Responses to Comments on the
PA 10-060 St. Matthew Parish Master Plan
Initial Study/ Mitigated Negative Declaration dated February 2012

Introduction

This document responds to public comments submitted during the 30-day public-comment period addressing the Draft Initial Study / Mitigated Negative Declaration (IS/MND) for PA 10-060 St. Matthew Parish Master Plan. The City received four comments during the public review of the IS/MND. The public review period opened on February 13, 2012 and closed on March 14, 2012.

In accordance with Section 15074 (b) of the California Environmental Quality Act (CEQA) Guidelines, when considering whether to approve a project, the lead agency must consider the comments received during its consultation and review periods together with the Mitigated Negative Declaration. Therefore, these comments and responses are provided along with the Draft Mitigated Negative Declaration for consideration by the decision-making body. The information contained in this response to comments document is in accordance with Sections 15073.5 (b) and (c)(2) of the CEQA Guidelines and provides responses to written comments on the project's effects.

List of persons commenting on the Initial Study/Mitigated Negative Declaration:

- Mike Cunningham (2 letters, with the second letter an elaboration of the first)
- Concerned Citizens of San Mateo
- Diana Stork
- Kelly Moran

The comments are attached and numbered. The following responses are keyed to the numbered comments.

Letter from Mike Cunningham – March 13, 2012

<u>Comment No. 1 on page 1 related to the Qualified Overlay Zone:</u>

Response: The comment is related to the project, not the environmental document. However, the Zoning Code contains the provision for "Qualified" (Q) Overlay Zones, which may be periodically established to address unique development situations. There is no limitation on the number of Q zones that could be established, but they should only be used where special site characteristics suggest it is appropriate. The unique characteristics of the long-standing use of the site as a church and school along with its underlying R1 zoning in a residential neighborhood make it an example of the type of situation that would benefit from having specific zoning standards apply, which are achievable with Q zoning. Establishment of a Q Zone is a

discretionary, legislative action that is ultimately determined by the City Council upon a recommendation from the Planning Commission.

The comment states that the staff previously "found" that the St. Matthews property was not "exceptional". However, the quotation attributed to the City was from findings for denial for the variance that was proposed as part of a prior planning application (PA 06-009). The findings should not be read in a vacuum, as there were other aspects of the prior application that had a bearing on the staff recommendation for denial of that application.

The comment also states that St. Gregory is an example of a church and school with a gymnasium that doesn't have a Q Overlay, and questions why St. Matthew should have one. It is true that there is no Q Zone for the St. Gregory site, but if St. Gregory came forward with a development application that did not meet some aspect of the Zoning Code, it might be considered appropriate for them to request a Q Zone reclassification as well. For example, Serra High School obtained approval of a Q Overlay enabling an exceedance of the floor area ratio (FAR) standard for the underlying R1 district to accommodate a physical expansion of their facilities This was based on the unique their unique situation. (Note that public schools are not under City jurisdiction.)

<u>Comment No. 2 on page 1 that the project is a "community center", not a gymnasium:</u>

Response: The project is a new gymnasium building with associated site improvements including a voluntary upgrade of the parking lot and lighting – voluntary in the sense that new parking is not required by the Zoning Code due to the addition of a gymnasium to the school use. The Zoning Code requirement for elementary and junior high schools is based on the number of students according to the following ratio: 1 space per school employee plus a designated area for loading and un-loading passengers (SMMC 27.64.160 (5)(c)). The addition of a gymnasium is not resulting in any additional employees.

The proposed Master Plan states that the use of the gymnasium will be for the athletic events associated with school (basketball and volleyball) and will not be rented out or used for non-athletic events. In addition, the proposed gymnasium and auditorium cannot be used simultaneously for games, because the auditorium does not accommodate a regulation-sized court. The project description also states that: "The only programmatic room in the proposed new building will be for the existing before and after school care program. Nothing in the application creates any new or more intense uses at Saint Matthews." The "rehabbing" of the Auditorium is essentially an upgrade of the interior and audio/visual components and does not result in programmatic changes that would modify how the auditorium is currently used such that it would create a "community center".

The prior application (PA 06-009), which was ultimately denied by the Planning Commission, did not provide a master plan detailing the uses on the site, limitations of uses on the property, a

parking management plan, nor as much additional parking as is now proposed. Because of the lack of detail provided by the applicant for that project and the lack of sufficient clarification regarding the proposed use of the new structure, staff could not recommend approval of the prior application.

Comment Nos. 3a – 3c on page 2 related to parking:

Response: Please see the attached response letter from Hexagon Transportation Consultants.

Comment No. 4 on page 2 related to determination of parking requirement:

Response: Staff views this comment as a "process" question as much as a "parking" question. The comment suggests that the environmental document is flawed because it is not based on the number of parking spaces that could ultimately be "required". However, the environmental document clearly discusses the issue (starting on page 27). In summary, under the zoning code, this project does not trigger the requirement for additional parking due to the addition of a school gymnasium. As stated above, the parking requirement for a school is based upon the number of employees, not floor area. The proposed gymnasium will not result in additional employees, and so no new parking is required by the Zoning Code. In addition, the amount of parking, in of itself, is not an environmental impact required to be evaluated under CEQA. But even if it were, the parking standard is met in this instance and there would be no "significant adverse environmental impact". In fact, parking is being increased, so there is a positive impact.

It is true that through the process of evaluating any project, parking in excess of the zoning code standard could be required by the decision body based upon substantive evidence in the record to indicate a nexus between the project conditions and the additional requirement that would be imposed. But that is distinct from the CEQA evaluation, which in this case is based upon the standard established in the zoning code.

Comment No. 5 on page 2 that the project is a "community center", not a gymnasium:

Response: Please see the response to comment no. 2 on page 2 of this response.

Comment No. 6 on page 2 related to the Traffic and Parking Management Plan:

Response: The comment suggests that the environmental document does not adequately evaluate the applicant's proposed Traffic and Parking Mitigation Program because it does not "accurately incorporate and characterize the limitations of the [Program]". This is more appropriately a comment on the project. The environmental document is intended to evaluate the potential environmental impacts of the proposed project. There are existing parking impacts on the surrounding neighborhood from existing uses on the site, which are being positively

impacted by the addition of physical parking spaces and improved oversight and management of traffic and parking, so the environmental document concluded there were no significant adverse environmental impacts associated with the Program.

The comment is addressing the commenter's perception that there is not adequate parking for all the uses that could potentially occur on the site. While it is true that if all those uses were being proposed as part of this application, the site would not meet the zoning code parking requirements. However, as stated above, the addition of a gymnasium to the school without a concurrent increase in school employees does not trigger the requirement for additional parking. The reconfiguration of the parking lots to accommodate more on-site parking, and the development of a more formalized traffic and parking management program is intended to improve existing conditions. There is no requirement stemming from the proposed project for the site to meet the zoning code standard for all uses on the site.

Please also see the attached response from Hexagon Traffic Consultants.

<u>Comment Nos. 7a and 7b on page 3 related to the adequacy of the Traffic and Parking Study:</u>

Response: Please see the attached response from Hexagon Traffic Consultants.

<u>Comment No. 8 on page 3 related to the "356 Parking Plan":</u>

Response: The comment suggests that the environmental document is inadequate because it doesn't evaluate the "356 Plan". The applicant prepared the "356 Plan" in direct response to a Planning Commission question at the August 2011 Study Session on the project to illustrate how 356 vehicles could be parked on the site. The number is 356 was identified because that is the number of vehicles that the Traffic Report identified as the peak parking demand generated by the busiest Mass on a typical Sunday. At the Study Session, the Commission was shown how the existing on site supply of 198 spaces could be increased to 306 code-conforming spaces, which is the parking layout for the proposed project. The Commission asked whether there was a way of accommodating 356 vehicles on site – perhaps with some form of enhanced parking management. The "356 Plan" simply illustrates that it is possible. For a project subject to a Negative Declaration, CEQA only intends that the Initial Study evaluate the potential impacts of the proposed project to inform the review process and not scenarios developed to answer questions about the project.

The comment also suggests that the "356 Plan" is flawed because valet parking is not permitted outside the Central Parking and Improvement District. Staff would note that "valet parking" in that context is intended to meet the parking requirement for a particular use in the downtown (such as a new, high-end restaurant that wishes to cater to its clientele). The applicant is not proposing valet parking. Rather, the applicant is proposing a multi-faceted traffic and parking management plan that is intended to increase the efficiency of the existing space on the site,

educate and monitor parents and parishioners as to appropriate parking and loading/un-loading habits, and provide professional parking management for Sunday masses. However, through the review process, some form of "enhanced" parking management could be established to address special circumstances or events identified by the Planning Commission or City Council and could be required as part of the Special Use Permit conditions or as an additional element of the Q Zone.

Comment No. 9 on page 3 related to non-Parish vehicle and public safety:

Response: The comment is that the proposed Parking and Traffic Management Program fails to make streets safer for non-Parish vehicles and the general public. The project does not result in any significant traffic impacts and the Management Program improves an existing situation. In addition, the on-site queuing for school drop-off and pick-up has been improved, which results in less impact on public streets.

Comment No. 10 on page 3 related to the Qualified Overlay Zone:

Response: Please see response to comment no. 1 on page 1 of this response.

Comment No. 11 on page 4 related to parking:

Response: Please see the response to comment 3c in the attached response from Hexagon Traffic Consultants.

Comment No. 12 on page 7 that the project is a "community center", not a gymnasium:

Response: Please see the response to comment no. 2 on page 2 of this response.

Comment No. 13 on page 8 related to the Traffic and Parking Management Plan:

Response: Please see the response to comment no. 6 on page 4 of this response.

Comment No. 14 on page 10 related to the "356 Parking Plan":

Response: Please see the response to comment no. 8 on page 4 of this response.

Comment No.15. on page 10 related to non-Parish vehicle and public safety:

Response: Please see the response to comment no. 9 on page 5 of this response.

Comment No. 16 on page 12 related to the proposed Master Plan:

Response: This is a comment on the Master Plan, not the environmental document. The events noted in the comment are referenced in the Master Plan and the Traffic Study. The comment draws a subjective conclusion regarding which events "are problematic for neighbors", which cannot be responded to in this document.

Letter from Mike Cunningham – March 14, 2012

Comment No. 1 that the project is a "community center", not a gymnasium:

Response: This letter is an expansion of comment no. 2 from his March 13th letter, regarding his belief that the project is more a "community center" than a gymnasium. Please see the response to his comment no. 2 on page 2 of this response.

Letter from Concerned Citizens of San Mateo – March 12, 2012

Comment No. 1 on page 1 that the project is a "community center", not a gymnasium:

Response: Please see the response to comment no. 2 in the Cunningham letter of March 13, 2012, on page 2 of this response.

Comment No. 2 on page 1 related to the amount of square footage "dedicated to indoor sports":

Response: Comment noted.

Comment No. 3 on page 1 that the project is a "community center", not a gymnasium:

Response: Please see the response to comment no. 2 in the Cunningham letter of March 13, 2012, on page 2 of this response.

Comments No. 4 on page 1 related to inaccuracy of the traffic the traffic report and surveys:

Response: Please see the attached response from Hexagon Traffic Consultants.

Comment No. 5 on page 1 related to concerns about establishing a Q Zone:

Response: The comment is related to the project, not the environmental document. Please see the response to comment no. 1 in the Cunningham letter on page 1 of this response.

Comment No. 6 on page 1 related to the City's ability to enforce the conditions of a special use permit:

Response: The comment is related to the project, not the environmental document. The City has the authority enforce all of the conditions of approval associated with a project. The City requires that a deed restriction be placed on every property that obtains a planning approval, in which the property owner acknowledges their understanding that conditions of approval attach to the approval. The deed restriction thus assures that the property owner has taken responsibility for project conditions, which also then passes to all subsequent property owners. However, the City does not have the resources to continually monitor all projects for conformance with conditions of approval, and enforcement of non-conformance issues is typically handled on a complaint basis. The Serra Master Plan and Special Use Permit is an example of where City resources have been dedicated to staffing a semi-annual neighborhood meeting at the school to air neighbor concerns and evaluate conformance with the conditions of approval associated with their special use permit. Staff will be recommending this model for the St. Matthew project.

Comment No. 7 on page 1 related to removal of heritage trees:

Response: There are currently 85 trees on the site. Of those, 36 trees (42% of the total) meet the definition of "heritage trees" under the City's Heritage Tree Ordinance. The proposal includes the removal of 26 trees (30% of the total). Of the 26 trees being removed, 12 (33% if the total number of heritage trees) are considered "heritage".

The proposal also includes the planting of 93 new trees. The landscape standards within the zoning code (Section 27.71) require that trees be given a "landscape unit value" (LU value) and that the value being removed either be replaced on the site or an in-lieu payment be made to the City's Street Tree Planting Program. The 93 replacement trees have a value of 194 LUs. This is less than the LU value of 289 being removed. Over time as the trees grow, the value of the new trees will substantially exceed the value of the removed trees.

In-lieu payments into the Street Tree Planting Program from planning applications fund 74% of the street tree plantings in the City. Where there are gaps in street trees in the vicinity of a project site, those areas will get priority for new plantings, so there is a relationship between the in-lieu payment and the impact from the loss of trees on the site. There is case law under CEQA that supports the concept of "fair-share" fees being used to fund programs that mitigate environmental impacts. The City has used this program since 1989, when the landscape ordinance was first adopted. A recent notable example of a project with a substantial in-lieu payment was the Verona Ridge subdivision, where a number of heritage oak trees were removed from a large, naturally-vegetated hillside area.

Comment No. 8 on page 3 that the project is a "community center", not a gymnasium:
Response: Please see the response to comment no. 2 in the Cunningham letter of March 13, 2012, on page 2 of this response.

Comment Nos. 9a – 9f on page 3 & 4 related to inaccuracy of the traffic the traffic report and surveys:

Response: Please see the attached response from Hexagon Traffic Consultants.

Comment No. 10 on page 4 that the project is a "community center", not a gymnasium:

Response: Please see the response to comment no. 2 in the Cunningham letter of March 13, 2012, on page 2 of this response.

Comment Nos. 11a – 11f on page 5 related to parking:

Response: Please see the attached response from Hexagon Traffic Consultants.

Comment No. 12 on page 5 related to parking standards:

Response: Comment noted.

Comment No. 13 on page 5 related to the City's ability to enforce the conditions of a special use permit:

Response: Please see the response to comment no. 6 on page 7 of this response.

Comments No. 14a and 14b on pages 5 and 6 related to traffic safety:

Response 14a: The reconfiguration of the parking lot to accommodate additional parking results in 12 new spaces that would back out on to Notre Dame. This is in addition to the 21 existing spaces that back out onto Notre Dame. The zoning code does not permit parking to back out onto the public right-of-way (except for single family uses). However, the Public Works, Police and Planning staff, and the City's Traffic Consultant, have reviewed this condition and support the proposal, which could be authorized under approval of the Q Zone. The reasons include: it is the most efficient layout of the expanded Notre Dame parking lot, there is a curb "bulb out" to protect the spaces from Notre Dame traffic, the narrowness of Notre Dame results in natural "traffic calming", and the fact that Notre Dame is a one-way street with 21 existing parking spaces that back out onto Notre Dame. Staff does not believe the proposal results in an unsafe condition.

Response 14b: The Aragon and Mission intersections at El Camino Real will remain at LOS F. The Traffic Study discussed the fact that the project does not have a significant impact on those intersections. A signal warrant analysis indicated the intersections do not trigger the need for traffic signals.

Comment No. 15 on page 6 related to removal of heritage trees:

Response: Please see the response to comment no. 7 of the "Concerned Citizens" letter on page 7 of this response.

Comment No.16 on page 6 related to the proposed Q Zone:

Response: Please see the response to comment no. 1 to the Cunningham letter of March 13, 2012, on page 1 of this response.

Email Comments from Diana Stork, PhD – March 9, 2012

Comment No. 1 related to trees and noise:

Response: The noise consultant for the project has forwarded a response (attached), but in summary, he states that trees do not provide significant sound absorption.

Comment No. 2 related to traffic patterns:

Response: Please see the attached response from Hexagon Traffic Consultants.

Comment No. 3 related to neighborhood traffic:

Response: Please see the attached response from Hexagon Traffic Consultants.

Email Comments from Kelly Moran, Planning Commissioner – February 21, 2012

Comment No. 1 related to the Mitigated Negative Declaration finding:

Response: The comment points out an inconsistency between the "determination box" checked off on the Mitigated Negative Declaration form and the "finding" on the Initial Study form. This is an inadvertent inconsistency that is not material and only requires a "note to the file" to correct. The fact is that a potential significant impact was identified and a mitigation measure

proposed related to potential raptor nests in trees to be removed. Therefore, the Mitigated Negative Declaration form is correct and the Initial Study form has been noted with the correction.

Comment No. 2 related to the parking lot tree planting requirement:

Response: The comment is referencing a comment on the July 2011 Negative Declaration by Mr. Cunningham, a neighbor. Mr. Cunningham's question was why did the applicant not have to meet the full parking lot tree planting standard? While it is true that projects with a new parking lot, the standard is 1 tree per 3 parking spaces (Section 27.71.160(e). However, when there are voluntary improvements, as is the case here, the expectation is that the applicant will provide improvements toward meeting the requirements, but are not required to fully meet them (27.64.020(4)). In this case, the applicant is proposing an addition of 106 parking spaces, which would otherwise require the addition of 35 trees if the lot was completely new. The proposal includes parking lot landscaping with 28 trees. The degree to which the proposal provides such improvements is a discretionary determination on the part of the decision body that would be addressed within the context of the SPAR review.

Comment No. 3 related to back-out parking onto Notre Dame:

Response: The comment is referencing a comment on the July 2011 Negative Declaration by Mr. Cunningham, who asked how back-out parking onto Notre Dame could be approved since back-out onto public right-of-way is prohibited by the Zoning Code. The same basic question was asked in comment no. 14a of the "Concerned Citizens" letter. Please see response no. 14a on page 9 of this response. It is true that the Zoning Code states that except in certain circumstances for residential projects, vehicles may not back out onto the right-of-way. This is an item that has been included under the Q Zone standards for this project. Other Q Overlay zones have included zoning code exceptions, such as the floor area ratio exception for Serra High School. The provision allowing for approval of a Q Overlay zone is intended to address the unique characteristics of a site and could include exceptions to the standards of the underlying zone.

Comment No. 4, related to the proposed tree removal and the impact significance:

Response: The Mitigated Negative Declaration did not find the tree removal to be a potentially significant impact based upon the standard "landscape unit" (LU) value replacement requirements in the zoning code. Perhaps it would have been clearer to view the removal as a potentially significant impact with mitigation defined as meeting the code requirement for LU replacement, but the result would have been the same.

Please also see the response to comment no. 7 of the Concerned Citizens letter, on page 7 of this response. In addition, we work with applicants to achieve the greatest amount of replanting on

site, but given the fact that new trees do not have the same LU value as those being removed, it is often difficult to match the value on site without planting trees too close together to maintain proper long-term health. The in-lieu fee that would then be collected funds street tree planting, with areas near the project site receiving higher priority. Please also see the attached emails from the City's Managing Arborist, which describe how the street tree planting program works.

The landscape ordinance was not specifically designed to be CEQA mitigation, but the City has used it in that manner since it was adopted in 1989. As mentioned in the earlier response, fee programs that target improvements that address potential environmental impacts have been viewed by the courts as an adequate approach to mitigation. As an example, the City's traffic improvement mitigation fee operates in a similar manner. The <u>*Guide to CEQA*</u> *addresses this issue and concludes the "an agency may properly relay on fee programs as mitigation where the agency reasonably expects that such fees actually will be used for mitigation". This conclusion is based on a 2001 decision in* Save Our Peninsula Committee v. Monterey County Board of Supervisors*, which provided dicta that reliance on a fee program is legitimate where there is good reason to assume that money collected will actually spend on mitigation.*

Attachments:

1. Letter from Mike Cunningham, dated March 13, 2012
2. Letter from Mike Cunningham, dated March 14, 2012
2. Letter from Concerned Citizens of San Mateo
3. Email from Diana Stork, PhD
4. Email from Kelly Moran, Planning Commissioner
5. Response Letter from Gary Black, Hexagon Traffic Consultants
6. Response Letter from Eric A. Yee, Principal, Charles M. Salter Associates
7. Emails (2) from Dennis Pawl, City of San Mateo Managing Arborist