

Attachment A

Location:	Head Royce School 4233, 4309, and 4315 Lincoln Ave and 4274 Whittle Ave; APN: 029A-1367-001-07 through 029A-1367-006-01
Proposal:	<ol style="list-style-type: none"> 1) Revision to approved Condition of Approval #39 (Case File PUDF07-520). This Condition only permits the School to implement the final 3rd enrollment increase, as part of the approved 2006 master plan, after January 4, 2021. The School is requesting permission to legalize their current enrollment (875) and reach the 3rd enrollment phase prior to January 4, 2021. 2) Revision to the approved Conditions of Approval (Case File PUDF07-520) removing Conditions associated with the previous master plan construction, addressing issues outlined within the 2012 Revocation complaint; and removing the Neighborhood Agreements. 3) Approval of the Transportation Demand Management (TDM) Program.
Applicant:	Head Royce School
Contract Person/Phone Number:	Dennis Malone, (510) 531-1300
Owner:	Head Royce School
Case File Number:	REV130003 (related Case Files: PUD04-400; PUDF05-339; ER04-0014)
Planning Permits Required:	<p>No Permits are required pursuant to the Planning Code. Actions to consider include revisions to previously approved Conditions of Approval and approval of a TDM program.</p> <p><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 (PUD04-400; PUDF05-339.) The second phase of the master plan was approved on March 5, 2008 (Case File PUDF07-520).</i></p>
General Plan:	Hillside Residential, Detached Unit Residential
Zoning:	Hillside Residential Zone -4 (RH-4); Detached Unit Residential Zone – 1 (RD-1)
Environmental Determination:	CEQA Guidelines Section 15314, Minor Additions to Schools; Section 15183, Projects Consistent with a Community Plan, General Plan or Zoning. In addition, a Mitigated Negative Declaration which was adopted by the Planning Commission on January 4, 2006 (Case File ER04-0014) for the Master Plan. No further environmental review is required.
Historic Status:	The existing buildings are not Potentially Designated Historic Properties (PDHP).
Service Delivery District:	III
City Council District:	4
Date Filed:	February 28, 2013
Staff Recommendation:	Decision on application based on staff report
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact project planner Heather Klein at (510) 238-3659 or hklein@oaklandnet.com

SUMMARY

In January 2006, the Planning Commission approved a Preliminary Planned Unit Development permit (PUD) for a phased master plan and a Final Development Permit (FDP) for the first phase at Head Royce School. The master plan included a 180 student enrollment increase with a $\pm 3\%$ fluctuation rate, up to 906 students. Per several Neighborhood Agreements (Agreements) imposed as Condition of Approval #39, the enrollment increase would occur in three phases. The last enrollment phase would occur no earlier than January 4, 2021 (15 years after approval of the master plan).

In March 2008, the Planning Commission approved a FDP for the final phase of the master plan. The FDP eliminated all remaining physical improvements of the master plan. All demolition and construction components of the master plan have been completed.

Based on complaints filed in 2008 and 2009, City staff determined the School non-compliant with several Conditions of Approval. In 2012, several neighbors filed for Revocation of the School's PUD permit pursuant to Planning Code Section 17.152. The City determined that sufficient evidence was submitted to set a hearing before a Hearing Officer. However, the City agreed to stay the Revocation process based on the School's proposal to submit an application to come into compliance with its Conditions and submit a Transportation Demand Management (TDM) program to be approved as an additional Condition of Approval.

The School is not proposing any construction as part of the Project. The City has determined the School's compliance with all Conditions of Approval except enrollment. The School submitted an application to legalize its current enrollment of 875 students (a maximum of 845 students are permitted) and a TDM. In addition to the School's request, the City is proposing extensive revisions to the School's Conditions of Approval to address many of the items in the Revocation complaint.

The purpose of this meeting is to receive public testimony and Planning Commission comments concerning the School's proposal and amendments to the Conditions of Approval. Staff recommends the Planning Commission approve the:

- 1) Amendments to the Conditions of Approval, including the enrollment increase, and
- 2) Transportation Demand Management (TDM), subject to the findings contained in this staff report.

BACKGROUND

Approved Master Plan

On January 4, 2006, the Planning Commission approved a PUD for a phased master plan at Head Royce School along with a FDP for the first phase (*Attachment A-1*). The master plan included an increase in student enrollment up to 906 students (880 students with a $\pm 3\%$ fluctuation rate.) Several Agreements, signed between the School and the surrounding neighborhood groups, became a Condition of Approval. Per the Agreements, enrollment would occur in three phases, based on implementation of certain items (*Attachment A-2*). The last enrollment phase, allowing up to 906 students, would occur no earlier than January 4, 2021 (15 years after approval of the master plan).

On March 5, 2008, the Planning Commission approved a FDP for the final phase of the master plan (*Attachment A-3*). The School indicated it would no longer pursue the additional construction outlined in the master plan.

After completion of the master plan, formal complaints (0807016 and 0906270) were filed against the School regarding deliveries and other non-compliance with the Conditions of Approval. City staff investigated the neighbor's concerns and wrote several determinations of non-compliance in 2009 and 2010 (*Attachment A-4*).

The City met with the School in 2010 and agreed to stay enforcement proceedings if the School would come into compliance with its conditions of approval and submit a TDM program. The School hired a traffic consultant in 2011 to look at ways it could implement improvements to drop off and pick up operations and develop a TDM program.

Revocation Compliant

On August 9, 2012, a Revocation Complaint was filed pursuant to Planning Code Section 17.152 (*Attachment A-5*) alleging non-compliance with the Conditions of Approval. In accordance with the Code, the City determined that sufficient evidence existed at that time to set a hearing before a Hearing Officer (*Attachment A-6*). However, on February 14, 2013, the City stayed revocation proceedings as the School agreed to submit an application to address the student enrollment and amend its Conditions of Approval to include a comprehensive TDM program as previously requested.

School Actions to Address Revocation Complaint and Compliance with Conditions of Approval

On February 28, 2013, the School submitted an application (*Attachment A-7*) to legalize its current 875 student enrollment and approve a TDM. While the application was being reviewed by City, the School also requested another determination letter and a “point by point” explanation if the City determined the School to be non-compliant (*Attachment A-8*). On February 11, 2014, the City again determined the School non-compliant in regards to a few of the Conditions (*Attachment A-9*).

Between February 2014 and May of 2015, the School completed the necessary actions to permit the phase 2 enrollment increase. On May 5, 2015, the City determined that the School was compliant with all of its Conditions of Approval except the phase 3 enrollment (*Attachment A-10*). This determination was not appealed.

On July 15, 2015, City staff sent a letter to the School noting that the submittal did not yet thoroughly address the City’s concerns with interpretation and enforcement of the Conditions of Approval or the Revocation Complaint (*Attachment A-11*). Specifically, the proposal did not address:

1. Removal of Conditions of Approval associated with construction as the Master Plan has been completed, and no additional construction is being proposed.
2. Modifications to the Summer Program enrollment and operations; limits on events; traffic assistants; monitoring; an auto trip reduction; event traffic; traffic safety rules enforcement and compliance reporting; and deliveries as new Conditions of Approval.

In response, the City proposed a revised set of Conditions of Approval to address these issues as well as removal of the Agreements. The City is proposing removal of the Agreements as these documents should have remained a civil agreement between the parties that drafted and signed them. Imposition of the Agreements as a Condition of Approval is problematic as the City did not participate in negotiation of the Agreement’s terms, 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, reasonable and enforceable, the City included some of the measures from in the Agreements in the revised Conditions of Approval. The City requested that the School accept the revised Conditions which it did via e-mail on August 18, 2015. However, the School indicated that it had concerns with the scope of the traffic monitoring and number of traffic assistants (*Attachment A-12*).

Community Meeting to Discuss the School’s Application

On August 11, 2015, the School held a town hall meeting to discuss the proposed application, the TDM, and the City’s proposed Conditions of Approval. The meeting was attended by approximately 75 neighbors. The concerns voiced at the meeting include issues pertaining to enforcement and complaint management, traffic and parking, special events, the summer program, enrollment, deliveries and use of the residential properties by the School.

PROJECT SITE AND SURROUNDING AREA

Head Royce School is located between Lincoln Avenue and Whittle Avenue and between Highway 13 and Tiffin Road (*Attachment B*). The Project site encompasses approximately 14 acres and is located in a naturally occurring wooded canyon. The site supports an Upper School (grades 9-12), a Middle School (grades 6-8), and Lower School (grades K-5). Playing fields and parking occupy the upper end of the site. The School owns several residential properties along Lincoln and Whittle Avenues.

The Project site is surrounded by a variety of civic and residential uses. The former Lincoln Child Center (the property has since been purchased by Head Royce), 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 not proposing any construction as part of the Project. The School's master plan, approved by the Planning Commission on January 4, 2006, included physical campus improvements and an enrollment increase of up to 880 students with a fluctuation rate. While the fluctuation rate was meant to provide a buffer addressing a complex enrollment contract process, the Planning Commission effectively did approve the 906 student maximum, vesting this enrollment, as the School could reach this maximum fluctuation rate every time. However, per the Agreements, the 3rd enrollment phase could only occur after January 4, 2021. The School is requesting that it be allowed to achieve the maximum 906 student enrollment earlier than anticipated but in 3 phases and implementation of a TDM with an appendix Transportation Policy Guide (*Attachment C*). The tables below summarize the approved and proposed enrollment numbers, fluctuation rates, and timeframes.

2006 Approved Enrollment Increases

Approved Student Enrollment by Phase	Approved Student Fluctuation Rate	Total Maximum Approved Student Enrollment	Approved Timeframe for Enrollment Implementation
700-760 (1 st Phase) (60 students)	3% (22.8)	783	No timeframe*
760-820 (2 nd Phase) (60 students)	3% (24.6)	845	No timeframe *
820-880 (3 rd Phase) (60 students)	3% (26.4)	906	January 4, 2021

*Enrollment was not tied to a specific timeframe; however, the School was required to meet certain other requirements per the Agreements. The School has now met these requirements.

Proposed 3rd Phase Enrollment Increases

Proposed Student Enrollment by Phase	Proposed Student Fluctuation Rate	Total Maximum Proposed Student Enrollment	Proposed Timeframe for Enrollment Implementation
845 to 875 (30 students)	None	875	With this approval
875-890 (15 students)	None	890	2016-2017 (academic year)
880 -906 (16 students)	None	906	2017-2017 (academic year)

The City has also proposed extensive revisions to the Conditions of Approval to eliminate those associated with construction as that work has been completed, clarify the Condition language, limit the School's operations in

response to the Revocation compliant and address the City's ability to enforce the Conditions of Approval. (*Attachment D, clean and redline version*).

GENERAL PLAN ANALYSIS

Land Use and Transportation Element

The Project site has two different General Plan Land Use and Transportation Element (LUTE) classifications.

- *Hillside Residential*: The playing fields, Upper School, auditorium and main entrance are classified Hillside Residential. The intent of this 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." However, the School has existed in this location since 1964. In addition, in approving the 2006 master plan for the school, staff reviewed the Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations applicable at the time. Community Education was a permitted use and did conform to the General Plan classification.
- *Detached Unit Residential*: The Middle School, Lower School, pool area and residential properties are classified as Detached Unit Residential. The intent of this designation is 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."

The School conforms to the desired intent and character of both the Hillside Residential and Detached Unit Residential land use classifications.

Consistency with the General Plan Element's Policies

LUTE Consistency

The Project conforms to LUTE objectives and policies, hereby incorporated by reference, and as summarized below.

Objective T4: Increase use of alternative modes of transportation and Transit First Policy

The City has required that 30% of the students use alternative transportation modes while the City's Standard Conditions of Approval, which is applied to most projects, only requires a 20% vehicle trip reduction for projects that generate over 100 net new a.m. or p.m. peak hour vehicle trips. As shown in the proposed TDM and accompanying Transportation Policy Guide, the School promotes the use of alternative means of transportation by offering subsidies for bus ridership, a carpooling/ ride matching program, and physical education credits for students that walk or bike to School. These programs and the revised Condition of Approval are consistent with Oakland's Transit First Policy, which was adopted in 2006.

Objective N2: Encourage adequate civic, institutional, and educational facilities located within Oakland, appropriately designed and sited to serve the community.

The Planning Commission approved a master plan for the school on January 4, 2006, which increased student enrollment up to 880 students with a $\pm 3\%$ fluctuation rate, up to a maximum of 906 students. The Project does not include any new construction to accommodate the enrollment increase. In addition, the Mitigated Negative Declaration analyzed all possible environmental effects. As the enrollment was already approved and all items required by the Agreements, aside from the timeframe, have been implemented, the Project meets this objective.

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.

As noted above, the School is not proposing any new construction as part of the Project. New landscaping on the hillside has been added as required by the Agreements. In addition, the School is compliant with its vegetation management for wildfire purposes. The School is blight-free.

The Planning Commission approved a School master plan design that is sensitive to its surroundings. The majority of the new construction occurred either on the interior of the campus or along Lincoln Avenue, which is an arterial as noted on the Transportation Diagram in the LUTE. The Mitigated Negative Declaration for the master plan analyzed traffic impacts and concluded that the result was Less than Significant with implementation of the Mitigation Measure. More recent monitoring and the use of the Mormon Temple parking lot as a waiting area have resulted in compliance with the Mitigation Measure.

While the School has not necessarily always operated in a manner that has been sensitive to its neighbors, the School has developed a TDM program that staff anticipates will substantially improve traffic and parking impacts and address many of the traffic and parking issues including more detailed pick-up and drop-off procedures, application of the TDM to the summer program (excluding the 30% requirement), third-party monitoring, and traffic event procedures.

N2.3: The City should support many uses occurring in institutional facilities where they are compatible with surrounding activities and where the facility site adequately supports the proposed uses.

The Planning Commission approved a master plan that included both before and after school day care as well as a summer program. The Planning Commission did not put any restrictions on the summer program in terms of enrollment, times of day or events. However, the neighbors believe that both the summer program and events negatively affect their quality of life and increase traffic and parking impacts. City staff has addressed these issues by developing a revised set of Conditions of Approval that cap events and restrict the summer program. These Conditions have been accepted by the School.

LUTE Policy N7.2 defines compatibility and suggests that infrastructure, environmental constraints and natural features, emergency response and evacuation, street width and function, prevailing lot size, neighborhood development type and height, scenic values, distance from public transit, and character be considered.

The site itself can clearly accommodate up to 906 students and has already been approved for this level of enrollment. The Project will not affect natural features, prevailing lot size, neighborhood development type and height, scenic values, or neighborhood character as no subdivision or construction is being proposed. Public and private transit is available and the revised Conditions of Approval will decrease the number of vehicle trips. The Project will not change the street width or function. As shown in the *Environmental Review* section below, the Project will not result in an environmental, traffic or hazard impact.

N2.4: New large scale community, government, and institutional uses should be located outside of areas that are predominately residential. Preferably, they should be located along major thoroughfares with easy access to freeways and public transit or in Downtown.

The School is located along Lincoln Avenue which is an arterial street connecting State Route 13 with Interstate 550. Consistent with this policy, Lincoln Avenue accommodates major institutions including the Mormon Temple, Ascension Greek Orthodox Cathedral of Oakland, Cerebral Palsey Center, Sequoia School, and a commercial center at Lincoln Avenue and MacArthur Blvd. The proposed increase of 31 students over the

existing condition would not result in significant street infrastructure issue, be inconsistent with the street function, or necessitate a wider street. While the Planning Commission adopted a Mitigated Negative Declaration for the total enrollment, an additional traffic study was prepared that concludes that the addition of 31 students over existing conditions as well as 61 students over the permitted phase 2 enrollment will not reduce the Level of Service on these streets to below the City's Thresholds of Significance. Public and private transit is available and the revised Conditions of Approval will decrease the number of vehicle trips.

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.

The Planning Commission already approved a master plan and the enrollment increase up to 906 students in 2006. The School is not proposing any construction as part of the Project. The School's request is to implement the enrollment sooner than anticipated as the master plan was essentially completed in 2008 and the School has completed all the items in the Agreements to achieve this enrollment. The proposal includes a TDM program which will reduce traffic and parking issues in the neighborhood. Finally, the Conditions have been revised to clarify the terms of compliance and increase enforcement. The proposal will benefit the City and the region by providing additional education opportunities for children.

N12.3: High quality day care should be available throughout Oakland, appropriately sited and designed based on its capacity and attributes. The City should, when appropriate and feasible require major development projects to provide on or off-site facilities or other means to address potential child care inadequacies and encourage the inclusion of child care centers in major residential and commercial developments near transit centers, community centers, and schools.

The School provides morning day care and after school care for the students. City staff's revised Conditions of Approval require that before and after-school day care continue in order to reduce the number of peak vehicles arriving and departing the School.

In addition, the School provides two summer school sessions for children throughout Oakland and the East Bay. As noted above, the School is appropriately sited and can accommodate 906 daily students. Therefore, the School can also accommodate the proposed 780 student summer school program. No additional construction is necessary to accommodate the summer program.

Staff has added several revised Conditions to address neighbor concerns regarding the summer program. First, the School may not rent or loan out the School to another summer program provider. Second, the same TDM rules that apply to the academic year also apply to the summer program except the 30% alternative transportation requirement. Third, staff reduced the summer program enrollment to 780. Fourth, staff allowed the summer program to hold special events. However, these events would be counted in the total number of events the School would be permitted to hold, thereby decreasing School academic year events.

In sum, the proposed Project meets the referenced objectives, the general intent of the Hillside Residential and Detached Unit Residential land use designations. As previously determined by the Planning Commission, the School and the maximum enrollment of 906 students is a good fit for this area.

Pedestrian Master Plans

PMP Action 2.2.2. Implement a seamless school safety program that coordinates adult crossing guards, student safety patrols and parent volunteers to ensure all schools have adequate safety programs.

City staff has revised the Conditions of Approval to require the development of a TDM program that will improve safety in the area. Specifically, the TDM requires a specific number of morning, after school, and event traffic assistants and a specific number of traffic monitors to facilitate traffic safety for pedestrians in the neighborhood.

PMP Action 2.2.4. Work with schools having inadequate pick-up and drop-off facilities to develop a compensatory program.

The School has implemented an overflow queue waiting area at the Mormon Temple. Use of this area has greatly reduced the pick-up queues resulting in conformance with the Mitigation Measure. In addition, City staff has proposed revisions to the Conditions of Approval to make the Mitigation Measure applicable to the morning-drop-off, ensure a clear pick-up and drop-off process and auto trip reduction strategies addressing all four modes of transportation to further reduce single occupant vehicles.

ZONING ANALYSIS

Given the extensive changes to the Conditions of Approval and the School's long history of non-compliance, staff is processing the School's request as a major change necessitating Planning Commission approval.

The 880 student enrollment plus the 3% fluctuation rate was part of the original master plan project description. However, the School was only to achieve the 3rd phase of enrollment after 2021 per the Agreements that became a Condition of Approval. Neither the Planning Code nor the Conditions of Approval indicate that findings are required to make changes to the Conditions. Although not necessarily required, staff has identified proposed findings per Section 17.140.060 for Planning Commission's consideration in the *Findings* section of this report.

ENVIRONMENTAL REVIEW

Previously Adopted Mitigated Negative Declaration for the Master Plan

Staff prepared a Mitigated Negative Declaration (MND) pursuant to the California Environmental Quality Act (CEQA) and local environmental review regulations based on the results of an Initial Study for the 2006 master plan. The analysis in the MND concluded that all of the environmental effects of the Project would be Less than Significant except for one traffic impact:

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

As part of 2006 approval, the City imposed a mitigation measure related to the operation of the pick up/drop off queue. A Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was circulated on December 12, 2005 for a 21 day comment period. The Planning Commission adopted the MND on January 4, 2006 as part of the master plan approvals (*Attachment E*). The Project is still consistent with the MND. The queue mitigation measure will remain in place.

Environmental Review for Proposed Amendments

CEQA Exemption, Section 15314: Minor Additions to Schools

As a separate and independent basis from the MND, staff has concluded that the proposed Project is able to satisfy the Minor Additions to Schools exemption under the CEQA, Section 15314. This section exempts schools from CEQA "where the addition does not increase original student capacity by more than 25% or ten classrooms whichever is less." The School is requesting permission to implement the 3rd enrollment level which was already approved under the existing PUD permit. This would result in an increase of 31 students over existing conditions

(a 3% increase) or an increase of 61 students (906 - 845= 61) over phase 2 conditions (an approximately 7% increase) at the campus. No new classrooms would be constructed.

Staff has also concluded that the proposed Project would satisfy CEQA, Section 15314 if “original student capacity” is interpreted to mean physical student capacity. As shown in *Attachment F* an analysis was provided of School’s physical capacity to hold students, based on State of California school capacity standards. Specifically, the School could accommodate a maximum of 1,407 students in classrooms not counting computer rooms, science labs, and arts classrooms. However, the typical sizes of Head-Royce’s classrooms are smaller than California standards for public schools by approximately 28% on average. To be conservative, the analysis reduced the classroom capacity by 28%. This reduction resulted in an approximate student capacity of 1,015 students, exclusive of the lab and art classrooms. A 25% increase (maximum student capacity threshold for use of the Minor Additions to Schools exemption) above 1,015 would be 253 students. However, the School is only requesting a 61 student or 7% increase.

In summary, either way “original student capacity” is interpreted (student enrollment or physical capacity), the School is under the 25% maximum for use of the Minor Additions to Schools exemption.

Exceptions to use of Section 15314: Minor Additions to Schools

Per the CEQA Guidelines Section 15300.2, the use of Categorical Exemption may not be used if the Project meets one or more of the exceptions to use of the exemption. Below, staff has made the findings for use of the exemption.

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

The Minor Additions to Schools Exemption is Class 14, and this section only applies to Classes 3, 4, 5, 6, and 11. Therefore, this “location” exception to use of the Minor Additions to Schools exemption does not apply.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

The School’s master plan was approved in 2006 with the enrollment of 906 students, no limit on events or the summer program, and only the requirement to develop a set of traffic rules and have an enforcement procedure in place. The current proposal would permit the School to reach the maximum enrollment earlier and would implement more stringent Conditions of Approval. This exception only applies to successive projects of the same type in the same place. Further, the School is not proposing anything that was not already contemplated in the original master plan. Even if the proposed enrollment were not within the scope of what was approved in 2006; the proposal is not a successive Project (e.g. there are no other projects of the same type or place) and; therefore, this exception to use of the Minor Additions to Schools exemption does not apply.

(c) Significant Effect due to Unusual Circumstances. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The proposed Project will not have a significant effect on the environment due to unusual circumstances. The School has existed at the site since 1964. Schools are typically located in residential areas and Oakland’s General

Plan encourages institutions along major streets like Lincoln Avenue. Therefore, the School at this location is not unusual.

The use of this exemption does not require a traffic, air quality or noise analysis. The previously approved MND already analyzed traffic, air quality and noise impacts and determined that all of the environmental effects of the Project would be Less than Significant except for one traffic impact: queuing along Lincoln Avenue. The use of the Mormon Temple as a holding area does not exacerbate traffic but reduces the amount of traffic during drop-off and pick-up by holding them until the queue is clear. Traffic associated with the “loop”, returning vehicles and buses to Highway 13 (Alida, Laguna, and Potomac), was accounted for in the MND, and no LOS impact was identified. A more recent traffic analysis also confirms that the surrounding intersections including all the loops will not result in a significant effect per the City’s Thresholds of Significance (*Attachment G*). In addition, an updated noise analysis from a typical event also shows no impact (*Attachment H*). Therefore, this exception to use of the Minor Additions to Schools exemption does not apply. Both the First District Court of Appeal’s ruling in 2002 and the more recent December 2009 amendments to the State’s CEQA Guidelines removed parking as an environmental factor to be considered.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The only state designated scenic highway within the City of Oakland is Interstate 580. The Project site is located more than a mile away from the highway and does not include any construction that could damage scenic resources within scenic highway corridor. Therefore, this exception to use of the Minor Additions to Schools exemption does not apply.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

The School campus is not located on the Cortese List or any list compiled pursuant to Section 65962.5 of the Government Code. Therefore, this exception to use of the Minor Additions to Schools exemption does not apply.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

The School campus and existing buildings are not Potentially Designated Historic Properties (PDHP). Therefore, this exception to use of the Minor Additions to Schools exemption does not apply.

CEQA Section 15183: Conformance with a Community Plan, General Plan, and Zoning

In addition, and as a separate and independent basis, the Project is also consistent with CEQA Section 15183, Conformance with a Community Plan, General Plan, and Zoning. There is not an adopted Community Plan for this area; however, the Project is in conformance with master plan as shown throughout this document. The Project is also in conformance with the Zoning Regulations. As shown in the *General Plan Analysis* section above, the Project is consistent with the LUTE and Pedestrian Master Plan as well as the City’s Transit First and policies.

KEY ISSUES

As noted above, the City has requested that the School accept revised Conditions of Approval. These revisions are intended to:

1. Remove Conditions of Approval associated with construction as the Master Plan has been completed, and no additional construction is being proposed.
2. Remove the Neighborhood /School Agreements as the City did not participate in negotiating the terms of the Agreements, was not a signatory to the Agreements, the Agreements involved non-Planning related issues, and the Agreement language was written in a manner as to make them difficult to enforce.
3. Amend the Conditions of Approval to address issues within the Revocation complaint.
4. Clarify the Conditions consistent with the City's Codes and Enforcement procedures.

Removal of Conditions of Approval Associated with Construction of the 2006 Master Plan

As noted above, the School has completed all the physical improvements on campus associated with the master plan and no addition improvements are proposed. Therefore, the City revised the Conditions to remove all items pertaining to construction or ongoing physical improvements.

Removal of Conditions of Approval Associated with the Neighborhood Agreements

The City's revised Conditions of Approval removes and replaces, with more appropriate terms for ongoing City enforcement, the Agreements from the Conditions of Approval. The Agreements were written in language appropriate for a civil agreement. The Agreements outline both School and neighborhood obligations. The City did not agree to any obligations within the documents and did not sign on to the Agreements. Although the Agreements were included as Condition of Approval #39, the language is vague and open to various interpretations depending on the perspective. Examples include the following:

- School to use its good faith efforts to clarify, monitor and enforce the school's traffic, parking and drop-off rules.
- Neighbors to work with their community to create a constructive relationship with the School.
- Institutionalize good neighbor practices

Including the Agreements as City imposed and enforced Condition of Approval is inappropriate for the following reasons:

- The City did not participate in the intent or negotiating the terms of the Agreements,
- The Agreements obligate both the neighbors and the School, not the City,
- The City did not sign the Agreements,
- The Agreements include non-planning related issues and concerns, and
- Enforcement of the Agreements as a Condition of Approval, place the City in the position of taking on the responsibility for unclear and unenforceable measures despite not being a signatory.

Where enforceable and related to a planning issue, staff has incorporated a previous obligation into a Condition of Approval. Examples include revised Conditions of Approval related to enrollment, deliveries, land use of residential properties and lot mergers. City staff cannot require neighborhood obligations be met within a planning entitlement for the School. For the reasons listed above, staff has removed the Neighborhood Agreements.

Amend the Conditions of Approval to Address the Revocation Complaint.

The Revocation Complaint filed in 2012 alleged non-compliance with the following: student enrollment, traffic queues, violation of the School's traffic rules, responsiveness to complaints, monitors, summer camp noise, lack of supervision of students on campus, deliveries, landscape maintenance, school events and rental to outside groups. As discussed above, the City has determined that the School is now compliant with the Conditions of Approval, except enrollment, per the July of 2015 letter. This determination was not appealed.

To address items in the Revocation Complaint and reduce the effects of the School on the community, City staff has proposed additional Conditions of Approval in *Attachment D* for the Planning Commission's consideration and implementation of a TDM program. Staff used the overall ideas and themes in a previous draft developed by the Neighborhood Liaison Committee and the School (*Attachment I*) in preparing the revised Conditions, where appropriate. The School has agreed to the City's revised Conditions of Approval. Below is a brief summary of the issue and how City staff has addressed it.

Enrollment

The Planning Commission granted the School an enrollment of 880 students plus a 3% fluctuation rate for a total of 906 students. The School has implemented all the items in the Agreements to reach the 3rd phase of enrollment. However, the School has exceeded phase 2 enrollment and is non-compliant as the School cannot reach phase 3 levels prior to January 4, 2021. The City sees no reason why the School should not be permitted the enrollment now since the master plan has been completed and all the items required in the Agreements have been achieved. The City has revised the Conditions of Approval to allow the School to reach 875 with this approval. Additional students will be phased in over two academic years, not all at once. The City also eliminated the fluctuation rate and required that the enrollment numbers be submitted to staff and the California Department of Education.

Traffic Queues

The School does contribute to traffic in the area during peak pick-up and drop-off periods. However, not all traffic on Lincoln is the result of the School during these times. As shown in the October 2015 traffic analysis, all intersections operate at an acceptable Level of Service. To further improve traffic operations on Lincoln, the City has revised the Conditions of Approval related to the traffic queue by requiring that the School 1) maintain and implement queue reduction options, 2) applying the Mitigation Measure to the morning drop-off, 3) requiring that 30% of the student population arrive/depart peak times by an alternate transportation method than single-occupancy vehicle, 4) clarifying the Mitigation Measure language and 5) monitoring the queue using approved forms and videos. The videos will ensure that the monitors as complying with the Mitigation Measure and eliminate the need for regular third-party monitoring.

Violation of the Traffic Rules / Responsiveness to Complaints

As required by PUD Condition #26, the School was to develop and distribute a set of traffic rules, a drop-off and monitoring plan, and "consequences" for not following the traffic rules. The Agreements, which became a Condition of Approval, include a School obligation to use its good faith efforts to clarify, monitor and enforce the school's traffic, parking and drop-off rules. Specifically, Head Royce actions were to include: distributing the school rules, establishing and implementing clear consequences for those who violate the rules and increased monitoring in the neighborhood.

The School developed a set of ten driving rules which were distributed to parents, posted on sandwich boards in key locations and monitors were placed around the School on surrounding streets. The School also established a method of consequences to address violations of the school's traffic rules and believed it was in compliance.

The "Big Ten" driving rules from 2009¹ included:

1. Obey the traffic laws in our school zone.
2. Respect and obey the traffic monitors.
3. Do not make U-turns anywhere on Lincoln, Alida, Linnet, Burlington, or Laguna.
4. Do not jaywalk or encourage jaywalking.
5. Do not use private driveways for turnarounds, parking, waiting, or pick up.
6. Remain in your vehicle during drop off and pick up on Lincoln Avenue.
7. Do not double park to drop off or pick up.
8. Do not use whittle avenue to drop off or pick up.
9. Do not drive on campus to park, drop off or pick up.
10. Know the dangers of unloading and loading the trunk during peak traffic times in the carpool lane on Lincoln Avenue.

However, the neighbors saw consistent violations, lack of monitors knowing or enforcing the rules, or application of consequences as the same vehicles violated the traffic driving rules. The neighbors believed that the School was not acting in good faith with the Condition/Agreement. The Revocation Complaint is largely based on alleged violations of the Traffic Rules including blocking driveways, pick-up and drop-off outside designated loading/queuing areas, vehicles protruding into the travel lanes, going over the double yellow lines, improperly queuing, and jaywalking. The Revocation Complaint notes lack of responsiveness to neighbor complaints, ineffective monitors, and no consequences.

The Bureau of Planning and Code Compliance Division has been placed in the untenable position of determining good faith efforts, enforcing "driving behavior" as well as a set of traffic rules that the City did not approve. However, it was never the City's intent to enforce compliance with the traffic rules, only that the School have them in place with a mechanism to discourage these behaviors and be sensitive to the surrounding residences as shown. The City is not in a position to monitor the School's internal operations or the public street on a daily basis. The Bureau of Planning regulates the Planning Code only and traffic rules are not included in that Code. The Oakland Police Department regulates driving behavior per the California Vehicle Code and the Transportation Services Division of Public Works regulates what can occur on City streets and sidewalks such as striping/signing no parking areas, loading zones, or residential parking permits.

However, to address these concerns, staff has 1) eliminated the traffic rule condition and incorporated it into an overall TDM program, 2) required maintenance of a detailed pick-up and drop-off process, 3) encouraged the School to communicate the dangers of picking up and dropping of students outside the queuing area, 4) required a staging area to make the queue easier and more efficient to enter, 5) required circulation assistants to move make the drop-off/pick-up process easier, 6) required implementation of parking strategies to reduce parking on neighborhood streets, 7) continued School funding of a residential parking permit on certain streets, 8) required monitors to record and report jaywalking and U-turns on Lincoln which is dangerous behavior, 9) distinguished between traffic safety and good neighbor rules and how each is to be enforced, and 10) third-party monitoring.

Traffic Assistants/Monitors

One of the City's main goals is to facilitate efficient traffic operations during peak pick-up and drop-off periods. The City has required that the School have five morning and eight afternoon assistants placed at the crosswalk,

¹ Note: That the Big Ten Driving Rules have changed over the years but the general themes are the same.

bus loading zone, drop-off/pick-up zones to get children quickly to waiting vehicles, manage the queue and the overflow parking lot. In addition, Staff has required four monitors to implement and monitor the traffic safety rules. Monitors will carry digital cameras and provide information to identify violators of the traffic safety rules. The School would then implement their policy regarding enforcement.

Summer Program Noise

While the 2006 approval did permit a Summer Program, no restrictions were placed on this operation including maximum enrollment, timeframes, traffic procedures, etc. The City recognizes that the Summer Program can create increased traffic and noise for the surrounding community. In addition, the Summer Program does not allow the community a break from School related activities. To address these issues, Staff's proposal includes the following: 1) limited Summer Program enrollment to 780 students, 2) limiting the number of summer sessions to, 3) limited hours of operation for the fields and pool as part of the program from 7:30 am to 6:30 pm to 9:00 am to 6:00 pm, 4) application of the TDM (except alternative transportation reduction) to the Summer Program, limiting events for the Summer Program as these count toward the overall total number of events the School may hold, and 5) prohibiting the School from loaning or leasing out the Summer Program to another operator.

Deliveries

Deliveries have been an issue with large vehicles arriving at the School and idling disturbing to neighbors during the night and early morning. While the Oakland Municipal Code prohibits certain sized vehicles along Lincoln Avenue generally, the Code does carve out an exception, specifically permitting these vehicles for deliveries. The City has clarified the Condition of Approval to require that all deliveries use the Whittle gate unless it is the US Mail, Fed-Ex, UPS or the once a year mulch delivery. Deliveries must be scheduled for school hours (except for café deliveries which may commence at 7 a.m.) only and no overnight parking or idling is permitted. A compliant manager contact number should be provided.

School Events

Any School is bound to have special events in addition to its academic curriculum. While the 2006 approval did not limit the number or timeframe of events, the City recognizes that School events can create increased traffic and noise for the surrounding community. To address these issues the City has revised the Conditions of Approval related to the school events by 1) defining a "special event", 2) limiting the number of events, including those for the Summer program, 3) prohibiting the School from renting or loaning the School for events, 4) providing only 10 events not on the calendar provided that the neighbors receive a 30 day notice, 5) requiring event TDM measures and monitors, 6) limiting the timeframe of events and when participants must be off the campus, 7) requiring an event hotline number, and 8) third party monitoring of an event.

City Condition of Approval Code Enforcement and Compliance Process

As noted above, the main issue between the School, neighbors, and City has been enforcement of the Project Approvals, Conditions of Approval. The City has many options available to ensure enforcement with the Conditions of Approval, adopted Codes, and other legal requirements. First, a complaint may be filed with the Code Compliance Division. The Code Compliance Division will investigate and determine whether a violation has occurred. That Division has specific procedures in place which include notice, compliance plans, administrative fees for inspections and follow up, and appeals. Second, the City may choose to follow Planning Code section 17.152 and initiate permit Revocation proceedings if warranted. This process requires notice, an administrative record, a hearing before a Hearing Officer, and appeals. Third, the City could choose to follow the procedures in Chapter 1.08 or 1.12 of the Municipal Code and apply Administrative or Civil penalties. Finally, as in this case, the applicant could choose to address the violation by applying for or revising a permit and following that process. It should be noted that each case, Condition, violation, and nuisance is different and the City uses its

discretion on which procedure is more desirable to ensure compliance. In addition to this process, other methods of code enforcement may be applied, as specified in the City's Municipal Code, depending upon the nature of any alleged violation.

City staff has revised the Conditions of Approval with the goal of making the Conditions clear and enforceable. Staff has added language to Condition #4 specifying that financial penalties may be used to address compliance. Staff did consult with the Zoning Inspection Division regarding the feasibility of enforcing the Conditions as proposed by staff per the City's procedures. Generally, the City believes that they are clearly enforceable.

In sum, staff's proposed Conditions are very stringent and reasonable. There is a clear nexus between the issue and the revised Condition. The revised Conditions are clearly written, allowing the School, City and neighbors to be clear about what and how a Condition is to be complied with.

Neighborhood Steering Committee Proposed Revisions to Staff's Conditions of Approval

City staff did distribute the revised Conditions to the surrounding neighbors as part of this process and to get feedback which the City would consider in our final proposal to the Planning Commission. The Neighborhood Steering Committee (NSC) which is representative of the surrounding neighborhood streets submitted their proposal along with comments on the City's proposal (*Attachment J*).

City staff and the NSC disagree on several main aspects of the revised Conditions which are summarized in the table below.

Issue	Existing Approval	Staff's Proposal	NSC Proposal
<i>Student Enrollment</i>	906 students implemented including a fluctuation rate – last enrollment phase to be implemented after January 4, 2021	906 students implemented over a two year period – no fluctuation rate	875 students – no fluctuation rate
<i>Summer Program Enrollment/Operations</i>	No limit	780 students in each of the two sessions	500 students in each of the two sessions
<i>Special Events</i>	No limit	180 events total, 85 evening events, 55 Saturday events, 10 Sunday events, 10 weekday summer events, 10 events not on the calendar initially. Event traffic procedures for any event over 50 vehicles.	42 events total including 2 Saturday events, eliminated events for the Summer Program or on the weekends, limit attendees to 150 visitors, no events, no event over 200 cars except graduation
<i>Employees</i>	No limit	No limit, but additional parking might be required to address Planning Code	157
<i>Alternative Transportation Modes</i>	No requirement, but alternative transportation measures are encouraged as a method to reduce the pick-up queue	A 30% non-SOV ridership requirement	Student bus ridership (50%), walk/bike (10%), and carpool requirement (10%). Employee bus/shuttle requirement (30%)

<i>Traffic Rules</i>	Condition of Approval: Develop a set of traffic rules; Agreements: Good faith effort to monitor and enforce traffic rules	Distinction between traffic safety rules and good neighbor rules.	No distinction between good neighbor and traffic rules, further expansion of requirements.
<i>Daily Monitors</i>	Monitor the queue; Increase daily traffic monitors as needed to enforce traffic rules	Monitor the queue; Up to 8 traffic assistants to encourage efficient drop-off and pick-up; 4 monitors to enforce traffic safety rules, monitoring by School personnel	Monitor the queue; 17 monitors; daily third-party monitoring; weekly reports to third-party enforcers
<i>Enforcement</i>	School to develop and implement a policy regarding consequences for traffic rule violations	Third-party enforcers monitor once a semester and once during a special event; semester reporting; semester correction period; School to implement their policy regarding consequences for traffic rule violations	Third party enforcers; review of monitors reports, declarations, photos or other evidence; monthly reports to Planning Director; third-party to notify school, school to notify violator, penalties described below
<i>Penalties</i>	Conformance to the City's procedures, codes and possible fines consistent with the adopted Master Fee Schedule.	Conformance to the City's procedures, codes and possible fines consistent with the adopted Master Fee Schedule.	Specific penalties, compliance methods, penalty fund for staff time and neighborhood improvements

Staff has responded in detail to the NSC's proposal in **Attachment K**. In general, staff believes the NSC proposal is unnecessarily burdensome unenforceable. In many cases it removes any flexibility for the School to comply which will likely automatically result in continued non-compliance. Staff is concerned with the bus ridership mandate which is more stringent than placed on any other business or institution, and daily third-party enforcement. Furthermore, staff is particularly concerned with the requirement to enforce "good" driving behavior which is not the responsibility of the Bureau of Planning. Finally, the City would firmly oppose any of the proposed language regarding evidence of a violation or penalties. Such a proposal is fundamentally inconsistent with adopted City policies, procedures, and fees as discussed in **Attachment K**.

CONCLUSION

The proposal would allow the School to implement an already approved enrollment number earlier since the master plan was completed in 2008, and the School has met all the obligations of the Agreements. In addition, the School has accepted the requirement to implement a TDM and significantly revise other aspects of its operations in conformance with the City's proposed revised Conditions of Approval. Staff has reviewed the NSC's proposed Conditions and incorporated them into the City's draft where feasible and appropriate. Staff believes that the City's revisions address the neighbor's concerns while allowing the School to be able to operate and actually attain compliance. The Project is still in conformance with the City's General Plan goals and policies including 1) increasing alternative modes of transportation, 2) encouraging adequate educational facilities to serve the community, 3) supporting many uses occurring in institutional facilities where compatible with surrounding activities, 4) meeting the definition of compatibility, 5) locating institutions along major arterials, 6) and encouraging day care throughout Oakland.

Finally, it should be noted that City staff is asking that the School accept revised Conditions of Approval as part of the Planning Commissions' consideration of the enrollment increase. The School could wait until 2021 to achieve the last enrollment increase and choose not to accept the revised Conditions. This would mean that the new proposed conditions of approval, which cap the number of special events, cap enrollment in the summer program, require implementation of a TDM and create new monitoring requirements would not go into effect. In addition, the existing use permit creates confusion for the City, School and neighborhood regarding compliance with the existing Conditions of Approval. The School has agreed to the Conditions staff has proposed, including the implementation of a TDM program.

Therefore, staff recommends that the Planning Commission:

Approve the 1) Amendments to the Conditions of Approval, including the enrollment increase and 2) the Transportation Demand Management (TDM), subject to the findings contained in this staff report.

Prepared by:



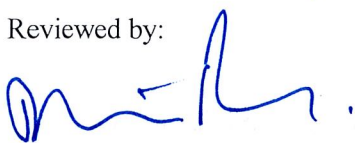
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Reviewed by:



Darin Ranelletti, Deputy Director
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Approved for forwarding to the
Oakland City Planning Commission:



Rachel Flynn, Director
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ATTACHMENTS:

Note: Given the extent of the background information, staff has not attached these documents to the staff report. However, staff has provided these documents under separate cover for review and consideration by the Planning Commission on CD. A hard copy of these additional documents are available to the public at the Planning Department office at 250 Frank H. Ogawa Plaza, Suite 2214, Oakland, CA 94612 and one copy will be available during the Planning Commission hearing. Staff has also added these documents to the City's website under agenda related materials.

Background Documents Not Attached to Staff Report

- A-1: January 4, 2006 Staff Report and excerpt of Project Description
- A-2: Neighborhood Agreements (between the School and the Whittle, Lincoln and Alida Neighbors
- A-3: March 5, 2008 Staff Report
- A-4: City Staff Letters to the School dated November 16, 2009, December 18, 2009 and April 13, 2010
- A-5: Revocation Complaint, dated August 9, 2012 (minus submitted evidence volumes)
- A-6: City Staff's Determination of Sufficient Evidence to hold a Revocation hearing, dated September 17, 2012
- A-7: School's Previous Applications, dated February 27, 2013, March 7, 2013, and September 17, 2013
- A-8: School Letter to the City regarding non-compliance, dated September 9, 2013
- A-9: City's Determination regarding non-compliance, February 11, 2014
- A-10: City's Determination regarding non-compliance, May 5, 2015
- A-11: City Staff Letter to the School proposing revised Conditions of Approval, dated July 15, 2015
- A-12: Email from the School accepting Staff's proposed recommended Conditions of Approval, dated August 18, 2015

Documents Attached to the Staff Report

- B: Site Plan
- C: School's Project Description, dated May 4, 2015 and Transportation Demand Management Program and Transportation Policy Guide, dated October 20, 2015
- D: City Staff's Proposed Conditions of Approval
- E: Mitigated Negative Declaration adopted by the Planning Commission on January 4, 2006
- F: Student Capacity Analysis, dated October 13, 2015
- G: Traffic Analysis, dated October 12, 2015, September 2015, and October 2013
- H: Noise Analysis, dated October 11, 2013
- I: School and NLC proposed Conditions of Approval, dated January 10, 2010
- J: Neighborhood Steering Committee Proposal and Comments on Staff's Conditions of Approval, dated August 15 and 17, 2017
- K: City Staff Response to Neighborhood Steering Committee Proposal
- L: Public Comments

FINDINGS FOR APPROVAL

The enrollment increase was part of the original 2006 master plan approved by the Planning Commission on January 4, 2006, and is vested. The Planning Code does not require Findings to amend a Project's Conditions of Approval. However, in the interest of being conservative, staff has prepared Findings pursuant to Planning Code Section 17.140.080 and 17.140.060 for the Planning Commission's consideration. 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 are not limited to the discussion below but is also included in all discussions in this report, the MND, and elsewhere in the record pertaining to this Project.

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 School has been operating on the site since 1964. The master plan design, uses, and enrollment were already permitted by the Planning Commission in 2006 and 2008 in conformance with Oakland's General Plan policies and objectives. The master plan was not appealed. The proposed Project does not include any construction.

The only request is to allow the School to achieve the maximum enrollment earlier than previously approved and implement a TDM program. As stated in the staff report, the enrollment with the fluctuation rate was part of the original master plan project description and Planning Commission approved (vested) the 906 student enrollment on January 4, 2006. The requirement that the 3rd enrollment phase not be attained until 2021 was not part of Planning staff's original Conditions of Approval. This was part of Agreements, and neither City staff nor the Planning Commission were parties to the language or intent.

Page 8 of the January 4, 2006 staff report states: "the conditions outlined in these agreements and the timeframes for implementation are independent of the timeframes permitted by the Planning and Zoning Department." It should be noted that, while the School did originally envision the master plan and enrollment to cover a 15 year period, the City's Conditions of Approval required completion of the plan by January 4, 2011. The School effectively completed the master plan in 2008 with the last FDP permit which indicated that it would not pursue the additional physical improvements.

The proposed Project is still in conformance with the master plan. The Project is compliant with the Zoning Regulations and as shown in the staff report the Project is still in conformance with the General Plan including 1) increasing alternative modes of transportation, 2) encouraging adequate educational facilities to serve the community, 3) support many uses occurring in institutional facilities where compatible with surrounding activities, 4) meets the definition of compatibility, 5) locate institutions along major arterials, 6) and encourage day care throughout Oakland.

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 School has been operating on the site since 1964. As stated above, the master plan's design and size was approved in 2006 and 2008 by the Planning Commission. The proposed Project would not change the location, design or size. This request would only allow the School to reach the final stage of enrollment earlier than anticipated.

- 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 School has been operating on the site since 1964. The design, size, and use of the School were approved by the Planning Commission in 2006 and 2008 and are not being altered. The addition of 906 students (880 students with a \pm 3% fluctuation rate) was part of the original master plan's project description and also approved.

As noted in the staff report and attachments, a MND was adopted for the entire master plan including enrollment. The MND analyzed all environmental impacts. The northbound loop was already contemplated in the MND with a conclusion of No Significant impact. All factors would be reduced to Less than Significant level; however, the MND did impose a Mitigation Measure to prevent queue back-ups on Lincoln, which became Condition 36. The City determined in its May 5, 2015 letter that the School was compliant with that Condition. Finally, a more recent traffic analyses also concluded that traffic can be accommodated without congestion or safety issues inconsistent with the City's Thresholds of Significance.

In addition, the City has determined that the School is still meeting the Zoning Requirements related to adequate off-street parking. The revised Conditions of Approval related to implementation of a TDM program will further reduce these traffic congestion and safety issues.

- 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.**

The School has been operating on the site since 1964. The design, size, and use of the School were approved by the Planning Commission in 2006 and in 2008 and are not being altered. As shown in the capacity study, the School's classrooms and other facilities can accommodate the 3rd phase of student enrollment. In addition, the School has met the increased parking requirements per the Agreements. The Conditions of Approval related to implementation of a TDM program will further alleviate impacts in the neighborhood.

- 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 School has been operating on the site since 1964. The design, size, and use of the School were approved by the Planning Commission in 2006 and in 2008 and are not being altered. While the School originally envisioned a 15-year enrollment and building master plan, the School effectively completed the plan in 2008 with the last PUD approval. The School is requesting permission to reach the 3rd enrollment phase earlier than anticipated to accommodate the increased demand for a high-quality private school education.

- 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.**

The School has been operating on the site since 1964. The design, size, and use of the School were approved by the Planning Commission in 2006 and in 2008 and are not being altered.

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.

As stated above and throughout the report and attachments, the School's applied in 2004 for a master plan which included 880 students and 3% fluctuation rate. Therefore, the School's proposal is in substantial compliance with the original PUD permit.

For the following reasons, staff is supportive of the request to allow the 3rd phase of enrollment now, as opposed to 2021:

- The Planning Commission had already vested the enrollment just not the timeframe,
- The master plan was completed in 2008,
- The School has achieved compliance with all its Conditions of Approval except the enrollment per the City's May 5, 2015 letter, and
- The School has accepted significantly more restrictive Conditions than originally required by staff or the Commission which will be a benefit for neighbors.

