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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Rachel Flynn, Director
Planning & Building
Department

SUBJECT: Head Royce School Appeal

DATE: May 11, 2016

City Administrator Approval

Date:

[Handwritten Signature]
5/24/16

RECOMMENDATION

Planning Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt A Resolution Denying Appeal #REV13003-A01 And Upholding The Decision Of The City Planning Commission To 1) Legalize The School's Current Student Enrollment; 2) Revise Previously Approved Condition Of Approval #39 To Allow The Final Student Enrollment Increase Before January 4, 2021; 3) Revise The Previously Approved Conditions Of Approval; 4) Approve The Transportation Demand Management Program; And Affirm the environmental determination pursuant to CEQA Guidelines Section 15314, Minor Additions to Schools; Section 15183, Projects Consistent with a Community Plan, General Plan or Zoning, And Reliance on the Mitigated Negative Declaration adopted by the Planning Commission on January 4, 2006.

EXECUTIVE SUMMARY

On November 4, 2015, the City Planning Commission held a public hearing and approved an application submitted by Head Royce School ("School") to:

1. Legalize its current enrollment (875 students);
2. Revise previously approved Condition of Approval #39 (Case File PUDF07-520) to allow the final student enrollment increase (906 students) before January 4, 2021; and
3. Implement a Transportation Demand Management Program ("TDM") as a Condition of Approval.

In addition, the Planning Commission also approved revisions to the previously approved Conditions of Approval, initiated by Bureau of Planning staff, to eliminate those associated with construction of the master plan and the Neighborhood Agreements ("Agreements") as well as address issues outlined within the 2012 Revocation Complaint.

On November 16, 2015, Leila Moncharsh, on behalf of the Neighborhood Steering Committee ("NSC" or "Appellants") filed a timely Appeal of the Planning Commission's decision (#REV13003-A01). The basis of the Appeal is that the Planning Commission abused its

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discretion and approved the Project based on Findings not supported by substantial evidence. In addition, the Appeal alleges that the Bureau of Planning staff incorrectly relied on Exemptions and the previous 2006 Mitigated Negative Declaration ("MND") for compliance with the California Environmental Quality Act ("CEQA"). Staff recommends the City Council deny the Appeal and uphold the Planning Commission's decision to approve the application.

BACKGROUND / LEGISLATIVE HISTORY

Project Site Location

The School is located on approximately 14 acres between Lincoln Avenue and Whittle Avenue and between Highway 13 and Tiffin Road. The Project site supports an Upper School (grades 9-12), a Middle School (grades 6-8), a Lower School (grades K-5) as well as playing fields and off-street parking. The Project site is surrounded by a variety of civic and residential uses. The School has been in this location since 1964.

Approved Master Plan

On January 4, 2006, the Planning Commission approved a Preliminary Planned Unit Development Permit (PUD) for a phased master plan for the School along with a Final Development Permit (FDP) for the first phase. In addition to physical campus improvements, the master plan included an enrollment increase of 180 students plus a $\pm 3\%$ fluctuation rate for a total of 906 students. The Planning Commission adopted a MND pursuant to CEQA with approval of the master plan. The master plan and MND were not appealed.

The School and surrounding neighborhood groups signed private agreements ("Agreements") which outlined certain obligations for both parties. The Agreements also specified that the enrollment increases would occur in three phases of 60 students with a 3% fluctuation rate. However, the last enrollment increase could occur no earlier than January 4, 2021 (15 years after approval of the master plan). Although the City did not participate in drafting the Agreements, was not a party to any obligations within the documents and did not sign the Agreements, they were imposed as Condition of Approval #39.

On March 5, 2008, the Planning Commission approved a FDP for the final phase of the master plan. The FDP eliminated all remaining physical improvements approved in 2006 and completed the master plan.

Complaint History

In 2008 and 2009, formal complaints were filed against the School regarding delivery hours, construction noise, and general non-compliance with the Conditions of Approval. Planning staff wrote several Notices of Determination of Noncompliance between 2009 and 2010 pertaining to the mitigation measure for length of the pick-up queue, student enrollment, description of the pick-up and drop-off procedures, monitoring and delivery hours. The City agreed to stay enforcement proceedings if the School would come into compliance with its Conditions of Approval and submit a TDM. The School disputed the findings of non-compliance but nonetheless agreed to prepare and submit a TDM.

On August 9, 2012, a Revocation Complaint was filed by the NSC pursuant to Planning Code Section 17.152 alleging non-compliance with the Conditions of Approval. The City determined that sufficient evidence existed to set a hearing before a Hearing Officer. However, on February 14, 2013, the City stayed revocation proceedings as the School agreed to submit an application to address the increase in student enrollment beyond the established maximum and amend its Conditions of Approval to implement a TDM as previously requested.

Project Application

On February 27, 2013, the School submitted an application to the Bureau of Planning to legalize its current 875 student enrollment (906 was the maximum permitted), revise Condition of Approval #39 to achieve the maximum 906 student enrollment earlier than anticipated and approve a TDM. The School amended the application on March 7, 2013 and September 17, 2013 but these proposals were later withdrawn. The final proposal is the application originally submitted by the School. The School is not proposing any construction, additional master plan improvements, or further enrollment expansions as part of the proposed Project.

City Action to Address the Revocation Complaint and Conditions of Approval Enforcement

On July 15, 2015, Planning staff sent a letter to the School noting its application did not yet thoroughly address the City's concerns regarding:

- Removal of Conditions of Approval associated with construction, as the Master Plan is complete and no additional construction is proposed.
- Modifications to address interpretation and enforcement of the Conditions of Approval and the Revocation Complaint.

City staff prepared revised the Conditions of Approval to address these issues as well as removing the Condition about the Agreements. The City proposed removing the Agreements as these documents should have remained a civil agreement between the parties that drafted and signed them. Furthermore, including the Agreements as a Condition of Approval has been problematic as the City did not negotiate the Agreements' 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 the Agreements in the revised Conditions of Approval.

These revised Conditions were sent to the School and the NSC for a 30-day review and comment period. On August 11, 2015, during this comment period, the School held a community meeting to solicit comments. The School subsequently agreed to the Conditions although it could have reduced enrollment to phase 2 levels, waited until January 4, 2021 to reach phase 3 levels and not accepted any of the revised Conditions of Approval. The NSC responded with alternative Conditions. Staff revised several Conditions based on the NSC's input for the Planning Commission's consideration.

Application Decision and Appeal

A duly noticed public hearing was held before the Planning Commission hearing on November 4, 2015 (**Attachment A**). At that meeting, the Planning Commission approved the Project, with the revised Conditions of Approval, by a vote of 6-0.

On November 16, 2015, the Appellants filed a timely Appeal (**Attachment B**). The basis of the Appeal is that the City Planning Commission abused its discretion and approved the Project based on Findings not supported by substantial evidence. Specifically, the Project is inconsistent with the General Plan, Oakland Municipal Code, and Oakland Planning Code; cannot be well integrated into its surroundings; will not avoid traversing local streets; implementation of the TDM will not alleviate traffic and parking issues in the neighborhood; the School continues to be a nuisance, and the 2012 Revocation complaint issues are still valid. Finally, the Appeal challenges the City's reliance on the previous 2006 MND and CEQA Exemption 15314 (minor additions to schools) and 15183 (projects consistent with a Community Plan, General Plan, or Zoning). The Appellants argue that an Environmental Impact Report (EIR) must be prepared to analyze, noise, traffic and emergency evacuation before amending the Conditions of Approval.

ANALYSIS AND POLICY ALTERNATIVES

The master plan, with a 906 maximum student enrollment, was approved by the Planning Commission in 2006 and is vested. Although the Project itself is not being amended or modified, and the Planning Code does not require Findings to amend a Project's Conditions of Approval, in the interest of being conservative, staff prepared Findings pursuant to Planning Code Section 17.140.080 and 17.140.060 related to PUDs and FDPs for the Planning Commission's consideration.

The Planning Code indicates that for an appeal of a Planning Commission decision on a PUD or FDP Application or for modification or amendment of any such plan:

The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record.

In considering the appeal, the Council shall determine whether the proposal conforms to the applicable criteria and standards, and may approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and standards. (OMC Sec. 17.140.070)

Below are the primary issues presented by the Appellants in their Appeal and staff's response.

Appellants' Argument I, A:

Operations at the School are inconsistent with the General Plan and adopted Ordinances. The General Plan designation did not envision or encourage nuisance activities, and the School

constitutes a nuisance as defined in California Civil Code Section 3480. Appellants provided oral testimony before the Planning Commission and public comment letters demonstrating excessive noise related to deliveries, generators from bounce houses, and unsupervised students inconsistent with the Planning Code and Oakland Municipal Code (OMC) Sections 8.18.020 (B) and 8.18.010 (A)(B) and subsection (1). In response, the Planning Commission allowed the enrollment increase to occur earlier than previously approved and also allowed an increased summer program enrollment which was an abuse of discretion.

Staff Response:

The Project is partially located in the Hillside Residential and Detached Unit General Plan designations. As demonstrated in **Attachment A, Consistency with the General Plan Element's Policies (pp.5-8)**, the Project meets many of the General Plan goals, including, but not limited to:

- Increasing alternative modes of transportation,
- Encouraging adequate educational facilities to serve the community,
- Institutional uses designed and operated in a manner sensitive to surrounding uses,
- Support for many uses occurring in institutional facilities where compatible with surrounding uses and site can adequately support such use,
- New institutional uses located outside residential areas and along major thoroughfares with easy access to freeways and downtown,
- Review of land use applications to take into account the overall benefit to the entire Oakland community as well as immediate neighbors,
- Encourage high-quality day care to address these inadequacies within major developments, community centers and schools,
- Implement a seamless school traffic safety program, and
- Work with schools that have inadequate pick-up and drop-off programs to develop compensatory programs.

Within the California Civil Code, nuisances are governed by Sections 3479 - 3508.2. Section 3479 states: 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. Section 3480 defines a public nuisance while Section 3481 defines a private nuisance.

As a school educating K-12 students, the School is not a public nuisance under these provisions. It is not injurious to health, indecent or offensive and is not involved in any criminal activity. The School does not obstruct the free use of property so as to interfere with the comfortable enjoyment of property. While the School may at times generate noise for adjacent residents, allowable noise levels are governed by Oakland's Noise Ordinance. Noise studies (**Attachment A, sub-attachment A-8**) were performed using noise monitors and appropriate methodology during a typical event which showed that the noise levels do not exceed the City's requirements. The Project does not obstruct the free passage or use of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway. While School-related vehicles do contribute to traffic congestion during pick-up and drop-off periods and

events, these periods are typical of schools, generally last for less than 30 minutes, and do not constitute a nuisance to an entire community.

The City's public nuisance ordinances (O.M.C. Sections 1.02 and 1.08) incorporate the California Civil Code definition of a public nuisance. In addition, Planning Code Section 17.152.030 states that any use or condition caused or permitted to exist in violation of any of the provisions of the zoning regulations shall be declared to be a public nuisance. Finally, any violation of a Condition of Approval is deemed to be a nuisance. As shown above the School is not a public nuisance pursuant to the California Civil Code. However, as noted in the City's May 5, 2015 letter, the School is non-compliant with the Condition of Approval related to enrollment and, therefore, may be deemed a nuisance. However, with approval of the Project, legalizing the enrollment and allowing the School to reach the final student enrollment increase, the School would be compliant and not deemed a nuisance pursuant to these sections.

While neighbors submitted oral testimony at the Planning Commission hearing and other documents regarding excessive noise, these alleged violations were not formally reported to the City's Code Compliance Division. Therefore, the City could not verify if these specific incidents were inconsistent with the Planning Code and OMC but, as stated above, monitoring of the site to date has not demonstrated noise in excess of the standards set in the Oakland Planning Code.

Finally, in response to Revocation Complaint issues, staff proposed additional Conditions of Approval to increase enforcement of excessive noise including:

- Condition 19 requiring compliance with OMC Chapter 8.18 and the use of outdoor sound equipment,
- Condition 24 requiring a complaint manager and a daytime and evening contact number for neighbors, and
- Condition 25 clarifying delivery locations and times; requiring a compliant manager and a daytime and evening contact number for neighbors.

The Planning Commission found no reason that the final enrollment phase could not be implemented sooner as the infrastructure needed to accommodate the increased enrollment had been completed under the master plan. Furthermore, to address the complaints and increase enforcement, the Planning Commission had the discretion to apply additional, reasonable Conditions of Approval.

Appellants' Argument I, B:

PUD Findings Not Based on Substantial Evidence. Staff incorrectly made PUD Finding 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." Specifically, the Appellants disagree that the "loop" was included in the 2006 permit. The Planning Commission's approval of the TDM effectively legalizes the "loop" and is a modification of the PUD permit changing the Project's location, design, and size. Furthermore, because the School relies on the "loop", which is a nuisance to neighbors and results in excessive neighborhood traffic and traffic safety issues such as speeding, the School is not well integrated with its surroundings. Use of

the “loop” will not reduce but will perpetuate impacts on the neighborhood. Also, AC Transit buses use the “loop” but do not fit on the narrow residential streets.

Staff’s Response

As part of the TDM Condition of Approval, staff required the School to maintain detailed, written instructions for the pick-up and drop-off process including how to reverse direction after driving to the School (“loops”) and to place one traffic monitor on the westbound “loop”. The submitted TDM discusses operation of the “loop” and monitoring. The accompanying Transportation Policy Guide describes the location and proper use of the “loop” and notes that adherence to the “loop” is a component of the enrollment contract.

Staff disagrees that the “loop” is a new aspect of the Project which requires a separate Finding discussion for this component. The “loop” was analyzed as a baseline condition in the 2006 adopted MND and was not objected to or challenged. In addition, AC Transit buses have made use of the “loop” since at least 2003, before approval of the master plan, without issue.

Staff adequately made all aspects of Finding B. Designating a specific way to reverse travel direction provides several benefits to surrounding neighbors including a reduction in U-turns, as well as more focused monitoring and enforcement of the School Traffic Safety Rules. In addition, the Neighborhood Traffic Safety Coordinator for the area noted that implementation of a “loop” concept was effective in addressing similar concerns at Sequoia Elementary School further down Lincoln Avenue. The “loop” does not constitute a nuisance to neighbors per the California Civil Code or Oakland’s Municipal Code. As shown in October 2015 Loop Analysis (**Attachment A, sub-attachment A-7**), traffic counts were conducted in 2014 and 2015 on days that School was and was not in session in order to measure trips associated with the School. The counts in 2014 and 2015 are similar which validates the accuracy of the methodology. The Analysis showed that Head Royce generates approximately 38-55 trips per peak hour on the “loop,” which the City’s Transportation Services Division does not deem excessive or require the installation of transportation improvements such as stop signs or traffic signals. While the neighbor’s counts did not include a counting methodology and were not completed by a qualified traffic consultant, the Transportation Services Division still does not believe that these counts show excessive traffic. The Analysis noted no fast or aggressive driving behavior. However, these issues are within the purview of the Oakland Police Department who enforce the California Vehicle Code. Safety is not an aspect of the Finding and speeding is not within the purview of Planning Code. The “loop” is well integrated into its surroundings.

A further discussion of “loop” alternatives is discussed in the *Policy Alternative* section below.

POLICY ALTERNATIVES

<i>Alternative # 1</i>	No Loop This proposal would eliminate the need for a defined method for vehicles traveling in one direction to reverse direction as required in Condition 23. The TDM and Guide would be revised to eliminate text associated with the “loop.”
Pros	The property owners along the “loop” would be supportive of this proposal as it would reduce School traffic along the “loop.” Traffic

	would dissipate onto other neighboring streets and would not be as concentrated certain streets associated with the “loop”.
Cons	The City cannot prohibit the public from driving on a public street and the proposal will not eliminate all traffic in the area or along neighborhood streets.
Reason for not recommending	While, the “loop” provides several benefits to the neighborhood as noted above, City staff is amenable to eliminating the “loop” concept. However, given the Revocation issues related to U-turns and vehicles needing to reverse direction, it is likely that neighbors will request additional monitoring to try to stop drivers from making U-turns if the City were to eliminate the “loop.” Staff does not believe that additional monitoring would be 100% effective to stop U-turns and other turns on Lincoln Avenue if the “loop” were not a part of the recommended traffic pattern in the TDM. There should not be an expectation that the School will be able to completely prohibit School-related vehicles from performing these maneuvers. Furthermore, U-Turns in driveways, while annoying, are not illegal per the Planning, Municipal or Vehicle Code, and should not be subject to enforcement by the City. U-turns in streets where posted, like speeding or other Vehicle Code laws, are enforced by the Oakland Police Department. It is not appropriate for these infractions to be enforced by Planning and Code Compliance as Conditions of Approval. Therefore, staff does not recommend this alternative if the expectation is that the School and the City are reasonable for enforcement.

Alternative #2	Relocated Loop to Other Streets In this proposal, the “loop” would relocate to other streets.
Pros	The property owners along the “loop” would be supportive of this proposal as it would reduce School traffic adjacent to their homes.
Cons	This proposal just relocates the issue to other streets. U-Turns would likely increase.
Reason for not recommending	The “loop” is located on streets closest to the School. There are no other streets south of the queue area but north of Alida Street for a designated “loop.” If the “loop” moves south, parents would likely find this inconvenient and farther out of their way. The number of U-turns would likely increase. If the “loop” moved to Tiffin and Whittle, again, parents would likely find this inconvenient and U-turns would likely increase as vehicles would also need to wait at the stop sign to cross Lincoln Avenue in order to return north. Therefore, staff does not recommend this alternative.

Alternative #3	On-Site Drop-off / Pick-Up In this proposal, the School would be required to implement an on-site drop-off /pick-up location.
Pros	This would alleviate the need for the “loop” and monitoring as well as reducing U-turns.
Cons	The School submitted its second application amendment on September 17, 2013. The application included restriping the existing upper parking

	<p>lot on campus to eliminate 70 parking spaces and accommodate an on-site pick-up and drop-off area. The proposal also included moving 75 parking spaces over to the Lincoln Child Center site. City staff concluded that this proposal would require a new Conditional Use Permit for the Lincoln Child Center site and additional CEQA review. The School and staff agreed that this area is not conducive as a pick-up/drop-off area. First, the steep grade and narrow width of the driveway to the upper parking lot could create unsafe driving conditions. Second, creating a drop-off/pick-up area within the upper parking lot is inconsistent with the masterplan's goal to separate pedestrians and vehicles for safety reasons. Finally, small children would need to walk further and navigate high-school areas to reach the Lower School. This is also inconsistent with the master plan goal of separating different age groups on campus. For these reasons, the School withdrew this proposal and it is no longer being considered.</p>
<p><i>Reason for not recommending</i></p>	<p>As noted above, an on-site pick-up drop-off area on the existing campus is no longer being considered and is not recommended. The School owns the former Lincoln Child Center (LCC) site and is the process of determining what uses should occur on that site as part of a potential future master plan governing an integrated campus on both sides of Lincoln. An off-street pick-up and drop-off "loop" could be appropriate at the former LCC site but the School has not yet applied for this master plan and at this point a master plan for LCC is speculative. Therefore, staff does not recommend this alternative. However, any proposal on the LCC site should be all-inclusive of both existing and future activities.</p>

Appellants' Argument I, C:

PUD Findings Not Based on Substantial Evidence. Staff incorrectly made PUD Finding 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." Specifically, the "loop" was not contemplated or thoroughly analyzed in the 2006 master plan and is a new aspect of the Project. Furthermore, evidence has been submitted that explain problems with traffic backing up into the travel lane of Highway 13 and drop-off and pick-up on narrow residential streets.

Inadequate Parking for School Activities. The City did not perform an independent audit of the number of persons driving to the School. The 2006 master plan assumed the School would only have 151 employees. However, the School has 513 employees based on its 2014 public tax return. Therefore, the Project is not in compliance with the zoning regulations for parking.

Staff's Response:

As noted in the response to the Appellant's issue above, the "loop" is not a new aspect of the Project which requires a separate Finding discussion. The "loop" was part of the baseline conditions analyzed in the 2006 adopted MND and has and can continue to be accommodated safely without congestion. As part of the baseline conditions, it cannot be part of the Project.

Staff adequately made all aspects of Finding C. As shown in the October 2015 Loop Analysis, vehicle counts were conducted in 2014 and again in 2015. Based on the vehicle counts for a one hour period in both the morning the afternoon, the School generates 38-55 vehicles per hour on the "loop". The updated Traffic Analysis concluded that there were approximately 2,093 daily trips to the School during this same period. Based on the Analyzes, only 4% of the School traffic use the "loop" and School traffic has largely avoided traversing other local streets. With approval of the Project and the addition of 31 students, and assuming all parents drove and used the "loop," only 6% of the School's overall traffic would use the "loop." As this number is minimal, the Finding is made that the School's traffic has avoided traversing other local streets.

While the majority of parents do use the formal and signed queue area as shown throughout the record, some parents decide not to enter the queue and instead pick-up or drop-off their children on residential streets surrounding the school. Staff notes that it is the School's policy to prohibit the use of public streets to pick-up and drop-off children and that it understands that parents' failure to follow school policy does happen. However, as noted above, the City cannot prohibit the use of public streets by School-related vehicles or the use of public sidewalks for dropping-off or picking-up students.

The School is providing adequate parking. As part of the 2006 master plan approvals, staff analyzed the parking requirement in accordance with Planning Code Section 17.116.020(C) which describes the effect of the parking regulations on new and existing activities, and Section 17.116.070(C) which describes the parking requirement for Community Education Civic Activities which include high schools. Section 17.116.020(C) notes that the amount of existing parking shall not be reduced or, if already less than the requirement, shall not be reduced further below the requirement unless equivalent substitute parking is provided. Section 17.116.070(C) requires one (1) parking space for each three (3) employee plus one (1) space for each ten (10) students (high school) of planned capacity.

In 2006 staff determined that 137 parking spaces were required based on the existing parking count, demolition of required parking, and the proposed increase in employees and high school students. Staff's determination was not based on the total existing number of employees or high-school students plus the proposed increase at the time of the proposal. The existing number of employees and students was relevant to the parking requirement calculation only in so far that the existing parking spaces proposed for demolition could not be reduced. The School has completed construction of the required parking including the twenty (20) on-site parking spaces required by the Agreements. The School also shares parking with adjacent institutions which further reduces parking demand.

The Planning Code does not require another analysis of parking requirements as no additional enrollment or improvements over what was approved are being contemplated. Furthermore, Planning staff do not perform a review of the parking requirements on a continuous basis for any project after approval even though the employee numbers may change after approval. While, the School informed the City that 503 employees were reported on its 2014 tax return, this refers to the number of W-2s that are issued each year in compliance with the tax code. Staff does not use the number of W-2 issued as a metric for calculating parking ratios. For example, the School has informed staff that W-2s are issued to substitute teachers, employees who share jobs, and summer program counselors (mainly high school and college students). These are employees who are not regularly on campus or who temporarily replace regular

employees. W-2's are also issued to work study students (who are already counted as high school students) and to employees who work remotely (who do not need parking). Thus, the number of W-2s is not relevant for determining compliance with parking ratios.

As shown above, the Project is providing adequate parking. However, to further ensure adequate parking on-site, staff has included a revised Condition of Approval that requires that:

The School shall maintain the required number of parking spaces per Section 17.116.070(C) at all times, including the Summer Program (one (1) space for each three employees plus one space for each ten high school students of planned capacity.) An increase in employees or high school students could require additional parking spaces to be provided to meet the Planning Code. Required parking may be provided either on the Head Royce campus itself unless prohibited by other Conditions of Approval, or at 4368 Lincoln Avenue or other off-street locations. Surplus parking spaces are defined as those spaces above and beyond the requirements of the Planning Code for the permitted use. City staff shall use the School staff and student enrollment information submitted to the State of California Department of Education to determine compliance with parking ratios.

A further discussion of parking is discussed in the *Policy Alternative* section below.

POLICY ALTERNATIVE

Alternative # 1	Implementation of a Residential Parking Permit (RPP) Program The neighborhood could propose that additional streets be covered by a RPP program in the area, or the City Council could require that the School fund a study of its parking demand in the area. If the demand study shows that there is a lack of available street parking due to the School, the City Council could require that the School fund additional streets with a RPP. (The School already funds an RPP Program on Alida St., Alida Ct. and Linnett Ct.)
Pros	More street parking would become available to residents.
Cons	Additional RPP has not specifically been requested by residents.
Discussion	If parking is a concern, the appropriate process is to have the City establish a RPP program in the neighborhood. If a RPP program were established, parking would be enforced by the Parking Enforcement Department which is the appropriate department. Planning and Code Compliance staff should not be placed in the position of monitoring parking on a public street as substitute for Parking Enforcement.

Appellants' Argument I, D:

The TDM will not alleviate traffic impacts in the neighborhood. The TDM contains unenforceable, "good faith effort" language and, as such, will not reduce traffic impacts for surrounding residents.

Staff's Response:

The revised Conditions of Approval, on which the TDM is based, will alleviate traffic impacts in the neighborhood when compared to the existing Conditions. Specifically:

- Condition 11 requires the Mitigation Measure to address drop-off as well as the afternoon pick-up period, submittal of reports and video documentation.
- Condition 15 requires Summer School program compliance with certain aspects of the TDM.
- Condition 23 requires:
 - Detailed pick-up and drop-off procedures,
 - A certain number of circulation assistants,
 - Parking management strategies,
 - Maintenance of the private bus system,
 - Subsidizing of AC Transit passes,
 - A 30% non-single occupancy vehicle (SOV) ridership
 - Special event traffic and monitoring procedures,
 - A certain number of traffic monitors, and
 - Third-party monitoring four times per year.

As noted in **Attachment A**, given the previous issues with expectations, intent, and interpretations with the Conditions of Approval, staff has proposed Conditions of Approval to clarify what the City can and should enforce. It was never the City's intent to enforce compliance with traffic rules developed by the School, consequences for violations of the rules or the effectiveness of monitoring. The City's intent was for the School to have procedures in place to discourage these behaviors and be sensitive to the surrounding residences. 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. Furthermore, it is unreasonable to expect the School to manage the driving behavior of its community 100% of the time. The revised Conditions will provide clarity for the School, City, and neighbors by noting which Conditions are to be enforced by City staff and what the City can only encourage or require "best faith efforts" of the School to achieve. Overall, the TDM will reduce traffic issues.

Appellants' Argument I, E

No Evidence of Increased Private School Education Demand. The City's claim of an increase in the need for private school education is not supported by substantial evidence.

Staff's Response:

Staff adequately made all aspects of the Finding E as noted in **Attachment A**. As part of this Finding, staff also noted that "the School is requesting permission to reach the final enrollment phase earlier than anticipated to accommodate the increased demand for a high-quality private school education." Staff's assertion that there is increased demand for private school education is based on the fact that the School would not be requesting a legalization of their current enrollment or requesting an acceleration of the final enrollment phase five years earlier if there was not a demand for this type of education within Oakland. The City's assertion is also based

on the fact that the School purchased the former Lincoln Child Care Center across the street and that the School reports that applications for enrollment have increased 12% since 2006. In addition, several private schools in Oakland have requested additional enrollment increases in the past six years including, but not limited to, Bentley School, College Preparatory School, Park Day, Alternatives in Action and the American Indian Public Charter School.

However, it should be pointed out that it is not the role of the City to analyze whether any particular activity will be able to attract enough "customers" (students in this case) to operate successfully. That is a responsibility of and a risk taken on by the operators of any business, in this case a private K-12 school. The City reviews the impacts of new or expanded proposals on the built environment through the standards set in the Planning Code and State CEQA law as per the Findings in the Oakland Planning Code.

Appellants' Argument II:

Continued Non-Compliance with its Conditions of Approval. The Appellant's disagree with the City's Notice of Determination to the School dated May 5, 2015 that the School is compliant with all its Conditions of Approval except the final enrollment phase. Many of the same complaints noted in the 2012 Revocation document are ongoing as noted in the evidence submitted during the Planning Commission hearing including deliveries times, proper drop-off and pick-up procedures, monitoring, noise, and allegations of inappropriate behavior. In addition, the Appellants disagree that the revised Conditions of Approval proposed by the Planning Commission are more restrictive than previously approved Conditions as they are written in loose unenforceable language.

Staff's Response:

In 2014, the School submitted a compliance matrix and requested a point-by-point review of compliance by Planning Staff. Staff responded with a Letter of Determination of Non-Compliance in 2014. Areas of non-compliance included student enrollment; landscaping; special inspection fees; monitoring procedures for drop-off, pick-up and events; deliveries; submittal and distribution of traffic rules and traffic rule enforcement. Staff's letter also outlined the methods by which the School could come into compliance with the Conditions. This letter was provided to the Neighborhood Liaison Committee (NLC) and the attorney of the NSC which did not appeal or challenge the City's determination or methods for the School to become compliant.

After working back and forth with the School for several months to address some outstanding issues related to landscaping, parking and documentation of the School's traffic rules and enforcement, Planning staff issued a Notice of Determination on May 5, 2015 that the School was in compliance with all conditions, except for enrollment. This Letter was provided to the NLC and the attorney of the NSC, which filed the Revocation Complaint. However, this group did not appeal or challenge the City's determination or methods for the School to become compliant (**Attachment C**).

To date, further formal complaints have not been reported to the Code Compliance Division. Therefore, staff has not been able to verify that further violations of the Conditions of Approval

have occurred. Allegations of non-compliance must include verifiable evidence that can be confirmed by the Code Compliance Division or appropriate City department.

The revised Conditions are more stringent than those previously imposed. Specifically, staff required:

- A cap on the summer school session enrollment,
- A cap on the number of events per year,
- A 30% non-SOV ridership,
- A specific number of traffic assistants, monitors and monitoring locations,
- Mitigation Measure monitoring extended to the morning drop-off period,
- Special Event traffic procedures,
- Third-party enforcers to monitor once a semester, once during the Summer Program and once during a special event with semester reporting, and
- Designation of a Complaint Manager and phone number.

Appellants' Argument III, A

The Project does not meet the Criteria for a CEQA Exemption under Section 15314, and the City must require an Environmental Impact Report (EIR).

Staff's Response:

The City relied on CEQA Guidelines Section 15314 (Class 14) which applies to "minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms, whichever is less." This Exemption applies to all schools, not just public schools and is not limited to school closures or when students must be transferred to another school. Use of the Class 14 Exemption does not require that a project also meet the requirements of Section 21080.18, which is a separate and distinct statutory Exemption applicable only to public schools, and thus is not applicable here.

Under Class 14, "original student capacity" means the school's physical capacity. Based on State of California students/classroom metrics, the school has capacity for more than 1,000 students (even excluding labs and special classroom facilities, which would normally be counted.) However, even if "original student capacity" means a school's existing enrollment, 25% of 875 (existing enrollment) would be 218 students and the School is only proposing an addition of 31 students. Accordingly, the Project fits into Class 14.

The cumulative impact exception to the Class 14 Exemption does not apply. The cumulative impacts exception to Exemptions is limited to cumulative impacts from "successive projects of the same type in the same place" (CEQA Guidelines Section 15300.2(b)). To count as a "successive project," the cumulative project must be the *very same* type as the proposed project and cannot be based on speculation about development that may possibly occur in the future. Projects that are not of an almost identical scope do not count. The cumulative project also must be in the same location as the proposed project. Here, there are no other school enrollment expansions in the vicinity of Lincoln Avenue. The School's previous proposal to temporarily use a vacant building on the Lincoln Child Center campus is not a "successive project" because that application has been withdrawn. Also, enrollment expansion is not the

same as relocating existing administrative offices. The City also cannot consider the potential impacts of a potential future master plan to integrate the former Lincoln Child Center campus into the School. The School may have begun to internally "master plan" that campus; however, the City has not received such an application.

Furthermore, the unusual circumstances exception to the Class 14 Exemption does not apply. 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, a school at this location is not unusual.

Finally, the City has applied the Class 14 Exemption in similar situations. In December, 2012, the City allowed a 15% increase in enrollment at the College Preparatory School from 340 to 375 students under the Class 14 Exemption and required no additional environmental review. (Case File No. REV120004; 6100 Broadway (APN 048A-7200-004-01) Here, the School proposed just under a 3% increase in existing enrollment and no physical expansion to the existing facilities, and thus is within the 25% increase in original capacity allowed under the Exemption.

Appellants' Argument IV:

The Project does not meet the Criteria for a CEQA Exemption under Section 15183, and the City must prepare an EIR.

Staff's Response:

As a completely separate and independent basis from the City's reliance on the 2006 MND and CEQA Exemption 15314, the Project is consistent with CEQA Section 15183, Conformance with a Community Plan, General Plan, and Zoning. The purpose of this Section is to streamline environmental review except where the Project might result in project specific environmental effects. The 2006 adopted MND did not conclude any significant impacts related to the master plan and this Project only implements the plan. Furthermore, additional noise, traffic, and loop analyses were recently prepared corroborating the 2006 MND analysis. The City's requirement that the Project complete a TDM is a uniformly applied development standard applied to all projects which generate over 50 trips and which has been modified to meet the specifics of the Project. There is not an adopted Community Plan for this area; however, the Project is in conformance with the approved 2006 master plan as shown throughout this document. The Project is also generally consistent with the applicable specific Zoning Regulations and General Plan policies designed to protect the environment (**Attachment A** pp. 5-8). Appellants have submitted no evidence that the Project would have new, significant impacts not addressed by existing, generally applicable General Plan policies and the Zoning already applicable to the site.

The Appellant claims that the test for whether the Exemption should apply should be the less deferential "fair argument" standard. The City disagrees but assuming for the sake of argument that the "fair argument" standard applies, the NCS failed to present a fair argument that the Project would have significant environmental impacts on the neighborhood that are peculiar to the Project or the parcel that cannot be addressed by imposition of uniformly applied development standards and were not already identified in the EIR certified for the Land Use and

Transportation Element of the General Plan. The "impacts" alleged by the NSC, including use of the "loop", the cap on the summer program enrollment, and the cap on special events are proposed limits on *already occurring* activities. They are not new uses being introduced.

Appellants' claim the Project has significant noise and traffic impacts but fails to explain the basis for claiming significant impacts and fails to explain why staff's conclusions were wrong.

Appellants' Argument V:

The Appellant's Reserve their Right to Add Additional Evidence and Documentation for Consideration. The Appellant's did not have adequate time to review the City files, including School expert reports, relevant to the Planning Commission hearing, and many documents were filed with the City after the comment period and were not available. The Appellant's intend to rely on the City files for the Appeal and reserve their right to submit additional documentation before the Appeal hearing.

Staff's Response:

City staff disagree that the Appellant's had inadequate time, prior to the Planning Commission hearing, to review City files, the noise and traffic technical reports, or other public documents submitted after the staff report was published. The Project was properly noticed, meeting the required 17-day public notice period. City files are available to the public upon request, and a Public Records Request was not filed. The technical reports were included in the staff report which was published in a timely manner prior to the Planning Commission hearing. Comment letters submitted after publication of the staff report were provided to the Planning Commission at the meeting.

In addition, Planning Code Section 17.140.070 describes the process to appeal a Planning Commission's decision on a PUD or FDP. This section specifically states:

"The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo."

This section goes on to state:

"During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item, in accordance with the above procedures, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process."

Furthermore, City staff exchanged a series of emails with the Appellant's attorney regarding the legal authority for the City's ongoing position that arguments and evidence on an Appeal are limited to that both presented to the Planning Commission and in a timely filed Appeal. To date City staff has not received a response (**Attachment D**).

Appellants' Issue VI:

The Appellants object to the Appeal filing fee.

Staff's Response:

At the time the appeal was filed, staff imposed the Appeal fee adopted by City Council Resolution C.M.S 13320 as part of the 2015-2016 Master Fee Schedule on July 1, 2015. Since the Appeal was filed, the City Council adopted Resolution C.M.S. 13339 reducing the Appeal fee from \$4,088 to \$1891.09 and allowing those who applied under the higher fee to seek a refund for the difference. Staff has provided the Appellants with the Refund Request form.

FISCAL IMPACT

This Appeal action would have no fiscal impact on the City.

PUBLIC OUTREACH / INTEREST

The Appeal was publicly noticed to the Applicant and the Appellants pursuant to applicable state and local requirements. Notices were posted at the Project site, on the City website and the Public Notice Kiosk at City Hall. In addition, notices were emailed to the Interested Parties List retained by staff for this project.

COORDINATION

This agenda report and legislation have been reviewed by the Office of the City Attorney, by the Controller's Bureau, the Transportation Services Division and the Oakland Police Department's Neighborhood Services Coordinator.

SUSTAINABLE OPPORTUNITIES

Economic: The Project would not have an adverse economic impact on the City.

Environmental: The Project would not have an adverse effect on the environment as shown in the staff report, the previously adopted 2006 MND, and the technical reports attached to the November 4, 2015 staff report.

Social Equity: The Project would not have an adverse effect on social equity.

CEQA

As described in staff's response to the Appellant issues III, A and IV and as stated in **Attachment A, sub-attachment A-7** to this report, staff has concluded that the Project is exempt from environmental review under the CEQA Guidelines.

In 2006, staff prepared a MND pursuant to CEQA based on the results of an Initial Study for the School's master plan which contemplated the maximum student enrollment now being requested. The MND identified one traffic impact related to the queue during the after school pick-up period. A Mitigation Measure was imposed to reduce the queue during this period. The Planning Commission adopted the MND with the master plan approvals on January 4, 2006. A Notice of Determination was filed and neither the master plan nor the MND was appealed to the City Council or challenged in court. The Project is still consistent with the MND, and the Mitigation Measure is still being imposed and monitored.

Furthermore, as a separate and independent basis from reliance on the MND, staff has concluded the Project is exempt under CEQA Guidelines Section 15314 (minor additions to schools) no matter whether "original student capacity" is interpreted as student enrollment or physical capacity.

None of the exceptions to the Exemptions in CEQA Guidelines Section 15300.2 are triggered by the Project. Specifically, a) the location exception does not apply to the minor additions to schools Exemption; b) the Project would not have a cumulative impact as the proposal was ready contemplated in the 2006 master plan approval and this exception only applies to successive projects over time in the same place and this is not a successive proposal; c) the Project will not have a significant effect due to unusual circumstances as the School has existed in this location since 1964, schools are typically located in residential areas, and Oakland's General Plan encourages these types of institutions along major corridors; d) the area is not located near a scenic highway; e) the area is not a hazardous waste site; and f) the campus does not contain any historical resources.

Furthermore, as a separate and independent basis, staff has concluded the Project is exempt under CEQA Guidelines Section 15183 (projects consistent with a Community Plan, General Plan, and Zoning) as the Project is consistent with the previously approved 2006 master plan, the General Plan, and the zoning regulations.

ACTION REQUESTED OF THE CITY COUNCIL

In conclusion, staff recommends that the City Council deny the Appeal and uphold the Planning Commission decision. The Appellants have not demonstrated that the Planning Commission's decision was made in error, that there was an abuse of discretion by the Planning Commission, that the Planning Commission's decision was not supported by evidence in the record or the City's CEQA determination was incorrect.

Item: _____
City Council
June 7, 2016

For questions regarding this report, please contact Heather Klein, Planner III, at (510) 238-3659 or hklein@oaklandnet.com.

Respectfully submitted,



Rachel Flynn
Director, Planning and Building Department

Reviewed by:
Robert Merkamp,
Development Planning Manager

Prepared by:
Heather Klein
Bureau of Planning

Attachments:

- A: Planning Commission Staff Report, dated November 4, 2015
Attachments:
- A-1: January 4, 2006 and March 5, 2008 Planning Commission Staff Report
 - A-2: Neighborhood Agreements
 - A-3: School's Project Description, dated May 4, 2015
 - A-4: City Staff's Proposed Conditions of Approval
 - A-5: Mitigated Negative Declaration adopted by the Planning Commission on January 4, 2006
 - A-6: Student Capacity Analysis, dated October 13, 2015
 - A-7: Loop Analysis, dated October 12, 2015; Traffic Analysis September 2015, and October 2013
 - A-8: Noise Analysis, dated October 11, 2013
 - A-9: Neighborhood Steering Committee Proposal and Comments on Staff's Conditions of Approval, dated August 15 and 17, 2017
 - A-10: City Staff Response to Neighborhood Steering Committee Proposal
 - A-11: Public Comments (received before and after publication of the Staff Report)
 - A-12: Public Comment CEQA Analysis, Cox Castle Nicholson, dated November 4, 2015.

- B: Appeal #REV13003-A01, filed November, 16, 2015
Attachments:
B-1: Letter to City Council, dated November 16, 2015
B-2: Email from Staff to Leila Moncharsh, dated November 5, 2015
B-3: Letter to the Planning Commission, dated November 3, 2015
B-4: 2013 Head Royce School Tax Return
B-5: Letter from the School, dated March 19, 2012
B-6: Transcript of Robert Lake In the Matter of Lincoln Child Center vs. Drew T. Lau Regent, et al.
B-7: Declaration of Robert Lake, Lincoln Child Center, Inc. et. al. vs. Drew T. Lau Regent, et. al.
B-8: Declaration of Anne E. Mudge, Lincoln Child Center, Inc. et. al. vs. Drew T. Lau Regent, et. al.
B-9: Email from Anne Mudge to Staff, dated September 20, 2013
B-10: 2012 Revocation Compliant: Neighborhood Steering Committee, et. al. versus Head Royce School and Supplemental Volumes
- C: Letter of Determination, dated May 5, 2015 and emails between City staff, the Appellant's Attorney and NSC regarding the May 5, 2015 Letter of Determination
- D: Emails Between City staff and Appellant's Attorney regarding presentation of new evidence

Hee
City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2016 MAY 26 PM 12:55 RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION DENYING APPEAL #REV13003-A01 AND UPHOLDING THE DECISION OF THE CITY PLANNING COMMISSION TO 1) LEGALIZE THE SCHOOL'S CURRENT STUDENT ENROLLMENT; 2) REVISE PREVIOUSLY APPROVED CONDITION OF APPROVAL #39 TO ALLOW THE FINAL STUDENT ENROLLMENT INCREASE BEFORE JANUARY 4, 2021; 3) REVISE THE PREVIOUSLY APPROVED CONDITIONS OF APPROVAL; 4) APPROVE THE TRANSPORTATION DEMAND MANAGEMENT PROGRAM; AND AFFIRM THE ENVIRONMENTAL DETERMINATION PURSUANT TO CEQA GUIDELINES SECTION 15314, MINOR ADDITIONS TO SCHOOLS; SECTION 15183, PROJECTS CONSISTENT WITH A COMMUNITY PLAN, GENERAL PLAN OR ZONING, AND RELIANCE ON THE MITIGATED NEGATIVE DECLARATION ADOPTED BY THE PLANNING COMMISSION ON JANUARY 4, 2006.

WHEREAS, the Applicant, Head Royce School, filed an Application on February 27, 2013, to legalize its current 875 student enrollment; revise Condition of Approval #39 previously approved the Planning Commission on January 4, 2006 to achieve the maximum 906 student enrollment earlier than anticipated; and implement a Transportation Demand Management Program as a new Condition of Approval (Project); and

WHEREAS, City Bureau of Planning staff recommended that the previous Conditions of Approval be revised to remove certain Conditions of Approval associated with construction, as the Master Plan is complete and no additional construction is proposed; remove certain Conditions of Approval associated with Neighborhood Agreements signed between the Head Royce School and three neighborhood groups; and modify other Conditions of Approval to address interpretation and enforcement and a Revocation Complaint filed on August 9, 2012; and

WHEREAS, the City Planning Commission took testimony and considered the Project at its duly noticed public meeting of November 4, 2015. At the conclusion of the public hearing, the Commission deliberated the matter and voted (6-0-0) to approve the Project; and

WHEREAS, on November 16, 2015, an Appeal of the Planning Commission's approval and a statement setting forth the basis of the appeal was filed by Leila Moncharsh on behalf of Neighborhood Steering Committee (Appellant); and

WHEREAS, after giving due notice to the Appellant, the Applicant, all interested parties and the public, the Appeal came before the City Council for a public hearing on June 7, 2016; now, therefore be it

WHEREAS, the Appellant, the Applicant, supporters of the application, those opposed to the

application and interested neutral parties were given ample opportunity to participate in the public hearing by submittal of oral and/or written comments

RESOLVED, That, the City Council hereby independently finds and determines that the requirements of the California Environmental Quality Act (CEQA) of 1970, as prescribed by the Secretary of Resources, and the City of Oakland's environmental review requirements, have been satisfied, and, the adoption of this resolution is exempt from CEQA pursuant to CEQA Guidelines Section 15314, 15183 and/or Section 15183.3; and furthermore none of the factors requiring further CEQA review are met and the City can also rely and the Mitigated Negative Declaration previously adopted by the Planning Commission on January 4, 2006, pursuant to CEQA Guidelines section 15162-15164, each of the foregoing provides a separate and independent basis for CEQA compliance; and be it

FURTHER RESOLVED, That, the City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Application, the Planning Commission's decision, and the Appeal, finds that the Appellant has **not** shown, by reliance on evidence already contained in the record before the City Planning Commission that the Commission's decision on November 4, 2015 was made in error, that there was an abuse of discretion by the Planning Commission or that the Commission's decision was not supported by substantial evidence in the record, based on the November 4, 2015 Staff Report to the City Planning Commission and the May 11, 2016, City Council Agenda Report hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, the Planning Department's CEQA Determination is upheld, based upon the November 4, 2015 Staff Report to the City Planning Commission and the May 11, 2016, City Council Agenda Report, each of which is hereby separately and independently adopted by this Council in full; and be it ; and be it

FURTHER RESOLVED, That, in support of the Planning Commission's decision to approve the Project, the City Council affirms and adopts the November 4, 2015 Staff Report to the City Planning Commission (including without limitation the discussion, findings, conclusions and conditions of approval each of which is hereby separately and independently adopted by this Council in full), as well as the May 11, 2016, City Council Agenda Report, (including without limitation the discussion, findings, conclusions and conditions of approval, each of which is hereby separately and independently adopted by this Council in full), except where otherwise expressly stated in this Resolution; and be it

FURTHER RESOLVED, That, the City Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the appropriate agencies; and be it

FURTHER RESOLVED, That, the record before this Council relating to this application and appeal includes, without limitation, the following:

1. The Application, including all accompanying maps and papers;
2. All plans submitted by the Applicant and his representatives;
3. The notice of Appeal and all accompanying statements and materials;

4. All final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation and all related/supporting final materials, and all final notices relating to the application and attendant hearings;
5. All oral and written evidence received by the City Planning Commission and City Council during the public hearings on the appeal; and all written evidence received by relevant City Staff before and during the public hearings on the Application and Appeal;
6. All matters of common knowledge and all official enactments and acts of the City, including, without limitation (a) the General Plan; (b) Oakland Municipal Code (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED: That, the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Department of Planning & Building, Bureau of Planning, 250 Frank H. Ogawa Plaza, 2114, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA; and be it

FURTHER RESOLVED: That, the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California