

Case File Numbers: PUD04-400; PUDF05-339; ER04-0014

January 4, 2006

Location:	Head Royce School; 4233, 4309, and 4315 Lincoln Ave and 4274 Whittle Ave; APN: 029A-1367-001-07 through 029A-1367-006-01; (See map on the reverse)
Proposal:	Implementation of a phased Master Plan and an increase in enrollment by 180 students for a total of 880 students. The first phase includes conversion of the existing Upper School to the Middle School; renovation of the library; and construction of a new Upper School quadrangle and identifiable school entrance along Lincoln Avenue. Later phases include replacement of the existing auditorium; demolition of the Lower School building and former Upper School library; and construction of 2 new buildings to define a Lower School quadrangle, an arts center, and Middle School classrooms.
Project Sponsor:	John Malick c/o John Malick and Associates / (510) 595-8042
Owners:	Head Royce School
Planning Permits Required:	Planned Unit Development (Preliminary Development Plan and Final Development Plan); and Amendment to the previous Conditions of Approval. Design Review
General Plan:	Detached Unit Residential and Hillside Residential
Zoning:	R-30 One Family Residential Zone
Environmental Determination:	A Notice of Intent to Adopt a Mitigated Negative Declaration was published on December 12, 2005. The Public Comment Period ended on January 3, 2006.
Historic Status:	The existing buildings are not Potentially Designated Historic Properties (PDHP).
Service Delivery District:	IV – Fruitvale
City Council District:	4
Date Filed:	August 12, 2004
Support/Opposition:	Staff has received several public comment letters both in support and in opposition to this project.
Staff Recommendation	Decision on the application and the Mitigated Negative Declaration based on staff report
Finality of Decision:	Appealable to City Council within 10 days
For further information:	Contact case planner Heather Klein at 510 238-3659 or by e-mail at hklein@oaklandnet.com .

SUMMARY

The purpose of this report is to provide a summary of the potential environmental impacts of the proposed project (as identified in the Initial Study/ Mitigated Negative Declaration), provide analysis of the project, and recommend approval. The project site is located at 4315 Lincoln Avenue between Highway 13 and Tiffin Road and across the street from the Mormon Temple and the Greek Orthodox Church. The applicant proposes the implementation of a phased master plan which would involve demolition of 47,010 sq. ft. of floor area, 61,592 sq. ft. of interior renovations, and 98,634 sq. ft. of new construction on the campus, resulting in a 51,624 sq. ft. net increase after removal of existing structures.

The City prepared an Initial Study in December of 2005 and published a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) was circulated on December 12, 2005 with a 21-day comment period. The public review and comment period ended on January 3, 2006.

Insert location map

Staff recommends that the Planning Commission adopt the MND and approve the Planned Unit Development permits and design review for the project, with conditions of approval.

PROJECT SITE AND SURROUNDING AREA

Head Royce School is located between Lincoln Avenue and Whittle Avenue and between Highway 13 and Tiffin Road. The project site encompasses approximately 14.2 acres and is located in a naturally occurring wooded canyon. A tributary of Whittle Creek runs through the site, which is culverted for most of its length. The site supports an Upper School (grades 9-12), a Middle School (grades 6-8), and Lower School (grades K-5) with a current enrollment of approximately 700 students. Playing fields and parking occupy the upper end of the site. On the lower end of the site are 2 single family homes that the school also owns.

The project site is surrounded by a variety of civic and residential uses. The Lincoln Child Center, the Cerebral Palsy Foundation, the Greek Orthodox Church, and the Mormon Temple are located across Lincoln Avenue to the south of the school. Single-family homes are located to the north, east and west.

PROJECT DESCRIPTION

The school is proposing a phased master plan to create a quality academic environment and guide the school into the next century. This will be accomplished by: construction of a more functional campus environment; creating an identity and consistent school character; and making renovations and upgrades to existing structures. Phase I will involve the most dramatic and obvious changes to the campus and will include the demolition of 10,728 sq. ft. of floor area, 60,592 sq. ft. of renovations, and approximately 39,713 sq. ft. of new construction. Later phases will include demolition of 36,282 sq. ft. of floor area and approximately 59,000 sq. ft. of new construction. The construction timetable for later phases will be subject to funding and the priorities of the school.

Phase I

Administration Building, Gatehouse, and Covered Drop-off

Currently, Head Royce School does not have a visible presence along Lincoln Avenue since most of the campus is located further down in the canyon. In order to identify the school and provide controlled access to the campus, the applicant is proposing to construct a 10,650 sq. ft. administration building and covered drop-off, herein referred to as the Gatehouse. The Gatehouse will allow the school to monitor people entering and exiting the campus and monitor school traffic. The Gatehouse will also provide a delivery drop-off location and visitor reception area. The proposed construction will involve the demolition of 1 of 2 small residential buildings adjacent to the school (4309 Lincoln). The other residential building will remain pursuant to the agreement with the Lincoln Avenue neighbors.

The Gatehouse is divided into 3 parts: the Admissions wing, the Business Wing, and the Covered Drop-off. The Admission Wing is a 2-story structure located to the right of the Covered Drop-off. This wing is 22' tall at the side facing Lincoln Avenue and 42' from finished grade at the side facing the Lower School. The Business Wing is a 1-story structure located to the left of the Covered Drop-off. This wing is 18' tall at the side facing Lincoln Avenue. A small tower element with a wood paneled door defines the main administration entrance to the school. The peak of the tower is 24' tall from finished grade and is setback 20' from Lincoln Avenue. The Covered Drop-off is setback from the front property line 5'-6" to 7'-6" and 20' from Lincoln Avenue. This structure will be 15' tall with another small cupola 6' above the principal ridge.

Floor plans for the gatehouse show reception and financial offices on the entry level with a ramp leading down to the 1st lower level. Parking for 15 vehicles (10 on lifts), administration offices, and conference rooms are shown on lower level 1. Lift bays, maintenance, storage, administration offices, and additional conference rooms are on lower level 2. The Covered Drop-off will provide a place for students gather during pick-up and drop-off times. The drop-off is a roofed structure open on 2 sides with a gate along Lincoln Avenue.

New Upper School Quadrangle

The applicant is proposing a classic academic quadrangle in the heart of the campus. The Quad, along with the Administration building, will establish an identity for the school and become a focal point for school-wide events. The edges of the Quad will be established through the construction of a new Upper School, the south classroom building, and the new library. As a result, the existing foreign language classrooms, Middle School classrooms, and the upper story of the science/administration building will be removed. The lower level of the science/administration building will be renovated and located below the proposed Quad.

The Upper School will be located on the eastern edge of the Quad. It will replace the existing Middle School classrooms, the road leading to Whittle Avenue and 17 parking spaces. The new Upper School will be a 3-story structure and will connect to the new library, the new south classroom building, and the existing Middle School building which will be converted to Upper School classrooms. The proposed structure will be 50' tall from the Quad and 30' tall at the highest grade facing Lincoln Avenue. Floor plans for the Upper School show a café, kitchen/service area, a reception area, offices, conference rooms, and the language lab at the Quad level. The second story will house offices, classrooms, and a laboratory. Additional laboratories, offices, a science storage area, and a seminar room will occupy the 3rd-story with a bridge to the new Upper School classroom building.

The south classroom building will be located on the southern edge of the Quad. This building is a 2-story structure, 37' tall facing the quad and 25' on the side facing Lincoln Avenue. The building will house 5,000 sq. ft. of additional classroom space for the Upper School.

The new Upper School library will be located on the northern edge of the Quad and is a 3-story 6,600 sq. ft. structure. The building is 47' tall from the lowest finished grade and 36' tall at Quad level. A small cupola defines the entrance to the library and is 15' above the principal ridge of the building. In addition, a tower element is located at the end of the building. Floor plans show a sunken patio located between the Middle School and the lowest level of the library. A vestibule, group meeting space/reading room, circulation desk, and library offices are located at the 2nd story or Quad level. The 3rd story contains the library stacks, a large study area, and a conference room. A corridor from the stacks through the tower leads to office space in the Upper School building.

Conversion of the Existing Upper School to the Middle School

As a result of the Upper School classroom and Quad construction, the Middle School will be relocated to the structure previously occupied by the Upper School classrooms. This improvement will also include renovation of the existing plaza and the enclosed spaces east of the auditorium and upgrades to mechanical and electrical systems.

Separation of Pedestrian and Vehicular Circulation

One of the main goals of the master plan is to separate the pedestrian and vehicular circulations patterns within the campus. This will create a safer academic environment. Currently, a driveway from Lincoln Avenue allows cars through the center of campus to Whittle Avenue. Proposed plans show the driveway

closed to vehicles and redesigned as a landscaped pedestrian walkway that would lead from the Gatehouse to the Upper School Quad. Through traffic from Lincoln Avenue to Whittle Avenue would cease with this improvement.

In addition to the proposed building construction, additional campus walks, accessible pathways, and breezeways will be designed to link all the major buildings and open spaces to the entry and parking areas.

Swimming Pool

The existing swimming pool is located in the lower courtyard adjacent to the Lower School play area and the existing basketball court is located adjacent to the gymnasium. As part of the master plan, a regulation size pool would be constructed on the site occupied by the basketball court while the existing pool would be filled to accommodate the new basketball courts.

Parking

Currently, the school has 107 on-campus parking spaces. Twelve (12) parking spaces are located behind the gymnasium and 72 spaces are located at the upper end of the campus, adjacent to the athletic fields. In addition, 23 parking spaces are located along the driveway. These 23 spaces would be eliminated during the proposed Phase I improvements and need to be replaced. Furthermore, 27 parking spaces are required per Section 17.116.070 of the Zoning Ordinance due to the expansion of student enrollment and faculty. All of the required spaces will be installed at the completion of Phase I. To accommodate a total of 137 parking spaces, 15 spaces (10 spaces on lifts) will be located on the lower 2 levels of the Gatehouse, 15 throughout the west campus, and the back parking lot will be expanded and re-striped to accommodate 107 more spaces. Plans also show 20 additional spaces on a single structured deck to be completed in a later phase.

Later Phases

Later phase improvements would follow completion of the Phase I projects. The applicant has stated that the availability of funding and school priorities will dictate the construction schedule and therefore the timeframe for the later improvements. These improvements would include the replacement of the existing auditorium, demolition of the Lower School building and former Upper School library, construction of 2 new buildings to define a Lower School quadrangle, as well as general repairs, renovations, and landscape improvements.

Architectural Character

The proposed construction uses the canyon location and steep grades effectively to separate the high school students from the lower grades and create open space/gathering areas for each school. The changes in elevation also separate vehicle and pedestrian circulation, allowing the students to move easily and conflict-free through the campus.

The proposed buildings will be constructed to match the existing, shingle architectural style and of natural materials to blend with surrounding natural landscape. Construction will be wood frame clad with cedar shingles, wood clapboards, and/or stucco. Window and door trim will be painted wood. The roof materials will be medium grey tile, asphalt shingle, or weathered copper. The larger buildings are reduced in mass, bulk, and scale through the use of wings, hipped and gabled roofs, cupolas, porches, trellises, and large windows with divided light glass panels.

Additional discussion is provided later in the *Design Issues* section of this report.

GENERAL PLAN ANALYSIS

Land Use and Transportation Element

The project site has two General Plan designations. The upper portion of the site is Hillside Residential (HR) and the lower portion of the site is Detached Unit Residential (DU). The General Plan states the *intent* of the HR designation is to “create, maintain, and enhance residential areas characterized by detached, single-unit structures on hillside lots”. The desired character of “development within this classification should remain residential in character”. The HR classification does not specifically mention schools or other civic institutions as a desired land use. In these situations, staff reviewed the *Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations* (as amended July 2004). Community Education is a permitted use and does conform to the General Plan classification. The DU designation is “intended to create, maintain, and enhance residential areas characterized by detached single unit structures.” The *desired character* of “future development within this classification should remain residential in character with appropriate allowances for schools and other small-scale civic institutions.” In summary, the proposed expansion of the school and the implementation of a master plan conform to the desired intent and character of both the HR and DU land use classifications.

The following General Plan Land Use and Transportation Policies and Objectives apply to the proposed project:

Objective N2: Encourage adequate civic, institutional, and educational facilities located within Oakland, appropriately designed and sited to serve the community. **Head Royce is a private school that enrolls children from K-12th grade. The proposed project would expand the existing school by 51,624 sq. ft. (after removal of existing structures) as well as increase the number of students from 700 to 880. The master plan is intended to create a quality academic environment and resolve many of the issues that have resulted in “piecemeal” construction. The renovations and new construction will create a school character that is consistent with the existing design and character of the neighborhood. The master plan site design is appropriate to an educational facility in this canyon location and with the proposed enrollment.**

Policy N2.1: 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. **Currently, the school has no identifiable presence on Lincoln Avenue contrary to the other civic institutions such as the Mormon Temple and the Greek Orthodox Church. The master plan will create an identity and character consistent with the existing buildings and materials on campus.**

Policy N2.5: 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. **Staff has reviewed the land use applications for the preliminary and final planned unit development. Staff’s decision to recommend approval of the project is the result of several different factors. These factors include: the overall design and adequacy of the master plan; the lack of any significant impact on the surrounding neighborhood; and staff’s ability to make the required findings. In addition, staff recognized that the proposal will benefit the City and the region by providing additional education opportunities.**

The proposed project meets the referenced objectives, the general intent of the HR and DU land use designation, and is a good fit for this area.

ZONING ANALYSIS

The zoning of the site is R-30 One Family Residential. “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.” Community Education, a civic activity, is conditionally permitted in the R-30 zone and the school received Conditional Use Permit approval in 1964 and again in 1972, 1973, 1980, and in 1987 for major additions. There is no maximum floor area ratio in this zone for non-residential facilities.

The proposed project will require a Planned Unit Development (PUD) including a Preliminary Development Plan (PDP) and a Final Development Plan (FDP) as well as an amendment to the previous Conditions of Approval. This amendment increases the maximum school enrollment at the campus from 700 to 880. The criteria for review and approval for the design of this facility includes the Preliminary Planned Unit Development criteria in Section 17.140.080.

The following table depicts the proposal’s comparison to the approved project.

Zoning Regulation Comparison Table

Criteria	R-30	Proposed	Comment
Yard – Front	20’	5-40’	Requirement waived with a PUD.*
Yard – Interior Lot Line	28’*	45-55’	Meets R-30 requirements.
Yard – Rear	N/A**	N/A	Meets R-30 requirements.
Height	25 ft or 30 ft with a pitched roof***	18’-50’ (Upper School)	Requirement waived with a PUD.*
Parking	One space for each three employees plus one space for each 10 students of planned capacity = Total of 137 spaces	157 spaces	Meets R-30 requirements.
FAR	N/A	.27	Meets R-30 requirements.

Table Notes:

* The side yard requirement is the greater of 5’ or 10% of the lot width.

**The project site has two front yards per Section 17.09.040.

*** Section 17.122.110C states that in the R-30 zone, no building (that is included in a PUD application) shall exceed 50 feet in height except for the allowed projections in Section 17.108.030.

Planned Unit Development (PUD)

A PUD is required in order to accommodate the phasing of the proposed master plan. The project sponsor has submitted both Preliminary Development Plan (PDP) application and a Final Development Plan for the whole site. As part of the Planned Unit Development, several zoning regulations were

waived pursuant to Section 17.122.100(G) of the Planning Code in order to create a comprehensive design and promote an integrated site plan. These regulations include building height and the front yard setback requirements as described in the table above.

According to the Planned Unit Development Procedure, the applicant has 1 year from the approval of the Preliminary Development Plan to submit a Final Planned Unit Development Plan. The Final Planned Unit Development Permit is part of this Planning Commission decision. Staff typically limits the entitlement to 2 years unless a demolition, grading, or building permit has been obtained. Staff has informed the applicant that the Planning and Zoning Department does not support extending entitlements for this project past 5 years without a Development Agreement being signed with the City. The applicant has been unwilling to enter into a Development Agreement and therefore this entitlement will be limited to 5 years. Condition of Approval #2 specifies the timeline for construction and outlines the extension and phasing schedule.

As stated above in the report, the school has signed Letters of Agreement with the Whittle Avenue neighborhood group; the Lincoln to Laguna (Alida) neighborhood group; and the Lincoln neighborhood group. These agreements address numerous physical and behavioral issues facing the school and are based on a 15 year master plan. The conditions outlined in these agreements and the timeframes for implementation are independent of the timeframes permitted by the Planning and Zoning Department

Design Review Process

Special Projects and Design Review Committee

Planning staff worked closely with the project sponsor and the project's architect to refine the design of the proposed building over the past year. Additionally, the project design was reviewed at several applicant sponsored community meetings, by the Special Projects Committee (SPC) on April 13, 2005, and Design Review Committee on June 22, 2005. At those meetings staff heard comments from the public regarding potential future growth, increased noise, buffering between the residential neighborhood and school, parking and traffic, master plan design, and the monitoring of conditions of approval. The following summarized the input and direction given to the applicant from the SPC and the DRC:

Overall both the SPC and the DRC believed that the master plan configuration and the architectural design was appropriate to the site and was sensitive to the surrounding community. The Committees agreed that the PUD waiver for the front setback was acceptable. They also agreed that a buffer between the residential neighborhood and the school was important to maintain. They recommended that the project sponsor work to reach an agreement with the neighbors regarding the residential structures on Lincoln owned by the school.

Staff believes that the design of the proposed buildings compliment the "Shingle" style of the existing structures. They are well designed and that the mass and bulk are acceptable. More development of the design will be undertaken by the architect and the project sponsor prior to submittal of the plans for a building permit. Staff recommends that as the design of the buildings are further developed, the refined design of the elements listed below, and any exterior elements that differ from the schematic plans dated February 18, 2005, be submitted for review and approval by the Planning Director prior to issuance of the building permit. (The Planning Director may exercise her standard authority to refer the design to the DRC or to the Planning Commission to ensure compliance with the PUD).

- a. *Materials and colors* are a crucial component of this project. Staff is requesting a sample materials and color board for review. The board should include exterior materials and finishes; a preliminary color palette; roof materials; window type, quality, and style; lattice,

trellis, balcony, and railing materials. The applicant shall also submit a profile detail of the windows for further review.

- b. Fenestration, window design, and window quality* is a critical part of the success of each building on the campus. More detail is required on the window quality and types. In order to insure a high design quality, all windows shall be recessed a minimum of 2", be true divided light windows, and include an appropriate sill. The windows, doors, and other openings should be surrounded by sizable and projecting wood trim. The architect shall revisit the window grouping on the south elevation of the Upper School and include another window proportion for interest on this façade.
- c. Rafter or tie beams and other roof members* should extend beyond the eaves into plain view if they are integrated into the overall construction of the building and shall not be tacked on. In typical "Shingle" architecture, the protruding end of the beam is finished with a diagonal cut or a set of notches. Braces should be attached to the end of a gable to support the rafters. The gables should extend over the building facades to provide depth and articulation.
- d. Trellis, railing, balcony, and lattice elements* should be constructed of thick posts to compliment the heavier architectural style. The applicant shall provide staff will details of these elements. Climbing planting and vines are typically trained over these elements. The applicant should include this type of planting on the landscape plan.
- e.* The applicant shall submit to staff which buildings will be composed of stucco.

Community Process

During the past two years, the applicant has had many community meetings with the Neighborhood Liaison Committee and various neighborhood groups. The project sponsor held a meeting in November of 2002 to present the project to the community. There were many comments from the public at that first meeting. Consequently, the sponsor held off on submitting a formal application for the Master Plan while meeting with small neighborhood working groups. Those meetings happened on approximately a monthly basis for 18 months and culminated in agreements signed in May 2004. The project sponsor continued discussions relating to the remaining issues raised by Lincoln Avenue neighbors. Ultimately an agreement was reached with those neighbors. (See neighborhood agreements Attachment E).

ENVIRONMENTAL REVIEW

The project has undergone review to assess its potential environmental impacts. Based on the results of an Initial Study, a staff determination was made to prepare a Mitigated Negative Declaration (MND). A Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was circulated on December 12, 2005 for a 21- day comment period. The public review and comment period ended on January 3, 2006. A copy of the MND and NOI is included in this report as Attachment B and is also available at the Planning and Zoning office.

As of the printing of this report, only one comment letter (expressing concern) was received in response to the MND. The comment was general, and concerned the overall impact of cupolas, lighting, landscape and most important, of the proposed new administration building. The analysis completed for the MND took these issues specifically into account in the *Aesthetics Section*. The issues and concerns expressed in this letter are discussed in the next section of this report, titled Key Issues and Impacts.

Key Issues and Impacts*Aesthetic Issues*

The proposed project includes the implementation of a long-term master plan. This includes expansion of the campus both physically and in population. As stated above, the existing school is located in a naturally occurring canyon 25' below Lincoln Ave, though the campus is relatively flat adjacent to Whittle Avenue. The campus has a heavy tree canopy adjacent to Lincoln, but is more sparse adjacent to Whittle. The zoning on the project site is R-30 One Family Residential. This zone conditionally permits Community Education facilities and a Conditional Use Permit was granted in 1964. The zoning permits a maximum building height of 30'. This requirement is exceeded in several instances including the Upper School, Library, and the Administration building. This requirement is usually exceeded due to the change in elevation from one facade of the building to the opposite façade. The height requirement is waived as part of the PUD permit.

Review of Potential Aesthetic Impact

The MND analyzed potential aesthetic impacts including visual quality of the site and surrounding area; potential day and nighttime glare; casting of shadows; and provision of adequate light for the appropriate uses. (Please refer to IS, pages 14 through 18 for additional information/analysis.)

Neighbors Concern about Aesthetic Impacts

One neighbor along Whittle had concerns about the Administrative /Gatehouse building and specifically regarding glare from west facing windows and cupolas; increased noise from the lifts; and landscaping. As demonstrated in the Mitigated Negative Declaration, the proposed improvements will be located within the canyon and will be screened by the existing tree cover along the perimeter of the site. The new structures will not be substantially different in height, bulk, and massing from the existing campus structures. The proposed buildings will include additional west facing windows. These windows will be relatively few since many of the windows will replace existing windows. Landscape improvements are included in the Phase 1. Additional landscaping shall reduce any daytime glare or new reflections from these west facing windows and will not shadow solar collectors. Staff has also required that a landscaping plan be submitted as a condition of approval. Any outdoor lighting fixtures will be angled downward to reduce nighttime glare. Also as a condition of approval, the project sponsor must submit a lighting plan to the City prior to issuance of a building permit.

CONCLUSION

The proposal seeks to implement a long-term Master Plan at Head Royce School and increase the student enrollment. Staff believes that the new site layout and building design improves the appearance of the school while solving circulation and academic environment issues. The new design is consistent with the existing shingle architectural style and is appropriate to a residential neighborhood. The project meets the primary goal of providing a quality academic environment for Oakland and Bay Area students. Furthermore, the project is clearly in conformance with many General Plan goals and policies including: 1) encouraging adequate and appropriately designed educational facilities sited to serve the community and 2) ensuring that educational facilities are operated in a manner that is sensitive to surrounding residential and other uses. The PUD permit is warranted and is not anticipated to create adverse impacts, pursuant to the attached Findings and Conditions of Approval. Based on the analysis contained within this report, the MND, and elsewhere within the administrative record, staff believes that the proposed project is appropriate in this location.

Therefore, staff recommends that the Planning Commission:

1. Adopt the proposed Mitigated Negative Declaration based on the environmental findings contained in this report; and
2. Adopt the attached Mitigation Monitoring Plan for the proposed project; and
3. Approve the application for the Planned Unit Development (Preliminary Development Plan and Final Development Plan), and Design Review subject to the attached findings and conditions of approval.

Respectfully submitted:

CLAUDIA CAPPIO
Director of Development

GARY PATTON
Major Projects Manager
Deputy Planning Director

Prepared by:

Heather Klein
Planner II, Major Development Projects

Attachments: A. Project Architectural, Engineering, and Landscape Plans
 B. Proposed Mitigated Negative Declaration
 C. Public Comments
 D. Neighborhood Agreements

FINDINGS FOR APPROVAL

This proposal meets the required findings under the California Environmental Quality Act (CEQA), Oakland Municipal Code Sections 17.134.050. This proposal also meets the required findings under the Oakland Municipal Code Sections 17.140.080 (Planned Unit Development Criteria), 17.140.060 (Planning Commission Action for a Final Planned Unit Development for Phase 1), and 17.136.070 (Design Review Criteria) as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type. The project's conformance with the following findings is not limited to the discussion below, but is also included in all discussions in this report, the MND, and elsewhere in the record.

Findings Required by CEQA Guidelines Section 15074:

In adopting the proposed MND for the project, the Planning Commission hereby makes the following findings based on this staff report and the administrative record as a whole:

1. That the proposed MND was prepared by the City of Oakland as the Lead Agency and was properly circulated with a 21-day public review period, beginning on December 12, 2005 and ending on January 3, 2006.
2. That the proposed MND, together with all comments received during the public review process, was independently reviewed, considered and analyzed by the Planning Commission and reflects the independent judgment of the Planning Commission; that such independent judgment is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the proposed MND and the administrative record as a whole); That the Planning Commission recognizes that the MND may contain certain additions, clarifications, modifications, or other revisions as the result of the public review and comment; That such work does not present substantial revisions requiring recirculation of the MND.
3. That the Planning Commission adopts the proposed MND and its findings and conclusions as its source of environmental information; and that the proposed MND is legally adequate and was completed in compliance with CEQA.
4. That the proposed MND identified all potential significant adverse impacts and feasible mitigation measures that would reduce these impacts to less-than-significant levels, and that all of the applicable mitigation measures identified in the MND and Mitigation Monitoring and Reporting Program will be adopted and implemented. Based on the MND and the whole record before the Planning Commission, there is no substantial evidence that the project will have a significant effect on the environment.
5. That the project complies with CEQA, and that the proposed MND was presented to the Planning Commission, which reviewed and considered the information contained therein prior to acting on the development approvals for the project. The custodian of the record of proceedings upon which this decision is based is the Community and Economic Development Agency of the City of Oakland, located at 250 Frank Ogawa Plaza, Suite 3315, Oakland, CA 94612.

Mitigation Monitoring: The monitoring and reporting of CEQA mitigation measures in connection with the project will be conducted in accordance with the attached Mitigation Monitoring Program. Adoption of this program will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth

in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the efforts of the City of Oakland or other identified public agencies of responsibility

Section 17.140.080 Preliminary Planned Unit Development Permit

- A. That the location, design, size, and uses are consistent with the Oakland Comprehensive Plan and with any other applicable plan, development control map, or ordinance adopted by the City Council.**

The project site has two General Plan designations. The upper portion of the site is Hillside Residential (HR) and the lower portion of the site is Detached Unit Residential (DU). The *Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations* states that Community Education is a permitted use and does conform to the General Plan classification. The DU designation states that the *desired character* of “future development within this classification should remain residential in character with appropriate allowances for schools and other small-scale civic institutions.” Furthermore the proposed master plan conforms to several specific General Plan policies including appropriately designing and siting educational facilities to serve the community and operating educational facilities in a manner that is sensitive to surrounding residential and other uses. In summary, the proposed expansion of the school and the implementation of a master plan conform to the desired intent and character of both the HR and DU land use classifications, as well as with several General Plan policies.

- B. That the location, design, and size are such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development.**

The design, size, materials, and building arrangements are well integrated into its surrounding location. The proposal will replace many of the existing buildings that were constructed in a “piecemeal” process over the past 40 years. The project will involve only a net increase in floor area of 50,000 sq. ft. which is approximately a 12% expansion. The project will occur at the bottom of the canyon and none of the proposed new construction is different in height, bulk, and mass from the existing structures. In addition, the project will be effectively screened by the existing tree canopy. Since the project was designed with all of these factors in mind, the design in itself actually addresses and reduces the impact of the development.

- C. That the location, design, size, and uses are such that traffic generated by the development can be accommodated safely and without congestion on major streets and will avoid traversing other local streets.**

The master plan effectively separates pedestrian and vehicular circulation within the project site. All car traffic will use the upper parking lot and students/faculty will walk through the campus on the many pedestrian pathways. Only 15 cars and delivery trucks will use the back entrance off of Whittle Avenue. The MND and the Traffic Study analyzed the surrounding traffic patterns, circulation, and level of service at the intersections. The proposed project will generate some additional traffic and could result in an extended parking queue along Lincoln that would block traffic at the upper driveway and traffic along Lincoln Avenue. However, the MND determined that with implementation of the required mitigation measure the traffic impact will be less than significant.

- D. That the location, design, size, and uses are such that the residents or establishments to be accommodated will be adequately served by existing or proposed facilities and services.**

FINDINGS

The proposed project site is located in a developed area that is adequately served by existing utilities and service systems including water supply, wastewater treatment, storm water drainage, and solid waste disposal as documented in the Initial Study and MND. The proposed project will also provide additional services for the area and improvements to the existing infrastructure.

- E. That the location, design, size, and uses will result in an attractive, healthful, efficient, and stable environment for living, shopping, or working, the beneficial effects of which environment could not otherwise be achieved under the zoning regulations.**

The proposed project could not otherwise be achieved under the zoning regulations due to the site's topographic and access constraints. Demolition and new construction of multiple buildings required that a PUD permit be requested. Furthermore, a PUD was a necessity to accommodate the phasing of the project. This PUD permit allowed the applicant the flexibility to achieve an appropriate site plan and building arrangement on the project site. The proposed project is an attractive, high quality development that will benefit the surrounding area by expanding educational opportunities in Oakland.

- F. That the development will be well integrated into its setting, will not require excessive earth moving or destroy desirable natural features, will not be visually obtrusive and will harmonize with surrounding areas and facilities, will not substantially harm major views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, vegetation, topographic features, or other devices.**

Although the project will require earthmoving, the actual amount is expected to be minimal since grading will only occur for building foundations. The project is located in a natural canyon which was filled approximately 40 years ago and the design respects the topography of the site. The only existing natural features are the steep slope along Lincoln Avenue and the trees located throughout the site. The project will require removal of trees, and half of these are non-native which are not required to be replaced.

Although the project will include the removal of trees, the perimeter of the site is fairly extensively planted. Phase I improvements include additional landscaping and staff has made a final landscape plan a condition of approval. Since the site has several dozen trees and additional landscaping is included, construction of the project will not have a significant impact.

The proposed shingle architectural style is consistent with the existing campus buildings, the neighborhood, and will reduce visual impacts. Varied roof forms and distinct elevations, including projections and recesses, provide shadow lines, depth, and texture to the structures. As demonstrated in the project MND, all visual impacts can be reduced to a less than significant level.

Section 17.140.060 (Planning Commission Action for Final Planned Unit Development):

The proposal conforms to all applicable criteria and standards and conforms in all substantial respects to the preliminary development plan, or, in the case of the design and arrangement of those portions of the plan shown in generalized, schematic fashion, it conforms to applicable design review criteria.

The proposed Final Development Plan for Phase 1 conforms to all applicable criteria and standards and is consistent with the Preliminary Development Plan for the project. The design is attractive and appropriate for the location.

17.136.070B - NON-RESIDENTIAL DESIGN REVIEW CRITERIA:

- A. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.102.030 (Special Regulations for Designated Landmarks).**

The purpose of a master plan design and a PUD permit is to achieve a group of facilities that are well related to each and adhere to a comprehensive plan. The proposed master plan reconfigures the site to provide a more functional campus environment while creating an identity and consistent school character. Special consideration was given during the conceptual design development to separate the upper school and lower school and develop academic quads. Consideration was also given to separating pedestrian and vehicular circulation within the campus. These factors guided the arrangement of buildings and the “choreography” of the site. The proposed materials, textures, colors, and style are consistent with the existing buildings and will continue the architectural character of the school. The master plan was designed to reduce overall neighborhood impacts so most construction will replace existing buildings. The increase in new floor area is only approximately 50,000 sq. ft.

- B. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.**

The proposed design was reviewed at the Special Projects Committee and the Design Review Committee. Both Committees agreed that the overall master plan design was appropriate to the canyon site in terms of arrangement of buildings; visual identity from Lincoln Avenue; pedestrian and vehicular circulation; and architectural character. The proposed master plan will not result in any significant environmental impacts, including visual quality in the neighborhood. In addition, implementation of the proposed master plan will provide quality educational benefits to many Oakland and Bay Area residents. Furthermore, the adjacency of good schools in the neighborhood is known to increase property values.

- C. 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 stated above in the PUD findings and the General Plan Analysis Section of this report, the project is consistent with the General Plan land use designation of Detached Unit Residential and Hillside Residential. The project supports many of the objectives and policies of the Land Use and Transportation Element (LUTE) for this area encouraging adequate and appropriately designed educational facilities sited to serve the community and ensuring that educational facilities are operated in a manner that is sensitive to surrounding residential and other uses. Furthermore, the master plan is adequately designed to be able to accommodate the additional number of students.

FINDINGS

Modifications to the conditions of approval as directed by the City Planning Commission at the **January 4, 2006** meeting and clarifications by staff are indicted in underlined type for additions and ~~cross-out type~~ for deletions.

CONDITIONS OF APPROVAL/ MMRP

STANDARD CONDITIONS

1. **Approved Use.**

a. Ongoing.

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the architectural plans dated February 18, 2004 and as amended by the following conditions. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval.

2. **Effective Date, Expiration**

a. First Phase Expiration

These approvals shall become effective upon satisfactory compliance with these conditions. These approvals for the project site shall expire on **January 4, 2008** unless actual construction of the first phase of the project has begun under necessary permits by this date.

b. Final PUD Expiration for Later Phases

Failure of the applicant to obtain a Final PUD approval for later phases by **January 4, 2007** shall invalidate this approval.

c. Entire Master Plan Expiration

These approvals for the entire master plan shall expire on **January 4, 2011** unless a development agreement is reached with the City to extend the approvals. Planning, Building, and P-job permits must be issued for the entire master plan by this date and the expiration date includes any project extensions per condition #3 below.

Phase	Expiration Date
Construction of First Phase	January 4, 2008
Final PUD approval for later phases	January 4, 2007
Entire Master Plan approval	January 4, 2011

3. **Extensions and Phasing Requirements**

a. First Phase Extension

Upon written request and payment of appropriate fees prior to the expiration of the approvals, the Zoning Administrator may grant a one-year extension of these dates, with additional extensions subject to approval by the Planning Commission.

b. Final PUD Extension for Later Phases

Provided further, that upon written request, the Planning and Zoning Division may grant a one year extension of the deadline, with additional extensions subject to approval by the City Planning Commission.

c. Entire Master Plan Extension

CONDITIONS OF APPROVAL

No extensions for the entire master plan shall be granted without either a development agreement reached with the City or upon the approval of a new Planned Unit Development application.

Phase	Extension Date
Construction of First Phase	Administrative Approval – extended till January 4, 2009 Planning Commission Approval – extended till January 4, 2010
Final PUD approval for later phases	Administrative Approval - extended till January 4, 2008 Planning Commission Approval – extended till January 4, 2009
Entire Master Plan approval	January 4, 2011 – No extensions (Development agreement or a new PUD permit application must be submitted)

3. Construction Phasing and Management Plan

a. Prior to issuance of building permit

The project sponsor shall submit a Construction Phasing and Management Plan, incorporating all applicable conditions of approval. The plan shall also include the following additional measures and standards:

1. A site security and safety plan to assure that grading and construction activities are adequately secured during off-work hours.
2. A fire safety management plan for all phases of work, including provisions for access, water, and other protection measures during grading and construction activities.
3. A construction period litter/debris control plan to ensure the site and surrounding area is kept free of litter and debris.

b. Prior to issuance of certificate of occupancy.

Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth above, shall not be issued until (a) all landscaping and on and off-site improvements for that phase are completed in accordance with this Approval, or (b) until cash, an acceptably rated bond, a certificate of deposit, an irrevocable standby letter of credit or other form of security (collectively “security”), acceptable to the City Attorney, has been posted to cover all costs of any unfinished work related to landscaping and public improvements plus 25 percent within that phase, unless already secured by a subdivision improvement agreement approved by the City. For purposes of these Conditions of Approval, a certificate of occupancy shall mean a final certificate of occupancy, not temporary or conditional, except as the City determines may be necessary to test utilities and services prior to issuance of the final certificate of occupancy.

4. Construction Phasing and Management Plan

a. Prior to issuance of certificate of occupancy.

Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth above, shall not be issued until (a) parking and traffic management plan is submitted that includes the traffic mitigations measures per condition #

5. Scope of This Approval

a. Ongoing.

CONDITIONS OF APPROVAL

The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes and requirements imposed by other affected departments, including but not limited to the Building Services Division and the Fire Marshal. Minor changes to the approvals may be approved administratively by the Planning Director; major changes to the approvals, shall be subject to review and approval by the City Planning Commission.

6. Modification of Conditions or Revocation

a. Ongoing.

The City reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved use or facility is violating any of the Conditions of Approval, any applicable codes, requirements, regulation, guideline or causing a public nuisance.

7. Recording of Conditions of Approval

a. Prior to issuance of building permit or commencement of activity.

The applicant shall execute and record with the Alameda County Recorder's Office a copy of these conditions of approval on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

8. Reproduction of Conditions on Building Plans

a. Prior to issuance of building permit.

These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project.

9. Indemnification

a. Ongoing.

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Zoning Division, Planning Commission, or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

10. Waste Reduction and Recycling

a. Prior to issuance of a building or demolition permit.

Prior to issuance of any building permits including the grading and/or demolition permit the project applicant will submit a demolition/construction waste diversion plan and operational waste reduction plan for review and approval by the Public Works Agency. The plan will specify the methods by which the development will make a good faith effort to divert 50% of the demolition/construction waste generated by the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan. The operational diversion plan will specify the methods by which the development will make a good faith effort to divert 50% of the solid waste generated by operation of the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan.

11. Subsequent Conditions or Requirements.

a. Ongoing.

This approval shall be subject to the conditions of approval contained in any subsequent Tentative Tract Map, Tentative Parcel Map or mitigation measures contained in the approved environmental document for this project.

12. Electrical Facilities

a. Prior to installation.

All new electric and telephone facilities, fire alarm conduits, streetlight wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Department.

13. Improvements in the Public Right-of-Way

a. Prior to issuance of building permit for work in the public right-of-way

The applicant shall submit Public Improvement Plans for adjacent public rights-of-way showing all proposed improvements and compliance with conditions of approval and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications locations of facilities required by the East Bay Municipal Utility District (EBMUD), and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this approval, including the approved landscape plans, the design of the pedestrian paths, and the street tree locations and planting specifications. In addition, the plans shall also include how the public improvements will be phased concurrent with the proposed project phasing, in order to assure that units can be occupied and meet access, life safety and other requirements. This plan shall be reviewed and approved by the City Engineer and used as the confirmation of compliance with all phases of the project. Encroachment permits shall be obtained as necessary for any applicable improvements.

14. Phased Public Improvement Plan

a. Prior to issuance of building permit for work in the public right-of-way

The applicant shall submit Public Improvement Plans for improvements to be installed with each phase of the development.

STANDARD CONDITIONS FOR CONSTRUCTION PERIOD MANAGEMENT

15. Construction Hours for Major Projects.

a. During all construction activities.

Construction hours will be limited to be between 7:00AM to 7:00PM, Monday through Friday. Subject to prior authorization of the Building Services Division and the Planning and Zoning Division, no construction activities shall be allowed on Saturdays until after the building is enclosed, and then only within the interior of the building with the doors and windows closed. Saturday construction activity prior to the building being enclosed shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of resident's preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or Federal holidays.

16. Construction Period Parking and Traffic

a. Prior to issuance of a demolition or building permit

The project sponsor and construction contractor shall meet with the Traffic Engineering and Parking Division of the Oakland Public Works Agency (PWA) and other appropriate City of Oakland agencies to determine traffic management strategies to reduce traffic congestion and the effects of parking demand, to the maximum feasible extent, by construction workers during construction of this project and other nearby projects that could be simultaneously under construction.

The project sponsor shall submit a construction management and staging plan to the Building Services Division with the application for the first building permit for the project for review and approval. The plan shall include at least the following items and requirements:

1. A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. In addition, the information shall include a construction-staging plan for any right-of-way.
2. Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
3. Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours and lane closures will occur.
4. Provision for accommodation of pedestrian flow.
5. Location of construction staging areas.
6. Provisions for monitoring surface streets used for haul routes so that any damage to the street paving and debris attributable to the haul trucks can be identified and corrected.
7. A temporary construction fence to contain debris and material and to secure the site.
8. Provisions for removal of trash generated by project construction activity. The applicant shall ensure that debris and garbage is collected and removed from the site daily.
9. At least one copy of the approved above referenced plans that include the Approval Letter and the Conditions of approval for this project shall be available for review at the job at all times.
10. All work shall apply the "Best Management Practices" (BMPs) for the construction industry, including BMPs for dust, erosion, and sedimentation abatement per Section 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.
11. Dust control measures as set forth in Condition 17, below.
12. Noise control measures as set forth in Condition No. 18, below.

CONDITIONS OF APPROVAL

13. A process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. The Planning and Zoning Division shall be informed who the Manager is prior to the issuance of the grading permit

17. Dust Control Measures.

a. During all construction activities.

Dust control measures shall be instituted and maintained during construction to minimize air quality impacts. The measures shall include:

1. Watering all active construction areas as necessary to control dust;
2. Covering stockpiles of debris, soils or other material if blown by the wind;
3. Sweeping adjacent public rights of way and streets daily if visible soil material or debris is carried onto these areas.
4. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
5. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;
6. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
7. Install sandbags or other erosion control measures to prevent silt runoff onto public roadways; and
8. Replant vegetation in disturbed areas as quickly as possible.

18. Construction Related Noise Control.

a. During all construction activities.

To reduce daytime noise impacts due to construction, to the maximum feasible extent, the City shall require the applicant to develop a site-specific noise reduction program, subject to city review and approval, which includes the following measures:

1. Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems.
2. An on-site complaint and enforcement manager shall be posted to respond to and track complaints.
3. A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).
4. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible).
5. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be

CONDITIONS OF APPROVAL

used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.

6. Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.

19. Pile Driving and other Extreme Noise Generators

a. During all construction activities.

Hours.

If pile-driving and/or other extreme noise generating activities greater than 90 dba occur, they shall be limited to between 8:00 AM and 4:00 PM, Monday through Friday, with no extreme noise-generating activity permitted between 12:30 PM and 1:30 PM. No extreme noise-generating construction activities shall be allowed on Saturdays, Sundays, or holidays.

Pile Driving – Noise Attenuation.

To further mitigate potential pile-driving and/or other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. This noise reduction plan shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation is achieved. A third-party peer review, paid for by the applicant, shall be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the applicant. A community meeting shall be held after the peer review but prior to approval of a noise reduction plan by the City. A special inspection deposit shall be determined by the Building Official, and the deposit shall be submitted by the project sponsor concurrent with submittal of the noise reduction plan. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any required pile-driving activities:

1. Implement “quiet” pile-driving technology, where feasible, in consideration of geotechnical and structural requirements and conditions;
2. Erect temporary plywood noise barriers around the entire construction site;
3. Utilize noise control blankets on the building structure as it is erected to reduce noise emission from the site;
4. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
5. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

Pile Driving – Complaint Response.

A process with the following components shall be established for responding to and tracking complaints pertaining to pile-driving construction noise:

1. A procedure for notifying City Building Division staff and Oakland Police Department;
2. A list of telephone numbers (during regular construction hours and off-hours);

3. A plan for posting signs on-site pertaining to complaint procedures and who to notify in the event of a problem;
4. Designation of a construction complaint manager for the project; and
5. Notification of neighbors within 300 feet of the project construction area at least 30 days in advance of pile-driving activities.

20. Site Maintenance.

a. During all construction activities.

The applicant shall ensure that debris and garbage is collected and removed from the site daily.

21. Cultural Resources.

a. During all grading and site work activities.

1. If previously-undetected cultural resources of significance are encountered during the course of excavation, all earthmoving activity in the area of impact shall stop until the applicant retains the services of a qualified archaeological consultant. The archaeological consultant shall examine the findings, assess their significance and offer proposals for any procedures deemed appropriate to further investigate and/or mitigate adverse impacts to those cultural resources which have been encountered.
2. If previously undetected paleontological resources of significance are encountered during the course of excavation, all earthmoving activity in the area of impact shall stop until the applicant retains the services of a qualified paleontologist. The paleontologist shall examine the findings, assess their significance and offer proposals for any procedures deemed appropriate to further investigate and/or mitigate adverse impacts to those cultural resources which have been encountered.

22. Grading, Erosion and Drainage Plan.

a. Prior to issuance of grading permit and during construction.

The applicant shall submit for review and approval by the Building Services Division a Site Grading, Drainage, and Erosion Control plan in conformance with City standards and "Best Management Practices" (BMP) for use during construction.

1. The plan shall indicate the methods, means, and design to conduct site run-off, attenuate storm drainage flow, and minimize sedimentation and erosion during and after construction activity (utilizing a combination of permeable surfaces, subsurface-drainage, silt debris barriers, drainage retention systems, and/or filtration swale landscaping). All graded slopes or disturbed areas shall be temporarily protected from erosion by implementing seeding, mulching and/or erosion control blankets/mats until permanent erosion control measures are in place. No grading shall occur without a valid grading permit issued by the Building Services Division or within the period of October 15 through April 15 unless specifically authorized in writing by the Building Services Division. The plan will be in effect for a period of time sufficient to stabilize the construction site throughout all phases of project development. Furthermore, storm drainage facilities shall be designed to meet applicable regulations.
2. In order to minimize potential water quality impacts to surface runoff during construction, the proposed project will require standard erosion control measures as part of the project prior to issuance of grading or building permits. The applicant will be required to prepare a construction period erosion control plan and submit the plan to the Building Services Division for approval prior to issuance of a grading or building permit. The plan will be in effect for a period of time

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sufficient to stabilize the construction site for all phases of the project. These standard measures will address construction period erosion on the site by wind or water.

3. Construction operations, especially grading operations, shall be confined as much as possible to the dry season in order to avoid erosion of disturbed soils.

STANDARD ENVIRONMENTAL CONDITION

23. State, Federal, or County Authority Environmental Approval

a. Prior to issuance of building permit

The applicant shall demonstrate, through written verification that required clearances have been granted and any applicable conditions have been met for previous contamination at the site from the appropriate State, Federal or County authorities or submit a Phase 1 and/or Phase II report for the existing buildings. The Planning Director shall review and provide a determination on the completeness of the reports.

SPECIFIC PROJECT CONDITIONS

24. Mitigation Monitoring and Reporting Program

a. Ongoing.

The following mitigation measures shall be incorporated into the project. The measures are taken directly from the Mitigated Negative Declaration for the Head Royce Master Plan Project. For each measure, this Mitigation Monitoring and Reporting Program (MMRP) indicates the entity (generally, an agency or department within the City of Oakland) that is responsible for carrying out the measure (“Responsible Implementing Entity”); the actions necessary to ensure compliance with the applicable measure (“Monitoring Action(s)”) and the entity responsible for monitoring this compliance (“Monitoring Responsibility”); and the time frame during which monitoring must occur (“Monitoring Timeframe”).

TRAFFIC AND CIRCULATION

Impact T1: The increase in enrollment at the completion of the Master Plan could result in extension of the parking queue along Lincoln during the after-school pickup period.

Mitigation T1: The project sponsor would monitor the extent of the after-school pickup queue along Lincoln Avenue. If the queue extends past the upper driveway and the “no parking” zone above the driveway, the school would implement as many of the following actions as would be necessary to accomplish the necessary reduction in the length of the queue:

- Stagger pickup times so that the buses are loaded and leave prior to the start of pickup,
- Discourage early arrival for pickup,
- Actively encourage carpools or school buses as an alternative with an incentive for use of these alternatives, then
- If the previous measures do not reduce the queue, work with the City to restrict on-street parking during after-school pickup on Lincoln Avenue above the upper driveway to allow for the longer queue.

Implementation of this measure would reduce the impact of traffic interference during after-school pickup to a less-than-significant level.

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Responsible Implementing Entity: CEDA, Planning Division and Public Works Agency, Traffic Engineering Division

Monitoring Action(s): The Director of Operations of the Head Royce School shall appoint at least 2 qualified persons to monitor after-school pick-up by recording observations of the length of the afternoon pick-up queue during the period between 2:45 and 4:00 PM, reporting on the number of vehicles in the queue every 15 minutes and the maximum number of vehicles in the queue during the 1-1/4 hour monitoring period. The monitoring persons shall note the number of buses in the queue at each monitoring time. The Director of Operations shall prepare a every two weeks during the 6 week period based on the information gathered, sign the report, and submit to the Community and Economic Development Agency Planning Division and Public Works Agency Traffic Engineering Division. Monitoring and reporting shall take place during the first six weeks of each semester for at least two years after Phase I of the Master Plan has been completed or after each enrollment increase, as noted below in Monitoring Time Frame.

If the results of monitoring show that the queue of vehicles regularly extends east along Lincoln Avenue to a point beyond the upper driveway, the Director of Operations shall consult with CEDA and PWA and determine which of the following additional actions shall be implemented in what order to reduce the length of the queue:

- Stagger pickup times so that the buses are loaded and leave prior to the start of pickup,
- Discourage early arrival for pickup,
- Actively encourage carpools or school buses as an alternative with an incentive for use of these alternatives.

Monitoring and reporting shall continue for at least six weeks following implementation of each of the above actions to show that it has been effective in reducing the length of the queue. If the queue continues to extend beyond the upper driveway, the Director of Operations shall:

- Work with the City to restrict on-street parking during after-school pickup on Lincoln Avenue above the upper driveway to allow for the longer queue.

Monitoring Responsibility: CEDA, Planning Division and Public Works Agency, Traffic Engineering Division

Monitoring Timeframe: The first Monitoring and Reporting period shall be initiated at the beginning of the first semester following occupancy of the Phase I renovated and new buildings, and shall be carried out for six weeks at the beginning of each semester for two school years. If additional actions are needed, the monitoring period shall be extended for an additional two semesters.

Additional Monitoring and Reporting periods shall be initiated when Later Phases have been completed and for each 60 student enrollment increase until the school has reached the full planned enrollment of 880 students. As with the first period, monitoring shall be carried out for six weeks at the beginning of each semester for two years. If any of the additional actions listed above are needed, monitoring and reporting shall continue for six weeks following implementation of the action.

25. Design Review Requirements

a. *Prior to issuance of building permit*

The final design elements listed below shall be submitted for review and approval by the Planning Director prior to issuance of the building permit. The Planning Director may exercise

CONDITIONS OF APPROVAL

his/her standard authority to refer the final design to the Design Review Committee or to the Planning Commission.

1. Materials and colors are a crucial component of this project. Staff is requesting a sample materials and color board for review. The board should include exterior materials and finishes; a preliminary color palette; roof materials; window type, quality, and style; lattice, trellis, balcony, and railing materials. The applicant shall also submit a profile detail of the windows for further review.
2. Fenestration, window design, and window quality is a critical part of the success of each building on the campus. More detail is required on the window quality and types. In order to insure a high design quality, all windows shall be recessed a minimum of 2", be true divided light windows, and include an appropriate sill. The windows, doors, and other openings should be surrounded by sizable and projecting wood trim. The architect shall revisit the window grouping on the south elevation of the Upper School and include another window proportion for interest on this façade.
3. Rafter or tie beams and other roof members should extend beyond the eaves into plain view if they are integrated into the overall construction of the building and shall not be tacked on. In typical "Shingle" architecture, the protruding end of the beam is finished with a diagonal cut or a set of notches. Braces should be attached to the end of a gable to support the rafters. The gables should extend over the building facades to provide depth and articulation.
4. Trellis, railing, balcony, and lattice elements should be constructed of thick posts to compliment the heavier architectural style. The applicant shall provide staff with details of these elements. Climbing planting and vines are typically trained over these elements. Staff should include this type of planting on the landscape plan.
5. The applicant shall submit to staff which buildings will be composed of stucco.
6. The final colors must be submitted for review and approval.
7. The applicant shall work with the Neighborhood Liaison Committee to reduce the noise volume of the parking lifts operations if applicable.

26. Student Enrollment

a. Ongoing

The maximum school enrollment at the 4315 Lincoln Avenue campus shall be 880 students. This is the maximum number with an allowed 5% margin for fluctuations due to the admissions process. The enrollment increase shall occur in 3 phases of 60 students each as outlined in the neighborhood agreements.

27. Recycling Space Allocation Requirements

a. Prior to issuance of building permit

The design, location and maintenance of recycling collection and storage areas shall comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28 and with the recycling space requirements of the Planning Code. The recycling location and area shall be clearly delineated on the building permit plans.

28. Lighting Plan

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a. *Prior to issuance of building permit*

A lighting plan for the exterior of the project shall be submitted for review and approval by the Planning Director. The lighting plan shall include the appearance and location of all exterior lighting fixtures or standards. The plan shall indicate lighting fixtures that are adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. All lighting shall be architecturally integrated into the site. The outdoor lighting is subject to review by the Public Works Agency, Electrical Services in accordance with the City's outdoor lighting standards.

29. Landscape and Streetscape Plans

a. *Prior to issuance of building permit.*

The project sponsor shall submit a detailed landscaping plan to the Planning Director for review and approval prior to the issuance of any building permits. This plan shall include:

1. The project applicant must apply for a tree removal permit for the removal of the redwood, as required by the Tree Protection/Removal Ordinance. This application process includes a detailed review of site plans and tree surveys by the City Planning Department, the Office of Parks and Recreation and the Office of Public Works. The proposed tree removal must be reviewed and approved by all relevant City offices for the 20 protected trees to be removed.
2. All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All landscaping shall be served by an automatic irrigation system. All paving or other impervious surfaces shall occur only on approved areas.

30. Signage Plan

a. *Prior to issuance of building permit*

The project applicant shall submit a master signage plan for review per the Planning and Zoning regulations, including but not limited to location, dimensions, materials and colors.

31. Water, Wastewater and Storm Sewer Service

a. *Prior to issuance of building permit*

The project sponsor shall provide the necessary information to the Public Works Agency, Design and Construction Services Division to confirm the existing capacity of the wastewater and storm service systems, proposed flows, and the flow conditions resulting from the new flows. The results of the analysis shall be presented in a tabular form. The project sponsor shall also indicate the depths of storm and sanitary sewer lines, widths of easements, and propose a method to the City for review and acceptance in an event when a City owned facility has to be replaced. All City and private facilities shall be clearly identified on the plans. The project sponsor shall be responsible for payment of the required installation or hookup fees to the affected service providers. The project sponsor shall also be responsible for payment of sewer and/or storm water improvement fees as required by the Public Works Agency.

32. Special Inspector

a. *Throughout construction*

The project sponsor shall be required to pay for the staff time of the on-call special inspector(s) as stipulated by the prevailing labor management agreement, or as directed by the Building Official. Prior to issuing any construction-related permits (including demolition and grading permits), the

project sponsor shall establish a deposit, in an amount determined by the Building Official, with the Building Services Division to fund a special inspector who shall be available as needed, as determined by the Building Official or the Planning Director. If the deposited amount proves to be insufficient, then within five (5) calendar days of a written request from the Building Official/Planning Director to provide additional funding, the project sponsor shall deposit said amount with the Building Services Division.

33. Neighborhood Agreements

a. Ongoing

This project approval is subject to the written agreements attached to this report as Attachment E. The items in the agreements will effectively become additional conditions of approval for this project.

34. Traffic Rules

a. Ongoing

1. The applicant shall distribute a package with the traffic rules clearly outlined in the enrollment contract for that year. The rules should include a written traffic monitoring plan and a graphic showing the correct way to drop-off and pick-up students. The package will also include a letter that must be signed and returned by each parent/ guardian delivering students. Consequences for not following the school rules clearly established and include fines and not renewing the enrollment of the child. Consequences for not following the school rules clearly established and include fines and/or not renewing the enrollment contract of the child.
2. Hold parent meetings at the beginning of each semester to discuss the traffic rules and any changes since the start of the year or semester.

ADDITIONAL CONDITIONS OF APPROVAL FROM THE JANUARY 4, 2006 PLANNING COMMISSION HEARING

35. Proposed Conditions of Approval for the Elevations of the Administration Building facing Whittle Avenue

a. Ongoing

- 1) Evergreen trees shall be planted behind the building in order to shield the building and its windows from the residents on Whittle Avenue.
- 2) The siding of the building shall be painted or stained a non reflective, medium brown in order to make the structure recede into the landscape.
- 3) All exterior lighting shall be shielded and downward directed.
- 4) The interior lighting of any cupola shall be located below the sill level of the windows so that the source is not directly visible.
- 5) Interior lighting shall be designed so that the light source is not directly visible through the windows from the exterior.

36. Neighborhood Liaison Committee

a. Ongoing

CONDITIONS OF APPROVAL

Head Royce School shall preserve the Neighborhood Liaison Committee in order to resolve conflicts and maintain communications between the school and the surrounding neighborhoods. The liaison committee shall include members of Upper Lincoln, Lower Lincoln, Alida Court, and Whittle Ave and additional groups may be added if the impacts of the school on those communities are noticeable. The Committee shall meet at least twice a year to discuss issues. However, the Committee shall hold additional meetings as recommended by the neighborhood participants.

APPROVED BY:

City Planning Commission: _____ (date) _____ (vote)

City Council: _____ (date) _____ (vote)

CONDITIONS OF APPROVAL

The Head Royce School
Fifteen-Year Master Plan
Letter of Agreement

between

Whittle Avenue Neighbors and The Head-Royce School
May 24, 2004

In this agreement, Head-Royce School (HRS) and the Whittle Avenue neighbors each assume a set of responsibilities relating to the HRS 15 year master plan. It is our mutual desire that this document will guide us in developing and maintaining positive neighborly relations in the future.

The agreement addresses numerous physical and behavioral components, including a reconfiguration and modernization of campus infrastructure, phased enrollment increase, and enhanced communication processes, both within the HRS community and between the school and the Whittle neighbors.

Whittle Avenue neighbors will remain in close communication with HRS via the Neighborhood Liaison Committee.

PART I Head-Royce School Obligations – 10 items

1. HR to create 35 structured parking spaces on campus with access from Lincoln Avenue only. New parking structure to be built as replacement for 23 existing on campus parking spaces that regularly use the Whittle Avenue back gate. There will remain 15 parking spaces of those that currently exist on the north side of campus that are mostly used for van storage, deliveries and a few extra parking spaces. The new parking will have Lincoln Ave access only. One option is to build a parking deck that may also serve as a roof enclosure for a proposed swimming pool. Another option involves construction of parking deck over the current parking lot on the east side of the campus.
2. HR to encourage City of Oakland to install 4-way stop signs at the intersection of Whittle and Funston. Whittle Ave is a narrow road with no sidewalks and restricted sidelines. In response to traffic safety issues, HR and Whittle Ave. neighbors will encourage the City of Oakland to install 4-way stop signs at the intersection of Whittle and Funston. To be reviewed and installed by the City of Oakland. Signs to be paid for by HR.
3. HR to pursue shared Institutional Parking options with Lincoln Child Center and Cerebral Palsy Center land. The goal is to create added "institutional parking" to reduce the need for institutional related traffic to park on quiet residential streets. HR endorses a plan to create up to 60 new parking spaces on what is mostly Lincoln Child Center Land. If approved by the City of Oakland and agreed to by the Lincoln Child Center, and if financial terms are reasonable, HR intends to sign a long-term lease for 30 of these newly created institutional spaces. If HR does

Whittle Ave. LA

HRS JS

ATTACHMENT E

not sign a lease for 30 spaces with LCC, HR will construct one additional parking space on its campus for every 2 spaces less than 30 that it leases from the Lincoln Child Center, or a maximum of 15 additional spaces. These additional parking spaces will be accessed via Lincoln Avenue only.

4. HR to uphold prior conditional use agreements regarding the use of Whittle Avenue properties. Except as described in this Agreement, HR agrees to live within the provisions of prior conditional use permits. Accordingly, HR will abandon its request to the city planning department to consider the development of a 35 car parking lot in the yard space of the two Whittle Avenue houses owned by the school. HR agrees that it will not use the Whittle Avenue properties located at 4200 and 4220 Whittle Avenue for purposes prohibited by the existing Conditional Use Permit, regardless of who owns the properties.
5. HR will use its good faith efforts to clarify, monitor and enforce the school's traffic, parking and drop off rules. HR actions to include: Broad distribution of a simplified list of school traffic rules to entire school community, including summer population and visitors (with a copy to Whittle Avenue neighbors via the Neighborhood Liaison Committee). Regularly communicate need to obey rules with parents, staff, visitors, etc. Put procedures in place to enforce the traffic, parking, Whittle Ave. gate, pick-up and drop-off rules, including the establishment of clear consequences for members of the school's community who violate rules. Increase on site monitoring as required. Monitors to wear identifiable vests and use digital cameras to record rule violations and to track down rule violators. HR to send to neighbors annual calendar listing special HR events that may impact parking and traffic. HR will perform additional monitoring during special events. Establish Community Liaison staff position with special hot line telephone number. Institutionalize traffic safety as part of HR Board of Trustees oversight. Ongoing review and coordination of HR traffic related issues by working together with the Neighborhood Liaison Committee. HR will regularly discuss with the Neighborhood Liaison Committee whether its efforts to implement the actions specified in this Paragraph 5 have been effective and whether further efforts may be required.
6. HR to pursue approvals to use the two Lincoln Avenue houses currently owned by the school for administrative purposes. HR will apply for permission to use these houses adjacent to the school's front entry for uses such as: a new Neighborhood Traffic Safety Command Center, and a new school entry monitoring station, and other administrative uses. HR would propose to rebuild one or both of the two houses as low-scale offices, designed in keeping with the scale and character of the neighboring homes. If re-constructed, the two new house-shaped buildings would share a single, wide, driveway with room for approximately 6-parked cars. Given the nature of the site topography, the potential exists to include an optional lower level apartment in each of the reconstructed structures.

7. HR to improve landscaping on hillside adjacent to athletic field. This hillside area to the north of the school's playing field is in need of additional landscaping and better maintenance. HR agrees that implementing a modest landscape plan that includes California native drought tolerant plantings would be of benefit to both the school and the neighborhood. As part of this plan HR will be constructing a new running path adjacent to the existing soccer field.
8. HR to install heavy-duty security gate at entry to school parking lot /athletic field. Automobile gate to be constructed off Lincoln Avenue entry at the east end of campus. Operation of gate to require access codes. Purpose of the gate is to control unauthorized use of playing fields during weekends and when school is not in session.
9. HR supports and will be a willing participant in continued Neighborhood Liaison Committee meetings. HR will continue to host these meetings on a quarterly basis, or more frequently as required. Meetings to be held at the school. Participants on the NLC to include: 1) community members representing a variety of our surrounding neighborhoods, 2) the school administration, 3) HR traffic safety staff, 4) a HR student representative, and 5) a HR Board of Trustee member.
10. HR will "institutionalize" its good neighbor practices. HR will take action to raise the consciousness of its entire community regarding good neighbor relations. HR initiatives will include; more school-wide driver and parking mailings (underscoring the consequences of breaking HR school rules), reporting breaches of conduct at staff and faculty meetings, increasing students' and parents' awareness of the need to drive safely and courteously, and to exhibit good driving behavior (and getting them more involved as HRS "ambassadors"), inviting neighbors to use school facilities and attend special school events such as special lectures, amending HR Board of Trustee Facilities Committee to include Community Relations in the scope of their oversight.

PART II - Whittle Avenue Neighbors Obligations – 5 items

1. Whittle Avenue neighbors will endorse and publicly support HR's new building plans, renovations, other projects listed in HR's current version of the 15-year Master Plan and the HR obligations, points 1-10 of this agreement. and confirm such building plans have incorporated good neighbor design sensitivities into new building placement, heights, and design features. Understanding that there are many more details to be developed, Whittle Avenue neighbors will endorse our master plan application and HR will invite Whittle Ave. neighbors to continue to participate in the building design process. Furthermore, Whittle Avenue neighbors to recognize that implementation of the HR Master Plan will be dependant on the school's fundraising successes, and while specific building plans will be generally prioritized and identified as part of a project phasing plan, the specific timetable

of when each building or project will be built (within the 15 year development "window") is not certain. HR agrees to abide by all public notice requirements associated with gaining approval of its Master Plan.

2. Whittle Avenue neighbors to endorse and publicly support the HR phased enrollment increase plan referred to as the "60/60/60 plan." Under the existing 1995 Conditional Use Permit, HR is allowed to enroll 700 hundred students, with a +/- 5% fluctuation factor to allow for the variability that is necessarily part of school admissions processes. Translating the 5% factor into numbers, this means that the maximum currently allowed HR enrollment is 735.

The 60/60/60 plan calls for a three-phased enrollment increase on the current HR campus in blocks of 60 students over time, with each increase conditioned on satisfaction of certain requirements. Instead of the +/- 5% fluctuation factor (described above), as a compromise the fluctuation factor would decrease to +/- 3% to accommodate admission variables. HR will present its enrollment figures to the members of the NLC each fall.

First phase of 60 additional students: would bring the school population on the current campus to 760, plus or minus 23 students using the +/- 3% factor. This first additional block of 60 students would be granted upon approval of the Master Plan. As a pre-condition, HR would be obliged to have proceeded with the elements outlined in items 2, 4, 9, and 10 of the Head Royce Obligations (listed above).

Second phase of 60 additional students: would bring the school population on the current campus to 820, plus or minus 25 students using the +/- 3% factor. This second block of 60 students would be granted only after the school has (1) constructed the parking structure project and reduced to 15 the number of on-campus parking spots accessible from Whittle as described in HR Obligation 1, (2) installed the gate described in item 8, (3) either obtained a lease for parking spaces at the Lincoln Child Center or provided the alternate structured on-campus spaces as described in item 3, (4) substantially completed the landscaping project described in item 7, (5) eliminated the cross-campus throughway connecting Lincoln Avenue to Whittle Avenue.

Third phase of 60 additional students: would bring the school population on the current campus to 880, plus or minus 26 students using the +/- 3% factor. This block of additional students would not be admitted to the school for a minimum of 15 years after approval of the Master Plan. As additional conditions, HR would be responsible for the construction of an additional 20 parking spaces above and beyond those described in items 1, 3, and 6 of this document. These new spaces are likely to be expensive structured parking spaces given the lack of available flat land. It is also understood that access to these new spaces would be via Lincoln Avenue only.

3. Whittle Avenue neighbors to endorse and publicly support the HR initiated traffic-calming plan for controlling Lincoln Avenue speed. A traffic engineer hired by HR, has presented a plan to HR to reduce car traffic speed down Lincoln Ave. The plan involves the reconfiguration of the street itself, making it less "highway-like". The engineer's design involves the re-positioning and narrowing of the avenue curbs and creating turn lanes. Monies were earmarked by the City of Oakland for Lincoln Ave, improvement a few years ago, but were later withdrawn. HR and the Whittle Ave. neighbors support the Plan outlined by the engineer. It requires the City of Oakland Approval. The hard construction costs of this plan are estimated to be less than \$200,000. HR believes that the only way the City of Oakland will reconsider this plan is if all of the upper Lincoln Avenue surrounding institutions and neighborhoods join in support of making these structural changes along upper Lincoln Avenue. In addition to supporting the road re-configuration traffic calming plan, Whittle Avenue Neighbors will support HR's proposal that the City of Oakland install one or more solar powered electronic "how fast am I going signs", along upper Lincoln Avenue, as a traffic speed control protective measure.

Whittle Avenue neighbors will actively support these community safety related efforts.

4. Whittle Avenue neighbors to actively participate as HR allies as we go through the Master Plan approvals process. In addition to items 1, 2 and 3 of the Whittle Avenue Obligations (project endorsement stated above), HR respectfully requests that Whittle Avenue neighborhood representatives personally attend city approvals- related public hearings and other gatherings with city officials in support of our agreement and the HR master plan.
5. Whittle Avenue neighbors to work with members of their community to assist HR creating a more constructive relationship. With this document, HR has pledged its intentions to be a better neighbor to its community; we respectfully request that our Whittle Avenue neighbors agree to actively pursue the same goals. We respectfully request that our neighbors recognize that being an institution in a residential neighborhood will inevitably result in school-related infractions of various sorts that may be beyond the school's reasonable ability to prevent. While we never excuse poor behavior, and will make good faith attempts to correct problems that come to our attention. HR requests that our neighbors be patient with us, and respectful in the manner by which we communicate to each other.

PLEASE NOTE: The Parties agree that, in the event there is a substantive complaint about a material violation of the terms herein or of the terms of any development approval by either party hereto, such substantive complaint will be submitted to the NLC for review, investigation, and resolution. If the NLC is unable to agree on a resolution to such substantive complaint, the complaint will

be submitted to Conciliation Forums of Oakland ("CFO") (or an equivalent mediation service if CFO is unavailable) for mediation.

Also please note that HR's obligations described in this Letter of Agreement are conditioned on HR obtaining necessary entitlements for its proposed 15-year Master Plan.

Paul Chapman

Paul Chapman
Head of School
The Head Royce School

5/24/2004
date

Jeff Horowitz

Jeff Horowitz
Chair, Board of Trustees
The Head Royce School

5/24/2004
date

Louise Abbott

Louise Abbott
Whittle Avenue Neighbors Master Plan
Steering Committee Chair

5/24/2004
date

Linda Morse

Linda Morse
Whittle Avenue Neighbors Master Plan
Steering Committee

5/24/2004
date

Bob Schultz

Bob Schultz
Whittle Avenue Neighbors Master Plan
Steering Committee

5/24/2004
date

Michael Thilgen

Michael Thilgen
Whittle Avenue Neighbors Master Plan
Steering Committee

5/24/2004
date

The Head Royce School
Fifteen-Year Master Plan
Letter of Agreement

between

Lincoln to Laguna. (Alida) Neighbors and The Head-Royce School
May 24, 2004

In this agreement, Head-Royce School (HRS) and the Lincoln to Laguna (Alida) Avenue neighbors each assume a set of responsibilities relating to the HRS 15 year master plan. It is our mutual desire that this document will guide us in developing and maintaining positive neighborly relations in the future.

The agreement addresses numerous physical and behavioral components, including a reconfiguration and modernization of campus infrastructure, phased enrollment increase, and enhanced communication processes, both within the HRS community and between the school and the LLA neighbors.

The LLA Avenue neighbors will remain in close communication with HRS via the Neighborhood Liaison Committee.

PART I Head-Royce School Obligations – 10 items

1. HR to pursue shared Institutional Parking options with Lincoln Child Center and Cerebral Palsy Center land. The goal is to create added "institutional parking" to reduce the need by institutions to park on quiet residential streets. HR endorses a plan to create up to 60 new parking spaces on what is mostly Lincoln Child Center land, consistent with the existing Final Conditions for the Lincoln Child Center Conditional Use Permit dated November 24, 1997, understanding that there may be other agreements that we are not aware of. If approved by the City of Oakland and agreed to by the Lincoln Child Center, and if financial terms are reasonable, HR intends to sign a long-term lease for 30 of these newly created institutional spaces. If HR does not sign a lease for 30 spaces with LCC, HR will construct one additional parking space on its campus for every 2 spaces less than 30 that it leases from the Lincoln Child Center, or a maximum of 15 additional spaces.
2. HR to create 35 structured parking spaces on campus with access from upper Lincoln Avenue only. New parking structure to be built as replacement for 23 existing on campus parking spaces that regularly use lower Lincoln entry and now exit onto Whittle Avenue. This lower vehicular driveway entry will be permanently closed to through traffic.
3. HR to encourage City of Oakland to install no u-turn signs at the intersection of Alida Avenue and Linnet, and Laguna Streets, and a no u-turn sign at and within Alida Court. Endorsed by HR as safety measure. To be reviewed and installed if deemed appropriate by the City of Oakland. Signs to be paid for by HR. These

traffic signs may have hours of enforcement restricted to weekdays, 7:30-9am, and 2-4pm only. HR to encourage the city of Oakland Police Department to cite drivers who do not obey these signs. In addition, HR on a frequent basis will have school monitors make a good faith effort to identify and subsequently change the behavior of HR parents, students, staff, drivers of students, and visitors throughout the calendar year (including the summer session) who violate the law.

4. HR to continue to encourage and subsidize vanpooling and mass transit transportation options. HR has and will continue to encourage staff and students to consider mass transportation and carpooling options, and will continue to provide private, school-subsidized bus and van service to the campus. Head Royce pledges continued support of these options that have the effect of decreasing the number of cars moving throughout the neighborhood.
5. HR will use its good faith efforts to clarify, monitor and enforce the school's traffic, parking and drop off rules. HR actions to include: Broad distribution of a more simplified list of school traffic rules to entire school community, including summer population and visitors. Regularly communicate need to obey rules with parents, staff, visitors, etc. Put procedures in place to enforce the traffic, parking and drop-off rules, including the establishment of clear consequences for members of the school's community who violate rules. Increase on site monitoring as required. Monitors to wear identifiable vests and, for the first time, use digital cameras for tracking down rule violators. HR to send to neighbors annual calendar listing special HR events that may impact parking and traffic. Added monitoring during special events. Establish Community Liaison staff position with special hot line telephone number. Institutionalize traffic safety as part of HR Board of Trustees oversight. Ongoing review and coordination of HR traffic related issues by working together with the Neighborhood Liaison Committee. HR will regularly discuss with the Neighborhood Liaison Committee whether its efforts to implement the actions specified in this Paragraph 5 have been effective and whether further efforts may be required.
6. HR to pursue approvals to use the two Lincoln Avenue houses currently owned by the school for administrative purposes. HR will apply for permission to rebuild either or both of these houses adjacent to the school's front entry, designed in keeping with the scale and character of the neighboring homes, for uses such as: a new Neighborhood Traffic Safety Command Office and a new school entry monitoring station, along with other administrative uses. If re-constructed, the two new house-shaped buildings would share space to park approximately 6 cars. Given the nature of the site topography, the potential exists to include an optional lower level apartment in each of the reconstructed structures.
7. HR supports and will be a willing participant in continued Neighborhood Liaison Committee meetings. Head Royce will continue to host these meetings on a quarterly basis, or more frequently as required. Meetings to be held at the school.

Participants on the NLC to include: 1) community members representing a variety of our surrounding neighborhoods, 2) the school administration, 3) HR traffic safety staff, 4) a HR student representative, and 5) a HR Board of Trustee liaison member.

8. HR wishes to do more to "institutionalize" its good neighbor practices. HR wants to raise the consciousness of its entire community regarding good neighbor relations. Initiatives to include; more school-wide driver and parking mailings (underscoring the consequences of breaking HR school rules), reporting breaches of conduct at staff and faculty meetings, increasing students' awareness of their need to exhibit good driving behavior (and getting them more involved as neighborhood "ambassadors"), inviting neighbors to use school facilities and attend special school events such as special lectures, amending HR Board of Trustee Facilities Committee to include Community Relations in the scope of their oversight.
9. Head Royce will continue to support shared parking with the Greek Orthodox Church for special events. HR and the Greek Orthodox Church have historically made parking at their institutions available to the other institution for special events. Head Royce will continue to support this reciprocal arrangement.
10. If requested by the LLA Neighbors, Head Royce will support a proposal by the LLA neighborhood to institute permit parking along Alida Avenue, Alida Court and Linette Court, and will pay the cost of issuing parking permits for this program.

PART II – Lincoln to Laguna Neighbors Obligations – 5 items

1. Lincoln to Laguna (Alida) neighbors to endorse and publicly support the HR proposed new building plans, renovations, other projects listed in our 15-year Master Plan. The LLA neighbors will confirm that such building plans have incorporated good neighbor design sensitivities into new building placement, heights and design features. Understanding that there are many more details to be developed, the LLA neighbors will endorse our master plan application. Furthermore, LLA neighbors recognize that implementation of the HR Master Plan will be dependant on the school's fundraising successes, and while specific building plans will be generally prioritized and identified as part of a project phasing plan, the specific timetable of when each building or project will be built (within the 15-year development "window") is not certain.
2. Lincoln to Laguna (Alida) neighbors to endorse and publicly support the HR phased enrollment increase plan referred to as the 60/60/60 plan. Under the existing 1995 Conditional Use Permit, HR is allowed to enroll 700 hundred students, with a +/- 5% fluctuation factor to allow for the variability that is necessarily part of school admissions processes. Translating the 5% factor into

numbers, this means that the maximum currently allowed HR enrollment is 735.

The 60/60/60 plan calls for a three-phased enrollment increase on the current HR campus in blocks of 60 students over time, with each increase conditioned on satisfaction of certain requirements. Instead of the +/- 5% fluctuation factor (described above), as a compromise the fluctuation factor would decrease to +/- 3% to accommodate admission variables. HR will make its enrollment figures available to the members of the NLC each fall.

First phase of 60 additional students: would bring the school population on the current campus to 760, plus or minus 23 students using the +/- 3% factor. This first additional block of 60 students would be granted upon approval of the Master Plan. As a pre-condition, HR would be obliged to have proceeded with the elements outlined in items 3, 4, 6, 7, and 8 of the Head Royce Obligations (listed above).

Second phase of 60 additional students: would bring the school population on the current campus to 820, plus or minus 25 students using the +/- 3% factor. This second block of 60 students would be granted only after the school has (1) constructed the parking structure project, described in HR item 2, and (2) either procured a lease for parking spaces at the Lincoln Child Center or provided the alternate structured on-campus spaces as described in HR item 1.

Third phase of 60 additional students: would bring the school population on the current campus to 880, plus or minus 26 students using the +/- 3% factor. This block of additional students would not be admitted to the school for a minimum of 15 years. As an additional condition, HR would be responsible for the construction of an additional 20 parking spaces above and beyond those described in HR items 1 and 2 of this document. These new spaces are likely to be expensive structured parking spaces given the lack of available flat land. It is also understood that access to these new spaces would be off our upper Lincoln Avenue driveway entry.

3. Lincoln to Laguna (Alida) neighbors to endorse and publicly support the HR initiated traffic calming plan for controlling Lincoln Avenue speed. A traffic engineer hired by HR, has presented a plan to HR to reduce car traffic speed down Lincoln Ave. The plan involves the reconfiguration of the street itself, making it less "highway-like." The engineer's design involves the re-positioning and narrowing of the avenue curbs and creating turn lanes. Monies were earmarked by the City of Oakland for Lincoln Ave, improvement a few years ago, but were later withdrawn. HR and the LLA neighbors support the Plan outlined by the engineer. It requires the City of Oakland Approval. The hard construction costs of this plan are estimated to be less than \$200,000. HR believes that the only way the City of Oakland will reconsider this plan is if all of the upper Lincoln Avenue surrounding institutions and neighborhoods join in support of making these structural changes along upper Lincoln Avenue. In addition to supporting the road

re-configuration traffic calming plan, the LLA Neighbors will support HR's proposal that the City of Oakland install one or more solar powered electronic "how fast am I going signs," along upper Lincoln Avenue as a traffic speed control protective measure.

The LLA Avenue neighbors will actively support these community safety related efforts.

4. Lincoln to Laguna neighbors to actively participate as HR allies as we go through the Master Plan approvals process. In addition to items 1, 2 and 3 of the Lincoln to Laguna (Alida) Obligations (project endorsement stated above), HR respectfully requests that LLA neighborhood representatives personally attend city approvals- elated public hearings and other gatherings with city officials in support of our agreement and the HR master plan.
5. Lincoln to Laguna (Alida) neighbors to work with members of their community to assist HR creating a more constructive relationship. With this document, HR has pledged its intentions to be a better neighbor to its community; we respectfully request that our LLA neighbors agree to actively pursue the same goals. We respectfully request that our neighbors recognize that being an institution in a residential neighborhood will inevitably result in school-related infractions of various sorts that may be beyond the school's ability to prevent. While we never excuse poor behavior, and will make good faith attempts to correct problems that come to our attention, HR requests that our neighbors be patient with us, and respectful in the manner by which we communicate to each other.

PLEASE NOTE: The Parties agree that, in the event there is a substantive complaint about a material violation of the terms herein or of the terms of any development approval by either party hereto, each substantive complaint will be submitted to the NLC for review, investigation, and resolution. If the NLC determines that a complaint is substantive and, after review, investigation and discussion a resolution to such complaint is unable to be reached, the issue will be submitted to Conciliation Forums of Oakland ("CFO") (or an equivalent mediation service if CFO is unavailable) for mediation.

Also please note that Head Royce's obligations described in this Letter Agreement are conditioned on its obtaining necessary entitlements for its proposed 15-year Master Plan.

Paul Chapman

Paul Chapman
Head of School
The Head Royce School

5/24/2004

date

Jeff Horowitz

Jeff Horowitz
Chair, Board of Trustees
The Head Royce School

5/24/2004

date

Hollis Matson

Hollis Matson
Lincoln to Laguna (Alida) Neighbors
Master Plan
Steering Committee Chair

5/24/04

date

Randy Morris

Randy Morris
Lincoln to Laguna (Alida) Neighbors
Master Plan
Steering Committee Coordinator

5/24/04

date

Sean Fotrell

Sean Fotrell
Lincoln to Laguna (Alida) Neighbors
Master Plan
Steering Committee Coordinator

5/24/04

date

gm

AGREEMENT WITH LINCOLN NEIGHBORS

This agreement is between the Head-Royce School, on the one hand, and various neighbors of the School (as listed below), on the other hand, hereinafter "Agreement". Said Neighbors live in the vicinity of the School on or near Lincoln Avenue and shall be referred to as "Lincoln Avenue Neighbors". This Agreement specifically incorporates by reference the terms of the existing agreement between the Head-Royce School and the Lincoln to Laguna. (Alida) Neighbors dated May 24, 2004 and attached hereto.

1. The property located at 4233 Lincoln Ave owned by Head-Royce School shall be limited to permitted residential uses as required by the R-30 zone for the duration of the HRS 15 year Master Plan. During demolition and construction of buildings housing administrative functions, the School may use the house located at 4233 for administrative uses, such as small meetings and office space. The School shall comply with all regulations under the R-30 Zone limits and will not merge the 4233 Lincoln Avenue lot with the School's adjacent Lincoln Avenue lot or lots for the 15 year period. After the 15-year period, if HRS wishes to merge the 4233 parcel with the campus parcel, HRS agrees to apply for a major conditional use permit in order to do so.
2. After construction of the Administration building is complete, the house located at 4233 will remain a residential dwelling, and may provide housing to HRS staff. HRS agrees not to use the house as a storage building, or for any uses other than permitted by the R-30 zoning regulations for the remainder of the 15-year period. After the 15-year period, if HRS wishes to modify the usage of this residence from what is permitted by the R-30 zoning regulations, HRS agrees to apply for a major conditional use permit.
3. HRS will maintain the visual appearance of 4233 Lincoln Avenue in a manner that is consistent with nearby properties and shall further take all necessary steps to ensure the building maintains its structural integrity. In the event the building needs to be rebuilt due to safety concerns, or is damaged beyond the point of being repaired, HRS will construct the replacement building as a residential structure in compliance with the applicable building and zoning codes and provisions.
4. In cooperation with the Neighborhood Liaison Committee ("NLC"), HRS will participate in Lincoln beautification, cleanliness, and safety projects. The NLC will include the consideration of the visual appearance of the School, including landscaping, cleanliness, and safety of Lincoln Avenue as a regular agenda item for discussion and recommended action.
5. The design of the Master Plan will provide for bulk deliveries access from the Whittle Gate and for small package deliveries to be delivered to the administration building access from Lincoln. Head Royce agrees to direct deliveries as follows:

AGREEMENT WITH LINCOLN NEIGHBORS

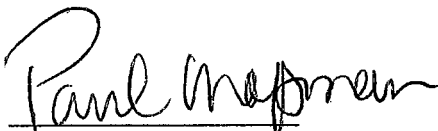
- Bulk items such as bulk food, large book shipments, and other bulk supplies and items will be directed to the bulk delivery site accessed from Whittle.
 - Parcels and packages from overnight delivery services and U.S. mail will be directed to delivery accessed from Lincoln.
 - Temporary construction deliveries and traffic will be directed to make best possible efforts to avoid construction deliveries at the lower (Southeast) portion of the property along Lincoln Ave.
6. Lincoln Avenue neighbors of the school will be advised of the schedule of construction activities and will be notified of larger scale construction activities such as excavation, hauling and concrete pours.
 7. HRS to work with Lincoln Avenue Neighbors and institutions to petition City of Oakland to prevent through traffic of larger vehicles (i.e. cement trucks, trucks with trailers over restricted weight limits, non school associated buses).
 8. HRS to work with the Lincoln Avenue neighbors and institutions to encourage the City of Oakland to maintain the condition of Lincoln Avenue (i.e. potholes, proper pavement to minimize traffic noise).
 9. [deleted]
 10. HRS to provide the Lincoln Ave neighbors living within the Residential Permit Parking Zone with reasonable use of school facilities (i.e. access to fields for running, outdoor basketball facilities) in a manner that is consistent with the constraints of operating the School and consistent with our obligations to other neighborhood groups.
 11. HRS will work with the City of Oakland and the neighbors (through the NLC) to create a formal coordinated emergency vehicle plan/route that will allow emergency vehicles to access and exit the Lincoln Ave neighborhood (in case of earthquake, medical emergency, house fire) during peak student drop-off & pick-up times.
 12. HRS will continue to administer parent educational pieces on driving rules and manners when dropping off and picking up their children and encourage carpooling and public transportation as methods of getting to and from the school. The terms of this request reiterate existing terms in the Letter of Agreement -- Lincoln to Laguna (Alida) agreement, paragraphs 4 and 5.


AGREEMENT WITH LINCOLN NEIGHBORS

13. Increase the number of days per week that HRS monitors the intersection of Lincoln and Burlington Street before and after school and evaluate and adjust as needed.

It is so agreed by the undersigned.

HEAD-ROYCE SCHOOL


Paul Chapman, Head of School


Harold P. (Peter) Smith
Chair, Facilities and Community Relations Committee
Head Royce Board of Trustees

Signatures on following page

AGREEMENT WITH LINCOLN NEIGHBORS

LINCOLN AVENUE NEIGHBORS

Rodney Thompson 4232 Lincoln Ave
Linnaea Stykel 4151 Lincoln Ave
Frank R. Strehel 4151 Lincoln Ave

Darlene Blair 4200 LINCOLN Ave.
James Mitchell 4145 Lincoln
Kristina A. Katson 4208 Lincoln Ave.

Bridget Rive 4121 Lincoln Ave.
Robert Power 4225 Lincoln Ave
John Penney 4203 Lincoln Ave

Michael T. Murphy 4175 Lincoln Ave

John 4224 Lincoln

Location:	Head Royce School; 4233, 4309, and 4315 Lincoln Ave and 4274 Whittle Ave; APN: 029A-1367-001-07 through 029A-1367-006-01; (See map on the reverse)
Proposal:	Implementation of the second phase of the Head Royce Master Plan which includes demolition of the existing auditorium and construction of a new auditorium (2 proposed schemes); construction of a new gymnasium entry and improvements to the amphitheater; construction of parking adjacent to the upper parking lot containing 20 tandem spaces; as well as general repairs, interior renovations, mechanical upgrades, and landscape improvements.
	<i>The overall master plan and the first phase were approved by the Planning Commission on January 4, 2006.</i>
Applicant:	John Malick and Associates
Contact Person/Phone Number:	John Malick / (510) 595-8042
Owners:	Head Royce School
Planning Permits Required:	Final Development Plan and a Minor Conditional Use Permit for 20 tandem parking spaces
	<i>The Preliminary Planned Unit Development Plan and the Final Development Plan for the first phase was approved by the Planning Commission on January 4, 2006.</i>
General Plan:	Detached Unit Residential and Hillside Residential
Zoning:	R-30 One Family Residential Zone
Environmental Determination:	Mitigated Negative Declaration for the Master Plan was adopted by the Planning Commission on January 4, 2006 (Case File ER04-0014).
Historic Status:	The existing buildings are not Potentially Designated Historic Properties (PDHP).
Service Delivery District:	IV – Fruitvale
City Council District:	4
Date Filed:	December 5, 2007
Staff Recommendation	Decision based on staff report
Finality of Decision:	Appealable to City Council within 10 days
For further information:	Contact case planner Heather Klein at 510 238-3659 or by e-mail at hklein@oaklandnet.com.

SUMMARY

In January 2006, the Planning Commission approved a Preliminary Planned Unit Development permit (PUD) for a phased master plan at Head Royce School. The PUD included a 180 student increase in overall enrollment. In addition, the Planning Commission approved a Final Development Plan (PUDF) for the first phase of the master plan which included the conversion of the existing Upper School to the Middle School; renovation of the library; and construction of a new Upper School quadrangle and identifiable school entrance along Lincoln Avenue.

The purpose of this report is to provide information and seek approval for the final phase of the master plan which includes the demolition of the existing auditorium and construction of a new auditorium (2 proposed schemes); construction of a new gymnasium entry and improvements to the amphitheater; construction of a parking level extension adjacent to the upper parking lot containing 20 tandem spaces; as well as general

repairs, interior renovations, mechanical upgrades, and landscape improvements (See Attachment A). At this time, the applicant has indicated that the school is not pursuing the other physical demolition and construction projects outlined in the master plan due to budget and funding concerns.

Below is a table that outlines the proposed PUDF for the final phase of the master plan from the PUD and PUDF approved in 2006.

Project Component	Approved 2006 Preliminary Development Plan	Proposed 2007 Final Development Plan
Enrollment	760 after approval of the PUD	820 after completion of Phase 1
Parking Spaces	157 proposed parking spaces (later phases)	137 which meets the Planning Code (See Project Description- Parking)
Demolition		
(B) Lower School Classroom	7,200 sq. ft.	Scope Deleted
(C) Former Upper School Library	6,590 sq. ft.	Scope Deleted
(E) Arts Center –Administration Bldg	10,392 sq. ft.	Scope Deleted
(F) Auditorium	12,100 sq. ft.	12,100 sq. ft.
Construction		
(6) Lower School Classroom	10,000 sq. ft.	Scope Deleted
(7) Middle School Classrooms	7,500 sq. ft.	Scope Deleted
(8) Arts Center –Administration Bldg	12,600 sq. ft.	New Building Scope Deleted, Renovations approved 1/3/08.
(9) Auditorium	25,000 sq. ft.	Proposed 17,500 sq. ft.
(M) Residence/Administration Bldg	3,500 sq. ft.	Scope Deleted
(10) Gymnasium Entry	321 sq. ft.	Proposed 500 sq. ft.

* Letters and Numbers proceeding the Project Component are based on the figures in the December 8, 2005 Initial Study/Mitigated Negative Declaration.

Staff prepared a Mitigated Negative Declaration (MND) for the project which was adopted on January 4, 2006 (See Attachment B). The proposed project was analyzed in the MND and no further environmental analysis is required.

The Planning Commission will have to find that the proposed project conforms in all major respects with the approved PUD and the Conditional Use Permit findings. Staff recommends that the Planning Commission approve the PUDF and CUP permit and design review for the project, with attached conditions of approval.

PROJECT SITE AND SURROUNDING AREA

Head Royce School is located between Lincoln Avenue and Whittle Avenue and between Highway 13 and Tiffin Road. The project site encompasses approximately 14.2 acres and is located in a naturally occurring wooded canyon. A tributary of Whittle Creek runs through the site, which is culverted for most

of its length. The site supports an Upper School (grades 9-12), a Middle School (grades 6-8), and Lower School (grades K-5) with a current enrollment of 792 and an enrollment of approximately 783 students for the 2008 school year. Playing fields and parking occupy the upper end of the site. On the lower end of the site are two single family homes that the school also owns, one of which is now used for administrative purposes.

The project site is surrounded by a variety of civic and residential uses. The Lincoln Child Center, the Cerebral Palsy Foundation, the Greek Orthodox Church, and the Mormon Temple are located across Lincoln Avenue to the south of the school. Single-family homes are located to the north, east and west.

PROJECT DESCRIPTION

Phase I

The school proposed a phased master plan to create a quality academic environment that would guide the school into the next century. Phase I was anticipated to involve the most dramatic and obvious changes to the campus. It was expected that this would include the demolition of 9,830 sq. ft. of floor area, 60,592 sq. ft. of renovations, and approximately 39,659 sq. ft. of new construction. As design development proceeded and the funding sources were identified the scope of work changed slightly. Phase I actually included 5,011 sq. ft. of demolition, 65,750 sq. ft. of renovations, and 28,399 sq. ft. of new construction. Staff considered these minor changes that did not require full Planning Commission review.

The following table represents the Phase I facilities approved at the January 2006 hearing and the actual scope of work undertaken.

Project Component	Approved 2006 Preliminary Development Plan	Actual Status of Phase I projects
Enrollment	760 after approval of the PUD	Currently 792, with a 2008 enrollment of 783*
Parking Spaces	137**	Currently 111
Demolition		
(G) Science Rooms/Classrooms	3,388 sq. ft.	Not Demolished
(H) Foreign Language Classrooms	3,190 sq. ft.	Demolished and part of Upper School Classroom (2)
(K) Summer Program	800 sq. ft.	Not Demolished
(L) 4309 Lincoln Ave	2,452 sq. ft.	Not Demolished
(S) Swimming Pool	Removed	Not Demolished
Conversion/Renovations		
(C) Upper School Library to Middle School	6,590 sq. ft.	Renovated
(D) Upper School Classrooms to Middle School	16,822 sq. ft.	Renovated
(G) Upper School Library (upper level)	3,388 sq. ft.	Renovated
(I) Middle School Classrooms to Upper School Classrooms	15,000 sq. ft.	No Renovation
(G/E/F) MEW/Arts/Administration Bldg/ Science Rooms (lower level)	17,442 sq. ft.	Renovations approved 1/3/08.
(M) 4233 Lincoln Ave to Administration/Residence	1,350 sq. ft.	Scope deleted with approval of the PPUD.
(N) Driveway to Campus Walk		Completed
(4) Residential Building to Administration/Salutation Building	5,325 sq. ft.	Completed
Construction		
(1) Upper School Library	6,187 sq. ft.	Scope Deleted
(2) Upper School Classrooms	26,000 sq. ft.	Under Construction
(3) Upper School Classrooms	5,082 sq. ft.	Completed
(4) Gatehouse/Garage	5,325 sq. ft.	Scope Deleted
(5) Natorium		Not Completed but still proposed in scope
(11) Entrance Gates/Portals		Completed

* Letters and Numbers proceeding the Project Component are based on the figures in the December 8, 2005 Initial Study/Mitigated Negative Declaration.

**Enrollment can not increase upon completion of Phase I without the parking improvements being completed.

***This number is per the Neighborhood Agreements.

It is expected that these projects associated with Phase I and currently under construction will be completed by August or the start of the 2008 school year, except for the parking deck.

Later Phases

The approved PUD permitted 36,282 sq. ft. of demolition, 0 sq. ft. of renovations, and 58,921 sq. ft. of new construction. The applicant has submitted plans for the next phase in the master plan. These plans have been reduced in scope when compared to the approved PUD. The application is requesting 12,100 sq. ft. of demolition, 0 sq. ft. of renovations, and 18,000 sq. ft. of new construction. Specifically, the proposal includes replacement of the existing auditorium, construction of a parking deck containing 26 tandem spaces; construction of a new gymnasium entry and improvements to the amphitheater; as well as general repairs, interior renovations, mechanical upgrades, and landscape improvements. Interior renovations to the arts/administration building/science classrooms () were not subject to a discretionary permit and were issued January 2008.

The following table shows the changes between the approved PUD and the submitted application

Project Component	Approved 2006 Preliminary Development Plan	Proposed 2007 Final Development Plan
Enrollment	700 (760 after approval of the PUD)	820 after completion of Phase 1 *
Parking Spaces	137 parking spaces**	137 before the next increase in student enrollment (820).
Demolition		
(B) Lower School Classroom	7,200 sq. ft.	Scope Deleted
(C) Former Upper School Library	6,590 sq. ft.	Scope Deleted
(E) Arts Center –Administration Bldg	10,392 sq. ft.	Scope Deleted
(F) Auditorium	12,100 sq. ft.	12,100 sq. ft.
Construction		
(6) Lower School Classroom	10,000 sq. ft.	Scope Deleted
(7) Middle School Classrooms	7,500 sq. ft.	Scope Deleted
(8) Arts Center/Administration Bldg/Science Classroom	12,600 sq. ft.	New Building Scope Deleted, Renovations approved 1/3/08.
(9) Auditorium	25,000 sq. ft.	17,500 sq. ft.
(M) Residence/Administration Bldg	3,500 sq. ft.	Scope Deleted
(10) Gymnasium Entry	321 sq. ft.	500 sq. ft.

*Enrollment can not increase upon completion of Phase I without the parking improvements being completed.

**This number is per the Neighborhood Agreements

Auditorium

The proposal calls for the demolition of the existing auditorium and replacement with a 17,500 sq. ft. new building. This is about 8,000 sq. ft. less than originally proposed. The applicant has submitted two proposals for the auditorium. Scheme A has the stage facing the middle school patio and the seating and lobby adjacent to the library and science classrooms/administration building. The building will be accessed off the campus walk and courtyard. At its tallest the building would be 52' on the side facing the patio and 9' on the side facing the adjacent library and science classrooms/administration building. Scheme B flips the building so that the stage faces the library and science classrooms/administration building and the seating is adjacent to the patio. This scheme is accessed off the middle school patio. Scheme B is 32' facing the patio and 33' facing the adjacent building. The building facades are described later in the *Architectural Character* Section.

Administration/Arts Building

The administration/arts building/science classroom adjacent to the auditorium will be upgraded to include interior renovations. This work includes the interior demo of the lower and upper floors. Exterior work will include new concrete aprons for ADA ramps, repair and replacement of wood siding, removal of an existing door and replacement with a window to match the existing windows on the east elevation, and patching of exterior finishes to match existing facades. This work was approved administratively in January 2008 as minor changes to existing facilities.

Parking

At the end of the Phase I, the school will be required to provide 137 parking spaces per the agreements with the Whittle Avenue Neighbors, the Alida Neighbors, and the Lincoln Neighbors. These agreements were made part of the conditions of project approval despite the fact that the 137 spaces are over and above the 123 spaces required by the Planning Code. Currently, 111 parking spaces are being provided on the campus. This number includes 15 spaces accessed from Whittle Avenue and 96 spaces which were restriped at the upper parking lot. In addition to those spaces located on-site, the school has contracted with the Greek Orthodox Church and the Lincoln Child Care Center across the street to provide ±130 spaces of additional parking when those uses are not operating. The proposed project includes construction of a parking level extension containing 26 parking spaces (20 tandem spaces). The parking extension will be located adjacent to and level with the upper parking area and above the soccer field. The extension will project out over a sloped planting strip at the east end of the playing field. A Conditional Use Permit will be required for the tandem spaces are described later in the *Key Issues* Section.

Gymnasium Entry/Amphitheater

The existing entrance to the gymnasium will be extended and upgraded to improve access. This will entail 500 sq. ft. of new construction that projects into the existing patio space for two stories. The new façade will be mostly glass windows. The amphitheater will be changed to a curved form.

General Improvements/Upgrades

As part of the master plan, campus wide mechanical and electrical infrastructure upgrades and improvements will be completed as well as continuation of landscaping and beautification of the campus.

Architectural Character

Whichever scheme is chosen, the building will be constructed to match the existing, shingle architectural style of the campus and of natural materials to blend with surrounding natural landscape. Scheme A shows a gambrel roof above the entrance and a façade with large windows with divided light glass

panels. A saltbox style “fly” (space above the stage) is located behind. Scheme B shows the entrance as a portico resting on columns. The fly would be to the left of the entrance at the courtyard. The façade materials will be either cedar shingles, wood clapboards, and/or stucco. Window and door trim will be painted wood. The roof materials will be medium grey tile, asphalt shingle, or weathered copper.

Enrollment

The approved PUD allowed the school to increase enrollment after that action by 60 students, $\pm 3\%$. After completion of Phase I, the school could then increase the enrollment by another 60 students, $\pm 3\%$, for a total of 820 students. Currently, the school has 792 students due to an over acceptance of student contracts. The school will be in compliance with the PUD and neighborhood agreements starting this fall. The anticipated enrollment for the 2008 school year is 783 students and Phase I will have been completed except for the parking deck. Since the parking deck and other requirements as outlined in the neighborhood agreements and condition of approval #33 have not been completed, the school cannot increase the enrollment at this time and the enrollment must be in compliance. Furthermore, staff has included a condition of approval that requires the enrollment to be within the approved range prior and documentation submitted before issuance of a permit for work in this phase.

CONSISTENCY WITH THE PRELIMINARY PUD

At the January 4, 2006 public hearing, the Planning Commission reviewed the findings pursuant to Planning Code Sections 17.140.080 (Planned Unit Development Criteria), 17.140.060 (Planning Commission Action for a Final Planned Unit Development for Phase 1), and 17.136.070 (Design Review Criteria for Nonresidential Projects). The Planning Commission found that the project met the findings and approved the PUD application. These findings require that the project also be in conformance with the City’s General Plan as well with any other applicable plan, development control map, or ordinance adopted by the City Council.

The proposed construction of the Auditorium (9) and the Gymnasium entry were contemplated in the approved PUD. The construction of additional parking was an integral part of the PUD and the Neighborhood Agreements. The scope of this phase has been significantly reduced since the demolition of the Lower School Classroom (B), Former Upper School Library (C), and Arts Center/Administration Bldg/Science Classrooms and construction of the Lower School Classroom (6), Middle School Classrooms (7), and Arts Center –Administration Bldg (8) are not proposed at this time. Staff has reviewed the proposal and found that it is essentially consistent with the project description and drawings in the approved PUD.

FINAL PLANNED UNIT DEVELOPMENT (PUD)

The Section 17.140.040 of Planning Code states that “within one year after the approval or modified approval of a preliminary development plan, the applicant shall file with the City Planning Department a final plan for the entire development or, when submission in stages has been authorized pursuant to Section 17.140.030, for the first unit of the development.” The project applicant filed the first PUDF with the preliminary PUD application. Furthermore, the Conditions of Approval #2 for the Preliminary PUD required that the PUDF for later phase be submitted by January 4, 2007. The applicant requested an extension for the later phases per Condition of Approval #3. This one year extension was granted by staff in February 2007. The applicant has applied for the PUDF within the required timeframe.

NEIGHBORHOOD AGREEMENTS

The school has signed Letters of Agreement with the Whittle Avenue neighborhood group; the Lincoln to Laguna (Alida) neighborhood group; and the Lincoln neighborhood group. These agreements address numerous physical and behavioral issues facing the school and are based on a 15 year master plan. The conditions outlined in these agreements and the timeframes for implementation are independent of the timeframes permitted by the Planning and Zoning Department.

ENVIRONMENTAL REVIEW

The proposed project has undergone review to assess its potential environmental impacts. Staff prepared a Mitigated Negative Declaration (MND) for the project which was adopted on January 4, 2006. The land uses and design issues were analyzed in the MND. Since the proposed project has been greatly reduced in scope no further environmental analysis is required.

KEY IMPACTS AND ISSUES

Design Review

Staff has reviewed the proposal for the new auditorium. It is essentially the same as the building mass approved in the PUD. Staff believes that both schemes have merits and that either scheme would be a good fit within the context of the school and the existing master plan. The changes to the gym entry and amphitheater are minor. Staff has no further design comments.

Conditional Use Permit for Tandem Spaces

According to Planning Code Section 17.116.240, on any lot containing three or more required off-street parking spaces a vehicle shall not have to cross another parking space, or a loading berth, in order to gain access to a required parking space. The school is required pursuant to the Planning Code to provide 137 parking spaces per the Planning Code and the neighborhood agreements. Since the project is currently only providing 111 spaces, 20 of the 26 spaces planned for the parking deck would be required spaces would be required. However, Section 17.116.240(d) allows tandem spaces for non-residential uses subject to findings for the Conditional Use Permit. Staff has made these findings later in that section of this report.

Public Comments

Staff has received one public comment regarding the current proposal (See Attachment C). Parking, traffic, construction noise, and pick-up/drop-off traffic were cited as concerns. Most of issues are related to adherence with the conditions of the PUD approval.

CONCLUSION

Staff believes the proposed project conforms to the approved PUD, as noted in the body of this staff report and the findings below. The design, layout, building heights, materials and colors of the project are appropriate to the campus and consistent with the approved master plan design. Therefore, staff recommends that the Planning Commission:

1. Approve the application for the Final Development Plan and Design Review for the final Phase, subject to the attached findings and conditions of approval.

Approved for forwarding to the

City Planning Commission:

DAN LINDHEIM
Director
Community and Economic Development Agency

GARY PATTON
Major Projects Manager
Deputy Planning Director

Prepared by:

Heather Klein
Planner III, Major Development Projects

- Attachments:
- A. Proposed Project Plans and Project Description
 - B. Approved Master Plans Drawings and Project Description
 - C. MND Project Description Tables and Figures
 - D. Public Comments

The previously adopted MND has been separately provided to the Planning Commission and is available at City of Oakland, Community and Economic Development Agency, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612.

FINDINGS FOR APPROVAL

This proposal meets the required findings under the Oakland Municipal Code Sections 17.140.060 (Planning Commission Action for a Final Planned Unit Development for later Phase); 17.116.240D (Tandem Spaces for Nonresidential Activities); 17.136.070 (Design Review Criteria) as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type. The project's conformance with the following findings is not limited to the discussion below, but is also included in all discussions in this report, the previous staff report for the PUD, the MND, and elsewhere in the record.

Section 17.140.060 (Planning Commission Action for Final Planned Unit Development):

The proposal conforms to all applicable criteria and standards and conforms in all substantial respects to the preliminary development plan, or, in the case of the design and arrangement of those portions of the plan shown in generalized, schematic fashion, it conforms to applicable design review criteria.

The proposed project includes replacement of the existing auditorium (2 proposed schemes); construction of a 26 space parking deck; construction of a new gymnasium entry and improvements to the amphitheater; as well as general repairs, interior renovations, mechanical upgrades, and landscape improvements. Construction of a new auditorium was approved as part of the PUD in January 2006. The building has the same purpose, is in the same location and is essentially the same height (2 ft. taller). The building is approximately 8,000 sq. ft. smaller than originally proposed. The architectural style of the building will blend the new shingle style and both schemes have signature elements on the facades. The increase in square footage (180 sq. ft.) to the gymnasium entry and amphitheater improvements would be considered minor changes. The other repairs, interior renovations, mechanical upgrades and landscape improvements are generally ministerial and not subject to Planning Department review. In sum, the proposed final PUDF is substantially reduced from the approved scope. The project conforms to all applicable criteria and standards and is consistent with the approved PUD for the project. The design is attractive and appropriate for the location.

17.116.240D - (TANDEM SPACES FOR NONRESIDENTIAL ACTIVITIES)

In any zone, tandem parking may be permitted for nonresidential activities upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that such proposal conforms to either or both of the following use permit criteria:

1. That a full-time parking attendant supervises the parking arrangements at all times when the activities served are in active operation;

The school is not proposing a full time parking attendant or valet service. However, staff has included a condition that would require a parking attendant for these spaces if all of them are to be used solely for employees.

2. That there are a total of ten or fewer parking spaces on a lot, or within a separate parking area or areas on a lot, which spaces are provided solely for employees.

FINDINGS

The 20 tandem spaces are located on the parking level extension, a separate area of the upper parking lot. Of these 20 spaces, 10 of these spaces will be dedicated solely for employee use.

17.136.070B - NON-RESIDENTIAL DESIGN REVIEW CRITERIA:

- A. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.102.030 (Special Regulations for Designated Landmarks).**

The purpose of a master plan design and a PUD permit is to achieve a group of facilities that are well related to each and adhere to a comprehensive plan. The approved master plan met this objective by reconfiguring the site to provide a more functional campus environment while creating an identity and consistent school character. The proposed auditorium and other projects contemplated in the PUDF permit are essentially the same as that studied in the approved PUD. The auditorium is in the same location, is approximately the same height, but is 8,000 sq. ft. smaller than what was originally approved. The proposed materials, textures, colors, and style are consistent with the new shingle-style buildings and will continue the architectural character of the school. The gymnasium entry replaces a split-faced CMU wall with windows in character with the existing structure. The renovations and other interior improvements do not require design review findings.

- B. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.**

The proposed building will be located in the center of a campus, deep in the canyon site. Despite the height and mass (which is almost exactly the same as that proposed in the PUD), the auditorium is designed in such a manner that it will fit in with the shingle style character of the master plan. The height of the fly is "broken up" by the use of large windows with divided light panels, the shingle or wood siding, and the prominent entrance features. As noted in the adopted MND, the proposed master plan will not result in any significant environmental impacts, including visual quality in the neighborhood. In addition, implementation of the proposed master plan will provide quality educational benefits to many Oakland and Bay Area residents. Furthermore, the adjacency of good schools in the neighborhood is known to increase property values.

- C. 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 stated in the January 4, 2006 PUD findings and the General Plan Analysis Section of that report, the project is consistent with the General Plan land use designation of Detached Unit Residential and Hillside Residential. The project supports many of the objectives and policies of the Land Use and Transportation Element (LUTE) for this area including encouraging adequate and appropriately designed educational facilities sited to serve the community and ensuring that educational facilities

FINDINGS

are operated in a manner that is sensitive to surrounding residential and other uses. Furthermore, the master plan is adequately designed to be able to accommodate the additional number of students.

FINDINGS

CONDITIONS OF APPROVAL/ MMRP**STANDARD CONDITIONS****1. Approved Use.****a. *Ongoing.***

The project shall be constructed and operated in accordance with the authorized use as described in the application materials, attached staff report, the preliminary PUD plans approved January 4, 2006 and the final approved plans dated October 29, 2007 and submitted on February 15, 2008, and as amended by the following conditions. 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.

- b) This action by the City Planning Commission ("this Approval") includes the approvals set forth below. This Approval includes:

I.Approval of a Final Planned Unit Development ("PUD") for the Head Royce Master Plan PUD, under Oakland Municipal Code Section 17.140

II.Approval of a Conditional Use Permit for 20 tandem parking spaces on the parking level extension.

2. Effective Date, Expiration**a. *Entire Master Plan Expiration***

These approvals for the entire master plan shall expire on **January 4, 2011** unless a development agreement is reached with the City to extend the approvals. Planning, Building, and P-job permits must be issued for the entire master plan by this date and the expiration date includes any project extensions per condition #3 below.

Phase	Expiration Date
Entire Master Plan approval	January 4, 2011

3. Extensions and Phasing Requirements**a. *Final PUD Extension for Later Phases***

Provided further, that upon written request, the Planning and Zoning Division may grant a one year extension of the deadline, with additional extensions subject to approval by the City Planning Commission.

b. *Entire Master Plan Extension*

No extensions for the entire master plan shall be granted without either a development agreement reached with the City or upon the approval of a new Planned Unit Development application.

Phase	Extension Date
Entire Master Plan approval	January 4, 2011 – No extensions (Development agreement or a new PUD permit application must be submitted)

CONDITIONS OF APPROVAL

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 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.
- 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. Scope of This Approval***a. 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.

6. Conformance to Approved Plans; Modification of Conditions or Revocation***a. 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/Mitigation Measures 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/Mitigation Measures if it is found that there is violation of any of the Conditions/Mitigation Measures, 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.

7. Signed Copy of the Conditions/Mitigation Measures***a. Prior to issuance of building permit or commencement of activity.***

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

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 and in the Preliminary PUD conditions of approval at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. Indemnification***a. Ongoing.***

- a) The project applicant shall defend (with counsel reasonably 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 their respective agents, officers, and employees (hereafter collectively called the City) from any claim, action, or proceeding (including legal costs and attorney's fees) against the City to attack, set aside, void or annul this Approval, or any related approval by the City. The City shall promptly notify the project applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding. The project applicant shall reimburse the City for its reasonable legal costs and attorney's fees.
- b) Within ten (10) calendar days of the filing of a claim, action or proceeding to attack, set aside, void, or annul this Approval, or any related approval by the City, the project applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations and this condition of approval. This condition/obligation shall survive termination, extinguishment, or invalidation of this, or any related approval. Failure to timely execute the Letter Agreement does not relieve the project applicant of any of the obligations contained in 7(a) above, or other conditions of approval.

10. 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 mitigations, and if any one or more of such conditions and mitigations is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions and mitigations consistent with achieving the same purpose and intent of such Approval.

11. 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 and mitigations, shall be available for review at the job site at all times.

12. Waste Reduction and Recycling***a. Prior to issuance of a building or demolition permit.***

The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency.

Prior to issuance of demolition, grading, or building permit

Chapter 15.34 of the Oakland Municipal Code outlines requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3), and all demolition (including soft demo). The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at www.oaklandpw.com/Page39.aspx or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.

Ongoing

The ODP will identify how the project complies with the Recycling Space Allocation Ordinance, (Chapter 17.118 of the Oakland Municipal Code), including capacity calculations, and specify the methods by which the development will meet the current diversion of solid waste generated by operation of the proposed project from landfill disposal in accordance with current City requirements. The proposed program shall be implemented and maintained for the duration of the proposed activity or facility. Changes to the plan may be re-submitted to the Environmental Services Division of the Public Works Agency for review and approval. Any incentive programs shall remain fully operational as long as residents and businesses exist at the project site.

13. Subsequent Conditions or Requirements.***a. Ongoing.***

This approval shall be subject to the conditions of approval contained in any subsequent Tentative Tract Map, Tentative Parcel Map or mitigation measures contained in the approved environmental document for this project.

14. Electrical Facilities***a. Prior to installation.******Prior to issuance of a building permit***

The project applicant shall submit plans for review and approval by the Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground. The new facilities shall be placed underground along the project applicant's street frontage and from the project applicant's structures to the point of service. The plans shall show all electric, telephone, water service, fire water service, cable, and fire alarm facilities installed in accordance with standard specifications of the serving utilities.

15. Improvements in the Public Right-of-Way***Approved prior to the issuance of a P-job or building permit***

- a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions and mitigations and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications and locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this Approval. Encroachment permits shall be obtained as necessary for any applicable improvements- located within the public ROW.

- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition and mitigations.
- c) The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of the final building permit.
- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

16. Payment for Public Improvements***Prior to issuance of a final inspection of the building permit.***

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

17. Phased Public Improvement Plan***a. Prior to issuance of building permit for work in the public right-of-way***

The applicant shall submit Public Improvement Plans for improvements to be installed with each phase of the development.

18. Fire Safety Phasing Plan***Prior to issuance of a demolition, grading, and/or construction and concurrent with any p-job submittal permit***

The project applicant shall submit a separate fire safety phasing plan to the Planning and Zoning Division and Fire Services Division for their review and approval. The fire safety plan shall include all of the fire safety features incorporated into the project and the schedule for implementation of the features. Fire Services Division may require changes to the plan or may reject the plan if it does not adequately address fire hazards associated with the project as a whole or the individual phase.

19. Compliance Plan***Prior to issuance of a demolition, grading, or building permit***

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division a Conditions/ Mitigation Measures compliance plan that lists each condition of approval and mitigation measure, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions and mitigations. The applicant will sign the Conditions of Approval attached to the approval letter and submit that with the compliance plan for review and approval. The compliance plan shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance plan and provide it with each item submittal.

20. Construction Phasing and Management Plan***a. Prior to issuance of building permit***

The project sponsor shall submit a Construction Phasing and Management Plan, incorporating all applicable conditions of approval. The plan shall also include a site security and safety plan to assure that grading and construction activities are adequately secured during off-work hours.

b. Prior to issuance of certificate of occupancy.***CONDITIONS OF APPROVAL***

Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth above, shall not be issued until (a) all landscaping and on and off-site improvements for that phase are completed in accordance with this Approval, or (b) until cash, an acceptably rated bond, a certificate of deposit, an irrevocable standby letter of credit or other form of security (collectively "security"), acceptable to the City Attorney, has been posted to cover all costs of any unfinished work related to landscaping and public improvements plus 25 percent within that phase, unless already secured by a subdivision improvement agreement approved by the City. For purposes of these Conditions of Approval, a certificate of occupancy shall mean a final certificate of occupancy, not temporary or conditional, except as the City determines may be necessary to test utilities and services prior to issuance of the final certificate of occupancy.

c. Prior to issuance of certificate of occupancy.

Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth above, shall not be issued until (a) parking and traffic management plan is submitted that includes the traffic mitigations measures per condition #36

21. Days/Hours of Construction Operation

Ongoing throughout demolition, grading, and/or construction

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
 - i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
 - ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction activity shall take place on Sundays or Federal holidays.

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f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

g) Applicant shall use temporary power poles instead of generators where feasible.

22. Construction Emissions

Prior to issuance of a demolition, grading or building permit

To minimize construction equipment emissions during construction, the project applicant shall require the construction contractor to:

- a) Demonstrate compliance with Bay Area Air Quality Management District (BAAQMD) Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 provides the issuance of authorities to construct and permits to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA" Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.
- b) Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) shall be performed for such equipment used continuously during the construction period.

23. Noise Complaint Procedures

Ongoing throughout demolition, grading, and/or construction

Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- a) A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);
- b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);
- c) The designation of an on-site construction complaint and enforcement manager for the project;
- d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and
- e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

24. Interior Noise

Prior to issuance of a building permit

CONDITIONS OF APPROVAL

If necessary to comply with the interior noise requirements of the City of Oakland's General Plan Noise Element and achieve an acceptable interior noise level, noise reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, and walls) shall be incorporated into project building design, based upon recommendations of a qualified acoustical engineer and submitted to the Building Services Division for review and approval. Final recommendations for sound-rated assemblies will depend on the specific building designs and layout of buildings on the site and shall be determined during the design phase.

25. Construction Traffic and Parking

Prior to the issuance of a demolition, grading or building permit

The project applicant and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project applicant shall develop a construction management plan for review and approval by the Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. The plan shall include at least the following items and requirements:

- a) A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- b) Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- c) Location of construction staging areas for materials, equipment, and vehicles at an approved location.).
- d) A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.
- e) Provision for accommodation of pedestrian flow.
- f) Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.

26. Dust Control Measures.

a. Prior to issuance of a demolition, grading or building permit

During construction, the project applicant shall require the construction contractor to implement the following measures required as part of Bay Area Air Quality Management District's (BAAQMD) basic and enhanced dust control procedures required for construction sites. These include:

- a) Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.

CONDITIONS OF APPROVAL

- d) Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites.
- e) Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.
- f) Limit the amount of the disturbed area at any one time, where feasible.
- g) Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
- h) Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- i) Replant vegetation in disturbed areas as quickly as feasible.
- j) Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- k) Limit traffic speeds on unpaved roads to 15 miles per hour.
- l) Clean off the tires or tracks of all trucks and equipment leaving any unpaved construction areas.
- m) All "Basic" controls listed above, plus:
- n) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- o) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).
- p) Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the BAAQMD prior to the start of construction as well as posted on-site over the duration of construction.
- q) Install appropriate wind breaks at the construction site to minimize wind blown dust.

27. Construction Related Noise Control.

Ongoing throughout demolition, grading, and/or construction

To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

- a) Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).
- b) Except as provided herein, Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.

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- d) The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

28. Site Maintenance.

a. *During all construction activities.*

The applicant shall ensure that debris and garbage is collected and removed from the site daily.

29. Archaeological Resources

Ongoing throughout demolition, grading, and/or construction

- a) Pursuant to CEQA Guidelines section 15064.5 (f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.
- b) In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project applicant shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.
- c) Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project applicant and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist shall recommend appropriate analysis and treatment, and shall prepare a report on the findings for submittal to the Northwest Information Center.

30. Human Remains

Ongoing throughout demolition, grading, and/or construction

In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all

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excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

31. Paleontological Resources

Ongoing throughout demolition, grading, and/or construction

In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 1995,1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in Section 15064.5 of the CEQA Guidelines. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

32. Erosion and Sedimentation Control [When no grading permit is required.]

Ongoing throughout demolition grading, and/or construction activities

The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. Plans demonstrating the Best Management Practices shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

33. Erosion and Sedimentation Control Plan [When grading is required]

Prior to any grading activities

- a) The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.780 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan for review and approval by the Building Services Division. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

Ongoing throughout grading and construction activities

- b) The project applicant shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.

34. Hazards Best Management Practices***Prior to commencement of demolition, grading, or construction***

The project applicant and construction contractor shall ensure that construction best management practices are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:

- a) Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction;
- b) Avoid overtopping construction equipment fuel gas tanks;
- c) During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d) Properly dispose of discarded containers of fuels and other chemicals.
- e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all UST's, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.
- f) If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in Standard Conditions of Approval 50 and 52, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

36. Mitigation Monitoring and Reporting Program***a. Ongoing.***

The following mitigation measures shall be incorporated into the project. The measures are taken directly from the Mitigated Negative Declaration for the Head Royce Master Plan Project. For each measure, this Mitigation Monitoring and Reporting Program (MMRP) indicates the entity (generally, an agency or department within the City of Oakland) that is responsible for carrying out the measure ("Responsible Implementing Entity"); the actions necessary to ensure compliance with the applicable measure ("Monitoring Action(s)") and the entity responsible for monitoring this compliance ("Monitoring Responsibility"); and the time frame during which monitoring must occur ("Monitoring Timeframe").

TRAFFIC AND CIRCULATION

Impact T1: The increase in enrollment at the completion of the Master Plan could result in extension of the parking queue along Lincoln during the after-school pickup period.

CONDITIONS OF APPROVAL

Mitigation T1: The project sponsor would monitor the extent of the after-school pickup queue along Lincoln Avenue. If the queue extends past the upper driveway and the “no parking” zone above the driveway, the school would implement as many of the following actions as would be necessary to accomplish the necessary reduction in the length of the queue:

- Stagger pickup times so that the buses are loaded and leave prior to the start of pickup,
- Discourage early arrival for pickup,
- Actively encourage carpools or school buses as an alternative with an incentive for use of these alternatives, then
- If the previous measures do not reduce the queue, work with the City to restrict on-street parking during after-school pickup on Lincoln Avenue above the upper driveway to allow for the longer queue.

Implementation of this measure would reduce the impact of traffic interference during after-school pickup to a less-than-significant level.

Responsible Implementing Entity: CEDA, Planning Division and Public Works Agency, Traffic Engineering Division

Monitoring Action(s): The Director of Operations of the Head Royce School shall appoint at least 2 qualified persons to monitor after-school pick-up by recording observations of the length of the afternoon pick-up queue during the period between 2:45 and 4:00 PM, reporting on the number of vehicles in the queue every 15 minutes and the maximum number of vehicles in the queue during the 1-1/4 hour monitoring period. The monitoring persons shall note the number of buses in the queue at each monitoring time. The Director of Operations shall prepare a report every two weeks during the 6 week period based on the information gathered, sign the report, and submit to the Community and Economic Development Agency Planning Division and Public Works Agency Traffic Engineering Division. Monitoring and reporting shall take place during the first six weeks of each semester for at least two years after Phase I of the Master Plan has been completed or after each enrollment increase, as noted below in Monitoring Time Frame.

If the results of monitoring show that the queue of vehicles regularly extends east along Lincoln Avenue to a point beyond the upper driveway, the Director of Operations shall consult with CEDA and PWA and determine which of the following additional actions shall be implemented in what order to reduce the length of the queue:

- Stagger pickup times so that the buses are loaded and leave prior to the start of pickup,
- Discourage early arrival for pickup,
- Actively encourage carpools or school buses as an alternative with an incentive for use of these alternatives.

Monitoring and reporting shall continue for at least six weeks following implementation of each of the above actions to show that it has been effective in reducing the length of the queue. If the queue continues to extend beyond the upper driveway, the Director of Operations shall:

- Work with the City to restrict on-street parking during after-school pickup on Lincoln Avenue above the upper driveway to allow for the longer queue.

CONDITIONS OF APPROVAL

Monitoring Responsibility: CEDA, Planning Division and Public Works Agency, Traffic Engineering Division

Monitoring Timeframe: The first Monitoring and Reporting period shall be initiated at the beginning of the first semester following occupancy of the Phase I renovated and new buildings, and shall be carried out for six weeks at the beginning of each semester for two school years. If additional actions are needed, the monitoring period shall be extended for an additional two semesters.

Additional Monitoring and Reporting periods shall be initiated when Later Phases have been completed and for each 60 student enrollment increase until the school has reached the full planned enrollment of 880 students. As with the first period, monitoring shall be carried out for six weeks at the beginning of each semester for two years. If any of the additional actions listed above are needed, monitoring and reporting shall continue for six weeks following implementation of the action.

37. Design Review Requirements

a. *Prior to issuance of building permit*

The final design elements listed below shall be submitted for review and approval by the Planning Director prior to issuance of the building permit. The Planning Director may exercise his/her standard authority to refer the final design to the Design Review Committee or to the Planning Commission.

1. Materials and colors are a crucial component of this project. Staff is requesting a sample materials and color board for review. The board should include exterior materials and finishes; a preliminary color palette; roof materials; window type, quality, and style; lattice, trellis, balcony, and railing materials. The applicant shall also submit a profile detail of the windows for further review.
2. Fenestration, window design, and window quality is a critical part of the success of each building on the campus. More detail is required on the window quality and types. In order to insure a high design quality, all windows shall be recessed a minimum of 2", be true divided light windows, and include an appropriate sill. The windows, doors, and other openings should be surrounded by sizable and projecting wood trim. The architect shall revisit the window grouping on the south elevation of the Upper School and include another window proportion for interest on this façade.
3. Rafter or tie beams and other roof members should extend beyond the eaves into plain view if they are integrated into the overall construction of the building and shall not be tacked on. In typical "Shingle" architecture, the protruding end of the beam is finished with a diagonal cut or a set of notches. Braces should be attached to the end of a gable to support the rafters. The gables should extend over the building facades to provide depth and articulation.
4. Trellis, railing, balcony, and lattice elements should be constructed of thick posts to compliment the heavier architectural style. The applicant shall provide staff with details of these elements. Climbing planting and vines are typically trained over these elements. Staff should include this type of planting on the landscape plan.
5. The applicant shall submit to staff which buildings will be composed of stucco.
6. The final colors must be submitted for review and approval.

CONDITIONS OF APPROVAL

7. The applicant shall work with the Neighborhood Liaison Committee to reduce the noise volume of the parking lifts operations if applicable.

38. Student Enrollment

a. Ongoing

The maximum school enrollment at the 4315 Lincoln Avenue campus shall be 880 students. This is the maximum number with an allowed 5% margin for fluctuations due to the admissions process. The enrollment increase shall occur in 3 phases of 60 students each as outlined in the neighborhood agreements.

39. Student Enrollment for Final Phase

Prior to issuance of a building permit for the final Phase

The project applicant shall submit the current enrollment numbers to confirm that they are within the approved range outlined in the PUD COA's and the neighborhood agreements prior to the issuance of a building permit for the final phase of the master plan.

40. Recycling Space Allocation Requirements

a. Prior to issuance of building permit

The design, location and maintenance of recycling collection and storage areas shall comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28 and with the recycling space requirements of the Planning Code. The recycling location and area shall be clearly delineated on the building permit plans.

41. Lighting Plan

a. Prior to issuance of building permit

The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. Plans shall be submitted to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency for review and approval. All lighting shall be architecturally integrated into the site.

42. Bicycle Parking

Prior to the issuance of first certificate of occupancy.

The applicant shall submit for review and approval of the Planning and Zoning Division, plans that show bicycle storage and parking facilities to accommodate **4** short-term bicycle parking spaces onsite or on public sidewalk, and **75** long-term bicycle parking spaces. The plans shall show the design and location of bicycle racks within the secure bicycle storage areas. The applicant shall pay for the cost and installation of any bicycle racks in the public right of way.

43. Landscape and Streetscape Plans

a. Prior to issuance of building permit.

The project sponsor shall submit a detailed landscaping plan to the Planning Director for review and approval prior to the issuance of any building permits. All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All landscaping shall be served by an automatic irrigation system. All paving or other impervious surfaces shall occur only on approved areas.

44. Water, Wastewater and Storm Sewer Service***a. Prior to completing the final design for the project's sewer service***

Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed by a qualified civil engineer with funding from the project applicant. The project applicant shall be responsible for the necessary stormwater and sanitary sewer infrastructure improvements to accommodate the proposed project. In addition, the applicant shall be required to pay additional fees to improve sanitary sewer infrastructure if required by the Sewer and Stormwater Division. Improvements to the existing sanitary sewer collection system shall specifically include, but are not limited to, mechanisms to control or minimize increases in infiltration/inflow to offset sanitary sewer increases associated with the proposed project. To the maximum extent practicable, the applicant will be required to implement Best Management Practices to reduce the peak stormwater runoff from the project site. Additionally, the project applicant shall be responsible for payment of the required installation or hook-up fees to the affected service providers.

45. Special Inspector***a. Throughout construction***

The project applicant may be required to pay for on-call 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 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.

46. Neighborhood Agreements***a. Ongoing***

This project approval is subject to the written agreements attached to the preliminary PUD approval. The items in the agreements will effectively become additional conditions of approval for this project.

47. Traffic Rules***Ongoing***

- a) The applicant shall distribute a package with the traffic rules clearly outlined in the enrollment contract for that year. The rules should include a written traffic monitoring plan and a graphic showing the correct way to drop-off and pick-up students. The package will also include a letter that must be signed and returned by each parent/guardian delivering students. Consequences for not following the school rules clearly established and include fines and not renewing the enrollment of the child. Consequences for not following the school rules clearly established and include fines and/or not renewing the enrollment contract of the child.
- b) Hold parent meetings at the beginning of each semester to discuss the traffic rules and any changes since the start of the year or semester.

48. Proposed Conditions of Approval for the Elevations of the Administration Building facing Whittle Avenue

a. Ongoing

- 1) Evergreen trees shall be planted behind the building in order to shield the building and its windows from the residents on Whittle Avenue.
- 2) The siding of the building shall be painted or stained a non reflective, medium brown in order to make the structure recede into the landscape.
- 3) All exterior lighting shall be shielded and downward directed.
- 4) The interior lighting of any cupola shall be located below the sill level of the windows so that the source is not directly visible.
- 5) Interior lighting shall be designed so that the light source is not directly visible through the windows from the exterior.

49. Neighborhood Liaison Committee

a. Ongoing

Head Royce School shall preserve the Neighborhood Liaison Committee in order to resolve conflicts and maintain communications between the school and the surrounding neighborhoods. The liaison committee shall include members of Upper Lincoln, Lower Lincoln, Alida Court, and Whittle Ave and additional groups may be added if the impacts of the school on those communities are noticeable. The Committee shall meet at least twice a year to discuss issues. However, the Committee shall hold additional meetings as recommended by the neighborhood participants. Head Royce needs to participate in the neighborhood liaison committee meetings.

50. Design of Parking Deck Extension

a. Ongoing

- a) The project applicant shall screen the underside of the parking deck with a trellis, tall landscaping, wall, or other architectural feature that would be consistent with the overall architectural character of the campus. If the choose to use planting as the screening mechanism, the applicant shall install species that will grows to a sufficient size within five (5) years of planting to screen the underside of the parking deck.
- b) The railings chosen for the deck shall also be consistent with the campus design.

APPROVED BY:

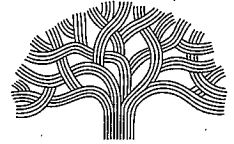
City Planning Commission: _____ (date) _____ (vote)

City Council: _____ (date) _____ (vote)

Applicant and/or Contractor Statement

I have read and accept responsibility for the Conditions of Approval, as approved by Planning Commission action on _____. I agree to abide by and conform to these conditions, as well as to all provisions of the Oakland Zoning Code and Municipal Code pertaining to the project.

CITY OF OAKLAND



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Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
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NOTICE OF COMPLAINT

November 16, 2009

Paul Chapman
Head Royce School
4315 Lincoln Ave.
Oakland, CA

RE: Case File No.: PUD04-400; PUDF05-339; ER04-0014
Project Address: 4233, 4309, and 4315 Lincoln Ave. and 4274 Whittle Ave.

Dear Mr. Chapman.

Staff received your e-mail dated July 28, 2009. This letter is a follow-up to our previous meeting on July 29, 2009 regarding compliance with the Planned Unit Development Permit's Conditions of Approval and Mitigation Measures for Head Royce School. You are also advised that staff has received a formal complaint (#0906270) regarding this project. Based on this information, staff has determined that you are currently not in compliance with several conditions. There are other conditions for which we cannot determine compliance and, therefore are requesting further documentation.

The City is also requesting that you provide a detailed written response to the issues raised in this letter, including a description of how you plan to bring the school into full compliance with the project conditions of approval. Your written response must be received by the City Planning Department (please address to my attention) within 30 calendar days of the date of this letter (December 16, 2009).

Mitigation Measure TRAF-1(Condition #24)

This mitigation measure requires that school monitor the length of the afternoon traffic queue, including buses, beginning the first semester after occupancy of Phase 1. The monitoring should be conducted by two qualified persons every 15 minutes. The Director of Operations should then prepare a report every two weeks during a 6 week period, sign the report, and submit that to both the Planning and Zoning Division and the Transportation Services Division. If the queue extends past the upper driveway, the school is required to implement actions in order to reduce the queue. Options were given in the Mitigation Measure to accomplish this and monitoring was to continue for another 6 weeks following implementation of the action.

The school is currently out of compliance with this Mitigation Measure. The school received occupancy for the first phase buildings between 2007 and 2008 and began traffic monitoring in the fall of 2008. Staff received a report on September 22, 2008. Staff does not believe that the monitoring was completed by qualified individuals, the reporting was not done for the full 6 weeks, and staff did not received reports every two weeks during that time. Furthermore, the report showed queues that did extend beyond the driveway. The school did not notify staff of their intent to implement any of the remedial actions specified

in the mitigation measure nor does staff believe that the school implemented any action. Staff also did not receive the additional six week monitoring reports required.

Staff outlined concerns regarding the mitigation measure in an e-mail to Dennis Malone, dated October 6, 2008.

The school monitored the traffic again in the spring of 2008. However, staff did not receive the reports until June 1, 2009 well after the six week reporting period. The traffic queue apparently again extended beyond the driveway. The school did not notify staff of their intent to implement any of the remedial actions specified in the mitigation measure nor does staff believe that the school did implement any action. Staff did not receive the additional six week monitoring reports required.

The fall semester monitoring was supposed to be completed by mid October. Staff has yet to receive any reports per the mitigation measure. While several of the measures that you mention in your July 28th letter were options in the Negative Declaration, the school did not consult, as required, with Planning and Zoning or Transportation Services to determine which actions shall be implemented in what order to reduce the length of the queue. As recently as November 9, 2009, staff monitored this queue and found 13 cars past the driveway. **Based on the information above, staff has determined that the school is out of compliance with the mitigation measure.**

Student Enrollment (Condition #26)

The neighborhood agreements allowed 760 students in the first phase of the master plan with a $\pm 3\%$ enrollment fluctuation. This was amended at the Planning Commission to include a 5% enrollment fluctuation. The fluctuation was meant to account for variables in the enrollment contract and was not intended to be the upper limit for enrollment. However, the maximum number of students with the fluctuation would be 798 (760 + 38) students. According to your e-mail dated October 10, 2009 you have 800 students (rounding up to account for the .5 student.) You are over your enrollment limit for the first phase and second enrollment increase has not been granted. **Therefore, staff has determined that the school is out of compliance with this condition of approval.**

Traffic Rules (Condition #34)

The Conditions of Approval require that school distribute an information package with the traffic rules clearly outlined in the enrollment contract for parents. The package should include an explanation of the correct method of picking up students and include a letter to be signed by each parent or guardian delivering students. It should also outline the consequences for not following the traffic rules.

Staff received an e-mail on September 23, 2009 and October 1, 2009 with the traffic rules. While the packet did outline the rules and have consequences outlined, staff feels that the rule packet can be improved. Additionally, the letter only requests and does not require compliance. Staff did not see a graphic attachment or a description of the correct way to pick up students. The package doesn't include teachers, volunteers, guests, or other persons coming to the school in the parking rule section. The special event parking section doesn't specifically direct parents where to park or where the designated areas are located and staff is unsure whether every parent or guardian received a rule packet. Enforcement on the school rules is detailed further below. **Therefore, staff has determined that the school is out of compliance with this condition of approval.**

Parking (Condition #33- Whittle Agreement 1, Alida Agreement 2)

The Conditions of Approval require that school provide 35 structured parking spaces with access to Lincoln Avenue only to replace the existing 23 spaces used to be accessed from the Whittle gate.

While the required 137 spaces per the zoning regulations will be completed with a final on Building Permit # B0902679, staff is unsure whether the 35 spaces in this condition is meant to be over the zoning

requirement or is included in this number. This condition does not specify a timeframe for completion except that the next enrollment phase can not be completed with construction of this parking. Staff can not determine compliance with this condition.

4-Way Stop Sign (Condition #33- Whittle Agreement 2, Alida Agreement 2)

This condition requires that Head Royce encourage the City of Oakland to install a 4-way stop sign at Whittle and Funston. You indicated that you pursued this with Transportation Services but can not produce documentation of the City's decision not to install the stop-sign. Staff sent an e-mail on August 26, 2009 stating that the Transportation Services would be willing to investigate a stop sign at that location. We requested that you send an initial deposit of \$2,000. To date, staff has not received this deposit. **Therefore, staff has determined that the school is not in compliance with this condition of approval.**

Enforcement (Condition #33- Whittle Agreement 5 and 10, Alida Agreement 5 and 8, Lincoln Agreement 12)

These conditions require that the school distribute a package with the traffic rules clearly outlined in the enrollment contract. The package should include the consequences for not following the traffic rules. Based on the number of complaints staff receives regarding rule infractions, it is clear that the school is not enforcing the rules and does not have adequate monitors to enforce the rules. Furthermore, based on a recent site visits staff witnessed multiple violations with no enforcement including U-turns on Lincoln and on side streets, parking in red bus stop zones, persons in the queue and not in their vehicles, persons parking below the drop-off and on the other side of the street, among others. **Therefore, staff has determined that the school is not in compliance with this condition of approval.**

Landscaping (Condition #33- Whittle Agreement 7)

The condition requires the school to implement a modest landscaping plan on the hillside adjacent to the athletic field. There is no timeframe on this condition and staff is unsure whether this has been completed. Staff requests that the school submit the approved landscape plan to Planning and Zoning if this condition was implemented.

Carpooling, Vanpooling, and other Mass transit (Condition #33- Alida Agreement 4)

This condition requires the school to continue to encourage staff and students to consider mass transportation and carpooling options. The school's recently updated traffic and parking rules package detail the bus routes to school, indicate that the school offers bus passes for purchase, offer a zipcode list of Head-Royce families for carpooling purposes, as well as preferential parking for those persons who carpool. However, staff is unsure whether the intent (to reduce single occupancy vehicle trips to the school) of this condition is being met based on neighborhood complaints, increase in the loading queue past the driveway, and the fact that the school has expanded the loading area to the other side of the street. Staff requests that the school submit the current transit numbers to Planning and Zoning for both morning drop-off and evening pick-up.

Event Parking at the Greek Orthodox Church (Condition #33- Alida Agreement 9)

This condition requires the school to continue to support reciprocal parking agreements with the Greek Orthodox Church for events. Although the school might have continued this practice, staff is unsure whether the intent of this condition is being met. The traffic and parking rules state that for events over 150 persons including the School Picnic, Back-To-School Nights, Admissions Open Houses, the Holiday Program, Musical Concerts, and Promotions/Graduation—the Greek Orthodox Cathedral parking lot is available and should be used. However, staff is unaware how the parents/guests determine where to park. The parking locations are not indicated on the school's website calendar and staff is unsure whether the school monitors traffic during the entire event. Staff is requesting that the school provide the location (i.e., calendar, website, or letters) where it communicates parking and events procedures to parents and guests

of the school. In addition, please provide the number of monitors and their locations for the last event over 150 persons.

Deliveries (Condition #33- Lincoln Agreement 5)

According to this condition, the design of the master plan will provide for bulk deliveries access from the Whittle Gate and small packages from Lincoln. The condition goes on to further specify the types of deliveries to be directed to each street. According to e-mails received from the neighbors, photos, and a discussion at the Neighborhood Liaison Committee which staff attended, the design of the master plan does not account for deliveries and they are being directed appropriately. **Therefore, staff has determined that the school is not in compliance with this condition of approval.**

Monitoring at Lincoln and Burlingame (Condition #33- Lincoln Agreement 5)

This condition requires the school to monitor traffic at the intersection of Lincoln and Burlington Streets before and after school and evaluate as needed. Staff is unsure whether this condition is being met. However, according to the Lincoln Neighbors, "school security personnel that monitor traffic near Lincoln and Alida, do not go down as far as Burlington. Additionally, with the addition of the security personnel, it appears as though HRS has reduced the number of parent volunteers monitoring traffic activity at the major intersections of Burlington and Tiffin." As recently as November 9, 2009, staff visited this intersection and did not see a traffic monitor. **Staff requests that the school provide the location of the monitor and the times the monitor was located at Lincoln and Burlington for the past month.**

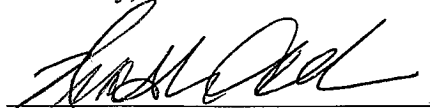
In summary, staff has determined noncompliance with several conditions of approval. Therefore, this letter provides notice that violations of the conditions has occurred and is ongoing. Several other conditions require more information from the school and staff cannot presently determine compliance.

The City hereby requests that, within thirty (30) calendar days of this letter (i.e., December 16, 2009), you provide a detailed written response describing how you plan to address each of the items outlined in this letter and to bring the school into full compliance with approved Conditions of Approval. Your written response must be received by the City Planning Department within 30 calendar days of the date of this letter (December 16, 2009).

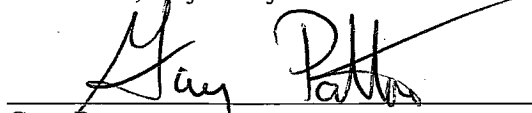
You are hereby advised that your failure to fully and timely respond to this letter may result in enforcement proceedings. You should be aware that there are a number of sanctions that could result from such proceedings, including, among others, revocation of the school's Planned Unit Development permits.

Please contact me at (510) 238-3659 if you have any questions regarding this letter.

Sincerely,



Heather Klein
Planner III, Major Projects Division



Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

cc: Head Royce Neighborhood Liaison Committee

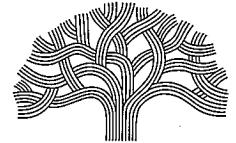
Jean Quan, Councilmember for District 4

Walter Cohen, Director Community and Economic Development Agency

Eric Angstadt, Deputy Director, Community and Economic Development Agency

Heather Lee, Deputy City Attorney

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NOTICE OF COMPLAINT

December 18, 2009

Paul Chapman
Head Royce School
4315 Lincoln Ave.
Oakland, CA

RE: Case File No.: PUD04-400; PUDF05-339; ER04-0014
Project Address: 4233, 4309, and 4315 Lincoln Ave. and 4274 Whittle Ave.

Dear Mr. Chapman.

In our letter, dated November 16, 2009, staff determined that you are not in compliance with several conditions of approval for the above noted case files. There are other conditions for which we could not determine compliance, and we requested additional documentation. Staff has reviewed your letter, dated November 24, 2009, along with the attachments. Staff believes that the documentation you submitted to demonstrate compliance is inaccurate regarding some issues and incomplete regarding other issues. Therefore, staff's overall position has not changed with your submittal. You must submit actual documentation showing compliance with the Conditions of Approval.

The City is requesting that you provide the requested documentation and a description of how you plan to bring the school into full compliance with the project's Conditions of Approval. Your documentation and response must be received by the City Planning Department (please address to my attention) within 30 calendar days of the date of this letter (January 18, 2010).

Mitigation Measure TRAF-1(Condition #24)

Our letter, dated November 16, 2009, details the requirements to comply with the mitigation measure. It also stated that you have been out of compliance since the first reporting period in the fall of 2008.

Per your response, the mitigation measure is only required if the pick-up queue extends past the upper driveway and past the red zone. Staff agrees with this analysis. What this means is that even one car trying to maneuver into the queue will block the travel lane. This is the traffic impact requiring mitigation. In discussions with Dowling Associates (the preparer of Attachment #3-Traffic Study) your staff indicated that they would waive cars down the hill into the neighborhood in order to avoid a back up of the queue. This is in violation of the traffic rules which do not allow pick up or drop-off below the crosswalk to the school. It also skews the monitoring reports, hence the need for qualified persons to perform the monitoring.

Per page 8 of Attachment #3 in your letter, Dowling Associates trained one person, not two (as required by the mitigation measure) to conduct the monitoring for the fall of 2009. Your submittal does not describe the qualifications for the other person contrary to the mitigation measure. Staff did not receive reports every two weeks during the beginning of the semester and did not receive any reports until

November 24, 2009 along with your letter. Your reports also do not include monitoring for the full six weeks (as required by the mitigation measure). You only monitored for the first three weeks, starting on September 8, 2009. The monitoring reports pick back up on October 20, 2009 with one day monitored that week. Then you monitored three days the next week and only one day the week of November 2nd. For two weeks, you only monitored once per week.

During the initial monitoring period, the report only notes cars past the driveway and cars in the red zone, not past it blocking the travel lane. As a result, the monitoring for this period is incomplete. For the second period, the monitor counted cars exceeding the queue and blocking the travel lane. The report shows a traffic impact of one car on October 20th and 23 cars on October 28th. This is consistent with monitoring conducted by City staff and your Attachment #3 which shows 32 cars on September 30th and two cars on October 6th. The mitigation measure does not specify that there needs to be regular and sustained violations before mitigation is necessary. Once the queue exceeded the driveway and red zone area, as noted in the reports, additional monitoring is required. This was not done. **Based on the information above, staff has determined that the school is out of compliance with the mitigation measure and the school must consult with City staff regarding the potential mitigations to be implemented.**

Student Enrollment (Condition #26)

Again, according to your e-mail dated October 10, 2009 you have 800 students (rounding up to account for the .5 student). You are over your enrollment limit for the first phase, and second enrollment increase has not been granted. Your letter indicates that you are only 2 students over the maximum and, therefore, it is not significant. Your letter also indicates your belief that you are in conformance with the Conditions of Approval and that you are now entitled to the enrollment of 820 students for 2010-2011.

Condition of Approval #6 of the PUDF07-520 states that "violation of any term, Conditions/Mitigation Measures or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code." As noted in this letter you are not in conformance with the mitigation measure and possibly other conditions. You are not entitled to 820 students without conformance with all the Conditions of Approval. Staff cannot review this condition separately from the mitigation measure because the increase in enrollment has and would continue to exacerbate blockage to the travel lane requiring mitigation. **Therefore, staff has determined that the school is out of compliance with this condition of approval.**

Traffic Rules (Condition #34)

Your letter included Attachment #4 with the traffic rules and a student drop-off graphic. However, the traffic rules do not explain how students are dropped-off and picked-up. Without a description of the procedures, parents and guardians do not know if they are correctly implementing the traffic rules. This is part of the Condition of Approval and currently is not being fulfilled.

In your letter you also state that the packet was delivered to parents and guardians. However, the condition requires that the traffic package be signed and returned by each parent/ guardian delivering students. Staff is unsure whether every parent or guardian received a rule packet. During staff's site visits we were approached by several parents who were unsure of the rules. Furthermore, you have not submitted any documentation indicating that every parent has signed and returned the traffic rule packet. **Therefore, staff has determined that the school is out of compliance with this condition of approval.**

Again, the package doesn't include a teacher, volunteer, or guest registration form. Your letter states that an e-line message is sent to persons coming to the school for events which notify them of the traffic and parking procedures. **Please send a copy of the e-line instructing parents and guests where to park for events to staff for review.**

Parking (Condition #33- Whittle Agreement 1, Alida Agreement 2)

Based on the information in your letter and discussions with the neighbors involved in the creation of the agreements, the parking structure can be utilized to meet both the neighborhood agreements and the Conditions of Approval. Based on the information you have submitted, staff has determined that you are in compliance with this condition; however, compliance with this condition does not entitle you to an enrollment increase in light of the other violations noted herein.

4-Way Stop Sign (Condition #33- Whittle Agreement 2, Alida Agreement 2)

This condition requires that Head Royce encourage the City of Oakland to install a 4-way stop sign at Whittle and Funston. Per staff's e-mail dated August 26, 2009 you submitted an initial deposit of \$2,000. Unfortunately, staff can't process the check as it is not made out to the City of Oakland. Please submit another deposit so that the review work for a 4-way stop sign at the intersection of Whittle and Funston can begin by the Transportation Services Division. **Until the deposit is submitted the school will not be in compliance with this condition of approval.**

Enforcement (Condition #33- Whittle Agreement 5 and 10, Alida Agreement 5 and 8, Lincoln Agreement 12)

You note in your letter that you have hired additional monitors. Staff applauds this step. However, it is not enough just to have additional monitors in place. The monitors must actually log violations to the traffic rules and the school must enforce them. To date, you have not produced a written procedure for collecting or logging information by the monitors on violations. The license plate system is clearly ineffective because not all the numbers are in the system and not required from guardians (log e-mailed 12/11/09) yet you have not developed another method for enforcement of the rules.

Staff continues to receive e-mails regarding the lack of monitors and the effectiveness of the monitors. This was confirmed through your Attachment #3 Traffic Study (see page 6) and your own log. You note in your letter that you are troubled that staff does not have the full picture regarding traffic rule enforcement, yet staff also noted violations including: persons not in vehicle in the queue, U-turns on Alida, U-turns on Lincoln, pick ups below the crosswalk, and cars in bus zones, among others. As noted in our letter, staff only saw one monitor on the days we visited. That monitor did not engage any violator or even note the violation.

It seems that you do not have the capacity to investigate the violations, track down the violators and timely resolve complaints. You have previously stated that you do not have the ability to enforce the rules due to the cost. You have also stated that you cannot obtain all license plate numbers from parents and guardians that come to the school. You have expanded your drop-off situation into the neighborhood and further down and across Lincoln. Yet you would like to expand your enrollment. The school must be in control of its traffic situation and it is again clearly not. **Therefore, staff has determined that the school is not in compliance with this condition of approval.**

Landscaping (Condition #33- Whittle Agreement 7)

Condition #33 in the Whittle Agreement is titled "HR to improve landscaping on the hillside adjacent to the athletic field." Your letter indicates that your architect submitted a detailed landscaping plan for this project in another part of the campus, prior to the issuance of permits. You did not include, in your attachments, the approved landscape plan for this area, a written description of the improvements, or photos of the installed landscaping. **Please submit this information for Planning and Zoning staff's review.**

Carpooling, Vanpooling, and Other Mass Transit (Condition #33- Alida Agreement 4)

Your letter indicates that you have initiated a carpooling, vanpooling, and bus ridership program. **Again, staff requests that the school submit the current transit numbers to Planning and Zoning for both morning drop-off and evening pick-up.**

Event Parking at the Greek Orthodox Church (Condition #33- Alida Agreement 9)

This condition requires the school to continue to support reciprocal parking agreements with the Greek Orthodox Church for events. In our letter staff asked that you provide the location (i.e., calendar, website, or letters) where it communicates parking and events procedures to parents and guests of the school. We did not receive this information. **Please provide the requested information.**

Deliveries (Condition #33- Lincoln Agreement 5)

You letter states that you are in compliance with the condition related to bulk deliveries. You preface your statement that bulk deliveries or substantial truckloads of school related supplies are delivered via Whittle; yet large semi-trucks with small bulk items continue to illegally (trucks of this size are not allowed on Lincoln) make deliveries on Lincoln Ave. This is inconsistent with the spirit and intent of the neighborhood agreement. The condition requires you to address and accommodate deliveries in your master plan. To date you have not explained how the master plan accommodates delivery of your supplies in a legal manner. You have previously stated that you are not the police and can't enforce the truck type delivering your supplies. Yet you have chosen the vendor, ordered the supplies, and accept the supplies coming off the trucks. You have control over these trucks are coming to your school and the situation has clearly been exacerbated with completion of the master plan. **Therefore, staff has determined that the school is not in compliance with this condition of approval. If you have initiated a procedure to reduce or eliminate these occurrences, that can be demonstrated through policy documents, invoices, or order forms, please submit those to staff.**

Monitoring at Lincoln and Burlingame (Condition #33- Lincoln Agreement 13)

This condition requires the school to monitor traffic at the intersection of Lincoln and Burlington Streets before and after school and evaluate as needed. In your letter you state that the monitoring of this intersection is not done everyday. You go on to state that your monitoring "more than fully complies with section 5 of the Lincoln Avenue agreement." This is contrary to staff's determination above for enforcement. Also, you do not state how often you were monitoring the intersection when the agreement was signed and how often you monitor the intersection now. As a Condition of Approval it is for City staff to evaluate the monitoring and require adjustments as needed. **Please submit the following information: how many monitors were in place when the neighborhood agreement was signed, the days the monitors were present, the number of monitors, and the monitoring log to City staff for review.**

In summary, staff has determined that the school is still not in compliance with several conditions of approval. Again, this letter provides notice that violations of the conditions have occurred and are ongoing. Several other conditions require that the school submit additional information.

Within thirty (30) calendar days of this letter (i.e., January 18, 2010), please provide the requested documentation and how you plan to bring the school into full compliance with approved Conditions of Approval Your written response must be received by the City Planning Department within 30 calendar days of the date of this letter (January 18, 2010).

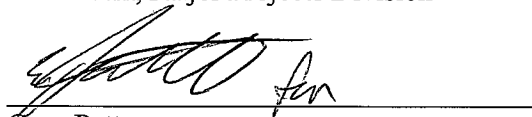
You are hereby advised that your failure to fully and timely respond to this letter will result in the matter being referred to the Code Compliance Division or other procedures as outlined in the Condition of Approval #6 of the PUDF07-520.

Please contact me at (510) 238-3659 if you have any questions regarding this letter.

Sincerely,



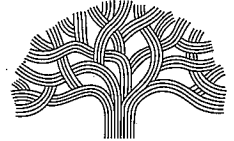
Heather Klein
Planner III, Major Projects Division



Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

cc: Head Royce Neighborhood Liaison Committee
Jean Quan, Councilmember for District 4
Walter Cohen, Director Community and Economic Development Agency
Eric Angstadt, Deputy Director, Community and Economic Development Agency
Ray Derania, Deputy Director, Building Services
Heather Lee, Deputy City Attorney

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
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TDD (510) 238-3254

NOTICE OF COMPLAINT

April 13, 2010

Paul Chapman
Head Royce School
4315 Lincoln Ave.
Oakland, CA

RE: Case File No.: PUD04-400; PUDF05-339; ER04-0014
Project Address: 4233, 4309, and 4315 Lincoln Ave. and 4274 Whittle Ave.

Dear Mr. Chapman.

In our letter, dated November 16, 2009 and December 18, 2009, staff determined that the school is not in compliance with several conditions of approval for the above noted case files. Staff also noted there are other conditions for which we could not determine compliance, and we requested additional documentation. Staff has reviewed your letter, dated January 16, 2010, along with the attachments and the traffic monitoring reports. Staff still believes that the documentation you submitted to demonstrate compliance is inaccurate and/or incomplete. Therefore, staff's overall position has not changed regarding your submittal. You must submit actual documentation (rather than statements that cannot be verified) showing compliance with the Conditions of Approval.

However, based on the statements in your letter, staff believes that you may not be aware of the documentation required in order for the City to verify compliance. The purpose of this letter is to specifically outline, for each Condition, what you need to submit for staff's review. **Your documentation and response must be received by the City Planning Department (please address to my attention) within 30 calendar days of the date of this letter (May 13, 2010).** In addition, this letter also notes the Conditions where the school is clearly not in compliance and the Conditions where the school has successfully submitted documentation satisfying compliance.

DOCUMENTATION REQUIRED FOR REVIEW OF COMPLIANCE WITH THE CONDITIONS OF APPROVAL

Traffic Rules (Condition #34)

The Condition requires the school to "distribute a package with the traffic rules clearly outlined in the enrollment contract for that year. The rules should include a written traffic monitoring plan and a graphic showing the correct way to drop-off and pick-up students. The package will also include a letter that must be signed and returned by each parent/ guardian delivering students." This written traffic monitoring plan should include more than the ten traffic rules. Again, without a description of the procedures, parents and guardians do not know if they are correctly implementing the traffic rules. Please submit the following:

- A written description of the correct way students are to be pick-up and dropped-off.
- Documentation verifying that the package was sent to and returned by each parent/ guardian delivering students

- A copy of the packet sent to parents/guardian.

Enforcement (Condition #33- Whittle Agreement 5 and 10, Alida Agreement 5 and 8, Lincoln Agreement 12)

As noted in the Whittle, Alida and Lincoln Agreements, Head Royce actions are to include the following:

- Distribute the school rules to the entire school community
- Communicate the rules to parents, staff, visitors, etc.
- Put procedures in place to enforce the traffic rules including clear consequences
- Increase site monitoring
- Have monitors wear identifiable jackets
- Track down violators using digital cameras
- Send calendar of events to neighbors that may impact traffic and parking
- Add monitoring during special events

In order to become compliant with this Condition the school needs submit the following:

- A new system that does not rely on license plates to track violations or there needs to be additional systems in place to ensure that the rules are enforced with consequences attached. Please submit a new proposal that details the tracking and enforcement of pickup/drop off violations.
- The monitoring procedures for pick-up and drop-off
- Monitors should wear jackets and should be provided with the tools necessary, including digital camera, to identify violators
- The school should send the calendar to neighbors annually and anytime an event is scheduled or rescheduled.
- Additional monitoring for events

Landscaping (Condition #33- Whittle Agreement 7)

The Condition states "HR to improve landscaping on the hillside adjacent to the athletic field: This hillside area to the north of the school's playing field is in need of additional landscaping and better maintenance. HR agrees that implementing a modest landscape plan that includes California native drought tolerant plants would be of benefit to both the school and the neighborhood." Your November 24, 2009 letter indicates that your architect submitted a detailed landscaping plan for this project in another part of the campus, prior to the issuance of permits.

- Submit a copy of this landscape plan for Planning and Zoning staff's review.

Carpooling, Vanpooling, and Other Mass Transit (Condition #33- Alida Agreement 4)

Your letter indicates that you have initiated a carpooling, vanpooling, and bus ridership program. In order to gauge the effectiveness of this program:

- Submit the current number of students using alternative transit to Planning and Zoning for both morning drop-off and evening pick-up.

Deliveries (Condition #33- Lincoln Agreement 5)

Semi-trucks including those making any delivery to the school, are not permitted on Lincoln Ave. Simply moving this type of truck further away from residences or at different times of the day is not acceptable.

As noted in our previous letter, the school chooses the vendor, orders the supplies, and accepts the supplies coming off the trucks. Therefore, the School has control over these trucks coming to the school. The situation was clearly an issue before approval of the master plan, hence the school's commitment to Condition #33- Lincoln Agreement 7 which requires the school to work with neighbors to petition the City to prevent traffic of larger vehicles. The number of these vehicles has expanded with the

completion of the master plan. In order to comply with the Condition the School must submit the following:

- Some written policy indicating that the school will not permit semi-trucks to deliver materials to the school. This can be in the form of a school policy on letterhead indicating that a procedure has been initiated to reduce or eliminate these occurrences, order forms with the statement clearly shown, or a log indicating refusal of the items delivered on this truck. Information regarding truck and delivery restrictions must be incorporated into contracts.
- A written description and graphic plan that shows how your plan to accommodate deliveries to the school. At a minimum, the plan shall include where deliveries are allowed and the size of trucks permitted plus a plan outlining how trucks are to be controlled (contract restrictions or other methods).

Monitoring at Lincoln and Burlingame (Condition #33- Lincoln Agreement 13)

Please submit the following information:

- How many days per week and the timeframes that the school monitored the intersection when the neighborhood agreement was signed
- The current number of monitors for that intersection.
- Last month's monitoring log which indicates 1) the dates and timeframe that monitoring occurred at this intersection and 2) the recorded violations at that intersection

THE SCHOOL'S NON-COMPLIANCE WITH THE CONDITIONS OF APPROVAL

Staff has determined that the school is not in compliance with the following Conditions of Approval.

Mitigation Measure TRAF-1(Condition #24)

The school submitted documents to staff with monitoring periods of January 5th through the 14th, January 21st through the 28th, and February 22 through March 5th. The documents did not include the names of the two persons monitoring the afternoon pick-up queue or the qualifications of the two persons performing the monitoring. Staff will only accept licensed traffic engineers, persons working for a traffic consultant that does business with the City of Oakland or two persons directly trained by others with experience that meet the above qualifications and date of training. Furthermore, the logs did not coincide with the first six weeks of the semester. The logs did not show the maximum number of vehicles in the queue. Reports were not submitted to staff every two weeks as required.

Furthermore, staff is concerned regarding the accuracy of the monitoring. An example of this is the monitoring for January 22nd at 3:15 PM. The log shows one car in the Keep Clear Zone and three cars in the Upper Red Zone and zero cars blocking the travel lane. However, the log shows 18 cars in the queue above the upper driveway. Since these cars are not in the Upper Red Zone and not in the Keep Clear Zone they must be "past the upper driveway and the "no parking" zone above the driveway" but this is not shown on the log. The School is still out of compliance with this condition.

Since staff is concerned 1) with the accuracy of the monitoring and 2) that the monitoring was not done according to the Mitigation Measure, we have decided to have the reports and the afternoon traffic situation peer reviewed. Per Condition of Approval #45 of Case File PUDF05-339, staff may require that the School submit a deposit with Building Services to cover the full costs of independent technical 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. Based on the City's determination that the School is not in compliance, the city is requesting that the School submit a deposit to cover the peer review and inspections of violations with the Conditions of Approval. Staff will use this deposit to investigate further compliance issues. Please submit a deposit in the amount of \$7,500 within 30 days for this letter to cover these expenses.

Student Enrollment (Condition #26)

The maximum number of students with the enrollment fluctuation granted by the Planning Commission is 798 (760 + 38) students. According to your e-mail dated October 10, 2009 you have 800 students (rounding up to account for the .5 student.)

You do not need to submit addition information. Staff has already determined that the school is out of compliance with this condition of approval. We strongly disagree with your January 15th letter that you should be allowed the second enrollment bump because you have met all the Conditions of Approval.

Enforcement (Condition #33- Whittle Agreement 5 and 10, Alida Agreement 5 and 8, Lincoln Agreement 12)

As noted in staff's December 18th letter, the school's traffic rule enforcement system using license plates is not effective. This is based not only on the neighbor comments but also on the log you submitted on December 11, 2009. The log shows that approximately 60% of the violations were in cars that were not in your database. Therefore, there was no consequence for the infractions. This is a violation of the Condition of Approval which requires "Consequences for not following the school rules clearly established and include fines and/or not renewing the enrollment contract of the child." The School is still out of compliance with this condition

THE SCHOOL'S COMPLIANCE WITH THE CONDITIONS OF APPROVAL

Based on the most recent document submittals, staff has determined that the school is in compliance with the following Conditions of Approval.

4-Way Stop Sign (Condition #33- Whittle Agreement 2, Alida Agreement 2)

Staff received your deposit along with your January 15th letter. Staff gave the deposit to the Transportation Services Division and instructed them to proceed with their review of the stop-sign. The school is in compliance with this Condition.

Event Parking at the Greek Orthodox Church (Condition #33- Alida Agreement 9)

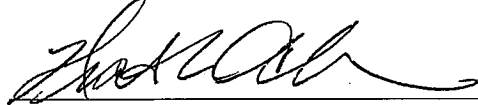
Staff received your e-line that communicates parking and events procedures to parents and guests of the school. The school is in compliance with this Condition.

SUMMARY

Within thirty (30) calendar days of this letter (i.e., May 13, 2010), you must provide the requested documentation. **You are hereby advised that your failure to fully and timely submit the information outlined in this letter will result in the matter being referred to the Code Compliance Division or other procedures as outlined in the Condition of Approval #6 of the PUDF07-520.**

Also, please be aware that staff will not extend the deadline noted above, but will be happy to meet with you to discuss the contents of this letter and the school's compliance with the Conditions of Project Approval. Please contact me at (510) 238-3659 or hklein@oaklandnet.com to schedule a meeting.

Sincerely,



Heather Klein
Planner III, Major Projects Division



ERIC ANGSTADT
Deputy Director
Community and Economic Development Agency

cc: Head Royce Neighborhood Liaison Committee
Jean Quan, Councilmember for District 4
Walter Cohen, Director Community and Economic Development Agency
Eric Angstadt, Deputy Director, Community and Economic Development Agency
Ray Derania, Deputy Director, Building Services
Heather Lee, Deputy City Attorney
Bill Quesada, Zoning Inspections

**NEIGHBORHOOD STEERING COMMITTEE ET AL.
VERSUS HEAD ROYCE SCHOOL**

COMPLAINT

AUGUST 8, 2012

COMPLAINT
NEIGHBORHOOD STEERING COMMITTEE, ET AL.
VERSUS HEAD ROYCE SCHOOL

I. INTRODUCTION

The Complaint is brought by the Neighborhood Steering Committee, a loosely formed organization representing neighbors of Head Royce School (HRS) and the greater neighborhood, including Whittle Ave., Lincoln, Alida St., Alida Court, Linnet, Charleston, Laguna, and Camellia in Oakland. Complainants also include individual neighbors: Drew Lau-Regent, Roberta Dempster, Josh Thieriot, and Leila H. Moncharsh, who reside near HRS and are negatively impacted by its poor traffic management.

NSC and the individual neighbors seek to have the City of Oakland (city) resume its prior process of holding a hearing regarding neighbors' contention that HRS is failing to comply with its use permits, including the mitigation measure.

II. STATEMENT OF FACTS

A. Background Information

1. History of Relationship Between HRS and the Neighborhood Liaison Committee (NLC)

In the late 1990s, HRS and its neighbors agreed to set up the Neighborhood Liaison Committee (NLC), to deal with various issues that typically arise from a school located in a densely populated neighborhood. The NLC consisted of school representatives and neighbor representatives. There were a few changes of neighborhood representatives over the years, but most of the original ones stayed on the NLC. By 2006, the NLC neighbor representatives were (and still are): Randy Morris, Hollis Matson, Don Dunning, Michael Thilgen, and Josh Theiriot.

In 2006, the city of Oakland (city) granted HRS' application for a planned unit development (PUD) for a three-phased expansion of the HRS physical campus and for enrollment additions that eventually would bring the school from an enrollment of 700 students to 880 students; the additions were to occur incrementally over the three phases.¹ Attached to the use permit were written neighborhood agreements that were drafted by the school and agreed to by the neighbors.² These neighborhood agreements were then incorporated into the use permit as Condition No. 33.

The 2006 use permit also contained other provisions relative to traffic controls. Under the California Environmental Quality Act (CEQA), the city required preparation of a mitigated negative declaration (MND) regarding traffic impacts. As a result of the MND, the city required the school to mitigate traffic impacts by controlling the length of the queue that backed up, along Lincoln Ave., from the school's front gate to its Lincoln Ave. driveway. (Condition No. 24.)

In March 2008, the city approved HRS' permit application to construct 20 tandem parking spaces.³ At that time, the city included the same conditions of approval that applied to the 2006 PUD permit, with the exception of the conditions applicable to the PUD construction project that by 2008 had been pretty much completed. The numbering of the conditions changed somewhat between the 2006 PUD permit and the 2008 permit; for example, the traffic mitigation measure that is listed in Condition No. 24 for the 2006 permit is also listed in the 2008 permit, but as Condition No. 36.

According to the city planning department file, a dispute developed around 2008 between neighbors and HRS primarily because of traffic problems that neighbors associated with HRS' drop-off and pick-up operations. On behalf of the affected

¹ Use permit approval letter, dated January 18, 2006 from city planner to HRS representative (1 NSD 1-11.) "NSD" refers to Neighbors Submitted Documents. "NSD" is preceded by the volume number and followed by the pages where the document appears in the record.

² Declaration of Randy Morris, paragraph 4. (3 NSD 215 - 297.)

³ Approval letter, dated March 10, 2008. (1 NSD 27-44.)

neighbors, the NLC neighbors complained to the city, culminating in a meeting on July 28, 2009 involving the NLC, HRS, and city staff.

Heather Klein, the city planner assigned to handle the HRS 2006 and 2008 projects, wrote a letter to HRS on November 16, 2009 in which she confirmed the city's conclusions that had been discussed during the July 28, 2009 meeting.⁴ Specifically, Ms. Klein informed HRS that city staff had looked into the neighbor complaints and concluded that: 1. the school was out of compliance with its 2006 and 2008 use permits in several regards; and 2. that the failure to comply with the permits was creating an unsafe traffic situation on Lincoln Ave.

Between November 16, 2009 and April 13, 2010, HRS and Ms. Klein traded several letters and emails in which Ms. Klein reiterated that HRS was out of compliance with its use permit conditions, including the traffic mitigation condition, but HRS' representative disagreed.⁵ The city intended to refer the permit compliance matter to a hearing officer and schedule a formal abatement hearing.

According to the NLC neighbors, at the end of the 2010 school year, HRS' Head of School retired and Mr. Rob Lake was hired to fill that position. Rob Lake asked that the city staff hold off pursuing the hearing option so that he could try to resolve the neighbors' concerns. Presumably, he also intended to bring the school into compliance with the use permit. HRS made some improvements to the traffic problems, pursuant to requests from NLC neighbors, by posting additional security guards. HRS also posted signs on large cones, and in the summer had students hold signs to stop or at least reduce the number of u-turns on Alida St. and in driveways along Alida St. and Alida Court. HRS also made minor inroads toward reducing the general traffic chaos on Lincoln.

⁴ 1 NSD 66-70.

⁵ Correspondence between Heather Klein and Peter Smith. (1 NSD 66-124.5; 2 NSD 125-127.)

During two years of negotiations involving the NLC, Rob Lake, and Martha Sellers (a trustee of HRS on their executive committee), the NLC neighbors continued to have many unresolved issues with the school, mostly regarding poor traffic management, but also dealing with other impacts that the neighborhood was experiencing due to poor management of the school's operation.

There were two primary concerns regarding the continual increase in the school's enrollment: 1. HRS has continually increased their enrollment, although they have not demonstrated an ability to handle the growing number of students. 2. HRS has refused to clarify and record their proposed solutions to the problems in a modified use permit for the school. Instead, the NLC neighbors viewed the discussions with Rob Lake and Martha Sellers as merely "talk" with no commitment to keep the then current corrections in place, and formulate new ones to deal with the ongoing problems.

Meanwhile Heather Klein was becoming concerned about the amount of time that was elapsing between her department's recommendation to have a hearing officer resolve the dispute with HRS as to whether they were in or out of compliance with the use permit. Further, she was not receiving any indication from HRS that they had agreed with the NLC upon specific modifications to the HRS use permit. Nor did she believe that HRS had been bringing, or attempting in good faith to bring, its operations into compliance with the 2006 and 2008 use permit conditions.⁶

2. History of Relationship Between Neighborhood Steering Committee (NSC) and HRS

In March 2012, following nearly two years of less-than-successful negotiations between NLC neighbors and HRS, the neighbors living in the area of Lincoln Child Center (LCC) learned that HRS intended to further expand its operations in the neighborhood by purchasing LCC's eight-acre property, located on the other side of Lincoln Ave. and directly across from the HRS campus. HRS intended to further expand its enrollment, use the LCC property for parking, construct an Olympic-sized

⁶ Declaration of Randy Morris, paragraph 27. (3 NSD 215-297.)

swimming pool, a performing arts center, and a large football field, all of which would potentially have negative impacts for the neighbors residing around the LCC property.⁷

Further aggravating the LCC neighbors, they learned from the NLC neighbors members of the NLC that HRS had been a poor, overall unresponsive neighbor for years. They also learned that despite some improvements, there had been two years of less than successful negotiations towards abating the problems existing around the current HRS campus, caused by HRS' poor management of its operation. As a result of the proposed expansion, LCC neighbors joined the NSC to represent the entire neighborhood. The three LCC neighborhood representatives on the NSC are Drew Lau-Regent (Camellia), Roberta Dempster (Linnet), and Leila Moncharsh (Charleston).

B. Current Status of Pending Issues

During the last two months, the NSC learned from HRS' attorney at neighborhood meetings that under no circumstances would HRS agree to any changes to its use permit. Further, the NSC heard from Rob Lake that the school would not disclose to the neighbors their plans for the LCC property, although they had already disclosed their expansion plans to the newspapers and to the HRS parents.⁸ Nor would they agree to stop increasing their enrollment and expanding their facilities; in fact, Rob Lake indicated his intention to continue turning HRS into a "community center where organizations from all over Oakland can come and use our facility."⁹

In May 2012, NSC member Randy Morris discovered from a casual contact in the street with an HRS parent that HRS had already signed contracts, again expanding their enrollment to add another kindergarten class and a 6th grade class, without ever informing the NLC neighbors about it. When Randy called Martha Sellers to verify the information, she told him that HRS had expanded their enrollment for fall 2012.¹⁰

⁷ News story, publication to parents. (2 NSD 149; 146-148.)

⁸ Newspaper story and letter to parents. See above.

⁹ Declaration of Drew Lau-Regent, paragraph 11. (4 NSD 396-399.)

¹⁰ Declaration of Randy Morris, paragraph 30. (3 NSD 215-297.)

During neighborhood meetings, Rob Lake told neighbors that they should bring any of their complaints about the school's operation to the attention of Mary Fahey and/or him. As discussed, *infra*, the NSC provided a traffic report to HRS and Heather Klein in June 2012. For the last two months, neighbors have been emailing Rob and Mary about the ongoing nuisance problems emanating from the school during their summer camp sessions.

Rob Lake and Mary Fahey have responded to many of the complaint emails, but Rob began insisting that if neighbors wanted corrections, they had to speak with him personally rather than his responding in writing to the emailed complaints. When neighbors refused to make "phone appointments," he refused to write back to them or correct the problems. Overall, as shown by the email exchanges, HRS refused to discontinue the excessive noise during their summer camp sessions or fix the traffic problems due to summer camp parents failing to follow traffic rules. Rob did discontinue the nighttime soccer games, with children running around the campus, for which he had previously granted approval.¹¹

Besides the issues involving constantly increasing enrollment and the refusal to agree that the use permit may be modified, the pending issues are just that – still pending. A list of them may be helpful to the hearing officer.

1. Current Issues That Have Not Been Corrected by HRS

Below is a list of the problems that emanate from HRS and about which the neighbors have complained to HRS for many years. They have not been remedied:

- a. During the regular school session, there are long car queues in the two Lincoln Ave. travel lanes, twice a day, resulting from too many HRS parents dropping off or picking up students. These queues back up the hill and onto highway 13, significantly stalling business and resident access to Lincoln Avenue.

¹¹ Declaration of Don Dunning, paragraph 6 and emails with Rob Lake, Exhibit A to the declaration. (4 NSD 318-360.)

- b. During drop-off and pick-up times, HRS parents double park on Lincoln, which pushes traffic over the double yellow line into oncoming traffic. There are simply too many cars and not enough space to accommodate all of them on Lincoln Avenue
- c. Jaywalking, children and adults walking around out of cars and in the street during pick-ups and drop-offs, and other related dangerous behaviors add to the chaos on Lincoln. These problems also slow down through traffic.
- d. The HRS parents block driveways and use residential streets all over the neighborhood to pick up or drop off students.
- e. The HRS parents continue to make u-turns on numerous streets throughout the neighborhood, and in private driveways.
- g. There is a lack of effective responsiveness by HRS to neighborhood complaints; HRS relies on a database of license plates related to HRS cars. However, the handling of the neighbor complaints and identification of the license plates does not lead to HRS reporting back to the neighbors indicating what corrective action was taken. While there has been improvement on some streets, rule breaking and dangerous driving continues, especially on Lincoln.
- h. The few monitors HRS does rotate into the neighborhood rarely "monitor"...they have been observed listening to music, texting, talking on the phone, or in one instance of a student monitor- making out with a boyfriend. HRS contended that placement of monitors was an effort on their part to respond to concerns, but the monitors are not effective.
- i. The summer camp program that Head Royce runs every year involves worse parking and traffic issues than the regular school year; there is also a higher volume of noise than normally occurs with a school.
- j. The school does not consistently respond to neighbor complaints about the summer camp and fix them in a timely manner. The database and complaint system is more problematic in the summer.
- k. Students are not sufficiently supervised on the HRS campus; some of them smoke pot and engage in other unacceptable behaviors next to the Whittle Ave. neighbors' properties.
- l. Parents, guests, vendors, and school staff park all over the greater neighborhood, instead of on the campus.

m. Huge trucks that do not legally belong on Lincoln Avenue, due to the four-and-a-half ton legal prohibition posted at the top of the hill, bring deliveries before 7:00 a.m. Delivery trucks often make so much noise that they wake up the neighbors or disturb them while they are at home. Some of the delivery trucks use noisy generators to refrigerate food and/or leave their loud engines idling. They sometimes vibrate the housing near the school from the noise.

n. Speeding trucks and cars, driving to and from HRS' back gate, endanger the residents and their pets on narrow Whittle Ave.

o. There is a lack of landscape maintenance on the Whittle Ave. side of the campus.

p. Although the school does a good job of fire prevention overall, there remains fire danger from the school allowing a "fire ladder" problem to develop on its property.

q. Over the last two years, there has been a dramatic increase in the number of events held by the school. These events are often unrelated to the school, create noise, bring congestion and safety problems deeper into the neighborhood, and routinely disrupt the quiet enjoyment of the neighborhood on evenings and weekends. Evening events routinely end late at night, causing noise from people returning to their cars.

r. An issue that did not come up at the NLC meetings, but was consistently raised with the school by the school's next-door neighbor, involved student driving behavior. Terry Tobey owns property above the HRS parking lot. She and her immediate neighbors suffer from students driving recklessly in the HRS parking lot, honking their horns, and spinning donuts in the school parking lot, which is unsupervised by any staff.

s. The city has repeatedly informed HRS that it is out of compliance with its use permit in a number of regards, some of which overlap the issues, above. The NSC incorporates those violations in their complaint.

Neighbors are requesting that the city proceed with its original plan and appoint a hearing officer to consider the evidence presented with this complaint, all evidence presented before, and during the public hearing. They seek findings from the hearing officer that all of the allegations above and those made by the city staff are true. They also seek findings that each allegation, raised herein by the NSC, and each allegation raised by the city staff constitutes a violation of law and/or a violation of the conditional

use permit (CUP) for HRS, including the CEQA mitigation measure. They seek any and all remedies available for correction of the problems.

Below, the neighbors discuss their complaints, their legal contentions, and suggested corrections. They also offer legal authorities to support their legal contentions.

C. Basis for Each Complaint, Legal Contention, and Suggested Correction

1. Traffic Queues

Problem: In May 2012, the NSC enlisted neighborhood volunteers to monitor and record traffic problems on Lincoln Ave. related to HRS's pick-up and drop-off procedures. They prepared logs, took still photos, and filmed the problems.¹² Then, they reduced the information into a traffic monitoring report, dated June 1, 2012.¹³ This document was forwarded to Heather Klein and to HRS.

The collected data and the report demonstrated that during the morning drop-off period, the queue was backing up all the way from the school and onto Highway 13, where cars were stopped in the freeway travel lane as they tried to access Lincoln Ave. The drivers approaching the school created queues that, at times, became so long that resident, business and emergency vehicles could not get through Lincoln Ave. without substantial delays. Furthermore, the residents in the area reported that due to HRS traffic congestion, and the amount of time it takes to clear out, they have to use longer routes to access the freeways on their way to work. They cannot risk being late to work.¹⁴

¹² Declaration from Victor Aelion. (3 NSD 309-310.) Traffic logs and photos. (2 NSD 192-206.) A DVD was also provided to the city and HRS; it requires Quick Time to view it and is attached to Volume 1 of the NSD documents in a separate envelope.

¹³ 2 NSD 192-206.

¹⁴ For examples, see Declarations of Judy Sigars, paragraphs 2-4 and Deborah Royal paragraphs 5-7. (2 NSD 207-209; 3 NSD 298-302.)

The backed-up queues along Lincoln Ave. prevent residents from accessing Lincoln from the side streets and from driveways. For example, when a driver approaches Lincoln Ave. from Alida, parents frequently block the intersection and he will have to wait until the parent drivers break the queue long enough for him to turn left or right onto Lincoln. The parents often are very slow to break the queues, leaving the resident waiting an excessive period of time to access Lincoln.¹⁵ When the drop-off or pick-up queues prevent access out of private driveways, they also prevent the residents from getting into their own driveways.¹⁶ The queues potentially can also stall emergency access to these streets because Lincoln is a main thoroughfare with narrow streets feeding into it.

Legal Violations: Neighbors incorporate Heather Klein's correspondence regarding violations of the use permit with respect to allowing the queues to back up and create traffic problems.¹⁷ On July 26, 2012, city staff wrote to HRS' attorney: "It is still staff's determination that HRS has not made significant efforts to lessen the traffic queue. Furthermore, staff has seen little progress on the preparation and implementation of a Traffic Demand Management Program, as previously discussed with HRS, to reduce traffic impacts and comply with the COA and Mitigation Measure."¹⁸ The excessively long queue during the afternoon pick-up time violates the mitigation measure under the California Environmental Quality Act (CEQA.) (Condition 24, mitigation measure TRAF-1.

Furthermore, the cars parked along Lincoln are located in front of three fire hydrants spread out at intervals along Lincoln. When the traffic is heavy, the cars that are parked in front of the fire hydrants or within 15 feet of them cannot immediately move out of the way, which is a violation of California Vehicle Code, § 22514. The

¹⁵ Declaration of Deborah Royal, paragraph 6. (3 NSD 298-302.)

¹⁶ Declarations of Terry Tobey (paragraphs 2-4.) and Brian Petraska (paragraphs 4-7.) (4 NSD 376-392 369-375.)

¹⁷ Letters from H Klein. (1 NSD 66-77; 113-117; 124.1-124.5.)

¹⁸ Letter, undated from Anne Mudge, reply from Mr. Miller, dated July 26, 2012, pg. 2. (2 NSD 162-168.)

violation is the result of HRS' system for handling its student pick-up operation and thus, emanates from the school.

By unreasonably blocking ingress and egress to Lincoln Ave., HRS has created a public nuisance for those wishing to use the public street. The traffic congestion during these two periods is clearly emanating from HRS since the neighbors' DVD film shows little traffic when HRS is not engaged in its drop-off and pick-up operations.¹⁹ The nuisance negatively impacts the entire neighborhood rather than just a few people.

Suggested solution: The school's excessive enrollment and its poor management are the two driving forces behind the queue problems. The enrollment needs to be reduced from 880 students back to 700 students, which is the number allowed under the 1995 use permit.²⁰ At the 700 number, HRS still had problems managing its traffic load on Lincoln Ave., but the problems definitely escalated after the enrollment was increased in 2006.²¹

The parking lot on the HRS property should be cleared of parking spaces for staff and student drivers, with the exception of the parking that can only be accessed from Whittle Ave. and for handicapped parking. The parking lot should be used for drop-off and pick-up for K-5th grade students, only. The school should find an off-site location, subject to city staff's approval, that is not on Lincoln Ave., nor in a neighborhood street, where its staff and student drivers can park. From that parking site the school should be required to operate a shuttle bus service to and from the school for its staff and student drivers.

As to all students who are in 6th–12th grade, the school should designate off-site pick-up and drop-off locations that meet city staff's approval and provide a shuttle service to and from those locations. These locations should not be on Lincoln Ave. or

¹⁹ The DVD is attached in the envelope to the NSD and can be viewed using Quick Time.

²⁰ Conditional Use Permit – May 24, 1995, which incorporates portions of the 1988 permit. (1 NSD 1-11.)

²¹ Declaration of Randy Morris, paragraphs 34-36. (3 NSD 215-297.)

streets that feed into Lincoln as that arrangement of handling the school's traffic needs on Lincoln, and the nearby residential streets, has been a dismal failure. The Dowling report suggests several possible offsite locations where students can meet and wait for the shuttle bus to take them to school and drop them off at the end of the day.

Alternatively, the school should require that at least 75 percent of the students in the 6th-12th grade group arrive and leave school by public transportation, private bus service, and carpool (with at least three students in each car.) The remaining 25 percent would be dropped off or picked up in the HRS parking lot.

Neighbors considered two other options: 1. Allowing for an incremental reduction of enrollment back to the 700 student level over several years, and 2. resolving the traffic queue with no enrollment reduction. Given the immediate safety issues created, in part, by the queues, giving HRS several years to get into compliance with a 700 student enrollment would not reduce the safety hazards in a timely manner. Without an enrollment reduction, HRS would continue to have problems due to poor management. It is much more complicated to add conditions that require better management than it would be to reduce enrollment to a number HRS can better handle. Neighbors do not believe that, even with traffic rule enforcers, the school could manage the traffic so as to remove the extended queues, without an enrollment reduction.

Furthermore, the school's poor traffic management is conspicuous in their daily handling of the drop-off and pick-up operations, but in other ways as well. For example, the head of the school has often commented that his "heart goes into my throat" and that he "turns gray" every time he watches the pick-up and drop-off processes at HRS.²² Yet, he has done little in two years to fix the problems. Nor has he applied any of the suggestions from the school's own retained traffic engineers, who discussed numerous options for solving the traffic problems in their report.²³

²² Declaration of Randy Morris, paragraph 21. (3 NSD 215-297.)

²³ Dowling draft traffic report, dated December 19, 2011. (2 128-145.)

As to the costs of reducing the enrollment and paying for the cost of operating a shuttle service, neighbors reviewed the public tax returns for HRS for the last four years. They show that in 2007 HRS had over \$2 million dollars, and in 2009, over \$5 million dollars, in revenue after expenses. The business has consistently generated between \$20 million and \$24 million in income over the last four years. Also, Rob Lake has told the neighbors that HRS can afford to finance an \$11 million indebtedness to purchase LCC. Therefore, it should be able to afford an enrollment reduction and adequate bus shuttle services. Further, the school could charge the parents for the additional cost to run the shuttle services, since the parents are saving on gas and time from not driving their children to school.

3. Cars Pushed Into Oncoming Traffic by Double- Parked Cars

Problem: As shown in the neighbors' traffic memo of June 1, 2012 and in the DVD film, the cars that arrive for drop-off and pick-up, park along the curb in front of the school and across the street from it.²⁴ Most of the traffic is heading down the hill towards the school as parents exit highway 13. The parents park in a queue that extends up Lincoln, but because there are fire hydrants and the HRS back driveway, often parents will leave small spaces between cars in the queue. Eventually, as the queue fills up, drivers pull the front of their cars into these little spaces, leaving the back-end of their cars in the northside travel lane. Then, the cars traveling in the travel lane, heading downhill towards the school, go around these cars over the double-yellow line into the south travel lane and towards oncoming traffic.

Legal Violations: Same as for Section 2 above because the queues at, and above, the school's Lincoln Ave. driveway cause the problem to begin with. Additionally, the safety hazard further exacerbates the public nuisance created by the school.

²⁴ 2 NSD 192-206 and DVD in envelope attached to NSD volumes.

Suggested solution: Same as for Section 2, above. Further, there should be trained monitors at the end of the queue to make sure that this scenario is not repeated under any circumstances, including for school events. Two monitors should be posted at the back driveway, on both sides of Lincoln, to prevent bad parking behavior by drivers, who park there for events or who try to park there in violation of the rule that drop-offs and pick-ups are to be conducted on school property or at the off-site locations. We would also suggest a traffic “rule enforcer,” to be chosen by the city staff, and paid for by the school. The enforcer would make unannounced visits and prepare reports to the city staff, with a copy to the school and to the NLC.

4. Unsafe Behaviors by Children and Adults During Drop-off and Pick-up times

Problem: Adding to the chaos on Lincoln Ave. are students jaywalking to or from their parents’ cars, parked across the street from the school. Also, students and adults do not appreciate that Lincoln Ave. is an unsafe area during drop-offs and pick-ups. As a result, the parents get out of their cars or open their car doors into moving traffic. Students also approach their parents’ cars from the street side, as opposed to staying on the sidewalk side of the car. In a couple of the last scenes of the DVD film, the chaos is particularly evident.

Legal Violations: Same as section 2, above. The unsafe pedestrian and driver behaviors further add to the public nuisance. Much of the reason for parents and children to be on Lincoln Ave. is related to the school failing to provide enough offsite parking for its institutional staff. As a result, too few parents can access the HRS parking area to drop-off or pick-up their children since the space is being used for staff parking.

The school entered into a five-year contract with Lincoln Child Center for extra parking spaces.²⁵ However, HRS discontinued the lease after only one year in violation of Condition 46, neighborhood agreement 1. Further, HRS

²⁵ Lease agreement between LCC and HRS. (1 NSD 65.)

violated Condition 46, neighborhood agreement 5 by failing to enforce the school's "Big Ten" traffic rules – number 1 and 7.²⁶

Suggested Solution: Same as sections 2 and 3, above. Regardless of the corrections, there should be trained monitors directing students and parents to prevent bad driving and pedestrian habits. Besides the two monitors at the driveway, there should be at least another two monitors on each side of Lincoln between the gate and the back driveway.

5. Parents Blocking Private Driveways and Using Residential Streets for Drop-off and Pick-up Purposes

Problem: Although HRS tells parents not to block driveways and to drop their children off in front of the school, there are so many students coming to the school in cars, that they do not fit within the school's loading zone. As a result, the parents park all over the neighborhood, including in private driveways. HRS' drop-off and pick-up operation has now spread around the neighborhood for blocks. Anyone with a residence within a five to six block radius around the school has found that their street and driveway are now part of the HRS school traffic drop-off and/or pick-up operation.

A problem related to the residents' inability to use their own driveways to get out is that there is also no way to enter the driveways during the school's drop-off and pick-up operations. Terry Tobey explains in her declaration, that her Lincoln Ave. driveway leading to her house is long.²⁷ She is an asthmatic, older woman, who needs to be able to access medical emergency services. Because her driveway is blocked for a substantial period of time during the school drop-off and pick-up operation, she may not be able to obtain medical assistance in a timely fashion.

²⁶ The "Big Ten" Traffic rules are in the HRS Handbook, given to parents. (1 NSD 61.)

²⁷ Declaration of Terry Tobey, page, paragraph 4. (4 NSD 376-392.)

Legal Violations: Same as section 2. Moreover, the nuisance of having the street and private driveways blocked extends to the entire neighborhood around HRS. The school is in violation of Condition 46, neighborhood agreement 5 by failing to use good faith efforts to enforce the Big Ten Safety Rules, specifically rules 1 and 5.

Suggested Solution: Same as sections 2 and 3. Furthermore, trained monitors should be posted throughout the neighborhood to make sure that drivers do not use residential streets at all for drop-off and pick-up purposes.

6. Lack of Responsiveness to Neighborhood Complaints Combined With Non-functioning Database of License Plates Related to HRS.

Problem: HRS is not always responsive when neighbors complain about problems with the traffic and parking violations. The school maintains a database of vehicle license plates for the school year and possibly for the summer. A copy of the school year database is given to the neighbors, who then have to contribute to policing the violations. (The neighbors do not receive the summer database, if one exists.) Numerous times, the database does not have a license plate for a car related to HRS or if they do have it, there is no report back to the complaining neighbors as to the result. This gives the neighbors the impression that the rule breaking goes uncorrected.

Legal Violations: By failing to effectively respond to neighborhood traffic complaints after agreeing to use the database for tracking rule violators, HRS violated Condition 49, and Condition 46, neighborhood agreement 5 and 7.

Suggested Solution: As discussed below in section 8, neighbors are requesting that the school discontinue the summer camp. If HRS offers summer school, HRS should have adequate adult monitors as described elsewhere in this Complaint.

To remove neighbors from the task of policing the problems, the school monitors should be trained and be present during school hours and event hours on every street surrounding the school, and Alida, Alida Court, Linnet, Whittle Ave., Funston, Laguna, Charleston, Tiffin, and Lincoln Ave. It would be the job of the monitors to prevent HRS drivers from parking on any of these streets, stopping bad driver behavior and u-turns, and avoiding a queue of more than 6 cars from backing up below or above the HRS main gate.

The school should permanently invest in a full-time ombudsman position to manage neighbor complaints. If a neighbor complains to the ombudsman (who will need to be identified by the school) in writing, by either email or letter, the ombudsman should follow-up the complaint and report to the neighbor in writing: 1. The results of the investigation into the problem; 2. The steps taken to correct the problem; and 3. The steps taken to prevent the same problem from recurring. The response from the school should be forthcoming within 48 hours of receiving the written complaint. A log of these neighbor complaints should be kept and provided to the City and neighbors to ensure compliance with these expectations.

If the neighbor lodges a complaint by phone, the school should respond by phone within 24 hours with the same information as listed above.

Each semester, HRS should notify parents, student drivers, vendors, staff, and guests that they are not to park on Lincoln Ave., Whittle Ave., Funston, Alida, Linnet, Alida Court, Charleston, Tiffin, or Laguna. If the driver is at HRS for short periods of time, he or she should go down the driveway and park in the available empty parking spaces, not on the residential streets.

HRS should continue to pay for the two-hour parking restrictions on Alida and Alida Court regardless of the cost charged by the city because the two-

hour parking restriction also dissuades drivers from using these two streets as a parking lot for the school.

7. There Are Too Few Monitors, They Are Not Trained, Are Ineffective, and Sometimes They Are School Students

Problem: There has been a continuous problem with HRS not having a sufficient number of monitors to control traffic problems. Even if the school is ordered to use offsite parking and its own campus for K-5th grade drop-off and pick-up, there will still need to be monitors. Otherwise, parents will continue to use residential streets for parking. Some of these monitors appear to be school children.²⁸ Whether adults or adolescents, the monitors do little to stop bad driving habits or prevent rule-breaking while it is occurring. They also do not make notes, take photos, and follow-up with corrective action when bad driving habits occur in front of them.

Legal Violations: Same as section 2. Further, HRS is in violation of Condition 46, neighborhood agreement 5.

Suggested Solution: The city should require that the school only use monitors, who are over 21 years of age, are paid for their services, and are trained and supervised by a traffic engineering company. The rule enforcer (discussed below) would make unannounced visits and monitor compliance with this requirement.

There should be at least 14 monitors between the hours of 7:45 a.m. and 9:30 a.m. and between 2:00 p.m. and 4:00 p.m. The Whittle Ave. gate monitor would be posted at this location from 7:00 a.m. to 9:00 a.m. and 2:00 p.m. to 4:00 p.m. The monitors would be positioned as follows:

2 monitors on the driveway, one on each side of Lincoln Ave.

²⁸ Declaration of Brian Petraska, paragraph 7. 4 NSD 369-375.)

2 monitors between the main gate and the back driveway, one on each side of Lincoln

2 monitors at the front gate, one on each side of Lincoln

2 monitors on Alida St., one each side of the street

1 monitor at Alida Court

1 monitor at the intersection of Alida and Laguna

1 monitor on Tiffin

1 monitor on Whittle Ave., Tiffin to Funston

1 monitor on Whittle Ave., Funston to end of street

1 monitor at the Whittle Ave. gate

The monitors' duties would include:

- i. Wearing a red vest and for the Whittle Ave. monitors, also carrying and using a standard SLOW sign; the Lincoln monitors at the gate and driveway would carry and use standard STOP signs. The Alida, Alida Court, and Laguna monitors would carry and use NO-UTURN signs that are the same size and configuration as the other two signs
- ii. Stopping drivers from making u-turns in the street or in driveways if they attempt to do so
- iii. Preventing HRS drivers from parking on the residential streets, directing them to the driveway for HRS for drop-off and pick-up or for short-term parking
- iv. Preventing drivers from speeding through the residential streets
- v. Directing deliveries down the Lincoln driveway into the HRS campus and preventing trucks from sitting on residential streets
- vi. Stopping adults and children from exiting their cars on Lincoln Ave., or any other residential street

In the event that an HRS driver did not comply with the driving rules in the HRS handbook, in this use permit, or violated any of the directions of the monitors, the monitors would take down the identifying information and report it directly to the ombudsman.

On a first violation, the head of school would call the rule breaker. On a second violation, the head of school would require the rule breaker to meet with him or her in a conference and would warn the rule breaker that any further violation would result in cancellation of the school contract. A third violation would require cancellation of the contract.

8. Summer Camp Noise and Traffic Problems

Problem: The neighbors are very familiar with the summer camp that HRS runs every year. While it has traditionally offered some classes in the morning, it is a summer day camp, not a summer school. The parking and traffic problems are worse than the regular school year.

The summer camp is open to the public and anyone who has the fee can pay to leave their child at HRS from about 7:30 a.m. until about 6:00 p.m. Some parents pick up their children before 6:00 p.m. depending on the parents' schedules.

Basically, while other schools go quiet for the summer, HRS becomes even more chaotic than the regular school year. The parents have no idea about safe driving rules and since there are multiple sessions over the summer, they never learn them. The persons in charge of the camp use adolescents as counselors and traffic monitors with poor results.

The noise during the summer camp sessions is much different from a typical school. Counselors tell students to engage in "group chants," which are screaming sessions, heard all over the neighborhood. The counselors use amplifiers for routine communications with the campers and that noise also

resonates around the neighborhood. Because the school facility is located in a canyon, the noise reverberates all around the neighborhood housing.²⁹

Furthermore, it is difficult to get the neighbor complaints resolved in a timely manner during the summer camp.

Legal Violations: Condition No. 1 (a) requires HRS to obtain a new use permit for a summer camp: “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.” There is nothing mentioned in any staff report, set of plans, application, or other documents submitted by HRS that it wanted to run a summer camp.

The amplified noise requires a permit under Oakland’s Noise Ordinance; otherwise it is illegal. (Oakland Mun. Code, § 12.56.020.) The excessive noise violates Oakland Mun. Code, § 8.18.010 (A) (B), subsection (1).

The traffic, parking, and noise problems affect a large number of people throughout the neighborhood and constitute a public nuisance.

Suggested Solution: Neighbors are requesting that the hearing officer discontinue the summer camp. The HRS tax returns show that the school generates enough income to withstand the loss of the summer camp. If HRS wishes to run a summer camp, the school should find a more appropriate location for it than in a densely populated neighborhood.

If the school wishes to run a traditional summer school, Neighbors request that the school be restricted to typical summer school hours of 8:30 a.m. to 12:00 p.m. The school should be limited to 50 students and the activities

²⁹ Declaration of Inma Linero, paragraphs 3-8. (3 NSD 303-308.)

limited to the classroom setting. Staff parking and the drop-off and pick-up procedures would be the same as during the regular school year.

9. Lack of Supervision of HRS Students While They Are on Campus

Problem: The neighbors have observed that HRS not only has a very lax attitude about supervising its students while they are getting out of or into cars, but also while they are on the school campus. Students use a cement path to access the upper area of the campus above the soccer field and tennis courts, immediately adjacent to neighbors' residences on Whittle Ave. They then locate themselves and use the area along a steep hillside to smoke pot and cigarettes, and engage in other unacceptable behaviors.

Legal Violation: The failure to supervise the students in the residential streets and on the campus negatively impacts numerous neighbors at the same time. The students' jaywalking, approaching cars from the travel lanes, smoking pot and engaging in unacceptable behaviors affects the neighbors' quiet enjoyment of their own homes and constitute a public nuisance.

Suggested Solution: Neighbors have previously discussed monitoring the streets. As to the smoking pot and other behaviors, this could be prevented by erecting a fence on top of the wooden wall that already goes along the running path above the playing field. It should be eight feet in height, go around the area of the parking lot, and be secured with a locked gate at either end. A monitor should be assigned to watch this hillside during times when students are not in their classrooms, such as lunch time or recesses. If students are found on the hillside, they should be redirected back to class. Once, every half hour on a changeable schedule, a monitor should walk the area below the hillside and determine if any students are cutting class and using this area of the campus.

The gate should be kept locked at all times and only opened for emergencies and for maintenance.

10. Parents, Guests, Vendors, and School Staff Park All Over the Greater Neighborhood, Instead of on the Campus

Problem: The 2008 990 tax return for HRS indicates that at that time there, were 427 employees and 246 volunteers.³⁰ The 2010 990 tax return reflected that there were 432 employees and 360 volunteers.³¹ The HRS staff directory on its website only contains approximately 153 employees and that is about the number of parking spaces provided by HRS. (Presumably, some of the total number of employees and volunteers work in the summer camp, but there are many fewer campers than regular students.)

During the regular school year and during the summer camp, there is insufficient available parking on the school campus for all of the employees, let alone parents, guests, and vendors. The school also has opened a café for students and guests, which also increases the need for more parking spaces. As a result, the excess number of cars park all over the greater neighborhood, which adds congestion to the residential streets when people are trying to get to work, blocks driveways, and results in far fewer cars parked around the neighborhood. As demonstrated in several declarations, the HRS school spreads itself all over the neighborhood until the residents feel like they are just one more part of the HRS operation.

Legal Violations: HRS failed to arrange offsite parking options beyond the first year of their lease with Lincoln Child Center, which violates Condition 46, neighborhood agreement 3. The café, open to parents and guests is also not a permitted use under the use permit, which violates Condition 1 (a).

³⁰ 2008 990 tax return, pg. 1, lines 5 and 6. (4 NSD 420-451.)

³¹ 2009 99 tax return, pg. 1, lines 5 and 6. (4 NSD 452-492.)

Suggested Solution: Neighbors are asking that the city close the summer camp due to the excessive noise and traffic problems. Even if the city allows a summer school at this location, the parking demand should be handled offsite with a shuttle service. The parking lot would then become available for guests, parents, handicapped parking, and vendors.

11. Deliveries at Unusually Early Hours, Creating Excessive Noise and Vibrations

One of the problems that has occurred more frequently with the increased enrollment and the opening of an on-campus cafe is the use of very large trucks to deliver food and supplies to HRS. With students and staff numbering well over 1,000, the school constantly needs to have deliveries made on an almost daily basis.

Lincoln Ave. has a sign at the top of the hill, near highway 13, prohibiting trucks that are in excess of four-and-a-half tons from descending the hill. However, vendors delivering to HRS routinely violate the sign. The delivery trucks are very large and consistent with what one would find delivering to Safeway or in the warehouse district. These trucks are not intended for residential deliveries.

The trucks arrive at various times of the day and many of them have generators for refrigerating food and very large, noisy engines. The drivers keep the generators and engines running until they unload the food. The unloading process involves dropping a metal ramp into the asphalt, pulling out metal rolling devices and then unpacking a number of boxes from the truck. All of that unloading process further adds to the noise.

Particularly annoying is that the drivers often arrive as early as 4:30 a.m. and then sit outside the HRS main gate running their engines and generators until someone shows up at HRS to accept the delivery at least three hours later. Meanwhile, the residents across the street are awakened at variable hours and have to listen to the noise until the HRS employees show up to take the deliveries. Also, some of the trucks cause

vibrations that rock windows. One truck that is particularly noisy is the mulch truck that shoots material into the school. It results in vibrating all of the housing near it.³²

The school has contended that it has no control over its vendors and that their deliveries in the early morning hours cannot be controlled.

Legal Violations: The truck problems, described above, annoy the neighboring residents and constitute a public nuisance. The larger trucks violate the city weight restriction, which is posted at the top of the hill on Lincoln. Further, running the generators before 7:00 a.m. violates Oakland Planning Code, § 17.120.050. The delivery truck vibrations violate Oakland Planning Code, § 17.120.03 (I). The truck loading and unloading before 6:00 a.m. violates Oakland Mun. Code, § 8.18.010 (A) and (B), subsection 8. The idling of the truck engines and/or generator engines constitutes a nuisance and violates Oakland Mun. Code, § 8.18.020 (B).

Suggested Solution: Neighbors have noticed that the actual amount of food boxes or supplies delivered to HRS is very small compared with the size of the trucks. It is obvious that these large trucks are delivering to a number of locations, not just HRS. The amount of boxes unloaded from the truck would fit within a typical van or three-quarter ton truck.

The city should require that the school only accept deliveries that can be made by vehicles, no greater than one ton, and that can be safely driven down HRS' main driveway. Alternatively, HRS would rent an offsite location in a warehouse or other commercial space that can accommodate refrigeration. The trucks would go to that site, use a code to access the warehouse or offsite space, and make the deliveries. HRS would then have their employees periodically pick up the supplies or food and deliver them via the main driveway. That way, the perishable food would not be at risk and the large trucks would not be idling in front of the school.

³² Declaration of Brian Petraska, paragraphs 10-13. (4 NSD 369-375.)

The mulch truck that shoots material onto the campus would be discontinued and its material delivered by smaller trucks and the school would provide sufficient personnel to spread it by hand.

12. Speeding Trucks and Cars on Whittle Ave.

Whittle Ave. is located on the backside of HRS and is very narrow. HRS has a gate located there and uses it for some deliveries and some limited staff parking. Some of the trucks and staff cars that use the Whittle Ave. gate come through the neighborhood at a high rate of speed, endangering the residents and their pets. HRS fails to monitor and control the speed of these vehicles.³³

Legal Violations: The school is in violation of Condition 46, neighborhood agreement 3 because it required obtaining parking spaces offsite. Had this been complied with, there should have been enough room on the campus parking lot for short-term parking and deliveries. The speeding vehicles constitute a public nuisance.

Suggested Solution: Neighbors incorporate section 11 and suggest that all truck deliveries be handled through the main driveway on Lincoln and by no vehicle larger than a one ton truck and that can be driven safely down the driveway. From year to year, the same staff people should be assigned parking spots in the Whittle Ave. side parking lot. They should be warned not to drive fast, exceeding the speed limit through the neighborhood, and upon any violation that they will lose their right to park on the HRS campus. Those individuals who violate the rule would then park in the off-site parking lot.

13. Poor Landscape Maintenance

Up until about three years ago, HRS maintained its landscaping on Whittle Ave., but then canceled the service. When there was a gardening service they trimmed the ivy

³³ Declaration of Marianne Newman, paragraph 5. (4 NSD 400-401.)

along the back fence on Whittle Ave. Avenue, and around the back driveway. As a result of no maintenance, the ivy is very overgrown and growing over the curb onto the already narrow road. Also it is climbing on the tree trunks and all over the canopy of some of the trees. The same applies to the oaks facing Lincoln, close to the school's main entrance.³⁴

Legal Violations: The failure to maintain the landscaping violates Condition 43.

Suggested Solution: The school should be required to hire a landscape architect, the choice of whom would be subject to the planning department's approval. The landscape architect would act as a rule enforcer by reviewing the condition of the landscaping every quarter, making recommendations for corrections, and preparing a report to the planning department with a copy to HRS and the NLC. The school would be required to follow the recommendations.

14. Fire Danger from Vegetation Ladder

Problem: The school brings in goats once a year to clear the overgrowth on the hillside as part of fire prevention. However, there is an area on the campus where the school does not clear broom, Eucalyptus debris, and other vegetation that forms a fire ladder from the play field to the housing and next to the property of Terry Tobey.³⁵

Legal Violation: The failure to provide safe landscaping violates Condition 43. HRS is located in Oakland's Fire District. (Oakland Mun. Code, § 15.12.) It is required to clear its campus of brush that could contribute to the formation of a "fire ladder."

Suggested Solution: The school facilities manager should meet once a year with Ms. Tobey to review the vegetation next to her property. The landscape architect

³⁴ Email complaint from Inma Linaro, paragraph 9. (3 303-308.)

³⁵ Declaration of Terry Tobey, paragraphs 12-13. (4 NSD 376-392.)

rule enforcer should review the reduction of vegetation to prevent fires and make any needed recommendations.

15. Events Escalating in Number and Nuisances

HRS has exponentially increased the number of events that occur on its premises. The head of the school explained that he wanted HRS to be a “community center” where the whole community could come and use HRS’ facilities. He claimed that he was “lending” out the school, but was not charging for the rental of the facility.³⁶

These events involve everything from soccer games in the early evening to major gatherings that do not end until close to 11:00 p.m. or midnight.³⁷ The neighbors routinely are disturbed during dinner time or when trying to sleep at night. The late night noise often involves attendees socializing on Lincoln Ave. as they leave their event. Furthermore, the traffic from the larger events presents the same problems for neighbors as the ones that occur when school is in session. However, while sometimes the event sponsors use valet services, often they do not. The parking problems also are exacerbated by these events.

When HRS puts on events, they generally involve the same nuisance problems that occur during the school drop-off and pick-up times. Parking and noise issues are actually worse, given most neighbors are home during evening and weekend times. The parked car queue goes back beyond the school’s Lincoln Ave. driveway with people double parking to let out passengers, private driveways are blocked, and attendees park all over the neighborhood due to a lack of parking spaces.

Sometimes, the school does make arrangements with the Greek church for overflow parking, but that does not occur often enough to avoid creating a nuisance for the neighbors.

³⁶ Declaration of Drew Lau-Regent, paragraph 11. (4 NSD 396-399.)

³⁷ Declaration of Brian Petraska, paragraph 8. (4 369-375.)

Legal Violations: The permit does not authorize a “community center” or other non-school related use. Therefore, the use of the property as a community center violates Condition 1 (a). The late night noise from attendees returning to their cars and the uncontrolled traffic and parking problems constitute a public nuisance.

Suggested Solution:

Neighbors request that the following condition be added to the HRS use permit:

The school shall be permitted to hold events at its campus in the accordance with the following:

- a) The school shall be permitted a maximum of 20 evening events per school year during the hours of 6:00 p.m.-9:00 p.m.
- b) The school shall be permitted a maximum of 10 Saturday events per school year during the hours of 9:00 a.m.- 6:00 p.m. No Sunday events are permitted.
- c) The school shall be permitted a maximum of two single day summer events per year during the hours of 8:00 a.m.-6:00 p.m. and only on weekdays.
- d) The school is not permitted to hold summer camp, sports, daycare, or any other activity during the summer, with the exception of summer school from the hours of 8:30 a.m. to 12:00 noon and on weekdays only. The summer school will include classroom instruction, only
- e) The school is not permitted to rent out, loan out, partner, or in other way provide its facility for any use.

16. Student Drivers Engaging in Reckless Driving in the HRS Parking Lot

Problem: Terry Tobey’s property is located directly above the HRS parking lot where students park their cars. There is no supervision of this parking lot and as a result, Terry and her immediate neighbors suffer from students driving recklessly in the HRS

parking lot, honking their horns, and spinning donuts in the school parking lot. She has complained to the school administration about this and other problems in the past, but without any correction of the problems.³⁸

Legal Violations: The city should find that the dangerous driving problems on the HRS campus constitute a public nuisance.

Suggested Solution: The parking for student drivers should be moved to an offsite location and the school should be required to provide adequate supervision of that location.

III. LEGAL ANALYSIS

A. The Hearing Officer Has the Legal Authority to Revoke or Modify the Use Permit Under Oakland's Planning Code

1. General Provisions

The Oakland Planning Code authorizes the city to revoke or modify a use permit. Any member of the public:

... may file a complaint with the City Planning Department and request that revocation proceedings be commenced under this Chapter to revoke or amend any land-use related approval granted, or land-use permit held or issued, including subdivisions.

B. All revocation complaints shall identify the property that is the subject of the complaint and shall state facts and circumstances which justify commencement of revocation proceedings.

(Oakland Planning Code, § 17.152.070.)

Upon the planning department's decision that there is sufficient evidence contained in the complaint to proceed with a revocation hearing, the hearing officer has the authority to remedy any public nuisance and/or violations of the use permit conditions:

³⁸ Declaration of Terry Tobey, paragraph 6 (second 6). (4 NSD 376-392.)

In the event the Hearing Officer . . . determines there has been a violation of any provisions of the Zoning Regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, or a determination is made that a public nuisance exists on or is emanating from the property that is the subject of the revocation proceedings, the Hearing Officer . . . may amend or revoke any zoning permit associated with the property, add additional conditions of approval, abate the public nuisance, impose fines and/or penalties and/or issue any other reasonable remedial order to address the violations, failures and/or public nuisance . . .

(Oakland Planning Code, § 17.152.140.)

Complainants have demonstrated through their submitted declarations and documents that HRS has failed to comply with various of its use permit conditions. Neighbors have also shown that many of the problems, caused or emanating from HRS legally fall within the definition of a public nuisance. Therefore, the hearing officer should provide remedies that in his or her conclusion will prevent further violations.

Under applicable state law, the city has the authority to revoke HRS' permits for failing to comply with its use permits. It legally can revoke or modify the permits because HRS is creating a public nuisance in the specific ways, described above. The city can modify or revoke the permits because HRS is failing to comply with the CEQA mitigation measure.

B. The City Legally Can Revoke or Modify the Use Permit for HRS' Failure to Comply with the Permit Conditions

HRS obtained the 2006 and 2008 permits and, in reliance on those permits, invested money in constructing its projects and running its increased school operation. As such, it has a vested property right in those permits. However, that vested right does not mean that the school is free to do whatever it chooses, in violation of its use permit conditions:

When a permittee has acquired such a vested right it may be revoked if the permittee fails to comply with reasonable terms or conditions expressed in the permit granted [citations.] or if there is a compelling public necessity.

(O'Hagen v. Board of Zoning Adjustment (1971) 19 Cal.App.3d 131, 158.)

The school's failure to comply with the permit conditions regulating parking, traffic monitoring and control, the parking queue during the afternoon pick-up, and use of the property as a school all support revocation or modification of the use permit.

B. The Hearing Officer Has the Authority to Revoke or Modify the Use Permit as to HRS' Violations of its Use Permit and as to its Activities That Constitute a Nuisance

The Planning Code authorizes the hearing officer to make a determination whether HRS is causing a public nuisance:

In addition to the penalties provided elsewhere in the Zoning Regulations, any public nuisance, use or condition caused or permitted to exist in violation of any, city, state or federal law or regulation shall be considered a public nuisance and a violation of the Zoning Regulations, if a permit has been issued pursuant to any of the sections referenced in Section 17.152.070 to allow any activity or facility to be established or conducted on the property on which said public nuisance, use or condition exists. . . . [The] city's Hearing Officer . . . shall be authorized to abate said public nuisances pursuant to the procedures set forth in Sections 17.152.060 through 17.152.170 of these regulations and/or pursuant to any other authorized procedure.

(Oakland Planning Code, § 17.152.190.)

Civil Code, § 3479 defines a nuisance as:

Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

Civil Code, Section § 3480 describes a "public nuisance as: one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal."

O'Hagen, supra, is a First District decision. (the First District Court of Appeal has jurisdiction over Oakland.) In that case, the court held that a compelling public necessity may exist for revocation of a permit for a lawful business:

... where the conduct of that business constitutes a nuisance. [Citation.] The principle underlying this rule is that if such a business constitutes a nuisance it can be removed under the police power of a municipality to prohibit and enjoin nuisances. This right is given as a protection against the improper conduct of any lawful business by acts constituting a nuisance.

(*O'Hagen* at pp. 158-159.)

The *O'Hagen* court relied upon the California Supreme Court case, *Jones v. City of Los Angeles* (1930) 211 Cal. 304, 312-315. In *Jones*, the court held that "... the city[] still has the right to enjoin acts which constitute a private or public nuisance and this right is given as a protection against the improper conduct of any lawful business. (*Jones*, at p. 315.) The court further held:

And here the distinction between the power to prohibit nuisances and the power to zone is exceedingly important. The power over nuisances is more circumscribed in its objects; but once an undoubted menace to public health, safety, or morals is shown, the method of protection may be drastic. Private businesses may be wholly prohibited, where their danger is sufficiently great; and other businesses, no matter how well established and how great the resulting loss, may be excluded from certain districts where, by reason of the circumstances, their maintenance has become a public nuisance in those districts. In these cases, the public welfare demands even the destruction of existing property interests.

(*Jones, supra*, at p. 316.)

The *O'Hagen* court cautioned, however, that "in order to justify the interference with the constitutional right to carry on a lawful business it must appear that the interests of the public generally require such interference and that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals. (19 Cal.App.3d at p. 159.)

Here, HRS' blocking city streets and with them, many private driveways for its lengthy, drop-off and pick-up operations, and that extend all over the neighborhood, constitute a public nuisance. In another First District Court of Appeal decision, the court provided the history of the long-standing rule that property owners abutting a public street have an easement or right of way into that street:

[I]t is a familiar and well-established principle that the owner of a lot abutting on a street has an easement or right of way over it, which in the strictest sense of the word is property. [Citations.] Impairment of that property right constitutes both a private and a public nuisance. [Citation.]

(*Zack's, Inc. v. City of Sausalito* (2008) 165 Cal.App.4th 1163, 1190-1191.)

Furthermore, there is no statute of limitations applicable to a public nuisance: "Because the nuisance Zack's alleges fits the statutory definition of a public nuisance (Civ. Code, § 3480), it cannot be time-barred. (Civ. Code, § 3490) [citation.]." (*Zack's, supra*, at p. 1191.)

Besides the traffic problems, including the queue issue, HRS also has created a public nuisance with its summer camp due to excessive noise from organized screaming and amplified noise, and from the truck deliveries.

C. The City is Legally Required to Enforce the CEQA Mitigation Measure

At the time the city granted the use, subject to the CEQA mitigation measure, it had to "provide that measures to mitigate or avoid significant effects on the environment [were] fully enforceable through permit conditions, agreements, or other measures. (Pub. Resources Code § 21081.6 (b).) The mitigations measures had to be enforceable. (*Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2004) 126 Cal.App.4th 1180, 1198.)

Once HRS failed to comply with the mitigation measure, CEQA required that the city enforce it. (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 446, 451-453.) The city staff began that process of

enforcement by notifying HRS that they were out of compliance by not even providing the traffic monitoring required under the measure. The city's decision to hold a compliance hearing was appropriate and was only delayed due to a request from Rob Lake that he be allowed time to meet with neighbors and deal with the noncompliance. Instead, he did nothing effective to bring the school into compliance with the mitigation measure.

Therefore, the city should pursue the hearing that was originally contemplated as a means to deal with HRS' non-compliance with the conditions and mitigation measure in its permits.

IV. CONCLUSION

Before the city granted the PUD permit, it asked the Head of School (Paul Chapman) if he would agree to comply with all of the conditions and the mitigation measure in exchange for the city granting HRS the privilege of expanding its school in the residential neighborhood. Mr. Chapman agreed that the school would comply with its use permits. On December 7, 2005, Mr. Chapman wrote to the city planner and specifically agreed to comply with the mitigation measure.³⁹

HRS has failed to meet its obligations under the permits and the city should hold a hearing to determine the proper corrections.

Respectfully submitted,

Dated: August 8, 2012

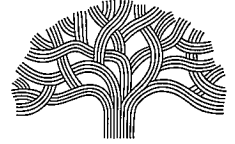
Veneruso & Moncharsh



By: Leila H. Moncharsh
Attorneys for NSC et al.

³⁹ 1 NSD 64.

CITY OF OAKLAND



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Department of Planning, Building and Neighborhood Preservation
Planning & Zoning Services Division

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VIA EMAIL AND US MAIL

September 17, 2012

Dennis Malone
Director of Finance and Operations
Head Royce School
4315 Lincoln Ave.
Oakland, CA 94602

RE: Case File Numbers: PUD04-400; PUDF05-339; ER04-0014, and PUDF07-520 Determination of Revocation Complaint

Dear Mr. Malone,

The purpose of this letter is to inform you that, per Planning Code Section 17.152.080 and 17.152.070, the City of Oakland **has determined that sufficient evidence exists to set a hearing** to revoke or amend the above-referenced approvals for Head Royce School.

This determination is issued in accordance with Planning Code Section 17.152.080, which states that "[s]ufficient evidence exists if there is substantial evidence that a violation of the zoning regulations, any prescribed condition of approval, or a public nuisance exists on or is emanating from any property that is subject of a Zoning permit issued pursuant to one of the Zoning Regulations listed in (Planning Code) Section 17.152.070." In addition, Planning Code Section 17.152.030(C) states that "any use or condition caused or permitted to exist in violation of any of the provisions of the zoning regulation shall be and is declared to be a public nuisance." In this instance, Head Royce School was issued permits (case file numbers PUD04-400 and PUDF07-520), which allowed the construction of a Community Education facility and implementation of the Master Plan pursuant to Conditions of Approval.

This determination is based, in part upon the staff's review of the revocation complaint and other documents submitted by the Neighborhood Steering Committee et. al., Leila Moncharsh, Drew Lau-Regent, Roberta Dempster, and Josh Thieriot on August 9, 2012, the revocation complaint amendments received on August 25 and 26, 2012, and the California Department of Education Data from 2011-2012. Copies of the complaint documents were mailed to you on August 16, 2012 and August 27, 2012. This determination also is made based upon full consideration of the letter and attachments dated September 7, 2012 from Mr. Harold P. Smith to Heather Klein.

In accordance with Planning Code Section 17.152.080, Planning staff hereby makes the following determinations:

A. Traffic Queues (Complaint Issue 1)

Staff has determined that there is sufficient evidence to set a hearing regarding alleged violations of PUD04-400 Condition of Approval #24 and PUDF07-520 Condition of Approval #36.

This evidence includes, but is not limited to, the following: Complaint Document pages 9-11; Volume 1 pages 064, 066-067, 084-086, 088-089, 113-114, 124.3; Volume 2 pages 128, 130-131, 136-140, 153-154, 170, 175-178, 188, 195-196, 201, 207; Volume 3 pages 217, 309-310, 317; Volume 4 pages 327-342, 369, 376, 382, 394; DVD pictures 004-005, 008 and movies 007 and 009 dated 5-9-12; DVD pictures 015-017, 019-020, 022-024, 029 and movie 0025 dated 5-22-12; DVD pictures 001, 011, 014, 016, 021 and movies 013, 019-020, 029, 034-036, 043-044, 049, and 051 dated 5-24-12; DVD pictures 020-021, 023-025, 035-036, 146, movie 0022, 0028, 0037 dated 5-25-12; and Documents submitted by Head Royce School: Letter page 9 and Exhibit 8.

B. Violation of Traffic Rules (Cars Pushed into Oncoming Traffic, Parents Blocking Driveways, Unsafe Behaviors by Children and Adults During Pick-Up and Drop-off, U-Turns, , etc) (Revocation Complaint Issue 3, 4, 5)

Staff has determined that there is sufficient evidence to set a hearing regarding allegations that persons associated with the School and, therefore, the School itself, are in violation of PUD04-400 Condition of Approval #34 and PUDF07-520 Condition of Approval #47, as well as Whittle Neighborhood Agreement #5 and Lincoln to Laguna (Alida) Neighborhood Agreement #5, which were included as Conditions of Approval for both permits, regarding compliance with traffic laws and the school's traffic rules.

This evidence includes, but is not limited to, the following: Complaint Document pages 10, 13, 14-16; Volume 1 pages 061-062, 067, 087, 089, 094, 101-102, 114, 124.1; Volume 2 pages 129, 153-154, 175-178, 184, 211-214; Volume 3 pages 217, 284-286, 288-297, 300, 309-311, 314-315; Volume 4 pages 318-319, 322-324, 327-328, 335-341, 352, 363, 369, 376-377, 382, 385, 393-394, 396-397, 400-401, 405-406; DVD pictures 005-006; DVD pictures 008-011, 015-021, 026-027 and movies 0028 dated 5-22-12; DVD pictures 004-008, 012, 021-026, 030, 032-033, 037-042, 045-048, 052 and movies 003, 0013, 0019, 0020, 0029, 0034, 0035, 0036, 0043, 0044, 0049, 0051 dated 5-24-12; and DVD pictures 007, 020, 023, 035-036.

C. Responsiveness to Neighborhood Complaints / License Plate Rule Traffic Rule Enforcement System (Revocation Complaint Issue 6)

Staff has determined that there is sufficient evidence to set a hearing regarding allegations that the School is in violation of PUD04-400 Condition of Approval #34 and PUDF07-520 Condition of Approval #47, as well as Whittle Neighborhood Agreement #5 and Lincoln to Laguna (Alida) Neighborhood Agreement #5, which were included as Conditions of Approval for both permits, regarding response to complaints and traffic rule enforcement.

This evidence includes, but is not limited to, the following: the documents listed above; Complaint Document page 16; Volume 1 pages 068, 089-090, 115, 124.2, 124.4; Volume 2 pages 182-184, 207, 211-212; Volume 3 pages 218-220, 223, 229, 236-237, 239-241, 290, 303-304, 312; and Volume 4 pages 318-319, 322, 327, 365-368, 370, 372, 381-383, 402-406, 409-416.

D. Monitors (Revocation Complaint Issue 7)

Staff has determined that there is sufficient evidence to set a hearing regarding allegations that the School is in violation of PUD04-400 Condition of Approval #24 and 34 and PUDF07-520 Condition of Approval #36 and 47, as well as Whittle Neighborhood Agreement #5, Lincoln to Laguna (Alida) Neighborhood Agreement #5 and Lincoln Neighborhood Agreement #13 which were included as Conditions of Approval for both permits, regarding the lack of adequate and trained monitors to conduct traffic rule enforcement.

This evidence includes, but is not limited to, the following: the documents listed in the Violation of the Traffic Rules Section; Complaint Document page 18; Volume 1 pages 066-069, 090-092, 115-116, 124.1, 124.3; Volume 2 pages 142-143, 153-154, 174-178, 180-184, 186, 189, 196-197, 203, 207, 211-212; Volume 3 pages 218, 220, 222, 227, 232, 234, 236-237, 239, 241, 290, 300, 310, 314; Volume 4 pages 319, 327, 333, 369, 394, 397, and 406; movie 0051 dated 5-24-12; movie 0028 dated 5-25-12; and Documents submitted by Head Royce School Exhibit 16.

E. Summer Camp Noise (Complaint Issue 8)

Staff has determined that there is sufficient evidence to set a hearing regarding allegations that the noise resulting from the School's summer program is in violation of the Planning Code Section 120.120.050 and Municipal Code 8.18.10 and 12.56 and, therefore, is likely causing a public nuisance.

This evidence includes, but is not limited to, the following: Complaint Document pages 20-21; Volume 3 pages 217, 224, 303-304, 306, 307-308; and Volume 4 pages 320, 367, 370, 377, and 418-419.

F. Lack of Supervision of Students on Campus (Complaint Issue 9, 16)

Staff has determined that there is sufficient evidence to set a hearing regarding allegations that persons associated with the School and, therefore, the School itself, is likely causing a public nuisance due to lack of supervision of students while on the campus.

This evidence includes, but is not limited to, the following: Complaint Document page 22; Volume 3 page 217; and Volume 4 pages 365-366, 377-378, 386-387, 402-404, 409-410, 412-413, 415-416, and 417-419.

G. Deliveries (Complaint Issue 11)

Staff has determined that there is sufficient evidence to set a hearing regarding allegations that persons associated with the School and, therefore, the School itself, is in violation Lincoln Neighborhood Agreement #5, which was included as a Condition of Approval for both permits, and Municipal Code 8.18.20 regarding the location and noise associated with bulk and small package deliveries.

This evidence includes, but is not limited to the following: Complaint Document pages 11-12; Volume 1 pages 069, 079, 116; Volume 2 pages 157, 202-203; Volume 3 pages 218, 287, 291; Volume 4 pages 362-363, 370, and 372-375; Revocation Complaint Amendment Attachment B e-mail and photo; and Documents submitted by Head Royce School Letter page Exhibit 12 and 23.

H. Landscape Maintenance (Fire Danger) (Complaint Issue 13, 14)

Staff has determined that there is sufficient evidence to set a hearing regarding allegations that the School is in violation of PUD04-400 Condition of Approval #29 and PUDF07-520 Condition of Approval #43, Planning Code Section 17.124.060, and Municipal Code Section 8.24.020, as well as Whittle Neighborhood Agreement #7 which was included as a Condition of Approval for both permits, regarding the lack of landscape maintenance.

This evidence includes, but is not limited to the following: Complaint Documents pages 26-27; Volume 1 pages 068, 115, 121, 124.1; Volume 3 pages 303-304, 306; and Volume 4 pages 378, 384, 387, 390-392, and 411-412.

I. School Events and Rental of the School to Outside Community Groups (Complaint Issue 15)

Staff has determined that there is sufficient evidence to set a hearing regarding allegations that the School is in violation of Whittle Neighborhood Agreement #5 and Lincoln to Laguna (Alida) Neighborhood Agreement #5, which were included as Conditions of Approval for both permits, regarding the lack of additional event monitoring for traffic and noise. Furthermore, staff has determined that sufficient evidence exists that School is in violation of the Planning Code Section 17.10.050 which requires a Conditional Use Permit for Group Assembly, as well as PUD04-400 Condition of Approval #1 and PUDF07-520 Condition of Approval #1 related to conformance with the approved use (Community Education). City staff does not consider the rental of the facility to outside groups to be an accessory activity per Planning Code 17.10.040.

This evidence includes, but is not limited to the following: Complaint Document pages 28-29; Volume 1 pages 068-069, 097, 116, 122, 124.4; Volume 2 page 143; Volume 3 pages 218, 222, 224, 317; Volume 4 pages 367, 369-370, 377, 397, 404, 410, and 418-419; and Revocation Complaint Amendment Attachment B e-mail.

J. Students Enrollment

Upon its own investigation pursuant to Planning Code Section 17.152.080, staff has determined that there is sufficient evidence to set a hearing regarding allegations that the School is in violation of PUD04-400 Condition of Approval #1 and 26; PUDF07-520 Condition of Approval #1 and 38 regarding enrollment, as well as Whittle Neighborhood Agreement Part II #2 and Lincoln to Laguna (Alida) Neighborhood Agreement Part 2, #2, which were included as Conditions of Approval for both permits.

This evidence includes, but is not limited to the following: the documents listed above as sufficient evidence that the School is not in compliance with its Conditions of Approval; Volume 1 pages 066-069, 113-117, and 124.1-124.5; Revocation Complaint Amendment Attachment B California Department of Education Data from 2011-2012 and Documents submitted by Head Royce School: Letter page 24.

The City of Oakland has **determined that there is not sufficient evidence at this time to set a hearing** regarding allegations that Head Royce School has violated the Zoning Regulations, the Conditions of Project Approval, and that a public nuisance exists regarding the following complaints listed below.

K. Parking (Complaint Issue 10)

Staff has determined that there is not sufficient evidence to set a hearing regarding allegations that the School has violated the Planning Code, the Conditions of Approval, or the Neighborhood Agreements regarding the number of parking spaces. Parking on-street for parents, vendors, and a certain number of students and staff is not prohibited per the Planning Code. Parking in approved areas on residential streets, in and of itself, does not constitute a public nuisance as long as it does not obstruct the use or free passage of property.

L. Speeding Trucks and Cars on Whittle Avenue (Complaint Issue 12)

Staff has determined that there is not sufficient evidence to set a hearing regarding allegations that persons or vehicles associated with the School are in violation of traffic laws as a result of speeding. While congestion is evident, the narrowness of the streets make it unlikely that speeding over the posted limits occur on Lincoln Avenue due to the congestion, as shown in the photos and videos, or on the side streets due to the narrow street width.

M. Emergency Vehicle Access

Emergency vehicle access and blockage of fire hydrants was noted in the Complaint Document (pages 9-10) and in the complaint Volumes and DVD's submitted by the Neighborhood Steering Committee et. al., Leila Moncharsh, Drew Lau-Regent, Roberta Dempster, and Josh Thieriot. Staff has reviewed the documents and determined that there is not sufficient evidence to set a hearing regarding allegations that School traffic is causing a public nuisance related to emergency vehicles and blocking of hydrants. The vehicle code allows a fire hydrant to be blocked in certain instances where the driver can immediately move the vehicle. While staff has determined that sufficient evidence exists the School is in violation of the traffic queuing Condition of Approval and the Traffic Rules, the Level of Service evidence noted in Volume 2, page 156 indicates generally acceptable levels of traffic. Therefore, it is likely that if an emergency vehicle did drive down Lincoln Avenue, the vehicle could get through and also access the hydrants. Furthermore, while a vehicle associated with the School might not allow a resident to access their driveways or turn onto an adjacent street, it is more likely that these drivers would respond to an emergency vehicle.

N. Café Use

Use of the café by parents and guests was noted in the Complaint Document (page 23) and in the other complaint volumes submitted by the Neighborhood Steering Committee et. al., Leila Moncharsh, Drew Lau-Regent, Roberta Dempster, and Josh Thieriot. Staff has reviewed the documents and determined that there is not sufficient evidence to set a hearing regarding allegations that the café activity or café parking is in violation of the Planning Code. Furthermore, staff has determined that there is not sufficient evidence that the café traffic or parking is causing a public nuisance. The café was approved as part of the overall Master Plan for the School. The Conditions of Approval did not place any restriction on the use of the café. In addition, only persons associated with the School, not the general public, are attending the café. None of the documents presented indicate that persons are solely coming to the School to visit the café. It is more likely that parents and guests visit the café as part of their other School-related business on the campus. As noted above, parking is permitted on residential streets.


The determination that City staff has not found sufficient evidence to set a hearing on the above issues related to parking, speeding, emergency vehicle access, and the café use may be appealed by the complainant, only, pursuant to the appeal procedure in Oakland Planning Code Chapter 17.152.080B. Specifically, if the complainant 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 September 27, 2012. An appeal shall be on a form provided by the Planning and Zoning Division, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of Heather Klein, Planner III. 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, pursuant to Planning Code Section 17.152.210, must include payment of fifty (50) percent of the appeal fee established by the City's Master Fee schedule in the amount of \$676.46. Failure to timely appeal will preclude the complainant 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 the complainant from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence submitted to the Zoning Manager by the appeal deadline.

In accordance with Planning Code Section 17.152.090, City staff will immediately begin preparation of the Revocation Administrative Record. Pursuant to Planning Code Section 17.152.100, City staff will provide notice of the date, time, and place of the Revocation Hearing as well as a copy of the Revocation Administrative Hearing no less than 17 days before the hearing. Per Planning Code Section 17.152.140, if the Hearing Officer determines that there has been a violation of the Zoning Regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, or a determination is made that a public nuisance exists on or is emanating from the property, the Hearing Office may amend or revoke any Zoning permit associated with the property, add additional conditions of approval, abate the nuisance, impose fines or penalties, or issue a remedial order to address the violations and/or nuisances.

Please contact case planner, Heather Klein, if you have any questions regarding this letter or the revocation hearing process.

Sincerely,



SCOTT MILLER

Interim Planning and Zoning Director

Department of Planning, Building and Neighborhood Preservation

cc: Heather Klein, Planner III
Neil Gray, Planner III, Zoning District Supervisor
Heather Lee, Supervising Deputy City Attorney

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Head Royce School
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Josh Thieriot
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Hollis Matson

September 17, 2012

Page 7

Michael Thilgen
Don Dunning

I certify that on September 17, 2012 this letter was placed in the U.S. mail system and sent certified mail, as well as emailed, to the names and addresses listed above.



NAME & SIGNATURE OF PERSON PLACING IN MAIL

9-17-12
DATE



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File No. 65265

February 27, 2013

VIA E-MAIL AND FEDEX

Ms. Heather Klein
Planning & Zoning Division
250 Frank H. Ogawa Plaza
Suite 2114
Oakland, CA 94612

Re: Revision to Conditions of Approval for Permit No. PUD04-400,
PUDF05-339, ER04-0014 and Permit No. PUDF07-520

Dear Ms. Klein:

Per my letter to Clare Gibson dated January 29, 2013, Head-Royce School ("HRS") is hereby seeking to revise the conditions of approval for its existing Planned Unit Development permits (PUDs). The proposed revisions are shown in **Attachment A**. As revised, the PUDs would:

- allow Head Royce to institute "Phase III enrollment" (up to 880 students (+/- 3%) at its election;
- clarify the parking requirements for maximum enrollment, including limited use of existing surplus parking spaces at 4368 Lincoln Avenue;
- introduce a Traffic Demand Management (TDM) plan (**Attachment B**).

Consistency with PUD Findings. As explained below, the proposed revised PUD conditions would continue to meet the required PUD findings:

1. *That the location, design, size, and uses are consistent with the Oakland General Plan and with any other applicable plan, development control map, design guidelines, or ordinance adopted by the City Council or Planning Commission:*

Head Royce's current PUDs allow the school to enroll up to 880 students in phases, with the final phase starting 15 years from the approval for the Master Plan for the campus. The phasing plan was a product of agreements with several of the school's neighbors and was not originally imposed by planning staff, although these neighbor agreements were eventually included as conditions of approval. As noted on page 8 of its January 4, 2006 staff report to the

Planning Commission, “the conditions outlined in these agreements and the timeframes for implementation are independent of the timeframes permitted by the Planning and Zoning Department.” As conditions of approval, the City has discretion to amend the phasing requirement to the same extent as it has discretion to amend any other condition.

The City’s Mitigated Negative Declaration for the 2006 Master Plan analyzed the environmental impacts of enrollment of up to 880 students. (MND at p. 52.) Parking at build-out was assumed to be 157 spaces. (MND at p. 55.) With respect to traffic at maximum enrollment, the MND concluded:

“The increase in enrollment at the completion of the Master Plan [i.e. at 880] could result in the extension of the parking queue along Lincoln during the after school pick up period, as parents wait in the queue for their riders to be dismissed from classes. If the queue were to extend beyond the upper driveway and block traffic along Lincoln Avenue, this would be considered a potentially significant impact to safety and traffic flow. The project sponsor proposes to reduce this impact to a less than significant level by incorporating Mitigation Measure T1 to reduce the length of the queue along Lincoln Avenue.”

As a result of the MND analysis, the City imposed the queue condition (COA 36) to address impacts at maximum enrollment of 880. The City found that “with the implementation of the required mitigation measures the traffic impact will be less than significant.” (Findings for Approval, p. 13, 1/4/2006.) The school has been managing the queue in conformance with this mitigation measure since 2006 with specific strategies set forth in the TDM. In addition, since 2006, sufficient classroom and other facilities have been constructed and Head Royce has secured the off-street parking needed to support the approved maximum student population.

The proposal conforms to the General Plan, the zoning and the 2006 Master Plan. In particular, the proposal conforms with the maximum enrollment and parking requirements of the approved 2006 Master Plan. The Mitigated Negative Declaration (“MND”) and the staff report supporting the City’s approval of the Master Plan call for the school to provide 157 off-street spaces, either on or off site (see MND at page 55, as well as provisions envisioning shared institutional parking), when enrollment reaches build-out at 880 students (+/- 3%). Head Royce currently has 152 on-site, off-street parking spaces and proposes to use 41-51 (depending on how cars are parked) existing off-street spaces at the LCC campus at 4760 Lincoln Avenue, located immediately across the street from the HRS campus.¹ With the use of between 41 and 51 existing spaces on the LCC campus, HRS would provide between 193 and 203 parking spaces, exceeding the number required for maximum enrollment under the 2006 Master Plan by 36 to 46 spaces. The City found that the Master Plan and the PUD (which contemplated some shared

¹ HRS has recently acquired ownership of the LCC parcel and eventually will be pursuing a Master Plan for use of the LCC campus. The school envisions that the planning and public review process for this proposal will take place over several years. In the interim, it will lease a portion of site back to LCC for its use. About half of the LCC operations are moving to a site in downtown Oakland.

institutional parking at LCC) “is adequately designed to be able to accommodate the additional number of students.” (Findings for Approval, 1/4/2006, p. 15.)

2. *That the location, design, and size are such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development:*

No new development is proposed. Head Royce School has been continuously operating at its current location since the 1960s. Head Royce School is proposing to go to Phase III enrollment, the maximum already authorized under its existing PUD permits.

3. *That the location, design, size, and uses are such that traffic generated by the development can be accommodated safely and without congestion on major streets and will avoid traversing other local streets.*

As noted above, the existing MND contemplated an enrollment of 880 students and, as described above, recommended imposition of a traffic mitigation measure to address queuing on Lincoln Avenue, which became COA 36. Adequate off-street parking exists to accommodate the increased enrollment. In addition, measures in the proposed TDM will address traffic safety and congestion.

4. *That the location, design, size, and uses are such that the residents or establishments to be accommodated will be adequately served by existing or proposed facilities and services;*

Since 2006, sufficient classroom and other facilities have been constructed and Head Royce has secured the off-street parking needed to support the approved maximum student population of 880. Management of the queue is on-going.

4. *That the location, design, size, and uses will result in an attractive, healthful, efficient, and stable environment for living, shopping, or working, the beneficial effects of which environment could not otherwise be achieved under the zoning regulations:*

The school has been in its present location since 1964. No new development is proposed beyond that approved in the 2006 Master Plan. In 2006, the school did not envision needing to expand enrollment beyond Phase II for 15 years after approval. However, between 2006 and 2012, applications for admission to the school increased by approximately 19%, an unexpected surge of demand. To meet this demand, and to continue to provide a high quality educational experience to the many hundreds of children and families who are seeking it, the school proposes to allow maximum enrollment earlier than originally envisioned.

In 2013, the school will be celebrating its 125th anniversary, making it the third oldest independent school in the state of California. For almost 50 of those 125 years, it has been a

proud and contributing member of the Oakland community.² One of only two K-12 schools in the City of Oakland, Head-Royce's commitment to diversity is a core value in the mission as the School helps students develop an understanding of and respect for diversity at the very beginning of their formal education. Nearly one half of the students and one third of the employees are people of color. One quarter of the student body receives financial assistance ensuring that Head-Royce is a socio-economically diverse community accessible to able, motivated students regardless of financial circumstances. The school also founded the Heads Up program in 1987 in with partnership with the Oakland Unified School District. Over its course, Heads Up has provided educational enrichment and mentoring for more than 1000 low-income public school youth. Head-Royce graduates 100% of its high school students to college or university.

Head-Royce is also committed to being a good neighbor and to providing creative solutions to maintaining a healthful, efficient, and stable environment for itself and its neighbors. The Traffic Demand Management Plan in **Attachment B** contains strategies to manage vehicle congestion on Lincoln Avenue, educate staff, parents and students about driving rules, and minimize impacts of the school activities on the neighborhood.

5. *That the development will be well integrated into its setting, will not require excessive earth moving or destroy desirable natural features, will not be visually obtrusive and will harmonize with surrounding areas and facilities, will not substantially harm major views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, vegetation, topographic features, or other devices:*

No new development is proposed. The existing development, approved in 2006, was found to be well-integrated into its setting, not destroy desirable natural features, not be visually obtrusive, harmonize with the surrounding areas and facilities, not substantially harm major views for surrounding residents, and provide sufficient buffering.

CEQA Compliance. The City's Mitigated Negative Declaration for the 2006 Master Plan analyzed the environmental impacts of enrollment of up to 880 students. Parking at build-out was assumed to be 157 spaces. The current proposal to reach maximum enrollment is within the envelope of impacts already disclosed and analyzed. No significant environmental impacts arise from allowing 880 enrollment earlier than contemplated. If anything, absent a significant, unexpected decline in economic activity or major technological transportation breakthrough, background levels of traffic are likely be lower in 2013 than in 2021. As such, the MND already adequately analyzes the impacts of this proposal.

In addition, CEQA Guidelines section 15314 (Class 14) exempts from CEQA review "minor additions to existing schools within existing school grounds where the addition does not

² The forerunner of Head-Royce was the Anna Head School for Girls in Berkeley, founded in 1887. Relocated to its current site in 1964, Anna Head School for Girls merged with the neighboring Josiah Royce School for Boys in 1979 to form the present-day Head-Royce School. Head-Royce is today a co-educational college-preparatory school serving grades K-12.

increase original student capacity by more than 25% or ten classrooms, whichever is less.” Here, the difference between Phase II (820) and Phase III (880) enrollment is approximately 7% and does not involve any new classrooms. Thus to the extent the request to eliminate the 15-year timeframe is viewed as an “increase” in enrollment over what has already been authorized, no new CEQA review is necessary to approve the proposed amendments. Furthermore, none of the exceptions to this Class 14 categorical exemption apply here.

Based on the above considerations, Head Royce respectfully requests that the Planning and Zoning Division consider amending Head Royce’s permits as shown in **Attachment A**, together with the proposed TDM attached as **Attachment B**. Kittelson & Associates, Inc. have reviewed the draft TDM and concurs that it will assist in implementing the conditions of approval.

Thank you for your consideration of this request and please do not hesitate to contact me at (415) 262-5107 or at amudge@coxcastle.com should you wish to discuss this matter further.

Sincerely,



Anne E. Mudge

AEM/LCK/se
Attachments
65265\4219696v1



CITY OF OAKLAND

BASIC APPLICATION FOR DEVELOPMENT REVIEW

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031

Zoning Information: 510-238-3911

www.oaklandnet.com/planning

CERTAIN APPLICATIONS ARE ACCEPTED BY APPOINTMENT ONLY!

Please call (510) 238-3940 to schedule an appointment if your project involves any of the following:

- Conditional Use Permit
- Variance
- Regular Design Review
- Parcel Map Waiver
- Tentative Parcel/Tract Map
- New dwelling unit(s)
- 1,000 sq. ft. or more of new floor area/footprint
- Additions \geq 100% of existing floor area/footprint
- Creek Protection Permit (Category 3 or 4)

All other projects may be submitted to the zoning counter without an appointment.

Submit applications for Small Project Design Review to station #12 at the zoning counter by signing the sign-up sheet.

1. TYPE OF APPLICATION

(Check all that apply)

Development Permits

- ☐ Conditional Use Permit (Major, Minor, or Interim)
- ☐ Variance (Major or Minor)
- ☐ Regular Design Review
- ☐ Small Project Design Review
- ☐ Tree Preservation or Removal Permit
- ☐ Creek Protection Permit (separate application required)
- ☐ Other: _____

Subdivision Applications

- ☐ Parcel Map Waiver (Lot Line Adjustment/Merger)
- ☐ Tentative Parcel Map (subdivision for 1 – 4 lots)
- ☐ Tentative Tract Map (subdivision for 5 or more lots)
- ☒ Planned Unit Development/Mini-Lot Development (Revision)

Other Applications

- ☐ Request for Environmental Review
- ☐ General Plan Amendment
- ☐ Rezoning

2. GENERAL INFORMATION

APPLICANT'S NAME/COMPANY: Head Royce School (HRS)

PROPERTY ADDRESS: 4315 Lincoln Ave.

ASSESSOR'S PARCEL NUMBER: 029A136700404 LOT AREA (ACRES/SQ. FT.): 237,690 sq. ft.

EXISTING USE OF PROPERTY: Independent K-12 school

DESCRIPTION OF PROPOSAL (including type of use, hours of operation, number of employees, etc., on additional sheets if needed.):

A revision to Head Royce School's use permit to allow up to 880 (+/- 3%) students to enroll institute Traffic Demand Management (TDM) strategies, and clarify parking requirements.

TO BE COMPLETED BY STAFF

GENERAL PLAN LAND USE CLASS.: _____ ZONING: _____

FEES¹:

APPLICATION FEE: \$ _____

POSTER DEPOSIT²: \$ _____

TREE PERMIT FEE: \$ _____

CREEK PERMIT FEE: \$ _____

TOTAL FEES DUE: \$ _____

EXPECTED PROCESSING TIME³:

¹Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal.

²For permit applications requiring public notice, a refundable security deposit is required for the on-site poster containing the public notice. Posters MUST be returned within 180 days and in good condition to claim a refund of the deposit.

³Expected processing time is only an estimate and is subject to change without notice due to staff workload, public hearing availability, and the completeness or complexity of the application.

3. PROPERTY OWNER AND APPLICANT INFORMATION

Original signatures or clear & legible copies are required.

Owner: Head Royce School

Owner Mailing Address: 4315 Lincoln Avenue

City/State: Oakland, CA

Zip: 94602

Phone No.: (510) 531-1300

Fax No.: (510) 531-2649

E-mail: rlake@headroyce.org

To be completed only if Applicant is not the Property Owner:

I authorize the applicant indicated below to submit the application on my behalf. _____

Signature of Property Owner

Applicant (Authorized Agent), **if different from Owner:** Dennis Malone

Applicant Mailing Address: 4315 Lincoln Ave.

City/State: Oakland, CA

Zip: 94602

Phone No.: (510) 531-1300

Fax No.: (510) 531-2649

E-mail: dmalone@headroyce.org

I understand that approval of this application does not constitute approval for any administrative review, conditional use permit, variance, or exception from any other City regulations which are not specifically the subject of this application. I understand further that I remain responsible for satisfying requirements of any private restrictions or covenants appurtenant to the property. I understand that the Applicant and/or Owner phone number listed above will be included on any public notice for the project.

I certify that I am the applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of planning permits as determined by the Planning Director. I further certify that I am the owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature above.

I certify that statements made to me about the time it takes to review and process this application are general. I am aware that the City has attempted to request everything necessary for an accurate and complete review of my proposal; however, that after my application has been submitted and reviewed by City staff, it may be necessary for the City to request additional information and/or materials. I understand that any failure to submit the additional information and/or materials in a timely manner may render the application inactive and that periods of inactivity do not count towards statutory time limits applicable to the processing of this application.

I certify that all existing Protected Trees either on the site or within 10 feet of development activity are indicated on both the Site and Landscape Plan. I understand that if any Protected Trees are to be removed, or if Protected Trees exist within 10 feet of the proposed development activity (even if they are not being removed), I must apply for a Tree Preservation/Removal Permit (Section 6).

I certify that I have reviewed the Oakland Creek Protection Ordinance and understand that I may be subject to a Creek Protection permit pursuant to the Creek Protection, Storm Water Management and Discharge Control Ordinance (Chapter 13.16 of the Oakland Municipal Code) and that I have completed the Creek Protection Ordinance section of this application (Section 7).

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT ALL THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT.

Signature of Owner or Authorized Agent

Date

4. SUPPLEMENTAL PROJECT & LOT INFORMATION

AREA CALCULATIONS	Existing	New	Total	% Change
Total Lot Area (in acres or square feet)				0
Total Building Footprint Area (square feet)				0
Total Floor Area ⁱ (square feet)				0
Building Height			n/a	n/a
Number of Dwelling Units				n/a
Number of Parking Spaces				n/a
Setback Slope ⁱⁱ (for hillside properties only)			n/a	n/a
Structure Slope ⁱⁱⁱ (for hillside properties only)			n/a	n/a

ⁱ **Total Floor Area** for all projects with one or two dwelling units on a lot means the total square footage of all levels of all buildings on the lot, measured horizontally from the outside surface of exterior walls and supporting columns, but excluding: (a) unenclosed living areas such as balconies, decks, and porches; (b) carports that are unenclosed on two or more sides; (c) 440 square feet within an attached or detached garage or carport that is enclosed on three sides or more; (d) non-habitable accessory structures of less than 120 square feet; (e) unfinished understories, attics and basements; and (f) finished basements if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least 50% of the perimeter and does not exceed twelve (12) feet above grade at any point. For new floor area, only include new floor area located outside of the existing building envelope.

ⁱ **Total Floor Area** for all projects except those with one or two dwelling units on a lot means the total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surfaces of the main walls of principal or accessory buildings, or the center line of party walls separating such buildings, but excluding: (a) areas used for off-street parking spaces, loading berths, driveways, and maneuvering aisles; (b) areas which qualify as usable open space in Chapter 17.126; and (c) arcades, porticoes, and similar open areas which are located at or near street level of Nonresidential Facilities, are accessible to the general public, and are not designed or used as sales, display, storage, or production areas. For new floor area, only include new floor area located outside of the existing building envelope.

ⁱⁱ **Setback Slope:** Slope between edge of pavement and the front setback line, measured at the midpoint and perpendicular to the front property line.

ⁱⁱⁱ **Structure Slope:** Steepest slope across building footprint measured from one side of the building to another.

5. IMPERVIOUS SURFACE INFORMATION

See page 11 for more information on impervious surface.

PROJECT CHARACTERISTICS: (check one)

- ☐ (1) The project will create or replace **10,000 square feet or more** of new or existing impervious surface area* (not including projects involving one single-family dwelling).
- ☐ (2) The project will create or replace **5,000 square feet or more but less than 10,000 square feet** of new or existing impervious surface area* AND involves the following:
- Auto servicing, auto repair, or gas station;
 - Restaurant (full service, limited service, or fast-food); or
 - Uncovered parking (stand-alone parking lot or parking serving an activity; including uncovered parking garages).
- **If you checked (1) or (2) the project is considered a “Regulated Project” and must comply with NPDES C.3 stormwater requirements. You must submit a completed Stormwater Supplemental Form and a Preliminary Post-Construction Stormwater Management Plan with your application (see page 10).**
- ☐ (3) The project will create or replace **2,500 square feet or more** of new or existing impervious surface (including projects involving one single-family dwelling), unless the project meets the definition of (1) or (2) above.
- **If you checked (3) site design measures to retain stormwater on-site are required. Refer to the City’s “Overview of Provision C.3” for more information.**
- ☒ (4) None of the above.

* *Impervious Surface = Any surface that cannot be effectively (easily) penetrated by water. Permeable paving (such as permeable concrete and interlocking pavers) underlain with permeable soil or permeable storage material, and green roofs with a minimum of three inches of planting media, are not considered impervious surfaces. Do not include existing impervious surface to be replaced as part of routine maintenance/repair activities when calculating the amount of new/replaced impervious surface.*

6. TREE PRESERVATION ORDINANCE

See page 11 for more information on protected trees and these regulations.

Pursuant to the Tree Preservation Ordinance (§12.36 O.M.C.) a Tree Preservation/Removal Permit is required for any proposed construction activity (including buildings, driveways, paths, decks, construction vehicle routes, sidewalk improvements, & perimeter grading) within 10 feet of a Protected Tree, even if such trees are not being removed or if they are located on a neighbor's property.

The following are Protected Trees:

- a. Any Coast Live Oak tree that is larger than 4 inches dbh*
- b. Any tree (except Eucalyptus) that is larger than 9 inches dbh* (Eucalyptus trees and up to 5 Monterey Pines per acre are not considered Protected Trees under this section. Monterey Pines must be inspected and verified by the Public Works Agency – Tree Division prior to their removal. Contact the Tree Division at (510) 615-5850 for more information or to schedule an inspection).
- c. Any tree of any size located in the public right-of-way (including street trees).

I ATTEST THAT: *(check one)*

- ☐ (1) There are no existing Protected Trees anywhere on the subject property or within 10 feet of the proposed construction activities** (including neighbor's properties or the adjacent public right-of-way).
- ☒ (2) There are Protected Trees on the subject property or within 10 feet of the proposed construction activities**, and their location is indicated on the site plan and landscape plan **and** *(check one)*;
- ☒ (a) No Protected Trees are to be removed and
No construction activity** will occur within 10 feet of any Protected Tree.
- ☐ (b) No Protected Trees are to be removed and
Construction activity** will occur within 10 feet of any Protected Tree.
- ☐ (c) Protected Trees will be removed.

If you checked (2b) or (2c), a Tree Preservation/Removal Permit is required. Please complete the section below.

DESCRIPTION OF TREES (Identification numbers and letters must be consistent with the Tree Survey, see submittal requirements in Section 8)

Trees proposed for removal			Trees <u>not</u> proposed for removal but located within 10 feet of Construction Activity**		
#	Species	dbh*	#	Species	dbh*
1			A		
2			B		
3			C		
4			D		
5			E		
6			F		
7			G		

Reason for removal/impacting of trees: _____

* **dbh**: "diameter at breast height" is determined by measuring the trunk at 4'-6" from the ground. Multi-trunked trees are measured by combining the diameters of all trunks at 4'-6" from the ground.

** **Construction Activity**: Any proposed building, driveway, path, deck, construction vehicle route, sidewalk improvement, grading, or demolition.

7. CREEK PROTECTION ORDINANCE

See page 11 for more information on creeks and these regulations.

Pursuant to the Creek Protection, Storm Water Management and Discharge Control Ordinance (§13.16 O.M.C.) a Creek Protection Permit is required for any proposed construction activity occurring on a Creekside property. The extent to which your development will be regulated by the Creek Protection Ordinance depends upon the location and type of proposed work.

WHAT IS A CREEK?

*“A **Creek** is a watercourse that is a naturally occurring swale or depression, or engineered channel that carries fresh or estuarine water either seasonally or year around.”*

A creek must include the following two components:

1. The channel is part of a contiguous waterway. It is hydrologically connected to a waterway above or below the site or is connected to lakes, the estuary, or Bay. Creek headwaters, found at the top of watersheds, are connected in the downhill direction. Additionally, creeks in Oakland are often connected through underground culverts. Only the open sections of creeks are subject to the permit, and
2. There is a creek bed, bank and topography such as a u-shape, v-shape channel, ditch or waterway (identified through field investigation, topographical maps, and aerial photos). To help with identification in the field a creek may also have the following features (the absence of these features does NOT mean there is no creek):
 - A riparian corridor, which is a line of denser vegetation flowing downhill. This is sometimes missing due to landscaping or vegetation removal practices, landslide or fire.
 - The channel has a bed with material that differs from the surrounding material (i.e. more rocky, or gravelly, little or no vegetation).
 - There are man-made structures common to waterways, - for example bank retaining walls, trash racks, culverts, inlets, rip rap, etc.

I ATTEST THAT: (check one)

- ☐ (1) **I do not know if there is a Creek on or near the proposed project site.** I have submitted a request for a Creek Determination by the City of Oakland (separate form and fee required).
- ☒ (2) **No Creek exists on or near the project site;** (check one)
- ☒ (a) Based on my review of the characteristics of the project site, as well as all relevant maps and plans, and the Creek Determination criteria provided in the “What is a Creek?” section above; or
- ☐ (b) Based on the attached report prepared by a relevant licensed professional.
- However, if the City determines that a Creek exists on or near the project site, a Creek Protection Permit is required.*
- ☐ (3) **A Creek DOES exist on or near the project site and;** (check one)
- ☐ (a) The proposed project only entails interior construction and/or alterations (including remodeling), and therefore requires a **Category 1 Creek Permit** (this is a no fee permit and only requires distribution of educational materials); or
- ☐ (b) The proposed project entails exterior work that does not include earthwork and is located more than 100 feet from the centerline of the Creek, and therefore requires a **Category 2 Creek Permit** (this permit requires a site plan and distribution of educational materials); or
- ☐ (c) The proposed project entails (a) exterior work that is located between 20 feet from the top of the Creek bank and 100 feet from the centerline of the Creek, and/or (b) exterior work that includes earthwork involving more than three (3) cubic yards of material located beyond 20 feet from the top of the Creek bank, and therefore requires a **Category 3 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review); or
- ☐ (d) The project entails exterior work conducted from the centerline of the Creek to within 20 feet from the top of the Creek bank, and therefore requires a **Category 4 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review and a hydrology report).

The Creek Permit requirements for your project are subject to verification by the City of Oakland and may differ from what you have indicated above. Additionally, you are responsible for contacting and obtaining all required permits from the relevant state and federal permitting agencies for Category 3 and Category 4 Creek Permits.

8. HAZARDOUS WASTE AND SUBSTANCES STATEMENT

STATE GOVERNMENT CODE SECTION 65962.5 (f):

(f) Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list.

Please refer to the following state maintained website <http://www.calepa.ca.gov/SiteCleanup/CorteseList/> or contact the CalEPA at (916) 323-2514 to determine if your project is on any list of properties containing hazardous waste, toxic substances or underground fuel tanks. **NOTE: YOU MUST REVIEW ALL LISTS**

- ☒ I have reviewed **ALL** the lists and my site does **not** appear on them (sign below). **City Verification Required**
- ☐ My site does appear on the list(s) (please complete the flowing statement and sign below).

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

Name of applicant: _____

Address: _____

Phone number: _____

Address of site: _____

(street name and number if available, and ZIP Code)

Local agency (city/county): _____

Assessor's book, page, and parcel number: _____

Specify any list pursuant to Section 65962.5 of the Government Code:

Regulatory identification number: _____

Date of list: _____

Status of regulatory action: _____

Signature of Owner or Authorized Agent

Date

9. GREEN BUILDING ORDINANCE

Pursuant to the Ordinance 'Sustainable Green Building Requirements for Private Development,' (Chapter 18.02 of the Oakland Municipal Code), a Green Building Permit is required for any proposed construction activity within certain categories. The extent to which your development will be regulated by the Green Building Ordinance depends upon the location, type of proposed work, and size of proposed work.

A. PROPERTY ADDRESS: 4315 Lincoln Ave.

B. PROJECT TYPE OF DEVELOPMENT (check one): ☐ New Construction ☐ New Construction-Mixed Use ☐ Addition
☐ Existing Building ☐ Tenant Improvement ☐ Remodel
☐ Historic ☐ Landscape Project Revision to a PUD

C. TOTAL NEW AND ALTERED FLOOR AREA (square feet): N/A

I, THE APPLICANT/OWNER, ATTEST THAT: (check one)

- ☒ (1) I have reviewed the Green Building Ordinance and the project **DOES NOT** fall within the list of applicable project types.
☐ (2) I have reviewed the Green Building Ordinance and the project must comply with the ordinance.
☐ (3) I have reviewed the Green Building Ordinance and the project must comply with the ordinance, but a GreenPoint Rater or LEED AP is not required as the project uses the Small Commercial Checklist or the Bay Friendly Basic Checklist.

➤ If you checked (2), you must complete the rest of this page and submit the required additional green building materials (see page 10) with the application.

D. NAME OF GREENPOINT RATER / LEED ACCREDITED PROFESSIONAL (AP)*: _____
GREEN POINT RATER/LEED AP MAILING ADDRESS: _____
PHONE: _____ E-MAIL: _____
RATING SYSTEM: _____ # OF POINTS THE PROJECT IS ANTICIPATED TO RECEIVE: _____

E. GREEN BUILDING FEATURES NOT SHOWN ON PLANS BUT PART OF CHECKLIST (include additional sheets if needed): _____

I, hereby certify under the penalty of perjury that I have reviewed the project and appropriate checklist and attest that to the best of my knowledge the proposed project would likely comply with the City of Oakland's Green Building Ordinance and attain green building certification. I, hereby further certify under the penalty of perjury, that I 1) have no vested financial interest in the project other than my green building services, 2) have reviewed the project and appropriate green building checklist, and 3) attest that to the best of my knowledge the proposed project would likely comply with City of Oakland's Green Building Ordinance and attain green building certification.

X _____
Signature of the GreenPoint Rater or LEED Accredited Professional Date

This permit is issued pursuant to all provisions of City of Oakland Ordinance No. 13040 C.M.S., "Sustainable Green Building Requirements for Private Development." This permit is granted upon the express condition that the permittee shall be responsible for all claims and liabilities arising out of work performed under this permit or arising out of permittee's failure to perform the obligations with respect to this permit. The permittee shall, and by acceptance of this permit agrees to defend, indemnify, save and hold harmless the City, its officers and employees, from and against any and all suits, claims or actions brought by any reason for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under this permit or in consequence of permittee's failure to perform the obligations with respect to this permit. Violations of the provisions of the Green Building Ordinance are subject to fines and penalties specified under Section 20-3.030 of the Ordinance.

TO BE COMPLETED BY CITY STAFF:

CASE NUMBER(S): _____ CASE PLANNER'S NAME: _____

Note to Case Planner: Please route a copy of this form to the green building coordinator in the Planning and Zoning Division.

10. SUBMITTAL REQUIREMENTS: WHAT TO SUBMIT

The following information and drawings must be included in the submittal package for your application. Planning staff reserves the right to require additional plans and information as needed for certain development proposals.

The following items are required for ALL applications unless otherwise noted.

Each and every item is required at the time of application submittal.

APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.

☒ (1) **Basic Application for Development Review**

This application form signed and completed (including impervious surface, protected tree, creek information, the Hazardous Waste and Substances Statement, and green building sections). Original signatures or clear & legible copies are required.

☒ (2) **Supplemental Forms and Findings**

Explanation describing how the proposal complies with City requirements (forms provided by staff).

☐ (3) **Assessor's Parcel Map**

Available at the City of Oakland Engineering Services or Zoning counters, the County Assessor's Office, 1221 Oak St. or the County Assessor's website at http://revfilesvr/countydisplay/county_home.asp

☐ (4) **Photographs**

- Photographs must be placed in a secure envelope or mounted on a board folded to a size no larger than 9" x 12".
- ☐ Color photographs showing the existing structure or lot as seen from across the street and from the front, side and rear property lines. Label each photograph with the view pictured (e.g., front, side, rear, across the street).
- ☐ Color photographs showing the 20 nearest neighbors from the street (5 nearest lots on either side, 10 nearest lots across the street). Label each photograph with the address pictured.

☐ (5) **Plans** (see supplemental requirements for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW) applications).

- **Two (2)** stapled and folded sets of full-sized plans and **Two (2)** additional sets of reduced plans (11" x 17") are required for all applications. A Color 11"x17" rendering **MUST** be submitted for Major Permits.
- Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
- Include north arrow, date prepared and scale.
- Acceptable drawing scales are: 1/4" = 1', 3/16" = 1', 1/8" = 1', and 1" = 10'. Other scales may be appropriate, but should be discussed with Planning staff before filing. Also, please limit the range of scales used, so Planning staff can more easily analyze your project in relation to adjacent properties.
- Include the name and phone number of person preparing the plan(s). As appropriate or required, include the stamp and "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.

☐ (a) **Survey** (required only for the following project types listed below)

- Must be no more than 3 years old from the time of submittal – date of survey must be included.
- Must be prepared by a California State licensed Land Surveyor or by a Civil Engineer with a license number below 33966 (licensed prior to January 1, 1982).
- Include the wet stamp and signature of the Land Surveyor or Civil Engineer who prepared the survey.
- Include the applicable surveyor's statement in accordance with the Professional Land Surveyors Act.
- In addition to paper copies, the survey must also be submitted on a CD.

For all new buildings (except small non-habitable buildings) and >100% footprint additions to existing buildings:

- ☐ Full boundary & topographic survey with field-verifiable monuments set or found by the surveyor.
- ☐ Location, dimensions, and dimensions to property lines of all existing buildings and similar structures.

For any building or addition within any required setback:

- ☐ Applicable line survey with field-verifiable monuments set or found by the surveyor.
- ☐ Location, dimensions, and dimensions to property line of all existing buildings and similar structures that are adjacent to the applicable property line.

For any building or addition located on a lot with a slope of 20% or more:

- ☐ Site topography for all areas of proposed work and for all existing driveways, buildings, and similar structures.
- ☐ Location and dimensions for all existing driveways, buildings, and similar structures.

☐ (5) **Plans (continued)**

☐ (b) **Site Plan**

- ☐ Location and dimensions of all property boundaries.
- ☐ Location and dimensions of all existing and proposed buildings, decks, stairs, and patios.
- ☐ Dimensions of all existing and proposed building setbacks from property lines.
- ☐ Location of building footprints and approximate height of buildings on adjacent lots.
- ☐ Location, dimensions, and paving materials of all adjacent sidewalks, curbs, curb-cuts (including curb-cuts on adjacent neighbor's lots), and streets.
- ☐ Location and dimension of all existing and proposed driveways, garages, carports, parking spaces, maneuvering aisles, wheel-stops, pavement striping/markings, and directional signage. Indicate existing and proposed paving materials.
- ☐ Location, height, and building materials of all existing and proposed fencing and walls.
- ☐ Location, height (including top and bottom elevation measurements), and building materials of all existing and proposed retaining walls.
- ☐ Location and size (dbh) of all existing trees and indication of any trees to be removed.
- ☐ Location of drainage ways, creeks, and wetlands (check with the Engineering Services Division for this information)
- ☐ Roof plan showing roof slope and direction, and location of mechanical equipment, ducts, and vents.
- ☐ For projects located on a lot with a slope of 20% or more: Show existing and proposed topographic contours overlaid with proposed roof plan and indicating roof ridge spot elevations.
- ☐ For multi-family residential projects: Show the location, dimension, slope, and site area of all existing and proposed Group Usable Open Space and Private Usable Open Space, including a summary table of site area.

☐ (c) **Grading Plan** (required only if the project proposes any site grading)

- ☐ Show proposed grading plan and/or map showing existing and proposed topographic contours (this may be combined with the Site Plan for small projects with only minor grading).
- ☐ Include an erosion & sedimentation control plan.
- ☐ Include a summary table of all proposed excavation, fill, and off-haul volumes.

☐ (d) **Elevations** (required only for new construction, additions, or exterior alterations)

- ☐ Show all structure elevations (front, sides and rear) that will be affected by the proposed project.
- ☐ For additions/alterations: label existing and new construction, as well as items to be removed.
- ☐ Identify all existing and proposed exterior materials - including roofing, roof eaves, eave brackets, siding, doors, trim, sills, windows, fences, and railings. Show details of proposed new exterior elements.
- ☐ Show any exterior mechanical, duct work, and/or utility boxes.
- ☐ Include dimensions for building height and wall length.

☐ (e) **Floor Plan**

- ☐ Include complete floor plan of all floors of entire building, including existing and proposed work.
- ☐ Label all rooms (e.g., bedroom, kitchen, bathroom), and include dimensions of room sizes.
- ☐ Show the location of all existing and proposed doors, windows, and walls.
- ☐ For non-residential projects: show all existing and proposed seating areas, mechanical/kitchen equipment, and/or other major functional components of the proposed project.

☐ (f) **Cross Sections** (required only for buildings or additions located on a lot with a slope of 20% or more)

- ☐ Include all critical cross sections, including at least one passing through the tallest portion of the building.
- ☐ Include floor plate and roof plate elevation heights.
- ☐ Label the location of the cross-sections on the site plan.

☐ (g) **Landscape Plan** (required for new buildings, new dwellings, and residential additions of more than 500 sq. ft.)

- ☐ Indicate any existing landscaping that is to be removed.
- ☐ Indicate the size, species, location, and method of irrigation for all plantings.
- ☐ Include all existing and proposed groundcovers, driveways, walkways, patios, and other surface treatments.

☐ (h) **Sign Plan** (required only for non-residential and mixed-use projects)

- ☐ Include fully dimensioned color elevations for all proposed signs.
- ☐ Indicate proposed sign location(s) on site plan
- ☐ Indicate proposed material(s) and method of lighting for all proposed signs.

☐ (i) **Lighting Plan** (required only for non-residential, multi-family residential, and mixed-use projects)

- ☐ Show the type and location of all proposed exterior lighting fixtures (this may be combined with the Site Plan for small projects).

☐ (5) **Plans (continued)**

- ☐ (j) **Preliminary Post-Construction Stormwater Management Plan*** (required only for “Regulated Projects” subject to NPDES C.3 stormwater requirements [see page 3])
- ☐ Show location and size of new and replaced impervious surface.
 - ☐ Show directional surface flow of stormwater runoff.
 - ☐ Show location of proposed on-site storm drain lines.
 - ☐ Show preliminary type and location of proposed site design measures, source control measures, and stormwater treatment measures.
 - ☐ Show preliminary type and location of proposed hydromodification management measures (if applicable).

* Please refer to the Stormwater Supplemental Form for more information concerning NPDES C.3 requirements. The Stormwater Supplemental Form must also be submitted with the application.

- ☐ (6) **Tree Survey** (required only for projects which involve a Tree Preservation/Removal Permit [see page 4])
- **Three (3)** folded full-sized plans are required (in addition to the plans required under No. 5 above).
 - Fold plans to 9” x 12” maximum size. Plans must be on sheets no greater than 24” x 36”.
 - Include north arrow, date prepared and scale (Tree Survey should be drawn to the same scale as the Site Plan).
 - Include the name and phone number of person preparing the plan(s). As appropriate or required, include the stamp and “wet signature” of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
 - ☐ For new construction on an undeveloped lot: include the stamp and “wet signature” of the licensed architect, landscape architect and/or civil engineer preparing the survey.
 - ☐ Indicate the size (dbh), species, and location of all protected trees within 30 feet of development activity on the subject lot, regardless of whether or not the protected trees are included on any tree preservation/removal permit application.
 - ☐ Label all protected trees that are located within 10 feet of construction (including trees located on neighbor’s properties or the adjacent public right-of-way) with the matching number or letter from the Tree Preservation/Removal Permit application (see section 6 of this application).
- ☐ (7) **Green Building Materials** (required only for projects subject to the Green Building Ordinance [see page 7]).
- ☐ Label green building checklist features on plans (site plan, elevations, floor plans, details, etc). Ideally the applicant should provide a chart broken into 1) the number of credits on the plans and 2) the number of credits anticipated.
 - ☐ Completed green building checklist (per applicable rating system).
 - ☐ Copy of Green Building Certifier’s licensing certificate.
- ☐ (8) **Materials & Color Board** (required only for non-residential, multi-family residential, and mixed-use projects involving new construction or an addition/alteration that does not match existing materials and colors).
- Limit board(s) to a maximum size of 9” x 12”. Large projects (generally more than 25 dwelling units or 50,000 square feet of floor area) should also submit a large sized materials & color board (24” x 36”) for use at public hearings.
 - ☐ Include samples of proposed exterior building materials and paint colors.
 - ☐ Include manufacturer’s brochures as appropriate.
- ☐ (9) **Three-dimensional Exhibits** (required only for large projects with more than 25 dwelling units or 50,000 square feet of floor area).
- ☐ Provide color perspective drawings showing the project from all major public vantage points, or provide a scale model of the proposed project.
- ☐ (10) **Preliminary Title Report or deed not more than 60 days old** (required for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW), Rezoning, and General Plan Amendment applications, and any application where the owner information does not match the current Alameda County Assessor’s records)
- ☐ (11) **Fees** (all fees are due at the time of application submittal)
- Additional fees may be required if the project changes or based on staff’s environmental determination.

If you have any questions regarding this application, you may visit the Zoning Counter or call the Zoning Information Line and speak to a planner.

Zoning Information Line:

(510) 238-3911

Monday-Friday: 9am-Noon & 2pm-4pm

Zoning Counter:

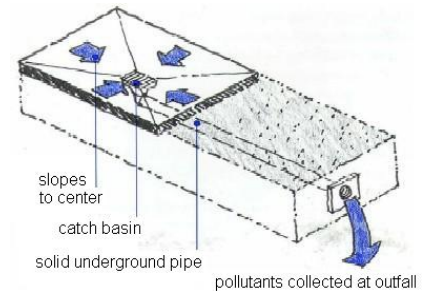
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612

Monday, Tuesday, Thursday, & Friday: 8am-4pm
Wednesday: 9:30am-4:00pm



Impervious surface

Impervious surface is related to stormwater runoff and water quality. Impervious surfaces (e.g., pavement and buildings) prevent rainwater from directly infiltrating into the ground and don't allow groundwater aquifers to recharge. When impervious surfaces keep water from soaking into the ground there is less groundwater seepage to creeks and the creeks dry up faster. When it rains, pollutants that have settled on impervious surfaces are concentrated and washed into storm sewers, nearby streams, and the bay. Impervious surfaces result in higher and faster peak water flows when it rains, which in turn results in increased erosion, flooding, and property damage. Large paved areas can also be unattractive and reduce the amount of land available for trees and other landscaping.



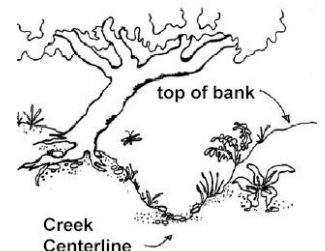
Trees

Among the features that contribute to the attractiveness and livability of the city are its trees. Trees contribute to the climate of the city by reducing heat buildup and providing shade, moisture, and wind control. Trees contribute to the protection of other natural resources by providing erosion control for the soil, oxygen for the air, replenishment of groundwater, and habitat for wildlife. Trees contribute to the economy of the city by sustaining property values and reducing the cost of drainage systems for surface water. Trees are landmarks of the city's history (the "oak" in Oakland), and are a critical element of nature in the midst of urban settlement. For all of these reasons it is important to protect and preserve trees by regulating their removal; to prevent unnecessary tree loss and minimize environmental damage from improper tree removal; and to encourage appropriate tree replacement plantings.



Creeks

Oakland's creeks are a valuable resource to the City of Oakland. They remove water pollutants and improve water quality, provide flood control and storm water drainage, are vital to wildlife habitat, and create neighborhood beauty and improved quality of life. Creeks encourage economic activity through recreation and increased property values and are some of the most beautiful areas of the City. They are a vital recreational and aesthetic resource to the urban environment. It is important to protect and preserve creeks by ensuring safe and responsible development.



ATTACHMENT A

REVISIONS TO THE PLANNED UNIT DEVELOPMENT PERMIT

Permit No. PUD04-400, PUDF05-339, ER04-0014

33. Neighborhood Agreements

a. Ongoing

This project approval is subject to the written agreements attached to this report as Attachment E, except as allowed otherwise by these conditions of approval, including but not limited to with respect to enrollment. The items in the agreements will effectively become additional conditions of approval for this project.

Permit No. PUDF07-520

34. Mitigation Monitoring and Reporting Program

a. Ongoing.

The following mitigation measures shall be incorporated into the project. The measures are taken directly from the Mitigated Negative Declaration for the Head Royce Master Plan Project. For each measure, this Mitigation Monitoring and Reporting Program (MMRP) indicates the entity (generally, an agency or department within the City of Oakland) that is responsible for carrying out the measure (“Responsible Implementing Entity”); the actions necessary to ensure compliance with the applicable measure (“Monitoring Action(s)”) and the entity responsible for monitoring this compliance (“Monitoring Responsibility”); and the time frame during which monitoring must occur (“Monitoring Timeframe”).

TRAFFIC AND CIRCULATION

Impact T1: The increase in enrollment at the completion of the Master Plan could result in extension of the parking queue along Lincoln during the after-school pickup period.

Mitigation T1: The project sponsor would monitor the extent of the after-school pickup queue along Lincoln Avenue. If the queue extends past the upper driveway and the “no parking” zone above the driveway, the school would implement as many of the following actions as would be necessary to accomplish the necessary reduction in the length of the queue:

- Stagger pickup times so that the buses are loaded and leave prior to the start of pickup,
- Discourage early arrival for pickup,
- Actively encourage carpools or school buses as an alternative with an incentive for use of these alternatives, then

- If the previous measures do not reduce the queue, work with the City to restrict on-street parking during after-school pickup on Lincoln Avenue above the upper driveway to allow for the longer queue.

Implementation of this measure would reduce the impact of traffic interference during after-school pickup to a less-than-significant level.

Responsible Implementing Entity: CEDA, Planning Division and Public Works Agency, Traffic Engineering Division

Monitoring Action(s): The Director of Operations of the Head Royce School shall appoint at least 2 qualified persons to monitor after-school pick-up by recording observations of the length of the afternoon pick-up queue during the period between 2:45 and 4:00 PM, reporting on the number of vehicles in the queue every 15 minutes and the maximum number of vehicles in the queue during the 1-1/4 hour monitoring period. The monitoring persons shall note the number of buses in the queue at each monitoring time. The Director of Operations shall prepare a report every two weeks during the 6 week period based on the information gathered, sign the report, and submit to the Community and Economic Development Agency Planning Division and Public Works Agency Traffic Engineering Division. Monitoring and reporting shall take place during the first six weeks of each semester for at least two years after Phase I of the Master Plan has been completed or after each enrollment increase, as noted below in Monitoring Time Frame.

If the results of monitoring show that the queue of vehicles regularly extends east along Lincoln Avenue to a point beyond the upper driveway, the Director of Operations shall consult with CEDA and PWA and determine which of the following additional actions shall be implemented in what order to reduce the length of the queue:

- Stagger pickup times so that the buses are loaded and leave prior to the start of pickup,
- Discourage early arrival for pickup,
- Actively encourage carpools or school buses as an alternative with an incentive for use of these alternatives.

Monitoring and reporting shall continue for at least six weeks following implementation of each of the above actions to show that it has been effective in reducing the length of the queue. If the queue continues to extend beyond the upper driveway, the Director of Operations shall:

- Work with the City to restrict on-street parking during after-school pickup on Lincoln Avenue above the upper driveway to allow for the longer queue.

Monitoring Responsibility: CEDA, Planning Division and Public Works Agency, Traffic Engineering Division

Monitoring Timeframe: The first Monitoring and Reporting period shall be initiated at the beginning of the first semester following occupancy of the Phase I renovated and new buildings, and shall be carried out for six weeks at the beginning of each semester for two school years. If additional actions are needed, the monitoring period shall be extended for an additional two semesters.

Additional Monitoring and Reporting periods shall be initiated when ~~Later Phases have been completed and for each 60 student enrollment increase until~~ the school has reached the full planned enrollment of 880 students. As with the first period, monitoring shall be carried out for six weeks at the beginning of each semester for two years. If any of the additional actions listed above are needed, monitoring and reporting shall continue for six weeks following implementation of the action.

36. Student Enrollment

a. Ongoing

The maximum school enrollment at the 4315 Lincoln Avenue campus shall be 880 students. This is the maximum number with an allowed 3% margin for fluctuations due to the admissions process. Off-street parking spaces for 157 vehicles shall be provided at maximum enrollment. Off-street parking may be provided either at the 4315 Lincoln Avenue campus or in surplus parking spaces at a neighboring parcel such as at 4368 Lincoln Avenue (Lincoln Child Center) or at 4700 Lincoln Avenue (Greek Orthodox Church.) Surplus parking spaces are defined as those not required to serve permitted uses on those parcels. The enrollment increase shall occur in 3 phases of 60 students each as outlined in the neighborhood agreements.

37. Student Enrollment for Final Phase Verification

Prior to issuance of a building permit for the final Phase

The project applicant shall submit the current enrollment numbers to confirm that they are within the maximum allowed in the PUD COA's (880 +/- 3%) by October 15th of each school year, and the neighborhood agreements prior to the issuance of any building permit for the final phase of the master plan.

50. Traffic Demand Management

Head Royce shall implement the Transportation Demand Management (TDM) plan containing strategies to manage impacts of vehicle travel associated with the school's students, faculty, and staff attached as **Attachment B.**

ATTACHMENT B

TRANSPORTATION DEMAND MANAGEMENT PLAN

Table of Contents

A. Introduction

B. Traffic and Circulation Management

TDM 1: Bus, Carpool, Pedestrian and Bicycle Policies

TDM 2: Education About and Enforcement of Traffic Rules

**TDM 3: Monitoring, Traffic Assistance/Use of Safety Devices and
Protocols**

TDM 4: Encouraging Off-Peak Pick up and Drop Off

C. Parking Management

TDM 5: Discourage Parking on Neighborhood Streets

D. Special Events Traffic Management

**TDM 6: Manage Visitor Traffic During Special Events to Minimize
Neighborhood Impacts**

E. Vendor Management

TDM 7: Vendor Management

A. Introduction

Kittelson & Associates, Inc. has been retained by the Head-Royce School to assist in the review and preparation of this Transportation Demand Management ("TDM") policy. This TDM is being proposed by the School to assist it in compliance with the terms of its Planned Use Development permit ("use permit") from the City of Oakland which allows the school to enroll up to 906 students (880 +/- 3% margin) in three phases subject to specified conditions of approval ("COA"). The School is committed to reducing its traffic impacts generally and to implement the policies in this TDM to comply with the conditions of approval. This TDM is not intended to replace the conditions of approval or create new conditions of approval. If there are any inconsistencies between these implementation measures and the adopted conditions of approval, the adopted conditions control.

B. Traffic and Circulation Management

The conditions of approval under the School's applicable use permit recognize that the increase in enrollment allowed under the permit could result in the extension of the pick-up queue along Lincoln Avenue during the after-school pick up period. The conditions therefore provide that if monitoring shows that the queue of vehicles regularly extends east along Lincoln Avenue to a point above the upper driveway, the School shall implement certain measures to reduce the length of the queue. The school has employed and will continue to employ the following traffic and circulation measures to ensure that, as required by Condition of Approval 36, the queue does not regularly extend past the School's upper driveway on Lincoln Avenue. The following five (5) Traffic and Circulation Traffic Demand Management ("TDM") measures also implement conditions in the various Neighborhood Agreements requiring the School to encourage alternative transit and bus use and to use good faith efforts to enforce the School's traffic rules.¹

1. TDM1. Bus, Carpool, Pedestrian and Bicycle Policies

- a. The School will provide campus access to pedestrians and bicyclists through the locked back gate on Whittle Avenue, if requested, to shorten the commute to school.
- b. The School will provide maintain bicycle-parking racks. in compliance with COA 42.
- c. The School will subsidize AC Transit bus usage as long as this public transit service is made available.

¹ See Alida Neighborhood Agreement Condition 4 (school to continue to encourage alternative transit and subsidize bus and van service); Whittle Neighborhood Agreement Condition 5, Alida Neighborhood Agreement Condition 5 and Lincoln Neighborhood Agreement Condition 5 (use good faith efforts to clarify, monitor and enforce the school's traffic parking and drop off rules.)

- d. The School will subsidize private bus service.
- e. Starting in Summer 2013, the school will add a private subsidized bus route for the Summer Enrichment Program (SEP) for the 4 pm lower school dismissal.
- f. During the afternoon pick-up, prohibit student loading while busses are present from approximately 2:30 PM to 3:35 PM along both the sides of the street where loading occurs uphill from the lower pedestrian crosswalk to reserve the area for bus loading.
- g. The School will provide carpooling assistance to parents and faculty. The school provides a map showing where school families live and provides contact information.
- h. The School will offer preferred parking in its lot for carpools.

2. TDM 2. Education/Enforcement of Traffic Rules

To ensure that the queue does not extend above the school's upper driveway on Lincoln Avenue, the School has prepared detailed maps and instructions to facilitate orderly queuing on Lincoln Avenue for drop-off and pick-up. The School has also centralized its traffic and parking policies into the Transportation Policy Guide ("Guide.") A copy of the Guide is attached as Appendix A to this TDM. The Guide is sent to each family and staff member and is available on the School website. The guide contains detailed consequences for violations from the letter on a first violation to refusal to re-enroll repeat offenders. In addition to implementing COA 36, TDM2 also supports compliance with COA 47a and 47b, which require distribution of a package with the traffic rules in the enrollment contract and to hold parent education meetings about traffic rules. TDM2 further supports the provisions in the Neighborhood Agreements calling for good faith efforts to clarify, monitor and enforce the school's traffic parking and drop off rules.²

- a. The Guide will make the requirement COA 36, the queue upper limit, clear to parents, using maps and explanations in the Guide.
- b. The school will update and distribute the Guide to all students attending School or the Summer Enrichment Program.
- c. The School will require a signed acknowledgement of receipt of the Guide from all families each year.

² See Lincoln Avenue Agreement Condition 12 and Alida Agreement Condition 8 (school to continue to administer parent educational pieces on driving rules). Also see Whittle Agreement Conditions 5 and 10 (School to use good faith efforts to enforce the school's traffic, parking and drop off rules and to institutionalize its good neighbor practices.)

- d. The School will make substantial compliance with the Guide a condition of employment and enrollment.
- e. The School will maintain a database of auto license plates for parents, staff and student drivers for both the regular school year attendees and the attendees of the Summer Enrichment Program.
- f. The School will use the database to encourage compliance with the Guide and to implement consequences for repeat violations. The tiers of consequences are laid out in the Guide. A record of violations will be maintained so that later identification of the violator will allow appropriate response for repeat offenses.
- g. The School will explore ways to allow some portion of the pick-up and drop-off to take place on the interior of the campus or on neighboring institutional properties.
- h. Adherence to the Traffic Rules in the Guide will be a central theme of the Head of School's Back-to-School-Night address to parents.
- i. The School will enforce compliance with its Guide using accelerating consequences, including but not limited to refusal to re-enroll or re-hire chronic repeat offenders.

3. TDM 3. Monitoring, Queue Management /Use of Traffic Safety Devices

COA 36 requires the school to monitor and report for a period of two years on the length of the queue during the first six weeks of each semester after instituting each phased enrollment increase. COA 51 requires the School to randomly monitor Whittle Avenue to ensure it is not being used for parking. Certain provisions of the Neighborhood Agreements³ call for the School to use good faith efforts to increase on-site monitoring of traffic, as required. To implement these provisions, the School observes the following practices:

- a. During pick-up and drop-off periods for the regular school year, the School will employ orange-safety vested traffic monitors. Subject to adjustment of the number and location of monitors in consultation with City staff to respond to changing conditions, the monitors will be stationed as follows:
 - One monitor. will be dedicated to maintaining compliance with COA 36: during morning and afternoon peak hours they will place cones and re-direct cars from queuing above the School's upper driveway on Lincoln Avenue.

³ See Whittle Avenue Agreement Condition 5 and Alida Agreement Condition 5 (continue to employ traffic monitors as required.)

- One monitor will be at the Whittle Gate to prevent pick-up/drop-offs from cars at the rear gate.
 - One monitor will be at the corner of Alida Street and Lincoln Avenue where cars turn to go around the block to change direction.
 - One monitor will be at the cross-walk to escort pedestrians.
 - Two monitors will be on the south side of Lincoln to assist bus loading.
 - One monitor will be at the gate to dispatch children as their rides arrive.
 - Two monitors will be on the north side of Lincoln between the gate and the driveway to facilitate loading and keep cars moving.
 - One monitor will supervise Lincoln and Tiffin, Whittle and Tiffin, Burlington and Lincoln and Alida and Laguna on different days to monitor for U-turns or students walking down for pick-up.
- b. The School has obtained permission to use the Mormon Temple Overflow Lot during the regular school year as a Staging Area for parents to wait until there is room in the pick-up queue on Lincoln Avenue. Monitors will divert cars that cannot queue below the upper driveway on Lincoln Avenue to the Staging Area where they wait until monitors release them to refill the emptied queue.
- c. During the Summer Enrichment Program, the School will employ 15 monitors at peak pick-up and drop-off times to facilitate loading and unloading.
- d. During the six week period after the beginning of each semester after a phased enrolment increase has occurred, the Director of Operations will appoint at least 2 qualified persons to monitor after-school pick-up by recording observations of the length of the afternoon pick-up queue during the period between 2:45 and 4:00 PM, reporting on the number of vehicles in the queue every 15 minutes and the maximum number of vehicles in the queue during the 1-1/4 hour monitoring period. The monitoring persons shall note the number of buses in the queue at each monitoring time.
- The Director of Operations will prepare a report every two weeks during the 6 week period based on the information gathered, and submit to the Community and Economic Development Agency Planning Division and Public Works Agency Traffic Engineering Division.

- Monitoring and reporting will take place during the first six weeks of each semester for at least two years after each enrollment increase.
- If the results of monitoring show that the queue of vehicles regularly extends east along Lincoln Avenue to a point beyond the upper driveway, the Director of Operations shall consult with the City and determine which of the following additional actions shall be implemented in what order to reduce the length of the queue:
 - Stagger pickup times so that the buses are loaded and leave prior to the start of pickup;
 - Discourage early arrival for pickup;
 - Actively encourage carpools or school buses as an alternative with an incentive for use of these alternatives;
 - The School shall randomly monitor Whittle Ave. and ensure that the students, parents, and teachers are not parking in residential permit parking only spaces.

4. TDM 4. Encourage Off-Peak Drop-off and Pick up.

The following policies help ensure that the queue does not extend past the upper driveway on Lincoln Avenue by encouraging drivers to use Lincoln Avenue during non-peak pick up and drop-off hours.

- a. The School will provide before-school care for grades K-5 starting at 7:00 a.m. for the regular school year and the Summer Enrichment Program.
- b. The School will open its cafeteria 50 minutes before the start of middle and upper school classes to encourage students to arrive, eat breakfast and socialize earlier.
- c. The School will release students taking the bus before releasing other students. This practice allows buses to depart the queue before car pick-ups begin and encourages students to use the bus services to be able to leave school first.
- d. If required to maintain acceptable peak hour operations at key intersections, the School will pursue a number of strategies, including mandating staggered drop-off or pick up, increasing bus service, instituting shuttle service or other means.

C. Parking Management

Various provisions of the Neighborhood Agreements require the School to manage parking to encourage students, faculty and visitors to use on-site parking first. ⁴ The following parking management policies support those requirements.

TDM 5: Discourage parking on neighborhood streets.

- a. The School will share parking with the neighboring institutional uses such as Lincoln Child Center and Greek Orthodox Church.
- b. The School will direct staff, parents, visitors, student drivers to fill available on-site or leased institutional parking spaces before parking on the street.
- c. The School will request that daytime visitors park on Lincoln Avenue above the School's lower crosswalk rather than parking on the side streets or below the lower crosswalk on Lincoln Avenue.
- d. The School will continue to support neighborhood permit parking on Alida Avenue, Alida Court and Linnet Court.

D. Special Events Traffic Management

These policies implement various provisions of the Neighborhood Agreements to create less impact on neighbors during special events.⁵

TDM 6: Manage Visitor Traffic During Special Events to Minimize Neighborhood Impacts

- a. The School will publish special events on its website. In addition, the neighbors may request to be part of an emailed event listing.

⁴ See Whittle Agreement Condition 1 and Alida Agreement Condition 2 regarding eliminating 23 parking spaces that regularly used the Whittle back gate; Whittle Agreement Condition 3. requiring the School to pursue shared institutional parking with Lincoln Child Center and the Cerebral Palsy Center; Alida Agreement 9 (School to continue to support shared parking with the Greek Orthodox Church for special events.) ; Alida Agreement 10 (pursuit of permit parking in certain portions of the neighborhood)

⁵ See Lincoln Agreement Condition 9, Alida Agreement Condition 9 (continue use of Greek Church for event parking); Whittle Agreement Condition 5 (notify neighbors of events and add additional monitors for special events)

- b. The School will arrange for parking in the Greek Orthodox Church for large events. Each September, the School publishes the list of events and dates for this institutional parking arrangement.
- c. The School will request parking at Lincoln Child Center's lower parking lot for all events that begin after 6 pm.
- d. The School will direct attendees to fill the Lincoln Child Center upper parking lot before seeking on-street parking on Lincoln Avenue.
- e. The School will request that attendees not park on the smaller residential side streets near the School.

E. Vendor Management

Various provisions of the Neighborhood Agreements require the School to manage its vendors in specific ways to reduce impacts on the neighborhood.⁶ The following policies implement those requirements:

TDM 7 Vendor Management

- a. The School will direct vendors to deliver bulk deliveries in trucks through the Whittle gate where they are unloaded within the campus
- b. The School will deliver fresh food that comes in large and refrigerated trucks on Lincoln Avenue after 9 a.m.
- c. The School will advise its vendors in writing about appropriate delivery hours and locations and to advise them that repeated violations will result in contract termination.

⁶ See Alida Agreement 5 (regarding bulk deliveries and small package deliveries)



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555 California Street, 10th Floor
San Francisco, California 94104-1513
P 415.262.5100 F 415.262-5199

Anne E. Mudge
415.262.5107
amudge@coxcastle.com

March 7, 2013

File No. 65265

VIA E-MAIL

Ms. Heather Klein
Planning & Zoning Division
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: Minor Revision of the Conditional Use Permit for 4368 Lincoln Avenue

Dear Ms. Klein:

As you know, the Head Royce School has now taken title to the parcel located at 4368 Lincoln Avenue (known as the Lincoln Child Center parcel). We are writing to request a minor alteration to the Lincoln Child Center Conditional Use Permit, Case File No. CMV96-104/REV98-4, as shown in **Attachment A**. The proposed alteration would allow fourteen administrators who currently work and park at Head Royce School to locate their offices and park at Lincoln Child Center. This proposal would involve minor exterior changes, consisting of window and skylight replacement, as well as minor interior changes to some of the existing Lincoln Child Center buildings.

Minor Alteration. We believe the proposed revision should be considered a “minor alteration” under Oakland Planning Code section 17.134.020. The proposed revision does not involve any of the activities or facility types listed under the code section that defines “major” alterations. (Planning Code § 17.134.020(2).) Nor does the proposed revision meet the threshold size requirements or meet the characteristics of the “special situations” described in code § 17.134.020. As noted, the proposed revision would not involve any physical changes to the site and only very minor exterior improvements, consisting of window and skylight replacement, to some of the existing buildings.

Conditional Use Permit Findings. The proposal meets the findings required to revise a conditional use permit. (See Planning Code § 17.134.040.) As stated above, the proposal would not alter the location, size, or exterior design of Lincoln Child Center; the proposal does not involve any new development. Under the proposal some windows and skylights would be replaced and some interiors would be altered to create offices suitable for school administrators, but these changes would not alter the overall exterior look of the campus.

The addition of fourteen Head Royce administrators to the existing Lincoln Child Center operations also would not alter the site’s “operating characteristics.” (See *id.*) Administrative

functions for Lincoln Child Center already occur at the site. The fourteen Head Royce administrators would perform institutional work, just as the Lincoln Child Center administrators do. Institutional uses are consistent with the site's institutional designation under the General Plan and current use.

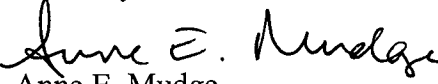
Also, the Lincoln Child Center parking lot has surplus spaces to accommodate fourteen Head Royce administrators. There are approximately forty-two to fifty-two surplus parking spaces. We arrived at that number by counting the available spaces on the property, which ranges between 128 and 138, depending how the cars are parked, and subtracting the eighty-six spaces required for Lincoln Child Center's use under Condition 6 of the Conditional Use Permit. Therefore, allocating fourteen spaces to Head Royce administrators would not disrupt Lincoln Child Center's operations.¹

The proposed revision is compatible with the surrounding residential community. The fourteen administrators would be performing office-type work, which is quiet and indoors. The proposal also would not increase the traffic noise or congestion because the fourteen administrators already drive to 4315 Lincoln Avenue, which is located across the street.

CEQA Compliance. CEQA Guidelines section 15301 exempts the operation, permitting, and minor alteration of existing structures. The proposal involves minor interior and exterior alterations that may include window and skylight replacement as well as the erection of interior partitions and painting. These activities are exempted under section 15301 and there are no unusual circumstances here that would defeat the exemption. Given the minor changes involved in having fourteen people work across the street from their current work place, the proposal would be not create new potentially significant environmental impacts that could contribute to cumulative impacts. (See Guidelines § 15301.) The proposal also does not involve a scenic highway or hazardous waste site. (*Id.*) Further, the proposal would not involve a change that would have a substantial adverse impact to the defining characteristics of a historic resource. (See *id.*) Because no exception exists to defeat the applicable exemption, the proposal would be exempt from CEQA. (See CEQA Guidelines § 15300.2.)

For the foregoing reasons, we respectfully request that you consider the proposed revision as a minor alteration to the Conditional Use Permit and process this application accordingly. If you have any questions, please contact me at 415.262.5107 or amudge@coxcastle.com. I look forward to hearing from you.

Sincerely,


Anne E. Mudge

¹ Approximately half of Lincoln Child Center's operations are moving to downtown Oakland. However, this analysis conservatively assumes continued full use of the site by Lincoln Child Center operations.

ATTACHMENT A

Proposed Revisions to the Lincoln Child Center Conditional Use Permit

We propose revising the two conditions listed below, as indicated by the underlined text.

1. **Characteristics of Use:** Lincoln Child Center will operate a residential, education and treatment program for mentally ill, emotionally disturbed, and abused children aged 5 years to 15 years, with no more than five children aged 16 limited to residential treatment, day treatment, day school services, recreation, counseling and therapy services. Professional staff serving children registered with Lincoln programs at Nicol and Headco Houses, Opportunity School and Project Destiny, or substantially similar programs so long as such programs do not significantly increase the number of professionals who maintain their offices on campus, will have their professional offices on the main Lincoln campus.

The program will serve no more than 92 children on the campus in the residential and nonpublic school program, including 52 children who reside on the campus. Lincoln may apply for a conditional use permit to serve an additional 8 children in the residential program. In addition, children who have been discharged from the Lincoln program may return for follow up counseling services.

Up to fourteen administrators from Head Royce School will be allowed to maintain offices on the Lincoln campus. These offices will be located in existing buildings.

...

6. **Parking:** LCC will provide 86 off-street parking spaces on campus to accommodate staff, visitor and bus parking. LCC will provide sufficient off street parking to accommodate all staff, visitors and buses.

The Lincoln campus has approximately 52 surplus parking spaces. Fourteen (14) of the surplus spaces will be reserved for use by Head Royce School administrators who will be allowed to have offices on the Lincoln campus.



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Anne E. Mudge
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File No. 67453

September 17, 2013

VIA E-MAIL AND U.S. MAIL

Ms. Heather Klein
Planning & Zoning Division
250 Frank H. Ogawa Plaza
Suite 2114
Oakland, CA 94612

Re: Second Revision to Application to Amend HRS Permit Nos. PUD04-400,
PUDF05-339, ER04-0014 and PUDF07-520; Application to Amend LCC
Conditional Use Permit No. CMV 96-104, REV 98-4

Dear Ms. Klein:

On February 27, 2013 Head Royce School ("HRS") submitted an application to revise the conditions of approval for its existing planned unit development permits (PUDs). It submitted a revision to that application on April 29, 2013. Since then, HRS has discussed its application with the City of Oakland (the "City"), which advised HRS that it should consider adding a student drop off and pick up area on its campus and move parking to the site it owns across Lincoln Avenue, as well as seek an amendment to Lincoln Child Center's use permit to facilitate these changes. HRS has considered the City's suggestion and proposes the following second revision to its application to amend its PUD permits as well as an amendment to the 1998 conditional use permit the City issued to Lincoln Child Center (LCC):

- Restripe the existing upper parking lot at 4315 Lincoln Avenue as shown in **Exhibit 1** to create an internal drop off and pick up loop;
- Restripe the parking lot along Perkins Road at 4368 Lincoln Avenue to create 140 parking spaces at that location, as shown in **Exhibit 2**;
- Provide sufficient off-street parking for both institutional uses as provided in **Exhibit 3**;
 - Total parking available to HRS would be 169 spaces
 - Total parking available to LCC would be 53 spaces.

- Revise the conditional use permit (CUP) that governs Lincoln Child Center's operations at 4368 Lincoln Avenue to reduce the parking requirements for LCC and to make it consistent with the current intensity of use of the site, as shown in **Exhibit 4**.

A. Reconfiguration of the Upper Parking Lot at HRS, Restriping, and Modification of the Use Permit for 4368 Lincoln. In addition to the changes proposed in its February and April 2013 applications, HRS now proposes to restripe its upper parking lot to create an internal drop off/pick up loop. The proposed configuration is shown in **Exhibit 1**.

The proposal to reconfigure the upper lot would eliminate 70 off-street parking spaces, causing the total number of off-street spaces at 4315 Lincoln to decrease from 152 to 82. Under its existing use permit, HRS is required to provide 157 off-street parking spaces when enrollment reaches 880 (+/- 3%). Accordingly, HRS proposes to use 75 existing, off-street parking spaces located at 4368 Lincoln Avenue to meet its off-street parking requirements. (See **Exhibit 2**)

The property at 4368 Lincoln, once restriped, would have 140 parking spaces. (See **Exhibit 3**.) Currently, LCC's use permit requires that 86 on-site spaces be reserved for LCC's use. (The Mitigated Negative Declaration prepared for that use recommended 97 spaces but the use permit only requires 86. The MND's recommendation was based on the operations of LCC's intensity of use in 1998, when LCC had 114 employees and 104 students, with 58 students enrolled in the residential care program.) Recently, LCC sold 4368 Lincoln Avenue to HRS, leased back a portion of site for more limited use. The reduced operations include Conyces Academy (the "Academy"), an integrated special education and intensive day treatment program that serves children aged 5 to 15. The Academy is significantly smaller than LCC's prior operations, with approximately 35 employees and 50 day students. Based on the Academy's enrollment, the Academy would require approximately 38 spaces to provide proportionally the same number of spots as the MND recommended for LCC's intensity of use in 1998. The Academy, however, would like to retain 53 spaces for its use.

Because the Academy does not need 86 (or 97) spaces to have sufficient on-site parking, HRS proposes, with LCC's consent, that the 4368 Lincoln use permit (CUP No. CMV96-104) be modified as shown in **Exhibit 4**. The proposed modification would be consistent with the City's required CUP findings, as discussed in Section B, below. With 87 spots at 4368 Lincoln and 82 spaces at 4315 Lincoln, HRS could provide both an on-site drop off/pick up area in its existing upper parking lot, and would have access to 169 off-street parking spots. This is 12 more parking spots than it is required to have at build-out (Phase III enrollment) under its existing use permit.

B. Consistency with CUP Findings. As explained below, CUP No. CMV96-104 as revised according to this proposal would continue to meet the required CUP findings. (See Zoning Code § 17.134.050.)

1. *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.*

HRS proposes remove 70 parking spaces from its upper lot in order to create an internal drop off/pick up loop and to move those cars to existing unused parking at 4368 Lincoln Avenue. The proposal would be compatible with the area and would not adversely affect the livability or appropriate development of abutting properties or the surrounding neighborhood. The proposal would improve the compatibility of HRS with the surrounding area by creating an organized vehicle queuing location internal to the HRS campus.

2. *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 proposal would provide a convenient and functional environment for vehicle circulation that will not change the visual appearance of either 4315 Lincoln or 4368 Lincoln when viewed from the surrounding area. The reconfiguration of the upper lot at HRS to provide a drop off and pick up area would improve the functionality of HRS's drop off and pick up procedures by giving vehicles an on-site location to queue.

3. *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 proposal would enhance the successful operation of the surrounding area in its basic community functions. The proposal would create an internal drop off and pick up loop off of Lincoln Avenue.

4. *That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050.*
 - *That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to*

outside appearance shall be considered, except as otherwise provided in Section 17.136.060.

As discussed above, the reconfiguration of the upper parking lot at HRS and restriping of the lot adjacent to Perkins Road at 4368 Lincoln would not change the appearance of either property when viewed from the surrounding area.

- *That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.*

The proposal would be consistent with the development of the 4315 Lincoln and 4368 Lincoln sites with institutional uses. The proposal would serve to protect the value of private and public investments in the area by minimizing impacts on Lincoln Avenue from HRS's drop off and pick up procedures.

- *That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.*

The proposal would not change the uses at either HRS or 4368 Lincoln and those uses would remain consistent with the Oakland General Plan. In addition, the proposal would not change the appearance of either HRS or 4368 Lincoln.

5. *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 proposal would be in conformity with the Oakland General Plan. There are no other applicable land use plans.

* * *

The original application to increase the enrollment at HRS to approximately 880 students discussed the proposal's compliance with CEQA and relation to the revocation proceedings. That discussion is applicable to this supplemental application.

Ms. Heather Klein
September 17, 2013
Page 5

Thank you for your consideration of this request and please do not hesitate to contact me at (415) 262-5107 or at amudge@coxcastle.com should you wish to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne E. Mudge". The signature is fluid and cursive, with the first name "Anne" and last name "Mudge" being more prominent than the middle initial "E.".

Anne E. Mudge

AEM/LCK/se

Attachments: Exhibits 1, 2, 3 and 4.

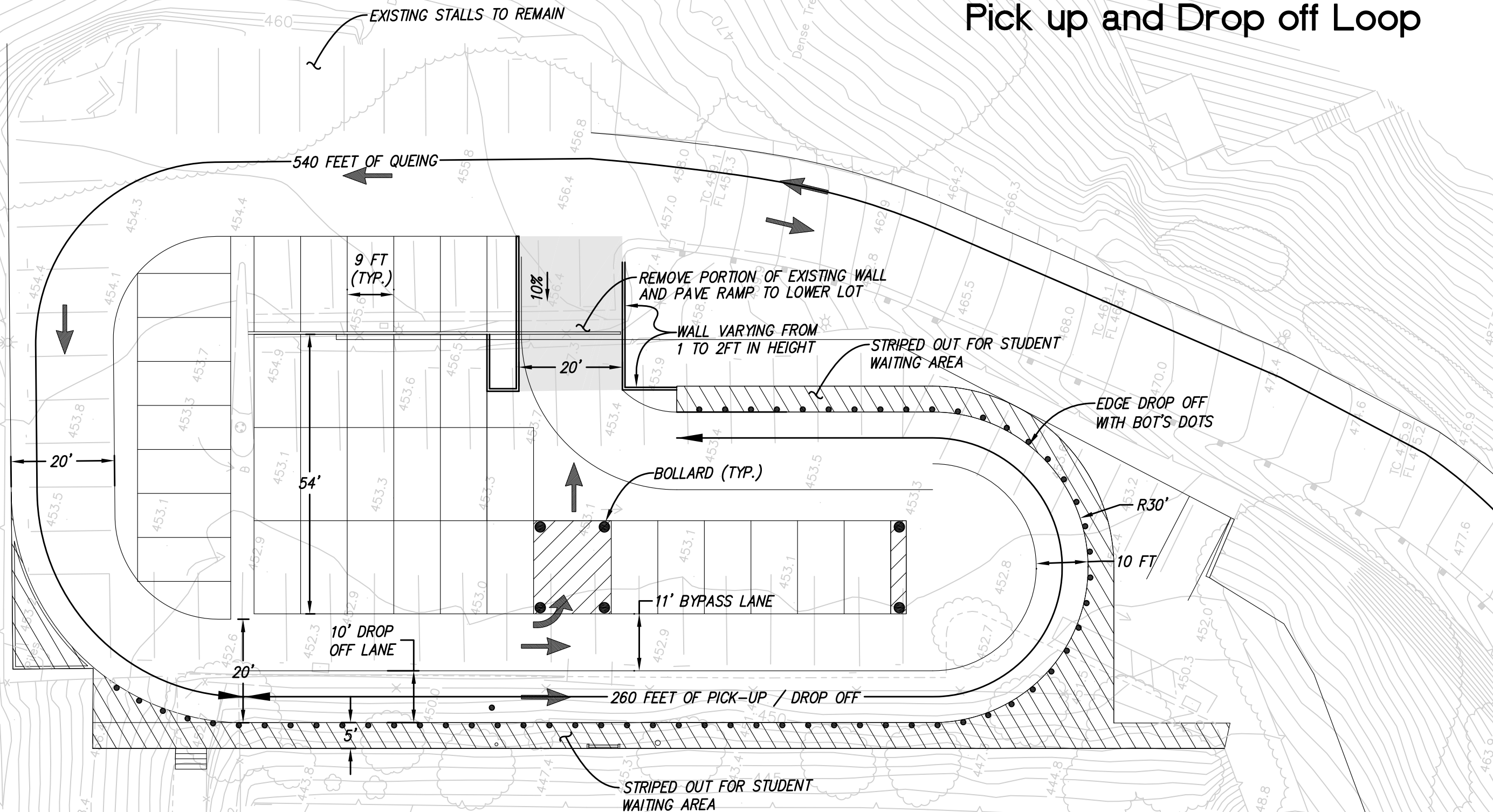
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cc: Head Royce School

Exhibit 1

Upper Parking Lot Plan

Head-Royce School Internal Pick up and Drop off Loop



NOTE:
THE LOCATION OF THE EXISTING WALLS, STAIRS,
SCOREBOARD, AND LIGHTS ALONG THE WEST EDGE
ARE APPROXIMATE BASED UPON TAPED DISTANCES.

09/18/2013
1"=20'

Exhibit 2

Summary of Parking

Summary of the Off-Street Parking Available at 4315 Lincoln Avenue

Head Royce On-Site Parking	Existing	Proposed (with on-site drop-off and pick up plan)
Upper Parking Lot	117	47
Ramp Along Field/Baseball Diamond	20	20
Parking Accessed from Whittle Gate	15	15
Total	152	82

Summary of Off-Street Parking Available at 4368 Lincoln Avenue

Existing Parking Spaces (with restriping)	Required by 1998 CUP for LCC Use	Used Today by LCC under Reduced Operations	Proposed for LCC Use under Amended CUP	Proposed for HRS Use
140	86-97	45	53	87

Total available spaces at 4315 & 4368 Lincoln: 222

Total available spaces for HRS uses: 169

Total available for o LCC uses: 53

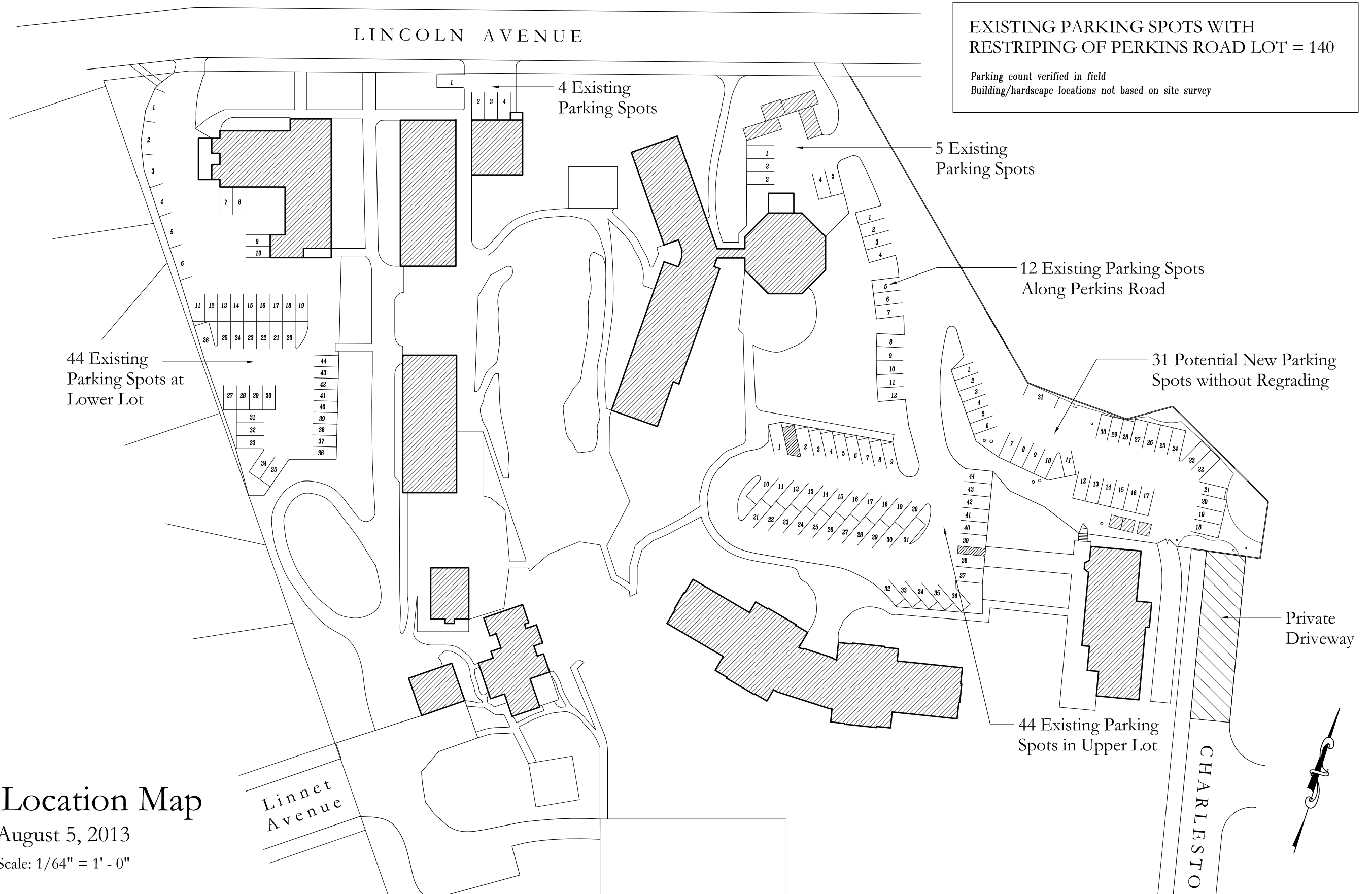
Exhibit 3

LCC Parking Plan

LCC Location Map

August 5, 2013

Scale: 1/64" = 1' - 0"





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Exhibit 4

Proposed Language Amendment To LCC Use Permit

Conditions of Approval Attached to and Made a Part of Zoning Case No. REV98-4 and CMV96-104, Attachment D, Conditions of the Conditional Use Permit Agreed to by Both Lincoln Child Center and the Neighbors:

6. Parking: LCC will provide 53 ~~86~~ off-street parking spaces on campus to accommodate staff, visitors and bus parking. LCC will provide sufficient off street parking to accommodate all staff, visitors and buses.



CITY OF OAKLAND

BASIC APPLICATION FOR DEVELOPMENT REVIEW

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031

Zoning Information: 510-238-3911

www.oaklandnet.com/planning

CERTAIN APPLICATIONS ARE ACCEPTED BY APPOINTMENT ONLY!

Please call (510) 238-3940 to schedule an appointment if your project involves any of the following:

- Conditional Use Permit
- Variance
- Regular Design Review
- Parcel Map Waiver
- Tentative Parcel/Tract Map
- New dwelling unit(s)
- 1,000 sq. ft. or more of new floor area/footprint
- Additions \geq 100% of existing floor area/footprint
- Creek Protection Permit (Category 3 or 4)

All other projects may be submitted to the zoning counter without an appointment.

Submit applications for Small Project Design Review to station #12 at the zoning counter by signing the sign-up sheet.

1. TYPE OF APPLICATION

(Check all that apply)

Development Permits

- ☒ Conditional Use Permit (Major, Minor, or Interim)
- ☐ Variance (Major or Minor)
- ☐ Regular Design Review
- ☐ Small Project Design Review
- ☐ Tree Preservation or Removal Permit
- ☐ Creek Protection Permit (separate application required)
- ☐ Other: _____

Subdivision Applications

- ☐ Parcel Map Waiver (Lot Line Adjustment/Merger)
- ☐ Tentative Parcel Map (subdivision for 1 – 4 lots)
- ☐ Tentative Tract Map (subdivision for 5 or more lots)
- ☐ Planned Unit Development/Mini-Lot Development

Other Applications

- ☐ Request for Environmental Review
- ☐ General Plan Amendment
- ☐ Rezoning

2. GENERAL INFORMATION

APPLICANT'S NAME/COMPANY: Head Royce School (HRS) on behalf of Lincoln Child Center (LCC) (see letter from LCC)

PROPERTY ADDRESS: 4315 Lincoln Ave., 4465 Lincoln Ave., and 4368 Lincoln Ave.

ASSESSOR'S PARCEL NUMBER: 029A136700404 & 029-100900600 & 029A136700114 **LOT AREA (ACRES/SQ. FT.):** ~ 22 acres

EXISTING USE OF PROPERTY: Independent K-12 school and institution for special education and treatment

DESCRIPTION OF PROPOSAL (including type of use, hours of operation, number of employees, etc., on additional sheets if needed.):

This is a supplement to HRS's application to allow enrollment to increase to 880 (+/- 3%). To support that request, HRS proposes to reconfigure a parking lot to include a drop-off/pick-up area, supplement its on-site parking by using surplus spaces at 4368 Lincoln, restripe a lot at 4368 Lincoln, and amend LCC's CUP to reflect current operations.

TO BE COMPLETED BY STAFF

GENERAL PLAN LAND USE CLASS.: _____ **ZONING:** _____

FEES¹:

APPLICATION FEE: \$ _____

POSTER DEPOSIT²: \$ _____

TREE PERMIT FEE: \$ _____

CREEK PERMIT FEE: \$ _____

TOTAL FEES DUE: \$ _____

EXPECTED PROCESSING TIME³:

¹Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal.

²For permit applications requiring public notice, a refundable security deposit is required for the on-site poster containing the public notice. Posters MUST be returned within 180 days and in good condition to claim a refund of the deposit.

³Expected processing time is only an estimate and is subject to change without notice due to staff workload, public hearing availability, and the completeness or complexity of the application.

3. PROPERTY OWNER AND APPLICANT INFORMATION

Original signatures or clear & legible copies are required.

Owner: Head Royce School

Owner Mailing Address: 4315 Lincoln Ave.

City/State: Oakland, CA

Zip: 94602

Phone No.: (510) 531-1300

Fax No.: (510) 531-2649

E-mail: rlake@headroyce.org

To be completed only if Applicant is not the Property Owner:

I authorize the applicant indicated below to submit the application on my behalf. _____

Signature of Property Owner

Applicant (Authorized Agent), if different from Owner: Dennis Malone

Applicant Mailing Address: 4315 Lincoln Ave.

City/State: Oakland, CA

Zip: 94602

Phone No.: (510) 531-1300

Fax No.: (510) 531-2649

E-mail: dmalone@headroyce.org

I understand that approval of this application does not constitute approval for any administrative review, conditional use permit, variance, or exception from any other City regulations which are not specifically the subject of this application. I understand further that I remain responsible for satisfying requirements of any private restrictions or covenants appurtenant to the property. I understand that the Applicant and/or Owner phone number listed above will be included on any public notice for the project.

I certify that I am the applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of planning permits as determined by the Planning Director. I further certify that I am the owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature above.

I certify that statements made to me about the time it takes to review and process this application are general. I am aware that the City has attempted to request everything necessary for an accurate and complete review of my proposal; however, that after my application has been submitted and reviewed by City staff, it may be necessary for the City to request additional information and/or materials. I understand that any failure to submit the additional information and/or materials in a timely manner may render the application inactive and that periods of inactivity do not count towards statutory time limits applicable to the processing of this application.

I certify that all existing Protected Trees either on the site or within 10 feet of development activity are indicated on both the Site and Landscape Plan. I understand that if any Protected Trees are to be removed, or if Protected Trees exist within 10 feet of the proposed development activity (even if they are not being removed), I must apply for a Tree Preservation/Removal Permit (Section 6).

I certify that I have reviewed the Oakland Creek Protection Ordinance and understand that I may be subject to a Creek Protection permit pursuant to the Creek Protection, Storm Water Management and Discharge Control Ordinance (Chapter 13.16 of the Oakland Municipal Code) and that I have completed the Creek Protection Ordinance section of this application (Section 7).

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT ALL THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT.

Signature of Owner or Authorized Agent

Date

9-20-13

Please refer to the prior application for the lot information for LCC. The numbers below are for the HRS campus.

4. SUPPLEMENTAL PROJECT & LOT INFORMATION				
AREA CALCULATIONS	Existing	New	Total	% Change
Total Lot Area (in acres or square feet)	13.63 acres	0	13.63 acres	0
Total Building Footprint Area (square feet)	N/A	0	N/A	0
Total Floor Areaⁱ (square feet)	N/A	0	N/A	0
Building Height	N/A	N/A	n/a	n/a
Number of Dwelling Units	0	0	0	n/a
Number of Parking Spaces	137	(-55)	82	n/a
Setback Slopeⁱⁱ (for hillside properties only)	N/A	N/A	n/a	n/a
Structure Slopeⁱⁱⁱ (for hillside properties only)	N/A	N/A	n/a	n/a

ⁱ **Total Floor Area** for all projects with one or two dwelling units on a lot means the total square footage of all levels of all buildings on the lot, measured horizontally from the outside surface of exterior walls and supporting columns, but excluding: (a) unenclosed living areas such as balconies, decks, and porches; (b) carports that are unenclosed on two or more sides; (c) 440 square feet within an attached or detached garage or carport that is enclosed on three sides or more; (d) non-habitable accessory structures of less than 120 square feet; (e) unfinished understories, attics and basements; and (f) finished basements if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least 50% of the perimeter and does not exceed twelve (12) feet above grade at any point. For new floor area, only include new floor area located outside of the existing building envelope.

ⁱ **Total Floor Area** for all projects except those with one or two dwelling units on a lot means the total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surfaces of the main walls of principal or accessory buildings, or the center line of party walls separating such buildings, but excluding: (a) areas used for off-street parking spaces, loading berths, driveways, and maneuvering aisles; (b) areas which qualify as usable open space in Chapter 17.126; and (c) arcades, porticoes, and similar open areas which are located at or near street level of Nonresidential Facilities, are accessible to the general public, and are not designed or used as sales, display, storage, or production areas. For new floor area, only include new floor area located outside of the existing building envelope.

ⁱⁱ **Setback Slope:** Slope between edge of pavement and the front setback line, measured at the midpoint and perpendicular to the front property line.

ⁱⁱⁱ **Structure Slope:** Steepest slope across building footprint measured from one side of the building to another.

5. IMPERVIOUS SURFACE INFORMATION

See page 11 for more information on impervious surface.

PROJECT CHARACTERISTICS: (check one)

- ☐ (1) The project will create or replace **10,000 square feet or more** of new or existing impervious surface area* (not including projects involving one single-family dwelling).
- ☐ (2) The project will create or replace **5,000 square feet or more but less than 10,000 square feet** of new or existing impervious surface area* AND involves the following:
- Auto servicing, auto repair, or gas station;
 - Restaurant (full service, limited service, or fast-food); or
 - Uncovered parking (stand-alone parking lot or parking serving an activity; including uncovered parking garages).
- **If you checked (1) or (2) the project is considered a “Regulated Project” and must comply with NPDES C.3 stormwater requirements. You must submit a completed Stormwater Supplemental Form and a Preliminary Post-Construction Stormwater Management Plan with your application (see page 10).**
- ☐ (3) The project will create or replace **2,500 square feet or more** of new or existing impervious surface (including projects involving one single-family dwelling), unless the project meets the definition of (1) or (2) above.
- **If you checked (3) site design measures to retain stormwater on-site are required. Refer to the City’s “Overview of Provision C.3” for more information.**
- ☒ (4) None of the above.

* *Impervious Surface = Any surface that cannot be effectively (easily) penetrated by water. Permeable paving (such as permeable concrete and interlocking pavers) underlain with permeable soil or permeable storage material, and green roofs with a minimum of three inches of planting media, are not considered impervious surfaces. Do not include existing impervious surface to be replaced as part of routine maintenance/repair activities when calculating the amount of new/replaced impervious surface.*

6. TREE PRESERVATION ORDINANCE

See page 11 for more information on protected trees and these regulations.

Pursuant to the Tree Preservation Ordinance (§12.36 O.M.C.) a Tree Preservation/Removal Permit is required for any proposed construction activity (including buildings, driveways, paths, decks, construction vehicle routes, sidewalk improvements, & perimeter grading) within 10 feet of a Protected Tree, even if such trees are not being removed or if they are located on a neighbor's property.

The following are Protected Trees:

- a. Any Coast Live Oak tree that is larger than 4 inches dbh*
- b. Any tree (except Eucalyptus) that is larger than 9 inches dbh* (Eucalyptus trees and up to 5 Monterey Pines per acre are not considered Protected Trees under this section. Monterey Pines must be inspected and verified by the Public Works Agency – Tree Division prior to their removal. Contact the Tree Division at (510) 615-5850 for more information or to schedule an inspection).
- c. Any tree of any size located in the public right-of-way (including street trees).

I ATTEST THAT: *(check one)*

- ☐ (1) There are no existing Protected Trees anywhere on the subject property or within 10 feet of the proposed construction activities** (including neighbor's properties or the adjacent public right-of-way).
- ☒ (2) There are Protected Trees on the subject property or within 10 feet of the proposed construction activities**, and their location is indicated on the site plan and landscape plan **and** *(check one)*;
- ☒ (a) No Protected Trees are to be removed and
No construction activity** will occur within 10 feet of any Protected Tree.
- ☐ (b) No Protected Trees are to be removed and
Construction activity** will occur within 10 feet of any Protected Tree.
- ☐ (c) Protected Trees will be removed.

If you checked (2b) or (2c), a Tree Preservation/Removal Permit is required. Please complete the section below.

DESCRIPTION OF TREES (Identification numbers and letters must be consistent with the Tree Survey, see submittal requirements in Section 8)

Trees proposed for removal			Trees <u>not</u> proposed for removal but located within 10 feet of Construction Activity**		
#	Species	dbh*	#	Species	dbh*
1			A		
2			B		
3			C		
4			D		
5			E		
6			F		
7			G		

Reason for removal/impacting of trees: _____

* **dbh:** "diameter at breast height" is determined by measuring the trunk at 4'-6" from the ground. Multi-trunked trees are measured by combining the diameters of all trunks at 4'-6" from the ground.

** **Construction Activity:** Any proposed building, driveway, path, deck, construction vehicle route, sidewalk improvement, grading, or demolition.

7. CREEK PROTECTION ORDINANCE

See page 11 for more information on creeks and these regulations.

Pursuant to the Creek Protection, Storm Water Management and Discharge Control Ordinance (§13.16 O.M.C.) a Creek Protection Permit is required for any proposed construction activity occurring on a Creekside property. The extent to which your development will be regulated by the Creek Protection Ordinance depends upon the location and type of proposed work.

WHAT IS A CREEK?

*“A **Creek** is a watercourse that is a naturally occurring swale or depression, or engineered channel that carries fresh or estuarine water either seasonally or year around.”*

A creek must include the following two components:

1. The channel is part of a contiguous waterway. It is hydrologically connected to a waterway above or below the site or is connected to lakes, the estuary, or Bay. Creek headwaters, found at the top of watersheds, are connected in the downhill direction. Additionally, creeks in Oakland are often connected through underground culverts. Only the open sections of creeks are subject to the permit, and
2. There is a creek bed, bank and topography such as a u-shape, v-shape channel, ditch or waterway (identified through field investigation, topographical maps, and aerial photos). To help with identification in the field a creek may also have the following features (the absence of these features does NOT mean there is no creek):
 - A riparian corridor, which is a line of denser vegetation flowing downhill. This is sometimes missing due to landscaping or vegetation removal practices, landslide or fire.
 - The channel has a bed with material that differs from the surrounding material (i.e. more rocky, or gravelly, little or no vegetation).
 - There are man-made structures common to waterways, - for example bank retaining walls, trash racks, culverts, inlets, rip rap, etc.

I ATTEST THAT: (check one)

- ☐ (1) **I do not know if there is a Creek on or near the proposed project site.** I have submitted a request for a Creek Determination by the City of Oakland (separate form and fee required).
- ☒ (2) **No Creek exists on or near the project site;** (check one)
- ☒ (a) Based on my review of the characteristics of the project site, as well as all relevant maps and plans, and the Creek Determination criteria provided in the “What is a Creek?” section above; or
- ☐ (b) Based on the attached report prepared by a relevant licensed professional.
- However, if the City determines that a Creek exists on or near the project site, a Creek Protection Permit is required.*
- ☐ (3) **A Creek DOES exist on or near the project site and;** (check one)
- ☐ (a) The proposed project only entails interior construction and/or alterations (including remodeling), and therefore requires a **Category 1 Creek Permit** (this is a no fee permit and only requires distribution of educational materials); or
- ☐ (b) The proposed project entails exterior work that does not include earthwork and is located more than 100 feet from the centerline of the Creek, and therefore requires a **Category 2 Creek Permit** (this permit requires a site plan and distribution of educational materials); or
- ☐ (c) The proposed project entails (a) exterior work that is located between 20 feet from the top of the Creek bank and 100 feet from the centerline of the Creek, and/or (b) exterior work that includes earthwork involving more than three (3) cubic yards of material located beyond 20 feet from the top of the Creek bank, and therefore requires a **Category 3 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review); or
- ☐ (d) The project entails exterior work conducted from the centerline of the Creek to within 20 feet from the top of the Creek bank, and therefore requires a **Category 4 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review and a hydrology report).

The Creek Permit requirements for your project are subject to verification by the City of Oakland and may differ from what you have indicated above. Additionally, you are responsible for contacting and obtaining all required permits from the relevant state and federal permitting agencies for Category 3 and Category 4 Creek Permits.

8. HAZARDOUS WASTE AND SUBSTANCES STATEMENT

STATE GOVERNMENT CODE SECTION 65962.5 (f):


(f) Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list.

Please refer to the following state maintained website <http://www.calepa.ca.gov/SiteCleanup/CorteseList/> or contact the CalEPA at (916) 323-2514 to determine if your project is on any list of properties containing hazardous waste, toxic substances or underground fuel tanks. **NOTE: YOU MUST REVIEW ALL LISTS**

- ☒ I have reviewed **ALL** the lists and my site does **not** appear on them (sign below). **City Verification Required**
- ☐ My site does appear on the list(s) (please complete the flowing statement and sign below).

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

Name of applicant: HRS (Dennis Malone)
Address: 4315 Lincoln Ave., Oakland, CA
Phone number: (510) 531-1300
Address of site: 4315, 4368, 4465 Lincoln Ave., Oakland, CA 94602
(street name and number if available, and ZIP Code)
Local agency (city/county): City of Oakland
Assessor's book, page, and parcel number: 029A136700404, 029A136700114, & 029100900600
Specify any list pursuant to Section 65962.5 of the Government Code:
Parcels are not on any Cortese list.
Regulatory identification number: _____
Date of list: _____
Status of regulatory action: _____



Signature of Owner or Authorized Agent

9-20-13

Date

9. GREEN BUILDING ORDINANCE

Pursuant to the Ordinance ‘*Sustainable Green Building Requirements for Private Development*,’ (Chapter 18.02 of the Oakland Municipal Code), a Green Building Permit is required for any proposed construction activity within certain categories. The extent to which your development will be regulated by the Green Building Ordinance depends upon the location, type of proposed work, and size of proposed work.

A. PROPERTY ADDRESS: 4315, 4368, and 4465 Lincoln Ave., Oakland, CA

B. PROJECT TYPE OF DEVELOPMENT (check one): ☐ New Construction ☐ New Construction-Mixed Use ☐ Addition
☐ Existing Building ☐ Tenant Improvement ☐ Remodel
☐ Historic ☐ Landscape Project ☐ Reconfigure and restripe existing parking lots and amend a CUP

C. TOTAL NEW AND ALTERED FLOOR AREA (square feet): 0

I, THE APPLICANT/OWNER, ATTEST THAT: (check one)

- ☒ (1) I have reviewed the Green Building Ordinance and the project **DOES NOT** fall within the list of applicable project types.
- ☐ (2) I have reviewed the Green Building Ordinance and the project **MUST** comply with the ordinance, AND I’m submitting the required additional green building materials (see page 10) with this application.
- ☐ (3) I have reviewed the Green Building Ordinance and the project must comply with the ordinance, but a GreenPoint Rater or LEED AP is not required as the project uses the Small Commercial Checklist or the Bay Friendly Basic Checklist.

D. NAME OF GREENPOINT RATER / LEED ACCREDITED PROFESSIONAL (AP)*: _____

GREEN POINT RATER/LEED AP MAILING ADDRESS: _____

PHONE: _____ E-MAIL: _____

RATING SYSTEM: _____ # OF POINTS THE PROJECT IS ANTICIPATED TO RECEIVE: _____

E. GREEN BUILDING FEATURES NOT SHOWN ON PLANS BUT PART OF CHECKLIST (include additional sheets if needed): _____

I, hereby certify under the penalty of perjury that I have reviewed the project and appropriate checklist and attest that to the best of my knowledge the proposed project would likely comply with the City of Oakland’s Green Building Ordinance and attain green building certification. I, hereby further certify under the penalty of perjury, that I 1) have no vested financial interest in the project other than my green building services, 2) have reviewed the project and appropriate green building checklist, and 3) attest that to the best of my knowledge the proposed project would likely comply with City of Oakland’s Green Building Ordinance and attain green building certification.

X _____

Signature of the GreenPoint Rater or LEED Accredited Professional

Date

This permit is issued pursuant to all provisions of City of Oakland Ordinance No. 13040 C.M.S., “*Sustainable Green Building Requirements for Private Development*.” This permit is granted upon the express condition that the permittee shall be responsible for all claims and liabilities arising out of work performed under this permit or arising out of permittee’s failure to perform the obligations with respect to this permit. The permittee shall, and by acceptance of this permit agrees to defend, indemnify, save and hold harmless the City, its officers and employees, from and against any and all suits, claims or actions brought by any reason for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under this permit or in consequence of permittee’s failure to perform the obligations with respect to this permit. Violations of the provisions of the Green Building Ordinance are subject to fines and penalties specified under Section 20-3.030 of the Ordinance.

TO BE COMPLETED BY CITY STAFF:

CASE NUMBER(S): _____ CASE PLANNER’S NAME: _____

Note to Case Planner: Please route a copy of this form to the green building coordinator in the Planning and Zoning Division.

10. SUBMITTAL REQUIREMENTS: WHAT TO SUBMIT

The following information and drawings must be included in the submittal package for your application. Planning staff reserves the right to require additional plans and information as needed for certain development proposals.

The following items are required for ALL applications unless otherwise noted.

Each and every item is required at the time of application submittal.

APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.

☒ (1) **Basic Application for Development Review**

This application form signed and completed (including impervious surface, protected tree, creek information, the Hazardous Waste and Substances Statement, and green building sections). Original signatures or clear & legible copies are required.

☒ (2) **Supplemental Forms and Findings**

Explanation describing how the proposal complies with City requirements (forms provided by staff).

☐ (3) **Assessor's Parcel Map**

Available at the City of Oakland Engineering Services or Zoning counters, the County Assessor's Office, 1221 Oak St. or the County Assessor's website at http://revfilesvr/countydisplay/county_home.asp

☐ (4) **Photographs**

- Photographs must be placed in a secure envelope or mounted on a board folded to a size no larger than 9" x 12".
- ☐ Color photographs showing the existing structure or lot as seen from across the street and from the front, side and rear property lines. Label each photograph with the view pictured (e.g., front, side, rear, across the street).
- ☐ Color photographs showing the 20 nearest neighbors from the street (5 nearest lots on either side, 10 nearest lots across the street). Label each photograph with the address pictured.

☐ (5) **Plans** (see supplemental requirements for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW) applications).

- **Two (2)** stapled and folded sets of full-sized plans and **Two (2)** additional sets of reduced plans (11" x 17") are required for all applications. A Color 11"x17" rendering **MUST** be submitted for Major Permits.
- Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
- Include north arrow, date prepared and scale.
- Acceptable drawing scales are: 1/4" = 1', 3/16" = 1', 1/8" = 1', and 1" = 10'. Other scales may be appropriate, but should be discussed with Planning staff before filing. Also, please limit the range of scales used, so Planning staff can more easily analyze your project in relation to adjacent properties.
- Include the name and phone number of person preparing the plan(s). As appropriate or required, include the stamp and "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
- Show all encroachments over the public Right-of-Way.

☐ (a) **Survey** (required only for the following project types listed below)

- Must be no more than 3 years old from the time of submittal – date of survey must be included.
- Must be prepared by a California State licensed Land Surveyor or by a Civil Engineer with a license number below 33966 (licensed prior to January 1, 1982).
- Include the wet stamp and signature of the Land Surveyor or Civil Engineer who prepared the survey.
- Include the applicable surveyor's statement in accordance with the Professional Land Surveyors Act.
- In addition to paper copies, the survey must also be submitted on a CD.

For all new buildings (except small non-habitable buildings) and >100% footprint additions to existing buildings:

- ☐ Full boundary & topographic survey with field-verifiable monuments set or found by the surveyor.
- ☐ Location, dimensions, and dimensions to property lines of all existing buildings and similar structures.

For any building or addition within any required setback:

- ☐ Applicable line survey with field-verifiable monuments set or found by the surveyor.
- ☐ Location, dimensions, and dimensions to property line of all existing buildings and similar structures that are adjacent to the applicable property line.

For any building or addition located on a lot with a slope of 20% or more:

- ☐ Site topography for all areas of proposed work and for all existing driveways, buildings, and similar structures.
- ☐ Location and dimensions for all existing driveways, buildings, and similar structures.

☐ (5) **Plans (continued)**

☐ (b) **Site Plan**

- ☐ Location and dimensions of all property boundaries.
- ☐ Location and dimensions of all existing and proposed buildings, decks, stairs, and patios.
- ☐ Dimensions of all existing and proposed building setbacks from property lines.
- ☐ Location of building footprints and approximate height of buildings on adjacent lots.
- ☐ Location, dimensions, and paving materials of all adjacent sidewalks, curbs, curb-cuts (including curb-cuts on adjacent neighbor's lots), and streets.
- ☐ Location and dimension of all existing and proposed driveways, garages, carports, parking spaces, maneuvering aisles, wheel-stops, pavement striping/markings, and directional signage. Indicate existing and proposed paving materials.
- ☐ Location, height, and building materials of all existing and proposed fencing and walls.
- ☐ Location, height (including top and bottom elevation measurements), and building materials of all existing and proposed retaining walls.
- ☐ Location and size (dbh) of all existing trees and indication of any trees to be removed.
- ☐ Location of drainage ways, creeks, and wetlands (check with the Engineering Services Division for this information)
- ☐ Roof plan showing roof slope and direction, and location of mechanical equipment, ducts, and vents.
- ☐ For projects located on a lot with a slope of 20% or more: Show existing and proposed topographic contours overlaid with proposed roof plan and indicating roof ridge spot elevations.
- ☐ For multi-family residential projects: Show the location, dimension, slope, and site area of all existing and proposed Group Usable Open Space and Private Usable Open Space, including a summary table of site area.

☐ (c) **Grading Plan** (required only if the project proposes any site grading)

- ☐ Show proposed grading plan and/or map showing existing and proposed topographic contours (this may be combined with the Site Plan for small projects with only minor grading).
- ☐ Include an erosion & sedimentation control plan.
- ☐ Include a summary table of all proposed excavation, fill, and off-haul volumes.

☐ (d) **Elevations** (required only for new construction, additions, or exterior alterations)

- ☐ Show all structure elevations (front, sides and rear) that will be affected by the proposed project.
- ☐ For additions/alterations: label existing and new construction, as well as items to be removed.
- ☐ Identify all existing and proposed exterior materials - including roofing, roof eaves, eave brackets, siding, doors, trim, sills, windows, fences, and railings. Show details of proposed new exterior elements.
- ☐ Show any exterior mechanical, duct work, and/or utility boxes.
- ☐ Include dimensions for building height and wall length.

☐ (e) **Floor Plan**

- ☐ Include complete floor plan of all floors of entire building, including existing and proposed work.
- ☐ Label all rooms (e.g., bedroom, kitchen, bathroom), and include dimensions of room sizes.
- ☐ Show the location of all existing and proposed doors, windows, and walls.
- ☐ For non-residential projects: show all existing and proposed seating areas, mechanical/kitchen equipment, and/or other major functional components of the proposed project.

☐ (f) **Cross Sections** (required only for buildings or additions located on a lot with a slope of 20% or more)

- ☐ Include all critical cross sections, including at least one passing through the tallest portion of the building.
- ☐ Include floor plate and roof plate elevation heights.
- ☐ Label the location of the cross-sections on the site plan.

☐ (g) **Landscape Plan** (required for new buildings, new dwellings, and residential additions of more than 500 sq. ft.)

- ☐ Indicate any existing landscaping that is to be removed.
- ☐ Indicate the size, species, location, and method of irrigation for all plantings.
- ☐ Include all existing and proposed groundcovers, driveways, walkways, patios, and other surface treatments.

☐ (h) **Sign Plan** (required only for non-residential and mixed-use projects)

- ☐ Include fully dimensioned color elevations for all proposed signs.
- ☐ Indicate proposed sign location(s) on site plan
- ☐ Indicate proposed material(s) and method of lighting for all proposed signs.

☐ (i) **Lighting Plan** (required only for non-residential, multi-family residential, and mixed-use projects)

- ☐ Show the type and location of all proposed exterior lighting fixtures (this may be combined with the Site Plan for small projects).

☐ (5) **Plans (continued)**

- ☐ (j) **Preliminary Post-Construction Stormwater Management Plan*** (required only for “Regulated Projects” subject to NPDES C.3 stormwater requirements [see page 3])
- ☐ Show location and size of new and replaced impervious surface.
 - ☐ Show directional surface flow of stormwater runoff.
 - ☐ Show location of proposed on-site storm drain lines.
 - ☐ Show preliminary type and location of proposed site design measures, source control measures, and stormwater treatment measures.
 - ☐ Show preliminary type and location of proposed hydromodification management measures (if applicable).

* Please refer to the Stormwater Supplemental Form for more information concerning NPDES C.3 requirements. The Stormwater Supplemental Form must also be submitted with the application.

- ☐ (6) **Tree Survey** (required only for projects which involve a Tree Preservation/Removal Permit [see page 4])
- **Three (3)** folded full-sized plans are required (in addition to the plans required under No. 5 above).
 - Fold plans to 9” x 12” maximum size. Plans must be on sheets no greater than 24” x 36”.
 - Include north arrow, date prepared and scale (Tree Survey should be drawn to the same scale as the Site Plan).
 - Include the name and phone number of person preparing the plan(s). As appropriate or required, include the stamp and “wet signature” of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
 - ☐ For new construction on an undeveloped lot: include the stamp and “wet signature” of the licensed architect, landscape architect and/or civil engineer preparing the survey.
 - ☐ Indicate the size (dbh), species, and location of all protected trees within 30 feet of development activity on the subject lot, regardless of whether or not the protected trees are included on any tree preservation/removal permit application.
 - ☐ Label all protected trees that are located within 10 feet of construction (including trees located on neighbor’s properties or the adjacent public right-of-way) with the matching number or letter from the Tree Preservation/Removal Permit application (see section 6 of this application).
- ☐ (7) **Green Building Materials** (required only for projects subject to the Green Building Ordinance [see page 7]).
- ☐ Label green building checklist features on plans (site plan, elevations, floor plans, details, etc). Ideally the applicant should provide a chart broken into 1) the number of credits on the plans and 2) the number of credits anticipated.
 - ☐ Completed green building checklist (per applicable rating system).
 - ☐ Copy of Green Building Certifier’s licensing certificate.
- ☐ (8) **Materials & Color Board** (required only for non-residential, multi-family residential, and mixed-use projects involving new construction or an addition/alteration that does not match existing materials and colors).
- Limit board(s) to a maximum size of 9” x 12”. Large projects (generally more than 25 dwelling units or 50,000 square feet of floor area) should also submit a large sized materials & color board (24” x 36”) for use at public hearings.
 - ☐ Include samples of proposed exterior building materials and paint colors.
 - ☐ Include manufacturer’s brochures as appropriate.
- ☐ (9) **Three-dimensional Exhibits** (required only for large projects with more than 25 dwelling units or 50,000 square feet of floor area).
- ☐ Provide color perspective drawings showing the project from all major public vantage points, or provide a scale model of the proposed project.
- ☐ (10) **Preliminary Title Report or deed not more than 60 days old** (required for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW), Rezoning, and General Plan Amendment applications, and any application where the owner information does not match the current Alameda County Assessor’s records)
- ☐ (11) **Fees** (all fees are due at the time of application submittal)
- Additional fees may be required if the project changes or based on staff’s environmental determination.

If you have any questions regarding this application, you may visit the Zoning Counter or call the Zoning Information Line and speak to a planner.

Zoning Information Line:

(510) 238-3911

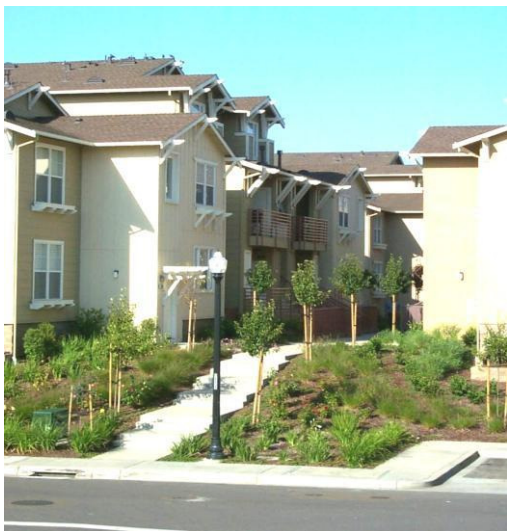
Monday-Friday: 9am-Noon & 2pm-4pm

Zoning Counter:

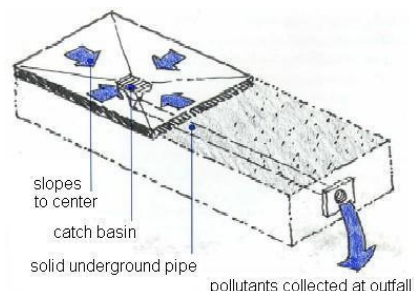
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612

Monday, Tuesday, Thursday, & Friday: 8am-4pm
Wednesday: 9:30am-4:00pm

Impervious surface

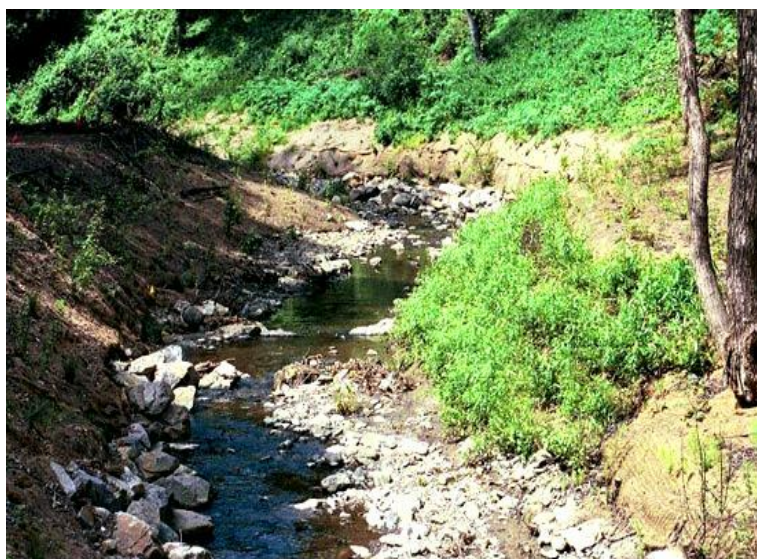
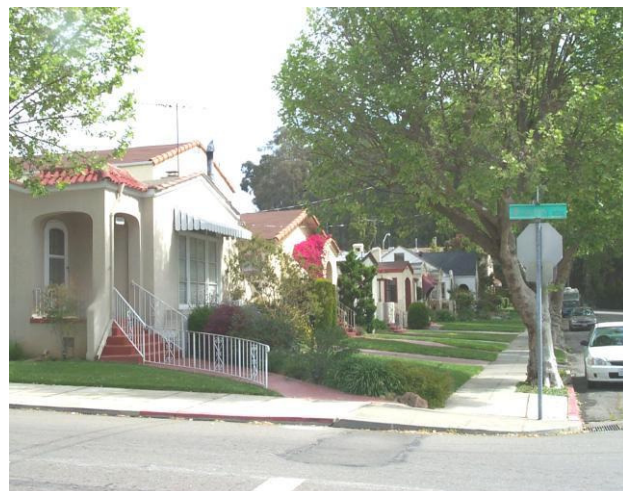


Impervious surface is related to stormwater runoff and water quality. Impervious surfaces (e.g., pavement and buildings) prevent rainwater from directly infiltrating into the ground and don't allow groundwater aquifers to recharge. When impervious surfaces keep water from soaking into the ground there is less groundwater seepage to creeks and the creeks dry up faster. When it rains, pollutants that have settled on impervious surfaces are concentrated and washed into storm sewers, nearby streams, and the bay. Impervious surfaces result in higher and faster peak water flows when it rains, which in turn results in increased erosion, flooding, and property damage. Large paved areas can also be unattractive and reduce the amount of land available for trees and other landscaping.



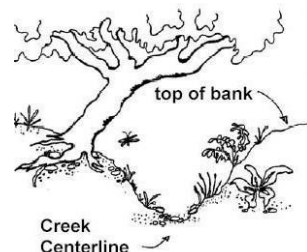
Trees

Among the features that contribute to the attractiveness and livability of the city are its trees. Trees contribute to the climate of the city by reducing heat buildup and providing shade, moisture, and wind control. Trees contribute to the protection of other natural resources by providing erosion control for the soil, oxygen for the air, replenishment of groundwater, and habitat for wildlife. Trees contribute to the economy of the city by sustaining property values and reducing the cost of drainage systems for surface water. Trees are landmarks of the city's history (the "oak" in Oakland), and are a critical element of nature in the midst of urban settlement. For all of these reasons it is important to protect and preserve trees by regulating their removal; to prevent unnecessary tree loss and minimize environmental damage from improper tree removal; and to encourage appropriate tree replacement plantings.



Creeks

Oakland's creeks are a valuable resource to the City of Oakland. They remove water pollutants and improve water quality, provide flood control and storm water drainage, are vital to wildlife habitat, and create neighborhood beauty and improved quality of life. Creeks encourage economic activity through recreation and increased property values and are some of the most beautiful areas of the City. They are a vital recreational and aesthetic resource to the urban environment. It is important to protect and preserve creeks by ensuring safe and responsible development.





September 17th, 2013

VIA E-MAIL

Board of Directors:

Diana Netherton, Chair
Steve Roland, Vice Chair
Heather Zona, Vice Chair
Ivan Fujihara, Treasurer
David de Figueiredo, Secretary

Kevin Asher
Wendall Mitchell
Joseph Osha
Cynthia Prince
Dante Robinson
Melanie Shelby
Heather Zona

Christine Stoner-Mertz, LCSW
President and CEO

Administrative Offices:

4368 Lincoln Avenue
Oakland, CA 94602

TEL 510.531.3111
FAX 510.530.8083
www.lincolnchildcenter.org

Ms. Heather Klein
Planner, City of Oakland
250 Frank H. Ogawa Plaza
Suite 2114
Oakland, CA 94612

Re: Request to Amend Conditional Use Permit No. CMV 96-104, REV 98-4

Dear Ms. Klein:

Lincoln Child Center (LCC) has authorized Head Royce School (HRS) to file an application to amend Conditional Use Permit No. CMV 96-104, REV 98-4 as proposed in the attached application.

Sincerely,

Christine Stoner-Mertz, LCSW
President/CEO



Head-Royce School

scholarship · diversity · citizenship

September 9, 2013

since 1887

Ms. Heather Klein
Oakland Planning Department
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Re: Head Royce School 2012-13 Compliance Matrix

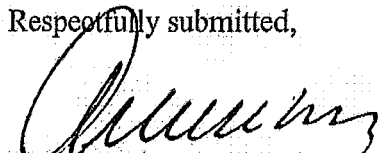
Dear Ms. Klein:

Enclosed please find the 2012-13 Compliance Matrix and supporting exhibits for Head Royce School (HRS). This submission satisfies PUDF07-520 Condition of Approval 19 by listing each condition of approval and stating the actions taken by HRS to remain in compliance.

HRS has taken extensive steps to meet and exceed the requirements set forth in the conditions of approval. However, should the City of Oakland determine that HRS is not in compliance with any condition, it requests the City provide it with a detailed point-by-point explanation of how exactly HRS is out of compliance in order to facilitate prompt resolution of any such issue.

Should the City have any questions about this submission, please do not hesitate to contact me.

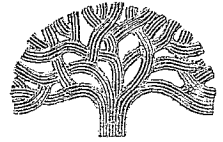
Respectfully submitted,



Dennis Malone
Chief Financial Officer
Head Royce School

cc: Rachel O'Dwyer Flynn
Oakland Planning and Building Director
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Heather Lee
Deputy City Attorney
Oakland City Hall, 6th Floor
1 Frank Ogawa Plaza



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

Department of Planning and Building
Planning & Zoning Division

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

**NOTICE OF COMPLAINT, NOTICE OF VIOLATION and
NOTICE OF DETERMINATION**

VIA EMAIL AND US MAIL

February 11, 2014

Dennis Malone
Chief Financial Officer
Board of Trustees
Head Royce School
4315 Lincoln Ave.
Oakland, CA 94602

**RE: Compliant No: 0906270
 Violation No: 1303434
 Case File No.: PUD04-400; PUDF05-339; ER04-0014
 Project Address: 4233, 4309, and 4315 Lincoln Ave. and 4274 Whittle Ave.**

Dear Mr. Malone,

This letter is in response to the September 9, 2013 letter and Compliance Matrix from Head Royce School (HRS) for the Conditions of Approval of the Planned Unit Development (PUD) Permit. HRS requests a "point by point" explanation if the City determined HRS to be non-compliant. **The purpose of this letter is to inform you that the City has reviewed the documents and made a formal Determination that HRS is non-compliant with its Conditions of Approval.** Below is a list of the non-compliant Conditions, the justifications for the City's determination of non-compliance, and the additional documentation and actions required to meet all compliance requirements.

Condition 1: Approved Use

This Condition requires HRS to operate in accordance with the authorized use of the property as described in the project description and PUD plans, and as amended by the Conditions of Approval. *As detailed in the listed Conditions below, it is the City's determination that the School is not operating in accordance with Condition 1 because it is non-compliant with other related Conditions.* In order for the School to come into compliance with this Condition, HRS must operate within the confines of the approved PUD permit or submit an application to amend the PUD permit and secure approval of said amendment.

Condition 6c: Conformance to Approved Plans; Modifications of Conditions or Revocation

Similar to Condition 1, this Condition states that violation of any term, Condition or Mitigation Measure is unlawful, prohibited, and a violation of the Oakland Municipal Code. Any violation permits the City to initiate enforcement or alter the Conditions of Approval. *As detailed in the listed Conditions below, it is*

the City's determination that the School is not operating in accordance with Condition 6c because it is non-compliant with other related Conditions. In order for the School to come into compliance with this Condition, HRS must operate within the confines of the approved PUD permit or submit an application to amend the PUD permit and secure approval of said amendment.

Condition 8: Compliance with Conditions of Approval

Similar to Condition 1 and 6c, this Condition requires compliance with all Conditions of Approval. *As detailed in the listed Conditions below, it is the City's determination that the School is not operating in accordance with this Condition because it is non-compliant with other related Conditions.* In order for the School to come into compliance with this Condition, HRS must operate within the confines of the approved PUD permit or submit an application to amend the PUD permit and secure approval of said amendment.

Condition 38: Student Enrollment (Maximum Enrollment and Phase I and II Enrollment)

This Condition states that the maximum student enrollment shall be 880 students plus 3% for a total of 906 students. The enrollment increases were to be implemented in three phases based on completion of certain conditions (See Attachment B: Neighborhood Agreements).

Per the Neighborhood Agreements, the first phase of enrollment (760 plus 3% for a total of 783 students) would be permitted upon the completion of several actions. The City has determined that HRS implemented all of the required actions and is entitled to the first phase of enrollment.

Per the Neighborhood Agreements, the second phase of enrollment (820 plus 3% for a total of 845 students) would be permitted upon completion of several actions, including:

- 1) Lease agreement for the use of 30 institutional parking spaces (Lincoln Child Care site) or construction of 15 additional on-site parking spaces,
- 2) Construction of 35 on-site parking stalls with access off of Lincoln Avenue (same as Item 1 required in the first phase),
- 3) Install a heavy-duty security gate to the parking lot/athletic field,
- 4) Eliminate cross-campus throughway connection from Lincoln to Whittle Avenue, and
- 5) Improve landscaping on the hillside adjacent to the athletic field by implementing a modest landscape plan including California native drought tolerant plants.

The City has determined that items 1 through 4 have been completed. However, the documentation provided in the Compliance Matrix does not adequately prove completion of item 5, "Improve landscaping on the hillside adjacent to the athletic field by implementing a modest landscape plan including California native drought tolerant plants." The Matrix notes that native plants and oak trees were installed in 2006. However, the City has no record that HRS submitted a landscape plan. In our previous letters from 2009 and 2010, the City requested that HRS submit documentation showing that the landscape was installed. *Until this documentation is received and approved, the City considers HRS non-compliant with the terms of the second enrollment increase.* HRS must submit evidence (i.e., landscape plan, City approvals, etc.) or submit and implement a modest landscape plan of California native drought tolerant plants for the hillside.

Condition 39: Student Enrollment for Final Phase- 2021

Per the Neighborhood Agreements, the third phase of enrollment (880 plus 3% for a total maximum enrollment of 906 students) would be permitted after January 4, 2021. Per an e-mail from HRS dated December 13, 2013, the current student enrollment is 873 students, exceeding the maximum permitted enrollment by 28 students. In addition, HRS has not constructed or formally acquired the additional 20 parking spaces required. *Therefore, it is the City's determination that HRS is non-compliant with the requirements of Condition 39 and is not permitted the third enrollment increase.* HRS must either reduce

enrollment or move forward with the current application to amend the Conditions of Approval and receive City approval, in order to legalize the current enrollment.

Condition 45: Special Inspector

This Condition requires HRS to submit a deposit for ongoing costs associated with peer reviews, monitoring, inspections, violations of Conditions of Approval, etc. A formal complaint necessitated City staff investigation into compliance with the Conditions of Approval. In April of 2010, City staff requested a deposit of \$3,000 to cover staff's time as well as a potential peer review of the traffic situation. *The School has not submitted this deposit fee and is non-compliant with this Condition.* The City is still requesting that HRS submit a \$3,000 deposit for this ongoing work.

Condition 46: Neighborhood Agreements

This Condition incorporates the Neighborhood Agreements between HRS and the Whittle, Alida, and Lincoln neighborhoods into the Conditions of Approval.

Whittle Agreement Item 5; Alida Agreement Item 5

This item, in both Agreements, requires "HRS to use its good faith efforts to clarify, monitor, and enforce the traffic, parking, and drop-off rules" and includes several actions.

- 1) Broad distribution of a more simplified list of school traffic rules to the entire school community including summer population and visitors,
- 2) Regularly communicate need to obey rules with parents, staff, visitors, etc.,
- 3) Monitors to wear identifiable vests and for the first time use digital cameras for tracking down violators,
- 4) HRS to send the neighbors an annual calendar listing special events that may affect parking and traffic,
- 5) Establish a Community Liaison staff position with a special hot line telephone number,
- 6) Institutionalize traffic safety as part of HRS's Board of Trustees oversight,
- 7) Ongoing review and coordination of HRS traffic related issues by working with the Neighborhood Liaison Committee,
- 8) HRS will regularly discuss with the Neighborhood Liaison Committee whether efforts to implement the actions specified have been effective and whether further actions are necessary,
- 9) Put procedures in place to enforce the traffic, parking, and drop-off rules, including the establishment of clear consequences for members of the school's community who violate rules,
- 10) Increase on site monitoring as required, and
- 11) Add monitoring during special events.

The City has determined that HRS has complied with actions 1 through 8. *However, the City has determined that HRS is non-compliant with actions 9 through 11. These actions are discussed below in more detail.*

Action 9

In regards to Action 9, the City has not received monitoring and reporting procedures for traffic enforcement, parking, and drop-off rules, including the establishment of consequences for members of the school's community who violate rules. The Matrix only notes that monitors are present and that the School has a violation policy. The City requires that HRS provide written procedures that detail monitoring duties, how violations are to be documented and reported to HRS staff, and how these violations are addressed. *Until such monitoring procedures are submitted, HRS is non-compliant with this requirement.* The City requires that HRS submit a written set of procedures for each monitoring position with the duties of that position clearly outlined, along with procedures for how violations are documented, reported to staff, and addressed.

Action 10

Action 10 requires HRS to increase on-site monitoring as required. The Compliance Matrix notes that daily monitoring is maintained and includes a monitor placement exhibit. However, the Matrix does not include any procedures that indicate how HRS evaluates whether additional monitoring is needed. *As noted above, until HRS submits a written set of monitoring procedures, it is non-compliant with this requirement.*

Action 11

Action 11 requires HRS to perform additional monitoring during special events. The Compliance Matrix notes that HRS hires security guards to put up signs and monitor the area. However, clear written monitoring procedures specific for events have not been submitted. Different size events will require different monitoring, monitoring areas, timeframes, and data collection. In addition, traffic rule violations during evening hours cannot be collected using daytime procedures. Therefore, the need to have written monitoring procedures is essential since non-school personnel are hired to implement this requirement. *Until specific event monitoring procedures are submitted, along with the means to evaluate the need for additional monitoring, HRS is non-compliant with this requirement.*

Whittle Agreement Item 7

See the discussion above regarding Condition 38: Student Enrollment and specifically, implementation of a landscape plan for the hillside above the athletic field.

Whittle Agreement Item 2, Part II

See the discussion above regarding Condition 38: Student Enrollment.

Lincoln Agreement Item 5

This item requires the design of the Master Plan to provide for bulk delivery access from the Whittle Gate and small packages be delivered to the administration building on Lincoln. Specifically, bulk items (such as bulk food, large book shipments, and other bulk items) will be directed to the bulk delivery site accessed from Whittle. Parcel and packages from overnight delivery services and the U.S. Postal Service shall be accessed from Lincoln Avenue. The Compliance Matrix notes that HRS has defined bulk as those items arriving on pallets. The Matrix also notes that refrigerator food trucks use Lincoln Avenue because these trucks are more disruptive and less safe on narrower streets. The Matrix notes that HRS has attempted to engage vendors regarding delivery timeframes. Although not noted in the Matrix, in the past HRS has received bulk deliveries of playground material from Lincoln Avenue.

The City disagrees with HRS's definition of bulk deliveries being based on pallet size and not truck size. It is clear from the requirement that only parcels and packages from overnight delivery services such as Fed-Ex or the US Postal Service should be using Lincoln Avenue. Furthermore, the City disagrees with the assertion that the playground material should not count as a violation because it occurred prior to the Master Plan approval. *Therefore, HRS is non-compliant with this requirement.* HRS should inform vendors that smaller box trucks be used for deliveries and that deliveries should be made on Whittle Avenue or an alternative drop-off/pick-up location in a more appropriate non-residential area. HRS should also prepare written procedures for delivery requirements.

Lincoln Agreement 13

This item requires that HRS increase monitoring at the intersection of Lincoln and Burlington and adjust the monitoring as needed. The Compliance Matrix notes that intermittent monitoring occurs at Lincoln and Burlington and that no u-turns have been recorded. However, this item does not specify that only u-turns be monitored or that u-turns are the only basis for increasing or decreasing monitoring timeframes. In addition and as noted above, HRS has not submitted any procedures that indicate when it monitors or the criteria for increasing or a decreasing monitoring. Finally, monitors are not shown on the monitor position submission (Exhibit 23) for this intersection. *HRS is non-compliant with this requirement until a*

clear set of procedures for monitoring this intersection and evaluating the need for an increase or a reduction in monitoring is required.

Condition 47: Traffic Rules

Condition 47 states the applicant shall distribute packages containing traffic rules clearly outlined in the enrollment contract for that year. The rules should include a written traffic monitoring plan and a graphic showing the correct way to drop-off and pick-up students. The package will also include a letter that must be signed and returned by each parent/guardian delivering students. Consequences for not following the school rules need to be clearly established and include fines and enrollment suspension. HRS is also required to hold parent meetings at the beginning of each semester to discuss the current traffic rules.

Staff agrees that HRS has developed and distributed packages containing traffic rules to the HRS community, as well as a letter to be signed and returned to HRS. Consequences for traffic violations have been established and HRS holds meetings regarding compliance with the traffic rules prior to the beginning of each semester. *However, as noted above in Condition 46: Whittle and Alida Agreement Item 5: Action 9, HRS shall submit a written set of procedures for training, monitoring, recordation and enforcement which meets the overall intent of Condition of Approval 47. HRS is non-compliant with this Condition until such procedures are submitted.*

Condition 51: Monitoring Whittle Avenue

Condition 51 states that HRS shall randomly monitor Whittle Avenue and ensure that students, parents, and teachers are not parking in residential permit parking only spaces. The Compliance Matrix notes that monitoring and video surveillance are provided to ensure HRS related persons are not using the Whittle gate. However, Condition 51 is not about prohibited uses of the Whittle Gate. This condition is about the monitoring of residential permit parking spaces. In addition, and as noted above, HRS has not submitted any procedures that indicate when HRS monitors Whittle Avenue, what the monitoring duties are, or the documentation of violations and their reporting. *HRS is non-compliant with this requirement until a clear set of procedures for monitoring this area is submitted.*

Finally, the City views the Conditions of Approval as an entire set of requirements, which in their totality make a project acceptable to the City and meet the required Findings for Approval. Therefore, HRS is either in compliance with all the Conditions of Approval or it is non-compliant. HRS is not entitled to any additional expansion of operation until all outstanding items have been satisfied and HRS is considered in compliance or the PUD permit is amended to come into compliance.

ADDITIONAL INFORMATION REQUESTED TO DETERMINE COMPLIANCE

Condition 13: Subsequent Conditions and Requirements and Condition 36: Mitigation Monitoring and Reporting Program

This Condition requires conformance with the Mitigation Measure contained in the Mitigated Negative Declaration (MND) adopted by the Oakland Planning Commission on January 4, 2006. Mitigation Measure T1 requires HRS to monitor the extent of the after-school pick-up queue along Lincoln Avenue. If the queue extends past the upper driveway and the “no parking” zone above the driveway, HRS would implement specific actions to reduce the queue, if necessary. *It appears that HRS is in compliance; however, the City requests that the available videos be submitted to confirm.*

SUMMARY

The City has determined HRS is non-compliant in regards to certain Conditions of Approval. Each item above explains the City’s determination, the justification for the City’s determination, and how HRS may come into compliance with the Conditions.

This determination of noncompliance may be appealed pursuant to the administrative appeal procedure in Oakland Planning Code Chapter 17.132. If you, or any interested party, seek to challenge this decision, an appeal **must** be filed by no later than ten (10) calendar days from the date of this letter, by **4:00 pm on February 21, 2014**. An appeal shall be on a form provided by the Planning and Zoning Division of the Department of Planning and Building, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 3115, to the attention of **Heather Klein, Planner III**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City or wherein the City's decision is not supported by substantial evidence. 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. The appeal 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 will be limited to issues and/or evidence presented to the City prior to the close of the previously noticed public comment period on the matter.

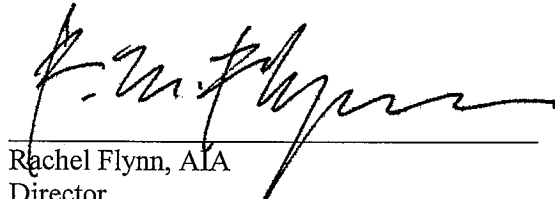
If you choose to proceed with an Appeal, please be aware that the Planning Commission will only be considering whether there was error or abuse of discretion or wherein this interpretation/determination is not supported by substantial evidence.

Please don't hesitate to contact me if you have any questions regarding this letter.

Sincerely,



Heather Klein
Planner III



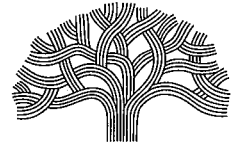
Rachel Flynn, AIA
Director

Attachments:

- A: Head Royce School, PUDF07-520 Conditions of Approval
- B: Neighborhood Agreements

cc: Head Royce Neighborhood Liaison Committee
Scott Miller, Zoning Manager
Heather Lee, Deputy City Attorney
Robert Lake, Head of Head Royce School
Anne Mudge, Cox, Castle & Nicholson LLP
Libby Schaff, Councilmember for District 4

CITY OF OAKLAND



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Department of Planning and Building
Zoning Division

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

NOTICE OF DETERMINATION

VIA E-MAIL AND US MAIL

May 5, 2015

Dennis Malone
Chief Financial Officer
Board of Trustees
Head Royce School
4315 Lincoln Ave.
Oakland, CA 94602

RE: Compliant No: 0906270
 Violation No: 1303434
 Case File No.: PUD04-400; PUDF05-339; ER04-0014
 Project Address: 4233, 4309, and 4315 Lincoln Ave. and 4274 Whittle Ave.

Dear Mr. Malone:

This letter addresses the actions taken by Head Royce School (HRS) in response to the City's February 11, 2014 letter notifying HRS that it was not in full compliance with its Conditions of Approval of the Planned Unit Development (PUD) Permit. The purpose of this letter is to inform you that the City has reviewed the actions taken and the documents submitted by HRS and made a determination that, with the exception of meeting the conditions for Phase III enrollment, HRS has come into compliance with its Conditions of Approval as detailed below.

Condition 1: Approved Use

This Condition requires HRS to operate in accordance with the authorized use of the property as described in the project description and PUD plans, and as amended by the Conditions of Approval. It is the City's determination that since the School has exceeded its Phase III enrollment, the School is still non-compliant with Condition 1.

Condition 6c: Conformance to Approved Plans; Modifications of Conditions or Revocation

Similar to Condition 1, this Condition states that violation of any term, Condition or Mitigation Measure is unlawful, prohibited, and a violation of the Oakland Municipal Code. Any violation permits the City to initiate enforcement or alter the Conditions of Approval. It is the City's

determination that since the School has exceeded its Phase III enrollment, the School is still non-compliant accordance with Condition 6c.

Condition 8: Compliance with Conditions of Approval

Similar to Condition 1 and 6c, this Condition requires compliance with all Conditions of Approval. It is the City's determination that since the School has exceeded its Phase III enrollment, the School still non-compliant with Condition 8.

Condition 38: Student Enrollment (Maximum Enrollment and Phase I and II Enrollment)

This Condition states that the maximum student enrollment shall be 880 students plus 3% for a total of 906 students. The enrollment increases are to be implemented in three phases based on completion of certain conditions. The City has determined that HRS has implemented the required actions to be entitled to the first and second phases of enrollment (for a maximum of 845 students).

Condition 39: Student Enrollment for Final Phase - 2021

The third phase of enrollment (880 plus 3% for a maximum enrollment of 906 students) is permitted 15 years after the approval of the 2006 Master Plan. HRS's current student enrollment is approximately 875 students, which is more than it is permitted under Phase II enrollment. HRS has applied for an amendment to its PUD to remove the timing restriction on Phase III enrollment. That application is pending. However, unless and until that application is approved, it is the City's determination that HRS is non-compliant with the requirements of Condition 39.

Condition 45: Special Inspector

This Condition requires HRS to submit a deposit for ongoing costs associated with peer reviews, monitoring, inspections, violations of Conditions of Approval, etc. HRS has submitted funds and is in compliance with this Condition.

Condition 46: Neighborhood Agreements

This Condition incorporates the Neighborhood Agreements between HRS and the Whittle, Alida, and Lincoln neighborhoods into the Conditions of Approval.

Whittle Agreement Item 5: Alida Agreement Item 5

This item, in both Agreements, requires "HRS to use its good faith efforts to clarify, monitor, and enforce the traffic, parking, and drop-off rules" and includes nine actions. The City has determined that HRS has submitted additional written procedures containing its traffic rules and is now in compliance with actions 1 through 9.

Whittle Agreement Item 7

This item requires the School to improve landscaping on the hillside adjacent to the athletic field. The landscaping has been installed and the City's Zoning Compliance Division has inspected the

landscaping. Per the discussion above regarding Condition 38: Student Enrollment, the City has determined that HRS is in compliance with this Condition. Whittle Agreement Item 2, Part II
See the discussion above regarding Condition 38: Student Enrollment.

Lincoln Agreement Item 5

This item requires the design of the Master Plan to provide for bulk delivery access from the Whittle Gate and small packages be delivered to the administration building on Lincoln. Specifically, bulk items (such as bulk food, large book shipments, and other bulk items) will be directed to the bulk delivery site accessed from Whittle. Parcel and packages from overnight delivery services and the U.S. Postal Service shall be accessed from Lincoln Avenue. The City has reviewed HRS's directives to its delivery vendors as well as the delivery practices and has determined HRS is currently in compliance with this Condition.

Lincoln Agreement 13

This item requires that HRS increase monitoring at the intersection of Lincoln and Burlington and adjust the monitoring as needed. In response to the City's February 7, 2014 letter, HRS submitted a clear set of procedures for monitoring this intersection and evaluating the need for an increase or a reduction in monitoring. The City has reviewed the procedures and has determined HRS is in compliance with this Condition.

Condition 47: Traffic Rules

Condition 47 states the applicant shall distribute packages containing traffic rules clearly outlined in the enrollment contract for that year. In response to the City's February 7, 2014 letter, HRS submitted a written set of procedures for training, monitoring, recordation and enforcement which meets the overall intent of Condition of Approval 4. The City has reviewed the procedures and determined HRS is in compliance with this Condition.

Condition 51: Monitoring Whittle Avenue

Condition 51 states that HRS shall randomly monitor Whittle Avenue and ensure that students, parents, and teachers are not parking in residential permit parking only spaces. In response to the City's February 7, 2014 letter, HRS has submitted written procedures for monitoring this area. The City has reviewed the procedures and determined HRS is in compliance with this Condition.

ADDITIONAL INFORMATION REQUESTED IN THE FEBRUARY 7, 2014, LETTER TO DETERMINE COMPLIANCE

Condition 13: Subsequent Conditions and Requirements and Condition 36: Mitigation Monitoring and Reporting Program

This Condition requires conformance with the Mitigation Measure contained in the Mitigated Negative Declaration (MND) adopted by the Oakland Planning Commission on January 4, 2006. Mitigation Measure T1 requires HRS to monitor the extent of the after-school pick-up queue along Lincoln Avenue. If the queue extends past the upper driveway and the "no parking" zone above the driveway, HRS would implement specific actions to reduce the queue, if necessary. To

confirm compliance with this Condition, the City also requested videos of queuing during the after-school pick up period in its February 7, 2014 letter. HRS has delivered the videos.

SUMMARY

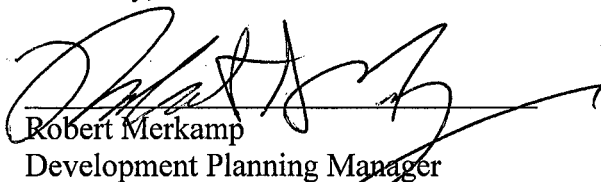
The City has determined HRS is compliant with all Conditions of Approval except Condition 39, concerning Phase III enrollment and 1, 6c and 8 as the School is non-compliant with Condition 39. Each item above explains the City's determination and the justification for the City's determination.

This determination may be appealed pursuant to the administrative appeal procedure in Oakland Planning Code Chapter 17.132. If you, or any interested party, seek to challenge this decision, an appeal **must** be filed by no later than ten (10) calendar days from the date of this letter, by **4:00 pm on May 15, 2015**. An appeal shall be on a form provided by the Bureau of Planning of the Department of Planning and Building, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2214, to the attention of **Heather Klein, Planner III**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City or wherein the City's decision is not supported by substantial evidence. 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. The appeal 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 will be limited to issues and/or evidence presented to the City prior to the close of the previously noticed public comment period on the matter.

If you choose 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.

Please don't hesitate to contact me if you have any questions regarding this letter.

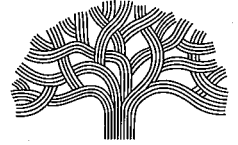
Sincerely,



Robert Merkamp
Development Planning Manager

cc: Head Royce Neighborhood Liaison Committee
Rachel Flynn, Director of Planning and Building
Heather Klein, Planner III
Heather Lee, Deputy City Attorney
Robert Lake, Head of Head Royce School
Anne Mudge, Cox, Castle & Nicholson LLP
Annie Campbell Washington, Councilmember for District 4

CITY OF OAKLAND



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Department of Planning and Building
Zoning Division

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TDD (510) 238-3254

VIA E-MAIL AND US MAIL

July 15, 2015

Dennis Malone
Chief Financial Officer
Board of Trustees
Head Royce School
4315 Lincoln Ave.
Oakland, CA 94602

RE: Case File No.: PUD04-400; PUDF05-339; ER04-0014; REV13-003
Project Address: 4233, 4309, and 4315 Lincoln Ave. and 4274 Whittle Ave.

Dear Mr. Malone:

Since the Head Royce School's (School) Planned Unit Development (PUD) permits were approved and the master plan constructed in 2009, the City staff has received ongoing complaints regarding the School's non-compliance with its Conditions of Approval. City staff sent numerous letters between 2009 and 2010 describing the School's non-compliance and met with you on several occasions to identify a process by which the School could come into compliance. Specifically, the City requested that the School amend its Conditions of Approval to include a Transportation Demand Management Plan (TDM) and implement the program. In addition, City staff also requested that the School amend several other Conditions to address the ongoing complaints by the surrounding neighbors.

On August 9, 2012, a Revocation complaint was filed against the School citing ongoing non-compliance with the Conditions of Approval. The grounds for Revocation included, but were not limited to, traffic and parking issues, lack of enforcement of traffic rules and monitoring, operation of the summer camp, events, noise, deliveries, and maintenance and fire issues. On September 17, 2012, City staff determined that there was sufficient evidence to set a hearing before a Hearing Officer to revoke or amend the School's approvals. On February 14, 2013 the City formally stayed the Revocation process and the School filed an amendment to its PUD on February 28, 2013. Since 2013, the School has come into compliance with its Conditions of Approval, as noted in the City's May 5, 2015 letter, except for Condition #39 regarding Phase III enrollment.

City staff has reviewed your revised May 8, 2015 application requesting approval to commence with Phase III enrollment prior to January 4, 2021 and imposition of a TDM program as a new Condition of Approval for the Project. While the revised application and completion of a TDM begin to address the numerous neighborhood complaints, it does not thoroughly address the City's concerns or the other Revocation issues. As such, City staff is recommending that the Conditions of Approval be substantially modified and that additional Conditions of Approval be imposed. Revisions to the Conditions of Approval adopted by the Planning Commission on March 5, 2008 as part of the approval of the second phase of the Master Plan are shown in underline and ~~strikeout text~~ in Attachment A and are summarized

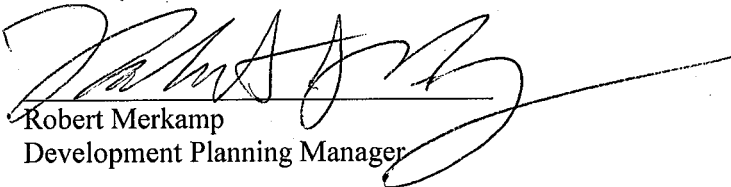
below. In addition, staff has provided a clean version of the recommended Conditions of Approval in Attachment B.

- Removal of Conditions of Approval associated with construction as the Master Plan has been completed and no additional construction is being proposed.
- Modifications to the Summer Program enrollment and operations, limits on events, further requirements to address School traffic including traffic assistants, monitoring, an auto trip reduction, event traffic, traffic safety rules, enforcement, and compliance reporting, and deliveries to address the Revocation complaint.
- Removal of the Neighborhood Agreements as the City did not participate in negotiation of the terms of the Agreements, was not a signatory to the Agreements and the Agreement language was written in a manner as to make them difficult for the City to enforce. Where applicable some items in the Agreements have become additional Conditions of Approval.

Please review the attached revised Conditions of Approval and provide any comments or concerns to staff within thirty (30) calendar days of this letter (i.e., August 14, 2015). Furthermore, as the revised Conditions of Approval include additional requirements that affect the TDM plan, City staff is requesting the School revise the TDM plan also within thirty (30) calendar days of this letter (i.e., August 14, 2015) so that document is consistent with the recommended Conditions.

Please don't hesitate to contact Heather Klein at (510)238-3659 or at hklein@oaklandnet.com if you have any questions regarding this letter.

Sincerely,



Robert Merkamp
Development Planning Manager

cc: Head Royce Neighborhood Liaison Committee and Distribution List
Rachel Flynn, Director of Planning and Building
Heather Klein, Planner III
Heather Lee, Deputy City Attorney
Bill Quesada, Zoning Inspection, Bureau of Building
Robert Lake, Head of Head Royce School
Anne Mudge, Cox, Castle & Nicholson LLP
Annie Campbell Washington, Councilmember for District 4

Attachment A: Bureau of Planning's proposed revised Conditions of Approval (Compare Version)

Attachment B: Bureau of Planning's proposed revised Conditions of Approval (Clean Version)

From: [Klein, Linda C.](#)
To: [Klein, Heather](#)
Cc: [Mudge, Annie](#)
Subject: Head Royce School: Response to the July 15 2015 Letter
Date: Tuesday, August 18, 2015 9:40:50 AM

Hi Heather,

I'm writing in response to your July 15, 2015 letter concerning the proposed conditions of approval for the enrollment increase at Head Royce School. The School believes the proposed conditions would be workable, but would like the opportunity to further discuss Conditions 11 and 23 (the numbers correspond to the clean version of the proposed conditions). In particular, the School has concerns about the scope of the traffic monitoring and the number of traffic assistants.

Please let me know when the City may be available to discuss the School's concerns.

Annie and I look forward to continuing to work with you on the above issues.

Best,
Linda

Linda C. Klein



Cox, Castle & Nicholson LLP

555 California Street | 10th Floor | San Francisco, CA 94104

direct: 415.262.5130 | *cell:* 310.985.9381

main: 415.262.5100 | *fax:* 415.262.5199

lklein@coxcastle.com | [vCard](#) | [bio](#) | [website](#) | 

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