Soccer Skills, Drills and Games**, Entering grades 1-4

Spanish Camp "Acampamento Angry Birds", Entering grades JK-K and 1-3  
Summer Stock Theatre, Entering grades 2-8

Reason 1. The Hillbrook CUP does not have any conditions for summer programs. Since an activity must be specifically allowed on a property and no summer activities are specifically allowed in the CUP, all summer camp programs are a violation of the CUP.

Reason 2. The table in Chapter 29 does not list summer camps as an appropriate conditional use for any property zoned HR or R-1.

Reason 3. Each of Hillbrook's camps might be considered as a "commercial recreation and amusement establishment" since fees are charged for each camp. This usage is listed in the table under (2) Recreation in the table. This usage is not allowed on properties zoned HR or R-1.

Reason 4. Some of Hillbrook's camps might be considered as "art, craft, music, dancing school." Camps that fall into this category could be: Art-Rageous, Artist Explorers, Summer Stock Theatre. This usage is listed in the table under (4) Schools. This usage is not allowed on properties zoned HR or R-1.

Reason 5. Even if Hillbrook's CUP allowed summer use, the many summer camps projected for summer 2012 are clearly an intensification of use since traffic created by parents bringing campers to campus will clearly exceed five trips. Furthermore, the camps can be considered as the "Commencement of new activities that have a material adverse impact on the surrounding area" and as a change "that is a substantial departure from plans which were the basis of the conditional use permit approval." Running summer camps Hillbrook campus is clearly a violation of Section 29.20.200 of the Town Code.

As an aside, and as has been noted in previous correspondence, Hillbrook has indeed had summer camps over the years. However, these camps were always small and were only for registered Hillbrook students. The neighborhood had no problems with these because they did not generate a lot of traffic. THESE SUMMER CAMPS WERE NEVER ALLOWED BY THE CUP. The fact that they took place was merely a result of "benign neglect." They didn't bother people, so no one complained. The new situation, with multiple summer camps, is clearly an entirely different situation.

I hope you will take this all into consideration as you move forward in your thinking about Hillbrook's summer programs. We ask you to please enforce the CUP and the Town Code on our behalf. We sincerely believe we should be allowed to enjoy our homes and neighborhood without the additional traffic and safety issues that Hillbrook's increased use of the campus has created.

Sincerely,

Barbara Dodson

April 7, April 11, 2012. EMAIL EXCHANGE BETWEEN BARBARA DODSON AND JENNIFER SAVAGE  
**TOPIC: SANTA FE LEADERSHIP CONFERENCE, JOHN HUNTER CONFERENCE, AND CENTER FOR TEACHING EXCELLENCE**

From: Jennifer Savage <[jsavage@osgatosca.gov](mailto:jsavage@osgatosca.gov)>  
To: Barbara Dodson <[btdodson@aol.com](mailto:btdodson@aol.com)>  
Cc: Town Manager <[Manager@osgatosca.gov](mailto:Manager@osgatosca.gov)>; elliotlaw <[elliotlaw@mail.com](mailto:elliotlaw@mail.com)>; joesordi <[joesordi@yahoo.com](mailto:joesordi@yahoo.com)>  
Sent: Wed, Apr 11, 2012 3:39 pm  
Subject: RE: Question About the Santa Fe Leadership Center Conference and Two Other Hillbrook Programs

Barbara,

Thank you for the information. Staff continues to work with the school to address the 2012 summer activities and would be happy to provide additional information in May 2012.

Sincerely,

*Jennifer L. Savage, AICP*

Associate Planner

phone: 408.399.5702

**From:** Barbara Dodson [<mailto:btdodson@aol.com>]  
**Sent:** Saturday, April 07, 2012 5:52 PM  
**To:** Jennifer Savage  
**Cc:** Town Manager; [elliotlaw@mail.com](mailto:elliotlaw@mail.com); [joesordi@yahoo.com](mailto:joesordi@yahoo.com)  
**Subject:** Question About the Santa Fe Leadership Center Conference and Two Other Hillbrook Programs

Dear Jennifer:

You notified me about a week ago that the summer conference run by the Santa Fe Leadership Center would not be allowed on the Hillbrook campus under the existing Conditional Use Permit. Thus, I was very surprised to see that Hillbrook has included this conference on its website on a new page describing its new Center for Teaching Excellence; the conference is listed under Schedule of Events on the right side of the page. <http://www.hillbrook.org/cte> The Santa Fe Leadership Center website itself continues to list the program as an upcoming event and continues to solicit sign-ups. <http://santafelead.org/>

(Hillbrook used to list the Santa Fe Leadership Center as a separate entity on its website under Campus Life. It no longer lists the Center and has moved the listing of the conference.)

Can you talk with Hillbrook about this issue? We would like to be assured once again that this program will not occur on the campus this summer.

I have two more issues.

1. Hillbrook is now listing a second program of the same type as the Santa Fe Leadership Center conference on its website. This program is also listed under Schedule of Events on the Center for Teaching Excellence. This is the John Hunter Master Class.  
(<http://www.hillbrook.org/podium/default.aspx?t=162819>) This is once again touted as a "partnership," this time with the Martin Institute. There will be a two-day session and a week-long session. The Martin Institute website indicates that the two-day class costs \$1,250. The website does not indicate the number of participants.  
<http://www.eventbee.com/v/martininstitutesanfrancisco2012>

Since this program is the same kind of use as the Santa Fe Leadership Center conference, can you tell Hillbrook that it is not permitted and cannot take place? Is it possible, as a general rule, to make Hillbrook understand that conferences and third-party professional development offerings of this kind are not allowed?

2. Hillbrook is starting its Center for Teaching Excellence in August. (<http://www.hillbrook.org/cte>) This is a usage that has not been applied for and, therefore, is not permitted, but Hillbrook is going ahead with it anyway. The Center has the potential for creating a great deal of traffic and is thus of great concern to the neighborhood. Hillbrook has now posted an entire web page about the program and what the page says is quite alarming.

The core program will eventually have 12 teacher trainees and an administrator. This in itself is an intensification of use, since it will generate more than 5 car trips during peak periods. However, the functions of the Center with the greatest potential for generating large amounts of traffics are these.

- "Education conferences where thought leaders in education collaborate and exchange ideas on cutting edge practices impacting teaching and educational excellence in Silicon Valley."
- "A speaker series designed to appeal to teachers, parents and students with a variety of interesting topics delivered by a phenomenal and diverse pool of thought leaders in the educational community as well as professionals from Silicon Valley's dynamic academic, business and non-profit sectors (including select Hillbrook parent superstars)."

We are looking forward to meeting with you and Greg Larson. I would appreciate if you could add the above two items to the agenda. I also look forward to your response about the Santa Fe Leadership Center conference, apparently still scheduled for July 15-19 on the Hillbrook campus.

Sincerely,

Barbara Dodson



# Letters from Los Gatos Weekly-Times readers

From Los Gatos Weekly-Times readers

Posted: 04/09/2012 07:32:48 PM PDT

Updated: 04/09/2012 07:32:48 PM PDT

## Hillbrook School is violating its CUP each summer

Last summer the current Hillbrook School administration violated its CUP by allowing an unprecedentedly large number of summer programs to operate on its campus, even though nothing in its CUP allows any operation whatsoever during the summer months. The result was very heavy and dangerous neighborhood traffic all though the day.

In contrast, over at least the past years 13 years I have lived in the neighborhood, Hillbrook held small summer programs for its own students. Neighbors never objected to this even though such programming was not actually permitted because these small programs did not generate a lot of traffic. A mutual feeling of trust and consideration existed between the school and its neighbors.

The current Hillbrook administration has completely destroyed that trust by unilaterally deciding that the absence of summer restrictions in its CUP means that it can do whatever it pleases during the summer regardless of neighborhood concerns. For example, the CUP does not explicitly say the school can't hold for-profit SAT classes, so this past summer the school went ahead and did so, even though the school has no students of its own beyond the eighth grade. The CUP does not explicitly say the school can't hold a conference with 40 adult participants paying \$1,575-\$1,795 per person, so the school just goes ahead and does so.

Furthermore, when Hillbrook wanted to do something that is explicitly restricted by its CUP, it simply ignored the restriction. Specifically, it accepted payment from Steve & Kate's Camp, a for-profit summer camp company, and allowed Steve & Kate's Camp to use the Hillbrook campus to run a for-profit, 900-child camp, open to the public. The CUP does not allow lease or rental to a third party, so Hillbrook claimed it "partnered with" Steve & Kate's. This is a deliberate and cynical misinterpretation of the CUP.

Hillbrook sits on property zoned for residential use. As a result, the school can operate only if it satisfies the conditions of its CUP. Because Hillbrook blatantly violated its CUP in so many ways last summer and showed a complete disregard for its neighbors' well being and concerns, no summer activity should be permitted at all until summer activity can be specifically addressed and defined through a new CUP.

Cindy Vindasius

Los Gatos

CUP VIOLATION AND TOWN CODE COMPLAINT: Saso High School Prep, Way to Go Foundation Inc./Stage Kids California, Playful People Productions  
Email to Jennifer Savage from Barbara Dodson, April 20, 2012

Dear Jennifer:

I have just been made aware of some additional third party usages that are planned for the Hillbrook campus. Please add these to the group of third party usages I assume you will be discussing with Hillbrook as violations of CUP Condition #10: Lease/Rentals.

- SASO High School Prep. This organization offers a ten-session tutorial program to prepare middle school students for high school and claims to help them get better scores on the High School Placement Test. Hillbrook allowed the group to hold classes last year and is scheduled to allow classes on campus from June 18-July 25 and then again from September 21-December 7. The program costs \$660-\$690 and is open to the community. <http://www.sasohighschoolprep.com/pages/registration.html>
- Way to Go Foundation, Inc., Stage Kids California. Hillbrook is allowing this third party to use its campus for a summer program entitled "The Wizard of Oz" for campers entering grades 2-8. The program is scheduled for July 9-July 20 and will cost \$700. It is open to the community. Way to Go Foundation offers numerous programs at other locations. <http://waytogoprograms.com/welcome.html>, <http://www.stagekidsca.com/index.php?id=23&name=Summer+Camps>
- Playful People Productions. Hillbrook is allowing this third party to use its campus for a summer program titled "Summer Stock Theatre" for campers entering grades 2-8. The program is scheduled for June 11-June 22 and will cost \$700. It is open to the community. Playful People Products offers numerous programs at other locations. <http://www.playfulpeople.net/>

In addition to being violations of CUP Condition #10, we believe these programs are violations in the following ways;

1. The first program enrolls non-Hillbrook students in violation of Condition #4. The second two programs enroll non-Hillbrook children as campers, also in violation of Condition #4.
2. The first program is scheduled from 10:30 to 12:30 from June 18-July 25. This generates traffic outside of the agreed upon dropoff period and pickup periods of 7:30-8:30 AM and 2:30-3:45 in violation of Condition #12.
3. The second two programs are scheduled for 9-3. This generates traffic outside of the agreed upon morning dropoff period of 7:30-8:30 AM in violation of Condition #12.
4. All of the programs are "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" in violation of the Los Gatos Town Code Section 29.20.200 (1)(2)(3).

We hope that Hillbrook will act in good faith and terminate all of its third party usages not just in the summer but throughout the year.

Email from Barbara Dodson to Jennifer Savage, April 24, 2012

**SUBJECT: EXCESSIVE AFTER-SCHOOL HOSTED SPORTS EVENTS**

Dear Jennifer:

Neighbors have been asking me about Hillbrook's summer programming since they have seen it advertised in local publications. I've explained that we are waiting until early May to see whether the Town will permit any of these activities. During these discussions, neighbors have asked me to point out one other violation that has had a serious impact on afternoons in our community. This violation involves the excessive number of league sports games held on the Hillbrook campus after 3:45. This is an academic year violation, not a summer violation, but it seems that while you are talking with Hillbrook, you could bring it up.

The number and times of weekday league sports events have created serious traffic problems in the neighborhood. Based on Hillbrook's calendar, the school held more than 100 sports events against other schools in its gym or on its fields in both academic years 2010-2011 and 2011-2012. Below are "home" sports events listed on the calendar for 2011-2012. January was clearly the worst month with 32 home basketball games. Note that numerous games started at 4:45 or 5 PM and probably lasted long enough to be considered nighttime activities. A game on March 1 started at 7 PM, so was clearly a nighttime activity. Hillbrook is limited to 10 nighttime activities per year (Condition #6) and has not counted any of these sports events among its nighttime activities.

<b>SEPTEMBER</b> Home Volleyball Games (9)	9/20, 4 PM 9/20, 5 PM 9/26, 3:45 PM 9/27, 3:45 PM 9/28, 3:45 PM 9/28, 4:45 PM 9/29, 3:45 PM 9/29, 4 PM 9/29, 5 PM
Home Football Games (1)	9/29, 4 PM
<b>OCTOBER</b> Home Football Games (0)	10/3, 4 PM 10/5, 3:45 PM 10/6, 3:45 PM 10/13, 3:45 PM 10/17, 4 PM 10/18, 4 PM 10/20, 3:45 PM 10/24, 3:45 PM 10/25, 3:45 PM
Home Volleyball Games	10/4, 4:45 PM

(16)	10/5, 3:45 PM 10/5, 4:45 PM 10/6, 4 PM 10/6, 5 PM 10/11, 3:45 PM 10/12, 3:45 PM 10/12, 4:30 PM 10/17, 4 PM 10/17, 5 PM 10/18, 3:45 PM 10/20, 3:45 PM 10/20, 4:45 PM 10/25, 3:45 PM 10/25, 4:45 PM 10/27, 3:45 PM
Hillbrook Cross Country Meet (1)	10/19, 4 PM
Hillbrook Volleyball Tournaments (2)	10/29, Girls A and B, no time given
NOVEMBER Home Basketball Games (4)	11/29, 3:45 PM 11/29, 4:45 PM 11/30, 3:45 PM 11/30, 4:45 PM
DECEMBER Home Basketball Games (2)	12/1, 3:45 PM 12/1, 4:45 PM
Winter Indoor Soccer Tournaments (3)	12/19, 9 AM-3 PM (during winter break) 12/20, 9 AM-3 PM (during winter break) 12/21, 9 AM-3 PM (during winter break)
JANUARY Home Basketball Games (32)	1/4, 4 PM 1/4, 5 PM 1/5, 3:45 PM 1/5, 4:45 PM 1/6, 3:45 PM 1/9, 3:45 PM 1/9, 4:45 PM 1/10, 3:45 PM 1/11, 3:45 PM 1/11, 4:45 PM 1/12, 3:45 PM 1/12, 4:45 PM 1/13, 3:45 PM 1/13, 4:45 PM

	1/17, 3:45 PM 1/17, 4:45 PM 1/18, 3:45 PM 1/18, 4:45 PM 1/19, 3:45 PM 1/19, 4:45 PM 1/23, 4 PM 1/23, 5 PM 1/24, 4 PM 1/26, 3:45 PM 1/26, 4:45 PM 1/27, 3:45 PM 1/27, 4:45 PM 1/28 no time given 1/28 no time given 1/30, 3:45 PM 1/30, 4:45 PM 1/31, 4:45 PM
<b>FEBRUARY</b> Home Basketball Games (12)	2/2, 3:45 PM 2/2, 4:45 PM 2/6, 3:45 PM 2/8, 3:45 PM 2/8, 4:45 PM 2/9, 3:45 PM 2/9, 4:45 PM 2/13, 3:45 PM 2/13, 4:45 PM 2/16, 4:45 PM 2/27, 3:45 PM 2/27, 4:45 PM
<b>MARCH</b> Home Basketball Games (6)	3/1, 3:45 PM 3/1, 4:50 PM <del>3/1, 4:50 PM</del> 3/3, 10:05 AM 3/3, 12:15 PM 3/3, 3:45 PM
<b>APRIL</b> Home Volleyball Game	4/26, 3:45 PM
<b>MAY</b> Home Volleyball Games (3)	5/8, 3:45 PM 5/10, 3:45 PM 5/15, 3:45 PM

We believe this is clearly a violation of the Los Gatos Town Code Section 29.20.200-Conditional use modification because it represents (1) an "intensification of use"; (2) is the commencement of new activities "with material adverse impact" on the neighborhood; and (3) is a change that is

"a substantial department from plans which were the basis of the conditional use permit approval." Furthermore, sports activities with outside schools exceed the scope of permissible uses under the CUP.

Another piece of information that should be part of this discussion is this: \*Even if league activities were allowed, Hillbrook, with its 315 students, would still be hosting an excessive number of its games. In academic year 2011-2012, it hosted approximately 100 of its roughly 130 league sports events (basketball, football, volleyball, etc.). This is 77% of their sports events. In comparison, in the same time period Fisher Middle School, with its approximately 1,100 students, hosted fewer than 50% of its league sports events (approximately 67 of roughly 139 league sports events).

	# of Students	# of Home Games	# of Away Games	Percent of Home Games
Hillbrook School	315	c. 100	c. 30	77%
Fisher Middle School	c. 1,100	c. 72	c. 67	48%

It's easy to see how this kind of activity makes a complete mockery of the traffic caps under Condition #12. The clear intent of the CUP was to create specific periods during which Hillbrook students would be dropped off and picked up. The neighborhood would anticipate a large volume of traffic—up to 165 vehicles—between 7:30 and 8:30 and then again between 2:30 and 3:45. In all other periods, there would be almost no traffic related to Hillbrook. Obviously these afterschool league sports events create a great deal of traffic outside of peak hours.

Again, since we are assuming that you will be meeting with Hillbrook toward the end of April, we ask that you include this violation as part of your conversation. The community asks that Hillbrook be told that no league sports events are permitted on its campus under the current CUP.

Sincerely,

Barbara Dodson for CATS (Concerned About Traffic and Safety)



**EMAIL CORRESPONDENCE BETWEEN BARBARA DODSON, STEVE RICE, AND GREG LARSON**

Please particularly note this comment from Greg Larson: (W)e are preparing a letter to Hillbrook to go out next week identifying the other violations that must cease. We will provide you and Council a copy of that letter next Friday.

Once the work above is done, we will annotate the chart provided as to the violations which are being enforced and those which are pending further application review. (Emphasis added.)

We never received an annotated chart.

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**From:** Barbara Dodson  
**Sent:** 05/25/12 10:58 AM  
**To:** [SRice@osgatosca.gov](mailto:SRice@osgatosca.gov), [gsburrows@gmail.com](mailto:gsburrows@gmail.com)  
**Subject:** Re: Chart of Hillbrook Violations

Dear Steve:

Thanks for following up for Glenda and me on the Hillbrook situation. I've been waiting to get back to you until we actually received the letter Greg Larson mentioned in his email of May 4. In that email, Mr. Larson said that a letter would go out to Hillbrook identifying the other violations that must cease by Friday, May 11. As of today, no letter has yet gone out.

We are growing increasingly concerned especially since at least one summer camp that is considered a violation is about to start on June 11. This is the camp provided by the third party Playful Productions.

Our associate planner, Jennifer Savage, has told us that the following third party functions will not be permitted.

Saso High School Prep  
Breakthrough Silicon Valley  
Way to Go Foundation/Stage Kids  
Playful Productions Theater Camp  
Santa Fe Leadership Center Conference  
John Hunter Master Class

All of these third party functions continue to be listed on the Hillbrook website. This indicates to me that Hillbrook is still planning on moving forward with all of these activities. In fact, at a meeting on Wednesday night about traffic issues, Head of School Mark Silver was asked about camps starting on June 11 and stated that the school did not consider any of them to be violations, contrary to what Jennifer said (which was that the Playful Productions camp was, in fact, a violation).

Jennifer also said that summer enrollment would be limited to students who were enrolled at Hillbrook during the spring semester; activities would not be open to the community. Hillbrook continues to advertise its summer programs in publications distributed throughout the Peninsula and San Jose area.

We have been waiting for the Town's letter to go out to Hillbrook and have, therefore, not yet had a meeting with Greg Larson.

Can you encourage Mr. Larson and other people involved to notify Hillbrook in writing as to exactly what is and is not permitted? Please ask him to go further than stating that "third party leases and rentals will not be permitted" since Hillbrook continues to claim that it is partnering or co-sponsoring, when in fact it is allowing third party usages. It is important to be clear with Hillbrook and to name exactly which activities

are not allowed. It is also important to let Hillbrook know in no uncertain terms that Hillbrook activities are not open to the community.

Thanks again for your help in this trying situation.

Sincerely,

Barbara Dodson

-----Original Message-----

From: Steve Rice <[SRice@losgatosca.gov](mailto:SRice@losgatosca.gov)>

To: Barbara Dodson <[btodson@aol.com](mailto:btodson@aol.com)>; gsburrows <[gsburrows@gmail.com](mailto:gsburrows@gmail.com)>

Sent: Sat, May 5, 2012 6:15 pm

Subject: FW: Chart of Hillbrook Violations

Barbara and Glenda:

From the email below, I am guessing you are already aware of most of what is going on with respect to the Hillbrook CUP. I hope you are pleased with the progress.

Please let me know if you have any additional questions.

Steve

Steve Rice, Mayor  
Town of Los Gatos  
[SRice@LosGatosCA.gov](mailto:SRice@LosGatosCA.gov)  
Cell: (408) 981-5555

From: Greg Larson <[GLarson@losgatosca.gov](mailto:GLarson@losgatosca.gov)>

Date: Friday, May 4, 2012 5:14 PM

To: "Stephen M. Rice" <[srice@losgatosca.gov](mailto:srice@losgatosca.gov)>

Subject: FW: Chart of Hillbrook Violations

Mayor,

Jennifer Savage met with six Hillbrook neighbors this morning to review their specific concerns and another meeting is scheduled for next week to answer the remaining questions. I am also scheduled to meet with them as needed the following week.

In the meantime, we do have some additional information regarding the chart provided through you to staff.

First, third party leases and rentals will not be allowed this Summer.

Second, as is our standard practice, we are not taking further enforcement actions on selected violations while there is an application pending to allow or remedy those violations. However, I will be reviewing and reporting to Council on these pending violations in case one or more Council members want to provide alternative direction relative to our normal practice.

Third, we are preparing a letter to Hillbrook to go out next week identifying the other violations that must cease. We will provide you and Council a copy of that letter next Friday.

Once the work above is done, we will annotate the chart provided as to the violations which are being enforced and those which are pending further application review.

Please let me know if you need any additional information before our meeting on Tuesday.

Greg



## TOWN OF LOS GATOS

COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
(408) 354-6872 Fax (408) 354-7593

CIVIC CENTER  
110 E. MAIN STREET  
LOS GATOS, CA 95031

June 4, 2012

*delivered by email*

Mark Silver  
Hillbrook School  
300 Marchmont Drive  
Los Gatos, CA 95032

RE: Hillbrook School  
2012 Summer Activities

Mark Silver:

The Town has received complaints that Hillbrook School may be operating or advertising summer programs that may be outside (or beyond) the terms of the existing Conditional Use Permit (CUP).

Hillbrook provided to Town staff a list and description of its programs proposed for Summer 2012. Based on the information you provided to the Town, the existing CUP appears to allow the following activities:

- Summer@Hillbrook (per the description contained in your letter dated as received by the Town May 22, 2012): Ages 5 to 14 years of age. Number of enrolled shall not exceed 315 at any time even when combined with other activities on campus. Program hours from 9:00 am to 3:00 pm.
  - Based on the project description, the peak hour traffic will occur from 8:30 am to 9:30 am and 2:30 pm to 3:45 pm during set pickup and drop-off times, and shall not exceed 165 vehicles.
- Breakthrough Silicon Valley (per the description contained in your letter dated as received by the Town May 22, 2012). Middle school students. Number of enrolled shall not exceed 315 at any time even when combined with other activities on campus. Enrollment limit of 100 students. Program hours from 8:25 am to 4:30 pm.
  - You provided additional information to Town that at least ninety percent of students will arrive by bus, not individual vehicles, which, given the limited enrollment, will not exceed the intent of the peak hour trips limited by the existing CUP.

You are also proposing two adult education activities for adults other than for Hillbrook School faculty (i.e. Innovative Leadership Conference, John Hunter Master Class) and, you believe that

Page 2 of 2

these activities comply with the existing CUP. You have offered to provide documentation to support your view well before these activities commence in July 2012. In order to address the issue of adult education activities, you must submit this documentation before 5:00 p.m. on June 5, 2012. After reviewing your documentation, staff will provide a written determination regarding adult education activities approximately one week later.

Failure to operate within the existing CUP constitutes a zoning violation so it is imperative that you address this issue before 5:00 p.m. June 5, 2012. Failure to submit documentation by this date may result in compliance actions initiated by the Town.

Thank you for your prompt attention to this matter. If you have any questions concerning this matter please contact me at (408) 399-5702, or by email at [jsavage@osgatosca.gov](mailto:jsavage@osgatosca.gov).

Sincerely,



Jennifer L. Savage, AICP  
Associate Planner

WRR:JS:cgt

CC: Code Compliance Officer  
Community Development Director  
Town Manager  
Patricia Elliot  
file

NADEYJENNIFER S\Code Compliance\2012\March\out\300.docx

June 5 2012 (?)

**EMAIL TO GREG LARSON REQUESTING A MEETING ABOUT SUMMER 2012 PROGRAMMING**

Patricia Elliot [elliottlaw@mail.com](mailto:elliottlaw@mail.com)

12:10 PM (10 hours ago)

to manager, Jennifer, wrooney, shaily, srice, bspector, sleonardis, dmcnutt, jpirzynski, me

Dear Mr. Larson,

I am in receipt of Jennifer Savage's letter dated June 4th, regarding The Hillbrook School summer programs. Attached. The neighborhood has been waiting more than 1 year for the Town to require Hillbrook to comply with the CUP in its summer use of the campus. Needless to say, I and many of my neighbors are extremely disappointed in staff's position taken in the June 4th letter.

One of my neighbors, Steve Beritzhoff, attended the Council meeting last night to ask the Council to agendaize this matter. Unfortunately, August will be too late to salvage our neighborhood's summer peace and enjoyment. Due to the Town's refusal to enforce the CUP, for the second summer in a row, our neighborhood will be inundated with Hillbrook traffic during much of the day.

Even more disappointing, was your statement to the Council last night that staff's June 4th letter approved programs that are permitted in the current CUP. That is simply NOT TRUE.

The Breakthrough Silicon Valley program that staff approved clearly falls under CUP Condition #10 "Lease/ Rentals" and is prohibited. Hillbrook's clever argument that they are not charging for Breakthrough Silicon Valley's use of the campus does not make this use permissible. In our most recent meeting with Ms. Savage on May 9th, she lead us to believe that Breakthrough Silicon Valley program would not be permitted because it amounted a "lease/rental." Any reasonable person would find that obvious.

Indeed, Ms. Savage notified Hillbrook in an email on March 28th that, "This is a friendly reminder that the existing Conditional Use Permit does not permit the lease/rental of campus facilities to third parties. Therefore, the Steve & Kate program and the Santa Fe Leadership Center would not be allowed." Why then, Mr. Larson, would staff permit Hillbrook to allow another third party, Breakthrough Silicon Valley, to use its campus facilities? Why is Town staff so "friendly" toward Hillbrook to the point of permitting routine violations of the CUP? Doesn't Town staff owe any duty to the residents to require Hillbrook to comply with the CUP?

You must know that Condition #10 is not some circuitous attempt to curtail Hillbrook's ability to generate revenue. It, like many of the other CUP provisions, was designed to protect the neighborhood from excessive traffic. What gives staff the right to unilaterally amend the CUP, without a hearing and notice to the neighborhood and to permit this unauthorized use?

In addition, the letter appears to permit Hillbrook to run summer camps for children not enrolled in Hillbrook. That too is a clear violation of the CUP, Condition # 4. Except for last summer, (about which



neighbors complained vigorously), Hillbrook has never been open to non-Hillbrook enrolled students. The 315 enrollment cap is not some daily count relating to building capacity. The enrollment cap, again, obviously was designed to limit the programs to only those 315 enrolled students and hence limit the traffic. Staff has rendered this provision meaningless.

Nor is there any mention of the requirement that there be a carpool program. CUP Condition # 3. Further, the hours of traffic impact that staff has approved exceeds those in the CUP. CUP Condition #12. Based on the June 4th letter, the neighborhood will be impacted this summer with Hillbrook traffic from 8:00 a.m. to 9:30 a.m. and again from 2:30 p.m. to at least 5:00 p.m.

We know all too well, that traffic is not confined to those hours and that NO ONE will enforce the so-called requirement that students take the bus. You must have heard by now about the two massive virtually empty buses Hillbrook has been rumbling through the neighborhood twice a day all school year. The fact that staff sees fit to permit Hillbrook to flood the neighborhood with 165 vehicles (x2 passes up and down Marchmont Dr) during these so-called peak periods for a total of 660 passes per day (and an unlimited amount of traffic in addition to that during the rest of the day), during what used to be very quiet summer months for residents, is completely unacceptable. Those vehicle numbers do not even account for the estimated 50+ staff, adding at least another 100 vehicle passes per day.

Neighbors met with Sandy Baily twice last summer and Ms. Savage at least three times in the past several months, attempting to get staff to require Hillbrook to comply with the CUP. We asked for meetings with you and were told that "should not be necessary" and that we should wait for staff to act. Well, obviously that was a mistake we won't make again.

Kindly let me know when you are available to meet with neighbors to address this situation. I am available Thursday or Friday this week.

Thank you,

Patti Elliot

Member, LG CATS (Los Gatos residents Concerned About Traffic & Safety)

269 Marchmont Dr.

Los Gatos, CA 95032

Tel: 408.358.4455

Fax: 408.358.4494

Cell: 408.623.6634

**Patricia Elliot**

269 Marchmont Drive  
Los Gatos, CA 95032

Tel: 408.623.6634  
Fax: 408.358.4494

Email: [Elliotlaw@mail.com](mailto:Elliotlaw@mail.com)

June 11, 2012

Mr. Greg Larson  
Town Manager  
Town of Los Gatos  
110 E. Main Street  
Los Gatos, CA 95030

**Re: Hillbrook School CUP Violations-Summer Programs**

Dear Mr. Larson:

I am writing in follow-up to the meeting with you, Ms. Rooney, Ms. Baily and Ms. Savage on Thursday, June 7, 2012. You were introduced to Los Gatos residents Kathleen Willey and her two and a half-year-old twin sons (Cardinal Ln.), Tina Lin (Marchmont Dr.), Burr and Susan Nissen (Cardinal Ln.), Steve and Susan Beritzhoff (Karen Ct.), Ali Khan (Topping Way), Susan Buxton (Robin Way), Jim Elder (Marchmont Dr.), Bob Buckley (Marchmont Dr.), and myself.

As I mentioned, there were numerous additional neighbors, from all of the streets surrounding Hillbrook, who had also wanted to attend the meeting.

The meeting was held to express the neighbors' strenuous objections to the fact that your Town staff refuses to require the Hillbrook School to comply with its current conditional use permit (CUP), including regarding summer programs. On June 4, 2012, Ms. Savage sent a letter to Hillbrook School specifically permitting Hillbrook to operate summer programs, including Summer@Hillbrook and Breakthrough Silicon Valley, both of which violate Hillbrook's CUP.

We informed you that neighbors have been trying to work with Hillbrook School and Town staff for almost a year to attempt to get staff to enforce the Hillbrook School CUP, specifically concerning its summer use of the campus.

Groups of neighbors have met with Town staff at least four times and sent numerous letters and e-mails since June 2011, imploring Town staff to take action to require Hillbrook to comply with its CUP. We have provided staff with detailed information substantiating the CUP violations, including concerning the Summer@Hillbrook and Breakthrough Silicon

Mr. Greg Larson  
June 11, 2012  
Page 2

Valley programs, which inexplicably, Town staff has now given Hillbrook the approval to conduct for the summer of 2012.

For the past two summers, and particularly last summer (2011), Hillbrook has violated numerous provisions of its CUP, flooding the neighborhood with excessive traffic virtually all summer long, and making our neighborhoods unsafe for us and our children.

In fact, the Hillbrook CUP makes no reference whatsoever to any use during the summer and therefore, no such use is permitted. Mr. Larson, you acknowledged that if a use is not included in the CUP, it is not permitted. The neighbors agree wholeheartedly with that interpretation, and I supplied you with excerpts of relevant guidance materials governing CUPs. "As a rule, conditional use permits do not authorize uses that the zoning ordinance does not authorize, nor uses not expressly authorized by the permit. The conditional use permit includes conditions which limit the applicant's authority to use the property."

Hillbrook acknowledges this, in that, in its recent application to modify its CUP, Hillbrook wants to now add what it refers to as a "third trimester," authorizing use in the summertime. Under the current CUP which is applicable to summer 2012, no such use is permitted.

Despite that, even if there were some implied right to run summer programs, for at least the past two summers (2010, 2011) Hillbrook's summer uses have violated CUP Condition #4, the enrollment cap, Condition # 10, the no lease or rentals to third parties provision, and Condition #3, the carpooling provision, among others.

The Town's own traffic counts from last summer substantiate the neighbors' concerns. In July 2011, over 500 cars per day (over 1000 total vehicle passes in front of our homes daily) flooded our neighborhood due to Hillbrook's unauthorized summer programs. Two of those 500+ vehicles were large school buses used by the Breakthrough Silicon Valley program. Although neighbors complained in June 2011 to both Hillbrook and the Town, nothing was done to require Hillbrook to comply with the CUP.

You stated very clearly your position that you do not work for us, you work for all of the property owners in Town, including Hillbrook. I and my neighbors were very distressed to learn that you have determined that you will support Hillbrook's continued violations of its CUP to the significant detriment of hundreds of its surrounding neighbors. You suggested that we should consider suing the Town if we disagreed.

To reiterate our concerns, since I moved to Marchmont Drive in July 1995 (many of my neighbors have lived here much longer), the summers were very quiet and allowed the neighbors a welcome and well deserved respite to the noise, pollution and unsafe traffic conditions caused by Hillbrook's school year traffic. In years past, the Hillbrook summer programs, if any, have been quite small and have had minimal impact on the neighborhood.

Mr. Greg Larson  
June 11, 2012  
Page 3

Hillbrook hired a new Head of School, Mark Silver, in the summer of 2009, and he quickly began to expand Hillbrook's programs, both during the school year and in the summers. In turn, traffic in the neighborhoods surrounding Hillbrook has increased dramatically.

**The Summer@Hillbrook program that staff has permitted violates CUP Condition 4 because it is open to students not enrolled in Hillbrook's school-year program**

In our June 7th meeting, we had a lengthy discussion about the meaning of the CUP term "Enrollment." CUP Condition 4 states, "ENROLLMENT. The enrollment shall be limited to 315 students." Hillbrook School, as do most private schools, enrolls students under a school year long contract. Therefore, a plain reading of the CUP, in the context of a private academic school such as Hillbrook, would mean that "enrollment" is limited to those 315 students for whom Hillbrook has school year enrollment contracts.

You, "wanting to play devil's advocate," argued that Hillbrook has the right to change its enrollment roster from period to period, not limited to the school year, as it chooses. A clever argument, undoubtedly supplied to you by Hillbrook attorneys, but it simply does not comport with how, in fact, Hillbrook School, the neighbors or the Town have for decades understood the term "enrollment." The enrollment cap dates back to 1984.

Under your (Hillbrook's) proposed interpretation of "enrollment", Hillbrook could run double sessions each day enrolling 315 students from 6:00 a.m. - 1 p.m. and another 315 students from 1 p.m. - 7:00 p.m. They could do this all year long. This interpretation transforms the "enrollment" cap into nothing more than a building capacity-type limitation, such as found in the fire code.

One cannot honestly dispute that the CUP limitation on enrollment was designed to protect the neighborhood from excessive traffic. Given that understanding, the only reasonable, and in fact accurate, definition of "enrollment" under the CUP is the 315 students from whom Hillbrook has signed school year enrollment contracts. Therefore, the only children permitted to be enrolled in Hillbrook programs, including during the summers, if any, are those 315 children who are enrolled as students at Hillbrook for the coming fall.

The fact that Hillbrook violated its enrollment limitation last summer, allowing over 900 children in the Steve & Kate's camp alone, on top of 100+ children from the Breakthrough Silicon Valley program and an unknown additional number of children participating in the "Hillbrook" camps, highlights the need for the Town to enforce Condition 4 and require that Hillbrook limit its summer enrollment, if any, to the 315 students enrolled in its year round program.

While Hillbrook is now trying to alter the meaning of "enrollment" in the CUP, statements by the former Head of School Sarah Bayne and current Head Mark Silver are admissions by Hillbrook that non-Hillbrook enrolled students are not permitted to participate in Hillbrook programs.

Mr. Greg Larson  
June 11, 2012  
Page 4

In an October 2000 letter from Sarah Bayne to the Planning Commission regarding traffic concerns being addressed in the course of modifying the current CUP, Ms. Bayne wrote, "All school programs and activities after the six hour day have increased nationwide over the past 15 years. Day care, for example, was unheard of as part of school programs, as well as the other activities in Hillbrook, as with all schools, now provides for its students. Day care and all afterschool programs are only offered to Hillbrook students. (Emphasis in the original).

Clearly, only Hillbrook enrolled students are permitted to participate in the "six hour day" Ms. Bayne refers to, and as clearly, all other programs Hillbrook runs are similarly limited to Hillbrook enrolled students.

The guarantee Ms. Bayne made to the Planning Commission was a fundamental underpinning to the grant of the CUP to Hillbrook in 2001, and Hillbrook is bound by that guarantee today.

In an email to me on July 2, 2011, Mr. Silver wrote, "Hillbrook has a long history of summer camps, and year after year, one of our top requests from parents is good summer programming. Our programs for the past few summers, however, have not been especially popular and we have had relatively low attendance. Each year we try something different to try to please our parents and students. This year, we chose to work with Steve & Kate's Camp in running our summer program, and as you are well aware, it has turned out to be very popular." (emphasis added).

Mr. Silver's statements not only acknowledge that in the past, summer programs at Hillbrook have been minimal (although he vastly understates, "for the past few summers," when in fact, that has been the case throughout Hillbrook's existence), but also that they are supposed to be for Hillbrook students.

As I mentioned during our meeting, I have a personal experience further proving that Hillbrook's summertime programs, prior to Mr. Silver's tenure, were limited to only Hillbrook-enrolled students. In 2008, my son's friend, who was a Hillbrook student, invited him to participate in a summer wood shop class at Hillbrook.

This was a two hour per day, two week wood shop class with a total of 6 or 7 students. There were very few other students on campus. I asked the boy's mother if it was OK that my son participate, since he does not attend Hillbrook. She called the school and asked. She reported to me that Ms. Bayne said that since we were neighbors, she would allow my son to attend the wood shop class, but that I should not tell anyone because non-enrolled children were technically not permitted.



Mr. Greg Larson  
June 11, 2012  
Page 5

**The Breakthrough Silicon Valley program that staff has permitted violates CUP Condition 10, in addition to CUP Condition 4**

The Breakthrough Silicon Valley program is not permitted under Condition #4 of the CUP because the Breakthrough Silicon Valley participants are not Hillbrook-enrolled students. (See above).

We also had an extensive discussion about the meaning and intent of CUP Condition # 10, "LEASE/RENTALS. No lease or rental of the campus facilities shall be permitted to third parties." Ever since last summer when the neighbors became aware that Hillbrook was permitting the Breakthrough Silicon Valley program to use its campus for its summer school, we have been asking Town staff to notify Hillbrook that such a third-party use of the facilities is not permitted.

In our recent meeting with Ms. Savage on May 9, 2012, Ms. Savage assured the neighbors that the Breakthrough Silicon Valley program would not be permitted this summer because it is a third-party use.

In our meeting on June 7th, Ms. Savage stated that the Town reversed its decision in favor of Hillbrook because Hillbrook notified her that the Breakthrough Silicon Valley program "is a Hillbrook program." That is simply not true. A ten minute perusal of the Breakthrough Silicon Valley web site would confirm what neighbors have been telling Town staff for over a year.

According to Breakthrough Silicon Valley's website, "Breakthrough Silicon Valley is a part of Breakthrough Collaborative, a national collaborative of sites engaged in the same students-teaching-students model. As one of 35 sites nationwide, we work closely with our national collaborative to share ideas, recruit teachers, and coordinate fundraising."  
<http://www.breakthroughsv.org/contactus.html> This is clearly not a "Hillbrook program."

According to the Breakthrough Collaborative website, "At 33 locations across the nation and abroad, Breakthrough Collaborative launches motivated middle-school students on the path to college and prepares older students for careers in education." Hillbrook is one of those "locations."

The Breakthrough Silicon Valley's website describes its connection to Hillbrook this way: "Our summer campus, located at The Hillbrook School, has state-of-the-art teaching facilities in the beautiful foothills of Los Gatos, California, making it an ideal place to teach and learn."

Hillbrook is allowing the Breakthrough Silicon Valley program to be "located at" the Hillbrook campus. Breakthrough Silicon Valley is obviously not a Hillbrook program, and therefore violates the no lease or rental to third parties provision of the CUP. Whether or not Hillbrook receives any compensation from this third party is irrelevant.

Further, Mr. Silver admitted to neighbors last summer, in response to questions about the low number of children on the Breakthrough Silicon Valley buses, that the Breakthrough Silicon



Mr. Greg Larson  
June 11, 2012  
Page 6

Valley children were "supposed to be taking the bus," but since they were not Hillbrook families, he could not control them.

Hillbrook's statement that Breakthrough Silicon Valley is "a Hillbrook program" is as credible as Mr. Silver's statements last summer both to neighbors and the Town that Hillbrook was not exceeding its enrollment of 315, when in fact they had 900 children participating in the Steve & Kate's camp alone. The 500+ cars per day, on top of the two large buses (with capacity for another approximately 100 children), tells the true story.

As Ms. Rooney stated during the meeting, the CUP conditions "run with the land." That means, that it does not matter who is running the school; they are bound by the same CUP provisions. The current CUP has been in place since 2001. Mr. Silver cannot simply disregard and ignore the provisions in the CUP.

Mr. Larson, as the Town Manager, you are obligated, pursuant to Town Code 2.30.295:

1. To see that this Code and any other laws and ordinances of the Town are duly enforced...
2. To control, order and give directions to all heads of departments, subordinate officers and employees of the town...
12. To investigate all complaints in relation to matters concerning the administration of the town government.

As you are well aware, the Hillbrook CUP is akin to a Town Ordinance and you, as the Town Manager, are obligated to enforce it.

It is your responsibility to reverse the improper staff approval of the Summer@Hillbrook and Breakthrough Silicon Valley programs and we expect you to do so immediately.

Very sincerely yours,



Patricia Elliot

Member, LG CATS (Los Gatos residents Concerned About Traffic & Safety)

Cc: Steve Rice, Los Gatos Mayor  
Barbara Spector, Vice Mayor  
Steve Leonardis, Council Member  
Diane McNutt, Council Member  
Joe Pirzynski, Council Member

August 14, 2012 telephone call between Jennifer Savage and Patricia Elliott

This document includes only parts of the conversation related to CUP violations. The July mediation was also discussed, but that part of the conversation is not included here.

I called Ms. Savage to find out whether there has been any activity in regard to Hillbrook's application.

#### **Status of Review Of Code Compliance Complaints**

Ms. Savage seemed surprised that I asked this question and implied that she felt that issue had been resolved. Ms. Savage said that staff had determined that there were, "currently no existing violations."

She stated that Hillbrook had eliminated some of the programs that were in violation of the CUP, including the Santa Fe leadership conference, Steve & Kates camp, Saso high school prep, and the John Masters program. There was, of course, no mention of the Breakthrough Silicon Valley program.

I asked whether staff had made any determinations about the multitude of other CUP violations we submitted to the Town in the form of the spreadsheet. Again, Ms. Savage seemed surprised that I asked the question and explained that:

Hillbrook had now submitted the carpooling reports so there was no "current" violation on that.

That it did not appear that Hillbrook had violated any CUP provision preventing them from staggering the start and end times and that it was not apparent that Hillbrook did stagger its start and end times.

That nothing in the CUP prevents afterschool programs and therefore the afterschool traffic is not in violation of the CUP.

That nothing in the CUP prohibits afterschool sports- in staff's opinion, Hillbrook can have as many afterschool sporting events as they wish, as long as it only involves one school. Ms. Savage said the only limitation on the afterschool sports would be the nighttime activity limitation. I did not ask and Ms. Savage did not say what staff's interpretation of "night time" means.

After she reviewed her file, Ms. Savage did say that based on information the neighbors provided, it did appear that Hillbrook had exceeded its nighttime activities limitations. However, no action has been taken by staff and Ms. Savage did not seem to know whether there has been any notification to Hillbrook of those violations or what if anything would be done.

Weekend violations- Ms. Savage stated that there do not appear to have been any weekend violations.

Ms. Savage stated that the Town's code compliance complaint process does not require that the staff notify the complainant in writing of its findings or next steps. I told her that there had been no notification either written or verbal.

**From:** Jennifer Savage <[jsavage@losgatosca.gov](mailto:jsavage@losgatosca.gov)>  
**To:** Mark Silver <[msilver@hillbrook.org](mailto:msilver@hillbrook.org)>; Steve Beritzhoff <[beritz6@yahoo.com](mailto:beritz6@yahoo.com)>; Patricia Elliot <[elliottlaw@mail.com](mailto:elliottlaw@mail.com)>; Barbara Dodson <[btodson@aol.com](mailto:btodson@aol.com)>  
**Cc:** Judith Propp <[jpropp@losgatosca.gov](mailto:jpropp@losgatosca.gov)>; Sandy Baily <[sbaily@losgatosca.gov](mailto:sbaily@losgatosca.gov)>; Wendie Rooney <[wrooney@losgatosca.gov](mailto:wrooney@losgatosca.gov)>; Pamela Jacobs <[pjacobs@losgatosca.gov](mailto:pjacobs@losgatosca.gov)>; Greg Larson <[glarson@losgatosca.gov](mailto:glarson@losgatosca.gov)>; Chuck Hammers <[chuck@plzzamyheart.com](mailto:chuck@plzzamyheart.com)>; Christine Kennedy <[marsching@yahoo.com](mailto:marsching@yahoo.com)>  
**Subject:** RE: Hillbrook Update  
**Date:** Mon, Aug 20, 2012 7:37 am

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Mark – The email has been forwarded to the facilitator.

*Jennifer L. Savage, AICP*

Associate Planner

phone: 408.399.5702



**From:** Mark Silver [<mailto:msilver@hillbrook.org>]  
**Sent:** Friday, August 17, 2012 2:09 PM  
**To:** Steve Beritzhoff; Patricia Elliot; Barbara Dodson  
**Cc:** Jennifer Savage; Judith Propp; Sandy Baily; Wendie Rooney; Pamela Jacobs; Greg Larson; Chuck Hammers; Christine Kennedy  
**Subject:** Re: Hillbrook Update

Dear neighbors,

We are grateful for the opportunity we had on July 12 to meet with members of the neighborhood and participate in a facilitated discussion focused on concerns raised about the summer usage of Hillbrook's campus. We appreciated the open and honest dialogue that took place and believe this discussion represented a positive step forward in helping to resolve concerns that have been raised by our neighbors about the summer usage of the campus.

Please note that I do not have the e-mails of everyone who participated in the discussion so I would ask that you share this with them and with other members of the neighborhood.

Jennifer – I also do not have the e-mail for the facilitator, so I would ask that you forward this to him.

Before responding to the list of nine items that was generated through the facilitated discussion, we wanted to reiterate our interest in continuing these conversations with representatives from the neighborhood. We believe these facilitated discussions provide a helpful way for both Hillbrook and the neighborhood to have an open dialogue that identifies common ground and potential solutions that can work for both the school and the neighborhood. We appreciate the offer of the Town to coordinate a second session to further discuss summertime usage and would suggest the session could also be used to discuss regular session school usage as well as to review the Traffic Demand Management Plan that has been created by Nelson-Nygaard.

As can be seen from our responses to the nine items, we are open to many of the ideas presented at the meeting and are willing to consider how these might be implemented as part of our revised CUP. We are not, however, comfortable agreeing to specific terms about summer usage in isolation of the broader conversation about the revised CUP (i.e., inclusive of regular session school usage).

Below is a list of the nine items that were placed on the board during the facilitated discussion and our initial response to each of those items.

1. Open the Ann Arbor gate to summer traffic, or at least the buses.

This gate was created in the mid 1980's as a fire access and construction entrance when Founders Hall (the gym) was built and the initial CUP was created. The gate has since been used only when major construction projects have occurred on the campus. The Ann Arbor neighbors purchased their homes, some prior to the CUP even coming into effect, and those families evaluated the market value of their homes based on Ann Arbor not being an access to our campus. We are not willing to request a change to our CUP to incorporate the use of this gate.

2. Limit the camps to have two distinct hours in which all camps arrive and leave.

We are open to the idea of creating peak period traffic windows in the summer and have suggested a similar concept in our application to revise the CUP. In our application, we have suggested two peak period traffic windows - 7:30 - 9:30 am and 2:30 - 4:30 pm. These windows are similar to our school-year peak traffic windows, although we have shifted the times in recognition of the slightly different hours that summer programs often run.

3. Bus or van all campers (and staff?)

#### 4 Carpool all campers

We believe that buses and carpools are an environmentally responsible way to transport students to campus, as well as an effective means of mitigating traffic in the neighborhood. We have had an active carpool program for more than 10 years, and have used buses for the past two years. The Traffic Demand Management Plan from Nelson Nygaard provides helpful recommendations for ways that we can increase ridership and also enhance our carpool program. We are piloting some of these ideas this Fall, including the creation of "kiss and ride" stops. This past summer, we used buses to transport more than 90% of Breakthrough Silicon Valley students. We are clearly open to discussing how we can utilize buses and carpools in the summer. We agree that an aggressive carpooling program in conjunction with a bus program can effectively mitigate the impact of traffic on the neighborhood.

#### 5 Limit the number of weeks summer camps happen. Possibly 6 of 10?

We believe the focus should be on mitigating traffic in the neighborhood and not on limiting programs that are a core part of our ability to meet our mission as a school. We do not believe that limiting the weeks of camp addresses the core concern, namely finding ways to mitigate traffic, and it limits our ability to operate as a school.

#### 6 Drop the summer limit below 315 (or 414)

We are open to discussions about summertime enrollment in conjunction with discussions about the school-year enrollment. In our current CUP, there is no distinction made between summer and the regular school year sessions. We are open to considering how that might be structured under a revised CUP.

#### 7 Limit hours of school

See response to #2. We are open to the idea of creating peak traffic windows.

#### 8 No outside students

We are not willing to limit the students who participate in our summer programs. Generations of Los Gatos children have participated in our programs, many of whom were not enrolled at Hillbrook during the regular school year. In addition, we currently host 92 students on campus as part of Breakthrough

Silicon Valley, an organization dedicated to helping high potential, underserved middle school students reach college. Only a few of those students are enrolled at Hillbrook during the regular school year. We believe that our partnership with BSV reflects a core piece of our school's vision - to inspire students to achieve their dreams and reach beyond themselves to make a difference in the world - and we strongly oppose any effort to prevent these aspiring first-generation college students from participating in programs on our campus. Since our founding, we have believed that any child given the right opportunities can be successful. Our initial graduates were wards of the state and today more than 20 percent of our students receive financial aid. We believe the focus should be on traffic in the neighborhood and, as reflected in our response to other suggestions, we remain open to finding solutions that continue to mitigate the impact of traffic in the neighborhood both during the summer and the regular school year.

- 9 Change our address and get a PO Box so we don't have Fedex, UPS, and Mail come to the school

We appreciate the concerns of some of the neighbors, and we are currently examining our delivery pattern. We cannot, however, agree to an address change as it would significantly impact our ability to operate the school.

Our responses reflect our openness to the ideas raised during the facilitated discussion, as well as our desire to continue these conversations. We believe that a facilitated discussion that focuses on the recommendations for the new Traffic Demand Management Plan and the conditions proposed for a revised CUP, including summertime conditions, would be beneficial to the school and to the neighborhood. We look forward to working with the neighbors and the Town of Los Gatos to coordinate and schedule these sessions.

Sincerely,

Mark Silver

Head of School

Hillbrook School

On Tue, Aug 14, 2012 at 3:05 PM, Greg Larson <[glarson@losgatosca.gov](mailto:glarson@losgatosca.gov)> wrote:

Colleagues,

Here is an update on several items before us:

1. Hillbrook School has submitted a completed application for modifications to their CUP which is scheduled for



Planning Commission review on Nov. 19<sup>th</sup>. If the Planning Commission acts in one meeting, then the matter would likely go before Council on Dec. 17<sup>th</sup>. Any requested and legally noticed modification to a CUP opens the entire CUP for review and modification.

2. We are tentatively scheduling a Town Council Study Session on Town-wide code enforcement policies and practices for Sept. 4th.

3. Hillbrook School is prepared to present their response out of the first facilitated discussion. Facilitator Mark Strombotne has suggested one of the following days for the second facilitated discussion:

Tuesday, Aug 21

Wednesday, Aug. 22

Monday, Aug. 27

Wednesday, Aug. 29

4. The Town is willing to pay half the cost of the facilitator for the next session, with the hope that the School and the neighborhood will each cover a quarter of the cost. This is in keeping with the standard practice of having all participants in facilitated/mediated efforts mutually commit and participate. The estimated cost for a four-hour session would be \$275 for the school and \$275 for the neighborhood.

Please let me and Jennifer know which of these dates might work for you and any other questions you might have.

Greg Larson

Town Manager

Mark Silver, Ph.D.

Head of School

Hillbrook School

300 Marchmont Drive

Los Gatos, CA 95032

408 356-6116 ext 300

# Letters from Los Gatos Weekly-Times readers

Posted: 09/05/2012 05:46:36 AM PDT

Updated: 09/05/2012 05:48:07 AM PDT

## Hillbrook School neighbors want town to listen

It often seems as if the root cause of many problems can be attributed to being heard, and recently it seems as if the art of listening is a rare commodity. Recent town council meetings have seen broad representation from residents, with varying concerns, all with passionate messages. But I can't help to think that the message is getting lost in translation.

Town management, please take notice--we have safety issues resulting from Hillbrook School's growing traffic! LG CATS (Los Gatans Concerned About Traffic & Safety) is asking Hillbrook School, [town manager Greg] Larsen and our town management to hear us. We need solutions to provide safety for anyone living on or using Marchmont, Shannon, Kennedy, Englewood, Topping, Hilow, Stonybrook, Cardinal, Robin and the surrounding streets and culs de sac impacted by Hillbrook's growing traffic.

As a neighbor and friend to Hillbrook for the past 12 years, I can assure you I want Hillbrook to succeed in providing the very best educational experience to its students. With that being said, I cannot understand why the town council would choose to consider the needs of a private institution over those of its residents.

Hillbrook School, its neighbors and the town worked for more than 18 months in 2000-01 to fashion CUP provisions that balanced the school's and neighborhood's needs. Those traffic mitigation measures worked well until 2009, when Hillbrook leadership simply began to ignore them.

The ultimate denial of the CUP was Hillbrook's decision to offer a drop-in day camp on its campus in 2011. The neighborhoods surrounding Hillbrook were flooded with a constant stream of traffic. In fact, the town's count amounted to 1,000 car trips per day on Marchmont Drive. Our neighborhoods had what felt like the El Camino running through it.

All of this has affected pedestrian safety for many in Los Gatos. Town council and planning commission should favor the citizens that live here and protect the quality of our life. We urge the town to take steps to require Hillbrook to decrease both the number of vehicles and the span of time each day our neighborhoods are affected. Hillbrook's traffic impact has increased in recent years to unacceptable levels and must be reduced for the safety of our children and the health and safety of all the town's residents.

Sue Jamieson

Los Gatos

# Letters from Los Gatos Weekly-Times readers

**Posted: 10/02/2012 09:25:46 AM PDT**

**Updated: 10/02/2012 09:26:03 AM PDT**

## **Hillbrook is in violation of its use permit**

In his letter in the Sept. 18 issue, Dennis McAvoy writes that he wants to "set the facts straight" in reference to Sue Jamieson's letter of Sept. 4. Unfortunately, his understanding of some of the facts is incorrect.

The Hillbrook School has never instituted mandatory carpooling, and it is certainly true that mandatory carpooling is not in effect today. As a matter of fact, I'm told that a traffic consultant recently hired by the school has recommended mandatory carpooling, but Hillbrook refuses to consider it.

Hillbrook did not "create" the 2011 summer program. Instead it allowed a third party, Steve & Kate's Camp, use of the Hillbrook campus to host their own campers, presumably for a fee. This is the same type of arrangement Steve & Kate's Camp makes with at least 24 other locations in the Bay Area. Hillbrook did not discontinue that program. It allowed it to go on until the end of the summer of 2011. Perhaps because of pressure from the town or perhaps because wiser heads prevailed, Hillbrook simply did not renew its arrangement with Steve & Kate's Camps for the summer of 2012. Clearly, the Hillbrook School violated its conditional-use permit, which precludes it from renting or leasing its campus to third parties.

Mr. McAvoy's statement that changes made around 2001 "significantly reduced" traffic is open to debate. Traffic did indeed become lighter, but it still remained too heavy during peak a.m. and p.m. hours. That is why the school even today is making a further effort to reduce traffic.

The assertion that "45-plus" Hillbrook students live in Los Gatos is irrelevant. Nobody is suggesting that the Hillbrook School should go out of business and that their students should then go to public schools.

Other salient facts, too numerous to mention here, are missing from Mr. McAvoy's letter. Preeminent among them is the fact that the school had promised not to increase enrollment beyond 315 as part of the rebuilding and remodeling of its campus. Now, upon completion of the rebuilding, it is breaking its promise and asking for an increase in enrollment.

As for Mr. McAvoy's comment that "NIMBY is not an option," I would point out that the Hillbrook School is already in the neighbors' back yards. No one is saying that it should go away. Neighbors are simply challenging the school's request to modify its CUP.

Joe Sordi Sr.

Los Gatos

Please see below.

phone: 408.399.5702



Barbara Dodson

CODE VIOLATION COMPLAINT ABOUT EXCESSIVE AFTERNOON SPORTS/GAMES

Email Exchange Between Jennifer Savage and Barbara Dodson, February 6-7, 2013

Note: Jennifer has not gotten back to me about this complaint.

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Yes. Thank you, Barbara. I will be in touch with an update shortly.

Jennifer L. Savage, AICP

Associate Planner

phone: 408.399.5702

**From:** Barbara Dodson [mailto:btododson@aol.com]

**Sent:** Wednesday, February 06, 2013 1:12 PM

**To:** Jennifer Savage

**Cc:** Todd Capurso; Town Manager

**Subject:** Code Compliance Violation Complaint

Dear Jennifer:

Today I submitted the following code compliance violation complaint. I previously submitted the same complaint in November but have not had a reply. Could you please add this email to the Hillbrook file? If possible, could you also encourage the code compliance officer to respond to this complaint?

Thanks for your help.

**Code Compliance Violation Complaint resubmitted on the online form today, February 6, 2013**

In November, I filed the complaint I am about to file again. I never heard from you.

Hillbrook School is in violation of the following Code item: Sec. 29.20.200. - Conditional use modification

A use authorized by conditional use permit shall not be modified unless a modification to the permit is approved. The following changes in use are modifications:

(2) Commencement of new activities that could have a material adverse impact on the surrounding area.

(3) Any change that is a substantial departure from plans which were the basis of the conditional use permit approval.

In 2001, when Hillbrook's CUP was approved, there were almost no afternoon activities. Now there are afternoon activities that the school does not show on a public schedule plus up to 3 hosted basketball, soccer, volleyball, or other sports games every afternoon. From September through February, Hillbrook will have hosted 94 after school games. This represents 80 percent of the games in which it participates. (it will have participated in 24 away games.)

These games create an unacceptable and excessive amount of traffic after 3:45. This amount of activity did not exist at the time of the passage of the CUP and violates Sec.2920.200(3). These activities are also are a commencement of new activities with a material impact on the neighborhood in violation of Sec. 2920.200.(2).

(Ord. No. 1316, § 5.20.230, 6-7-76; Ord. No. 1832, § III, 7-16-90; Ord. No. 1862, § I, 8-19-91; Ord. No. 2143, § I, 4-18-05)

How long has this code violation occurred? at least 3 years

Sincerely,

Barbara Dodson



**From:** Jennifer Savage <[jsavage@osgatosca.gov](mailto:jsavage@osgatosca.gov)>  
**To:** Barbara Dodson <[bdodson@aol.com](mailto:bdodson@aol.com)>  
**Cc:** [elliottlaw@mail.com](mailto:elliottlaw@mail.com); [joesordi@yahoo.com](mailto:joesordi@yahoo.com)  
**Subject:** RE: Two Other Outstanding Complaints  
**Date:** Thu, Mar 7, 2013 7:36 am

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Thank you for the information, Barbara. We will continue to investigate these uses and contact you when we have more information. I anticipate having additional information early next week.

*Jennifer L. Savage, AICP*

Associate Planner

phone: 408.399.5702

**From:** Barbara Dodson [<mailto:bdodson@aol.com>]  
**Sent:** Monday, March 04, 2013 10:58 AM  
**To:** Jennifer Savage  
**Cc:** [elliottlaw@mail.com](mailto:elliottlaw@mail.com); [joesordi@yahoo.com](mailto:joesordi@yahoo.com)  
**Subject:** Re: Two Other Outstanding Complaints

Hi, Jennifer. I raised the question of these two programs because they have never been addressed. Neither you nor any other member of staff has given us any indication whatsoever that the question of these two violation complaints was ever even raised. Therefore, I had no way of knowing that these items were still on your radar. We first reported the Playful People Productions program as a third-party/rent-lease CUP violation on February 14, 2012. We reported the Way to Go Foundation program as a third-party/rent-lease violation in April 2012. We have not heard a word from you about either of them other than at the May 4, 2012 neighbor meeting with you, during which you said both of these programs were violations. Since neither was mentioned in your June 4 letter to Hillbrook and both then took place on the Hillbrook campus, we assume that you and staff never told Hillbrook that these were violations.

As of today, these programs were no longer listed for the summer on the Hillbrook website, so it's not clear whether or not they will host them again this summer. However, here is why we believe these two programs are third-party programs. It would be good if you could ask the code compliance officer to investigate these further. For example, we would like to know what contractual arrangements Hillbrook has had with these organizations.

#### WAY TO GO FOUNDATION

1. It has its own website.

(<http://www.waytogoprograms.com/>)

2. It has its own staff. The programs it runs at Hillbrook are NOT run by Hillbrook employees. They are run by Way to Go Foundation employees.

3. It runs many programs in locations throughout the Bay Area. Hillbrook is just one of its locations.

#### PLAYFUL PEOPLE PRODUCTIONS

1. It has its own website. (<http://www.playfulpeople.net/>)

2. It has its own staff. The programs it runs at Hillbrook are NOT run by Hillbrook employees. They are run by

Playful People Productions employees.

3. It runs many programs in locations throughout the Bay Area. Hillbrook is just one of its locations.

We may be updating the chart slightly to clarify some items and to add a few others. If we revise the chart, I hope to get it to you by early next week. In the meantime, here are additional unresolved violation complaints that are not currently on the chart that we need to have addressed. (I've written to you about these previously, so am just reiterating here.)

1. Adult-education conference: iPads2.0: Now What?

Hillbrook plans a 3-day on-campus conference for June 19-21, 2013. This conference, "iPads Schools 2.0: Now What?," has a projected attendance of 50 adults. The cost is \$1,250 per person. The conference is for faculty and administration from outside schools; it is not aimed at Hillbrook's own employees.

2. 3-day soccer tournament during winter break, January 2-4, 2013

This violates Town Code Section 29.20.200 Conditional use modification because it is a(an)

- (1) *Intensification of use.* Changes of use that will result in an increase of five (5) or more peak hour trips.
- (2) Commencement of new activities that could have a material adverse impact on the surrounding area.
- (3) Any change that is a substantial departure from plans which were the basis of the conditional use permit approval.

(Ord. No. 1316, § 5.20.230, 6-7-76; Ord. No. 1832, § III, 7-16-90; Ord. No. 1862, § I, 8-19-91; Ord. No. 2143, § I, 4-18-05)

AND

This also violates Town Code Section 29.10.215. - Modification of a nonconforming use, because it is an increase in the number of hours of operation beyond that which was permitted in the CUP.

After March 22, 1986, for hotels and motels located in residential zones that were converted to multiple-family dwelling units, and after May 6, 1981, for all others, a use which is nonconforming shall not be modified without obtaining a conditional use permit therefor. For purposes of this section, a modification shall be defined as follows:

- (1) Any change that is an intensification of use, including but not limited to: ...

e. Increase in the number of hours of operation or staying open later and such change of hours imposes a new burden on the surrounding neighborhood; or

(Ord. No. 1316, § 3.50.085, 6-7-76; Ord. No. 1496, 4-20-81; Ord. No. 1821, § II, 5-21-90; Ord. No. 2024, § II, 12-2-96; Ord. No. 2024, § II, 12-2-96; Ord. No. 2149, § I, 5-1-06)

Sincerely,

Barbara Dodson

-----Original Message-----

From: Jennifer Savage <[jsavage@losgatosca.gov](mailto:jsavage@losgatosca.gov)>  
To: Barbara Dodson <[btdodson@aol.com](mailto:btdodson@aol.com)>  
Sent: Mon, Mar 4, 2013 8:10 am  
Subject: RE: Two Other Outstanding Complaints

Hi Barbara,

Please recall that the neighbors submitted a very clear and concise table of alleged violations. I have attached it for your reference. The programs you mentioned are included in that table and are on staff's radar. You do not need to file new complaints.

What information do you have that shows that the programs are not run by Hillbrook School?

Sincerely,

*Jennifer L. Savage, AICP*

Associate Planner

phone: 408.399.5702

**From:** Barbara Dodson [<mailto:btdodson@aol.com>]  
**Sent:** Saturday, March 02, 2013 11:56 AM  
**To:** Jennifer Savage  
**Subject:** Two Other Outstanding Complaints

Hi, Jennifer. Two of the complaints that we made about third-party use during the summers have never been addressed. I just want to make sure they are still on your radar. Let me know if I need to file new complaints about these with the Code Compliance Officer. Here they are. Hillbrook plans to allow these two third parties to use their campus again this summer.

**WAY TO GO FOUNDATION, INC.** Way to Go Foundation runs one of its StageKids programs on the Hillbrook campus during the summer. Way to Go Foundation has its own website (<http://www.waytogoprograms.com/>) and runs many programs at many locations in the Bay Area; it uses Hillbrook as just one of its location. This is not a Hillbrook-run program. It appears that Hillbrook rents its campus to this group..

**PLAYFUL PEOPLE PRODUCTIONS.** Hillbrook allowed this third-party company to use its campus for a "Summer Stock Theatre" for campers entering grades 2-8 in summer 2012 and will do so again in summer 2013. Playful People Productions has its own website (<http://www.playfulpeople.net/>), runs programs at many locations, and uses Hillbrook as just one of its locations. This is not a Hillbrook-run program. It appears that Hillbrook rents its campus to this group.

Thanks.

Barbara

END OF ATTACHMENT 5