Oakland City Planning Commission

Case File Number REV10-0003; Related to CM04-411; ER07-006 April 7, 2010

Location:	**Bentley School; 1 Hiller Drive, 245, 251, and 261 Tunnel Road** **APN: 048H-7576-001-04, 048H-7576-030-02, 064 -4231-015 through 064 -4231-017**
Proposal:	Revisions to the following Bentley School Major Conditional Use Permit (CUP) Conditions of Approval: 1. Condition #1 to allow 62 full-time equivalents (FTE) with an employee cap of 71; 2. Condition #14d to reduce the number of single occupancy vehicles (SOV) driven by 25% of 431 (360 students and 71 employees) or 323 trips by the beginning of the fall trimester 2010 and by 35% or 280 by the beginning of the fall trimester 2012. 3. Condition #20 to permit a maximum of 62 FTE's / 71 employees. 4. Condition #27 *(Case File CM04-411)* to allow all K-12 administrators and staff and their associated offices to remain at the Hiller Drive campus and to require these persons to park off site (not on Hiller Drive or within the Hiller Highlands). The school has proposed to reduce the vehicle trips to 317 in fall 2010 and to 274 in fall 2012 if allowed until fall 2010 to demonstrate, through a vehicle trip monitoring metric in the TDM, that retention of these staff persons on the Hiller campus will not increase traffic above existing staffing levels (inclusive of six K-12 administrators). Clarifications to the following Conditions of Approval: 1. Condition #14a to provide assigned spaces to all full and part-time faculty and staff. Here faculty and staff mean 62 FTE's / 71 employees. *The existing parking spaces are already assigned to full and part-time staff. Additional details of parking management for school employees will be addressed in the Parking and Traffic Demand Management Plan (TDM).* 2. Condition #14g to provide free AC Transit bus passes to students and faculty. *Faculty here means 62 FTE's / 71 employees*
Applicant:	Bentley School
Contact Person/Phone Number:	Duncan Lyon / (510) 843-2512
Owner:	Bentley School
Case File Number:	**REV10-0003**
Planning Permit Required:	Major Changes to Condition of Approval # 1 (Approved Use), # 14a (Parking Management Strategies) # 14d (Minimum Bus Ridership Reductions or SOV Reductions), #14g (Transit Subsidy Program), # 20 (School Enrollment / Hours of Operation / Employees), and #27 (Bentley School Administration).
General Plan:	Hillside Residential
Zoning:	R-30 One-Family Residential Zone
Environmental Determination:	An Environmental Impact Report was previously certified by the Planning Commission on October 21, 2009. As a separate and independent basis, the project was also found exempt from CEQA pursuant to CEQA Guidelines sections 15301, 15061(b)(3), 15378(a) and/or 15183. No further environmental review is required.
Service Delivery District:	II – North Oakland
City Council District:	1
Action to be Taken:	Decision on the application based on staff report
Finality of Decision:	Appeable to City Council
For Further Information:	Contact case planner **Heather Klein** at **510 238-3659** or by e-mail at hklein@oaklandnet.com.

(Contains map showing the project site and general vicinity)

SUMMARY

The project applicant, Bentley School (School), is seeking to revise several of the approved Major Conditional Use Permit's (CUP) Condition of Approval, including Condition # 1, 14d, 20, and 27.

These revisions would change:

1. The approved use and permitted number of employees from 62 staff members to 62 FTE's and 71 employees.
2. The required SOV reduction driven by 25% of 431 (360 students and 71 employees) or 323 trips by the beginning of the fall trimester 2010 and by 35% or 280 by the beginning of the fall trimester 2012.
3. Permit all K-12 faculty and staff and their offices to remain on the Hiller campus but prohibit them from parking on Hiller Drive or within Hiller Highlands. As an additional alternative for the Planning Commission's consideration, the School is offering to add all of these persons trips (as opposed to a % of these persons trips) to the single occupancy vehicle (SOV) reduction strategy if permitted until the fall 2012 if allowed until fall 2010 to demonstrate, through a vehicle trip monitoring metric in the TDM, that retention of these staff persons on the Hiller campus will not increase traffic above existing staffing levels (inclusive of six K-12 administrators).This would amount to a reduction of 317 vehicle trips by fall 2010 and to 274 in 2012.

These revisions would require clarifications to several other Conditions of Approval. Condition 14a (Parking Management Strategies) would be clarified to means that assigned spaces to all full and part-time faculty and staff includes 62 FTE's / 71 employees. Condition 14g would be clarified to require transit subsidies and free AC Transit bus passes to students and faculty, meaning 62 FTE's / 71 employees.

The purpose of this meeting is to consider the revisions and clarifications to the current Major CUP submitted by Bentley School summarized in the *Project Description* section. Staff has provided the Planning Commission with four options for consideration.

PROPERTY LOCATION

Bentley School is located along Hiller Drive, near the intersection of Hiller Drive and Tunnel Road. The School property encompasses approximately 4.2 acres on five contiguous parcels and straddles the City of Oakland and City of Berkeley border. The Headmaster's Residence, an illegal parking lot striped with 20 spaces, and a vacant lot are located in Berkeley. The Oakland campus (2.4 acres of 4.2 acre school property) supports a middle school (grades 6-8) and lower school (grades K-5) with a current enrollment (2009/2010 school year) of 345 students.

PROJECT BACKGROUND

On October 21, 2009 the Planning Commission granted, with Conditions of Approval, a Major CUP to legalize and permit a student enrollment of 360; hours of operation for academic, childcare and physical education activities; and weekday evening, weekend and summer events at the school. The proposal included the option to change the grade levels from K-8th grade students to K-5th grade students. The

School did not request that Conditions #1, 20, or 27 be altered or removed at the October 21st hearing nor did the School appeal the project with these Conditions to the City Council.

On January 6, 2010, Bentley School submitted a letter to staff requesting a change to Condition of Approval #27 as outlined below in the *Project Description* section (See Attachment A). The School also asked staff to consider the revision a Minor Change subject to review and approval by the Director of City Planning per Condition of Approval #3. Based on an e-mail submitted earlier by Bentley School (See Attachment B) and as reiterated in the letter, the number of possible persons that would be affected by the revision would be six persons (three persons in the business office and three persons in the development office).

On January 26, 2010, staff sent a letter to the School with the determination that the revision could not be considered Minor Change and therefore, must be approved by the Planning Commission (See Attachment C). The school then filed an application for a revision to Condition #27 on January 29, 2010.

During the review of the application submitted by the School to revise Condition #27, both staff and the neighbors requested that the School provide additional documentation on the number of persons employed the School and their job titles. In response, the School submitted a letter on March 5, 2010 requesting clarification on whether Condition 1 and Condition 20 referred to FTE's or employees (Attachment D). Staff determined, on March 8, 2010 (Attachment E) that both Condition 1 and Condition 20 referred to employees. Based on staff's determination, the School submitted a request for a Major Change to Condition 1 and Condition 20 on March 10, 2010 (Attachment F) from 62 employees to 62 FTEs and 71 employees. That request also included a change to Condition 14a and 14d for the Planning Commission's consideration. Furthermore, the letter reiterated that only six persons would be affected by revisions to Condition 27.

PROJECT DESCRIPTION

The applicant is proposing to revise Conditions of Approval including #1, 14d, 20, and 27. These revisions are as follows in underline and strikeout text below:

1. **Approved Use**
   Ongoing
   a) The project shall be operated in accordance with the authorized use as described in the application materials, and the staff report, and as amended by the following conditions.
   b) This action by the City Planning Commission ("this Approval") includes the approvals set forth below for the Bentley School, under Oakland Planning Code Section 17.134:.
   vii: Faculty and staff not to exceed 62 Full-Time Equivalents (FTEs) or 71 employees.

14 d) **Minimum bus ridership requirement:**
The project applicant shall reduce the number of single occupancy vehicles (SOV) driven by 25% of ~~422 (360 students and 62 faculty and staff) by the beginning of the fall trimester 2010 and by 35% by the beginning of the fall trimester 2012~~ 431 (360 students and 71 employees) or 323 trips by the beginning of the fall trimester 2010 and by 35% or 280 by the beginning of the fall trimester 2012. The applicant shall utilize a variety of options including AC Transit and private shuttle busing, vanpooling, carpooling, walking, and bicycling to achieve this reduction. In the interim, the applicant shall retain the current use of AC Transit and the private shuttle bus and make reasonable good faith efforts to increase bus ridership until the mandatory reductions become effective. The TDM plan shall specifically discuss (i) all alternative transit options and make recommendations regarding how to achieve the trip reduction; (ii) how the school will

monitor and report the numbers to the city; (iii) how the city can determine compliance; and (iv)recommend appropriate enforcement options including, a cure period, enrollment reductions, etc. Once city staff has conditionally approved the plan (after review and comment), it shall be noticed Planning Commission agenda item for review and approval.

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20. School Enrollment /Hours of Operations/Employees

The maximum school enrollment at Bentley School Hiller Drive campus shall not exceed 360 students, including any enrollment fluctuations. The school shall submit the enrollment numbers to the Planning and Zoning Division at the beginning of each semester or no later than the date required by the State. The school shall also submit the enrollment numbers to the Neighborhood Liaison Committee. The school shall be allowed to change the grade distribution from K-8th grade to K-5th grade. School hours are 8:30 a.m.-3:30 p.m., Monday through Friday unless altered by state requirements or negotiated with Kaiser School as part of a staggered traffic plan. Physical education or extracurricular sport classes are permitted during the hours of 7:30 a.m. to 6:00 p.m., Monday through Friday. The school is allowed a maximum of 62 FTEs or 71 employees.

27. Bentley School Hiller Administration

~~The Project Applicant shall move all of the all school administration offices and persons not directly associated with the Hiller Drive campus (Lower School and Middle School) academic program to the other campus in Lafayette, no later than the beginning of the first semester after this approval. At a minimum these include: Office of the Head of School, Development, Finance, Admissions, and Parent Association.~~ All K-12 administrators and staff and their associated offices shall be permitted to remain at the Hiller Drive campus. However, these persons will be required to park off site (not on Hiller Drive or within the Hiller Highlands).

As an additional alternative for the Planning Commission's consideration, the School is offering to add all of these persons trips (as opposed to a % of these persons trips) to the single occupancy vehicle (SOV) reduction strategy if permitted until the fall 2012 if allowed until fall 2010 to demonstrate, through a vehicle trip monitoring metric in the TDM, that retention of these staff persons on the Hiller campus will not increase traffic above existing staffing levels (inclusive of six K-12 administrators).This would amount to a reduction of 317 vehicle trips by fall 2010 and to 274 in 2012.

The School cites the following reasons for the revision to Conditions 1, 14a, 14d, and 20:

1. The Environmental Impact Review (EIR) stated that, "school staffing would be limited to a maximum of 62 full time equivalent (FTE) employees."

2. Prehearing Conditions of Approval 1 (vii) stated, "Fulltime faculty not to exceed 62 staff" (Note: this condition was revised to read "Faculty and staff not to exceed 62," instantly revising our occupancy levels beyond prehearing levels. A similar revision was made to Condition 21).

3. Gary Patton's letter on January 26, 2010, asserts that Planning Staff "wanted the Hiller Campus to maintain adequate staffing levels. Planning Staff did not want to be in the position of dictating what adequate staffing was for the school. Planning Staff did want to limit use of the Hiller Campus…to address the intensity of use."

4. We feel that our Traffic Demand Management (TDM) plan reflects the ways in which the school would address intensity of use for our existing staffing levels. We ask Planning Staff for the opportunity to demonstrate in the remaining months of this school year by way of our traffic

current execution on Hiller Drive that the charge from the Planning Commission to operate as a school with a smaller footprint is in full effect and thereby addresses intensity of use concerns.

The School cites the following reasons for the revision to Conditions 27:

"1. This move would create new on site parking spaces, move more cars off of Hiller Drive, and allow for the best operation of these vital offices.

2. These six staff members are trained traffic monitors and constitute a substantial portion of our traffic monitoring team. This modification would thereby allow for best compliance with the traffic demands outlined in the C.U.P.

3. Our analysis of moving these offices to Lafayette indicates an increase in car trips to and from the Hiller Campus by these administrators and staff and by those on the Hiller Campus needing to meet with them.

4. Our plans to create space for such an administrative move were predicated on construction of a new middle school on our Lafayette site. That project is no longer viable due to financial reasons."

GENERAL PLAN ANALYSIS

Land Use and Transportation Element of the General Plan

The Land Use and Transportation Element (LUTE) General Plan designation for the project site is Hillside Residential (HR). The General Plan states the *intent* of the HR designation is "to create, maintain, and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots." The *desired character* of "future development within this classification should remain residential in character." The School, with approval of the Major CUP on October 21, 2009, conforms to the Hillside Residential General Plan designation.

ZONING ANALYSIS

The zoning of the site is R-30 or One Family Residential Zone. The R-30 zone is intended to create, preserve, and enhance areas for single-family dwellings in desirable settings for urban living, and is typically appropriate to already developed lower density dwelling areas of the city. The School, with approval of the Major CUP on October 21, 2009, conforms to the Planning Code Section 17.16.050.

Per Section 17.116.070: Off-street parking-Civic Activities, one parking space is required for each three employees for a K-12 school in the R-30 zone. The upper parking lot with 23 spaces complies with off-street parking requirement even if the number of employees increased from 62 to 71. The proposed revisions to Condition #1, 20, and 27 are still in compliance with the Planning Code.

ENVIRONMENTAL DETERMINATION

An Environmental Impact Report (EIR) was prepared for the Major CUP project, under the requirements of CEQA, pursuant to Public Resources Code Section 21000 *et. seq.* and was certified by the Planning Commission on October 21, 2009. The Major CUP project was also found to be exempt from CEQA pursuant to CEQA Guidelines sections 15301, 15061(b)(3), 15378(a) and/or 15183, each of which provided a separate and independent basis for CEQA compliance and when viewed collectively provided an overall basis for CEQA compliance.

While the EIR analyzed potential impacts resulting from school traffic to and from the site, the EIR did not identify any potentially significant environmental impacts related to the Major CUP project. However, recommended measures were identified in the DEIR and were included in select environmental topic areas as suggestions for addressing neighborhood concerns about Bentley School's operations that did not rise to the level of significance of a physical impact. These recommended measures were not mitigation measures as defined by CEQA, and were not required to reduce significant impacts of the project.

Conditions #1, 20 or 27 were not included in the EIR as recommended measures or Standard Conditions of Approval. These Conditions were project-specific Conditions of Approval. The changes to Conditions 14a and 14d were recommended measures and Standard Conditions of Approval (TDM) in the EIR. However, none of these Conditions were required to reduce significant unavoidable impacts related to traffic. As such any revision to these Conditions would not result in any significant unavoidable traffic impacts.

The City hereby finds and determines on the basis of substantial evidence in the record that the previously certified October 2009 EIR fully analyzes the potential environmental effects of the proposed revisions to conditions of approval. In compliance with CEQA and CEQA Guidelines, including without limitation Public Resource Code Section 21166 and CEQA Guideline Sections 15162 and 15164, the City has determined that there are no substantial changes proposed in the project, or the circumstances under which the project is undertaken, and there is no "new information of substantial importance" that would require major revisions of the EIR due to the involvement of new, significant environmental effects or a substantial increase in the severity of previously identified significant effects. Thus, no further environmental review is required.

KEY ISSUES

Staff has reviewed the School's submittals and the information submitted by the neighborhood. The key issues in analyzing the requested revisions are the same as those as outlined at the October 21, 2009 Planning Commission hearing: traffic and intensity of use at the school.

Intensity of Use (Number of Employees) at the Hiller Campus (Condition 1 and 20)
Due to the fact that the Hiller campus is only 2.4 acres, staff wanted to address the intensity of use of the property as part of the Major CUP project and the Conditions of Approval. Staff set this number to 62 staff members which is what we believed was on the campus as an existing condition. Staff specifically did not decrease the number of school personnel because staff did not want to be in the position of dictating what was adequate staffing for the school. However, we did want to limit the intensity of the school use to only Hiller Campus staff. In this way if the school wanted to hire an additional teacher they school would not need to apply for a Major Conditional Use Permit to increase staff.

The school is now requesting that the number be changed to 71 employees based on the fact that this was their existing staffing levels at the time of the public hearing. Although it is unfortunate that the school did not correct the actual employees at the time of the public hearing, instead relying on an interpretation in the EIR of FTEs, staff still believes that the City should not decrease personnel at that the School beyond what they have now. In essence the staffing levels have not changed or intensified with this request. However, staff would recommend that the Planning Commission solely use employees not FTE's as the metric as this is much more easily verified. Furthermore, if the Planning Commission chooses to reduce the number of administrators on Hiller Campus the number of overall employees should be taken into account.

Traffic (Condition 1, 14a, 14d, 14g, and 20)
Staff has reviewed the School's proposal to address traffic related to the increase number of staff on campus as part of the TDM. This approach to further reduce the number of SOV trips is consistent with the intent of the TDM Condition, reduce traffic on Hiller Drive or within Hiller Highlands.

Although the TDM is not being considered for approval at this time and is still being refined by staff, the additions made by the Planning Commission to the lower parking lot condition seem to support this approach. That Condition was revised to state that if the parking lot was not approved by the City of Berkeley that the School could roll those SOV trips into the total reduction in Condition 14d. Furthermore, with clarifications to Condition 14a and 14g which would include these additional staff members in the parking management strategies and the transit subsidies, staff believes that the trip reduction will further decrease.

Intensity of Use (Number of Administrators) at the Hiller Campus (Condition 27)
As detailed in Attachment E, the School has 71 employees and of those 12 are administrative personnel. Of those 12, six persons are specifically named in Condition 27. The School claims that it is no longer feasible to move these administrators off-site since the School is no longer considering the relocation of the Middle School to Lafayette. Staff is unsure why the relocation of these administrative personnel is tied solely to the completion of the Middle School Campus and the School does not provide additional information.

For obvious reasons it is infeasible to eliminate all administrators from the campus. While it is unfortunate that the School did not challenge the Condition or appeal the Condition to the City Council it does seem that the staff is pared down and that all of these persons play an important part in school operations. Again, as they were already on campus at time the Planning Commission approved the project, the intensity of use at the campus has not increased. With the addition of extremely stringent conditions, additional administrators might be necessary and it might be infeasible to require those persons to move the Lafayette campus.

Number of staff members and roles as traffic monitors

The School has indicated that these administrative persons are necessary because they are integral in either the traffic monitoring or implementation of the emergency management plan. The question seems to be how many staff is necessary to efficiently run the school and whether there is available staff to assume these duties. Based on the information provided by the School, there are 47 faculty members who teach children, 8 childcare personnel, 3 maintenance staff, and 12 administrators. Staff does not believe that teachers should take over these responsibilities. Teachers are there to teach children not direct traffic. The hours for childcare are also not conducive to traffic monitoring. That leaves the administrative staff and the maintenance personnel. Since two maintenance staff work after peak traffic time periods, only thirteen people would be available to help with the monitoring. Considering the Condition requires 9 persons to facilitate traffic, plus alternates if someone is not available, it seems reasonable that these six persons would need to remain on campus. Staff does not believe that it is optimal to have persons driving specifically to the campus, when they otherwise would not have, in order to facilitate the peak traffic.

Furthermore, staff would agree that having School personnel with direct authority to change school policies regarding traffic would be beneficial in a traffic monitoring role. For example, having the Head of School monitoring traffic, enforcing the traffic roles, witnessing traffic problems, facilitating the traffic pick-up and drop-off procedures sends a clear message to parents and other staff that these are significant issues.

Staff still believes that the intensity if use at the site is an issue. Therefore, despite, agreement with the School's reason's for including these personnel on campus, staff recommends that the Condition remain but be modified to require the relocation if the Middle School in Lafayette is constructed and that the School must develop an alternative solution to their traffic monitoring and emergency management plan needs.

Traffic (Condition 27)

Staff agrees with the School's argument that if these 6 persons were not permitted to park on Hiller Drive or within Hiller Highlands that this would be beneficial to the community. Staff also agrees that there could be additional car trips on Hiller Drive if these persons needed to commute to and from Lafayette to address school operation matters at the Hiller campus since there no restriction in the Condition that addresses this issue. However, the School has not provided any detail to staff regarding where these persons will park, how they will travel to the Hiller campus, or how the School plans to monitor or enforce the prohibition on parking and driving to the campus. Without this detail, staff is concerned with the revisions to this Condition.

Furthermore, since the TDM is not ready for approval and staff does not know if it will be ready to implement being school is released for the summer, staff is concerned with the alternative proposal that compliance with this Condition be postponed until fall of 2010 based on monitoring of SOV trips. If the Planning Commission should consider this proposal they should address these issues.

CONCLUSION

The proposal to revise Condition #1, 14a, 14d, 14g, 20 and 27 conforms to the General Plan and the Planning Code. In general staff agrees with the revisions to Conditions 1, 14d, and 20 and the clarifications to 14a and 14g. While staff agrees with several of the School's points in favor of the revising Condition 27, we also have concerns regarding the specific details of enforcement and monitoring as well as use of the site for administrators instead of academic personnel. Based on these concerns, staff is unable to recommend approval of the revision to that Condition. Staff has offered several options for the Commission's consideration including full approval, approval with modifications, approval and exceedance of the Condition but postponement based on future compliance, and denial.

RECOMMENDATION

Staff recommends that the Commission:

1. Take public testimony;
2. Affirm staff's environmental determination;
3. Approve the changes to:
   a) Condition 1: vii: Faculty and staff not to exceed 62 Full-Time Equivalents (FTEs) or 71 employees
   b) 14d: to reduce the number of single occupancy vehicles (SOV) driven by 25% of 431 (360 students and 71 employees) or 323 trips by the beginning of the fall trimester 2010 and by 35% or 280 by the beginning of the fall trimester 2012.
   c) 20: The school is allowed a maximum of 62 FTEs or 71 employees
4. Clarify that faculty and staff as noted in Conditions 14a and 14g refer to 71 employees

5. With respect to Condition 27, take one of the following actions: Staff would recommend either b or c.

   a. Approve revisions to Condition 27, permitting all K-12 faculty and staff and their offices remain on the Hiller Campus; **OR**

   b. Approve revisions to Condition 27, permitting all K-12 faculty and staff and their offices remain on the Hiller Campus, but require the Project Applicant to develop, as part of the TDM, a monitoring and enforcement program related to the prohibition of parking within Hiller Highlands or Hiller Drive; **OR**

   c. Approve the revisions to Condition 27 but require these same administrators to move to the Lafayette campus if the Middle School is constructed in the future and amend the TDM and the emergency management plan to address the adequate staffing associated with these plans; **OR**

   d. Postpone compliance with Condition 27 if the School can demonstrate, through the vehicle trip monitoring metric outlined in the TDM and approved by the Planning Commission, that traffic does not exceed 317 trips per day starting the beginning of the first semester until 2012 and 274 trips per day starting the beginning of the semester 2012. If the School cannot demonstrate a reduction, compliance is immediately required.

6. Make a finding that the previously adopted findings for approval of the Major CUP project still apply because:
   - The project still complies with the Zoning Ordinance and General Plan
   - The project is still compatible with the neighborhood because the TDM and SOV trips will be decreased with approval of 14 d, the traffic.
   - These trips occur outside the peak drop-off and pick up times and the SOV trips associated with 6 persons is negligible.
   - The school still provides an essential service.
   - The revisions to these conditions do not result in a significant CEQA impact or change to the previous CEQA findings.

   IN THE ALTERNATIVE to #1-6 above, take public testimony, affirm staff's environmental determination, and deny the requested revisions to the Conditions of Approval, based on the findings that, the proposed revisions will result in the school being incompatible with the neighborhood and adversely affect livability. Furthermore, the proposed revisions do not reduce the intensity of use at the Hiller campus as was intended by the Planning Commission and the revisions will be ineffective in reducing SOV traffic and because:
   - Planning staff and the Planning Commission have not approved the TDM.
   - The proposed revisions will not result in administrators taking transit.
   - The proposed revisions will result in more SOV traffic because persons will come to the Hiller campus to meet with these administrators.
   - Other persons can assume the traffic and emergency management roles of these administrators.
   - The proposed revisions will be unenforceable by the School or City staff

Approved for forwarding to the
City Planning Commission:

for

WALTER COHEN
Agency Director
Community and Economic Development Agency

ERIC ANGSTADT
Deputy Director
Community and Economic Development Agency

Prepared by:

Heather Klein
Planner III

Attachments:

A. January 6, 2010, February 18, 2010 Bentley School letter regarding Condition of Approval #27
B. October 19, 2009, e-mail submitted by Bentley School regarding number of staff
C. January 26, 2010, Determination Letter from staff regarding the minor change to Condition of Approval #27
D. March 5, 2010, Bentley School letter clarification of Condition # 1 and 20 regarding the number of employees
E. March 8, 2010, Determination letter by staff that Condition #1 and 20 meant 62 employees
F. March 10, 2010, Bentley School letter regarding Condition # 1, 14a, 14d, and 20.
G. October 21, 2009 Findings for Approval
H. Public Comments

BENTLEY SCHOOL

Planning and Zoning Services Division
Attention: Heather Klein
Dalziel Building
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612-2032

Dear Planning Commission Staff, January 6, 2010

Bentley School requests a minor change to Condition 27: **Bentley School Hiller Administration**, which stipulates that we "move all administration offices and persons not directly associated with the Hiller Drive Campus academic program to the other campus in Lafayette." We would like to modify Condition 27 to require all K-12 administrators and staff (six people) to park off site (not on Hiller Drive or within the Hiller Highlands) and retain existing offices on the Hiller Campus. Our reasons follow:

1. This move would create new on site parking spaces, move more cars off of Hiller Drive, and allow for the best operation of these vital offices.

2. These six staff members are trained traffic monitors and constitute a substantial portion of our traffic monitoring team. This modification would thereby allow for best compliance with the traffic demands outlined in the C.U.P.

3. Our analysis of moving these offices to Lafayette indicates an increase in car trips to and from the Hiller Campus by these administrators and staff and by those on the Hiller Campus needing to meet with them.

4. Our plans to create space for such an administrative move were predicated on construction of a new middle school on our Lafayette site. That project is no longer viable due to financial reasons.

We view this request as a minor change since it is consistent with the intent of the original condition—fewer cars on Hiller Drive and enables us to support best the other conditions. We appreciate your careful consideration of our request.

Sincerely,

Duncan Lyon
Assistant Head of School

ATTACHMENT A

Hiller Campus - 1 Hiller Drive - Oakland, CA 94618 T-510/843-2512 F-510 843-5162
Lafayette Campus - 1000 Upper Happy Valley Road - Lafayette, CA 94549 T-510/843-2512 F-925/299-0469

BENTLEY SCHOOL

Heather Klein, CGBP, LEED AP
Planner III
City of Oakland
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612

Dear Ms. Klein:

February 18, 2010

On Wednesday, February 17, 2010, the Bentley School ("the School") submitted its Transportation Demand Management (TDM) Plan to the City of Oakland. The TDM attempts to codify best transit practices to make the School a model of parking and traffic efficiency as we respect the environment and our neighbors by decreasing vehicle trips to and from campus in a manner that is educative, encouraging, and enforceable.

The School's Conditions of Approval establishes a single occupancy vehicle (SOV) vehicle reduction target of 317 (25% reduction of 422). In its TDM plan, the School establishes a stronger commitment to reduce the threshold listed therein to 311 in Fall 2010 and to 268 in Fall 2012 if allowed until fall 2010 to demonstrate by way of the vehicle trip monitoring metric above that the existing staffing levels (inclusive of six K-12 administrators) enhance monitoring and do not intensify current site use.

The School believes that by allowing the six administrators specified in Condition 27 to remain on the Hiller Campus, the spirit of its Condition Use Permit will be strengthened in the following ways:

Existing Conditions Have Nominal Traffic Impact
The School's administrator and staff traffic is a small proportion of the overall school traffic. The largest reductions in traffic will be gained by reducing student-related trips, not administrator and staff trips. The School has a plan to reduce administrator and staff trips and parking demand in its TDM, as well as student related vehicle trips.

Staff traffic, which is lower than student-related traffic, occurs at different times (before morning drop-off and after afternoon pick-up), so it is not additive to overall traffic congestion.

Additionally, our analysis of moving these offices to Lafayette indicates an increase in car trips to and from the Hiller Campus by these administrators and staff and by those on the Hiller Campus needing to meet with them. Given that our K-8 (nine grades) is

located in Oakland and our 9-12 (four grades) is located in Lafayette, those needing in person meetings with business office personnel (i.e. human resources matters) would necessarily increase vehicle trips from and returning to the Hiller Campus.

Vital to Safe and Smooth Traffic Monitoring
These six staff members are trained traffic monitors and constitute a substantial portion of the School's traffic monitoring team. The requested modification would thereby allow for best compliance with the traffic demands outlined in Condition 14e, specifically the TDM Plan. To best execute the TDM Plan, the School has assigned administrators and high-level staff to the roles of assisting. This has enabled us to train a reliable team known to all parents and students. The removal of six monitors (as currently written in Condition 27) will require teaching staff to fill the gap, taking teachers out of the classroom and away from their academic duties. The administrative presence sends the clear message that transportation execution is a high priority.

Proposed TDM Identifies Parking Alternatives Off Hiller Drive
The School's requested change to Condition 27 would create new onsite parking spaces, move more cars off Hiller Drive, and allow for the best operation of these vital offices. The School has identified adequate parking space at the Head of School residence for six spaces and is working to find additional off street locations in Berkeley as a contingency. Moreover, consistent with our single occupancy vehicle reduction target, at least two of the six administrators will come to school via public transportation and carpool.

A Move Is Not Financially Viable
Plans to create space for such an administrative move were predicated on construction of a new middle school on our Lafayette site. That project is no longer viable due to financial reasons. While there is land for new construction on the Lafayette parcel, occupancy of existing buildings on the Lafayette Campus precludes new offices for six people. A portable building would be the most likely solution.

Therefore, the School requests that the six administrators specified in Condition 27 be incorporated into the execution of the TDM Plan and its vehicle counts, reported by Independent Rules Enforcers as outlined in Condition 14i. The School views this request as consistent with the intent of the original condition—fewer cars on Hiller Drive and enables us to support best the other traffic calming conditions currently underway.

We appreciate your careful consideration of our request.

Sincerely,

Duncan Lyon
Assistant Head of School

Klein, Heather

From: Duncan Lyon [dlyon@bentleyschool.net]
Sent: Monday, October 19, 2009 5:19 PM
To: Klein, Heather
Subject: RE: Bentley school staff

Hi Heather:

Six is the answer. Three in the business office. Three in the development office (that group which raises the balance of money that tuition does not so we can break even).

Anything else?

Duncan Lyon
Assistant Head of School
Bentley School
1 Hiller Drive
Oakland, CA 94618
(510) 843-2512 x2468

From: Klein, Heather [mailto:HKlein@oaklandnet.com]
Sent: Monday, October 19, 2009 5:08 PM
To: Duncan Lyon
Subject: Bentley school staff

Hi Duncan,
I'm wondering how many all-school staff are located on the Bentley campus? Specifically any administration staff full or part time that is associated with both the Hiller and the Lafayette campus.

Heather Klein, CGBP, LEED AP
Planner III
City of Oakland

250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
ph: (510) 238-3659
fax:(510) 238-6538
email: hklein@oaklandnet.com

Please consider the environment before printing this e-mail

ATTACHMENT B

CITY OF OAKLAND

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

VIA EMAIL AND US MAIL

January 26, 2010

Mr. Duncan Lyon
Assistant Head of School
Bentley School
1 Hiller Drive
Oakland, CA 94618

RE: Minor Change Request to Case File No.: CM04-411, Condition of Approval 27
Project Address: 1 Hiller Drive

Dear Mr. Lyon,

Staff received your letter dated January 6, 2010 requesting a Minor Change to modify Condition 27 to allow all K-12 administrators and staff (six people) to park off site (not on Hiller Drive or within the Hiller Highlands) and retain existing offices on the Hiller Campus.

The purpose of this letter is to inform you that staff has reviewed your request and determined that this is a Major Change to be considered before the Planning Commission at a noticed public hearing. Condition of Approval 3 governs which Conditions staff may approve as a Minor Change and which Conditions require Planning Commission approval as a Major Change. This Condition doesn't expressly state whether modifications to Condition 27 should be considered a Minor or Major Change, but as explained below, staff considers this to be a Major Change.

The purpose of Condition 27 was to 1) address the intensity of use at the Hiller campus while allowing the school to adequately staff the academic program and the administration of the Hiller campus; and 2) to reduce traffic and parking on Hiller Drive.

The Planning Commission approved Condition 27 relocating administration staff and also approved the current staff number of 62 per Condition 21. The Neighbors for Safety in Hiller Highlands noted this inconsistency and requested that staff reduce the number of permitted staff to account for the relocation of the administration personnel. Planning Staff, specifically, did not decrease the number of Bentley staff to account for this because we wanted the Hiller Campus to maintain adequate staffing levels. Planning Staff did not want to be in the position of dictating what adequate staffing was for the school. However, Planning staff did want to limit the use of Hiller campus only to those personnel as a way to address the intensity of use. Planning Staff specifically did not intend for Condition 21 to be loophole for Condition 27. Since the proposal would not be reducing the intensity of use at the campus and would not be limiting staff to only those directly associated with the Hiller campus, Planning staff considers your request to be a

ATTACHMENT C

Major Change. Furthermore, a Major Change does include any increase in staff. It is reasonable to assume that retaining existing offices, and therefore, existing staff on the Hiller campus would indeed be an increase in staff not contemplated in the Conditions.

While your proposal states that these persons will not drive to the campus, thereby making the parking spaces available to other Hiller campus staff, volunteers, or parents, it will be difficult for the City to enforce this driving and parking ban. During the entitlements process, traffic was a major issue with Planning staff and the neighborhood. Planning staff included a Traffic and Parking Demand Management Program as a Condition of Approval. This was such a significant issue that the review and approval of the plan will occur by the Planning Commission and not at the Planning staff level. Therefore, since your proposal would need to be incorporated into the TDM plan, it is reasonable to assume that this would be a Major Change.

If you choose to pursue this request to the Planning Commission, you will need to submit an application amending this Condition of Approval. The application shall include your findings for amending the Condition and an application fee of $1181.93. Please contact Heather Klein, Planner III, for any other required application materials. This Condition requires compliance before the start of the next school semester (March 8, 2010). You must submit your application to modify this Condition **immediately, but no later than February 1st by 9:00**, so that it can be scheduled for a Planning Commission hearing before the March 8th deadline.

This determination may be appealed pursuant to the administrative appeal procedure in Oakland Planning Code Chapter 17.132. If you, or any interested party, wishes to appeal this determination to the City Planning Commission, the appeal must be submitted within ten (10) calendar days after the date of this letter, and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, Permit Counter, to the attention of Heather Klein, Planner III. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion or wherein this interpretation/determination is not supported by substantial evidence and must include payment **(currently, $ 1181.93)** in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's interpretation/determination in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so will preclude you, or any interested party, from raising such issues during the appeal and/or in court.

If you chose to proceed with an Appeal, please be aware that the Planning Commission will only be considering whether there was error or abuse of discretion or wherein this interpretation/determination is not supported by substantial evidence. The Planning Commission cannot consider the merits of a modification to the Condition of Approval at the appeal hearing. Even if you prevail on the appeal, you would still need to submit an application to amend the Condition, as noted above.

Please contact case planner, Heather Klein, if you have any questions regarding this letter.

Sincerely,

Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

cc: Heather Klein, Planner III
Neighbors for Safety in Hiller Highlands
Mark Wald, Deputy City Attorney
Bill Quesada, Zoning Inspections Unit

1920
SCIRE DESIDERO
BENTLEY SCHOOL

Heather Klein, CGBP, LEED AP
Planner III
City of Oakland
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

March 5, 2010

Dear Ms. Klein,

I am writing to request clarification in regard to Condition 1(b)(vii)'s reference to 62 faculty and staff. Does the City of Oakland want to cap faculty and staff by full time equivalency (FTEs) or cap it in terms of persons employed at Bentley School's Hiller Campus?

Thank for you this clarification.

Sincerely,

Duncan Lyon
Assistant Head of School

ATTACHMENT D

Hiller Campus - 1 Hiller Drive - Oakland, CA 94618 T-510/843-2512 F-510 843-5162
Lafayette Campus - 1000 Upper Happy Valley Road - Lafayette, CA 94549 T-510/843-2512 F-925/299-0469

CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 839-6451

VIA EMAIL AND US MAIL

March 8, 2010

Mr. Duncan Lyon
Assistant Head of School
Bentley School
1 Hiller Drive
Oakland, CA 94618

RE: Determination Letter for Case File No.: CM04-411,
Condition of Approval 1(b)(vii) and 20
Project Address: 1 Hiller Drive

Dear Mr. Lyon,

Staff received your letter dated March 5, 2010 requesting a determination on Conditions 1(b)(vii) and 20 for Case File CM04-411. You specifically requested clarification on whether the number of faculty and staff on the Hiller Campus should be determined by full-time equivalents (FTE's) or actual employees.

The purpose of this letter is to inform you that staff has determined that these and any other possible Condition refer to actual employees and not FTE's.

On October 21, 2009, the Planning Commission approved the Bentley School Conditional Use Permit (CUP) with Condition 20 which specifically limits the school to 62 employees not 62 FTE's. Furthermore, the Planning Commission also modified Condition 14a and 14d referencing 62 staff. It is staff's belief that the Planning Commission wanted to cap the number of staff at 62. Staff does not believe that it was their intent to reference FTE's, as this would result in indefinite number of persons on the campus and more vehicle trips on Hiller Drive. This assumption is supported by the fact that the Planning Commission approved the project with Condition 3 which requires a Major Change for any increase in staff levels.

If you choose to pursue a Major Change to modify this Condition before the Planning Commission, you will need to submit an application amending this Condition of Approval. The application shall include your findings for amending the Condition and an application fee of $1181.93. Please contact Heather Klein, Planner III, for any other required application materials. If you are not in compliance with Conditions 1(b)(vii) and 20 based on this determination, you must submit your application to modify this Condition **immediately, but no later than March 10, 2010 by 9:00**, so that it can be scheduled for a Planning Commission hearing.

ATTACHMENT E

This determination may be appealed pursuant to the administrative appeal procedure in Oakland Planning Code Chapter 17.132. If you, or any interested party, wishes to appeal this determination to the City Planning Commission, the appeal must be submitted within ten (10) calendar days after the date of this letter, and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, Permit Counter, to the attention of Heather Klein, Planner III. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion or wherein this interpretation/determination is not supported by substantial evidence and must include payment **(currently, $ 1181.93)** in accordance with the City of Oakland Master Fee Schedule.. Failure to timely appeal will preclude you, or any interested party, from challenging the City's interpretation/determination in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so will preclude you, or any interested party, from raising such issues during the appeal and/or in court.

If you chose to proceed with an Appeal, please be aware that the Planning Commission will only be considering whether there was error or abuse of discretion or wherein this interpretation/determination is not supported by substantial evidence. The Planning Commission cannot consider the merits of a modification to the Condition of Approval at the appeal hearing. Even if you prevail on the appeal, you would still need to submit an application to amend the Condition, as noted above.

Please contact case planner, Heather Klein, if you have any questions regarding this letter.

Sincerely,

Eric Angstadt
Deputy Director, Community and Economic Development Agency

cc: Heather Klein, Planner III
Neighbors for Safety in Hiller Highlands
Mark Wald, Deputy City Attorney
Bill Quesada, Zoning Inspections Unit

BENTLEY SCHOOL

Planning and Zoning Services Division
Attention: Heather Klein
Dalziel Building
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612-2032

Dear Planning Commission Staff, March 10, 2010

Having received the determination letter of March 8 wherein, for the first time, the City clarified the definition of school staffing levels, we are requesting endorsement of staffing levels at the time of the CUP hearing on the October 21, 2009. As the school employs a mix of full and part-time faculty and staff, we seek codification of 62 FTE with employee cap of 71, which reflects our staffing levels at the time of the October hearing. Our bases for this request are:

- The Environmental Impact Review (EIR) stated that, "school staffing would be limited to a maximum of 62 full time equivalent (FTE) employees"

- Prehearing Conditions of Approval 1 (vii) stated, "Fulltime faculty not to exceed 62 staff" (Note: this condition was revised to read "Faculty and staff not to exceed 62," instantly revising our occupancy levels beyond prehearing levels. A similar revision was made to Condition 21).

- Gary Patton's letter on January 26, 2010, asserts that Planning Staff "wanted the Hiller Campus to maintain adequate staffing levels. Planning Staff did not want to be in the position of dictating what adequate staffing was for the school. Planning Staff did want to limit use of the Hiller Campus…to address the intensity of use."

We feel that our Traffic Demand Management (TDM) plan reflects the ways in which the school would address intensity of use for our existing staffing levels (see below for revised sections 14(a) and 14(d) of the TDM language reflecting 62 FTEs/71 employees). We ask Planning Staff for the opportunity to demonstrate in the remaining months of this school year by way of our traffic current execution on Hiller Drive that the charge from the Planning Commission to operate as a school with a smaller footprint is in full effect and thereby addresses intensity of use concerns.

Sincerely,

Duncan Lyon
Assistant Head of School

ATTACHMENT F

Hiller Campus - 1 Hiller Drive - Oakland, CA 94618 T-510/843-2512 F-510 843-5162
Lafayette Campus - 1000 Upper Happy Valley Road - Lafayette, CA 94549 T-510/843-2512 F-925/299-0469

HILLER CAMPUS STAFFING

FULL / PART TIME FACULTY (47) – those teaching children (hours: FT:8-4, PT: variable)
FULL / PART TIME CHILD CARE (8) -- those supervising children (hours: split shifts)
MAINTENANCE (3) – two custodial staff (hours: 4-11 p.m.)
ADMINISTRATIVE STAFF (12) – see job title details below
1. ***Director of Development and Communications**** (neighborhood liason)
2. **Development Data Base Manager***
3. ***Business Manager****
4. ***Accounts Payable Coordinator****
5. ***Accounts Receivable Coordinator****
6. ***Head of School*** (1/2 time Lafayette)
7. *Head of Lower School***
8. *Head of Middle School/Assistant Head***
9. *Assistant to the Lower and Middle School Heads**
10. *Director of Admissions K-8**
11. Admissions Assistant/Assistant to the Head of School*
12. Receptionist

NOTES:
* Indicates those able to assist traffic (i.e. not supervising children)
**Heads of Lower and Middle Schools available for traffic when not teaching
Bold indicates those pertinent to Condition 27
Italics indicates key team leader for Emergency Management Plan

REVISED SECTIONS 14(a) and 14(d) of TDM REFLECTING 62 FTEs/71 EMPLOYEES

14 (a). PARKING MANAGEMENT STRATEGIES

The School shall provide assigned parking spaces to all full and part time faculty and staff. All of these spaces must be used before on street spaces for staff can be used. Spaces will not be assigned to volunteers or visitors. For the start of the 2010-2011 school year, the School will implement a "Carpool to School" program that includes, but is not limited to, parking space prioritization for carpoolers, transit stipends, carpool stipends, and eligibility into a "Carpool to School" raffle each trimester

In addition, the School will organize a carpool-matching system for staff and faculty. The School currently has 47 on-site parking spaces available for faculty and staff (23 spaces in the upper lot located off of Hiller Drive, 20 spaces in the lower low located off of Tunnel Road, and four parking spaces located at the top of the campus driveway). All of these are assigned to full time faculty and staff. Parking for an additional 15 vehicles is available between 8:30 a.m. and 2:30 p.m. along the west side of Hiller Drive between the School's driveway and Tunnel Road. This is the flat portion of Hiller Drive that does not abut any residences. *Details regarding parking and transit for staffing levels of 62 FTEs/71 employees are outlined in section 14(d) which contains language pertaining to alternative transit options and Single Occupancy Vehicle reduction targets for faculty and staff.*

The School will monitor the demand for parking generated by full and part time faculty and staff and the success of the School's transit and carpool efforts. If it is determined that additional on-site parking spaces are needed for full and part time faculty and staff, the School will extend a good faith effort to secure additional on-site spaces, pending physical, environmental and other constraints. Near term areas for additional on-site parking include: the Head of School Residence and the top of campus driveway. If additional on-site spaces are necessary, the School will phase in additional spaces over time and will evaluate the success of the transit and carpool programs. The School will provide written documentation to the City of Oakland on an annual basis regarding full and part time faculty and staff parking demand, carpool use and transit use, as well as potential efforts to expand on-site parking supply. Documentation will commence in October 2010.

14 (d). REDUCTION OF SINGLE STUDENT OCCUPANT VEHICLES DRIVEN

According to the City of Oakland's Conditions of Approval:

The School shall reduce the number of single occupancy vehicles (SOV) driven by 25% of *431 (360 students and 62 FTEs/71 employees)* by the beginning of the fall trimester 2010 and by 35% by the beginning of the fall trimester 2012. The School shall utilize a variety of options including AC Transit and private shuttle busing, vanpooling, carpooling, walking, and bicycling to achieve this reduction. In the interim, the School shall retain the current use of AC Transit and the private shuttle bus and make reasonable good faith efforts to increase bus ridership until the mandatory reductions become effective. The Transportation Demand Management Plan shall specifically discuss (i) all

alternative transit options and make recommendations regarding how to achieve the trip reduction; (ii) how the school will monitor and report the numbers to the city; (iii) how the city can determine compliance; and (iv) recommend appropriate enforcement options including, a cure period, enrollment reductions, etc. Once city staff has conditionally approved the plan (after review and comment), it shall be noticed on the Planning Commission agenda for review and approval.

Alternative Transportation Options:
The School's efforts to reduce the number of vehicles dropping off and picking students and the number of vehicles dropping off or picking up just one student will consist of the following approaches:

- Carpools: A key aspect of the School's alternative transportation option program will be an ongoing emphasis on carpooling. Since the approval of the School's Conditional Use Permit in October 2009, the increase in carpooling among School parents and employees is substantial. To build on this momentum, the School will form a parent-driven community carpool program to enable casual and regularly established carpools. The School will support the parent committee by facilitating communications and providing data services including mapping and internet tools. The carpooling program will include a GIS carpool matching system. The system's development will include participation by the School's students. A trip match directory will be developed each year.

- Public Transit: The School will continue to promote the use of transit, including the AC Transit Subsidy Program, private buses and shuttles. Additionally, the School may institute additional bus/shuttle programs to cope with temporary situations including holidays, kindergarten walk-ups (early fall trimester), etc. The School will continue to offer a private bus service for all students on both campuses.

- Walking and Bicycling to School: The School will continue to promote its walking and bicycling program for older students and staff. Additionally, the School will continue to advocate for pedestrian and bicyclists infrastructure improvements in local traffic projects (including the Forth Bore project).

- Education and Encouragement: The School will request inclusion in Alameda County's Safe Routes to School program. The SR2S program is a comprehensive and proven approach to getting more children walking and bicycling safely to school. It gives children and parents skills, encouragement, and inspiration through a range of activities, events and lessons, while also addressing local pedestrian and personal safety concerns, as well as environmental considerations.

For the start of the 2010-2011 school year, the School will promote vehicle trip reduction strategies for faculty and staff by providing parking space prioritization for carpoolers, transit stipends, carpool stipends, and eligibility into a "Carpool to School" raffle each trimester. In addition, the School will organize a carpool-matching system for staff and faculty.

The School will continue to survey the community to gauge acceptance of transportation options and solicit additional opportunities for improvement, as appropriate. Additionally, the School will continue to communicate to the community about alternatives through in-person meetings and online communications every trimester, as well as through our Sustainability Leadership Program.

Monitoring and Reporting Trip Reduction
In order to meet the City of Oakland's targets, the School will need to reduce one-way vehicle trips by the values shown below.

Table 2. Vehicle Trip Monitoring
Period Vehicle Trips
(Drop-off or Pick-up)
Baseline *431**
Fall 2010 *323***
Fall 2012 *280****
*(360 Student Enrollment + 62 FTE/*71* employees = *431*)
**(*431* x .75= *323*)
***(*431* x .65 = *280*)

Note Relating to Condition 27: The School will reduce its vehicle trip targets, as listed above, to *317 in fall 2010 and to 274 in fall 2012 if allowed until fall 2010* to demonstrate by way of the vehicle trip monitoring metric above that the existing staffing levels (inclusive of six K-12 administrators) enhance monitoring and do not intensify current site use.

Note Relating to early implementation and reporting: *The School will implement its TDM and begin Independent Rule Enforcer(IRE) reporting of its listed vehicle trip targets within two weeks upon TDM approval rather than beginning reporting in fall 2010, as currently specified.*

Reporting and Compliance
The School's performance will be reported via the Independent Rule Enforcer (IRE) monitoring report. Please see Section H for further information. Compliance will be based on the IRE monitoring reports.

Enforcement Options
In the event that the School does not meet the targeted number of vehicle trips, the School will be granted a Cure Period of one trimester, during which the School will take necessary actions to achieve compliance. If the School fails to reach the target reduction following the Cure Period the School will be required to submit a revised Transportation Demand Management Plan to City staff for approval. Subsequent failure will require Planning Commission to revisit condition 14 (d) for additional repair.

FINDINGS FOR APPROVAL:

The proposed project meets the required findings under Planning Code Section 17.134.050 (Major CUP_ and findings pursuant to California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.). Required findings are shown in bold type; explanations as to why these findings can be made are in normal type. Required findings are also contained within other sections of this report and the administrative record.

Section 17.134.050 (Major) Conditional Use Permit

A. **That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

Bentley School has applied for a Major Conditional Use Permit to increase the student enrollment, hours or operation, allow for childcare and typical school events as well as a possible change in grades. The school has existed since 1970 and has illegally been operating with approximately 352 students (2007-2008 academic year) since after the Oakland Hills Fire in the 1990's when much of the campus was rebuilt. Those buildings that were destroyed were approved pursuant to design review and conditional use permit procedures. No new construction of the school facilities is part of this permit. While the public comments attempt to show that the school is over capacity based on other school lot sizes, the location, size, design, scale, bulk, and coverage have already been approved and therefore deemed compatible with the surrounding residential community. In terms of density, or in this case overall school capacity, fire inspection reports show that the school can accommodate far more occupancy (526 children in classrooms, as a measure of how many people the buildings can safely accommodate) than the school is requesting as part of the enrollment increase.

Staff finds that the project is compatible with and doesn't adversely affect the livability of surrounding area with the stringent conditions of approval. Staff's conclusion is based, in part, on Policy N7.2 in the LUTE as well as several other factors discussed in more detail below.

First, Policy N7.2 states: "Infrastructure availability, environmental constraints and natural features, emergency response and evacuation times, street width and function, prevailing lot size, predominant development type, height, scenic values distance from public transit and desired neighborhood character are among factors that should be taken into account when....determining compatibility." As mentioned above, the proposed project is not including any new construction and is served by existing infrastructure. The EIR has determined that there is no significant environmental impact as a result of the proposed project. Therefore, the project is not incompatible due to infrastructure, environmental constraints and natural features, prevailing lot size, predominant development type, height, and scenic values. Furthermore, the project applicant worked with AC Transit to expand bus ridership to the school.

Second, generally speaking, schools are compatible with residential neighborhoods and neighborhood character. Most schools are located in these areas due to the adjacency of the student base. Schools,

especially urban schools, could be located in commercial areas but these are few and generally occupy spaces that might be better served by retail or other commercial use. (A recent Oakland example of this was the charter school on Hegenberger Road.) Schools are typically not appropriate in industrial areas. In addition, the hallmark of a good neighborhood has historically been that there was a good school nearby.

Third, the enrollment and operational changes proposed have been an existing condition for a decade. The surrounding area continues to be developed with new single family homes, remodeling, and additions so the livability of the area has not compromised. However, there were concerns regarding traffic directed to TSD but these complaints were no different than at any other school and this is addressed below.

Fourth, staff believes that concerns over enrollment and livability are based solely on traffic and traffic-related issues such as the capacity of surrounding streets, U-turns, jay walking, narrow lanes, cones, and traffic queues. Cars u-turning into driveways are typical but can become inconvenient if consistent over a long period of time. However, they are not illegal in this case or generally unsafe and most every driver has executed one. Unsafe crossings are also not illegal unless elevated to actual jaywalking which is not the case at Bentley School. While staff believes that this should be discouraged, this an example of personal responsibility not a land use issue. As for narrow lanes, Oakland has many roads more narrow than Hiller Drive that allow for on-street parking and could be considered an egress issue. From a traffic perspective, neighborhoods are generally considered to be safer with narrow roads. The reasoning is that the wider the road the more comfortable a person feels driving and the faster a person will drive. This is a residential area and adjacent to two existing schools with posted reduced speed limits. Drivers should be driving slower. As shown in the EIR the lanes are of an adequate width. The use of cones is also not a safety issue. Cones are typically placed as signals for drivers to slow down and be more cautious, as in school zones or during construction. While project opponents might feel that this is a hazard, the cone operation was approved by the Transportation Services Division and improved upon by the OPD-Traffic Safety Division staff, individuals mandated to protect the public's health and safety and more experienced in traffic-related safety issues. Cones are not atypical and are used in other school loading zones within Oakland including the School of St. Leo the Great and Thornhill Elementary. Vehicles crossing the yellow lines can do so if done safely. In addition to city staff, the California Highway Patrol visited the site. While the officer found traffic congestion, he noted that the circulation was well managed and not an issue.

Over the past five years the Planning Division, Transportation Services Division (TSD), OPD-Traffic Safety, and Oakland Fire Department, Fire Protection Bureau, have made many visits to the site, reviewed the school operations, and proposed additional measures to deal with the circulation issues. Examples of these improvements include the approval and required training of the flag person by OPD staff, change in the loading area so as to not affect the traffic signal at Hiller and Tunnel, red curbs at the fire hydrants, implementation of the AC Transit bus route to the Hiller Campus, review (but ultimate rejection) of the Tunnel Road drop-off with Caltrans, and the change in the AC Transit's bus stop location. The departments listed above do not believe that any of the traffic issues have been elevated to the point of a public health and safety issue. The Departments have also reviewed the EIR and concur that there would be less than significant traffic impacts.

The School has also proposed measures to deal with the traffic congestion and emergency response. The School developed an emergency system that outlines emergency procedures for parents during school hours. The main component of this is the AlertNow System which sends a message to parents and guardians detailing the emergency and where to come pick up there children. This system has been implemented and tested and is similar to the system in the City of Richmond related to accidents at the

oil refinery. The EIR concludes that emergency response times will not be compromised with the proposed project. The Fire Protection Bureau reviewed the traffic circulation from a standpoint of emergency ingress and egress. (See Appendix C of the FEIR for City memos and attachments). In addition, the School has prepared and implemented a Traffic and Parking Handbook that describes the loading procedures, traffic rules, and the alternative transportation options. Staff has received public comments that the Handbook is not being enforced and this is affecting the livability of the neighborhood.

To address all these transportation related issues and improve livability, staff has included stringent Conditions of Approval including a Transportation Demand Management Program, busing requirements, transit subsidies, enforcement personnel, as well as reporting and monitoring requirements.

Finally, the traffic circulation issues on Hiller are of a short duration each day (a half an hour, in the morning, and in the afternoon approximately an hour on Monday-Thursday and an hour and fifteen minutes on Fridays). The rest of the day there is little traffic congestion. The approval of morning and afternoon childcare actually improves traffic by having the children dropped off and picked up during non-peak times. The School already deals with large events by requiring an off-site loading area and this is continued and required as part of the conditions of approval. Therefore, livability of the area is only impacted, if at all, during small portions of the day. Staff has included conditions of approval limiting events during the school year and on Sundays to further improve livability during non-school hours.

It is for these reasons that staff believes that the project is compatible with area and will not adversely affect livability or the appropriate development of abutting properties and surrounding neighborhoods.

B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.

As noted above, the School already exists on the project site and no additional construction of school facilities are part of this permit. The location, design, and site planning of the School has already been approved and therefore deemed attractive with area and compatible with the surrounding residential community.

C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.

As mentioned above, good neighborhoods are often judged by the quality of the schools in the area and, therefore, successful schools serve a basic community function. The proposed project, with an increase in enrollment and operational changes, will provide an essential service to the community and the region by providing a high quality education to residents of Oakland and the adjacent community. In a city, where the majority of students do not graduate from high-school, Bentley School provides an important service to Oakland and the broader community with approximately 41% of the student body residing in Oakland. Furthermore, Bentley provides financial aid to 25 children who would not otherwise be able to attend the school. Private schools, including Bentley, fulfill a much needed service within the community that cannot be filled within the public school system. The fact that Head Royce, Redwood Day, and Park Day have all submitted applications for enrollment expansion within the past three years is an example of this overwhelming need.

As mentioned above, the opposition to the enrollment seems largely based on traffic related issues. Staff believes that the conditions of project approval addressing traffic enhance the livability and successful operation of the area.

D. **That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

The proposed project does not involve the construction of new facilities that would require a design review permit per this section.

E. **For proposals involving a One- or Two-Family Residential Facility: If the conditional use permit concerns a regulation governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:**

1. **The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or**

2. **At least sixty (60) percent of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any conditional use permit.**

This criterion does not apply to the project because the project is not a one- or two-family residential facility.

F. **That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.**

As shown in the EIR, the project, including the enrollment, conforms to all significant and applicable plans. The proposed project is permitted in residential areas and is not requiring any exceptions from the Planning Code. The project is also a permitted use in the Hillside Residential General Plan designation. The proposed project supports the objectives and policies of the LUTE for this area including: Designing and Maintaining Institutions (Policy N2.1); Supporting Institutional Facilities (Policy N2.3); Balancing City and Local Benefits of Institutions (Policy N2.5); Long Range Development Planning (Policy N2.8); and Making Day Care Available (Policy N12.3), and (Alternative Modes of Transportation (Objective T4). The project is also consistent with Safety Element Policy FI-2.5, (Continue to conduct fire-safety inspections of commercial, multi-family, and institutional buildings), Policy FI-3 (Prioritize the reduction

of wildfire hazards, with an emphasis on prevention), and Pedestrian Element Policy PMP 1.3 Sidewalk Safety and Policy PMP 1.4 Safe Routes to School among others.

The proposed project is consistent with Policy N2.1. The school is a source of community pride and provides an essential service. The School is operated in a manner sensitive as possible to the surrounding residential uses but can be improved upon. As mentioned above the School has implemented several procedures including the emergency management system and the traffic and parking handbook. Staff believes that the conditions of approval will improve livability for the residents.

The proposed project is consistent with Policy N2.3 and N2.3. In addition to a lower and middle school education, the school is proposing childcare facilities, physical education, and extra curricular sports activities. These uses are compatible with the surrounding area and generally considered accessory uses to a school. The childcare use occurs within existing classrooms, before and after school. This use actually facilitates traffic by having the children dropped off and picked up during non-peak times. The School doesn't have large playing fields or outdoor areas on the campus. Therefore, most of these activities will occur within the auditorium. The site can accommodate these uses and the School already has a procedure to deal with any events.

The proposed project is consistent with Policy N2.5. As shown above, the School is not affecting the livability of the area and is not proposing a physical building expansion. The School is providing an essential service, a high-quality education, to Oakland and the community that is not being met through the public school system. Other private schools have also noticed this "need" and have successfully applied for expansion.

The proposed project is consistent with Policy N2.8. While the School has not submitted a master plan that would describe the physical as well as student growth, staff has required this type of long range planning as a condition of approval for any new school facility construction. The public could participate in the master plan process.

The proposed project is consistent with Policy N12.3. The General Plan specifically encourages the inclusion of day cares within schools to address childcare needs when appropriate. Although highly variable on a day to day basis approximately 160 parents take advantage of this service at Bentley School. The school already has the capacity and ability to provide childcare onsite. Furthermore, this service reduces the peak drop-off and pick-off traffic.

The proposed project is consistent with Objective T4. The School has implemented bus service using both a private bus and public transit. The conditions of approval require preparation of a Transportation Demand Management Program, busing requirements, transit subsidies, enforcement personnel, as well as reporting and monitoring requirements.

The proposed project is consistent with Policy FI-2.5 and FI-3 of the Safety Element. Staff has required the preparation of an Emergency Management Plan for the school. This requirement includes yearly fire safety inspections, review of emergency access with the Fire Services Division, earthquake and fire drills, emergency evacuation plans during events and non-school hours, and maintenance of emergency evacuation routes, as well as the preparation of a hill-wide emergency plan.

The proposed project is consistent with Policy PMP 1.3 and 1.4 of the Pedestrian Master Plan. The School has worked for several years with the OPD- Traffic Safety Division to facilitate the pick-up and drop-off situation. The School has developed a traffic and parking handbook that describes pedestrian

safety. The School has also facilitated the movement of the children from the campus to the loading area to avoid pedestrian/vehicle collisions.

The project is also consistent with the "Transit First" policies. City Council Resolution 73036 from 1996 acknowledges Oakland's high levels of transit ridership and the value of eliminating most automobile trips for improved air quality, land use, traffic safety, and livability. It promotes the use of public transportation by directing the City to resolve "any conflicts between public transit and single occupant vehicles on City streets in favor of the transportation mode that provides the greatest mobility for people, rather than vehicles." The School implemented a busing and carpooling program and then expanded this program to include AC Transit bus service and bus passes. The proposed conditions of project approval would promote and support this resolution while indirectly opposing the ease in circulation and parking considered inconsistent with the resolution.

CEQA FINDINGS:

I. INTRODUCTION

1. These findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the City of Oakland Planning Commission in connection with the CEQA review and EIR prepared for the Bentley School Major Conditional Use Permit Project ("the Project"), SCH # 2007052013.

2. These CEQA findings are attached and incorporated by reference into each and every staff report, resolution and ordinance associated with approval the Project.

3. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

II. PROJECT DESCRIPTION

4. The Project, which is the subject of the EIR, is located on 2.4 acres of the entire 4.2 acre school property site located at 1 Hiller Drive near the intersection of Hiller Drive and Tunnel Road. The Project studied in the EIR is an independent private school composed of a Lower School (Kindergarten though grade 5) and Middle School (grades 6 through 8). The proposed Project would legalize and permit the Bentley School's existing day-to-day operations, which are currently in violation of the Major Conditional Use Permit (CUP) granted by the Oakland City Council in 1969. The new Major CUP would closely approximate existing (or current) conditions by permitting a maximum enrollment of 360 students (approximately eight more students than enrolled during the 2007/2008 school year and 160 more students than authorized by the 1969 CUP), expanded hours of operation for a variety of school activities, and a limited number of weekend, evening, and summer events, and the option to change the grade levels from K-8th grade to K-5th grade. The new Major CUP would also permit a maximum of 62 employees at the school, which also reflects existing conditions. In addition, the Project includes a comprehensive busing, carpooling, parking, traffic, and circulation plan, and emergency evacuation program, which have already been implemented at Bentley School. The new CUP would not permit any construction or physical alterations to the campus and would not result in any physical impacts.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

5. The Planning Commission finds and determines that the Project is exempt from CEQA pursuant to CEQA Guidelines Section 15301, which is a category for minor alterations to existing facilities. The property has been operating as a school for a number of years and the applicants are not proposing further physical changes or expansions to this facility. Separately and independently, the Planning Commission finds the Project to be exempt under CEQA Guidelines section 15061(b) (3), which provides that only projects that can be considered to have an environmental effect are subject to CEQA. As this Project is virtually the same as the baseline footprint when the application came in and includes no physical expansion, it is reasonable to state that this would apply as CEQA directs the City to look at proposed changes to the environment, not existing ones. Likewise, the Planning Commission finds the Project to also be exempt from CEQA under Guidelines section 15378(a), since this is not a project as it, again, involves no physical changes. As a further separate and independent basis from the other CEQA findings, pursuant to CEQA section 21083.3 and Guidelines section 15183, the Planning Commission finds: (a) the project is consistent with Land Use and Transportation Element (LUTE) of the General Plan, for which an EIR was certified in March 1998; (b) feasible mitigation measures identified in the LUTE EIR were adopted and have been, or will be, undertaken; (c) this EIR evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts; (d) uniformly applied development policies and/or standards (hereafter called "Standard Conditions of Approval") have previously been adopted and found to, that when applied to future projects, substantially mitigate impacts, and to the extent that no such findings were previously made, the City Planning Commission hereby finds and determines that the Standard Conditions of Approval substantially mitigate environmental impacts (as detailed below); and (e) no substantial new information exists to show that the Standard Conditions of Approval will not substantially mitigate the project and cumulative impacts.

6. Each of the foregoing provisions provides a separate and independent basis for CEQA compliance and when viewed collectively provides an overall basis for CEQA compliance. Although there is no legal requirement for further CEQA review, in the interests of being conservative and responsive to community concerns, the City nevertheless prepared an Environmental Impact Report in full compliance with CEQA, as detailed below. The EIR provides a further separate and independent basis for CEQA compliance.

7. Pursuant to CEQA and the CEQA Guidelines, a Notice of Preparation ("NOP") for the Draft EIR was published on April 27, 2007 stating that land use, transportation, air quality, hazards, noise, public services, and planning policy impacts would be further studied in the EIR. All other topics were found not be significant and were not evaluated in detail in the Draft EIR (see Draft EIR pages 194-196). On May 16, 2007, the Planning Commission conducted an EIR scoping session. The public comment period on the NOP ended on May 28,, 2007. Based on the comments received at the Planning Commission scoping session and in response to the NOP, the scope of the EIR was not expanded to include additional topics.

8. A Draft EIR was prepared for the Project to analyze its environmental impacts. The Draft EIR was properly circulated for a 45-day public review period on October 28, 2008. The Planning Commission held a hearing on the Draft EIR on December 3, 2008.

9. The City received written and oral comments on the Draft EIR. The City prepared responses to comments on environmental issues and made changes to the Draft EIR. The responses to comments, changes to the Draft EIR, and additional information were published in a

10. Response to Comment document/Final EIR on October 9, 2009. The Draft EIR, the Final EIR and all appendices thereto constitute the "EIR" referenced in these findings.

IV. THE ADMINISTRATIVE RECORD

11. The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

a. The EIR and all documents referenced in or relied upon by the EIR.

b. All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the EIR, the approvals, and the Project.

c. All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and subconsultants who prepared the EIR or incorporated into reports presented to the Planning Commission.

d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Bentley School Major Conditional Use Permit Project or the EIR.

e. All final applications, letters, testimony and presentations presented by the project sponsor and its consultants to the City in connection with the Project.

f. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the EIR.

g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.

h. The Standard Conditions of Approval for the Project.

i. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

12. The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the Director of City Planning, Community and Economic Development Agency, or his/her designee. Such documents and other materials are located at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612.

V. CERTIFICATION OF THE EIR

13. In accordance with CEQA, the Planning Commission certifies that the EIR has been completed in compliance with CEQA. The Planning Commission has independently reviewed the record and the EIR prior to certifying the EIR and approving the Project. By these findings, the Planning Commission confirms, ratifies, and adopts the findings and conclusions of the EIR as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City and the Planning Commission.

14. The Planning Commission recognizes that the EIR may contain clerical errors. The Planning Commission reviewed the entirety of the EIR and bases its determination on the substance of the information it contains.

15. The Planning Commission certifies that the EIR is adequate to support all actions in connection with the approval of the Project and all other actions and recommendations as described in the October 21, 2009 Planning Commission staff report. The Planning Commission certifies that the EIR is adequate to support approval of the Project described in the EIR, each component and phase of the Project described in the EIR, any variant of the Project described in the EIR, any minor modifications to the Project or variants described in the EIR and the components of the Project.

VI. ABSENCE OF SIGNIFICANT NEW INFORMATION

16. The Planning Commission recognizes that the Final EIR incorporates information obtained and produced after the Draft EIR was completed, and that the Final EIR contains additions, clarifications, and modifications. The Planning Commission has reviewed and considered the Final EIR and all of this information. The Final EIR does not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA. The new information added to the EIR does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the Draft EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR. Thus, recirculation of the EIR is not required.

17. The Planning Commission finds that the changes and modifications made to the EIR after the Draft EIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

VII. MITIGATION MONITORING & REPORTING PROGRAM (MMRP) AND STANDARD CONDITIONS OF APPROVAL

18. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. However, since there are no significant impacts that require mitigation, and thus no mitigation measures, there is no requirement for an MMRP.

19. However, the City's conditions of approval, including its Standard Conditions of Approval, are attached and incorporated by reference into the October 21, 2009, Planning Commission staff report, and the conditions of approval, as adopted by the Planning Commission, are specific and enforceable and are capable of being fully implemented by the efforts of the City of Oakland, the applicant, and/or other identified public agencies of responsibility. The staff report adequately describes implementation procedures and monitoring responsibility in order to ensure that the Project complies with the adopted conditions of approval, including standard conditions of approval.

20. The Planning Commission has adopted and imposed the standard conditions of approval as set forth in the staff report as enforceable conditions of approval.

21. The standard conditions of approval incorporated into and imposed upon the Project approval will not have new significant environmental impacts that were not analyzed in the EIR. In the event a standard condition of approval recommended in the EIR has been inadvertently omitted from the conditions of approval, that standard condition of approval is adopted and incorporated from the EIR into the staff report by reference and adopted as a condition of approval.

VIII. FINDINGS REGARDING IMPACTS

22. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091, 15092 and/or 15183, the Planning Commission adopts the findings and conclusions regarding impacts, standard conditions of approval that are set forth in the EIR and summarized in the staff report. These findings do not repeat the full discussions of the standard conditions of approval and related explanations contained in the EIR. The Planning Commission ratifies, adopts, and incorporates, as though fully set forth, the analysis, explanation, findings, responses to comments and conclusions of the EIR. The Planning Commission adopts the reasoning of the EIR, staff reports, and presentations provided by the staff and the project sponsor as may be modified by these findings.

23. The Planning Commission recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The Planning Commission acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The Planning Commission has, through review of the evidence and analysis presented in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the Planning Commission to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the EIR and in the record, as well as other relevant information in the record of the proceedings for the Project.

SIGNIFICANT BUT MITIGABLE IMPACTS

24. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b), and to the extent reflected in the EIR, the Planning Commission finds that there are no significant environmental impacts that require any mitigation measures.

LESS THAN SIGNIFICANT IMPACTS

25. The following environmental factors were determined to be less than significant:

a. Aesthetic Resources: This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007 since the Proposed Project would not involve any demolition or construction on site.

b. Agriculture: This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007. The Proposed Project is a school and has been since 1969.

c. Air Quality: The Proposed Project does not involve demolition or construction. The Project would not conflict with an applicable air quality plan; violate any air quality standards; result in a considerable net increase in criteria pollutants; or expose sensitive receptors to substantial pollutants. The Project would not result in total emissions of ROG, NOXx or PM10 over the BAAQMD thresholds or expose persons to substantial levels of Toxic Air contaminants. The project does result in an increase in traffic trips but would not result in an increase in diesel emissions. The EIR quantified Greenhouse Gas Emissions and found that the project did not result in substantial emissions. Furthermore, the Conditions of Approval regarding mandatory bus ridership, transit subsidies, and a traffic demand management program will further reduce already less than significant impacts.

d. Biological Resources: Buildings and paved areas surrounded by low landscaping are present on the site. The project does not involve demolition or construction that would require removal of vegetation considered wildlife habitat. This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007 since the Proposed Project would not involve any demolition or construction on site.

e. Cultural Resources: This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007 since the Proposed Project would not involve any demolition or construction on site.

f. Geology, Soils, and Seismicity: This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007 since the Proposed Project would not involve any demolition or construction on site. Although staff received comments requesting geologic, and soils reports, all buildings with the exception of the administration building were constructed after 1991 due the Oakland Hills Fire and these buildings were constructed in accordance with the applicable building code and were subject to CEQA at the time the buildings were constructed. Therefore, the EIR does not study this environmental factor further.

g. Hazards: The Proposed Project would not impair implementation or interfere with a City adopted emergency response plan or emergency evacuation plan because there is not an adopted plan for the area. The Proposed Project will also not expose people or structures to significant loss, injury or death due to wildfires. The School has prepared Emergency Management Plan which includes: the AlertNow system which notifies parents of emergencies at the

school, describes fire and earthquake drills, and instructs parents not come to the site but instead provide at least one off-site location for these parents. Fire Services Division, Police and Transportation Division staffs are familiar with the project, have made numerous visits to the site, and reviewed the EIR. Their assessment is that the project will not result in significant hazard impacts (including emergency ingress/egress), that the proposed conditions including Fire Protection Bureau occupancy review, site visits by the Fire Protection Bureau, an evacuation plan during events, preparation of an emergency plan in coordination with the neighborhood, and maintenance of on-foot evacuation routes, will further reduce already less than significant impacts, and that the situation at Bentley School is not unlike most schools in Oakland (See Staff memos in Response to Comment document, Appendix C). There is also a Standard Condition of Approval that relates to proper management of vegetation in wildfire areas that requires preparation of a vegetation management plan to remove dead and flammable vegetation from structures. The condition also requires a maintenance agreement with the City of Oakland.

h. Hydrology and Water Quality: This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007 since the Proposed Project would not involve any demolition or construction on site.

i. Land Use: The Proposed Project, including the change in enrollment, operational hours and events, as well as addition of childcare use, would not divide an established community or conflict with surrounding land uses as the school is an existing use and has been located on the site since 1969. Furthermore, schools are typically located in residential areas. The Proposed Project would not conflict with applicable land use policies. Per the staff report and the Conditional Use Permit findings, the use is consistent with many land use policies and objectives.

j. Mineral Resource: This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007. The Proposed Project is a school and has been since 1969. There are no significant mineral resources on the site and the site is surrounded by residential land uses.

k. Noise: The Proposed Project does not involve demolition or construction and therefore there are no impacts related to construction noise. Long term noise monitoring was performed near residential areas. The results concluded that the Proposed Project use will not expose persons to or generate noise in excess of City standards, or violate the Noise Ordinance. The increase in enrollment and events will not have a significant effect as the play areas are located away from residential areas and blocked by existing school buildings. The dominate noise source is traffic on surrounding roadways. Furthermore, the Conditions of Approval regarding mandatory bus ridership, transit subsidies, and a traffic demand management program will further reduce already less than significant impacts related to traffic noise. There is also a Standard Condition of Approval regarding operational noise that

requires adherence to specific performance standards outlined in the Planning Code.

l. Planning Policy: The Proposed Project is consistent with the applicable city planning documents including: Policy N2.1; N2.3; Policy N2.5; N2.8; and N12.3 of the LUTE; PolicyFI-2.5 and FI-3 of the Safety Element; and PMP 1.3 and PMP 1.4 of the Pedestrian Element, as detailed in the CUP Findings, and EIR.

m. Population and Housing: This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007. The Proposed Project is a school and has been since 1969. The Proposed Project does not entail any construction nor introduce new housing to the site.

n. Public Services: The Proposed Project will not require alterations to, construction of, or result in substantial impacts to fire services, police protection, schools, parks, or other facilities. The project is not expected to create a demand for any of these services. Fire Services Division staff made numerous visits to the site. They noted that they can adequately respond to fire emergencies.

o. Recreation: This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007. The Proposed Project is a school and has been since 1969.

p. Transportation and Traffic: The Proposed Project will not result in degradation of LOS to signalized intersections, would not result in a Caltrans peak hour volume warrant to unsignalized intersections, result in a traffic hazard to motorist, pedestrians, or bicycles or conflict with policies supporting alternative transportation. The school has prepared a traffic and parking handbook to address traffic issues during the pick-up and drop-off. They have instituted event policies that use other remote locations. They have satisfied the requirements of the Police Department and maintained the MOU regarding the flagperson. Furthermore, the OPD Traffic Safety Division, the California Highway Patrol, Transportation Services Division, and Fire Services Division staff are familiar with the project and have made numerous visits to the site, with City Departments having also reviewed the EIR. Their assessment is that the project will not result in significant traffic-related impacts, that the proposed conditions will further reduce already less than significant impacts, and that the situation at Bentley School is not unlike most schools in Oakland, and while there is a lot of traffic on the road it is managed appropriately and successfully (See Staff memos in Response to Comment, Appendix C.) Furthermore, the Conditions of Approval regarding mandatory bus ridership, transit subsidies, and a traffic demand management program, traffic and parking handbook, and enforcement of rules will further reduce already less than significant impacts. Standard Condition of Approval # 14 requires preparation of a parking and transportation demand management plan that includes parking strategies, explanation of the student loading process, staggering of pick-up and drop-

off with Kaiser School, bus ridership, traffic assistants, subsidies, rule enforcers, coordination of event traffic, and monitoring.

q. Utilities and Service Systems: This environmental factor was scoped out during the Notice of Preparation of a Draft EIR comment period and the EIR scoping session May 16, 2007. The Proposed Project is a school and has been since 1969 that is adequately serviced.

SIGNIFICANT AND UNAVOIDABLE IMPACTS

26. Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the EIR, the Planning Commission finds that there are no significant unavoidable environmental impacts.

IX. FINDINGS REGARDING ALTERNATIVES

27. The Planning Commission finds that there are no significant and unavoidable environmental impacts, and therefore, no findings regarding alternatives are necessary. Nevertheless, the Planning Commission finds that specific economic, social, environmental, technological, legal or other considerations make infeasible the alternatives to the Project as described in the EIR.

28. The EIR evaluated a reasonable range of alternatives to the original project that was described in the Draft EIR. The Draft EIR identified nine alternatives to the proposed project. Of those nine identified alternatives, five were not analyzed in detail as explained in the Draft EIR. The Planning Commission adopts the EIR's analysis and conclusions eliminating these five alternatives from further consideration. The FEIR also includes an additional alternative analysis (Lake Temescal Drop-off) based on comments received during the DEIR comment period.

29. The five potentially feasible alternatives analyzed in the EIR represent a reasonable range of alternatives. These alternatives include: (1) No Project Alternative; (2) Reduced Enrollment Alternative; (3) Public Transit Alternative; (4) the Tunnel Road Drop-off Alternative; and (5) the Lake Temescal Drop-off Alternative. As presented in the EIR, the alternatives were described and compared with each other and with the proposed project. The No Project Alternative was identified as the environmentally superior alternative. Under CEQA Guidelines section 15126.6(e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. The Public Transit Alternative is the second environmentally superior alternative. However, since the EIR identified no significant or potentially significant impacts, the Public Transit Alternative would only be reducing already less than significant impacts. Thus, the environmentally superior alternative would not represent significant environmental gains compared to the proposed project which includes Conditions of Approval mandating bus ridership, transit subsidies for students and teachers, and a transportation demand management program.

30. The Planning Commission certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the Planning Commission's independent judgment as to alternatives. The Planning Commission finds that the Project provides the best balance between the project sponsor's objectives, the City's goals and objectives, the Project's benefits as described in the Staff Report. The five CEQA alternatives proposed and evaluated in the EIR are rejected for the following reasons. Each individual reason presented below

constitutes a separate and independent basis to reject the project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.

31. No Project Alternative (200 Students): Under the No Project Alternative, the Project would not be undertaken and the school would have to reduce enrollment by about 192 students to abide by the Conditions of Approval set in the 1969 Conditional Use Permit as approved by City Council per Resolution #50269 C.M.S, including a limitation of 200 students. This alternative would further reduce the already less than significant impacts identified in the EIR. This alternative is rejected as infeasible because (a) it would not achieve the Project sponsor's fundamental objectives for the Project, including obtaining a new conditional use permit that reflects the existing enrollment and operational characteristics of the school, support for public transit, or offering day care to parents to address childcare needs; (b) it would not be consistent with the Land Use and Transportation Element of the General Plan related to making daycare available; (c) it would not support and maintain valuable city institutions by reducing the enrollment; (e) it would not result in reduced or managed traffic since the previous Conditional Use Permit did not mandate transit use, transit subsidies, require a transportation demand management program or traffic and parking handbook; (f) it would not provide for enforcement of parental traffic behavior; (g) it would hamper the successful operation of the school by reducing the enrollment to an unsustainable level; and (h) it would not provide the hill area with a coordinated emergency management plan.

32. Reduced Enrollment Alternative (280 Students): Under the Reduced Enrollment Alternative, the Project site would be remain a school and would operate under all the operational changes that would be legalized under the Proposed Project including childcare, hours of operation, event days and hours, and a comprehensive transportation program . However, the current enrollment would be reduced by about 72 students to arrive at 280 students (from 352 students). This alternative would reduce the already less than significant impacts identified in the EIR. This alternative is rejected as infeasible because (a) it would not achieve the Project sponsor's basic objective for the Project which is to obtain a new conditional use permit that reflects the existing enrollment and operational characteristics of the school; (b) it would not be consistent with the goals and policies of the Land Use and Transportation Element of the General Plan including supporting and maintaining valuable city institutions by reducing the enrollment; c) it would hamper the successful operation of the school by reducing the enrollment to an unsustainable level; and d) it would require the relocation of 72 students to other schools thereby increasing the demand at other schools. See also discussion in the Staff Report and CUP findings.

33. Public Transit Alternative: Under the Public Transit Alternative, the Project site would remain as a school and would operate under all the operational changes that would be legalized under the Proposed Project including childcare, hours of operation, and event days and hours. However, 160 students would be required to take public transportation, prohibiting them from being driven to school in single-occupancy vehicles. This alternative would further reduce the already less than significant impacts identified in the EIR. This alternative is rejected as infeasible because (a) it would rely on public transportation such as AC Transit and other shuttle services; (b) since only 160 students (not all students) would need to take transit this alternative would require a higher level of enforcement for only a certain number of students; and (c) this alternative, with a set number not a range, isn't realistic for a variable traffic environment such as a school (e.g., What happens if the student misses the bus? They can't come to school?) and probably will not work for many students/parents.

34. Tunnel Road Drop-off Alternative: Under the Tunnel Road Drop-off Alternative, the Project site would be remain as a school and would operate under all the operational changes that would be legalized under the Proposed Project including childcare, hours of operation, and event days

and hours. Approximately 1/3 of the student body (only families with trips ending in Berkeley) would be required to use Tunnel Road instead of Hiller Drive as the drop-off location. This alternative is rejected

as infeasible because (a) the school would need to secure permission from Caltrans to construct a drop-off area ,Caltrans is opposed to this option, and we also understand Berkeley is opposed to this alternative as well; (b) with limited storage space for loading, the queue could back up to the intersection affecting the traffic signal; (c) since only a limited number of parent would be permitted to use this drop-off, it would require a higher level of enforcement to monitor both Hiller and Tunnel drop-off areas; and (d) there is limited site-line visibility between segments of Tunnel Road and the pick-up/drop-off area.

35. Lake Temescal Drop-off Alternative: Under the Lake Temescal Drop-off Alternative, the Project site would be remain as a school and would operate under all the operational changes that would be legalized under the Proposed Project including childcare, hours of operation, and event days and hours. However, all parents/guardians would be required to use East Bay Regional Park District's (EBRPD) Lake Temescal's parking lot for drop-off and pick-up procedures rather than coming to the school. This alternative would further reduce the already less than significant impacts identified in the EIR. This alternative is rejected as infeasible because (a) it would not achieve the Project sponsor's objectives for the Project such as protecting the safety of the Bentley School children or conduct school operations in a way compatible with existing circulation patterns; (b) would move traffic and circulation issues to another Oakland area and possibly create traffic-related issues near State Route 24; (c) the Temescal parking lot is not under Bentley School's control; d) it would require a more difficult transportation program where EBRPD would need to designate areas for drop-off and pick-up by parents and another location for the shuttles while maintaining access to a public open space; (e) school personnel would have a more difficult time ensuring the safety of students as they move from the parent area to the shuttle area; (f) the school personnel would need to conduct remote monitoring approximately .5 mile away from the school, and (g) would require the school to purchase shuttles to run between Lake Temescal and the school, which may be financially infeasible.

X. STATEMENT OF OVERRIDING CONSIDERATIONS

36. The Planning Commission finds that because there are no significant and unavoidable environmental impacts, no Statement of Overriding Considerations is necessary to be adopted.

Neighbors for Safety in Hiller Highlands
Neighbors.safety.hiller.highlands@gmail.com

March 25, 2010

Dear Heather:

Please find NSHH comments on Bentley's applications for amendments to the 2009 CUP. We will appreciate having these comments included in the packets provided to Planning Commissioners prior to the April 7, 2010 meeting.

As you know, all of these issues were emotionally charged and hotly contested over five years and an EIR. Major concessions were requested with the subject conditions finally agreed upon. These conditions, as set forth as part of the CUP, were specifically agreed to by Bentley. These conditions were the product of careful negotiation, consideration, and mediation. They were not to be used as a strategy for obtaining the CUP and then attempting to negotiate around the agreed upon conditions. It appears that such a tactic is being attempted at this time. Such conduct must not be condoned.

NSHH is opposed to all applications to amend CUP Conditions of Approval 1, 27, 14d, 14g for the additional following reasons. (Detailed comments on each amendment application are included in the two attachments.)

- In October, 2009, Bentley accepted a new CUP which permitted a substantial enrollment increase along with twenty eight operating conditions, including conditions 1 and 27 which the school now wants to dilute.

- The set of twenty eight conditions were carefully considered by Planning Staff, EIR consultants and neighbors. Combined, these conditions provide a map for how the school's increased size and operation must be operated to reduce intensity of use, traffic, parking and environmental footprint.

- NSHH did not appeal the Planning Commission's decision in October 2009 because the Planning Commission approved CUP conditions which neighbors believed could make the school more compatible with the neighborhood.

- NSHH believed that the Conditions of Approval would be enforced and would not be piecemeal amended.

- Planning Staff has not accepted or approved Bentley's Traffic Demand Management Plan and the TDM has no relationship to compliance or enforcement of Conditions 1 and 27. Furthermore, Bentley's suggested alternatives based on the not yet approved TDM would be difficult to monitor and enforce.

- CUP Conditions 1 and 27 can be measured and enforced. They will reduce intensity of use at the Hiller Campus and improve traffic and safety near the school site and meet the goals of the Planning Staff and Planning Commission.

Thank you for your consideration,
Neighbors for Safety in Hiller Highlands

ATTACHMENT H

RE: Bentley proposed amendment to condition 27
Re Administrative Staff relocation
NSHH comments are inserted in red
3/25/10

BENTLEY SCHOOL

Heather Klein, CGBP, LEED AP
Planner III
City of Oakland
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612

Dear Ms. Klein: February 18, 2010

On Wednesday, February 17, 2010, the Bentley School ("the School") submitted its Transportation Demand Management (TDM) Plan to the City of Oakland. The TDM attempts to codify best transit practices to make the School a model of parking and traffic efficiency as we respect the environment and our neighbors by decreasing vehicle trips to and from campus in a manner that is educative, encouraging, and enforceable.

The School's Conditions of Approval establishes a single occupancy vehicle (SOV) vehicle reduction target of 317 (25% reduction of 422). In its TDM plan, the School establishes a stronger commitment to reduce the threshold listed therein to 311 in Fall 2010 and to 268 in Fall 2012 if allowed until fall 2010 to demonstrate by way of the vehicle trip monitoring metric above that the existing staffing levels (inclusive of six K-12 administrators) enhance monitoring and do not intensify current site use.

NSH challenges Bentley's assertion that COA 27 applies to only six people. We request that they provide complete documentation and independent verification. We challenge Bentley's restating of Condition 27. Condition 27 does not require that traffic monitors move to Lafayette and it doe not require top administrators to serve as monitors.

The City and neighbors have repeatedly expressed a concern about the current intensity of use on the Hiller Campus. Bentley's plan, if Condition #27 is amended, is to maintain current use in enrollment and staff levels. Removing administrators will decrease intensity of use and move many daily activities and vehicle trips, from the Hiller Campus.

The School believes that by allowing the six *administrators* specified in Condition 27 to remain on the Hiller Campus, the spirit of its Condition Use Permit will be strengthened in the following ways:

> *Condition 27 specifies that Bentley shall move all of the school administration offices and persons not directly associated with the Hiller Campus academic program to the other campus by 3/8/10. This includes, at a minimum, Office of Head of School, Development, Finance, Admissions and Parent Association. We have identified numerous job titles from Bentley documents that would also come under Condition 27.*
>
> *Bentley repeatedly misstates the condition.*
>
> *In addition, in regard to Condition 21, the EIR reported that Bentley had 62 FTE employees, 10 of whom were part time. This suggests that Bentley has counted 10 part time employees as 5 FTE employees. Bentley should provide a complete roster of their entire staff to City or a third party for verification.*

Existing Conditions Have Nominal Traffic Impact

The School's administrator and staff traffic is a small proportion of the overall school traffic. The largest reductions in traffic will be gained by reducing student-related trips, not administrator and staff trips. The School has a plan to reduce administrator and staff trips and parking demand in its TDM, as well as student related vehicle trips.

> *COA 27 is highly related to Intensity of Use. Moving these administrators shifts the center of the school to Lafayette where Bentley has made an investment in its future and spent most of its money. Condition 27 is particularly important in the COA package because it is one of the conditions which can be easily measured and by City staff whereas Bentley's suggestion that their staff will stay and park in various alternate locations is difficult to monitor and enforce..*

Staff traffic, which is lower than student-related traffic, occurs at different times (before morning drop-off and after afternoon pick-up), so it is not additive to overall traffic congestion.

> *Traffic related to these staff positions occurs throughout the day because of meetings. Currently, Upper school staff needing to meet would be travelling to Hiller – the direction of the travel will simply be reversed. But in addition, the business and leadership positions would require meeting with outside consultants such as accountants, business people, bankers, parents, who would, presumably meet at the new office location.*

Additionally, our analysis of moving these offices to Lafayette indicates an increase in car trips to and from the Hiller Campus by these administrators and staff and by those on the Hiller Campus needing to meet with them. Given that our K-8 (nine grades) is located in Oakland and our 9-12 (four grades) is located in Lafayette, those needing in

person meetings with business office personnel (i.e. human resources matters) would necessarily increase vehicle trips from and returning to the Hiller Campus.

It would be helpful to see the traffic analysis that Bentley refers to. It is hard to believe that when there is a split campus there wouldn't be somewhat similar traffic in both directions. This condition simply reverses the direction for school related meetings and offers the benefit that other necessary meetings will no longer occur on Hiller. In addition for cost and environmental reasons, many meetings which used to be face to face are likely to us alternative electronic or mobile arrangement which reduce the footprint.

Many meetings such as human resources matters can and will be done easily by phone once staff is relocated. People tend to plan their time to avoid duplicate trips and so it is likely that people who need to see Human Resources in person could do so on the way to Hiller and not make a round trip to and from as suggested. Enforcement of this condition will reduce the number of meetings, intensity of use and traffic.

Vital to Safe and Smooth Traffic Monitoring

These six staff members are trained traffic monitors and constitute a substantial portion of the School's traffic monitoring team. The requested modification would thereby allow for best compliance with the traffic demands outlined in Condition 14e, specifically the TDM Plan. To best execute the TDM Plan, the School has assigned administrators and high-level staff to the roles of assisting. This has enabled us to train a reliable team known to all parents and students. The removal of six monitors (as currently written in Condition 27) will require teaching staff to fill the gap, taking teachers out of the classroom and away from their academic duties. The administrative presence sends the clear message that transportation execution is a high priority.

Only the flag person receives periodic training from OPD. The COA does not require the removal of monitors and there is no specification in the COA that the monitors must be top level administrators. In fact, several of the current monitors ***are not*** *staff who would be moved under 27 and they can continue to train others and stabilize the crew. This is an empty argument.*

In addition, Bentley's new TDM calls for training students to assist with this function. The COA requires that the school have trained alternates to cover these positions. The school has a large body of people including administrators, teachers, parents, part time staff and hired contractors who can be trained for this job. Safe Routes to Schools and other school models should be consulted.

It is highly unusual that only Bentley's top administrators are capable of doing this job. Perhaps, within the TDM, the school can develop another way to communicate "the clear message that transportation execution is a high

priority". Schools throughout the City are functioning with trained volunteers to manage their traffic.

We have seen very little exercise of authority among high level administrators monitoring the drop off line. Buses still go the wrong way and park incorrectly and drivers still make incorrect turns and occasionally jaywalk. There is no evidence that monitors need to be top administrators. The school, however, needs to be accountable for adequately and appropriately staffing the loading zone.

Proposed TDM Identifies Parking Alternatives Off Hiller Drive

The School's requested change to Condition 27 would create new onsite parking spaces, move more cars off Hiller Drive, and allow for the best operation of these vital offices. The School has identified adequate parking space at the Head of School residence for six spaces and is working to find additional off street locations in Berkeley as a contingency. Moreover, consistent with our single occupancy vehicle reduction target, at least two of the six administrators will come to school via public transportation and carpool.

The same increase in onsite parking spaces and reduced traffic will occur once the required staff is moved from the campus.

Since the Berkeley properties are not approved for parking lots creating more spaces on them is premature. Can Bentley provide more information on who it is working with to find additional off street locations in Berkeley?

NSHH is opposed to granting amendments to the Conditions of Approval based on Bentley's promise that it will make a best effort to meet the Planning Commissioners objectives. The, condition should be enforced as they were written.

A Move Is Not Financially Viable

Plans to create space for such an administrative move were predicated on construction of a new middle school on our Lafayette site. That project is no longer viable due to financial reasons. While there is land for new construction on the Lafayette parcel, occupancy of existing buildings on the Lafayette Campus precludes new offices for six people. A portable building would be the most likely solution.

Where Bentley relocates its staff on the Lafayette campus is at its own discretion. A portable building seems like a quick and inexpensive solution. Bentley leadership has known since 2008 when they suspended their capital campaign that they did not have funding for the Middle School in Lafayette. Bentley should have appealed this condition rather than trying to erase it with a minor administrative change. Bentley signed this legal document just 4 months ago and if they aren't going to abide by it then the enrollment limit should be reduced. .

Therefore, the School requests that the six administrators specified in Condition 27 be incorporated into the execution of the TDM Plan and its vehicle counts, reported by Independent Rules Enforcers as outlined in Condition 14i. The School views this request as consistent with the intent of the original condition—fewer cars on Hiller Drive and enables us to support best the other traffic calming conditions currently underway.

> *NSHH dropped its opposition to the enrollment increase in favor of other conditions on intensity of use including the calendar, hours of operation and, traffic and parking improvements. The school has not complied with many of these conditions yet it is operating with all of the privileges it sought in the CUP. NSHH sees no reason to extend more benefits to Bentley until it has a track record of operating consistently within the conditions of their CUP.*
>
> *NSHH disagrees with Bentley's conclusion and believes that:*
>
> - *Vehicle traffic will be reduced throughout the day by transferring all of the staff specified in COA 27 to Lafayette.*
> - *Intensity of Use will be reduced.*
> - *Borderline occupancy of some rooms will be improved*
> - *Remaining administrative staff; parents, volunteers, students or hired monitors can be trained to be as effective as the current monitors.*

We appreciate your careful consideration of our request.

Sincerely,

Duncan Lyon
Assistant Head of School

NSHH Comments on Bentley Application to Amend Condition 1 (FTE)

(and related Conditions 14d, 14g and 27)
NSHH comments Shown in RED
3/25/10

Planning and Zoning Services Division
Attention: Heather Klein
Dalziel Building
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612-2032

Dear Planning Commission Staff, March 10, 2010

Having received the determination letter of March 8 wherein, for the first time, the City clarified the definition of school staffing levels, we are requesting endorsement of staffing levels at the time of the CUP hearing on the October 21, 2009. As the school employs a mix of full and part-time faculty and staff, we seek codification of 62 FTE with employee cap of 71, which reflects our staffing levels at the time of the October hearing. Our bases for this request are:

- The Environmental Impact Review (EIR) stated that, "school staffing would be limited to a maximum of 62 full time equivalent (FTE) employees"

Final language for Condition 1 was clearly shown as a markup of earlier drafts in the notice Approval letter dated October 29, 2009. NSHH read the final documents carefully when they were published and was aware of this important clarification of staff limits in the final COA. NSHH believes that it was the Planning Commission's intent to reduce vehicle traffic and intensity of use. Bentley accepted and signed these conditions in October **without appeal**. The compliance deadline has passed.

Using an FTE equation could potentially increase vehicle traffic and intensity of use..

- Prehearing Conditions of Approval 1 (vii) stated, "Fulltime faculty not to exceed 62 staff" (Note: this condition was revised to read "Faculty and staff not to exceed 62," instantly revising our occupancy levels beyond prehearing levels. A similar revision was made to Condition 21).

Bentley seems to be suggesting that the earlier drafts should take precedence over the final conditions formalized at the PC hearing. It is hard to believe that Bentley did not read and understand the conditions before accepting and recording this important document.

- Gary Patton's letter on January 26, 2010, asserts that Planning Staff "wanted the Hiller Campus to maintain adequate staffing levels. Planning Staff did not want to be in the position of dictating what adequate staffing was for the school. Planning Staff did want to limit use of the Hiller Campus…to address the intensity of use."

Bentley's excerpt leaves out Mr. Patton's statement that "Planning Staff specifically did not intend for Condition 21 to be a loophole for Condition 27."

Neither of Bentley's proposed amendments will advance the Staff and Commission goals of reducing intensity of use at the Hiller campus. Both amendments would increase overall staff and traffic at the site.

NSHH is opposed to diluting these important quantifiable conditions based on Bentley's additional promises of greater enforcement. These conditions are part of a whole package of conditions that, taken together, are a map for operating a larger school operation in the context of a residential neighborhood with two neighboring schools.

We feel that our Traffic Demand Management (TDM) plan reflects the ways in which the school would address intensity of use for our existing staffing levels (see below for revised sections 14(a) and 14(d) of the TDM language reflecting 62 FTEs/71 employees). We ask Planning Staff for the opportunity to demonstrate in the remaining months of this school year by way of our traffic current execution on Hiller Drive that the charge from the Planning Commission to operate as a school with a smaller footprint is in full effect and thereby addresses intensity of use concerns.

Heather Klein's letter dated 3/12/2010 described the TDM plan as inadequate. Bentley has been given an additional month to complete the missing elements including setting goals and specific targets and enforcement measures that must include reducing enrollment.

The TDM is irrelevant to these two proposed amendments at this time because Bentley's TDM draft is inadequate and has been sent back to the drawing board. Bentley bases their request to modify Condition 1 and 27 on an inadequate TDM draft.

The condition to cap faculty and staff at 62 should remain in effect as it is written and enforcement should proceed without further delay.

Sincerely,

Duncan Lyon

Assistant Head of School

HILLER CAMPUS STAFFING

FULL / PART TIME FACULTY (47) – those teaching children (hours: FT:8-4, PT: variable)
FULL / PART TIME CHILD CARE (8) – those supervising children (hours: split shifts)
MAINTENANCE (3) – two custodial staff (hours: 4-11 p.m.)
ADMINISTRATIVE STAFF (12) – see job title details below
1. ***Director of Development and Communications**** (neighborhood liason)
2. **Development Data Base Manager***
3. ***Business Manager****
4. ***Accounts Payable Coordinator****
5. ***Accounts Receivable Coordinator****
6. ***Head of School*** (1/2 time Lafayette)
7. *Head of Lower School***
8. *Head of Middle School/Assistant Head***
9. *Assistant to the Lower and Middle School Heads**
10. *Director of Admissions K-8**
11. Admissions Assistant/Assistant to the Head of School*
12. Receptionist

NOTES:
* Indicates those able to assist traffic (i.e. not supervising children)
**Heads of Lower and Middle Schools available for traffic when not teaching
Bold indicates those pertinent to Condition 27
Italics indicates key team leader for Emergency Management Plan

The TDM has not been approved and thus, it is not relevant to the consideration of the modifying conditions 1 and 27.

However, even in the TDM draft, the school will begin having students and additional staff trained by OPD to conduct traffic monitoring. It will not be necessary for the school's top administrators to be located at the Hiller Campus to open car doors and monitor traffic. In addition, there is nothing in the CUP that precludes using volunteer parents or traffic management personnel for the monitoring function. All persons facilitating the traffic program should be subsidized and encouraged to participate in Bentley's transit programs.

Since the Neighborhood Liaison Committee meets in the evenings and conducts all of its additional functions by email it is not necessary that the director of Development and Communications work at the Hiller Campus for the purpose of participating in the NLC meetings.

Condition 27 should be enforced immediately. Bentley should be required to provide complete details on the number of staff at the campus. In addition to the six positions listed above, Human Resources and any other non-teaching staff must be moved from the Hiller Campus per condition 27. The Parent Association, which meets regularly at the Hiller Campus during the day and some evenings, must move its regular day and evening meetings and fund raising off the Hiller campus per Condition 27. Bentley should comply with Condition 1 which caps Hiller Drive staff at 62.

Compliance of these two conditions will help achieve the Planning Commission's goal of reducing parking, traffic and intensity of use.

REVISED SECTIONS 14(a) and 14(d) of TDM REFLECTING 62 FTEs/71 EMPLOYEES

As noted above, the TDM draft is not adequate and has not been approved. Thus TDM elements pasted into the request for amendment to the CUP Condition 1 & 27 are irrelevant to the review of the proposed amendments.

14 (a). PARKING MANAGEMENT STRATEGIES

The School shall provide assigned parking spaces to all full and part time faculty and staff. All of these spaces must be used before on street spaces for staff can be used. Spaces will not be assigned to volunteers or visitors. For the start of the 2010-2011 school year, the School will implement a "Carpool to School" program that includes, but is not limited to, parking space prioritization for carpoolers, transit stipends, carpool stipends, and eligibility into a "Carpool to School" raffle each trimester

In addition, the School will organize a carpool-matching system for staff and faculty. The School currently has 47 on-site parking spaces available for faculty and staff (23 spaces in the upper lot located off of Hiller Drive, 20 spaces in the lower low located off of Tunnel Road, and four parking spaces located at the top of the campus driveway). All of these are assigned to full time faculty and staff. Parking for an additional 15 vehicles is available between 8:30 a.m. and 2:30 p.m. along the west side of Hiller Drive between the School's driveway and Tunnel Road. This is the flat portion of Hiller Drive that does not abut any residences. *Details regarding parking and transit for staffing levels of 62 FTEs/71 employees are outlined in section 14(d) which contains language pertaining to alternative transit options and Single Occupancy Vehicle reduction targets for faculty and staff.*

The School will monitor the demand for parking generated by full and part time faculty and staff and the success of the School's transit and carpool efforts. If it is determined that additional on-site parking spaces are needed for full and part time faculty and staff,

the School will extend a good faith effort to secure additional on-site spaces, pending physical, environmental and other constraints. Near term areas for additional on-site parking include: the Head of School Residence and the top of campus driveway. If additional on-site spaces are necessary, the School will phase in additional spaces over time and will evaluate the success of the transit and carpool programs. The School will provide written documentation to the City of Oakland on an annual basis regarding full and part time faculty and staff parking demand, carpool use and transit use, as well as potential efforts to expand on-site parking supply. Documentation will commence in October 2010.

Bentley has not completed the TDM, it is not approved, and they have not provided data that they have reduced vehicle trips, parking and intensity of use or increased bus ridership.

Thus, there is no justification for increasing the limits on staff. Enforcement should begin immediately without further delay.

14 (d). REDUCTION OF SINGLE STUDENT OCCUPANT VEHICLES DRIVEN
According to the City of Oakland's Conditions of Approval:

The School shall reduce the number of single occupancy vehicles (SOV) driven by 25% of *431 (360 students and 62 FTEs/71 employees)* by the beginning of the fall trimester 2010 and by 35% by the beginning of the fall trimester 2012. The School shall utilize a variety of options including AC Transit and private shuttle busing, vanpooling, carpooling, walking, and bicycling to achieve this reduction. In the interim, the School shall retain the current use of AC Transit and the private shuttle bus and make reasonable good faith efforts to increase bus ridership until the mandatory reductions become effective. The Transportation Demand Management Plan shall specifically discuss (i) all alternative transit options and make recommendations regarding how to achieve the trip reduction; (ii) how the school will monitor and report the numbers to the city; (iii) how the city can determine compliance; and (iv) recommend appropriate enforcement options including, a cure period, enrollment reductions, etc. Once city staff has conditionally approved the plan (after review and comment), it shall be noticed on the Planning Commission agenda for review and approval.

Under Conditions 1 and 14d the school is required to **retain the current use of AC Transit and shuttles (COA 1 and 14d) and ...**good faith effort to increase bus ridership, shuttles (14d) specifically address how to achieve the **trip reductions** in the TDM. (14d). The CUP conditions were developed to offset the granting of increased permitted enrollment by limiting staff size, auto traffic and intensity of use by several means.

Bentley has not completed its TDM or provided data to suggest that the use of AC Transit or shuttles or carpools has increased or intensity of use has decreased since the granting of the CUP.

NSHH is opposed to modifications to the CUP conditions based on promises to enforce a not yet complete TDM.

Alternative Transportation Options:
The School's efforts to reduce the number of vehicles dropping off and picking students and the number of vehicles dropping off or picking up just one student will consist of the following approaches:

Bentley appears to be piecemealing elements of the unfinished TDM into the COAs. These modifications substantially rewrite the COAs that were vetted through the long review process. NSHH is opposed to piecemeal amendments to the CUP.

- Carpools: A key aspect of the School's alternative transportation option program will be an ongoing emphasis on carpooling. Since the approval of the School's Conditional Use Permit in October 2009, the increase in carpooling among School parents and employees is substantial. To build on this momentum, the School will form a parent-driven community carpool program to enable casual and regularly established carpools. The School will support the parent committee by facilitating communications and providing data services including mapping and internet tools. The carpooling program will include a GIS carpool matching system. The system's development will include participation by the School's students. A trip match directory will be developed each year.

- Public Transit: The School will continue to promote the use of transit, including the AC Transit Subsidy Program, private buses and shuttles. Additionally, the School may institute additional bus/shuttle programs to cope with temporary situations including holidays, kindergarten walk-ups (early fall trimester), etc. The School will continue to offer a private bus service for all students on both campuses.

- Walking and Bicycling to School: The School will continue to promote its walking and bicycling program for older students and staff. Additionally, the School will continue to advocate for pedestrian and bicyclists infrastructure improvements in local traffic projects (including the Forth Bore project).

- Education and Encouragement: The School will request inclusion in Alameda County's Safe Routes to School program. The SR2S program is a comprehensive and proven approach to getting more children walking and bicycling safely to school. It gives children and parents skills, encouragement, and inspiration through a range of activities, events and lessons, while also addressing local pedestrian and personal safety concerns, as well as environmental considerations.

For the start of the 2010-2011 school year, the School will promote vehicle trip reduction strategies for faculty and staff by providing parking space prioritization for carpoolers, transit stipends, carpool stipends, and eligibility into a "Carpool to School" raffle each

trimester. In addition, the School will organize a carpool-matching system for staff and faculty.

The School will continue to survey the community to gauge acceptance of transportation options and solicit additional opportunities for improvement, as appropriate. Additionally, the School will continue to communicate to the community about alternatives through in-person meetings and online communications every trimester, as well as through our Sustainability Leadership Program.

To date, Bentley has a poor record of complying with COA 24 which created the Neighborhood Liaison Committee. Although the committee has convened, Bentley has repeatedly failed to timely provide the most important documents, including all of their applications for amendments to the CUP, so they can be reviewed and discussed and transferred back to community members

Bentley's TDM is not complete or approved. NSHH is opposed to modifying the COAs by increasing staff caps and traffic allowances in exchange for promises of future compliance.

Bentley has not provided information on the Sustainability Leadership Program or its relevance to the amendment at issue.

Monitoring and Reporting Trip Reduction
In order to meet the City of Oakland's targets, the School will need to reduce one-way vehicle trips by the values shown below.

Table 2. Vehicle Trip Monitoring
Period Vehicle Trips
(Drop-off or Pick-up)
Baseline *431**
Fall 2010 *323***
Fall 2012 *280****
*(360 Student Enrollment + 62 FTE/*71* employees = *431*)
**(*431* x .75= *323*)
***(*431* x .65 = *280*)

Note Relating to Condition 27: The School will reduce its vehicle trip targets, as listed above, to *317 in fall 2010 and to 274 in fall 2012 if allowed until fall 2010* to demonstrate by way of the vehicle trip monitoring metric above that the existing staffing levels (inclusive of six K-12 administrators) enhance monitoring and do not intensify current site use.

The TDM is not complete or approved. The baseline for measuring trip reductions and the target vehicle traffic are not yet determined.

A great deal of time went in to observing and measuring the current levels of traffic at the Hiller site in the CUP application, the traffic studies and the traffic video. The Planning Commission, as noted in Condition 14d intended that the school's traffic, its carbon footprint and intensity of use should be reduced on an escalating basis over the next three years. Bentley's draft TDM targets for vehicle traffic are higher than their current use.

Given the intention of the Planning Commission to reduce traffic, carbon footprint and intensity of use, it is hard to understand why the language of this condition would be interpreted as allowing for an increase in SOV by approximately 90 cars more than the current use described in the CUP application and which the school is supposed to be maintaining per condition 1 and 14.

Note Relating to early implementation and reporting: *The School will implement its TDM and begin Independent Rule Enforcer(IRE) reporting of its listed vehicle trip targets within two weeks upon TDM approval rather than beginning reporting in fall 2010, as currently specified.*

It seems odd that Bentley is offering to advance a deadline for compliance when they have already delayed the deadline for providing a complete TDM. It is a moot point to offer to begin an early implementation which can't possibly occur before May when only 2-3 weeks of school remain.

Reporting and Compliance

The School's performance will be reported via the Independent Rule Enforcer (IRE) monitoring report. Please see Section H for further information. Compliance will be based on the IRE monitoring reports.

Again, Bentley is offering to substitute elements of the TDM into the CUP and Conditions of Approval. The TDM has not been reviewed or approved at this time.

Enforcement Options

In the event that the School does not meet the targeted number of vehicle trips, the School will be granted a Cure Period of one trimester, during which the School will take necessary actions to achieve compliance. If the School fails to reach the target reduction

following the Cure Period the School will be required to submit a revised Transportation Demand Management Plan to City staff for approval. Subsequent failure will require Planning Commission to revisit condition 14 (d) for additional repair.

These enforcement options preserve all of Bentley's benefits from the CUP, indefinitely prolong the period for compliance and include no meaningful inducements to comply. A meaningful inducement for compliance must include an enforcement action of reducing enrollment.

NSHH opposes the proposed modifications to Conditions 1 and 27 and asks that the City move forward with enforcement of all conditions of the CUP.

Klein, Heather

From: R Gordon Piper [rgpiper@sbcglobal.net]
Sent: Monday, March 22, 2010 6:32 PM
To: Klein, Heather
Cc: \'Donna Karch\'; linda harris
Subject: Re: Bentley Employees; Hours of Operation

So can you tell me how you determined that staff working until 7:35 or 7:40 in the evening with no scheduled event is not a violation of the CUP hours of operations, and why you believe the instances instances I reported are not violations? Did Bentley School provide any documentation to you regarding these instances, and if so can I see what they provided? Isn't Bentley School supposed to provide a response to CUP Hotline complaints in 48 hours? Can you explain what your standards or criteria are for determining if there is compliance with the CUP hours of operations?

Can you also tell me how many employees you determined that the Bentley School now has and how this was determined or when? I previously asked for this information when you asked if there were any questions, and have still received no response from you.
Gordon Piper

From: "Klein, Heather" <HKlein@oaklandnet.com>
To: R Gordon Piper <rgpiper@sbcglobal.net>
Sent: Mon, March 22, 2010 9:23:19 AM
Subject: RE: Bentley Employees

As for the hours of operation, this information was passed along to the Planning Commission. We do not believe that these are instances are violations of the CUP hours of operation. The school is currently in compliance with all the conditions.

Heather Klein, CGBP, LEED AP
Planner III
City of Oakland

250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
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email: hklein@oaklandnet.com

Please consider the environment before printing this e-mail

From: R Gordon Piper [mailto:rgpiper@sbcglobal.net]
Sent: Monday, March 22, 2010 8:13 AM
To: Klein, Heather
Subject: Bentley Employees

You asked sometime back if there were any questions relative to Bentley School and I asked for clarification regarding the number of actual employees had. Can you advise if you or anyone at CEDA followed up and made a determination on how many employees they currently have, and if they are in violation of the 62 employee limit set forth in the CUP? I would appreciate your feedback on this.

I also would like to know what if anything that you or anyone at CEDA have done in relation to the continuing violations of the Hours of Operations condition of the CUP. Has the information on this been shared with the Planning Commission members? Have you gotten feedback from Bentley School or any clarification as to what steps are being taken if any to correct and stop these violations? I would like to know what steps are being taken by City staff if any to address CUP violations.

Gordon Piper

NEIGHBORS FOR SAFETY IN HILLER HIGHLANDS

Neighbors.safety.hiller.highlands@gmail.com

TO: Heather Klein March 22, 2010

RE: Bentley Proposed Amendments to the CUP

Dear Heather:

Thank you for sending the additional documents. We appreciate that staff concluded that the TDM was inadequate in a number of significant ways and that further work is required before it can be approved. Unfortunately, as we expected, Bentley's failure to heed your calls in December and January for an early decision on the scope of work and hiring a consultant has delayed action or enforcement of the TDM, probably until the end of the school year.

Regarding the process for review of Bentley's proposed amendments:

1. Did Bentley submit an application and fee for both Condition #1 amendment and for the Condition #14d, g amendments included in their amendment request dated 3/10/2010? Your determination letter dated 3/8/10 indicated that Bentley would need to pay a fee along with the application to amend by 3/10.
2. Devereaux Smith sent an email to Donna saying that although their appeal to amend COA #1 is dated 3/10/10, it was not completed or submitted to Planning Commission until 3/15.
3. Did the addition of Condition #1 to the 4/7/10 PC agenda comply with public notification deadlines? We received your email notification on 3/18 and the printed agenda on 3/19.
4. A great deal of staff and community time is spent on this piecemeal amending of the CUP. The CUP and conditions are good documents that we all agreed to, whether we liked each condition or not, and we hope that enforcement will proceed without further piecemeal and delaying amendments. The Commissioners were clear that being granted the full enrollment after years of noncompliance came with a cost.
5. Is Bentley paying for staff time for these amendments?

Regarding Bentley's Amendment Request for Conditions #1 and #14d, g:

1. Your 3/12/10 letter to Mr. Parisi called out numerous deficiencies in the TDM as it is written and referred it back for "a lot more work" on some key elements.
2. Bentley has based their request to modify Condition #1 and #14d,g on promising they will comply with the draft TDM which is inadequate and not approved.
3. Bentley has inserted excerpts from the TDM as if these have been approved and are being implemented.

4. NSHH is concerned that this process of Bentley **promising** to comply with a TDM that still needs more work in exchange for Commission approval of amendments to the Conditions of Approval , could become circuitous and completely derail Staff, Commission and Community efforts to create a viable, working, and enforceable document.
5. We urge you to consider Bentley's requests to amend both Condition #27 and Condition #1, dealing with staff levels, in the context of the whole set of CUP conditions and not in the context of its draft TDM.

Regarding 25% SOV vehicle reduction in Condition #14d:

We have spent a lot of time trying to understand the apparent conflict between the CUP requirement that, on one hand, the school "retain the current use of AC Transit and private shuttle and make reasonable good faith efforts to increase bus ridership...and to achieve the mandatory trip reduction (#1 &#14d COA); and on the other hand interpreting condition #14d in a way that allows the school to increase SOVs above the current use that conditions #1 and #14 require.

NSHH has prepared additional comments on the SOV target which illustrate a way to blend the condition's two requirements to both maintain current use and also to achieve a meaningful reduction in SOV traffic. We would like to review these ideas with you before you complete your staff report on the proposed amendments to Condition #1 and #27 and while the TDM is still in development

Regarding Other Conditions:

1. What is the status of enforcing the limitations on hours of operations and event and weekend activity? As you can see from our review of the school calendar, Bentley has already exceeded its evening and weekend limits.
2. Bentley's new emergency plan shows that all grades will use Tunnel Road for evacuation. The sidewalk covered by the landslide debris from Bentley's property should be cleared for safer pedestrian travel on Tunnel Road for both their own students and the public.

Thank you again for your efforts on this project. We will send our comments on the vehicle reduction targets for condition #14d separately and hope that you will consider them in the staff report and we would welcome the chance to discuss our ideas with you for clarification.

Linda Harris

For NSHH

Klein, Heather

From: SAM JAMES [sjames12345@msn.com]

Sent: Saturday, March 20, 2010 5:18 PM

To: dsmith@bentleyschool.net; donna_karch@yahoo.com

Cc: dlyon@bentleyschool.net; milt.capsimalis@gmail.com; Klein, Heather; lynette.francis@kp.org; fsseifried@comcast.net; jbgene@yahoo.com; sandi.bonacini@gmail.com; mpshep@aol.com; tulaeconomou@gmail.com; jimdexter@aol.com

Subject: RE: Recent Submittal.

Well, Devereaux I am not sure I know what you are talking about as far as what was discussed in the meeting. The point that you seem to be missing is that the school has failed to meet all the deadlines and now you appear to be asking the planning commission to ease the CUP requirements of the school even though there has been no appreciable improvement in the traffic congestion. What is worse, is that the school seems to be doing this behind the backs of the NLC members. Have a good weekend.

Sam James, HH4

Subject: RE: Recent Submittal.
Date: Fri, 19 Mar 2010 15:43:10 -0700
From: dsmith@bentleyschool.net
To: donna_karch@yahoo.com
CC: dlyon@bentleyschool.net; milt.capsimalis@gmail.com; HKlein@oaklandnet.com; lynette.francis@kp.org; fsseifried@comcast.net; jbgene@yahoo.com; SJames12345@msn.com; sandi.bonacini@gmail.com; mpshep@aol.com; tulaeconomou@gmail.com; JimDexter@aol.com

Hello Donna, thanks for checking in on this, I have two quick things: The date we actually submitted the document to the Planning Commission was March 15th, so by the time of our meeting on March 10th, the letter was still in draft form. Also, I had spent quite a bit of time preparing the materials we had committed to discussing on the March 10 Agenda and was not prepared to distribute the materials subsequently submitted on March 15th. As you recall, at the meeting, Jim Dexter did raise the question and we did briefly discuss the topic and the (then) proposed hearing date of April 7. I'm glad you have the document now. Have a good weekend, Devereaux Smith.

From: Donna Karch [mailto:donna_karch@yahoo.com]
Sent: Thursday, March 18, 2010 4:54 PM
To: Devereaux Smith
Cc: Duncan Lyon; milt.capsimalis@gmail.com; HeatherKlein; lynette.francis@kp.org; fsseifried@comcast.net; jbgene@yahoo.com; SJames12345@msn.com; Sandi Bonacini; mpshep@aol.com; Tula Economou; JimDexter@aol.com
Subject: Re: Recent Submittal.

Devereaux,

Is there a reason this was not on the Agenda of the March 10th NLC meeting? The School's letter is the same date as the meeting, and yet it was not mentioned, and therefore no discussion occurred.

The application should have been an agenda item as these proposed changes have a major impact on the entire neighborhood.

Donna

--- On **Thu, 3/18/10, Devereaux Smith <*dsmith@bentleyschool.net*>** wrote:

From: Devereaux Smith <dsmith@bentleyschool.net>
Subject: Recent Submittal.
To: lynette.francis@kp.org, fsseifried@comcast.net, jbgene@yahoo.com, SJames12345@msn.com, "Sandi Bonacini" <sandi.bonacini@gmail.com>, mpshep@aol.com, "Donna Karch" <donna_karch@yahoo.com>, "Tula Economou" <tulaeconomou@gmail.com>, JimDexter@aol.com
Cc: "Duncan Lyon" <dlyon@bentleyschool.net>, milt.capsimalis@gmail.com, "Klein, Heather" <HKlein@oaklandnet.com>
Date: Thursday, March 18, 2010, 4:28 PM

I am pleased to forward our recent March 10, 2010 submittal to the Planning Commission and to report that this trimester, Spring 2010, there are 343 students enrolled at the Hiller campus. Thank you, Devereaux Smith.

The New Busy is not the old busy. Search, chat and e-mail from your inbox. Get started.

3/9/10

According to its 2009-2010 School Calendar Bentley will have 101 daytime events/activities which involve visitors, volunteers and families coming/going from the Hiller campus in cars. Some of these involve a few people and other involves many people. That is 101 events on 183 total days of school and business and administrative meetings are not even listed on the calendar. A lot of attention has been paid to the traffic during drop-off/pick up but that is only part of the picture. All of the daily events and meetings also contribute to the footprint.

We are sending you the information on which we based our conclusion that COA #27 includes more than the 6 people Duncan identified (3 people from the Business Office and 3 people from the Development Office). We found that Department Names, Job Titles and Job descriptions vary but hope that you can get more clarity from Bentley. Since COA# 27 states "at a minimum" we assume that job titles or descriptions which aren't named in the Condition will be relocated if it is determined that they are currently located on the Hiller campus and are not directly related to the academic program per COA #27.
Bentley's 2008-2009 Annual Report lists these administrative offices:
Headmaster
Lower School Head
Middle School Head
Upper School Head
Director of Finance and Operations
Director of Admissions
Director of Development and Communications
Director of College Counseling
Director of Technology
Only two of these administrative positions (highlighted) are directly related to the LS and MS academic program. Seven are not directly related to the academic program on Hiller. Most or all of these offices have assistants.

In addition, Bentley's staff directory and other material mention these positions which would come under Condition #27 if they are currently located on the Hiller campus:
Director of Advancement
Human Resources
Chief Financial Officer
Data Base manager
Office Manager
Director of Marketing
Financial Aid Coordinator
Registrar
Athletic Director
Director of Childcare
Student Support Coordinator
Independent School Consultant
numerous "non teaching" staff

No maintenance or facilities employees for the school are listed in the directory but should be considered under condition #1B and #27.

Duncan Lyon has indicated that the Head of School office cannot be relocated because the Headmaster lives on the campus the location of Ms. Hogan's residence is not relevant to this condition. Her office is located in the Hiller Administration building not in her residence.

Duncan also indicated that Bentley doesn't have a PTA. They do have a Parent Association as referenced in COA #27. The fact that Bentley's Parent Association (known as BPA) is not a Parent Teacher Association (PTA) isn't relevant to this condition. Most important is that both of these positions hold numerous meetings that bring additional traffic to Hiller in daytime and evenings. Most of them are not noted on the school calendar.

It is our understanding that along with moving people and their "offices", all of the functions, including meetings, would also be moved. There is no reason that moving these offices elsewhere will increase traffic on Hiller because the associated meetings will be held at the new location. Both of these departments are specifically mentioned in COA #27 as being among the departments that, "at a minimum", would be moved.

In order to come up with the correct number of people/offices to move under COA #27, titles and department names and office locations need to be clarified. We thank you for getting this information cleared up.

NSHH is opposed to Bentley's proposed amendment because ANY and all reductions in staff or students will reduce the school's footprint, address the occupancy limitations of the facility and improve traffic/parking and safety in the neighborhood. Further, we are mindful of the 6 years that Bentley's application has been under review and the countless hours that have been invested by the City, the Community, and the Planning Commission to create a CUP that meets the school's financial need for increased enrollment and the community's need for a compatible and lower impact school operation.

Bentley is already enjoying the benefit of operating with the enrollment that they requested and were granted during the CUP process BUT Bentley is not yet compliant with the majority of the conditions that the Planning Commission imposed. NSHH encourages Planning Staff and the Commission to deny piecemeal modifications to the CUP and COAs and, without delay, enforce the CUP that was approved (without appeal by Bentley or Neighbors) just four months ago.

Thank you,
Linda Harris on behalf of NSHH

Note: NSHH comments are inserted between text

1920
SCIRE DESIDERO
BENTLEY SCHOOL

Heather Klein, CGBP, LEED AP
Planner III
City of Oakland
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612

Dear Ms. Klein: February 18, 2010

On Wednesday, February 17, 2010, the Bentley School ("the School") submitted its Transportation Demand Management (TDM) Plan to the City of Oakland. The TDM attempts to codify best transit practices to make the School a model of parking and traffic efficiency as we respect the environment and our neighbors by decreasing vehicle trips to and from campus in a manner that is educative, encouraging, and enforceable.

> *From online: a TDM includes targets (specific measurable things you want to achieve);and Strategies to achieve the targets and objectives; Measurements of success and remedies when targets are not achieved.*

The School's Conditions of Approval establishes a single occupancy vehicle (SOV) vehicle reduction target of 317 (25% reduction of 422). In its TDM plan, the School establishes a stronger commitment to reduce the threshold listed therein to 311 in Fall 2010 and to 268 in Fall 2012 if allowed until fall 2010 to demonstrate by way of the vehicle trip monitoring metric above that the existing staffing levels (inclusive of six K-12 administrators) enhance monitoring and do not intensify current site use.

> *We challenge Bentley's assertion that COA 27 applies to only 6 people. We request that they provide complete documentation and independent verification. We challenge Bentley's restating of Condition 27. It doesn't require monitors to move and it doesn't require top administrators to serve as monitors.*

> *The City and neighbors have repeatedly expressed a concern about the current intensity of use on Hiller. Bentley's plan is to maintain current use in enrollment and staff levels. In addition, individual classroom and offices spaces have previously been sited by the fire department for occupancy and overcrowding with materials. Removing administrators will decrease intensity of use and move many daily activities and car trips, from the Hiller campus.*

The School believes that by allowing the six *administrators* specified in Condition 27 to remain on the Hiller Campus, the spirit of its Condition Use Permit will be strengthened in the following ways:

> *Condition 27 specifies that Bentley shall move all of the all school administration offices and persons not directly associated with the Hiller Drive campus academic program to the other campus by 3/8/10. This includes, at a minimum, Office of Head of School, Development, Finance, Admissions and Parent Association. We have identified numerous job titles from Bentley documents that would also come under #27.*
>
> *Bentley repeatedly misstates the condition.*
>
> *In addition, in regard to Condition #21 the EIR reported that Bentley had 62 FTE employees, 10 of whom were part time. This suggests that Bentley has counted 10 part time employees as 5FTE employees. Bentley should provide a complete roster of their entire staff to City for verification.*

Existing Conditions Have Nominal Traffic Impact

The School's administrator and staff traffic is a small proportion of the overall school traffic. The largest reductions in traffic will be gained by reducing student-related trips, not administrator and staff trips. The School has a plan to reduce administrator and staff trips and parking demand in its TDM, as well as student related vehicle trips.

> *COA #27 is most related to Intensity of Use of all the COAs. The move of these administrators shifts the center of the school to Lafayette where Bentley has made an investment in its future and spent most of its financial resources. Condition #27 was an important consideration in NSHH not filing an appeal in part because this condition can be enforced by City staff whereas parking in various alternate locations is difficult to monitor.*
>
> *The school should continue to reduce administrator and staff trips and parking demand as was intended by the Planning Commission. Condition 27 has the benefit of reducing intensity of use as well as traffic.*

Staff traffic, which is lower than student-related traffic, occurs at different times (before morning drop-off and after afternoon pick-up), so it is not additive to overall traffic congestion.

> *Traffic related to these staff positions occurs throughout the day because of meetings. Currently, Upper school staff needing to meet would be travelling to Hiller – the direction of the travel will simply be reversed. But in addition, the business and leadership positions would require meeting with outside consultants such as accountants, business people, bankers, parents, who would, presumably meet at the new office location.*

Additionally, our analysis of moving these offices to Lafayette indicates an increase in car trips to and from the Hiller Campus by these administrators and staff and by those on the Hiller Campus needing to meet with them. Given that our K-8 (nine grades) is located in Oakland and our 9-12 (four grades) is located in Lafayette, those needing in person meetings with business office personnel (i.e. human resources matters) would necessarily increase vehicle trips from and returning to the Hiller Campus.

> *It would be helpful to see the traffic analysis that Bentley refers to. It is hard to believe that when there is a split campus there wouldn't be somewhat similar traffic in both directions. This condition simply reverses the direction for school related meetings and offers the benefit that other necessary meetings will no longer occur on Hiller. In addition for cost and environmental reasons, many meetings which used to be face to face have alternative electronic or mobile arrangements.*
>
> *Many meetings such as human resources matters can and will be done easily by phone once staff is relocated. People tend to plan their time to avoid duplicate trips and so it is likely that people who need to see Human Resources in person could do so on the way to Hiller and not make a round trip to and from as suggested. Enforcement of this condition will reduce the number of meetings, intensity of use and traffic.*

Vital to Safe and Smooth Traffic Monitoring

These six staff members are trained traffic monitors and constitute a substantial portion of the School's traffic monitoring team. The requested modification would thereby allow for best compliance with the traffic demands outlined in Condition 14e, specifically the TDM Plan. To best execute the TDM Plan, the School has assigned administrators and high-level staff to the roles of assisting. This has enabled us to train a reliable team known to all parents and students. The removal of six monitors (as currently written in Condition 27) will require teaching staff to fill the gap, taking teachers out of the classroom and away from their academic duties. The administrative presence sends the clear message that transportation execution is a high priority.

> *Only the flag person receives periodic training from OPD. The COA does not require the removal of monitors and there is no specification in the COA that the monitors must be top level administrators. In fact, several of the current monitors* ***are not*** *staff that would be moved under #27 and they can continue to train others and stabilize the crew. This is an empty argument.*
>
> *In addition, Bentley's new TDM calls for training students to assist with this function. The COA requires that the school have trained alternates to cover these positions. The school has a large body of people to call upon including administrators, teachers, parents, part time staff and hired contractors who can*

be trained for this job. Safe Routes to Schools and other school models should be consulted.

It is highly unusual that only Bentley's top administrators are capable of doing this job. Perhaps, within the TDM, the school can develop another way to communicate "the clear message that transportation execution is a high priority". Schools throughout the city are functioning with volunteers and paid staff to manage their traffic.

We have seen very little exercise of authority among the high level administrators monitoring the drop off line. The buses still go the wrong way and park incorrectly and drivers still make incorrect turns and occasionally jaywalk. There is no evidence that monitors need to be top administrators. The school, however, needs to be accountable for adequately and appropriately staffing the loading zone.

Proposed TDM Identifies Parking Alternatives Off Hiller Drive

The School's requested change to Condition 27 would create new onsite parking spaces, move more cars off Hiller Drive, and allow for the best operation of these vital offices. The School has identified adequate parking space at the Head of School residence for six spaces and is working to find additional off street locations in Berkeley as a contingency. Moreover, consistent with our single occupancy vehicle reduction target, at least two of the six administrators will come to school via public transportation and carpool.

The same increase in onsite parking spaces and reduced traffic will occur once the required staff is moved from the campus.

Since the Berkeley properties are not approved for parking lots at this time, creating more spaces on them is premature. Can Bentley provide more information on who it is working with to find additional off street locations in Berkeley?

Duncan is suggesting a trade for benefit of consideration. The city does not need to trade important and carefully considered COAs for Bentley's promise that it will make a best effort to meet the Planning Commissioners objectives. Bentley has yet to comply with the majority of the conditions – they aren't in a bargaining position. In any case, , all administrators and staff should be educated, encouraged and incentivized to use alternate transportation.

A Move Is Not Financially Viable

Plans to create space for such an administrative move were predicated on construction of a new middle school on our Lafayette site. That project is no longer viable due to financial reasons. While there is land for new construction on the Lafayette parcel, occupancy of existing buildings on the Lafayette Campus precludes new offices for six people. A portable building would be the most likely solution.

Where Bentley relocates its staff on the Lafayette campus is at its own discretion. A portable building seems like a quick and inexpensive solution. Bentley leadership has known since 2008 when they suspended their capital campaign tthat they did not have funding for the MS in Lafayette. Bentley should have appealed this condition rather than trying to erase it with a minor administrative change. Bentley signed this legal document just 4 months ago and if they aren't going to abide by it then the enrollment increase should be revised.

Therefore, the School requests that the six administrators specified in Condition 27 be incorporated into the execution of the TDM Plan and its vehicle counts, reported by Independent Rules Enforcers as outlined in Condition 14i. The School views this request as consistent with the intent of the original condition—fewer cars on Hiller Drive and enables us to support best the other traffic calming conditions currently underway.

Bentley had one intention with the CUP application – to increase their enrollment – they got it. NSHH dropped its opposition to the enrollment increase in favor of other conditions on intensity of use including the calendar, hours of operation and, traffic and parking improvements. The school has not complied with most of these conditions yet it is operating with all of its privileges. We see no reason to extend more benefits to Bentley until it has a track record of operating consistently within the limits of their CUP.

NSHH disagrees with Bentley's conclusion and believes that:

- *Car traffic will be reduced throughout the day by transferring all of the staff specified in COA #27 to Lafayette.*
- *Intensity of Use will be reduced..*
- *Borderline occupancy of some rooms will be improved*
- *Remaining administrative staff; parents, volunteers, students or hired monitors can be trained to be as effective as the current group. There will be natural attrition in this job over time in any case.*

We appreciate your careful consideration of our request.

Sincerely,

Duncan Lyon
Assistant Head of School

Klein, Heather

From: Paulette Langguth [pl2gs@sbcglobal.net]
Sent: Wednesday, February 24, 2010 9:25 PM
To: Klein, Heather
Cc: Neighbors.Safety.Hiller.Highlands@gmail.com
Subject: Bentley School Amendment

Ms. Klein: I strongly urge you to deny Bentley School's request to amend condition #27. Not only will this amendment water down the agreement but if all parties involved in this matter start adding to and changing the agreement this issue will remain unresolved for an unacceptable length of time. While there is no question that the agreement is less than perfect, I understand that it is adequate as written and that it provides language addressing non-compliance. I appreciate the time you have spent on this agreement and your interest in the safety of our residents and the school's students.

Paulette Langguth
3 Captains Cove
Oakland, CA 94618
(Resident, Hiller Highlands Phase Four)

Klein, Heather

From: Chad Zucker [czucker@zibagroup.com]
Sent: Tuesday, February 23, 2010 11:10 AM
To: Klein, Heather
Cc: 'Kimia Zucker'
Subject: RE: Bentley School Major Change to Condition of Approval #27

Here's another comment on this: I think this change was with regard to the requirement to move many administrative office workers from the Hiller campus.

This is the most ridiculous constraint. The most important issue as I understand it is the congestion on Hiller. But with 360 students coming and going en-masse when school starts or ends, and only modest congestion, it is ridiculous to think that there will be a material difference if about 4 or 5 administrative staff are forced to have offices on the Lafayette campus instead:

A: The numbers are insignificant
B: The staff are coming and going at non-peak periods
C: It seems an undue burden on school administrators (many of whom are making very modest incomes) to have them extend their commute significantly to go through the Caldecott.

-Chad Zucker

From: Klein, Heather [mailto:HKlein@oaklandnet.com]
Sent: Tuesday, February 23, 2010 10:54 AM
Cc: Wald, Mark; Patton, Gary; Wald, Zachary
Subject: Bentley School Major Change to Condition of Approval #27

Dear Interested Parties,

Planning Staff has decided to pull this item from the March 3rd agenda. Although this is not the ideal situation, staff needs to conduct more information gathering in order to frame a recommendation to the Planning Commission. I expect this gathering period to take about 2 weeks, but I have not yet rescheduled a date for the hearing. I will let you know when I have a date.

Thank you for the comments received so far. These will be taken into consideration. Please let me know if you have any questions or if you would like to be removed from this distribution list in the future.

Best,

Heather Klein, CGBP, LEED AP
Planner III
City of Oakland

250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
ph: (510) 238-3659
fax:(510) 238-6538
email: hklein@oaklandnet.com

Please consider the environment before printing this e-mail

Klein, Heather

From: Deanne Detmers [deanne@bia4autism.org]
Sent: Tuesday, February 23, 2010 11:08 AM
To: Klein, Heather
Subject: Re: Bentley School Major Change to Condition of Approval #27

Hi Heather,

I was not aware that you were interested in receiving comments on this issue and am not sure if you are still collecting them. Here are some additional thoughts:

- The planning commission nor the neighborhood should be in a position of dictating the details of how a business operates internally. I think having the city dictate which level of employees is not allowed on a site is absurd. Limiting the number of vehicles or persons is more of a macro (not micro) issue that seems more reasonable. Stating specific titles of people on a given site in the CUP is not in the purview of the Planning Commission.

- Unlike, other neighborhoods there is ample street parking on Hiller Drive and it is never and issue to find parking within a few feet of one's home. I have lived there several years and always found street parking to not be a problem unlike other neighborhoods in Oakland.

Deanne Detmers
46 Hiller Drive (Bentley neighbor)

From: "Klein, Heather" <HKlein@oaklandnet.com>
Cc: "Wald, Mark" <MWald@oaklandcityattorney.org>; "Patton, Gary" <GPatton@oaklandnet.com>; "Wald, Zachary" <ZWald@oaklandnet.com>
Sent: Tue, February 23, 2010 10:54:06 AM
Subject: Bentley School Major Change to Condition of Approval #27

Dear Interested Parties,

Planning Staff has decided to pull this item from the March 3rd agenda. Although this is not the ideal situation, staff needs to conduct more information gathering in order to frame a recommendation to the Planning Commission. I expect this gathering period to take about 2 weeks, but I have not yet rescheduled a date for the hearing. I will let you know when I have a date.

Thank you for the comments received so far. These will be taken into consideration. Please let me know if you have any questions or if you would like to be removed from this distribution list in the future.

Best,

Heather Klein, CGBP, LEED AP
Planner III
City of Oakland

250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Klein, Heather

From: Elizabeth van Patten [mtnoaks@mac.com]
Sent: Tuesday, February 23, 2010 9:48 AM
To: Klein, Heather
Cc: neighbors.safety.hiller.highlands@gmail.com
Subject: Bentley School's proposed modification to CUP

Dear Ms. Klein,

As a resident of Hiller Highlands, I am writing to oppose Bentley School's proposed modification to the agreement reached, after very long and difficult negotiations, just a few months ago. I believe that this attempt, coming so soon after resolution of a conflict requiring huge amounts of time and money to negotiate, shows bad faith on the part of the school. As I understand it, the conditions Bentley cites for the proposed modification existed and were known to the school before the CUP was agreed to by both sides, so it is very difficult to understand why Bentley waited until now to request these changes.

Even under the new conditions imposed by the CUP, traffic along the lower reaches of Hiller Drive is still very congested and difficult to navigate during school drop-off and pickup times because of the existence of two schools within a very small area. The provisions of
the CUP were designed to mitigate this situation as much as possible.
If the City allows Bentley to begins weakening these provisions already, the result will be to returning us to the dangerous situation that led to this entire process.

In short, Bentley needs to live up to the obligations it agreed to and the City must hold it to that agreement. In addition, the School needs to provide documentation showing the number of school staff working at the Hiller site so that Condition #27 can be properly enforced.

I urge the City to reject Bentley's proposed amendment to the CUP in fairness to the entire Hiller community and for the safety of everyone who has to drive or walk through that area. Enforcement of the CUP is scheduled to begin on March 8 and that should take place, with all its original provisions intact.

Thank you for your consideration of this request.

Elizabeth van Patten

Klein, Heather

From: Pat Rougeau [prougeau@mac.com]
Sent: Monday, February 22, 2010 4:30 PM
To: Klein, Heather
Cc: Neighbors.Safety.Hiller.Highlands@gmail.com
Subject: Bentley Conditional Use Permit: REV 10-113

Dear Ms Klein,

I am writing to oppose Bentley's proposed amendment to Condition #27.
This major modification is dilutive to the intent of Condition of Approval #27 to reduce the school's footprint in the community. Please require documentation of the number of school staff working at the Hiller campus to determine the true number of staff and offices that must be moved under Condition #27.

Thank you,

Pat Rougeau
1844 Grand View Drive
Oakland, CA 94618

(510)845-6735

katherine fung • 40 schooner hill, oakland, ca 94618 • tel: (510) 540-6188 • fax: (510) 540-6187 • email: kkfgeo@gmail.com

February 22, 2010

Ms. Heather Klein
City Planner

Subject: Case: REV 10-003
Bentley School Amendment to
Condition #27 of CUP

Dear Ms. Klein:

I understand that Bentley School has applied to make "minor" modifications to Condition #27 of the Conditional Use Permit. I want to voice my objection to such modification.

From reading the Condition of Approval #27:

> "Bentley School Hiller Administration: The Project Applicant shall move all of the all school administration offices and persons not directly associated with the Hiller Drive campus (Lower School and Middle School) academic program to the other campus in Lafayette, no later than the beginning of the first semester after this approval. At a minimum these include: Office of the Head of School, Development, Finance, Admissions, and Parent Association."

To me, the intent of the agreed-upon provision is very clear cut -- to reduce the number of administrators at the Hiller campus.

From their letter to the City dated January 6, 2010, their requests of having these administrators park off-site defeats the purpose of reducing the number of people using the facility. Their argument of just reducing the traffic does not conform to the real intent of the provision.

Bentley's Argument	My Take
Point #1: "This move would create new on site parking spaces, move more cars off of Hiller Drive, and allow for the best operation of these vital offices."	If the administrative officers were to be relocated, that would also have created "new onsite parking spaces." Their point is really moot.

Bentley's Argument	My Take
Point #2. "These six staff members are trained traffic monitors and constitute a substantial portion of our traffic monitoring team. This modification would thereby allow for best compliance with the traffic demands outlined in the C.U.P."	I am hopeful that training traffic monitors would not be such a difficult task, and other staff members at the Hiller campus should be able to accomplish. I would be more surprised to see the six administrators including the Head of School, Finance Officer, Admissions Office come out and direct traffic.
Point #3: "Our analysis of moving these offices to Lafayette indicates an increase in car trips to and from the Hiller Campus by these administrators and staff and by those on the Hiller Campus needing to meet with them."	I will be surprised if the administrators attending the meetings will schedule any meeting at the Hiller campus during the drop off and pick up times, because the traffic is so bad at the school entrance. Furthermore, I cannot see that they will have daily meetings with all six members of the administrative at the Hiller campus. Yes, maybe they can reduce the car trips, but do not alleviate any of the traffic issues that they have created in the first place.
Point #4: "Our plans to create space for such an administrative move were predicated on construction of a new middle school on our Lafayette site. That project is no longer viable due to financial reasons."	When Bentley signed the agreements on the provisions of the CUP in October, they knew fully that they would need to find an alternative location for the administrators. It is not news that the economy is in bad shape. In the short 3 months between October and January, they decided not build the middle school in Lafayette? I find that really hard to believe.

If Bentley has a problem with this provision, they should have appealed before they signed on the dotted line, and not at this time. It appears to me that this is their typical tactic of getting around the system, by breaking up issues into small and

seemingly innocuous pieces so they appear to be more palatable to the general public.

I understand that Bentley is also requesting that the Head of School not be moved, as she lives on the premise. Welcome to the real world: most of us working people travel to our office. Where she lives has no bearing on where she works. The provision stipulates that the office of the Head of School be relocated.

In addition, I have a hard time in believing that only 6 administrators could run the school. I urge the City to investigate the true number of administrators currently working at the Hiller campus, who would need to be relocated under Condition #27.

It has been a long time since Bentley has been violating the original use permit to sneak their way to today's condition. Now that they have agreed on the conditions for the Use Permit, it is high time for them to abide by the rules of the deal.

Thank you for your attention.

Sincerely yours,

Katherine Fung

Katherine K. Fung

Klein, Heather

From: Neighbors for Safety in Hiller Highlands [neighbors.safety.hiller.highlands@gmail.com]
Sent: Thursday, February 18, 2010 9:55 AM
To: Klein, Heather
Cc: Patton, Gary; Wald, Mark; Quesada, Bill
Subject: Conditions 14, 21 and 27

Dear Heather,

Condition 27 states, "The Project Applicant shall move all of the all school administration offices and persons not directly associated with the Hiller Drive campus (Lower and Middle School) **academic program** to the other campus in Lafayette, no later than the beginning of the first semester after approval. At a minimum these include: Office of the Head of School, Development, Finance, Admissions, and Parent Association." At a minimum, this includes five specific departments. Based on past school directories and employee lists, we believe that as many as 20 people could be relocated to Lafayette under Condition 27. Has Bentley provided the City with any verifiable documentation regarding the number of people who would be moved? Have they provided any verifiable documentation regarding the total number of staff (Condition 21)?

Per the Conditions of Approval, February 19th is the date that Bentley must comply with COA #14. 14H states that the "applicant must hire at least three independent Rule Enforcers, unless the project applicant can demonstrate to the City's satisfaction that adequate monitoring and enforcement can occur with less Rule Enforcers." What is the status of Condition 14, and how does the increase in staff relate to Conditions 21 and 27?

Sincerely,

Donna Karch on behalf of NSHH

Klein, Heather

From: Neighbors for Safety in Hiller Highlands [neighbors.safety.hiller.highlands@gmail.com]
Sent: Thursday, February 18, 2010 8:34 AM
To: Klein, Heather
Cc: Patton, Gary; Wald, Mark; Quesada, Bill
Subject: Bentley re COA 27

Heather:

We have received the email below from Duncan Lyon and are unclear about the information he has provided:

1. He says the directory is not a good source of information but does not provide an alternative source. The directory includes 63 staff at the Hiller campus but does not include auxiliary staff so even if one staff person is on leave, it is likely that they have more than 62 staff. We would like to know that the City has a verifiable source for the staff count so that this condition can be checked for compliance.

2. Bentley has a Parent Association but not a PTA as Duncan wrote.The Parent Association is named specifically in Condition #27.The Parent Association meets regularly on the Hiller campus and could account for a measurable reduction in weekday meetings and traffic on Hiller Drive when they are relocated to another site.

3. The Head of School is also named specifically in the COA #27.Where the Head of School lives is not relevant to the enforcement of this condition. The intention is that her business office and activities should be located somewhere other than the Hiller campus.

4. Condition #27 stipulates that certain staff and **their offices** be relocated. The idea, as we understood this condition, was to locate this staff so that all of their business functions, including support staff and meetings, would occur off the Hiller site. There is no reason that this relocation would increase traffic at Hiller. We understand that you and the Planning Commissioners interpreted this condition as a way to reduce Bentley's footprint in the community.

5. If Bentley believed that the Head of School and the Parent Association and other non-academic staff positions could not be moved, why didn't they appeal this condition before they accepted it?

Sincerely,
Donna Karch on behalf of NSHH

From Duncan Lyon:

to	Neighbors for Safety in Hiller Highlands <neighbors.safety.hiller.highlands@gmail.com>	
cc	HKlein@oaklandnet.com, "Arlene F. Hogan" <afhogan@bentleyschool.net>	hide details 3:23 PM (17 hours ago)
date	Wed, Feb 17, 2010 at 3:23 PM	
subject	Website and Condition 27	
mailed-		

by bentleyschool.net

All:

"I understand several weeks ago Regarding Condition 21, last week Duncan Lyons informed you that Bentley School has 62 employees. However, the schools website identifies 63 administrators and teachers. The school must also employ secretaries, janitors, custodians, maintenance staff, gardeners, security, etc."

Above is a sample of the questions regarding our website and Condition 27. Please note that the website is not the best place from which to count our faculty and staff. The website is for contains teachers on leave their replacements as one example.

To be clear, the six positions of accounts payable, accounts receivable, CFO/Controller, database manager, annual fund coordinator, and development director are those stipulated in our amendment request. Admissions is K-8, we have not PTA and the Head of School resides on campus and already maintains an office in Lafayette.

Please contact me with any questions resulting from this.

Regards,
Duncan

p.s. Donna Karch is the only name viewable on the emails from the "Neighbors for Safety in Hiller Highlands. In order to continue to respond to emails from this heading, we would appreciate knowing exactly with whom we are corresponding. Thanks!

Klein, Heather

From: R Gordon Piper [rgpiper@sbcglobal.net]
Sent: Tuesday, February 16, 2010 9:53 PM
To: Klein, Heather
Cc: linda harris; \'Donna Karch\'; \'Nadine Rhodes Prah\'; Barry Ghanbari
Subject: Bentley School Major Change to Condition 27 Questions and Condition 21 Compliance

I would like to know how many full, part-time, contract and consultants that Bentley currently has involved in its academic program, and how many individuals are currently on the Bentley campus by name, job title and status (fulltime, part-time, contract, and consultants that are currently on the Oakland campus that would be relocated if this condition was being enforced at this time. This would help in evaluating the proposed change and the compliance with the requirement in Condition 21 limiting the number of staff at the Oakland campus. I understand several weeks ago Regarding Condition 21, last week Duncan Lyons informed you that Bentley School has 62 employees. However, the school's website identifies 63 administrators and teachers. The school must also employ secretaries, janitors, custodians, maintenance staff, gardeners, security, etc. So, what have you determined relative to compliance with Condition 21?

These are the questions I have in relation to the proposed Major Change to Condition 27, which I believe other neighbors would also like answers to or prompt evaluation of to assist us and the Planning Commission in evaluating these important matters and conditions that need to be carefully reviewed.
Gordon Piper, 33 Hiller Drive

Klein, Heather

From: Neighbors for Safety in Hiller Highlands [neighbors.safety.hiller.highlands@gmail.com]

Sent: Thursday, February 04, 2010 2:09 PM

To: Klein, Heather

Cc: Patton, Gary; Wald, Mark; Quesada, Bill; Neighbors for Safety in Hiller Highlands List

Subject: Questions re Modification to COA 27

Dear Heather,
The neighbors have several questions regarding Bentley's request for a modification to Condition 27.
The Basic Application, which Bentley submitted does not show a check mark in the Conditional Use Permit (Major) box.It is our understanding that this amendment will be a major change to a major CUP. Shouldnt that be noted on the application?
The application does not showthat Bentley paid any fees, and does not indicate a Permit Tracking Number.Is that information available?
If Bentley's January 6, 2010 letter to the Planning Commission Staff is the official amendment request, we would like further clarification of their proposed changes to Condition 27.It appears that Bentley is requesting an elimination of the staff relocation language and adding new language that would require six staff members to park somewhere (not specified) other than not on Hiller Drive or within the Hiller Highlands.
Condition 27 states, The Project Applicant shall move all of the all school administration offices and persons not directly associated with the Hiller Drive campus (Lower and Middle School) **academic program** to the other campus in Lafayette, no later than the beginning of the first semester after approval. At a minimum these include: Office of the Head of School, Development, Finance, Admissions, and Parent Association. At a minimum, this includesfive specific departments. Based on past school directories and employee lists, we believe that as many as 25 people could be relocated to Lafayette under Condition 27.Has Bentley provided any verifiable documentation regarding the number of people who would be moved? Have they provided any verifiable documentation regarding the total number of staff (Condition 21)?
Having read Bentleys January 29, 2010 Amendment to Condition of Approval #27 application, we are concerned that once again the school is taking a piecemeal approach to changing their CUP. It has only been three months since they accepted the CUP and its Conditions.They have failed to meet compliance deadlines on a number of the conditions, and now want to amend their CUP or perhaps delay compliance with Condition 27.
On January 26, your wrote The purpose of Condition 27 was to 1) address the intensity of use at the Hiller campus while allowing the school to adequately staff the academic program and the administration of the Hiller campus; and 2) to reduce traffic and parking on Hiller Drive. We agree with your assessment, and oppose any change to Condition 27.
Sincerely,
Donna Karch on behalf of NSHH

Klein, Heather

From: Neighbors for Safety in Hiller Highlands [neighbors.safety.hiller.highlands@gmail.com]
Sent: Wednesday, February 03, 2010 2:56 PM
To: Klein, Heather
Cc: Neighbors for Safety in Hiller Highlands List
Subject: Bentley re Condition #27

Dear Heather,

Did Bentley file an appeal re staff's denial of Condition #27?

Has Bentley submitted any reports? Is the scope of work available for the traffic study?

Although Condition #24 C) requires Bentley to submit copies of reports to the Neighborhood Liaison Committee at the same time they are submitted to the City, the school has failed to do so.

Thanks,

Donna

Klein, Heather

From: Neighbors for Safety in Hiller Highlands [neighbors.safety.hiller.highlands@gmail.com]
Sent: Friday, January 22, 2010 3:02 PM
To: Klein, Heather
Cc: Patton, Gary; Wald, Mark; Quesada, Bill; Leila Moncharsh; dboxer@gmail.com; Neighbors for Safety in Hiller Highlands List
Subject: Conditions of Approval 21 and 27

Dear Heather,
We would like clarification regarding Condition 27 (The Project Applicant shall move all of the all school administration offices and persons not directly associated with the Hiller Drive campus (Lower and Middle School) **academic program** to the other campus in Lafayette, no later than the beginning of the first semester after approval. At a minimum these include: Office of the Head of School, Development, Finance, Admissions, and Parent Association.)

Bentley is requesting a minor change to Condition 27. The neighbors oppose any change to this condition.
In his letter of January 6, 2010, Duncan Lyon wrote, Our plans to create space for such an administrative move were predicated on construction of a new middle school on our Lafayette site. That project is no longer viable due to financial reasons. However, Bentley School was aware that the Middle School was not going to be built in Lafayette prior to the school agreeing to the Conditions of Approval.
Condition 27 is very important to the neighbors for a number of reasons, including traffic, parking, and intensity of use. The Parent Association has many meetings, which bring many added vehicles into our neighborhood. Neighbors conceded on the schools increased enrollment, with the understanding that Bentley had agreed to limit the number of employees on the Hiller Campus to only those staff members related to the **academic program** at the Hiller Campus.
In the schools response to Condition 21, they state that they have a staff of 62 on the Hiller Campus. The school has 18 classes (two each K-8). We would like a list of job titles, job descriptions, etc. for the 62 employees. We find it implausible that only six staff members are not related to the Lower and Middle Schools **academic program**.
The Planning Commissioners are well aware of the intensity of use issue and are familiar with Bentley's use being out of scale.
In October, Bentley agreed to the Conditions of Approval. Now, prior to properly accepting or recording the signed conditions, they are asking for changes. Neighbors cooperated in good faith, and expect Bentley to honor the COAs.

Sincerely,
Donna Karch on behalf of NSHH