CITY OF OAKLAND

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 2114 • OAKLAND, CALIFORNIA 94612-2031

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3911
FAX (510) 238-4730
TDD (510) 238-3254

Sent via U.S. Mail and Electronic Mail

December 20, 2012

Jane Carney
College Preparatory School
6100 Broadway
Oakland, CA 94618

RE: Case File No. REV120004; 6100 Broadway (APN: 048A-7200-004-01)

Dear Ms. Carney:

Your application, as described below, has been **APPROVED** for the reasons stated in Attachment A, which contains the findings required to support this decision. Attachment B contains the Conditions of Approval for the project. This decision is effective ten (10) days after the date of this letter unless appealed as explained below.

The following table summarizes the proposed project:

Proposal:	To increase maximum permitted enrollment at a private high school from 340 students to 375 students.
Planning Permits Required:	Revision to amend approval #REV090004 (2009) that increased enrollment to 340 students from 325 students previously allowed under an approval granted in 1993
General Plan:	Detached Unit Residential
Zoning:	RD-1 Detached Unit Residential Zone – 1
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities (operation); Exempt, 15314 of the State CEQA Guidelines: Minor Additions to Schools; Section 15183 of the State CEQA Guidelines: Projects Consistent with a Community Plan, General Plan or Zoning
Historic Status:	Non-historic property
Service Delivery District:	II
City Council District:	1

Case no. REV120004
6100 Broadway

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of this letter, by **4:00 pm on January 11, 2013**. An appeal shall be on a form provided by the Planning and Zoning Division of the Department of Planning, Building and Neighborhood Preservation, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Aubrey Rose AICP, Planner II**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or wherein his/her decision is not supported by substantial evidence and must include payment of **$1,352.91** 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 decision 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 may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter.

A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. It is your responsibility to record the NOE and the Environmental Declaration at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of $50.00 made payable to the Alameda County Clerk. Please bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Planning and Zoning Division, to the attention of **Aubrey Rose AICP, Planner II**. Pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE starts a 35-day statute of limitations on court challenges to the approval under CEQA.

If you have any questions, please contact the case planner, **Aubrey Rose AICP, Planner II** at **(510) 238-2071** or arose@oaklandnet.com , however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,

ROBERT MERKAMP
Acting Zoning Manager

Case no. REV120004
6100 Broadway

CC:
Tim Durham (timothycdurham@yahoo.com)
Leila Moncharsh (101550@msn.com)
Arden Hearing (ardenj00@yahoo.com)
Amy Stice (aabigails@hotmail.com)
Pakzad Behran (bpak510@aol.com)
Michele Mika (mickik@sbcglobal.net)
Mike Mika (mikejmika@gmail.com)
Monika Picardo (Monika.Picardo@cbre.com)
Raul Picardo (RPica49033@aol.com)
Marcia Larsson (marcialars@aol.com)
Susan Ford (susanfordland@aol.com)
Mitchell Taylor (mitchelltaylor32@yahoo.com)
John Paris (parishome@yahoo.com)
Sue Feinstein (pebs6181@yahoo.com)
Jimmy Tran (tran.jimmy@gmail.com)
Stuart Flashman (stuflash2@gmail.com)
Don and Laura Santina (lindley89@aol.com)
Liz Durham (durhamliz@yahoo.com)
Adam Oliveri and Jean Follette (awolivieri@gmail.com)
John Hayes (jodaha@gmail.com)
Brookside Neighbors (BrooksideNeighbors@yahoogroups.com)
Peter Aitelli (PAitelli@sflaw.com)
Karen Cincaid/Barbary Coast Consulting (Kincaid@barcoast.com)

Attachments:

A. Findings
B. Conditions of Approval, including Standard Conditions of Approvals

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under the Conditional Use Permit Procedures/General Conditional Use Permit Criteria (OMC Sec. 17.134.050) of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

Conditional Use Permit Procedures/General Conditional Use Permit Criteria (OMC Sec. 17.134.050)

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;

The project is to increase maximum permitted enrollment (considered as on site attendance) at a private high school by revising an approval allowing three-hundred forty students to allow 375 students. The proposal does not involve physical changes to the campus. The campus measures approximately 5.7 acres in area with access off of Broadway alongside the 24 Highway. A 2009 approval allowed construction of buildings measuring 4,500, 2,300 and 10,431 square feet in floor area and a 587 square foot addition (case number REV09004). That approval also increased maximum enrollment from 325 students (approved in 1993) to 340 . The current enrollment is 372 students, greater than allowed by the 2009 approval.

School expansions up to 25% are exempt under CEQA; this proposal involves a 15% expansion and is, therefore, exempt from further environmental review. Under the California Environmental Quality Act (CEQA), environmental review is limited to the actual increase of three students from current conditions of 372 students. Nonetheless, staff has considered the cumulative effect of incremental increases to enrollment capacity. In 2009 staff found that the increase from "325 to 340, which would represent a less than 5 percent increase in student population, would not result in any new impacts to traffic or parking given that the proposed parking exceeds that which would be required by the Planning Code and what was required by the original CUP." A recent analysis by a traffic consultant used 340 students as a baseline and determined no significant impact from the increased enrollment to 375 (on site attendance). Lastly, the applicant attests that impacts have decreased while enrollment has increased due to adherence to condition of approval required adherence to a Transportation Demand Management study.

With new conditions of approval related to circulation, events, and outreach, the proposal will maintain the reduced off-site impacts associated with an enrollment (on site attendance) of 375 students. One issue raised by neighbors is backup in the morning on Brookside Avenue due to cars stopped in the intersection on Broadway for cars queuing to enter the campus. A condition of approval (COA#15) requires the school to work with the City to establish a "Keep Clear" zone at the intersection to relieve this issue. In conclusion, enrollment (on site attendance) can be increased to 375 students, essentially a legalization of current conditions, without substantial increases in impacts with stricter conditions of approval to cap or reduce impacts at current levels which have decreased since 2009.

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;

The existing 5.7 acre campus is appropriate to accommodate a student body of 375 students. The site is adjacent to Highway 24, which is accessible from various nearby cities. With BART nearby, the campus is also

accessible by public transportation, including school shuttle, thus creating a convenient and functional civic environment. The proposal does not include any exterior modifications to the project site.

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;

The expansion of the student body of an existing high quality educational institution will continue to serve the local community as well as the region.

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050;

The current proposal does not include any physical alterations to the school.

E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council.

The site is located in the Detached Unit Residential area of the General Plan's Land Use & Transportation Element (LUTE). The intent of the area is: "to create, maintain, and enhance residential areas characterized by detached, single unit structures." Desired Character and Uses are that: "Future development within this classification should remain residential in character with appropriate allowances for schools and other small scale civic institutions."

The proposal to enhance the existing school is in conformance with the
Following Policies of the LUTE:

> Policy N2.1 Designing and Maintaining Institutions
> As Institutional uses are among the most visible activities in the city and can be sources of community pride, high-quality design and upkeep / maintenance should be encouraged. The facilities should be designed and operated in a manner that is sensitive to surrounding residential and other uses.

The school is attractive and operated with regards to noise and drop-off/pick-up to impact the adjacent neighborhood to the least extent practicable. A condition of approval requiring a "Keep Clear" zone in the intersection of Broadway and Brookside Avenue will help to alleviate morning circulation backup on Brookside for neighbors.

> Policy N2.5 Balancing City and Local Benefits of Institutions
> When reviewing land use permit applications for the establishment or expansion of institutional uses, the decision-making body should take into account the institution's overall benefit to the entire Oakland community, as well as its effects upon the immediately surrounding area.

The minimal noise and circulation impacts generated by the school are at an acceptable level from this type of institution, a high school, which is a desirable asset to the City.

ATTACHMENT B: CONDITIONS OF APPROVAL

1. Approved Use

Ongoing

a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials submitted February 23, 2012, and **letter**. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

I.b) This action by the **Zoning Manager** ("this Approval") includes the approvals set forth below. This Approval includes: **Revision to amend an existing conditional use permit for a private high school by increasing enrollment (on site attendance) capacity to 375 students**

2. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

3. Scope of This Approval; Major and Minor Changes

Ongoing

The project is approved pursuant to the **Planning Code** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. Conformance with other Requirements

Prior to issuance of a demolition, grading, P-job, or other construction related permit

a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.

b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

5. Conformance to Approved Plans; Modification of Conditions or Revocation

Ongoing

a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.

b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.

c) Violation of any term, **Conditions** or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these **Conditions** if it is found that there is violation of any of the **Conditions** or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. **Signed Copy of the Conditions**

With submittal of a demolition, grading, and building permit

A copy of the approval letter and **Conditions** shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

7. **Indemnification**

Ongoing

a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect)action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

8. **Compliance with Conditions of Approval**

Ongoing

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. Severability

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions, and if one or more of such conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval, shall be available for review at the job site at all times.

11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management

Prior to issuance of a demolition, grading, and/or construction permit

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review or construction. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

PROJECT SPECIFIC CONDITIONS

12. Prior approval

Ongoing

All prior approvals remain in effect unless revised as described in this attachment.

13. Student Enrollment (On site attendance)

Ongoing

Maximum student enrollment (on site attendance) shall not exceed **375 students**. The school shall institutionalize a reporting process to annually document and communicate enrollment figures to the City of Oakland and neighbors within 300 feet of the school's property boundaries. Any increase in student population will require a modification to the Conditional Use Permit.

14. Annual Attestation by CPS Board of Trustees

Ongoing

The school shall institutionalize a written reporting process to annually communicate all conditions of approval associated with CM76-296 and CM80-191 and any subsequent revisions including REV090004 **and REV120004** to the CPS School of Trustees, all neighbors within 300 feet of the school, and the City of Oakland. The written report shall identify any deviation from the conditions of approval and plans to bring the school back into compliance.

15. Circulation/traffic improvements

Prior to the beginning of the 2013-2014 school year

a) The school shall work with the Public Works Agency, Infrastructure and Operations to stripe and label a Keep Clear zone along Broadway where intersected by Brookside Avenue

16. Circulation/Pick-up & drop-off

Ongoing

a) Persons shall assist with directing traffic during drop-off/pick-up

b) The school shall provide a drop-off/pick-up letter or other communication to parents to be updated annually.

Case no. REV120004
6100 Broadway

City of Oakland
Planning, Building and Neighborhood Preservation
Planning and Zoning Division
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

TO: Alameda County Clerk
1106 Madison Street
Oakland, CA 94612

Project Title: Case No. REV120004

Project Applicant: Ms. Jane Carney/College Preparatory School

Project Location: 6100 Broadway (APN: 048A-7200-004-01)

Project Description: To increase enrollment (on site attendance) capacity at a private high school on a 5.7 acre campus adjacent to a highway from 340 students to 375 students

Exempt Status:

Statutory Exemptions

[ ] Ministerial {Sec.15268}
[ ] Feasibility/Planning Study {Sec.15262}
[ ] Emergency Project {Sec.15269}
[ ] Other: {Sec._____}

Categorical Exemptions

[X] **Existing Facilities {Sec.15301}**
[ ] Replacement or Reconstruction {Sec.15302}
[ ] Small Structures {Sec.15303}
[ ] Minor Alterations {Sec.15304}
[ ] In-fill Development {Sec. 15332}
[ ] General Rule {Sec.15061(b)(3)}

Other
[X] **Projects consistent with a community plan, general plan or zoning {Sec. 15183(f)}**
[X] **Minor Additions to Schools (Sec. 15314)**

Reasons why project is exempt: **To increase enrollment (on site attendance) capacity at an existing private high school on a 5.7 acre campus from 340 students to 375 (less than a 25% increase) will not have a significant effect on the environment.**

Lead Agency: City of Oakland, Planning Building and Neighborhood Preservation, Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person: **Aubrey Rose, AICP, Planner II** Phone: **510-238-2071**

Signature (Robert Merkamp, Acting Zoning Manager) Date: 12/20/12

Pursuant to Section 711.4(d)(1) of the Fish and Game Code, statutory and categorical exemptions are also exempt from Department of Fish and Game filing fees.

*ENVIRONMENTAL DECLARATION
(CALIF. FISH AND GAME CODE SEC. 711.4)

: FOR COURT USE ONLY

NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY :

LEAD AGENCY: CITY OF OAKLAND
Planning, Building and Neighborhood
Preservation – Planning and Zoning Division
250 Frank H. Ogawa Plaza
Oakland, CA 94612

APPLICANT: **Jane Carney**
6100 Broadway
Oakland, CA 94618

: FILING NO.

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT: Check the box(es) that applies. CLERKS USE ONLY

1. **NOTICE OF EXEMPTION** **PLU 117**

[X] **A – STATUTORILY OR CATEGORICALLY EXEMPT**
$50.00 (Fifty Dollars) – CLERK'S FEE

[ ] B – FEE EXEMPTION –NO IMPACT DETERMINATION ISSUED BY F&G PLU 117
$50.00 (Fifty Dollars) – CLERK'S FEE

2. **NOTICE OF DETERMINATION**

[ ] A – NEGATIVE DECLARATION PLU 116
$2,044.00 (Two Thousand Forty Four Dollars)-STATE FILING FEE
$50.00 (Fifty Dollars) – CLERK'S FEE

[ ] B – MITIGATED NEGATIVE DECLARATION PLU 116
$2,044.00 (Two Thousand Forty Four Dollars)-STATE FILING FEE
$50.00 (Fifty Dollars) – CLERK'S FEE

[ ] C – ENVIRONMENTAL IMPACT REPORT PLU 115
$2,839.25 (Two Thousand Eight Hundred Thirty Nine Dollars and Twenty Five Cents) – STATE FILING FEE
$50.00 (Fifty Dollars) – CLERK'S FEE

3. [ ] **OTHER** (Specify) Notice of Finding of No Significant Impact
$50.00 (Fifty Dollars) – CLERK'S FEE PLU 117

***THIS FORM MUST BE COMPLETED AND SUBMITTED WITH ALL ENVIRONMENTAL DOCUMENTS FILED WITH THE ALAMEDA COUNTY CLERK'S OFFICE.**

FOUR COPIES OF ALL NECESSARY DOCUMENTATION ARE REQUIRED FOR FILING PURPOSES.

APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING AN ENVIRONMENTAL DOCUMENT WITH THE ALAMEDA COUNTY CLERK'S OFFICE.

MAKE CHECK PAYABLE TO: ALAMEDA COUNTY CLERK