

**Responses to Comments  
on the  
Initial Study/Mitigated Negative Declaration  
for the  
Harker Middle School  
File No.: PD18-040**



**November 2019**

## Table of Contents

SECTION 1	SUMMARY OF COMMENTS .....	3
SECTION 2	RESPONSES TO COMMENTS .....	5
COMMENT LETTER A:	Bob Burres .....	5
COMMENT LETTER B:	Peter Clark .....	5
COMMENT LETTER C:	Connie Beck.....	7
COMMENT LETTER D:	Ben Aghegnehu, County of Santa Clara Roads and Airports Department	11
COMMENT LETTER E:	Brian Ahr and Kiran Kadambi .....	12
COMMENT LETTER F:	Susan Landry .....	14
COMMENT LETTER G:	Kumar Kartikeya and Sonia Tomar .....	21
COMMENT LETTER H:	Brent Pearce, Valley Transportation Agency.....	24
COMMENT LETTER I:	Aine O’Donovan and Christine Kouvaris .....	26
COMMENT LETTER J:	Nakisa Hupman (late) .....	34
SECTION 3	ATTACHMENTS.....	36

## SECTION 1 SUMMARY OF COMMENTS

The July 2019 Harker Middle School Initial Study and Mitigated Negative Declaration (IS/MND) was prepared in compliance with the requirements of the California Environmental Quality Act (CEQA). The IS/MND was circulated for public comment from August 2 to August 22, 2019.

The IS/MND was circulated to the agencies, organization, and interested parties such as:

- Santa Clara Valley Transportation Authority
- County of Santa Clara Roads and Airports
- Bay Area Air Quality Management District
- Association of Bay Area Governments
- California Department of Fish and Wildlife
- U.S. Fish and Wildlife Services
- California Environmental Protection Agency
- California Department of Transportation
- Metropolitan Transportation Commission
- Pacific Gas and Electric
- Valley Water
- San Jose Water Company
- Tribal Representatives
- Santa Clara Valley Audubon Society
- SPUR
- Open Space Authority
- Greenbelt Alliance
- Standing list of interested parties for all CEQA related notifications
- Project specific community members who have expressed interest or have requested for notifications

The City received the following eleven comment letters during the public comment period:

A. Bob Bures	August 3, 2019
B. Peter Clark	August 5, 2019
C. Connie Beck	August 6, 2019
D. County of Santa Clara Roads and Airports Dept.	August 12, 2019
E. Brian Ahr, Kiran Kadambi	August 21, 2019
F. Susan Landry	August 22, 2019
G. Kumar Kartikeya, Sonia Tomar	August 22, 2109
H. Santa Clara Valley Transportation Authority	August 22, 1019
I. Aine O'Donovan	August 22, 2019
J. Nakisa Hupman	August 29, 2019 (late)

This document provides the responses to comments on the IS/MND as they relate to the

environmental impacts of the project under CEQA. Numbered responses correspond to comments in each comment letter. Copies of all comment letters are attached.

In summary, the comments received on the draft IS/MND did not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. CEQA does not require formal responses to comments on an IS/MND, only that the lead agency consider the comments received [CEQA Guidelines §15074(b)]. Nevertheless, responses to the comments are included in this document to provide a complete environmental record.

This document contains a list of the agencies and persons that submitted comments on the IS/MND and the City's responses to comments received on the IS/MND. The specific comments have been excerpted from the letter and are presented as "Comment" with each response directly following as "Response". Copies of the actual letters and email submitted to the City of San José are attached to this document.

## **SECTION 2      RESPONSES TO COMMENTS**

### **COMMENT LETTER A:    Bob Burres**

**Comment A-1:**      One item that struck me as interesting is that there is no standard data/model for traffic modeling a private school. It seems to me that no modeling is required at all. Harker currently has an operating middle school in San Jose. That school will have addresses for all of their students. Based on the nature of Harker it is reasonable to assume that all of the current students would transfer to the new campus if it was open today. Calculating actual VMT would be fairly trivial once you had the student addresses. If that data is not available due to privacy concerns, Harker could obscure it by eliminating the student's name and even the house number. With that you'd at least have the city and street to calculate VMT. With this data the only questions remaining would be number of students who carpool and how geographical student populations may change in the future. Also, does the VMT take into account evening and weekend extra curricular activities or just basic class attendance?

**Response A-1:**      Where the student population currently resides is expected to change in the future. Compared to the existing campus, the proposed campus would be more attractive to students residing in south San José and less attractive to students living in western San José, where the Harker Middle School is currently located. Therefore, using the existing student addresses would not yield accurate results and the analysis would not be accurate to future foreseeable operation conditions.

The VMT analysis utilized trip generation estimates for school staff and parent trips during the AM peak hour, and did not include evening, weekend or extra-curricular activities. The AM peak hour was used because the trip generation during this period is much greater than during the PM peak hour, and would represent the worst case scenario.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

### **COMMENT LETTER B:    Peter Clark**

**Comment B-1:**      1. In prior discussion we have had about Camden-Union it has been portrayed by the city as Grade-F (Council Policy 5-3) and 'protected'. The Transportation Appendix F Table 2 has a different set of definitions for LOS including F which is therefore confusing.

2. Using these new definitions they described (Table 6) that current C-U is D LOS in the morning and E in the evening, where they say D is acceptable. This appears to contradict City assessment.

3. On P18 of Appendix F they look at transit services and conclude the area is well served by buses'. They then list Routes 27,37,62, 101, 328 and 330 to justify this statement. All of this may be accurate today, but the New VTA plan looks to eliminate many of these buses leaving just 27, 62 (and a diminished 37 service) by the time the project is complete. With those impacts I find the 'well served' language mis-leading at best. Later on p54 they say 'The project site is adequately-served by transit' which seems inconsistent with prior statements.

4. On Page 54 they mention that Class II bikelanes are planned for Camden between 17 and Hillsdale. This brings up several questions. Firstly i believe the whole Bikesanjose 2025 plan is still in the formative stages, so I assume there is no commitment to these lanes. Second if they are confirmed I would have to assume that means that Camden will need to be narrowed to accommodate which would likely lead to additional transit delays & parking problems. We need to see greater clarity here of both pluses and minuses.

**Response B-1:**

The City has adopted a new Transportation Analysis Policy (City Council Policy 5-1) consistent with the California Senate Bill 743 (SB 743) and the City's goals as set forth in the City' Envision San Jose 2040 General Plan. This Policy establishes the threshold for transportation impacts under CEQA and replaces the Policy 5-3. As the project was submitted and scoped after the adoption of the City Council Policy 5-1. Pursuant to this policy, the City evaluated the project's Vehicle Miles Traveled (VMT).

1. As mentioned above, pursuant to the City Council Policy 5-1, the City's VMT policy (Policy 5-1) negates the City's Protected Intersection Policy (Policy 5-3), under which the intersection of Camden Avenue/Union Avenue was classified as a Protected Intersection. Therefore, the Protected Intersection status of this intersection is no longer valid and was not discussed in the traffic analysis prepared for the project.

2. The traffic analysis completed for the project (see Appendix F of the IS/MND) calculated that the intersection of Camden Avenue and Union Avenue operates at an acceptable Level of Service D during the AM Peak Hour and an unacceptable Level of Service E during the PM Peak Hour. This intersection was already operation at an unacceptable Level of Service E in the PM Peak and would continue to operate at an unacceptable Level of Service E without the increasing the critical-movement delay by four or more seconds and

the V/C to increase by 0.01 or more compared to background conditions. Therefore, the project does not have an adverse effect on this intersection.

The comments do not identify new impacts that have not already been analyzed in the CEQA documents.

3. The bus route information presented in the Initial Study was based on available information to reflect the existing conditions at the time the Initial Study was prepared.

As it relates to traffic impacts created by the project, the analysis presented in the Initial Study demonstrates that bus service would only be minimally impacted by the project. The project would increase the delay for Route 62 southbound by slightly more than 20 seconds during the AM peak hour, and would be attributable to the new traffic signal that is proposed at the project driveway on Union Avenue. For all other routes in the area (Routes 27, 37, 101, 328 and 330), the project would result in only minor increases in delay of some transit vehicles, and decreases in delay for other transit vehicles. The decreases are attributed to the fact that the addition of project traffic sometimes causes a reallocation of traffic signal green time, which results in less delay for certain movements and more delay for others. Because the VTA has not established policies or significance criteria related to transit vehicle delay, this data was presented for informational purposes only.

4. The Transportation Analysis includes a description of the existing bicycle facilities in the vicinity of the project site, as well as planned facilities relevant to the project. As stated in the report, however, full implementation of these improvements is beyond means of the proposed project given that they may require right-of-way from adjacent properties. Future bike lane projects would require additional and separate analysis and outreach.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**COMMENT LETTER C: Connie Beck**

**Comment C-1:** Why use office number projections instead of school projections? Why does the tool not have a school option? Would it not make more sense to use a public school projection as a default instead of an office building for number of trips?

**Response C-1:** As explained on page 138 of the Initial Study and in the Transportation Analysis (Appendix F of the Initial Study), the City

has developed the San José VMT Evaluation Tool (sketch tool) to streamline the analysis for residential, office and industrial projects and the focus of the tools on residential and employment uses as those are two main VMT generator. The VMT Evaluation Tool that the City and its consultants have developed to assess expected VMT is based on a variety of factors. These factors include the project's location and the characteristics of the location that influences VMT such as proximity to complementary land uses, transit, and other non-auto transportation options. As the tool does not have the specific use of school as an option, project VMT was analyzed by converting project trip generation estimates to an equivalent office square footage to obtain project VMT and represents the best available information and methodology for VMT analysis of this use at the time of the completion of the IS/MND and associated Transportation Analysis. Furthermore, by considering all students and employees of this proposed use as VMT generators, it yields a more conservative analysis.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment C-2:**

Although Figure 8 includes the private schools in the area as a similar use, the study has completely ignored the presence of large public schools such as Union Middle School, Alta Vista Elementary School, Leigh High School, Carlton Elementary School, Oster Elementary School, Noddin Elementary School, etc. How are public schools not a similar use and a big transportation impact?

All of these school generate a great deal of morning traffic at the Union intersections between Camden and Blossom Hill, particularly the Los Gatos-Almaden at Union and the 85/Union North and Southbound which are choke points. Carlton does have a lot of traffic on Union as does Oster and Alta Vista and Union Middle and Leigh, etc.

**Response C-2:**

As previously mentioned in Response C-1, VMT analysis considers factors such as the project's location and the characteristics of the location that influences VMT (i.e. proximity to complementary land uses, transit, and other non-auto transportation options). The purpose of Figure 8 in the Traffic Analysis is to graphically show the location of other private schools in the project area. Trips generated by the existing public (as well as private) schools in the area was accounted for in the Local Transportation Analysis for informational purposes, which included an intersection operations analysis of the following seven local intersections:

- Union Avenue & Camden Avenue
- Union Avenue and Woodard Road
- Union Avenue and Charmeran Avenue
- Union Avenue and Cole Drive
- Union Avenue and SR85 Westbound On- and Off-Ramps



- Union Avenue and Samaritan Drive/SR85 Southbound On-Ramp
- Samaritan Drive and SR85 Southbound Off-Ramp

Traffic conditions at the study intersections were analyzed for the weekday AM and PM peak hours. The weekday AM peak hour of traffic is generally between 7:00 and 9:00 AM and the weekday PM peak hour is typically between 4:00 and 6:00 PM. It is during these periods that the most congested traffic conditions occur on a typical weekday. Traffic conditions were evaluated for Existing Conditions, Background Conditions, and Background Plus Project Conditions.

**Comment C-3:**

If public school traffic is not included in the a.m. it is simply an invalid projection. Similarly, the pedestrian and bike traffic section needs recognition that the population of pedestrians in the a.m. on the sidewalk and non-sidewalk sections and bike lanes on Union are heavily skewed toward CHILDREN and teenagers. This represents a special hazard. Why would the Harker crosswalks be raised and get a new signal, when the crosswalks at Los Gatos-Almaden have not even been improved to zebra and flashing light crosswalks. The crosswalks here need major upgrades. Not to mention that the sidewalks need to be put in all along every part of Union.

**Response C-3:**

Refer to Response C-2. The Initial Study provides an description of the existing sidewalks and bike lanes in the area surrounding the project site in the Existing Conditions section (Section 4.17.1.2), and the impact discussions describe how the proposed project would not conflict with plans related to public transit, roadways, bicycle lanes and pedestrian facilities, as well as how it would not increase hazards due to project design features. While the project would not conflict with these plans, the IS/MND and associated Transportation Analysis does not identify adverse effects or significant impacts in this aspect that would warrant mitigation measures for off-site sidewalk and/or bicycle facility improvements.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment C-4:**

The recommendations for staggered start and dismissal times must be coordinated with the public schools, not just grades within Harker. The start times of the public schools already all overlap within a 30 to 40 minute period in the a.m.

The mid-August through mid-June traffic load and patterns are heavily impacted by school traffic. Typical enrollment is well over 400 students at each of 3 or more nearby elementary schools (total 1200 +), 1000 at Union

Middle School, another 1700 students at Leigh. This is a lot of daily trips simultaneous with Harker Middle School completely ignored in the study.

**Response C-4:** Refer to response to Response C-2. The Local Transportation Analysis evaluated the project's impacts on Level of Service at local intersections, per City protocol. The evaluation included Existing Conditions, Background Conditions, and Background Plus Project Conditions scenarios, which accounted for existing traffic generated by area land uses, including public schools.

The project has been conditioned to implement staggered school operation hours. The commenter's suggestion for further coordination between existing surrounding public and private school as part of this condition is acknowledged.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment C-5:** The traffic study did not include any traffic projection from the Belmont Village project on Union Avenue. Why not? This is going to impact the Union/85 ramps also. It is between Samaritan medical and Harker.

**Response C-5:** The list of pending developments provided to Hexagon Transportation Consultants for use in the analysis of cumulative impacts did not include Belmont Village on Union Avenue because transportation scope of work has not been filed with the City at the time the Hexagon analysis was being prepared, and it was not considered a pending development. The projects listed as pending developments must have sufficient information available to provide the basis for an analysis (i.e., number of units/rooms, square footage, trip generation, etc.).

Consistent with City Council Policy 5-1, the project has been analyzed under VMT and the comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment C-6:** I've been in a middle school pickup queue. Forty is the minimum, not the maximum. For Harker there are really two pickup times. There is a large one at school dismissal. The second is at peak traffic around 5 to 6 p.m. when the after school activities cease and parents are off work. I did not see any acknowledgement of this dual impact in the p.m. Also, most staff leaves later than public school staff in the p.m.

**Response C-6:** The potential impacts of the project were evaluated in the Section 4.17 – Transportation of the IS/MND in accordance with the

standards and methodologies set forth by the City of San Jose. The traffic report for the project includes a local transportation analysis (LTA), which analyzes transportation operational issues through an evaluation of weekday AM and PM peak-hour traffic conditions for signalized intersections and freeway ramps in the vicinity of the project site. The weekday AM peak hour of traffic is generally between 7:00 and 9:00 AM and the weekday PM peak hour is typically between 4:00 and 6:00 PM. It is during these periods that the most congested traffic conditions occur on a typical weekday, so the intent is to evaluate the impacts of the project on the local roadways during those times.

Even though school-generated trips are typically greater at school dismissal time than during the PM peak hour of adjacent street traffic (one-hour peak period between 4-6 PM) the ambient traffic levels on the surrounding roadways are much higher during the PM peak hour than right after school. Thus, the intersection LOS analysis included in the traffic study presents a worst-case analysis. As described in the Intersection Queuing Analysis in the traffic report (Appendix F of the IS/MND), the traffic volumes generated by the project were doubled to reflect queue lengths during the peak 30-minute period within the peak hour. This approach was used because the school's peak hour trips would occur over a period of approximately one-half hour AND not a full hour.

**Comment C-7:** The study treats a private school as an office building, except where it is more favorable or unavoidable to treat it as a school, but does not recognize differences in public and private school operations. And does not acknowledge our current local schools exist. This is just misleading and ignoring the public school students and traffic and impacted in our area.

**Response C-7:** Refer to Responses C-1 and C-2. The comments do not provide any specific CEQA or project issue or identify new impacts that have not already been analyzed in the IS/MND.

**COMMENT LETTER D: Ben Aghegnehu, County of Santa Clara Roads and Airports Department**

**Comment D-1:** The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Public Notice of Intent to Adopt a Mitigated Negative Declaration for Harker Middle School Expansion Project (PD18-040), and is submitting the following comments:

- The proposed new signal should be coordinated with other signals on Union.

**Response D-1:** The comments do not provide any specific CEQA or project issue or identify new impacts that have not already been analyzed in the IS/MND. The timing of the proposed new traffic signal on Union Avenue will be coordinated with the existing signals on Union

Avenue, in accordance with Santa Clara County Roads and Airports Department and City of San José Department of Transportation standards.

**COMMENT LETTER E: Brian Ahr and Kiran Kadambi**

**Comment E-1:** Foremost, Harker has an agreement to prevent cut throughs of traffic through the neighborhood that reduces tuition by 10% for the first year of violation. This agreement was put in place during the original purchase as a middle school property and I am concerned that this would be dropped during this conversion. There is no reason to remove this agreement - as it only protects the neighborhood. I see that in the EIR there is a mention that Harker could form a liaison organization with the neighborhood but they are not required. Since they are not required, the neighborhood needs some projection. The city MUST keep the anti-thru traffic agreement.

**Response E-1:** The Initial Study does not address any existing private agreements with the neighborhood regarding cut-through traffic as this is not a CEQA issue related to the currently proposed project. The traffic report contained in Appendix F of the Initial Study includes a suggestion that Harker could create a working group with the neighborhood to assess neighborhood intrusion on an on-going basis and develop traffic calming measures if needed in the future.

The comments do not provide any specific CEQA or project issue or identify new impacts that have not already been analyzed in the IS/MND.

**Comment E-2:** I am concerned about people leaving Harker and traveling back up Barrett and through our neighborhood. The current plan seems to prevent this (as there are no left turns out of Harker). It is extremely important to me that this remains in the plan. I understand that a traffic light for making left turns into Harker from Union is needed to support this, as well as a concrete median. These must also be implemented to protect the neighborhood.

**Response E-2:** Comment noted. The proposed new traffic signal and median are included in the project design. As described in the Initial Study, the existing northern driveway on Union Avenue would be relocated approximately 150 feet to the south in order to increase separation distance from Barrett Avenue. This driveway would be centrally located along the project frontage and would be signalized to facilitate left turns in and out of the site.

The comments do not provide any specific CEQA or project issue or identify new impacts that have not already been analyzed in the IS/MND documents.

**Comment E-3:** I am very concerned about the traffic backing up on Union avenue and interfering with the ability to take my children to Union district public schools. My daughter now attends Carlton Elementary and in 2 years I will have two children at Carlton. I will be driving them past Harker for the next

11 years at the same time as Harker's drop off period. The EIR says that the cars will not likely back up to the corner of Barrett and Union, but the difference is 1-2 car lengths. This is not a large margin of error and any growth at the Cambrian Park Plaza will quickly push this over the allowed distance.

I am concerned about the back-up of traffic out of the Route 85N on-ramp. At present the traffic backs up to the end of the ramp at peak times. With the Harker expansion, their added traffic will push this up onto Union Avenue which will likely further exacerbate any problems of traffic backing up beyond Barrett. It is possible that adding some features for "DO NOT BLOCK INTERSECTION" at Barrett may help allow residents to get into Union Avenue during this time.

**Response E-3:**

The intersection queuing analysis presented in the Initial Study addressed the issue of back-ups for project inbound movements and high-demand left-turn movements at intersections along Union Avenue. The analysis indicated that since the new traffic signal would be located approximately 245 feet south of Barrett Avenue, and the southbound right-turn movement into the project driveway would occur from the outer through lane (curb lane) on Union Avenue, a queue length of 225 feet for the southbound right-turn movement would not extend to Barrett Avenue during the school peak (30 minutes) in the morning. This would be unlikely to significantly interfere with traffic traveling south on Union Avenue.

Regarding the back-up at the SR-85 northbound on-ramp, the freeway on-ramp meter analysis discussed in the Initial Study concluded that the additional queued vehicles due to the project could be accommodated within the exclusive southbound right-turn lane on Union Avenue at the northbound on-ramp intersection, which has storage capacity for eight or nine vehicles. Therefore, the addition of project traffic to this metered on-ramp would not block southbound through traffic on Union Avenue and would not be an adverse effect.

The comments do not provide any specific CEQA or project issue or identify new impacts that have not already been analyzed in the IS/MND.

**Comment E-4:**

The bus routes were taken into account during the EIR. However the VTA is currently reducing the number of routes in our area. In particular from the VTA website it is seen that Route 62 will be merged into Route 61 and Union Ave will not have bus service by the time the Harker expansion completes. I believe that the EIR should have taken this into account, as in its current form it grossly overestimates the amount of public transport that will be available in this area.

**Response E-4:**

The bus route information presented in the Initial Study was based on available information to reflect the existing conditions at the time it was prepared.

As it relates to transportation impacts created by the project, the analysis presented in the Initial Study demonstrates that bus service would only be minimally impacted by the project. The project would increase the delay for Route 62 southbound by slightly more than 20 seconds during the AM peak hour, and would be attributable to the new traffic signal that is proposed at the project driveway on Union Avenue. For all other routes in the area (Routes 27, 37, 101, 328 and 330), the project would result in only minor increases in delay of some transit vehicles, and decreases in delay for other transit vehicles. The decreases are attributed to the fact that the addition of project traffic sometimes causes a reallocation of traffic signal green time, which results in less delay for certain movements and more delay for others. Because the VTA has not established policies or significance criteria related to transit vehicle delay, this data was presented for informational purposes only.

The comments do not provide any specific CEQA or project issue or identify new information that would result in new impacts other than those identified in the IS/MND.

**Comment E-5:** I am extremely concerned that the impact of the Harker expansion is not taken into consideration along with the Cambrian Park Plaza development. These two developments are very close to one another and are impacting all of the same intersections.

**Response E-5:** The traffic report prepared for the project included the proposed Cambrian Park Plaza redevelopment project in its analysis of cumulative impacts and referenced the existing Cambrian Park Plaza shopping center in the discussion of turning movements for the Union Avenue/Camden Avenue intersection contained in the intersection queuing analysis. The cumulative impacts analysis estimates traffic volumes under cumulative conditions by adding the trips from proposed but not yet approved (pending) development projects in the area to the background traffic volumes, plus the trips generated by the project. The Good Samaritan Hospital Expansion Project was also included in the cumulative traffic volumes calculation.

**COMMENT LETTER F: Susan Landry**

**Comment F-1:** Project Name

1. The Project Name is “Harker Middle School Expansion Project”. Previously, the per 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.

**Response F-1:** The traffic and noise impacts to the neighborhood generated by the proposed expansion project are addressed in the IS/MND in Section 4.13 and 4.17.

**Comment F-2:** Project Description

1. The project description states that three classroom buildings will be demolished. With the project approved under PD12-027, demolition of only two buildings was approved with replacement with a 17,500 sq foot structure. Now three buildings will be replaced with a two-story building. That will be 38,900 sq. feet. What is the setback of these homes to the adjacent residences? Is it appropriate and safe for children to be able to see into people's backyards and homes from the second story classrooms? What if neighbors are engaging in inappropriate behavior?
2. The project also includes construction of 5 new basketball courts. What is the intended use of these courts? For school daytime use, for afterschool leisure, and/or for competition? The intended uses are not specified and should be specified. If an intended use is competition, how many cars will be traveling to the school for the competitions, and on what days and what times? If after school, it will increase peak trips to the school in the afterschool time slot which have not been considered in the MND.
3. The project also states that the "existing turf playfield" will be reconfigured. The project does not state if it will be fake turf or natural grass and is misleading due to failure to explain this.
4. An emergency vehicle access road and drop off is discussed but its located is not specified and should be specified.

**Response to F-2:** 1. As stated in the Land Use and Planning Section 4.11, the project site is located in the A(PD) Planned Development Zoning District and would be required to comply with the Planned Development Zoning District specific development standards for the site. The A(PD) Zoning District, established per Planning File No. PDC91-077, requires a minimum 20-foot setback for buildings from all property lines. The two-story classroom building would be setback a minimum of 23-feet from the nearest property line and the second story of the classroom would be setback 35-feet from the nearest property line.

2. Based on the operation as indicated by the applicant, there will be after school student activities such as sports, theater, dance, art. These activities would generally conclude before 9:00pm. There will be 104 employees coming to work daily, 44 Office/Administrative staff, and 60 Institutional Staff, Faculty, Counselors. Typical hours would be between 6:30am-6:00pm with varying schedules within that time frame. There will be 3 night custodians and 1-2 security staff on the property until 11:00pm.

The project also has condition that would limit the use of the athletic fields and basketball courts on weekends.

3. Although the comment does not address a CEQA issue, the conceptual landscape plan prepared for the project indicates that the material used for the proposed playing field is Bermuda grass, which will replace the existing natural grass.

4. The proposed emergency vehicle access (EVA) would be located on the project site and is clearly shown and labeled on the Conceptual Site Plan (Page 8 of the Initial Study). The location of the student drop-off/pick-up area is described in the traffic report contained in Appendix F of the Initial Study (Page 49), and Figure 18 (On-Site Circulation Patterns) of the traffic report shows the proposed passenger car and shuttle bus paths, as well as the student drop-off/pick-up and shuttle bus drop-off/pick-up areas.

**Comment F-3:**

Findings

1. The findings by the CSJ state that the project “would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.”

2. All significant impacts have not been identified in this document. For example, impact to the surrounding adjacent residential streets of the additional trips is not identified at all.

a. For example, the impact to the residents on Barrett Street has not been identified with regard to the proposed two-story building.

b. As another example, the impact to the environment of installing artificial turf and removing natural grass has not been identified nor addressed. The birds in the area that currently live in the trees and eat bugs and worms from the grassy area will no longer have those areas available to them to eat from.

c. Another example, critically ignored, is that a traffic signal indicated in the plans is not discussed or mentioned in the MND. Adding a traffic signal is a significant impact on traffic on Union.

**Response F-3:**

The IS/MND has disclosed information regarding the new proposed building and conformance to the surrounding neighborhood in Section 4.1 Aesthetics and 4.11 Land Use and Planning in the IS/MND. Furthermore, the project has disclosed construction impacts as it relates to biological resources based on City’s thresholds in Section 4.4 of the IS/MND. Response F-2 also stated that the proposed turf field will be natural turf. Analysis of these impacts was prepared pursuant to the CEQA Guidelines and Appendix G checklist.

The City’s threshold of significant impact is based on the current Council Policy 5-1 for Vehicle Miles Traveled under CEQA. Level of Service is studied under Local Transportation Analyses and is no longer the metric to study transportation impacts under CEQA.



The Transportation/Traffic section of the Initial Study provides a comprehensive analysis of the project's traffic impacts on the surrounding roadway network, including freeway segments. Barrett Avenue is specifically mentioned in the evaluation of proposed driveway locations and vehicle queuing. The proposed new traffic signal, as discussed, would eliminate the need to cut through the neighborhood to the east, substantially reduce the project's effect on the southbound left-turn/U-turn movement at the Union Avenue/Cole Drive intersection, and reduce the number of project-generated trips entering SR 85 and using Samaritan Drive to access Bascom Avenue and travel north. The traffic report demonstrated that under Background Plus Project and Cumulative conditions, the Union Avenue intersections in the vicinity of the site would not have an adverse effect as a result of the project, which includes the installation of the new traffic signal.

The MND, which is based on the findings and conclusions of the Initial Study, lists the mitigation measures included in the project that would reduce VMT impacts to a less than significant level.

**Comment F-4:** Air Quality

1. Measures to protect and notify residents of air pollutants that will be caused by demolition have not been addressed.

**Response F-4:** As discussed in Section 4.3.2 of the IS/MND, the project includes the implementation of standard permit conditions and mitigation measures (MM AIR-3.1 and 3.2) that would reduce the temporary air quality impacts associated with the on-site demolition and construction activities, including toxic air contaminants generated by diesel-fueled equipment to less than significant levels. Included in these conditions is the requirement for the developer to post a publicly visible sign on the site that contains construction coordinator regarding dust and odor complaints.

**Comment F-5:** Aesthetics

a. Removing the interior natural grass area and landscaping to replace it with a new presumed artificial turf field. The impact to the environment has not been considered. Significant efforts are being made not to disrupt the birds who nest in the trees that will be removed. However, the grass being removed will remove a food source for the birds.

b. The aesthetics from two story building overlooking residents on Barrett Street has not been identified nor addressed.

**Response F-5:** See Response F-2 regarding the proposed playing field. Section 4.1.2 of the Initial Study addresses the aesthetic impacts of the project, including the height of the proposed new classroom building. The classroom building has a maximum height of 34 feet, with the first story being setback 21 feet, 9.5 inches from the adjacent rear yards along Barrett Avenue. and the second story being set back 33 feet, 8.5

inches. These setbacks are greater than the minimum required 20-foot setback of the existing PD Zoning on the site, and greater than the required minimum 20-foot rear setback of the existing R-1-8 zoning district of the adjacent Barrett Avenue properties. In addition, the proposed height conforms to the 34-foot building height limit of the existing PD Zoning on the site, and is less than the 35-foot building height limit of the R-1-8 zoning district.

The comments do not identify new impacts that have not already been analyzed in the IS/MND.

**Comment F-6:** Air Quality

a. What notifications will be given to residents on Barrett and Esther and surrounding streets of demolition or other construction that will cause harmful particles in the air to residents. This is not addressed.

**Response F-6:** Refer to Response F-4.

**Comment F-7:** Biological Resources

- a. Removal of the Existing Coast Live Oak, Tree #65
- \* This tree was part of the required mitigation for the Hwy 85 project in the 1990's.
  - \* The Hwy 85 project required that the tree replacement requirements had to place the trees near the highway to offset the air pollution caused by the vehicles.
  - \* This tree was also required to be preserved in the original PD12-027.
  - \* The DEIR does NOT mention the previous mitigation requirements, neither for the Hwy 85 project nor the Children's Shelter project.
  - \* Preliminary Tree Report. Page 15 of the Preliminary Tree Report (Appendix B) states "A donation of \$300 per mitigation tree to Our City Forest or San Jose Beautiful for in-lieu off-site tree planting in the community."
  - \* It is unacceptable that an option has been given to the applicant to plant their mitigation trees offsite.

**Response F-7:** According to the Conceptual Landscape Plan for the project, Tree #65 is proposed to be transplanted in a location east of the reconfigured playing field. This would indicate that the tree was intended to be preserved on the site. However, the project applicant has provided a recent evaluation of Tree #65, dated September 9, 2019, (Attachment B) performed by a certified arborist, which determined that the tree is in serious decline and has an approximate 40 percent loss of canopy. It appears to be afflicted with the pathogen *Phytophthora*, as well as infestations of various beetles. The evaluation concluded that if the tree is in the way of proposed construction, it should be removed and replaced with a new coast live oak of similar size, one that is viable for survival and long-term preservation.

The Initial Study addresses the environmental effects of the currently proposed project, which is a new PD Permit that would supercede the

previously approved PD Permit on the site (PD12-027). The mitigation measures described in this Initial Study are prescribed to address potentially significant impacts of this project, and it is assumed that any mitigation measures associated with the previously approved project on the site have been implemented.

As stated in the Preliminary Tree Report and in Section 4.4.2 of the Initial Study, the payment of off-site tree replacement fees for the case in which there is insufficient space to plant on-site replacement mitigation trees is an option that is subject to the approval of the Department of Planning, Building and Code Enforcement. This is standard protocol for the City, and the appropriateness of implementing this option will be decided prior to issuance of the PD Permit.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment F-8:**

Land Use and Planning

1. New 2 Story Building

a. Impact on neighboring residents on Barrett Avenue and Esther Drive regarding building height, shading and appropriate setbacks, has not been addressed in the report.

ii. Separation between new and existing buildings to conform to land use planning protocol at 25'. Current plans on the north side of the project shows a setback at only 23' 8". Previous setback requirements were a minimum of 25'. Why is this not being met. Setback requirements must be met.

2. New Gym Building

a. The west side of the property where the "North Wing" gymnasium will be located does not maintain the 25' setback.

b. Separation between new and existing buildings to conform to land use planning protocol at 25'. Why is this not being met. Setback requirements must be met.

c. What area of the property will contain open space for use for the children, which is not a field, paved walking area, or paved driving/parking area. Also need to confirm that it conforms to appropriate land use ratios.

3. Miscellaneous

d. The Handicap parking space next to the Gyn appears non-compliant, it lacks the appropriate access space.

**Response F-8:**

1. See Response F-5 regarding comment 1a. The Planned Development Zoning District also requires a 25-foot building separation between buildings on-site. As depicted on the Conceptual

Site Plan, Figure 3.2-2, the proposed classroom building would be 25-feet, 3 inches from Building B1 and 26 Feet from Building D.

2. As stated in Response F-5, the existing building setback requirement of the current PD Zoning on the site is 20 feet. The setback of the proposed new gymnasium addition conforms to this requirement.

Per the City's policy and code, open space requirements are not applicable to schools. However, existing open space areas in the eastern portion of the site will remain, and the proposed new playing field is assumed to be available as recreational space for students.

The design of parking spaces will conform to ADA and City of San José requirements, and is not a subject for evaluation in this CEQA document.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment F-9:**

Traffic

1. The traffic study for the Harker Project does not address the traffic impacts cited in the North 40 and Samaritan project's EIRs. Both of these reports identified traffic impacts extending to the intersection of Union and Camden, which is within the Harker project area.

a. This additional congestion needs to be included in the Harker Traffic Study's impact analysis.

b. The previous MND PD12-027 stated that all three of the traffic measures listed below were required, whereas the current MND makes the three traffic measures optional.

2. Shuttle Service. The Transportation Analysis (appendix F, page 19) states "In order to prevent the vehicular queues generated during the school peak drop-off and pick-up periods from extending onto Union Avenue, it is estimated that 46% of the student population would have to use the school shuttle service."

a. The MND (page 6) only states that a shuttle service will be provided to students. It does not state that it is required to be used by 46% of the students. It is critical that this is included in the MND.

b. How will the city require the applicant use the shuttles to reduce trips so that at least 46% of the students use it?

c. The cities in the surrounding areas that would be required to use the shuttle service need to be named in MND.

d. How many shuttle buses will be used daily? This is not addressed.

e. How many people fit in a shuttle? This is not addressed

**Response F-9:**

1. The transportation study for the Harker Project addresses potential traffic impacts of the proposed project. The cumulative impacts analysis contained in the traffic study addresses the impacts of traffic generated by on the planned roadway network with completion of the pending developments in the area, as well as the proposed project and approved developments. A list of pending developments in the project vicinity was provided by the City of San José, and included the Cambrian Park Plaza Mixed-Use Village and Good Samaritan Hospital Expansion Project, both of which are located within the City of San José.

The mitigation measures described in the Initial Study to mitigate the project's VMT impacts include: 1) Free Direct Shuttle Service; 2) School Carpool/Transit Pool Program; 3) TDM Coordinator; 4) Availability of TDM Information; and 5) Annual Monitoring of the Trip Cap. These are required measures that are enforceable by the City of San José and are not optional.

2. The traffic report recommended implementing staggered start and end times for all grade levels at the school in order to reduce vehicle queues that would develop on-site and within the northbound left turn pocket at the new traffic signal on Union Avenue during student loading operations. The report recommended, as an alternative, implementing additional school shuttle bus service to reduce vehicle queueing before and after school. The estimated rate of shuttle bus ridership would be a minimum of 46% in order to eliminate the queueing. The project applicant will determine which of these two alternatives to implement, based on feasibility.

In order to reduce project VMT to a less than significant level, the project will be required to implement a TDM program that includes operating a shuttle bus service for all students and employees and providing a School Carpool/Transit Pool Program, with the intent of limiting daily automobile trips to 679 AM and 315 PM peak hour trips. Mitigation Measure MM TR-2.2 requires ongoing monitoring and reporting to ensure that these peak hour trip limits are not exceeded. The project applicant will determine the number and scheduling of shuttle buses, carpools and transit pools necessary to abide by the daily peak hour trip limits.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**COMMENT LETTER G: Kumar Kartikeya and Sonia Tomar**

**Comment G-1:**

PRIVACY: The new classroom building is pushed to the border of the property in the backyards of homes on Barrett Ave, as proposed building is a two story building that would mean that these houses will be directly visible from the classrooms. This invades the privacy of these houses. It is highly

unsettling to me that I will have to keep my windows and doors closed at all times or my house will be subject to constant watch by middle schoolers. The current plan completely ignores this matter, even fails to mention this in the report. If you look at the history of the site, this plan was first proposed for children shelter and was not approved due to this very reason.

**Response G-1:** See Response F-5. Although privacy issues are not considered environmental issues to be evaluated under CEQA, it should be noted that the proposed classroom building has been designed with an increased setback for the second story in order to provide an increased buffer from the adjacent single-family residences. The final design of the building, including placement of second story windows, had not been determined at the time of the Initial Study preparation.

**Comment G-2:** CONSTRUCTION NOISE and POLLUTION: The demolition and construction will create significant noise and pollution. Although the report states that there won't be any significant impact and it also states different plans to mitigate this issue. 14 months of demolition and construction will have significant impact on houses on Barrett Ave and Esther Dr. The report not only fails to suggest any mitigation, it also fails to recognize that this will cause significant noise and pollution for the residences.

**Response G-2:** Construction noise is addressed in Section 4.13.2 of the Initial Study. The Initial Study states that construction of the project would temporarily increase noise levels in the immediate vicinity of the project site, and describes mitigation measures designed to reduce impacts to sensitive receptors (residents) in the project area. The project applicant will be required to submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator, who will be required to respond to neighborhood complaints. A list of 15 separate best management practices (BMPs) to be included in the noise logistics plan is provided in Mitigation Measure MM NOI-1 in the Initial Study.

Air pollution impacts to nearby residents are also evaluated in the Initial Study. Based on the air quality report prepared for the project, the construction period emissions of criteria pollutants (ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>) would not exceed the Bay Area Air Quality Management District thresholds of significance, the project will include standard permit conditions that will reduce potential impacts to less than significant levels. There are air quality BMPs (conditions) listed in Section 4.3.2 of the Initial Study.

The air quality report also analyzed the impacts of Toxic Air Contaminants (TACs) that would be generated during the construction phase of the project. Section 4.3.2 provides a discussion of the analysis, and lists the mitigation measures included in the project that would reduce the impacts to a less than significant level.

The comments do not raise any new issues about the project's

environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment G-3:** NOISE: The noise level from 600 students plus staff will be significantly more than the then current school campus of pre-school and it DOES get noisy even with 125 students. In addition, Middle school will also have after school activities and weekend activities. The report does not mention the impact of NOISE for the residences on Barrett Ave, as the new plan increase the student capacity to 6 times the current size.

**Response G-3:** The noise impacts of the project on adjacent residences were evaluated in the Initial Study. Section 4.13.2 of the Initial Study states that based on the findings of the noise report, the combined effect of all on-site operational noise sources (outdoor activities, mechanical equipment, and traffic) would be a slight increase in the overall ambient noise level of zero to one dBA DNL. This would be less than the General Plan threshold of a three dBA DNL increase over existing levels, and would therefore not be considered a significant impact.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment G-4:** LIGHT POLLUTION: There might be security lights on the new building that would mean at all times at night my backyard will have significant light pollution and this will look more like a commercial property. The report completely fails to mention any impact on this.

**Response G-4:** As stated in Section 4.1.2 (Aesthetics) of the Initial Study, the project would be subject to conformance to the City's lighting policy (City Council Policy 4-3) which would reduce nighttime glare and light pollution. Any proposed nighttime security lights would be required to conform to the design standards for security lighting contained in the Policy.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment G-5:** TRAFFIC: The middle school will have significantly more cars and buses for student drop off and pick up. With almost 99% commuting from outside the neighborhood, the reports do not address how traffic impact for the neighborhood can be minimized. Even during summer vacation, there is always a traffic backing up to Xilinx during morning commute hours. Adding additional 300/400 vehicles will create a significant traffic congestion and will create significant delays.

TRAFFIC LIGHT: There is already a traffic light at Union Ave & Logic Dr. The Harker Development plan states that there will be another traffic light added between Barrett Ave & Logic Dr. That makes it two traffic lights within a distance of a couple of hundred feet. That's not going to mitigate any congestion, but it's gonna be the opposite.

**Response G-5:** See Responses C-1, C-2, C-4, C-6, D-1, E-3, F-3 and F-7.

**COMMENT LETTER H: Brent Pearce, Valley Transportation Agency**

**Comment H-1:** Transportation Demand Management (TDM) and Trip Reduction  
The TIA (Appendix F) cites a 25% reduction in VMT and states in Table 5 that “this reduction would be in addition to the reduction that is currently being achieved with the existing shuttle bus program at Blackford campus” (TIA p. 30). Please provide data and documentation, as previously requested, per the requirements outlined in the VTA TIA Guidelines 8.2.3 Peer/Study-Based Trip Reductions in order to appropriately justify the proposed 25% trip reduction.

**Response H-1:** Harker School will be required to implement a TDM program, consisting of free shuttle service and carpooling, as mitigation at the new Union campus that will result in a 25% reduction in VMT/trips in addition to what is currently being achieved at the Blackford campus. This creates a “trip cap” for the new campus that will be enforced by the City of San Jose and as part the mitigation measure, will be annually monitored. Although the details of the TDM program are not known at this time, Harker School will be required to achieve the 25% VMT/trip reduction. Thus, the 25% reduction was applied to the project trip generation, which is based on existing counts of the Blackford campus (see Table 5 of the traffic analysis, Appendix F)

**Comment H-2:** Envision San Jose 2040 General Plan and Transit Access Conformance  
The San Jose General Plan contains policies to encourage the use of non-automobile transportation modes. Policy TR-3.3 states that “new development is designed to accommodate and provide direct access to transit facilities” for projects along existing transit. VTA disagrees with the statement in the Cumulative Impact Analysis that the bus stop on Union Avenue helps the project comply with the General Plan (TIA p. 26). VTA has made previous recommendations that a northbound pair stop be constructed in concurrence with the traffic signal in order to conform with General Plan transportation policy. A northbound stop will provide comprehensive and complete transit access in both directions and assist the school with Transportation Demand Management goals.

**Response H-2:** The project would be consistent with the intent of General Plan Policy TR-3.3, which states in its entirety the following:

“As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that



new development is designed to accommodate and to provide direct access to transit facilities.”

The proposed middle school is a land use that would contribute towards transit ridership, particularly given the fact that it would increase the student population significantly over the existing use and that there is an existing bus stop on the project frontage on Union Avenue. There is an existing northbound bus stop located adjacent to the Cambrian Park Plaza, within walking distance of the project site (approximately ¼-mile). Furthermore, based on the results in the Transportation Analysis, the project does not have an adverse effect that would require additional measures and conditions. The commenter’s recommendation for an installation of a northbound stop is acknowledged.

The comments do not raise any new issues about the project’s environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment H-3:**

Pedestrian Accommodations

The On-Site Circulation and Parking Layout section (TIA p.48) does not clearly indicate pedestrian accommodations within the parking lot and connections to the relocated VTA Bus Stop on Union Avenue. VTA requests clarification on a safe route to access the bus stop through the parking lot.

**Response H-3:**

Prior to issuance of building permits, the project would comply with building standards for ADA and pedestrian access to frontage. The comments do not raise any new issues about the project’s environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment H-4:**

Bicycle Accommodations

VTA notes that the site plan and TIA does not show any bicycle parking. VTA requests clarification on the location of required bicycle parking and what provisions will be made for including appropriate number of bicycle storage options. Please consult Section 9.2 of VTA’s TIA Guidelines, City ordinance, and VTA’s Bicycle Technical Guidelines to indicate the proposed type of Class 1 and Class 2 bicycle parking spaces required by the project.

**Response H-4:**

The traffic report for the project noted that based on zip code data for the existing middle school students at Harker’s Blackford campus, the majority of the students would commute via passenger cars or use alternative modes of transportation such as carpool or shuttle bus. The Zoning District for the project site does not require any bicycle parking. However, the project is proposing 12 bicycle parking spaces.

The comments do not raise any new issues about the project’s environmental impacts, or provide information indicating the project

would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment H-5:**            Intersection Improvements  
VTA again recommends that the traffic signal be designed to support a pedestrian crossing and encourage improved transit access to the school. VTA notes that a raised median for the new signal is already being considered on the northbound side of Union Avenue.

**Response H-5:**            The project will conform to the appropriate City design standards for pedestrian crosswalks, median islands and traffic signals. The comments do not raise any new issues about the project’s environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**COMMENT LETTER I:    Aine O’Donovan and Christine Kouvaris**

**Comment I-1:**            Project Name

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.

**Response I-1:**            The Initial Study addresses the environmental impacts to the neighborhood of the proposed new use, including traffic and noise. Refer to Response F-1.

**Comment I-2:**            Project Description

- a. The project description states that three classroom buildings will be demolished. In the project approved under PD12-027, demolition of only two buildings was approved with replacement with a 17,500 sq foot structure. Now three buildings will be replaced with a two story building that will be 38,900 sq feet. What is the setback of these new buildings to the adjacent residences? Is it appropriate and safe for children to be able to see into people’s backyards and homes from the second story classrooms? What if neighbors are engaging in inappropriate behavior?
- b. The project also includes construction of 5 new basketball courts. What is the intended use of these courts? For school day time use, for afterschool leisure, and/or for competition? The intended uses are not specified and should be specified. If an intended use is competition, how many cars will be traveling to the school for the competitions, and on what days and what times? If after school, it will increase peak trips to the school in the afterschool time slot which have not been considered in the MND.
- c. The project also states that the “existing turf playfield” will be

reconfigured. The project does not state if it will be fake turf or natural grass and is misleading due to failure to explain this.

d. There is now a new student drop off pick up area compared to that previously specified in PD12-027. What are the implications of this?

e. An emergency vehicle access road and drop off is discussed but its location is not specified. This needs to be addressed.

**Response I-2:**

Refer to Response F-2. The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment I-3:**

Findings

a. The findings by the CSJ state that the project "would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level."

i. All significant impacts have not been identified in this document. For example, impact to the surrounding adjacent residential streets of the additional trips is not identified at all.

1. For example, the impact to the residents on Barrett Street has not been identified with regard to the proposed two story building.

2. As another example, the impact to the environment of installing artificial turf and removing natural grass has not been identified nor addressed. The birds in the area that currently live in the trees and eat bugs and worms from the grassy area will no longer have those areas available to them to eat from.

3. Another example, critically ignored, is that a traffic signal indicated in the plans is not discussed or mentioned in the MND. Adding a traffic signal is a significant impact on traffic on Union Ave.

**Response I-3:**

Refer to Response F-3. The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment I-4:**

Air Quality

a. Measures to protect and notify residents of air pollutants that will be

caused by demolition have not been addressed.

**Response I-4:**

Refer to Response F-4. The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment I-5:**

Mitigation Measures Included in the Project

a. Aesthetics

i. The impact to the environment has not been considered for removing the interior natural grass area and landscaping to replace it with a new presumed artificial turf field. Significant efforts are being made not to disrupt the birds who nest in the trees that will be removed. However, the grass being removed will remove a food source for the birds.

ii. The aesthetics from a two story building overlooking residents on Barrett Street has not been identified nor addressed.

iii. What shade structures will be put in place for the children to provide shelter from sun exposure?

b. Air Quality

What notifications will be given to residents on Barrett and Esther and surrounding streets of demolition or other construction that will cause harmful particles in the air to residents. This is not addressed.

c. Biological Resources

i. Removal of grass from the site and replacement with artificial turf is destroying the eating habit for birds and other animals onsite and is not addressed. Where will they get their bugs and worms?

ii. Preliminary Tree Report . Page 15 of the Preliminary Tree Report (Appendix B) states "A donation of \$300 per mitigation tree to Our City Forest or San José Beautiful for in-lieu off-site tree planting in the community."

1. It is unacceptable that an option has been given to the applicant to plant their mitigation trees offsite. The trees should stay onsite to beautify the project.

2. It is also unacceptable that the Coast Live Oak #65, which was required to be preserved in the original PD12-027, is now being removed.

iii. Site plans should be required to be configured to replace all removed trees . 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. The IS/MND does not address this.

**Response I-5:**

See Response F-5, Response F-6, and Response F-7. The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new

environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment I-6:**

Land Use and Planning

a. New 2 Story Building

i. Impact on neighboring residents on Barrett Avenue and Esther Drive with regard to building height, shading and appropriate setbacks, has not been addressed in the report.

ii. Setbacks between new and existing buildings to conform to land use planning protocol is supposed to be 25'. Current plans on the north side of the project shows a setback at only 23' 8". Previous setback requirements were a minimum of 25'. Why is this not being met? Setback requirements must be met.

b. New Gym Building

i. The west side of the property where the "North Wing" gymnasium will be located does not maintain the 25' setback.

ii. Setbacks between new and existing buildings to conform to land use planning protocol is supposed to be 25'. Why is this not being met? Setback requirements must be met.

iii. What area of the property will contain open space for use for the children, which is not a field, paved walking area, or paved driving/parking area? Also need to confirm that it conforms to appropriate land use ratios.

c. Miscellaneous

1. Handicap parking space appears non-compliant (only 1 space) and lacks appropriate access space.

**Response I-6:**

See Response F-8. The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment I-7:**

Traffic

a. The traffic study for the Harker Project does not address the traffic impacts cited in the North 40 and Samaritan project's EIRs. Both of these reports identified traffic impacts extending to the intersection of Union and Camden, which is within the Harker project area.

i. This additional congestion needs to be included in the Harker Traffic Study's impact analysis.

b. The previous MND PD12-027 stated that all three of the traffic measures listed below (shuttle service, carpool program and staggered start times) were required, whereas the current MND makes the three traffic measures optional for students. In addition, the traffic measures are not mandatory in the current MND. It is critical that these services are mandatory and carried out per the Transportation Analysis Report (Appendix F).

i. Shuttle Service . The Transportation Analysis (appendix F, page 19) states "In order to prevent the vehicular queues generated during

the school peak drop-off and pick-up periods from extending onto Union Avenue, it is estimated that 46% of the student population would have to use the school shuttle service .“

1. The MND (page 6) only states that a shuttle service will be provided to students. It does not state that it is required to be used by 46% of the students. It is critical that this be included in the MND.

2. How will the city require the applicant use the shuttles to reduce trips so that at least 46% of the students use it?

3. The cities in the surrounding areas that would be required to use the shuttle service need to be named in MND.

4. How many shuttle buses will be used daily? This is not addressed.

5. How many people fit in a shuttle? This is not addressed.

ii. School Carpool/Transit Pool Program . The Transportation Analysis (appendix F) states that a School Carpool/Transit Pool Program is necessary to reduce VMT. The MND only states that this will be open to families.

1. It does not state that it is required to be used by families and how many families will need to use this in order to have VMT at an acceptable level. This needs to be addressed.

iii. Staggered Start Times . Staggered start times were agreed to in the previous MND PD12-027 (40 mins apart).

1. In the current MND, why are are staggered start times not required?

2. Staggered start times are needed to reduce vehicle congestion in the AM.

c. Traffic Signal. The Traffic Analysis (see Appendix F, page 47, Transportation Analysis), states a new traffic signal is required: “ installation of a traffic signal at this intersection would be crucial to providing adequate access to and from the project site .”

- i. This is not discussed in the MND. This appears to be a major oversight in the MND and must be addressed in response to comments.

- ii. Per Appendix F, page 48: “Since the new traffic signal would be located approximately 245 feet south of Barrett Avenue, and the southbound right-turn movement into the project driveway would occur from the outer through lane (curb lane) on Union Avenue, a queue length of 225 feet for the southbound right-turn movement would not extend to Barrett Avenue during the school peak 30 minutes in the morning.” This is just a 20ft difference which is approximately 2 car lengths. If there is any slow down in the Harker drop off process or any additional traffic due to the Cambrian Park Plaza re-development not accounted for here, this means that cars will back up beyond the Barrett Ave entrance on Union and also on Barrett Ave itself.

d. HWY 85 on ramp

- i. Per the Transportation Analysis report, Appendix F, page 44: "The

addition of project traffic to the SR 85 northbound on-ramp from Union Avenue equates to approximately a 15 percent increase in traffic volume on the ramp during the AM peak-hour, compared to background conditions. Since the existing maximum queue length at this on-ramp was observed to extend nearly the entire length of the ramp, the addition of approved and proposed project traffic potentially would result in an AM peak hour 95th percentile queue that spills back onto Union Avenue. The additional queued vehicles due to the project could likely be accommodated within the exclusive southbound right-turn lane on Union Avenue at the northbound onramp intersection, which has storage capacity for 8 or 9 vehicles."

ii. As a result of this, the right hand lane on Union turning on to 85N has to accommodate an extra twelve vehicles than it does. Since the traffic report states that the queue currently fills nearly the entire ramp, it is impossible to fit two to four extra cars so that the 8 to 9 vehicles can be contained fully within the right turn lane. If the traffic backs up into one of the two lanes on Union it will result in severe congestion as two lanes try to merge into one. How will this be resolved?

e. VTA Bus Pull Out .

i. The plans are not showing a VTA bus pull out now. This was included in the old MND under PD12-027.

ii. A bus pull out needs to be included in the plans because this will reduce traffic impacts by getting the bus out of traffic's way.

f. Cut Through Traffic from Bascom to Union.

i. Cut through traffic from Bascom to Union has not been adequately addressed.

ii. Barrett Avenue is completely ignored in the MND. This street will be used as a cut through street. Many students will come down HWY 17 to Camden and will take Bascom to Barrett, to avoid Woodard Street in the AM which has 2 schools. This needs to be addressed.

iii. There is only one reference to the reduction of cut-through traffic in the entire Transportation Analysis Report, Appendix F. This is on page 52: "the project would install a traffic signal at the northern driveway to facilitate left-turns into and out of the site. Since the traffic signal on Union Avenue would provide direct access to the school for traffic coming from SR 85 and Camden Avenue, neighborhood streets such as Barrett Avenue, Woodard Road and Cole Drive are less likely to experience any cut-through traffic." Supporting information and analysis to substantiate this claim needs to be provided.

iv. It was recommended (Appendix F, page 52) that a working group be created to monitor traffic on Barrett Ave and take necessary measures if needed. This is not included in the MND. Also, what measures would be taken to patrol cut-through traffic? Would families be suspended from school after 3 warnings, for example?

g. Annual Monitoring for Trip Caps. Per MND p6, "An annual monitoring requirement establishing a trip cap of 679 AM Peak-Hour-Trip and 315 PM

Peak-Hour-Trip.”

i. At a community meeting in 2012, a Harker representative publicly announced that trips would be reduced to 206. In MND PD12-027, this number increased to 350, and now in the latest MND this has increased to 679. Initial approval was for 518 trips. This discrepancy is not acceptable.

**Response I-7:**

a., b. See Response F-9.

c. The MND lists potentially significant impacts and mitigation measures included in the project to reduce the impacts to a less than significant level. The proposed new traffic signal is included in the project design, and was not identified in the Initial Study as a mitigation measure, and was therefore not listed in the MND.

Regarding the queuing length for southbound right-turn movement into the project site, the traffic report’s queuing analysis concluded that under normal circumstances the Union/Barrett intersection would not be impacted during the 30-minute school peak period within the AM peak hour. It is not possible to predict what other circumstances might occur that would cause a slowdown or backup in this movement, resulting in traffic extending to Barrett Avenue. It would not be legal for cars to block the intersection.

d. The traffic report states that the existing maximum queue length at this on-ramp was observed to extend nearly the entire length of the ramp during the AM peak hour, and that the proposed project is estimated to increase the maximum vehicular queue length at the on-ramp by approximately 10 vehicles compared to background conditions during the AM peak hour. However, it further states that the exclusive right turn lane for the on-ramp on southbound Union Avenue has storage capacity for approximately 8 or 9 cars. Based on this, the report concluded that the addition of project traffic to the on-ramp would likely not result in the blocking of southbound through traffic on Union Avenue.

e. The existing bus stop along the project frontage does not include a pull-out. The stop will be located south of the proposed new driveway location with the project.

f. The traffic report makes a reasonable assumption that the proposed new signal on Union allowing direct access to the site would make it easier for drivers coming from SR85 to the south and Camden Avenue to the north to get to the site rather than cutting through the surrounding neighborhood. Barrett Avenue does not directly connect Bascom Avenue to Union Avenue and would therefore not be a desirable cut-through route.

The traffic report stated that the school’s administration could create a working group with the neighborhood to address neighborhood



intrusion and develop solutions, if needed. This was not a recommendation and not a mitigation measure to address any identified environmental impact that would be required to be listed in the MND.

g. The trip cap of 679 AM and 315 PM peak hour trips is based on the traffic report's analysis of the currently-proposed project, which is not a comparable methodology to the previously approved project under PD12-027. The project VMT analysis and resulting trip cap takes into consideration the employment heat map/existing area VMT, surrounding land uses, and transportation network (including transit).

**Comment I-8:**

New Athletic Field

1. Overflow Parking

i. In the previous plans under PD12-027, there was overflow parking for events at the high school in Saratoga. Is this still being proposed for this project? It is not mentioned. Where will overflow parking for the high school be located?

ii. Event Parking

1. When larger events are held at this facility, where will the cars park for those events? This issue is not addressed.

iii. Athletic Field

1. Will the field be rented out to private groups? If so, what would the hours of operation be? What is the maximum number of people permitted to attend?

2. Is night lighting of the field being proposed? How will the neighboring residents on Esther and Barrett be shielded from this light?

**Response I-8:**

The currently proposed project does not include any off-site high school parking. The amount of on-site parking proposed with the project exceeds the number of spaces required under the Planned Development Zoning District.

The project applicant has not provided any information regarding "larger events" or non-school related athletic events to be held at the site. No field lighting is proposed with the project.

The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**Comment I-9:**

General Comments

1. How many bicycle spaces are being provided? The report only says it will be reduced from the full amount that are allowed.

i. Applicant should be asked to contribute funds to the community

for bicycle lane additions and improvements in order to facilitate increased bike ridership to their site.

**Response I-9:**

The traffic report for the project noted that based on zip code data for the existing middle school students at Harker's Blackford campus, the majority of the students would commute via passenger cars or use alternative modes of transportation such as carpool or shuttle bus. The Zoning District for the project site does not require any bicycle parking. However, the project is proposing 12 bicycle parking spaces.

The commenter's suggestion for applicant's contribution for the community is acknowledged. The comments do not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND.

**COMMENT LETTER J: Nakisa Hupman (late)**

**Comment J-1:**

After reading the Mitigated Negative Declaration document the City has provided on project CSJ PD18-040 - Harker Middle School Expansion, I have several concerns.

The first is in Section C. Air Quality Impact AIR-3 states that the construction activities would expose infants to toxic air quality in excess of acceptable limits, and both my children (one being an infant) attend a preschool down the street less than 1 mile from the construction site. How will neighborhoods and area preschools be notified when air quality will be harmful?

**Response J-1:**

The discussion of Impact AIR-3 states that the computed construction residential cancer risks would exceed the thresholds for infant exposure without mitigation or construction emissions control. As stated in the IS/MND, the project, however, will incorporate mitigation measures (refer to Mitigation Measures MM AIR-3.1 and MM AIR-3.2) and BAAQMD recommended construction measures (included as Standard Permit Conditions), which would reduce the pollutant levels to below their respective significance thresholds. This measure is a requirement prior to issuance of any grading permits.

**Comment J-2:**

In addition, in the Transportation/Traffic Section, Impact TRN-2 states that this project will exceed the City's VMT threshold. This area is already impacted in during AM and PM commute times because of multiple schools in the area. In addition, the previous research the City has done on the upcoming planned changes to the nearby Cambrian Park Plaza and Samaritan Medical Center state a dramatic increase in traffic and congestion

in the area. The onramp to Hwy 85 north in the mornings is already backed up and spilling onto Union Ave. The same is true with the nearby Camden Ave. on ramp.

As a nearby resident, I am asking that the City either work to improve the traffic congestion issues currently and in the future, or not approve additional construction and development plans that will only compound an already bad problem. We may lose our #65 bus line which will be a loss of a potential transportation solution for our area, helping to alleviate the congestion.

Approving so many development projects with negative congestion and traffic impacts on the local neighborhood is not a sustainable or acceptable model.

**Response J-2:**

In addition to identifying that the project will exceed the City's VMT threshold, resulting in a significant impact, the discussion of Impact TRN-2 in the IS/MND also describes how the project proposes to implement measures to reduce the impacts to a less than significant level. These measures include the provision of a free shuttle service to serve the school's students and employees, the provision of a school carpool/transit pool program to serve the school's students and employees, posting of the Transportation Demand Measure (TDM) coordinator's contact information, and distribution of the TDM information to the families of all Harker students and posting on the school website prior to program implementation.

## **SECTION 3      ATTACHMENTS**

Attachment A – Combined Public Comments

Attachment B – Additional Arborist Report