

**REPORT TO MAYOR AND COUNCIL**

TO THE HONORABLE MAYOR AND COUNCIL:

DATE: March 11, 2014

SUBJECT: INTRODUCE ORDINANCE NO. 14-3 AMENDING THE CONCORD MUNICIPAL CODE BY ADOPTING THE WEST CONCORD MIXED USE TEXT AMENDMENT TO THE DEVELOPMENT CODE AND ADOPT RESOLUTION NO. 14-14 APPROVING THE NEGATIVE DECLARATION (NO FISCAL IMPACT)

Report in Brief

On February 5, 2014, the Planning Commission recommended that the City Council approve the West Concord Mixed Use (WMX) Text Amendment to the Development Code which would permit elementary, middle, and secondary schools within the WMX zoning district subject to an approved Use Permit.

Staff recommends that the City Council adopt Resolution No. 14-14, approving the Negative Declaration prepared for this action and introduce Ordinance No. 14-3 amending the Concord Municipal Code by adopting the WMX Text Amendment to the Development Code.

Background

On November 12, 2013, Dennis Costanza of the Hofmann Family Foundation submitted an application for a text amendment to the Development Code to allow elementary, middle, and secondary schools within the West Concord Mixed Use zoning district with an approved Use Permit. As described in the applicant's written request (Exhibit H), the text amendment is being requested to facilitate the operation of a newly created De La Salle Academy (grades 5 – 8) as a division of De La Salle High School. If the subject text amendment is approved, the applicant intends to file a Use Permit application to operate the proposed academy at 1380 Galaxy Way. While this text amendment is being proposed for a De La Salle Academy, it will also benefit any other private and public schools that wish to locate in the WMX zoning district.

On February 5, 2014, the Planning Commission held a public hearing on the proposed WMX Text Amendment to the Development Code and recommended that the City Council approve the amendment by a 4-0 vote (Commissioner Avila abstained). The applicant provided the Planning Commission with additional background information regarding the request and future De La Salle Academy. No members of the public spoke regarding the proposed text amendment.

**INTRODUCTION OF THE WMX TEXT AMENDMENT
TO THE DEVELOPMENT CODE**

March 11, 2014

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Discussion

A. California Environmental Quality Act (CEQA)

An Initial Study for the WMX Text Amendment was prepared in accordance with the California Environmental Quality Act (CEQA). The Initial Study did not identify any potentially significant impacts and therefore no mitigation measures were identified. Based on the findings of the Initial Study, a Negative Declaration was identified as the appropriate environmental document. On December 19, 2013, a Notice of Intent to adopt a Negative Declaration (Attachment A to the proposed Resolution No. 14-14) was filed with the Contra Costa County Clerk and published in the Contra Costa Times beginning a 30-day review period which ended on January 21, 2014 per CEQA requirements. No comments were received on the Negative Declaration. At the Planning Commission public hearing held on February 5th to provide a recommendation on the proposed text amendment, the Commission adopted the Negative Declaration.

B. Overview of Amendment

The proposed text amendment is shown in legislative format in Exhibit A and in final format in proposed Ordinance No. 14-3 (Exhibit C).

The following summarizes the requested changes to the Development Code.

(1) Division 5, Downtown Districts (DP, DMX, and WMX), Section 122-153, Purpose, subsection (c) in Article II, is recommended to be amended to include the word *schools* as appropriate to the WMX zoning district.

(2) Table 122-154.1 is recommended to be amended to permit elementary, middle, and secondary schools within the WMX zoning district subject to approval of a Use Permit. Such uses are currently not permitted within the WMX zoning district although colleges, universities, trade schools, and vocational training are all permitted via an Administrative Permit.

Fiscal Impact

The proposed project will have a beneficial fiscal impact on the City as it provides for more flexibility to permit the location of education facilities throughout the WMX zoning district providing additional educational and employment opportunities for Concord's residents.

Public Contact

The Planning Commission review of the requested Development Code change occurred on February 5, 2014 and was publicly noticed. Notice of the March 1, 2014 City Council hearing was published in the Contra Costa Times, on February 25, 2014, as required by State Law and the Concord Municipal Code. Notice of this item was also posted at the Concord Civic Center at least 10 days prior to the hearing.

**INTRODUCTION OF THE WMX TEXT AMENDMENT
TO THE DEVELOPMENT CODE**

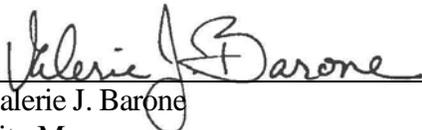
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Recommendation for Action

Staff recommends that the City Council adopt Resolution No. 14-14, adopting the Negative Declaration for the WMX Text Amendment to the Development Code, and introduce Ordinance No. 14-03 amending the Development Code by reading the title and waiving further reading.

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City Manager
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Reviewed by: Carol R. Johnson, AICP
Planning Manager
Carol.Johnson@cityofconcord.org

Reviewed by: Victoria Walker
Director of Community & Economic
Development
Victoria.Walker@cityofconcord.org

- Exhibit A - WMX Text Amendment, List of Revisions, February 5, 2014
- Exhibit B - Resolution No. 14-14 Adopting the Negative Declaration for the WMX Text Amendment, with Attachment A: Notice of Intent to Adopt a Negative Declaration and Initial Study and Environmental Checklist
- Exhibit C - Ordinance No. 14-3 Adopting the WMX Text Amendment
- Exhibit D - February 5, 2014 Planning Commission minutes
- Exhibit E - Resolution 14-02 PC recommending City Council adoption of the Negative Declaration for the WMX Text Amendment
- Exhibit F - Resolution 14-03PC recommending City Council adoption of the WMX Text Amendment
- Exhibit G - February 5, 2014 Planning Commission Staff Report
- Exhibit H - Applicant's Written Statement

EXHIBIT A

- 1) *Development Code, Article II (Zoning Districts – Uses and Standards), Division 5 Downtown Districts (DP, DMX, and WMX), Section 122-53 Purpose, is amended as follows:*

122-153 Purpose

- (c) **WMX - West Concord Mixed Use.** The WMX District is applied to the area between Highway 242, south of Concord Avenue and the Walnut Creek Channel, south of Concord, and areas of the City appropriate for a mix of schools, commercial, office, retail, multi-tenant office/warehouses, and institutional development at up to 4.0 FAR. The WMX District allows new automobile dealers, shopping centers, hotels, restaurants, office buildings and multi-tenant commercial spaces, including contractor showrooms and storage uses when located entirely within a building and Public/Quasi-Public uses. The WMX District does not allow residential uses. The WMX District is consistent with and implements the West Concord Mixed Use (WCMU) land use designation of the General Plan.

- 2) *Development Code, Article II (Zoning Districts - Uses and Standards), Division 5 (Downtown Districts (DP, DMX, WMX), Table 122-154.1 (Office and Commercial Districts - Allowed Uses and Permit Requirements), Land Use Classifications; Office, Commercial, and Retail Services, Permit Required by District, is amended as follows; all other Allowed Uses and Permit Requirements in the Table remain unchanged:*

Table 122-154.1 Downtown Districts Allowed Uses and Permit Requirements				ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District			Additional Requirements
	DP	DMX	WMX	
Public/Quasi-Public and Recreational Uses				
Schools				
Elementary, Middle, Secondary	UP ⁽¹⁾	UP	- UP	

1 **BEFORE THE CITY COUNCIL**
2 **OF THE CITY OF CONCORD,**
3 **COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

4 **A RESOLUTION ADOPTING A NEGATIVE**
5 **DECLARATION FOR THE WEST CONCORD**
6 **MIXED USE TEXT AMENDMENT TO THE**
7 **DEVELOPMENT CODE**

Resolution No. 14-14

8 **WHEREAS**, the City of Concord adopted the 2030 Urban Area General Plan on October 2,
9 2007; and

10 **WHEREAS**, the City of Concord concurrently certified the Final Environmental Impact
11 Report for the 2030 Urban Area General Plan on October 2, 2007; and

12 **WHEREAS**, the City of Concord amended the 2030 General Plan on January 24, 2012 to
13 incorporate an Area Plan for the Concord Reuse Project; and

14 **WHEREAS**, the City of Concord certified a Final Environmental Impact for the Concord
15 Reuse Project Plan in February 2010 and an Addendum to that FEIR which covered the Area Plan and
16 related 2030 General Plan Amendment on January 24, 2012; and

17 **WHEREAS**, the General Plan FEIR and Reuse Plan FEIR/Addendum together constitute a
18 comprehensive evaluation of the environmental impacts of the Concord General Plan; and

19 **WHEREAS**, on July 10, 2012, the City Council certified the Concord Development Code
20 Final Supplemental Environmental Impact Report and Mitigation Monitoring and Reporting Program,
21 and adopted Findings and a Statement of Overriding Considerations; and

22 **WHEREAS**, on July 24, 2012, the City Council adopted Chapter 122 of the Concord
23 Municipal Code (“Development Code”), to ensure consistency with General Plan policies, and an
24 update of its zoning maps to ensure consistency with the adopted General Plan Map; and

25 **WHEREAS**, on October 9, 2012, the City Council adopted Resolution 12-74, adopting a
26 Negative Declaration for the First Development Code Clean-Up Amendment; and

27 **WHEREAS**, on October 23, 2012, the City Council adopted Ordinance No. 12-5 approving
28 the First Development Code Clean-Up Amendment; and

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1 **WHEREAS**, on September 24, 2013, the City Council adopted Ordinance No. 13-71 adopting
2 a Negative Declaration for the Second Development Code Clean-Up Amendment; and

3 **WHEREAS**, on November 12, 2013, Dennis Costanza on behalf of the Hoffman Family
4 Foundation initiated an application proposing a text amendments to the Development Code in the
5 form of the proposed West Concord Mixed Use Text Amendment to the Development Code
6 PL131352-DC (“Amendment”; the Amendment is Exhibit “A” of the March 11, 2014 staff report and
7 is hereby incorporated by reference), in order to permit elementary, middle, and secondary schools
8 within the WMX zoning district subject to an approved Use Permit.

9 **WHEREAS**, on December 11, 2013, the City conducted an Initial Study pursuant to the
10 California Environmental Quality Act of 1970, Public Resources Code § 21000, et seq., as amended
11 and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations
12 (collectively, “CEQA”) to determine if the Amendment would have any significant effect on the
13 environment; and

14 **WHEREAS**, the Initial Study concluded that the Amendment would have no significant
15 environmental impacts; and

16 **WHEREAS**, on December 19, 2013 a Notice of Intent to Adopt a Negative Declaration was
17 prepared, posted with the Contra Costa County Clerk, and circulated for a 30 day public review
18 period, through January 21, 2014, in accordance with CEQA; and

19 **WHEREAS**, the Initial Study and Negative Declaration (collectively, “Negative Declaration”)
20 are attached hereto as Attachment A and incorporated by reference; and

21 **WHEREAS**, no comments were received from the public during the public review period; and

22 **WHEREAS**, on February 5, 2014, the Planning Commission adopted Resolution No. 14-02PC
23 recommending that the City Council adopt the Negative Declaration for the Amendment, pursuant to
24 14 Cal. Code of Regs. §§ 15070-15075, as the appropriate environmental document, which resolution
25 is hereby incorporated by reference; and.

26 **WHEREAS**, after giving all notice required by State and local law, the City Council held a
27 public hearing on March 11, 2014; and

28 //

1 **WHEREAS**, the City Council, after consideration of all pertinent documents and testimony,
2 declared its intent to adopt the Negative Declaration as the appropriate environmental document.

3 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
4 **HEREBY RESOLVE AS FOLLOWS:**

5 **Section 1.** The recitals above are true and correct and are incorporated herein by reference.

6 **Section 2.** The Amendment is consistent with the adopted 2030 General Plan.

7 **Section 3.** The Negative Declaration is the appropriate environmental document for the
8 Amendment.

9 **Section 4.** The Negative Declaration for the Amendment has been prepared, published,
10 circulated, and reviewed in accordance with CEQA.

11 **Section 5.** The City Council has reviewed, considered, and evaluated all of the environmental
12 information.

13 **Section 6.** The Negative Declaration reflects the independent judgment and analysis of the
14 City as the lead agency for the Amendment.

15 **Section 7.** There is no substantial evidence in light of the whole record before the City Council
16 that the Amendment will have a significant effect on the environment.

17 **Section 8.** This resolution shall become effective immediately.

18 **PASSED AND ADOPTED** by the City Council of the City of Concord this 11th day of March,
19 2014, by the following vote:

20 **AYES:** Councilmembers -

21 **NOES:** Councilmembers -

22 **ABSTAIN:** Councilmembers -

23 **ABSENT:** Councilmembers -

24 //

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1 **I HEREBY CERTIFY** that the foregoing Resolution No. 14-14 was duly and regularly
2 adopted at a regular meeting of the City Council of the City of Concord on this 11th day of March,
3 2014.
4

5
6 _____
Mary Rae Lehman, CMC
City Clerk

7 **APPROVED AS TO FORM:**

8
9 _____
Mark S. Coon
City Attorney

10
11 Attachments: A – Notice of Intent to Adopt a Negative Declaration and Initial Study and
12 Environmental Checklist with Exhibit A, List of Revisions
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**NOTICE OF INTENT TO ADOPT A
NEGATIVE DECLARATION**
California Environmental Quality Act



CITY OF CONCORD
Community Development Dept.
1950 Parkside Drive, MS/53
Concord CA 94519
PHONE: (925) 671-3152
FAX: (925) 671-3381

Pursuant to the State of California Public Resources Code and the "Guidelines for Implementation of the California Environmental Quality Act of 1970" as amended to date, this is to advise you that the City of Concord has prepared an initial study and intends to adopt a Negative Declaration for the following project.

PROJECT

West Concord Mixed Use Text Amendment to the Development Code

LOCATION/ADDRESS

City of Concord

APPLICATION NUMBER

PL131352-DC

PROJECT DESCRIPTION

Development Code text amendment request filed by the Hofmann Family Foundation to permit elementary, middle, and secondary schools within the West Concord Mixed Use (WMX) zoning district subject to an approved Use Permit. As described in the applicant's written request, the text amendment is being requested to facilitate the operation of a newly created De La Salle Academy (grades 5 – 8) as a division of De La Salle High School. No development is proposed as part of this Development Code text amendment and any future development proposals for the construction of a school within the WMX zoning district would be subject to an approved Use Permit and further environmental review.

PUBLIC COMMENT PERIOD

From December 20, 2013 to January 21, 2014, the public and all affected agencies are hereby invited to review the Negative Declaration and Initial Study Checklist and submit written comments. Comments must be submitted by January 21, 2014 at 5:00 p.m. Comments can be mailed, faxed, or emailed.

DOCUMENT AVAILABILITY

The Negative Declaration and Initial Study Checklist and other supporting environmental documents are available for public review at the City of Concord Permit Center, Planning Division, located at 1950 Parkside Drive, Building D, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday excluding holidays. The document may also be accessed on the City's website during the public comment period at <http://www.cityofconcord.org/citygov/dept/planning/>.

CONTACT PERSON AND PHONE NUMBER

Carol Johnson, AICP, Planning Manager
(925) 671-3369
City of Concord
1950 Parkside Drive, MS/53
Concord, CA 94519
Fax: (925) 671-3381
E-Mail: carol.johnson@cityofconcord.org

PLANNING COMMISSION PUBLIC HEARING 7:00 p.m. – February 5, 2014

The proposed West Concord Mixed Use Text Amendment to the Development Code and Negative Declaration will be considered by the City of Concord Planning Commission, for recommendation to the City Council.

Signature

Carol Johnson AICP

Date

12/11/13

Initial Study and Environmental Checklist
California Environmental Quality Act



CITY OF CONCORD
1950 Parkside Drive, MS/
Concord, CA 94519
PHONE: (925) 671-3332
FAX: (925) 671-3381

-
1. **Project Title:** **West Concord Mixed Use Text Amendment to the Development Code**
2. **Lead Agency Name and Address:** **City of Concord
1950 Parkside Drive, MS/53
Concord, CA 94519**
3. **Contact Person and Phone Number:** **Carol Johnson, AICP
Planning Manager
925-671-3369**
4. **Project Location** **Citywide**
5. **Project Sponsor's Name and Address:** **Dennis Costanza

The Hoffmann Family Foundation
2241 Galaxy Court
Concord, CA 94520**
6. **General Plan Designation:** **N/A (Citywide)**
7. **Zoning:** **N/A (Citywide)**
8. **Description of Project:**
Development Code text amendment request filed by the Hofmann Family Foundation to permit elementary, middle, and secondary schools within the West Concord Mixed Use (WMX) zoning district subject to an approved Use Permit. As described in the applicant's written request, the text amendment is being requested to facilitate the operation of a newly created De La Salle Academy (grades 5 – 8) as a division of De La Salle High School. No development is proposed as part of this Development Code text amendment and any future development proposals for the construction of a school within the WMX zoning district would be subject to an approved Use Permit and further environmental review.
9. **Surrounding Land Uses and Setting (Briefly describe the project's surroundings):**
N/A (Citywide)
10. **Other agencies whose approval may be required (e.g. permits, financing approval, or participation agreement.):**
None.

Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|-----------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Agriculture and Forest Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Utilities/Service Systems |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Mandatory Findings of Significance |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Population/Housing | <input checked="" type="checkbox"/> None |

Determination:

On the basis of this initial study:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Signature

Carol Johnson, AICP
Printed Name

12/11/13
Date

December 16, 2013
Date

Evaluation of Environmental Impacts:

Issues:

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. Future development proposals would be subject to compliance with City policies including the outdoor lighting standards within the Development Code. No impacts would occur.				
II. AGRICULTURE AND FOREST RESOURCES --Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined by Public Resources Code section 4526)?				X
d) Results in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. Further, the proposed text amendment would apply to the WMX zoning district only, not land intended for agricultural uses. No impacts would occur.				
III AIR QUALITY -- Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative threshold for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review, including a project level air quality analysis. No impacts would occur.				
IV. BIOLOGICAL RESOURCE -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat				X

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No impacts would occur.				
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No impacts would occur.				
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:			X	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?			X	
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform			X	

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
Building Code (1994), creating substantial risks to life or property?				
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. Further, compliance with the California Building Code and Municipal regulations would ensure that impacts are less than significant.				
VII. GREENHOUSE GAS EMISSIONS -- Would the project:				
a) Generate greenhouse gases, either directly or indirectly, that may have a significant impact on the environment?				X
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review including a project level air quality analysis. No impacts would occur.				
VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No impacts would occur.				
IX. HYDROLOGY AND WATER QUALITY -- Would the project:				
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including				X

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X
f) Otherwise substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structure to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No impacts would occur.				
X. LAND USE AND PLANNING -- Would the project:				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No impacts would occur.				
XI. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No impacts would occur.				
XII. NOISE -- Would the project:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the				X

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
project vicinity above levels existing without the project?				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. Further, compliance with the applicable General Plan noise policies would be evaluated as part of the Use Permit review process. No impacts would occur.				
XIII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No residential uses are proposed as part of this text amendment as it pertains to schools only. No impacts would occur.				
XIII. PUBLIC SERVICES -- Would the project:				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				X
Fire protection?				X
Police protection?				X
Schools?				X
Parks?				X
Other public facilities?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. Additional schools could be provided as a result of the proposed project resulting in enhanced educational opportunities for the City's residents. No impacts would occur.				
XV. RECREATION -- Would the project:				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. Additional recreational opportunities could be provided for the City's residents in conjunction with the use of any proposed schools within the WMX zoning district. No impacts would occur.				

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
XVI. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No impacts would occur.				
XVII. UTILITIES AND SERVICES SYSTEMS -- Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of a new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No impacts would occur.				
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
b) Does the project have impacts that are individually limited, but cumulatively considerable ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X

	Summary of Impacts			
	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less than Significant Impact	No Impact
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X
Discussion: No construction is proposed as part of the project. The construction of future schools within the WMX zoning district would be subject to an approved Use Permit application and further environmental review. No impacts would occur.				

Exhibits:

- A) Attachment A: Proposed West Concord Mixed Use Text Amendment to the Development Code
- B) Final Supplemental Environmental Impact Report for the Development Code Project SCH #20060062093
(incorporated by reference, document on file at the Concord Planning Division at 1950 Parkside Drive, Concord, CA 94519)

ORDINANCE NO. 14-3

AN ORDINANCE AMENDING THE CONCORD MUNICIPAL CODE BY ADOPTING AMENDMENTS TO THE 2012 DEVELOPMENT CODE; VOLUME 1, DATED JULY 24, 2012 (FORMERLY CHAPTER 122 (ZONING) OF THE CONCORD MUNICIPAL CODE) ARTICLE II (ZONING DISTRICTS – USES AND STANDARDS), DIVISION 5 (DOWNTOWN DISTRICTS - DP, DMX, AND WMX), SECTION 122-153 (PURPOSE), SUBSECTION (C) (WMX – WEST CONCORD MIXED USE) AND TABLE 122-154.1 FOR CONSISTENCY

THE CITY COUNCIL OF THE CITY OF CONCORD DOES ORDAIN AS FOLLOWS:

Section 1. 2012 Development Code, Article II (Zoning Districts Uses and Standards), Division 5 (Downtown Districts - DP, DMX, and WMX), Section 122-153 (Purpose), Subsection (c) WMX – West Concord Mixed Use) is hereby amended to read as follows:

(c) WMX – West Concord Mixed Use. The WMX District is applied to the area between Highway 242, south of Concord Avenue and the Walnut Creek Channel, south of Concord, and areas of the City appropriate for a mix of schools, commercial, office, retail, multi-tenant office/warehouses, and institutional development at up to 4.0 FAR. The WMX District allows new automobile dealers, shopping centers, hotels, restaurants, office buildings and multi-tenant commercial spaces, including contractor showrooms and storage uses when located entirely within a building and Public/Quasi-Public uses. The WMX District does not allow residential uses. The WMX District is consistent with and implements the West Concord Mixed Use (WCMU) land use designation of the General Plan.

Section 2. 2012 Development Code, Article II (Zoning Districts Uses and Standards), Division 5 (Downtown Districts - DP, DMX, and WMX), Table 122-154.1 (Downtown Districts – Allowed Uses and Permit Requirements), Public/Quasi –Public and Recreational Uses, Land Use Classifications – Schools is hereby amended as follows:

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Table 122-154.1 Downtown Districts Allowed Uses and Permit Requirements				ZC - Permitted Use, Zoning Clearance AP - Administrative Permit required MP - Minor Use Permit required UP - Use Permit required -- - Use Not Allowed
Land Use Classifications	Permit Required by District			Additional Requirements
	DP	DMX	WMX	
Public/Quasi-Public and Recreational Uses				
Schools				
Elementary, Middle, Secondary	UP ⁽¹⁾	UP	UP	

Section 3. This Ordinance No. 14-3 shall become effective thirty (30) days following its passage and adoption. In the event a summary of said Ordinance is published in lieu of the entire Ordinance, a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to its adoption and within fifteen (15) days after its adoption, including the vote of the Councilmembers. Additionally, a summary prepared by the City Attorney’s Office shall be published once at least five (5) days prior to the date of adoption of this Ordinance and once within fifteen (15) days after its passage and adoption, including the vote of the Councilmembers, in the Contra Costa Times, a newspaper of general circulation in the City of Concord.

Timothy S. Grayson
Mayor

ATTEST:

Mary Rae Lehman, CMC
City Clerk

(Seal)

1 Ordinance No. 14-3 was duly and regularly introduced at a regular meeting of the City Council
2 of the City of Concord held on March 11, 2014, and was thereafter duly and regularly passed and
3 adopted at a regular meeting of the City Council of the City of Concord on March 25, 2014, by the
4 following vote:

5 **AYES:** Councilmembers -

6 **NOES:** Councilmembers -

7 **ABSTAIN:** Councilmembers -

8 **ABSENT:** Councilmembers -

9 **I HEREBY CERTIFY** that the foregoing is a true and correct copy of an ordinance duly and
10 regularly introduced, passed, and adopted by the City Council of the City of Concord, California.
11

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13 _____
14 Mary Rae Lehman, CMC
15 City Clerk
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REGULAR MEETING OF THE
CITY OF CONCORD PLANNING COMMISSION
COUNCIL CHAMBER, 1950 PARKSIDE DRIVE
CONCORD, CALIFORNIA

WEDNESDAY, FEBRUARY 5, 2014

A regular meeting of the Planning Commission, City of Concord, was called to order by Chair Tim McGallian at 7:00 P.M., Wednesday, February 5, 2014, in the City of Council Chamber.

I. ROLL CALL

All members were present

COMMISSIONERS PRESENT:

Chair Carlyn Obringer
Vice Chair John Mercurio
Commissioner Ernie Avila
Commissioner Robert Hoag
Commissioner Tim McGallian

STAFF PRESENT:

Carol Johnson, Planning Manager
Jason Hade, Project Manager
Ryan Lenhardt, Project Manager
Susanne Brown, Senior Assistant City Attorney

II. PLEDGE TO THE FLAG

Vice Chair Obringer led the pledge.

III. PUBLIC COMMENT PERIOD

No public comments received.

IV. REORGANIZATION OF PLANNING COMMISSION

1. Nomination and designation of the chairperson of the Planning Commission for 2014/15.

Motion was made by Commissioner Hoag to nominate Vice-Chair Obringer for Chair, and seconded by Commissioner Avila. The motion was passed by the following vote:

AYES:	Avila, Hoag, Mercurio, Obringer, McGallian
NOES:	None
ABSTAIN:	None
ABSENT:	None

- 2. Nomination and designation of the Vice Chairperson of the Planning Commission for 2014/15.

Motion was made by Commissioner McGallian to nominate Commissioner Mercurio for Vice-Chair, and seconded by Commissioner Avila. The motion was passed by the following vote:

AYES: Avila, Hoag, Mercurio, McGallian, Obringer
 NOES: None
 ABSTAIN: None
 ABSENT: None

V. COMMISSION APPOINTMENTS

- 1. Nomination and designation of Design Review Board Liaison and Alternate for 2014/15.
- 2. Nomination and designation of TRANSPAC Liaison and Alternate for 2014/15.

Motion was made by Commissioner Hoag to retain the current designations of Avila for Design Review Board Liaison and Chair Obringer for Design Review Board Liaison Alternate and Vice Chair Mercurio for TRANSPAC Liaison and Commissioner McGallian for TRANSPAC Liaison Alternate, and seconded by Commissioner McGallian. The motion was passed by the following vote:

AYES: Avila, Hoag, McGallian, Mercurio, Obringer
 NOES: None
 ABSTAIN: None
 ABSENT: None

VI. ADDITIONS / CONTINUANCES / WITHDRAWALS – Staff requested the Public Hearing Items be taken in reverse order, with the West Concord Mixed Use Text Amendment being heard first.

VII. CONSENT CALENDAR

APPROVAL OF MINUTES

- 1. 12/04/13 Meeting Minutes

Motion was made by Vice Chair Mercurio, and seconded by Commissioner Hoag to approve the meeting minutes of December 4, 2013 with corrections as noted on page six. The motion was passed by the following vote:

AYES: Avila, Hoag, McGallian, Mercurio, Obringer
 NOES: None
 ABSTAIN: None
 ABSENT: None

2. 1/15/2014 Meeting Minutes

Motion was made by Commissioner McGallian, and seconded by Vice Chair Mercurio to approve the meeting minutes of January 15, 2014 with corrections as noted on page two. The motion was passed by the following vote:

AYES: Hoag, McGallian, Mercurio, Obringer
 NOES: None
 ABSTAIN: Avila
 ABSENT: None

VIII. PUBLIC HEARINGS

The notice of this public hearing was published in the Contra Costa Times and posted in the City’s posting cabinet on January 31, 2014.

2. WEST CONCORD MIXED USE TEXT AMENDMENT (PL131352 – DC)

Commissioner Avila recused himself due to an economic interest in real property located in West Concord Mixed Use Text Amendment zone, and left the Council Chambers.

Jason Hade, Project Planner, presented the staff report. He noted that although this text amendment is intended to facilitate the De La Salle Academy, it will benefit other private and public schools who may like to operate in the WMX Zoning district. However, tonight the Commission is only considering the text amendment. The Use Permit for De La Salle Academy will be coming to the Commission on a future date. Based on the results of the Initial Study, a Negative Declaration was recommended as the appropriate course of action for the environmental review. No comments were submitted during the thirty day public review period. Staff found there were a number of General Plan policies to support the requested text amendment. The policies pertain to public land usage and educational opportunities. Staff recommends the Planning Commission open the public hearing, consider staff’s report, consider public testimony, and close the hearing upon completion of public testimony. Staff recommends the adoption of Resolution 14-02PC adopting a Negative Declaration for the West Concord Mixed Use Text Amendment to the Development Code and the adoption of 14-03PC, recommending City Council approval of the West Concord Mixed Use Text Amendment to the Development Code.

The following are comments by the Commissioners and clarifications by Project Planner Hade:

Commissioner Hoag inquired if any consideration had been given to age of children. Planner Hade responded that a Use Permit would be required for any school, and that it would take the age of children and their safety into consideration.

The applicant appeared to address any questions from the Commissioners.

Dennis Costanza, president of the Hofmann Family Foundation and also the president of the Community Youth Center stated they are here to develop a school that will serve the underserved. Mr. Costanza stated they have a building that has been donated for this purpose. Mr. Costanza has been operating the youth center in the vicinity since 2002. They are working with others to make a complete package to provide education, safety as well as meals.

The following are comments by the Commissioners and clarifications by Applicant

Chair Obringer questioned the difference between generational poverty versus situational poverty. Mr. Costanza stated generational poverty continues from generation to generation while situational poverty would mean maybe dad lost his job. He stated they are trying to create an avenue of change. Chair Obringer inquired about their plans to move closer to De La Salle High School in the future. Mr. Costanza replied the plan is to be there for some time. Chair Obringer asked about fifth to eighth grades, and are there any plans to expand to K-8. Mr. Costanza responded with not at this time.

The following are comments by the Commissioners

Vice Chair Mercurio explained that we are only providing a mechanism for the project, we are not considering the project tonight. Commissioner Hoag was concerned with proper education of our younger generation. Commissioner Hoag was in favor. Commissioner McGallian was in support of the project as well. Chair Obringer was supportive of opportunities for socioeconomically disadvantaged students to have greater chances to be successful.

Motion was made by Commissioner McGallian and seconded by Commissioner Hoag to adopt 14-02PC recommending City Council adoption of the Negative Declaration for the West Concord Mixed Use Text Amendment to the Development Code. The motion passed by the following vote:

AYES: Hoag, McGallian, Mercurio, Obringer,
 NOES: None
 ABSTAIN: None
 ABSENT: Avila

Motion was made by Vice Chair Mercurio and seconded by Commissioner McGallian to adopt 14-03PC recommending City Council approval of a West Concord Mixed Use Text Amendment to the Development Code. The motion passed by the following vote:

AYES: Hoag, McGallian, Mercurio, Obringer,
 NOES: None
 ABSTAIN: None
 ABSENT: Avila

Commissioner Avila rejoined the Planning Commission.

1. CARONDELET ATHLETIC AND FINE ARTS COMPLEX (PL131199 – UA, DR)

G. Ryan Lenhardt, Project Planner, presented the staff report. The Commission approved a Use Permit Amendment in 2011. In August of 2013, a modification to the approved project was submitted. The project was revised to reduce the size of the building, increase the setback, eliminate the aquatic area, reduce wall-mounted light fixtures, reduce roof mounted HVAC units and add additional landscaping and garden area. The project is in substantial compliance with the General Plan’s goals, such as protecting residential uses. The Public/Quasi-Public zoning designation allows secondary schools subject to the approval of a Use Permit. Staff prepared an addendum to the previously approved Initial Study/Mitigated Negative Declaration and found the revised project would not result in new significant or substantially more severe environmental impacts than those that had been previously analyzed in 2011. It will comply with all previous applicable mitigation measures. The revised project does not affect circulation. The project complies with the city’s parking regulation and includes a surplus of parking. Additional parking arrangements will need to be made during large events. Revised lighting and noise studies were prepared which confirmed the revised project does not create any new or substantially more severe effects and no new mitigation is necessary. Clarifying recommendations were made for post construction. Conditions of Approvals will request removal of the floodlights and the Design Review Board will need details on the mechanical equipment screen material. The revised project will enhance the campus, and would not require preparation of a subsequent or supplemental Environmental Impact Report or Mitigation Negative Declaration. The project would not introduce new significant environmental effects. Staff is

recommending the Commission adopt Resolution 14-04PC and approve an application for Use Permit Amendment and Design Review for the project.

The following are comments by the Commissioners and clarifications by Project Planner Lenhardt:

Vice Chair Mercurio inquired about the height of the building in feet compared to the old proposal and compared to the existing building. Planner Lenhardt, responded by saying the proposed height is similar to the approved project and this current proposed building steps down. Commissioner Avila confirmed when the project came to the Design Review Board, Mr. Salter did an updated study regarding noise and it will be no significant increase in noise. Chair Obringer questioned whether the High Pressure Sodium lights will be removed and will the new lights be LED and what is the percentage? Chair Obringer also wanted information about the type of noise barriers and would or could these barriers be installed. Planner Lenhardt replied that the applicant is proposing to screen rooftop equipment and it will be a requirement of the project if approved.

Commissioner Hoag questioned if there had been any discussion of the impact of the drought on landscaping. Planner Ryan stated the plant materials are drought tolerant. Commissioner Avila stated the water will be reused for irrigation. Commissioner McGallian questioned whether there would be a sensor to dim the light source during nonuse. Planner Ryan stated lighting levels will be reduced to 50% after 11 PM. Chair Obringer asked about plans to bring natatorium back? Planner Ryan responded with a no for the aquatic center at this time. Chair Obringer asked about the options to do post construction noise measurement. Planner Lenhardt stated it was a recommendation that came out of the noise study, and the applicant has agreed to this.

The applicant appeared to address questions from the Commissioners. Sister Ann Bernard, Concord, stated that the school is 48 years old. The gym is not of standard nature, and it was constructed prior to Title Nine. Carondelet wants to provide a modern athletic facility for its students/ and they desire to be good neighbors with regards to noise and lighting. Architect Mark Knoerr with CSDA Design Group in San Francisco stated that the gymnasium will seat 1,200. Chair Obringer wanted to know the lighting type. Mr. Godfrey from Interface Engineering replied that all the lighting will be replaced with LED.

Public Comment

Cathleen Carroll, Walnut Creek, stated her concerns were with the air conditioning. Ms. Carroll and her neighbors would like the air conditioners to be directed towards Treat Blvd. rather than south. The lighting has also not been entirely resolved. Ms. Carroll wanted post construction inspection of noise and lights.

Ray Barbour, Concord, stated that the concerns of Ms. Carroll have been addressed. He believes Carondelet has been a good neighbor and has responded positively to every concern.

Mr. Knoerr addressed the acoustical screen for mechanical equipment to eliminate the noise. Commissioner Avila stated the same issuers were brought up at the Design Review Board.

Chair Obringer Closed the public hearing

Commissioner Avila, as liaison to the Design Review Board commended the applicant and public who have participated. Mr. Avila is in support of the project. Commissioner McGallian thanked Commissioner Avila for his input on the Design Review Board process. Commissioner McGallian stated realistically there is less of an impact on neighbors. Commissioner Hoag referred to the chart on pages 5 and 6 of the staff report that sums up the difference clearly. Vice Chair Mercurio was pleased to see improvements and agreed with the others. Chair Obringer appreciated the sustainable elements.

Motion was made by Commissioner Avila and seconded by Commissioner McGallian to adopt 14-04PC, approving and adopting an addendum to the 2011 Initial Study/Mitigated Negative Declaration and approving an application for Use Permit Amendment and Design Review (PL131199 - UA, DR) for Carondelet Athletic and Fine Arts Complex Revised Project. The motion passed by the following vote:

AYES:	Avila, Hoag, McGallian, Mercurio, Obringer,
NOES:	None
ABSTAIN:	None
ABSENT:	None

IX. COMMISSON CONSIDERATIONS

There were no items to be considered.

X. STAFF REPORTS / ANNOUNCEMENTS

Planning Manager Carol Johnson stated that any contact or questions received regarding Reuse Area Master Developer Request for Qualifications should be referred to Mike Wright.

XI. COMMISSION REPORTS/ANNOUNCEMENTS

There were no items to be considered. Chair Obringer mentioned the soft opening of The Pig and Pickle.

XII. FUTURE PUBLIC HEARING ITEMS

Planning Manager Carol Johnson announced that the Golden State Lumber Use Permit would not be heard on February 19th, and an update would be provided when a hearing date has been confirmed. She noted she would be absent on February 19th, and that there would be one item on the agenda. Senior Planner Frank Abejo would be acting on her behalf at that meeting.

XIII. ADJOURNMENT

Commissioner Hoag moved to adjourn at 8:33 P.M. Commissioner McGallian seconded the motion. Motion passed by unanimous vote of the Commission.

APPROVED:

Frank Abejo for

Carol Johnson
Planning Commission Secretary

Transcribed by Toi Wells

1 **BEFORE THE PLANNING COMMISSION**
2 **OF THE CITY OF CONCORD,**
3 **COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

4 **A RESOLUTION RECOMMENDING CITY**
5 **COUNCIL ADOPTION OF THE NEGATIVE**
6 **DECLARATION FOR THE WEST**
7 **CONCORD MIXED USE TEXT**
8 **AMENDMENT (PL131352-DC)**

Resolution No. 14-02PC

9 **WHEREAS**, the City of Concord adopted the 2030 Urban Area General Plan on October 2,
10 2007; and

11 **WHEREAS**, the City of Concord concurrently certified the Final Environmental Impact
12 Report for the 2030 Urban Area General Plan on October 2, 2007; and

13 **WHEREAS**, the City of Concord amended the 2030 General Plan on January 24, 2012 to
14 incorporate an Area Plan for the Concord Reuse Project; and

15 **WHEREAS**, the City of Concord certified a Final Environmental Impact for the Concord
16 Reuse Project Plan in February 2010 and an Addendum to that FEIR which covered the Area Plan and
17 related 2030 General Plan Amendment on January 24, 2012; and

18 **WHEREAS**, the General Plan FEIR and Reuse Plan FEIR/Addendum together constitute a
19 comprehensive evaluation of the environmental impacts of the Concord General Plan; and

20 **WHEREAS**, on July 10, 2012, the City Council certified the Concord Development Code
21 Final Supplemental Environmental Impact Report and Mitigation Monitoring and Reporting Program,
22 and adopted the Findings and the Statement of Overriding Considerations; and

23 **WHEREAS**, on July 24, 2012, the City Council adopted Chapter 122 of the Concord
24 Municipal Code (“Development Code”), to ensure consistency with General Plan policies, and an
25 update of its zoning maps to ensure consistency with the adopted General Plan Map; and

26 **WHEREAS**, on October 9, 2012, the City Council adopted Resolution 12-74, adopting a
27 Negative Declaration for the First Development Code Clean-Up Amendment; and

28 **WHEREAS**, on September 24, 2013, the City Council adopted Resolution 13-71, adopting a
29 Negative Declaration for the Second Development Code Clean-Up Amendment; and

30 **WHEREAS**, on November 12, 2013, Dennis Costanza on behalf of the Hoffman Family

1 Foundation initiated an application proposing a text amendments to the Development Code in the
2 form of the proposed West Concord Mixed Use Text Amendment to the Development Code
3 PL131352-DC (“Amendment”; the Amendment is Attachment 1 to Exhibit “B” of the February 5,
4 2014 staff report and is hereby incorporated by reference), in order to permit elementary, middle, and
5 secondary schools within the WMX zoning district subject to an approved Use Permit.

6 **WHEREAS**, on December 11, 2013, the City conducted an Initial Study pursuant to the
7 California Environmental Quality Act of 1970, Public Resources Code § 21000, et seq., as amended
8 and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations
9 (collectively, “CEQA”) to determine if the Amendment would have any significant effect on the
10 environment; and

11 **WHEREAS**, the Initial Study concluded that the Amendment would have no significant
12 environmental impacts; and

13 **WHEREAS**, on December 19, 2013 a Notice of Intent to Adopt a Negative Declaration was
14 prepared, posted with the Contra Costa County Clerk, and circulated for a 30 day public review
15 period, through January 21, 2014, in accordance with CEQA; and

16 **WHEREAS**, the Initial Study and Negative Declaration (collectively, “Negative Declaration”)
17 is attached hereto as Attachment 1 and is hereby incorporated by reference; and

18 **WHEREAS**, no comments were received from the public during the public review period; and

19 **WHEREAS**, the Planning Commission, after giving all public notices required by State law
20 and the Concord Municipal Code, held a duly noticed public hearing on February 5, 2014 to consider
21 the Amendment and the Negative Declaration; and

22 **WHEREAS**, at such public hearing, the Planning Commission considered all testimony and
23 information received at the public hearing, the oral report from City staff, the written report from City
24 staff, dated February 5, 2014, exhibits presented, pertinent plans and documents, the Negative
25 Declaration, and other materials and information contained in the record of proceedings relating to the
26 Amendment, which are maintained at the offices of the City of Concord Planning Division
27 (collectively, “Environmental Information”).
28

1 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

- 2 1. The Planning Commission does hereby make the following findings:
- 3 a. The recitals above are true and correct and are incorporated herein by reference.
- 4 b. The Negative Declaration is the appropriate environmental document for the
- 5 Amendment.
- 6 c. The environmental documents for the Amendment have been prepared, published,
- 7 circulated, and reviewed in accordance with CEQA.
- 8 d. The Planning Commission has reviewed, considered, and evaluated all of the
- 9 Environmental Information.
- 10 e. The Negative Declaration reflects the independent judgment and analysis of the City as
- 11 the lead agency for the Amendment.
- 12 f. There is no substantial evidence in light of the whole record before the Planning
- 13 Commission that the Amendment will have a significant effect on the environment.
- 14
- 15 2. The Planning Commission does hereby recommend that the City Council adopt the Negative
- 16 Declaration as part of its consideration and approval of the Amendment.

17 This resolution shall become effective immediately upon its passage and adoption.

18 **PASSED AND ADOPTED** this 5th day of February, 2014, by the following vote:

19 **AYES:** Commissioners Obringer, Mercurio, Hoag, McGallian

20 **NOES:** None

21 **ABSTAIN:** Commissioner Avila

22 **ABSENT:** None

23 
24 Carol Johnson, AICP
25 Secretary to the Planning Commission

26 Attachments:

- 27 1. Negative Declaration
- 28



NEGATIVE DECLARATION
California Environmental Quality Act

Based on the attached Initial Study and Environmental Checklist, the City of Concord has determined that the following project does not require preparation of an environmental impact report because it will not have a significant effect on the environment.

The reasons supporting this finding and the Negative Declaration are discussed further in the Initial Study.

PROJECT

West Concord Mixed Use Text Amendment to the Development Code

LOCATION/ADDRESS

City of Concord

APPLICANT

Dennis Costanza
The Hoffmann Family Foundation
2241 Galaxy Court
Concord, CA 94520

PROJECT DESCRIPTION

Development Code text amendment request filed by the Hofmann Family Foundation to permit elementary, middle, and secondary schools within the West Concord Mixed Use (WMX) zoning district subject to an approved Use Permit. As described in the applicant's written request, the text amendment is being requested to facilitate the operation of a newly created De La Salle Academy (grades 5 – 8) as a division of De La Salle High School. No development is proposed as part of this Development Code text amendment and any future development proposals for the construction of a school within the WMX zoning district would be subject to an approved Use Permit and further environmental review.

NEGATIVE DECLARATION PREPARED BY

City of Concord
Community and Economic Development
1950 Parkside Drive, MS/53
Concord, CA 94519

Contact: Carol Johnson, AICP
Title: Planning Manager
Telephone: (925) 671-3369
Fax: (925) 671-3381

Signature Carol Johnson AICP

Date 12/11/13

1 Permit; and

2 **WHEREAS**, the Planning Commission, after giving all public notices required by State Law
3 and the Concord Municipal Code, held a duly noticed public hearing on February 5, 2014, on the
4 proposed Amendment and the Initial Study and Negative Declaration (collectively, “Negative
5 Declaration”; the Negative Declaration is Attachment 1 to Resolution 14-02PC, and is hereby
6 incorporated by reference); and

7 **WHEREAS**, the Planning Commission has reviewed the proposed Amendment; and

8 **WHEREAS**, prior to recommending that the City Council act on the Amendment, on
9 February 5, 2014, the Planning Commission adopted Resolution No. 14-02 PC, recommending that
10 the City Council adopt the Negative Declaration, which resolution is hereby incorporated by
11 reference; and

12 **WHEREAS**, on February 5, 2014, the Planning Commission, after consideration of all
13 pertinent plans, documents, and testimony, declared their intent to recommend approval of the
14 Amendment.

15 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

- 16 1. The Planning Commission does hereby make the following findings:
- 17 a. The recitals above are true and correct and are incorporated herein by reference.
- 18 b. The proposed Amendment is consistent with the policies in the 2030 General Plan and
19 is necessary in order to enhance educational opportunities and experiences for the
20 residents of the City of Concord.
- 21 c. The proposed Amendment would not be detrimental to the public interest, health,
22 safety, convenience, or welfare of the City.
- 23 2. The Planning Commission does hereby recommend that the City Council adopt an Ordinance
24 to approve the Amendment, consistent with the revisions in Exhibit B to the February 5, 2014,
25 Planning Commission Staff Report.

26 This resolution shall become effective immediately upon its passage and adoption.

27 **PASSED AND ADOPTED** this 5th day of February, 2014 by the following vote:

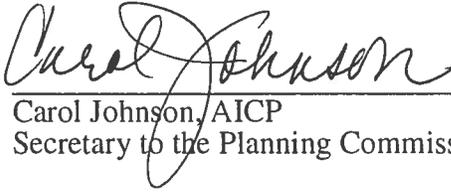
28 **AYES:** Commissioners Obringer, Mercurio, Hoag, McGallian

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NOES: None

ABSTAIN: Commissioner Avila

ABSENT: None



Carol Johnson, AICP
Secretary to the Planning Commission

Attachments (incorporated by reference):

1 – Exhibit B to the February 5, 2014, Planning Commission Staff Report.



REPORT TO PLANNING COMMISSION

DATE: February 5, 2014

SUBJECT: WEST CONCORD MIXED USE TEXT AMENDMENT TO THE DEVELOPMENT CODE (PL131352-DC)

Recommendation: Adopt Resolution No. 14-02PC recommending City Council adoption of the Negative Declaration for the West Concord Mixed Use Text Amendment to the Development Code.

Adopt Resolution No. 14-03PC recommending City Council approval of a West Concord Mixed Use Text Amendment to the Development Code.

I. Introduction

The Commission is being asked to review, discuss, and consider adopting (a) Resolution No. 14-02PC recommending City Council adoption of the Negative Declaration for the West Concord Mixed Use Text Amendment to the Development Code, and (b) Resolution No. 14-03PC recommending City Council approval of a West Concord Mixed Use Text Amendment to the Development Code. Such resolutions are attached to this staff report as Exhibit A and Exhibit B, respectively, and incorporated by reference.

II. Background

On November 12, 2013, Dennis Costanza of the Hofmann Family Foundation submitted an application for a text amendment to the Development Code to permit elementary, middle, and secondary schools within the West Concord Mixed Use (WMX) zoning district subject to an approved Use Permit. As described in the applicant's written request (Exhibit C), the text amendment is being requested to facilitate the operation of a newly created De La Salle Academy (grades 5 – 8) as a division of De La Salle High School. If the subject text amendment is approved, the applicant intends to file a Use Permit application to operate the proposed academy at 1380 Galaxy Way. While this text amendment is being proposed for a De La Salle Academy, it will benefit any other private and public schools who would like to operate in the WMX zoning district.

III. General Information

A. General Plan

N/A (Citywide)

B. Zoning

N/A (Citywide)

C. CEQA Status

Staff prepared an Initial Study for the proposed text amendment to the Development Code in accordance with the California Environmental Quality Act (CEQA). Based on the findings of the Initial Study, a Negative Declaration was recommended as the appropriate course of action. On December 19, 2013, a Notice of Intent to adopt a Negative Declaration (a copy of which is attached hereto as Exhibit D and incorporated by reference) was filed with the Contra Costa County Clerk and published in the Contra Costa Times beginning a 30-day review period, which ended on January 21, 2014 per CEQA requirements. The Initial Study and Negative Declaration (collectively, "Negative Declaration") is Attachment 1 to Resolution 14-02PC.

The Development Code is a policy document that does not commit the City to any specific project. The City will review new development at a project level to conduct the appropriate level of environmental review, as required by CEQA.

IV. Discussion

The following section discusses the recommended changes to the West Concord Mixed Use zoning district in the Development Code as well as its consistency with the City's General Plan. Such changes are in the form of proposed West Concord Mixed Use Text Amendment to the Development Code ("Amendment") which is Attachment 1 to Resolution 14-03PC.

A. West Concord Mixed Use Development Code Changes

The following summarizes the requested changes to the Development Code.

(1) Division 5, Downtown Districts (DP, DMX, and WMX), Section 122-153, Purpose, subsection (c) in Article II, would be amended to include the word *schools* as appropriate to the WMX zoning district.

(2) Table 122-154.1 would be amended to permit elementary, middle, and secondary schools within the WMX zoning district subject to an approved Use Permit. Such uses are currently not permitted within the WMX zoning district although colleges, universities, trade schools, and vocational training are all permitted via an Administrative Permit.

The following addresses the proposed text amendment's consistency with applicable General Plan policies.

West Concord Mixed Use (WCMU). This designation is intended for use in the area generally located between the I-680 and Highway 242 freeways, south of Concord Avenue. It allows for a mix of office and commercial development, including such uses as new auto dealers, hotels, restaurants, and showroom/warehouses. Public/quasi-public uses also are allowed. Residential development is not allowed in this mixed-use category, as it is intended to create a campus-like

office environment. The maximum FAR is 4.0.

Analysis: *As noted above, the West Concord Mixed Use General Plan land use designation intended to permit public/quasi-public which by definition include schools.*

Policy LU-4.1.1: Continue to expand Central Concord's role as a focal point for business, entertainment, dining, cultural, and civic gatherings.

Analysis: *Authorization of schools within the WMX zoning district would facilitate cultural and civic gatherings consistent with Policy LU-4.1.1.*

Community Facilities. Community facilities are the network of public and private institutions that support the civic and social needs of the population. They offer a variety of recreational, artistic, and educational programs and special events. New community facilities are not specifically sited on the General Plan Urban Area Land Use Diagram. Small-scale facilities are appropriately sited as integral parts of neighborhoods and communities, while existing larger-scale facilities are generally depicted as public/semi-public land use, as appropriate. These facilities in Concord can be grouped into the following categories:

- **Private Schools.** Facilities that offer instruction to children or adults in exchange for compensation.
- **Public Schools.** Public schools that offer similar community facilities to those described above.

Analysis: *The text above highlights the importance of community facilities as defined by the General Plan. Schools, which include both public and private institutions, are identified as a category of community facilities necessary to support the civic and social needs of the population.*

Policy PF-2.1.1: Maintain and improve educational opportunities in Concord through cooperation with the Mt. Diablo Unified School District (MDUSD), private schools, California State University, community organizations, and the Contra Costa County library system.

Analysis: *Creating additional opportunities for the location of elementary, middle, and secondary schools within the City is consistent with maintaining and improving educational opportunities in Concord as described above.*

Policy PF-2.1.5: Encourage the establishment of vocational school and other training programs to prepare Concord's citizens for employment, in addition to traditional educational opportunities.

Analysis: *Allowing elementary, middle, and secondary schools in the WMX will facilitate the establishment of schools and is consistent with Policy PF-2.1.5 which encourages the creation of vocational schools and other training programs to prepare Concord residents for employment.*

Policy PF-2.2.4: Encourage the use of public and private facilities, schools, churches, community centers, and spaces within other facilities for child and adult care services.

Analysis: *If desired, the school facilities could also be utilized for child and adult care services in addition to the planned educational use.*

V. Fiscal Impact

The proposed amendment would have a negligible fiscal impact on the City.

VI. Public Contact

This item has been published at least once in a newspaper of general circulation in the City of Concord and posted at the Civic Center at least 10 days prior to the public hearing.

VII. Summary and Recommendations

The West Concord Mixed Use Text Amendment to the Development Code is consistent with the applicable goals and policies of the Concord 2030 Urban Area General Plan concerning schools and educational opportunities for the City's residents.

Therefore, staff recommends the Planning Commission open the public hearing, consider staff's report, consider public testimony, and close the hearing upon completion of public testimony. Staff recommends the Commission adopt Resolution No. 14-02PC, recommending City Council adoption of the Negative Declaration for the West Concord Mixed Use Text Amendment to the Development Code and adopt Resolution No. 14-03PC, recommending City Council approval of a West Concord Mixed Use Text Amendment to the Development Code.

VIII. Motion

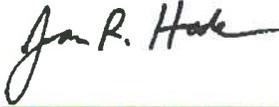
CEQA Action

I (Comm. _____) hereby move that the Planning Commission adopt Resolution 14-02PC recommending City Council adoption of the Negative Declaration for the West Concord Mixed Use Text Amendment to the Development Code, which was circulated for public review on December 20, 2013 with a review period through January 21, 2014 and is attached as Attachment 1 to this Resolution. (Seconded by Comm. _____.)

Project Approvals

I (Comm. _____) hereby move that the Planning Commission adopt Resolution 14-03PC recommending City Council approval of a West Concord Mixed Use Text Amendment to the Development Code as set forth in Attachment 1 to this Resolution. (Seconded by Comm. _____.)

Prepared by:



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Reviewed by:



Carol Johnson, AICP
Planning Manager
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Exhibits:

- A Resolution No. 14-02PC: A resolution recommending City Council adoption of a Negative Declaration (Attachment 1 – Negative Declaration)
- B Resolution No. 14-03PC: A resolution recommending City Council approval of a West Concord Mixed Use Text Amendment to the Development Code (Attachment 1 – Amendment)
- C Applicant's Written Statement date-stamp received November 12, 2013
- D Notice of Intent to adopt a Negative Declaration

November 12, 2013

City of Concord
Planning Division
Community & Economic Development Department
1950 Parkside Drive
Concord, CA 94519

RECEIVED
NOV 12 2013
PLANNING

Subject: City of Concord Development Code Change Request

To Whom It May Concern,

Please see below for the details and descriptions related to the amendments we are requesting to Concord's Development Code. The amendments are necessary to facilitate the operation of the newly created De La Salle Academy.

Development Code Change Request One:

We are formally requesting, for Division 5. Downtown Districts, Section 122-153 Purpose, subsection (c) in Article II page 33, that the word "schools" be added to the first sentence as follows, or where appropriate to facilitate our project:

..... and areas of the City appropriate for a mix of ***schools***, commercial, office, retail,.....

Development Code Change Request Two:

We are formally requesting, in conjunction with Development Code Change Request One above, for Division 5. Downtown Districts, Section 122-154, Table 122-154.1 in Article II page 37, the existing "--" be changed code "UP" in the WMX District on the Elementary, Middle, Secondary line, within the Schools section as shown below:

EXISTING

	DP	DMX	WMX
<hr style="border-top: 1px dashed black;"/>			
Schools			
Elementary, Middle, Secondary	UP(1)	UP	--

MODIFIED

	DP	DMX	WMX
<hr style="border-top: 1px dashed black;"/>			
Schools			
Elementary, Middle, Secondary	UP(1)	UP	<u>UP</u>

In addition, please see the text below, this text serves as the written statement necessary to describe the reasons for the development code change requests:

De La Salle High School with the support of the Hofmann Family Foundation seeks to open De La Salle Academy (grades 5-8) as a Division of De La Salle High School – a school based on the Nativity/San Miguel Model of education. This school will be a Lasallian school for boys in grades 5-8. Operated by De La Salle High School and in partnership with the Community Youth Center the school serves boys from all cultures and faiths in grades five through eight. This middle school will provide a safe, high quality, intensive educational experience. All of the students attending this school must qualify for the Federal Government’s Free and Reduced Cost Lunch program or be at 185% of the Federal Poverty Level, an indication that a family is living at or near poverty.

The school is dedicated to the belief that education is the key to breaking the cycle of poverty. The school model includes an extended day averaging 9 hours and an extended year of up to 11 months. The average total enrollment at this school will be 60 students – 15 students per grade. The graduates of this school will have the opportunity to enroll directly into the

Bishop John S. Cummins Program at De La Salle High School. (The school will start with only one grade and will grow from there over a four-year period). The school will serve those families in generational poverty not situational poverty.

Thank you for considering this change to the WMX Zone. This location is important being that it is being made available at no charge. In addition, the proximity of the building leverages the current facility of the Community Youth Center, which will include academic support and co-curricular athletic activities as well as food services from the Big C Athletic Club.

On behalf of the project team in place to pursue the addition of The De La Salle Academy in Concord California, we sincerely thank you for considering our request.

If you have any questions or comments, please let me know.

Dennis Costanza



President
Community Youth Center
The Hofmann Family Foundation

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925.260.6328