



CITY OF SAN JOSE
 Planning, Building and Code Enforcement
 200 East Santa Clara Street
 San José, CA 95113-1905
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 Website: www.sanjoseca.gov/planning

NOTICE OF PERMIT APPEAL

TO BE COMPLETED BY PLANNING STAFF

FILE NUMBER PD18-040	RECEIPT # 1324728
PROJECT LOCATION 4525 Union Ave San Jose, CA 95124	AMOUNT \$250
	DATE 11/25/2019
	BY Zach J

TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO PERMIT APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE. THIS FORM MUST BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE PROPERTY WHICH IS LOCATED AT:
4525 Union Avenue San Jose, CA 95124

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.):
See attached.

PERSON FILING APPEAL

NAME Brian C. Ahr	DAYTIME TELEPHONE [REDACTED]
ADDRESS [REDACTED]	CITY San Jose STATE CA ZIP CODE 95124
SIGNATURE [REDACTED]	DATE 11/25/19
RELATIONSHIP TO SUBJECT SITE: (e.g., adjacent property owner, property owner within one thousand (1,000) feet) Adjacent property owner	

CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)

NAME	
ADDRESS	CITY STATE ZIP CODE
DAYTIME TELEPHONE ()	FAX NUMBER () E-MAIL ADDRESS

PROPERTY OWNER

NAME	DATE
ADDRESS	CITY STATE ZIP CODE

Please submit this application **IN PERSON** to the Development Services Center, **1ST FLOOR**, City Hall. Appointments are not required but may be accommodated by calling (408) 535-3555 or by visiting the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=3839>. For Assistance, call (408) 535-5680.

To: Rosalynn Hughey, Director
Planning, Building & Code Enforcement

Planning Project Manager
Cassandra van der Zweep, Cassandra.vanderZweep@sanjoseca.gov

Environmental Project Manager
Thai-Chau Le, Thai-Chau.Le@sanjoseca.gov

From (Appellants): Brian Ahr, Maria Arellano, Kiran Kadambi, Sonia Tomar, Sujatha Venkatraman

Subject: Permit appeal of MND for CSJ PD18-040 - Harker Middle School Expansion at 4525 Union Avenue, San Jose, CA

We respectfully submit this appeal of Permit PD18-040 in connection with the Harker Middle School Expansion Project. All of the issues specified below have been previously raised during the City's approval process, both in writing and as public testimony. Written public comments were submitted on August 22, 2019, to Thai-Chau Le, via email. Appellants spoke at the Director's Public Hearing on November 13, 2019.

A. Project Has Significantly Changed with Minimal to NO Community Input

- a. The Project Name is "Harker Middle School Expansion Project". Previously, in PD12-027, the Project Name was "The Harker School Campus" and the MND applicable to PD12-027 only referred to a pre-K to 5th grade elementary school. The project focus has now been significantly altered with very minimal community input. The impact of a middle school is greater than an elementary school due to increased onsite activity during and after school, causing additional traffic and noise to the neighborhood.
- b. Due to the significant change in the permit from PD12-027 to PD18-040, Harker should have engaged in additional community outreach on their new project. The point of engaging the community is to elicit feedback and learn community concerns prior to proceeding with a project. Instead, Harker only held one community meeting which was attended by not more than 8 community members. This was in part because Harker stated that the number of permitted students would be unchanged, implying the number of attending students, and hence impact on neighbors, would be minimal. Harker did present at a Cambrian Community Council meeting a few months later, which Appellant(s) Brian Ahr attended, but he was only aware of it because he regularly attended CCC meetings.
- c. The health, safety and welfare concerns of the community has been given no regard in this permit. Appellant(s) along with other community members

submitted written correspondence detailing these concerns to the planning department on August 22, 2019, and then appeared at the Planning hearing on November 13, 2019. NONE of the concerns were addressed but were instead dismissed, and the director found that permit should be granted because Harker's ownership interest in developing the property outweighs any concerns or objections presented. In fact, the concerns regarding traffic, privacy, noise have never even had to be addressed by Harker except in a short 5 minute rebuttal to Appellant at the hearing on November 13, 2019.

- d. Harker resides in the Cambrian community but DOES NOT partner with nor serve the Cambrian Community.

B. Summary of Concerns that should be addressed and included in the Permit

- a. For reference, these items were agreed to by Harker in 2012 in PD12-027. These are no longer included in the permit - why? Why did Harker on its volition exclude those items it had previously agreed to with the community as if they never existed? As if they are trying to hide or avoid their prior commitments to the Cambrian Community? It certainly shows their failure to be a good neighbor to the Cambrian Community. Did they believe the concerns from the community no longer mattered?
- b. This appeal requests that the permit be amended to include these items in order to address community concerns regarding traffic, privacy and noise:
 - i. Staggered start times for each grade which will be not less than 40 minutes apart.
 - ii. Number of students limited to 600. If Harker is not in compliance with the permit, they will be required to reduce their enrollment in the next academic year to 600 less the number they were over.
 - iii. Harker commits to transporting students using buses, not making it optional, in order to achieve the VMT requirements. Without mandatory measures, there is no incentive that Harker will reduce its VMT of 13.83 to meet the applicable threshold of 12.21.
 - iv. Restricting cars through the residential streets. The permit includes designated routes for Harker cars and buses - they are requested to utilize primary arteries - Camden, Union, Bascom. Harker will create a Good Neighbor Plan and distribute to their parents annually. They will also reinforce on a regular basis that parents should not park on residential streets or use them as cut-throughs. The Good Neighbor Plan should have consequences tied to enrollment numbers, similar to the plan agreed to in 2012.
 - v. Counting of pedestrians entering and exiting the school. This will be performed four times a year and will be a good indicator as to whether parents are using residential streets to park and walk to the school.
 - vi. Monthly counts of cars entering and exiting the school (for three years) to ensure that Harker has not exceeded their limit of 370 peak hour vehicle trips.

- vii. All monitoring of people and car traffic must also be tracked, measured, managed should there be weekend events.
- viii. No weekend events to reduce noise level and traffic. Great opportunity to partner with the local community.
- c. Measure the average daily volumes of traffic on residential streets prior to the occupation of the school. Remeasure when school is in session. This will be a good indicator of whether additional efforts are required by Harker to communicate with parents about proper student drop-off procedures and travel routes.
- d. Neighborhood outreach - Harker will have a neighborhood liaison and a traffic coordinator and these will interact with neighborhood associations in our community like the CCC.
- e. Harker contribute \$75,000 for vehicle calming and pedestrian safety improvements as part of the permit.

C. Tracking of Prior Permits that Affect Tree Removal and Planting

- a. The MND and permit have failed to take into account requirements in prior permits with regard to tree planting. PD12-027 had certain tree planting requirements that are not being tracked or traced as new permits are introduced.
- b. Per mitigation for installation of Highway 85, the original Children's Shelter was required to plant trees on site in order to offset air pollution from Highway 85. This permit needs to be reviewed, and coordination of this permit needs to be made with the current permit. The current permit then needs to be amended so that it takes into account the tree requirements set forth in prior permits.

D. Event Parking and Afterschool/Event Noise

- a. The permit completely fails to address parking during events. Clearly Harker will have events at their school, as they list on their website that they have plays, music recitals, sports activities and school functions. Harker has acknowledged that their parking is insufficient for events. If the school has 600 students, where will 600 cars park when they come to a school-wide event? Their proposed solution is to have parkable basketball courts to address the insufficiency of parking spaces on site for events and the impact this would have on neighboring streets. However, the MND and permit do not require this. Additionally, if Harker has a basketball event or other event that requires use of the basketball courts, then cars parked on the courts would be unfeasible. This would push parking onto Barrett Avenue.
- b. The events will also cause noise spillover to adjoining neighbors. For this reason alone, the time of events held needs to be specified in the permit to limit how late noise may be made during the weekday (ie. no later than 7pm) and to limit during what hours noise may be made on a weekend (ie. between 10am-2pm) so that neighbors can continue to enjoy their home without constant noise on the weekend.

- c. The permit needs to be amended to include what is allowed by Harker with regard to event parking.
- d. Given Harker's other equipped facilities, weekend events should be held at the other Harker venues to retain the quaint, quiet community that Cambrian is known for and differentiates from other communities.

E. Building Height and Set Back

- a. The impact on neighboring residents on Barrett Avenue and Esther Drive with regard to building height, shading and appropriate setbacks, has not been fully addressed in the MND and permit, other than to indicate the buildings are at least 20' from residences.
- b. Buildings could be moved back further from the fence lines to increase privacy for residents and to protect children from viewing inappropriate behavior in neighbor's yards or homes. There is no shortage of space in the land area to move buildings back an additional 5-10 feet.
- c. The set back for the second story of the 35' two story buildings that will abut the neighboring houses on Barrett Ave at the back of the property needs to be included in the permit. Presently, the second floor needs only to be set back 20'. At the November 13, 2019 hearing, Harker simply stated that it was looking at how much to set back the second story of the building so that it was not at 20'.
- d. There are two major concerns with ensuring privacy: (1) privacy for neighbors, and (2) protection of children from activities in neighbors yards. Neighbors may engage in inappropriate behavior in their backyard or in their house. At the November 13, 2019, Harker stated that it would look into "screening" the class windows to avoid children looking out of the windows but unless there were black out shades, the children could still look out of the windows. Also, this is merely a suggestion by Harker and not something that is required in the permit.
- e. The permit must be changed so that Harker is required to implement certain minimum set backs on the first floor, and other minimum set backs on the second floor. In order to know what the line of sight from the second story to the homes would be, Harker needs to produce a rendering of the building so that they can show the line of sight to the neighboring yards.
- f. Shading from the second story buildings has not been addressed in response to public comments, and thus the permit grant for the two story buildings should not have been granted, and should be considered after the shading is taken into consideration.
- g. The additional building height will block the view of the mountains for all those residents living behind this portion of the property. This has not been taken into account in the MND.

F. Good Neighbor Contribution to Community

- a. Under the 2012 permit, Harker had committed to being a good neighbor and communicating with all neighbors. In the current permit, Harker has committed to NOTHING about being a good neighbor. Why is that? And why has planning

failed to recognize and give attention to this? At the hearing on November 13, 2019, Harker told the planning director it had been a good neighbor, but Harker's record (or lack thereof) for the past 7 years, speaks for itself.

- b. As described at the Public Hearing, communication from Harker has been minimal to non-existent. For example, only houses within 1000ft of the school were notified of the one community meeting (in the past 7 years) held to discuss the new plans. There were ~8 neighbors in attendance at the 2018 meeting. Per the Public Hearing, Harker had committed in 2012 and was expected to uphold the following:
 - i. Ongoing outreach/Neighborhood coordination.
 - ii. Installing a Traffic Coordinator
 - iii. Holding an annual neighborhood meeting so as to engage with neighbors.

We ask that the following be required:

- iv. All communication to extend to all neighbors within the Bascom/85/Camden/Leigh boundary.
 - v. Notification to include paper mailers as well as email communication.
 - vi. Harker to commit to collecting emails for all neighbors who wish to be contacted via email.
 - vii. Clear and visible contact information for the Traffic Coordinator to be displayed outside the school.
- c. Under the 2012 permit, Harker had previously committed to contribute \$75,000 towards the community for vehicle calming and pedestrian safety on residential streets. These funds could have been used for signal improvement, crosswalk addition, and radar speed signs. Now under the current permit, the inclusion of these funds is GONE. With such an expansion onto community resources and environment, the applicant should be required to contribute to the community.
- d. Under the 2012 permit, Harker had also committed to making their facility available for limited community use. This also is no longer available.
- e. Harker students may walk to Cambrian Park Plaza to eat or shop, but as there is NO sidewalk on the south side of Union, they will have to walk along Union until reaching Woodard. However, at Woodard, there is very little protection for pedestrians due to the fact that the light is a full green for all vehicles and pedestrians are crossing in the pathway of vehicles wishing to turn left. It is unsafe because pedestrians never have an opportunity to cross the street when they are protected from cars turning left. Cars give little regard for the pedestrians and frequently turn left in front of pedestrians rather than waiting for them to cross the street first.