

CITY OF OAKLAND



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

Community and Economic Development Agency
Planning & Zoning Services Division

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September 24, 2009

Dan Wetherell
5856 Doyle Street
Emeryville, CA 94608

Case Number: **REV09-004**
Project Address: **6100 Broadway / APN 048A-7200-004-01 / Oakland, CA**

Dear Mr. Wetherell:

Your application for a Revision to previously approved Conditional Use Permit CM76-296 and CM80-191 for additions and alterations at the College Preparatory School (CPS) including the relocation of two portable classrooms, construction of a new 4,500 square foot World Languages building, and parking lot and driveway improvements (phase I); construction of a 2,300 square foot English building and a 587 square foot addition to the Music building (phase II); and construction of a 10,431 square foot Theater Arts building (phase III), to permit 340 students where 325 was previously permitted, and to allow the Theater Arts building and the English building to exceed the R-30 height limit pursuant to Section 17.108.020 of the Oakland Planning Code has been **APPROVED**. This project is subject to the Conditions of Approval associated with CM76-296 and CM80-191 (Attachment C) except as modified by the attached conditions (Attachment A).

This project is effective ten (10) days after the date of this letter unless appealed as explained below.

Information regarding the proposed project is summarized below:

General Plan Land Use Classification: Detached Unit Residential

Zoning Designation: R-30 Single Family Residential Zone

Environmental Determination: Exempt, Section 15314 of the State CEQA Guidelines:

Additions to existing schools

Section 15183 of the State CEQA Guidelines:

Projects consistent with a community plan, general plan or zoning

Historic Status: Not a Potentially Designated Historic Property. Survey Rating: F3

Service Delivery District: II

City Council District: 1

An Appeal to the City Planning Commission of this Administrative Case decision may be submitted within ten (10) calendar days after the date of this letter, and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Leigh McCullen, Planner III**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Administrator or wherein his/her decision is not supported by substantial evidence and must include payment of \$1,181.93 in accordance with the City of Oakland Master Fee Schedule. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you from raising such issues during your appeal and/or in court. If you challenge a Commission decision in court, you may be limited to issues raised at the hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or

prior to, the Appeal hearing. Any party seeking to challenge in court those decisions that are final and not administratively appealable to the City Council must do so within ninety (90) days of the date of the announcement of the Commission's final decision.

You may choose to record a signed Notice of Exemption (NOE) certifying that the project has been found to be exempt from CEQA review, the Environmental Declaration, and, if applicable, the De Minimis Impact Findings at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$50.00 made payable to the Alameda County Clerk. A NOE will be provided to you upon request. If you choose to record a NOE, bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Zoning Division, to the attention of **Leigh McCullen, Planner III**. Although recordation of the Notice of Exemption (NOE) is optional pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE reduces the statute of limitations on challenges to your project, based on environmental issues, to 35 days after the NOE is recorded with the County. In the absence of a recorded NOE, the statute of limitations for challenges extends to 180 days.

If you have any questions, please contact the case planner, **Leigh McCullen, Planner III** at (510) 238-4977 or lmccullen@oaklandnet.com.

Sincerely,



Scott Miller
Zoning Manager

Attachments:

- A. Findings of Approval
- B. Conditions for Approval
- C. CM76-296 and CM80-191 Conditions of Approval

cc: RCPC, 5242 College Avenue PMB 311, Oakland CA 94618
Timothy and Liz Durham, 6301 Brookside Ave, Oakland CA 94618
Susan Ford and Mitchell Taylor, 6376 Brookside Ave, Oakland CA 94618
Michele and Michael Mika, 6360 Brookside Ave, Oakland CA 94618
Darlene Bearde, 6215 Brookside Ave, Oakland CA 94618
Sondre Skatter, 6225 Brookside Ave, Oakland CA 94618
Owner, 5313 Brookside Ave, Oakland CA 94618
Willie Thompson, 6351 Brookside Ave, Oakland CA 94618
Arlen Hearing, 6357 Brookside Ave, Oakland CA 94618
Marcia and Jim Larsson, 6371 Brookside Ave, Oakland CA 94618
Larry and Susan Gregory, 6388 Brookside Ave, Oakland CA 94618
Joel Peter, 6394 Brookside Ave, Oakland CA 94618
Ingred and Scott Mealer, 6401 Brookside Ave, Oakland CA 94618
Carolyn Garvey and Frederick Kaynor, 6307 Brookside Ave, Oakland CA 94618
Don and Laura Santana, 2 Eustice Avenue, Oakland CA 94618

ATTACHMENT A

FINDINGS FOR APPROVAL:

This proposal meets all the required findings under Sections 17.134.050, Conditional Use Permit Findings and 17.136.070, Design Review Criteria as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

SECTION 17.134.050 - CONDITIONAL USE PERMIT FINDINGS:

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

The bowl-shaped subject site is bounded by Golden Gate Avenue to the east, Brookside Avenue to the west, and Eustice Avenue to the south, with single-family residential development beyond, and EBMUD property to the north. In 1976, and in again in 1980, the City approved a Conditional Use Permits to establish a private high school on the site. Several building additions and increases of student population have occurred over time. There are no official records of past complaints filed with the City or code enforcement action against the school.

The current project would provide for the construction of new civic buildings, improvements to the campus entry and parking area, and an increase of the student population from 325 students to 340 students. The location and scale of the proposed buildings would be consistent with the original campus site design which arranged buildings in the valley floor along the lower slopes of the site and around a central passive outdoor recreation area. To reduce visual impacts, the primary bulk of the proposed buildings would be below the grade of the surrounding streets, with portions of the rooflines, which slope away from the property lines, and small portions of the building facades visual at street level. The surrounding residential structures are sited up-slope of the proposed structures; therefore the proposed buildings would not impact views, privacy or solar access to adjacent properties. Per the conditions of approval, landscaping would be planted to further screen the new buildings from surrounding properties. Consistent with the architecture of the existing buildings, the proposed buildings would feature wood shingle siding, pitched asphalt shingle roofs, and wood double-hung windows.

The improvements to the parking area would provide for 105 parking spaces and new landscaping. The Planning Code would only require 67 parking spaces for the school. The 1976 Conditional Use Permit (CUP) required 70 off-street parking spaces for 250 students, or 0.28 spaces per student, while the 1980 CUP required 40 off-street parking spaces, 0.16 spaces per student. At 0.30 parking spaces per student, more parking would be provided than previously required by the original CUP. The proposed minor increase in student enrollment from 325 to 340, which would represent a less than 5 percent increase in student population, would not result in any new impacts to traffic or parking given that the proposed parking exceeds that which would be required by the Planning Code and what was required by the original CUP.

The proposed improvements and the construction of new civic facilities to accommodate existing Community Educations Activities would be compatible with the historic use of the site. With implementation of the conditions of approval, the proposed project would not adversely affect the livability or appropriate development of abutting properties.

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

The proposed improvements and the construction of new civic facilities to accommodate existing Community Education Activities would be compatible with the historic civic use of the site. The location and scale of the proposed buildings would be consistent with the original campus site design which arranged buildings in the valley floor along the lower slopes of the site and around a central passive outdoor recreation area. In addition to the new buildings, the proposed improvements to the parking area and the campus entry and new landscaping and screening would enhance the functionality of the existing civic environment.

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

The proposed improvements would enhance the successful operation of an existing private high school, the College Preparatory School, which serves communities throughout the Bay Area, with approximately 44% of the student body residing in Oakland and Piedmont.

D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.

See below.

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

The Oakland General Plan designation for the subject site Detached Unit Residential. The General Plan states that future development within this classification should be primarily residential in character, with schools, and small civic uses. The continued use of the site for Community Education Activities would be consistent with the desired characteristics of this designation.

This proposal meets all the required findings under Sections 17.136.070, Design Review Criteria as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

A. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures.

The location and scale of the proposed buildings would be consistent with the original campus site design which arranged buildings along the edge of the valley floor and around a central passive outdoor recreation area. To reduce visual impacts the primary bulk of the proposed buildings would be below the grade of the surrounding streets, with only portions of the rooflines, sloping away from the property lines, and small portions of the building facades visible at street level. Per the conditions of approval, landscaping will be planted to further screen the new buildings from surrounding properties. The proposed buildings would be consistent architecturally with the existing buildings which feature wood shingle siding, asphalt shingle roofs, and wood double-hung windows.

B. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics.

The proposed improvements and the construction of new civic facilities to accommodate existing Community Education Activities would be compatible with the historic civic use of the site. The location and scale of the proposed buildings would be consistent with the original campus site design. In addition to the new buildings, the proposed improvements to the parking area and the campus entry and new landscaping and screening would enhance the functionality of the existing civic environment of the school. With implementation of the conditions of approval, the proposed project would protect desirable characteristics of the site and the neighborhood.

3. That the proposed design will be sensitive to the topography and landscape.

The placement of the proposed buildings would continue the ring of buildings around the edge of the valley floor thereby preserving the central outdoor area. Although four protected trees would be removed, per the conditions of approval they would be replaced at a ratio of three to one. Although some grading would be required, the existing topography of the site would be maintained along the perimeter of the new buildings. Overall, the design would be sensitive to the topography and would enhance the landscaping of the site by providing for the planting of native species along the slopes of the valley and the parking area.

4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;

The relocated portable classrooms, the World Languages building and the new auditorium would be partially located on hill of the valley. To reduce bulk, these buildings would be stepped into the hillside. To reduce visual impacts from surrounding properties the primary bulk of the proposed buildings would be below the grade of the surrounding streets, with only portions of the rooflines, sloping away from the property lines, and small portions of the building facades visual at street level. Per the conditions of approval, landscaping will be planted to further screen the new buildings from surrounding properties.

5. That the proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by the City Council.

The Oakland General Plan designation for the subject site Detached Unit Residential. The General Plan states that future development within this classification should be primarily residential in character, with schools, and small civic uses. The construct of new civic facilities to improve the functionality of an existing Community Education Civic Activity would be consistent with the desired characteristics of this designation.

ATTACHMENT B

STANDARD CONDITIONS OF APPROVAL

1. Approved Use

Ongoing

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, this letter, the plans dated **March 4, 2009**, and the **Conditions of Approval associated with Major Conditional Use Permit CM76-296 and CM80-191, which are attached to and made a part of this approval**, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.
- b) This action by the Director of City Planning ("this Approval") includes the approvals set forth below. This Approval includes: A revision to previously approved Conditional Use Permit CM76-296 and CM80-191 for additions and alterations at the College Preparatory School, an increase in student enrollment to 340 students, and to allow the Theater Arts building and the English building to exceed the R-30 height limit pursuant to Section 17.108.020 of the Oakland Planning Code.

2. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

This Approval shall expire **two years** from the approval date, **unless within such period all permits for construction of Phase I of the project have been issued. Approval of Phase II and Phase III of the project shall expire 10 years from the date of the issuance of the building permit for Phase I of the project.** Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

3. Scope of This Approval; Major and Minor Changes

Ongoing

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

4. Conformance with other Requirements

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

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.
- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

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

Ongoing

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, Conditions or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. **Signed Copy of the Conditions**

With submittal of a demolition, grading, and building permit

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

7. **Indemnification**

Ongoing

- d) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- e) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

8. **Compliance with Conditions of Approval**

Ongoing

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

9. **Severability**

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions, and if one or more of such conditions is found to be invalid by a court of competent

jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

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

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

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

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

12. Drainage Plan for Projects on Slopes Greater than 20%

Prior to issuance of building permit (or other construction-related permit)

The project drawings submitted for a building permit (or other construction-related permit) shall contain a drainage plan to be reviewed and approved by the Building Services Division. The drainage plan shall include measures to reduce the post-construction volume and velocity of stormwater runoff to the maximum extent practicable. Stormwater runoff shall not be augmented to adjacent properties or creeks. The drainage plan shall include and identify the following:

- i. All proposed impervious surface on the site;
- ii. Anticipated directional flows of on-site stormwater runoff;
- iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces;
- iv. Source control measures to limit the potential for stormwater pollution; and
- v. Stormwater treatment measures to remove pollutants from stormwater runoff.

13. Erosion, Sedimentation, and Debris Control Measures

Prior to issuance of demolition, grading, or construction-related permit

The project applicant shall submit an erosion and sedimentation control plan for review and approval by the Building Services Division. All work shall incorporate all applicable "Best Management Practices (BMPs) for the construction industry, and as outlined in the Alameda Countywide Clean Water Program pamphlets, including BMP's for dust, erosion and sedimentation abatement per Chapter Section 15.04 of the Oakland Municipal Code. The measures shall include, but are not limited to, the following:

- a) On sloped properties, the downhill end of the construction area must be protected with silt fencing (such as sandbags, filter fabric, silt curtains, etc.) and hay bales oriented parallel to the contours of the slope (at a constant elevation) to prevent erosion into the street, gutters, stormdrains.
- b) In accordance with an approved erosion control plan, the project applicant shall implement mechanical and vegetative measures to reduce erosion and sedimentation, including appropriate seasonal maintenance. One hundred (100) percent degradable erosion control fabric shall be installed on all graded slopes to protect and stabilize the slopes during construction and before permanent vegetation gets established. All graded areas shall be temporarily protected from erosion by seeding with fast growing annual species. All bare slopes must be covered with staked tarps when rain is occurring or is expected.
- c) Minimize the removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Maximize the replanting of the area with native vegetation as soon as possible.

- d) Install filter materials acceptable to the Engineering Division at the storm drain inlets nearest to the project site prior to the start of the wet weather season (October 15); site dewatering activities; street washing activities; saw cutting asphalt or concrete; and in order to retain any debris flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding.
- e) Ensure that concrete/granite supply trucks or concrete/plaster finishing operations do not discharge wash water into the creek, street gutters, or storm drains.
- f) Direct and locate tool and equipment cleaning so that wash water does not discharge into the street, gutters, or stormdrains.
- g) Create a contained and covered area on the site for storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the storm drain system by the wind or in the event of a material spill. No hazardous waste material shall be stored on site.
- h) Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
- i) Remove all dirt, gravel, refuse, and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- j) Broom sweep the street pavement adjoining the project site on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping. At the end of each workday, the entire site must be cleaned and secured against potential erosion, dumping, or discharge to the street, gutter, stormdrains.
- k) All erosion and sedimentation control measures implemented during construction activities, as well as construction site and materials management shall be in strict accordance with the control standards listed in the latest edition of the Erosion and Sediment Control Field Manual published by the Regional Water Quality Board (RWQB).
- l) All erosion and sedimentation control measures shall be monitored regularly by the project applicant. The City may require erosion and sedimentation control measures to be inspected by a qualified environmental consultant (paid for by the project applicant) during or after rain events. If measures are insufficient to control sedimentation and erosion then the project applicant shall develop and implement additional and more effective measures immediately

14. Post-Construction Stormwater Management Plan

Prior to issuance of building permit (or other construction-related permit)

The applicant shall comply with the requirements of Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Alameda Countywide Clean Water Program. The applicant shall submit with the application for a building permit (or other construction-related permit) a completed Construction-Permit-Phase Stormwater Supplemental Form to the Building Services Division. The project drawings submitted for the building permit (or other construction-related permit) shall contain a stormwater management plan, for review and approval by the City, to manage stormwater run-off and to limit the discharge of pollutants in stormwater after construction of the project to the maximum extent practicable.

- a) The post-construction stormwater management plan shall include and identify the following:
 - i. All proposed impervious surface on the site;
 - ii. Anticipated directional flows of on-site stormwater runoff; and
 - iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and
 - iv. Source control measures to limit the potential for stormwater pollution;
 - v. Stormwater treatment measures to remove pollutants from stormwater runoff; and

- vi. Hydromodification management measures so that post-project stormwater runoff does not exceed the flow and duration of pre-project runoff, if required under the NPDES permit.
- b) The following additional information shall be submitted with the post-construction stormwater management plan:
- i. Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and
 - ii. Pollutant removal information demonstrating that any proposed manufactured/mechanical (i.e. non-landscape-based) stormwater treatment measure, when not used in combination with a landscape-based treatment measure, is capable of removing the range of pollutants typically removed by landscape-based treatment measures and/or the range of pollutants expected to be generated by the project.

All proposed stormwater treatment measures shall incorporate appropriate planting materials for stormwater treatment (for landscape-based treatment measures) and shall be designed with considerations for vector/mosquito control. Proposed planting materials for all proposed landscape-based stormwater treatment measures shall be included on the landscape and irrigation plan for the project. The applicant is not required to include on-site stormwater treatment measures in the post-construction stormwater management plan if he or she secures approval from Planning and Zoning of a proposal that demonstrates compliance with the requirements of the City's Alternative Compliance Program.

Prior to final permit inspection

The applicant shall implement the approved stormwater management plan.

15. Maintenance Agreement for Stormwater Treatment Measures

Prior to final zoning inspection

For projects incorporating stormwater treatment measures, the applicant shall enter into the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.3.e of the NPDES permit, which provides, in part, for the following:

- i. The applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
- ii. Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary. The agreement shall be recorded at the County Recorder's Office at the applicant's expense.

16. Waste Reduction and Recycling

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

Prior to issuance of demolition, grading, or building permit

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

Ongoing

The ODP will identify how the project complies with the Recycling Space Allocation Ordinance, (Chapter 17.118 of the Oakland Municipal Code), including capacity calculations, and specify the methods by which the development will meet the current diversion of solid waste generated by operation of the proposed project from landfill disposal in accordance with current City requirements. The proposed program shall be implemented and maintained for the

duration of the proposed activity or facility. Changes to the plan may be re-submitted to the Environmental Services Division of the Public Works Agency for review and approval. Any incentive programs shall remain fully operational as long as residents and businesses exist at the project site.

17. Dust Control

Prior to issuance of a demolition, grading or building permit

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

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

17. Construction Emissions

Prior to issuance of a demolition, grading or building permit

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

- a) Demonstrate compliance with Bay Area Air Quality Management District (BAAQMD) Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 provides the issuance of authorities to construct and permits to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA" Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.

- b) Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) shall be performed for such equipment used continuously during the construction period.

18. Hazards Best Management Practices

Prior to commencement of demolition, grading, or construction

The project applicant and construction contractor shall ensure that construction of Best Management Practices (BMPs) are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:

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

19. Asbestos Removal in Structures

Prior to issuance of a demolition permit

If asbestos-containing materials (ACM) are found to be present in building materials to be removed, demolition and disposal, the project applicant shall submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified ACM in accordance with all applicable laws and regulations, including but not necessarily limited to: California Code of Regulations, Title 8; Business and Professions Code; Division 3; California Health & Safety Code 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended.

20. Lighting Plan

Prior to the issuance of an electrical or building permit

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

21. Archaeological Resources

Ongoing throughout demolition, grading, and/or construction

- a) Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to

determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

- b) In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project applicant shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.
- c) Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project applicant and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist shall recommend appropriate analysis and treatment, and shall prepare a report on the findings for submittal to the Northwest Information Center.

23. Human Remains

Ongoing throughout demolition, grading, and/or construction

In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

24. Paleontological Resources

Ongoing throughout demolition, grading, and/or construction

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

25. Required Landscape Plan

Prior to issuance of a building permit

Submittal and approval of a landscape plan is required. The landscape plan and the plant materials installed pursuant to the approved plan shall including the following:

- a) Landscape plan shall include a detailed planting schedule showing the proposed location, sizes, quantities, and specific common botanical names of plant species.
- b) Landscape plans for projects involving grading, rear walls on downslope lots requiring conformity with the screening requirements in Section 17.124.040, or vegetation management prescriptions in the S-11 zone, shall

show proposed landscape treatments for all graded areas, rear wall treatments, and vegetation management prescriptions.

- c) Landscape plan shall incorporate pest-resistant and drought-tolerant landscaping practices.
- d) All landscape plans shall show proposed methods of irrigation. The methods shall ensure adequate irrigation of all plant materials for at least one growing season.
- e) The landscape plan shall be visually consistent with the “after” images provided by CPS’s representatives (Ratcliff document “090601_3-D Simulations. PDF”). If after occupancy of the World Language Building the views are not as represented by CPS, then CPS will immediately plant trees and other landscaping that within 2 years will be consistent the “after” images.

26. Landscape Requirements for Street Frontages.

Prior to issuance of a final inspection of the building permit

- a) All areas between the new Facilities and abutting street lines shall be fully landscaped, plus any unpaved areas of abutting rights-of-way of improved streets or alleys, provided, however, on streets without sidewalks, an unplanted strip of land five (5) feet in width shall be provided within the right-of-way along the edge of the pavement or face of curb, whichever is applicable. Existing plant materials may be incorporated into the proposed landscaping if approved by the Director of City Planning.
- b) In addition to the landscaping proposed on the approved plans, a minimum of one (1) fifteen-gallon tree, or substantially equivalent landscaping consistent with city policy and as approved by the Director of City Planning, shall be provided for every twenty-five (25) feet of street frontage. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet, the trees to be provided shall include street trees to the satisfaction of the Tree Services Division

27. Landscape Maintenance.

Ongoing

All required and proposed planting shall be permanently maintained in good growing condition, whenever necessary, trimmed, pruned and replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required fences, walls and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

All existing trees, defined as protected in the City of Oakland Protected Tree Ordinance, including but not limited to the oak tree at the corner of Eustice and Bookside Avenues, except those trees subject to Tree Removal Permit T090006 and any subsequent Tree Removal Permit granted by the City, shall be maintained in good growing condition.

28. Tree Removal Permit

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

Prior to removal of any protected trees, per the Protected Tree Ordinance, located on the project site or in the public right-of-way adjacent to the project, the project applicant must secure a tree removal permit from the Tree Division of the Public Works Agency, and abide by the conditions of that permit.

All existing trees, defined as protected in the City of Oakland Protected Tree Ordinance, including but not limited to the oak tree at the corner of Eustice and Bookside Avenues, except those trees subject to Tree Removal Permit T090006 and any subsequent Tree Removal Permit granted by the City, shall be maintained in good growing condition.

29. Tree Replacement Plantings

Prior to issuance of a final inspection of the building permit

Replacement plantings shall be required for erosion control, groundwater replenishment, visual screening and wildlife habitat, and in order to prevent excessive loss of shade, in accordance with the following criteria:

- a) No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- b) Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye) or *Umbellularia californica* (California Bay Laurel) or other tree species acceptable to the Tree Services Division.
- c) Replacement trees shall be at least of twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
- d) Minimum planting areas must be available on site as follows:
 - i. For *Sequoia sempervirens*, three hundred fifteen square feet per tree;
 - ii. For all other species listed in #2 above, seven hundred (700) square feet per tree.
- e) In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee as determined by the master fee schedule of the city may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- f) Plantings shall be installed prior to the issuance of a final inspection of the building permit, subject to seasonal constraints, and shall be maintained by the project applicant until established. The Tree Reviewer of the Tree Division of the Public Works Agency may require a landscape plan showing the replacement planting and the method of irrigation. Any replacement planting which fails to become established within one year of planting shall be replanted at the project applicant's expense.

30. Tree Protection During Construction

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

Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- a) Before the start of any clearing, excavation, construction or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the City Tree Reviewer. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- b) Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the City Tree Reviewer from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- c) No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the Tree Reviewer from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the tree reviewer. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- d) Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
- e) If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Agency of such damage. If, in the professional opinion of the Tree

Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.

- f) All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

31. Vegetation Management Plan

<http://www.oaklandnet.com/wildfirePrevention/WildfirePreventionAssessmentDistrictMap.pdf>

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

- a) The project applicant shall submit a vegetation management plan to the Planning and Zoning Division and Fire Services Division that includes if deemed appropriate, but not limited to the, following measures:
 - i. Removal of dead vegetation overhanging roof and chimney areas;
 - ii. Removal of leaves and needles from roofs;
 - iii. Planting and placement of fire-resistant plants around the house and phasing out flammable vegetation;
 - iv. Trimming back vegetation around windows;
 - v. Removal of flammable vegetation on hillside slopes greater than 20%;
 - vi. Pruning the lower branches of tall trees;
 - vii. Clearing out ground-level brush and debris;
 - viii. Stacking woodpiles away from structures.
- b) The project applicant shall enter into a maintenance agreement with the City that ensures that landscaping will be maintained and adhere to measures listed above.

32. Right-of-way Clean-up.

Ongoing.

The applicant shall clear the sidewalk and gutter areas along Brookside Avenue, Eustice Avenue, Golden Gate Avenue and Broadway beyond the property lines along these streets, of litter and debris as needed to control litter.

33. Operational Noise-General

Ongoing.

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

34. Parking and Transportation Demand Management

Prior to issuance of a final inspection of the building permit.

The applicant shall submit for review and approval by the Planning and Zoning Division a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The applicant shall implement the approved TDM plan. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use. All four modes of travel shall be considered. Strategies to consider include the following:

- a) Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement;
- b) Construction of bike lanes per the Bicycle Master Plan; Priority Bikeway Projects;
- c) Signage and striping onsite to encourage bike safety;
- d) Installation of safety elements per the Pedestrian Master Plan (such as cross walk striping, curb ramps, count down signals, bulb outs, etc.) to encourage convenient crossing at arterials;
- e) Installation of amenities such as lighting, street trees, trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan;
- f) Direct transit sales or subsidized transit passes;
- g) Guaranteed ride home program.

- h) Pre-tax commuter benefits (checks)
- i) On-site car-sharing program (such as City Car Share, Zip Car, etc.)
- j) On-site carpooling program
- k) Distribution of information concerning alternative transportation options
- l) Parking management strategies; including attendant/valet parking and shared parking spaces

35. Days/Hours of Construction Operation

Ongoing throughout demolition, grading, and/or construction

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

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

36. Noise Control

Ongoing throughout demolition, grading, and/or construction

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

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

- c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- d) The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

37. Pile Driving and Other Extreme Noise Generators

Ongoing throughout demolition, grading, and/or construction

To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90dBA, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. The criterion for approving the plan shall be a determination that maximum feasible noise attenuation will be achieved. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity:

- a) Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- b) Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- c) Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- d) Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- e) Monitor the effectiveness of noise attenuation measures by taking noise measurements.

38. Noise Complaint Procedures

Ongoing throughout demolition, grading, and/or construction

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

- a) A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);
- b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor’s telephone numbers (during regular construction hours and off-hours);
- c) The designation of an on-site construction complaint and enforcement manager for the project;
- d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and

- e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

39. Construction Management and Parking

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

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

- a) A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- b) Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- c) Location of construction staging areas for materials, equipment, and vehicles at an approved location.
- d) A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.
- e) Provision for accommodation of pedestrian flow.
- f) Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces along Eustice or Brookside Avenues.
- g) Any damage to the street or sidewalk caused by heavy equipment, or as a result of this construction, shall be repaired, at the applicant's expense, within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to issuance of a final inspection of the building permit. All damage that is a threat to public health or safety shall be repaired immediately. The street shall be restored to its condition prior to the new construction as established by the City Building Inspector and/or photo documentation, at the applicant's expense, before the issuance of a Certificate of Occupancy.
- h) Any heavy equipment brought to the construction site shall be transported by truck, where feasible.
- i) No materials or equipment shall be stored on the traveled roadway at any time.
- j) Prior to construction, a portable toilet facility and a debris box shall be installed on the site, and properly maintained through project completion.
- k) All equipment shall be equipped with mufflers.
- l) Prior to the end of each work day during construction, the contractor or contractors shall pick up and properly dispose of all litter resulting from or related to the project, whether located on the property, within the public rights-of-way, or properties of adjacent or nearby neighbors.

Project Specific Conditions

40. Student Enrollment

Ongoing

Maximum student enrollment shall not exceed 340. At no time shall more than 340 students be enrolled. The school shall have a maximum of three years from the date of this letter to reduce the existing population to 340 students. The school shall institutionalize a reporting process to annually document and communicate enrollment

figures to the City of Oakland and neighbors within 300 feet of the school's property boundaries. Any increase in student population will require a modification to the Conditional Use Permit.

41. Removal of Picnic Table

Ongoing.

The picnic table located outside the fence at Brookside and Eustice Avenues shall be removed. Tables, benches, or "other similar accommodations" there or anywhere outside the school fences shall be prohibited, except street furniture required, approved, and/or installed by the City of Oakland.

42. Use of the Performing Arts Building

Ongoing

The College Preparatory School (CPS) shall not rent or otherwise provide the use of any part of the 350 seat building for any persons or organizations other than students, staff, alumni, parents or people invited to speak or perform for CPS. Third-party rentals of the performing arts building shall be prohibited. Simultaneous performances shall not occur in the Performing Arts Building and Butner Auditorium.

43. Hours of Operations and Major Events – Revision to Condition No. 8 of CM80-191

Ongoing

The facilities on the site shall be limited to use by the applicant and be utilized primarily between the hours of 8 a.m. and 6 p.m. Monday through Friday provided that major evening and weekend activities shall be limited to twelve (12) events per year. *Major evening and weekend events are defined as gathering of 300 people or more occurring after 6 p.m. Monday through Friday or anytime on Saturday and Sunday.*

44. Parking Availability and Permit Requirements

Ongoing

All student and staff vehicles using on-site parking shall have a registered parking permit. At least 100 parking spaces shall be maintained for use by students and staff commuting to campus. Students and staff shall be directed by CPS not to park on Eustice or Brookside Avenues.

45. Drop-off and Pick-up

All drop-offs and pick-ups shall occur along Broadway or within the campus' fenced boundaries.

46. Eustice Avenue and Brookside Avenue Gates

The existing and any future gates along Eustice and Brookside Avenues shall be used as emergency exits only.

47. Annual Attestation by CPS Board of Trustees

Ongoing

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

ATTACHMENT C

CONDITIONS OF APPROVAL ATTACHED TO AND MADE A PART OF ZONING CASE NO. CM 76-296

1. That enrollment be limited to a maximum of 250 students; that the location of the academic and administrative building complex be moved away from Eustice Avenue and toward the center of the valley floor or closer to Broadway; that the regulation-size soccer field be eliminated from the site plan; in its place limited fill for recreation activities will be permitted; that the final site plan retain to the maximum extent possible all trees in excess of twelve inches in diameter; final site plan to be approved by the City Planning Commission prior to issuance of any building permits.
2. That not less than 70 on-site parking spaces be provided and limited to the northwest (Broadway) end of the site, subject to the approval of East Bay Municipal Utility District.
3. That a detailed grading plan be prepared by the applicant and approved jointly by the Director of City Planning Director and Director of Public Works prior to any site preparation.
4. That a geology and soils report acceptable to the Director of Public Works be supplied by the applicant prior to issuance of any building permits.
5. That a detailed drainage and sewage plan be prepared by a licensed Civil Engineer and approved by the Director of Public Works prior to issuance of any building permits.
6. That a landscaping plan prepared by a licensed landscape architect be approved by the Director of City Planning prior to issuance of building permits; that such plan include a system for irrigation of planting where necessary; and a program for the continued maintenance of all existing and proposed plant materials on the site; that improvements in accordance with said plan be installed prior to occupancy; that all landscaping be permanently maintained. That any such plan provide emphasis on - natural plants and reduction of watering needs.
7. That there be detailed land survey of the site indicating the precise location of all oak trees in excess of four inches in diameter and all other species of trees in excess of nine inches in diameter.
8. That no trees as shown on the survey required in the above condition be removed from the site without the written approval of the Director of City Planning upon the submission of proof that removal is necessary for completion of the project as approved or to prevent a clear and present danger from damaged, dead, or diseased trees.
9. That the facilities on the site be limited to use by this applicant and be utilized primarily between the hours of 8 a.m. and 6p.m. Monday through Friday provided that major evening and weekend activities shall be permitted provided they are limited to twelve events per year.
10. That any and all exterior signs be approved by the Director of City Planning prior to installation.
11. That the color, texture, and exterior materials of all structures (including fencing) be approved by the Director of City Planning prior to issuance of any building permits.

- 12. That the requirements and comments of the Director of Public Works as expressed in the Inter-Office letter dated July 29, 1976 be met.
- 13. That the Commission reserves the right, after notification to interested parties and the conduct of a public hearing, to modify conditions of approval and improvement requirements in order to discourage curbside parking by students and faculty if such a problem develops; such new conditions may include but are not limited to construction of fencing, posting of mid-day parking limits, reduction in allowable enrollment.
- 14. That this permit shall become effective upon satisfactory compliance with the above conditions. Failure to obtain required building permits by August 31, 1977 shall invalidate this approval, provided further, that upon written request the Director of City Planning may grant a one year extension of this date, with additional extensions subject to approval by the City Planning Commission.

ADOPTED BY: City Planning Commission: August 11, 1976 (date) 7 ayes, (vote)
City Council: _____ (date) 0 noes (vote)

CONDITIONS OF APPROVAL ATTACHED TO AND MADE A PART OF PERMITS CASE NO. CM 80-191

1. That enrollment be limited to a maximum of 250 students; that the location of the academic and administrative building complex be moved away from Justice Avenue and toward the center of the valley floor or closer to Broadway; the matter of the soccer field is referred back to the Planning Commission after submission of revised plans made possible by reduction in the required number of parking spaces, subject to appeal to Council as provided by applicable provisions of the Planning Code; in its place limited fill for recreation activities will be permitted; that the final site plan retain to the maximum extent possible all trees in excess of twelve inches in diameter; final site plan to be approved by the City Planning Commission prior to issuance of any building permits.
2. That not less than 40 on-site parking spaces be provided and limited to the northwest (Broadway) end of the site, subject to the approval of East Bay Municipal Utility District. *(see Resolution for attachment)*
3. That a detailed grading plan be prepared by the applicant and approved jointly by the Director of City Planning and Director of Public Works prior to any site preparation.
4. That a geology and soils report acceptable to the Director of Public Works be supplied by the applicant prior to issuance of any building permits.
5. That a detailed drainage and sewage plan be prepared by a licensed Civil Engineer and approved by the Director of Public Works prior to issuance of any building permits.
6. That a landscape plan prepared by a licensed landscape architect be approved by the Director of City Planning prior to issuance of building permits; that such plan include a system for irrigation of plantings where necessary and a program for the continued maintenance of all existing and proposed plant materials on the site; that improvements in accordance with said plan be installed prior to occupancy; that all landscaping be permanently maintained. That any such plan provide emphasis on - natural plants and reduction of watering needs.
7. That there be detailed land survey of the site indicating the precise location of all trees in excess of four inches in diameter and all other species of trees in excess of two inches in diameter.
8. That no trees as shown on the survey required in the above condition be removed from the site without the written approval of the Director of City Planning upon the submission of proof that removal is necessary for completion of the project as approved, or to prevent a clear and present danger from damaged, dead, or diseased trees. *(see Resolution for attachment)*
9. That the facilities on the site be limited to use by this applicant and be utilized primarily between the hours of 8 a.m. and 6 p.m. Monday through Friday provided that major evening and weekend activities shall be permitted provided they are limited to twelve events per year.

2/14/21

SEE REVERSE SIDE

10. That any and all exterior signs be approved by the Director of City Planning prior to installation.

CK
11. That the color, texture, and surface materials of all structures (including fencing) be approved by the Director of City Planning prior to issuance of any building permit.

12. That the requirements and comments of the Director of Public Works as expressed in the letter-office letter dated July 29, 1976 be met.

13. That the Commission reserves the right, after notification to interested parties and the conduct of a public hearing, to modify conditions of approval and improvement requirements in order to discourage curbside parking by students and faculty if such a problem develops; such new conditions may include but are not limited to construction of fencing, posting of no-parking limits, reduction in allowable enrollment.

14. That this permit shall become effective upon satisfactory compliance with the above conditions. Failure to obtain required building permits by May 31, 1981 shall invalidate this approval, provided further, that upon written request the Director of City Planning may grant a one (1) year extension of this date, with additional extensions subject to approval by the City Planning Commission.

15. *See Report Attached*

WCCM: _____ (date: _____) (vote: _____)
_____ (date: _____) (vote: _____)

CITY OF OAKLAND
Oakland, California 94612
Telephone 273-3911

ZONING REPORT

City Planning Department
 City Planning Commission

APPLICANT: The College
Preparatory School

Owner Buyer Lessee Agent

LOCATION: 6100 Broadway

APPLICATION: Major Conditional
Use Permit

PROPOSAL: To modify Condition of
Approval to allow increase
in maximum enrollment from
250 to 325 students

OPPOSITION: One speaker at the public
hearing expressing concern
about traffic

CASE FILE: CM 80-191

REPORT DATE: February 18, 1993

FILING DATE: October 28, 1992

LAST DATE FOR
CONSIDERATION: N/A

APPLICABLE ZONING REGULATIONS(S):

Section 3454 - School's Conditional
Permitted in R-30 Zone

Section 9200 - Conditional Use Permit
Procedure

STAFF RECOMMENDATION: Approve
 Conditions attached

COMMISSION ACTION: Approved w/ Conditions
Vote: 5 Ayes, 0 Noes
Date: February 24, 1993

ZONING: R-30 One Family Residential Zone

ENVIRONMENTAL STATEMENT: ER 76-30
 EIR Negative Declaration Categorically Exempt

PROPERTY DESCRIPTION: Wooded, bowl-shaped, six acre site with existing College Preparatory School facilities. Fire damaged residential neighborhood and Zoning to the south, east and west. Broadway and freeway to the north. Municipal Utilities District facilities and a service road between the freeway and the site.

DISCUSSION:

The applicant is a private, four-year high school located on its six acre site in 1982 after having obtained a Major Conditional Use Permit (CM 80-191) from the City. On August 5, 1980 the City Council, on appeal from an approval by the City Planning Commission, granted the Use Permit subject to Conditions of Approval. Condition Number One contained a limitation of 250 students for the school enrollment. Subsequently, the school obtained an additional Conditional Use Permit (CM 89-185) in June 1989 to construct a gymnasium as part of the campus facilities. The combined Use Permit conditions required at least 50 on-site parking spaces be provided in an on-site, all weather, paved parking area.

The school had originally made a Use Permit request to locate a campus at the site in 1976. At that time an Environmental Impact Report (EIR) was prepared and certified. The EIR was prepared with an assumption that there would be an anticipated enrollment of 240 students. The EIR evaluation concluded that 38 parking spaces would be sufficient for the 240 students. The report also concluded that to overcome any significant effect from the anticipated traffic "administrative measures and special transportation service present possible mitigation measures"; and further, that as a traffic mitigation (page 16 of the EIR)

College Preparatory School
February 18, 1993
Page 2 of 3

administrative efforts to minimize traffic and parking on adjacent residential streets (organize car pools, school bus service, disciplinary action, etc.)" should be incorporated..

When the City Council approved the Use Permit in 1980 it accepted the EIR in satisfaction of the requirements of the California Environmental Impact Act and as a mitigation condition of approval required 50 on-site parking spaces for 240 students or a ratio of one parking space for each 5 students. The school is now asking to place the cap on enrollment at 325 with at least 107 on-site parking spaces or a ratio of 1 parking space for each 3 students. The analysis and conclusion of the original EIR are still valid today; as long as the mitigation suggested by the EIR are followed today there would appear to be no need for a new or supplemental EIR to be provided at this time.

The school has existed at the current site for eleven years. During that time the enrollment has risen to 314 students due to an oversight on the part of a school administration that was unaware of the conditions of the Use Permit limiting enrollment to 250 students. As a result of construction of the new gymnasium in 1991-92, it was realized that the enrollment cap had been exceeded. The school is now attempting to have the existing enrollment limitation changed to reflect the actual enrollment capacity of the school facilities. At the public hearing before the Planning Commission on January 27, 1993 only one neighbor of the school appeared in opposition. Notice of the public hearing had been mailed to 79 individual property owners with property within 300 feet of the campus site. The mailing list was developed from an updated list of the current addresses of displaced fire victims so that a good majority of the notices should have reached these property owners. From the notification given, only one qualified protest resulted. The protestor objected to traffic congestion that results from dropping off of students on Eustice at Brookside in the mornings.

At the hearing the school was asked to consider conducting a traffic study and to develop a transportation management plan. After conferring with Planning Staff, the school has completed such a study. The results of the "Limited Traffic Study" are being provided to the Planning Commission for its consideration. In addition to the study and the Traffic Management Plan contained in Part III of that study the school has submitted an example of its traffic impact awareness campaign with students and parents.

Staff believes that the facilities of The College Preparatory School are capable of absorbing the increase in permitted enrollment from 250 to 325. Parking on site is available for over 100 vehicles. In the eleven years of occupancy of the site--including housing a student population of up to 314--there have been few neighborhood complaints registered about the presence and operation of the school. With a conscientious application on the part of the school of an on-going Traffic Management Plan, the campus should be able to accommodate an enrollment of 325 students.

RECOMMENDATION:

Grant the request, amend condition Number One of the Major Conditional Use Permit CM 80-191 to allow a maximum 325 enrollment cap subject to the conditions below.

CONDITIONS OF APPROVAL ATTACHED TO AND MADE A PART OF MODIFICATION TO CONDITION NUMBER ONE OF ZONING CASE NO. CM 80-191:

1. That condition Number One of the Conditions of Approval for Major Conditional Use Permit No. 80-191 as established by Oakland City Council Resolution 59120 C.M.S. be established to read in part "That enrollment be limited to a maximum of 325 students..."
2. That all other conditions of approval of Major Conditional Use Permit

CM 80-191 (School site) and CM 89-185 (Gymnasium) granted previously to the applicant shall remain in effect.

1. That The College Preparatory School and any successors in interest initiate and maintain the Traffic Management Plan as described in Section III of the "Limited Traffic Study" submitted to the City Planning Commission dated February 17, 1993.
2. That the City Planning Commission reserves the right, after notice and public hearing, to alter the above Conditions of Approval or revoke this Use Permit if as a result of neighborhood complaints it is found that the increased enrollment has resulted in any adverse impact on the surrounding neighborhood or that the operation of the school facilities are no longer in compliance with the General Use Permit criteria.
3. That these modified Conditions of Approval be recorded with the Alameda County Recorders office with proof of recordation submitted to the Director of City Planning.

ADOPTED BY: City Planning Commission:
City Council:

Feb 24, 1993 5 Ayes, 0 Noes
_____ (date) _____ (vote)

City of Oakland
Community and Economic Development Agency
Zoning Division
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

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

Case No.: REV09004

Project Applicant: Dan Wetherell

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

Exempt Status: CHECK ALL THAT APPLY

Statutory Exemptions

{Article 18:Section 21080;15260}

- Ministerial {Sec.15268}
- Feasibility/Planning Study {Sec.15262}
- Emergency Project {Sec.15269}
- General Rule {Sec.15061(b)(3)}
- Other: {Sec.15314}

Categorical Exemptions

{Article 19:Section 21084;15300}

- Existing Facilities {Sec.15301}
- Replacement or Reconstruction {Sec.15302}
- Small Structures {Sec.15303}
- Minor Alterations {Sec.15304}
- Other {Sec.15183}
- In-fill Development {Sec. 15332}

Reasons why project is exempt: Projects to existing schools and project consistent with a community plan, general plan or zoning are categorically exempt from environmental review.

Lead Agency: City of Oakland, Community and Economic Development Agency, Zoning Division, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person: Leigh McCullen

Phone: (510) 238-4977



Signature (Scott Miller, Zoning Manager)

9-24-09

Date:

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

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

: FOR COURT USE ONLY

NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY :

LEAD AGENCY:

**COMMUNITY & ECONOMIC
DEVELOPMENT AGENCY/PLANNING:
250 Frank H. Ogawa Plaza
Room 2114
Oakland, CA 94612**

APPLICANT:

: Dan Wetherell

Contact: Dan Wetherell

FILING NO.
: REV09004

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:

CLERK'S
USE ONLY

1. NOTICE OF EXEMPTION/STATEMENT OF EXEMPTION

PLU 117

A – STATUTORILY OR CATEGORICALLY EXEMPT
\$50.00 (Fifty Dollars) – CLERK'S FEE

B – DE MINIMUS IMPACT – CERTIFICATE OF FEE EXEMPTION REQUIRED PLU 117
\$25.00 (Twenty-five Dollars) – CLERK'S FEE

NOTICE OF DETERMINATION – FEE REQUIRED

A – NEGATIVE DECLARATION PLU 116
\$1,250.00 (Twelve Hundred Fifty Dollars)-
STATE FILING FEE
\$25.00 (Twenty-five Dollars) – CLERK'S FEE

B – ENVIRONMENTAL IMPACT REPORT PLU 115
\$850.00 —(Eight Hundred Fifty Dollars) – STATE
FILING FEE
\$25.00 (Twenty-five Dollars) – CLERK'S FEE

C -- Certificate of Fee Exemption PLU 117
& De Minimis Impact Fee
\$25.00 (Twenty-five Dollars) – CLERK'S FEE

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

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

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

MAKE CHECK PAYABLE TO: ALAMEDA COUNTY CLERK