

CITY OF OAKLAND



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Community and Economic Development Agency
Planning & Zoning Services Division

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NOTICE OF COMPLAINT

December 18, 2009

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

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

Dear Mr. Chapman.

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

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

Mitigation Measure TRAF-1(Condition #24)

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

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

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

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

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

Student Enrollment (Condition #26)

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

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

Traffic Rules (Condition #34)

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

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

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

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

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

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

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

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

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

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

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

Landscaping (Condition #33- Whittle Agreement 7)

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

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

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

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

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

Deliveries (Condition #33- Lincoln Agreement 5)

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

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

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

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

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

Paul Chapman
Head Royce
December 18, 2009
Page 5

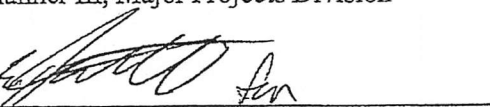
You are hereby advised that your failure to fully and timely respond to this letter will result in the matter being referred to the Code Compliance Division or other procedures as outlined in the Condition of Approval #6 of the PUDF07-520.

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

Sincerely,



Heather Klein
Planner III, Major Projects Division



Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

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

Head-Royce School

scholarship, diversity, citizenship

January 15, 2010

Heather Klein
Planner III, Major Projects Division
Dalziel Building
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

since 1887

Gary Patton
Major Projects Division
Deputy Director of Planning and Zoning
Dalziel Building
250 Frank H. Ogawa Plaza, Suite 3315
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Dear Ms. Klein and Mr. Patton,

On behalf of Head-Royce School, we are responding to your letter of December 18 in which you identify several matters, which you and your staff believe indicate that Head-Royce School is not in compliance with the conditions of approval granted to the School in January 2006. In our detailed prior correspondence and most specifically the letter from Paul Chapman on November 24, we have provided extensive responses to your concerns and significant documentation. This letter will extend our previous communication with you in an effort to explain why we believe we are in compliance.

1. Mitigation Measure T1 (Condition of Approval No. 24)

As we have stated previously we believe we are in compliance with mitigation measure T1. We did retain Dowling Associates to evaluate the matter of the queue above the school on Lincoln Avenue and restate our interpretation of their finding: there is essentially no issue that requires mitigation with respect to the queue at the school.

Condition No. 24 sets forth the process for meeting mitigation measure T1. By engaging Dowling Associates to conduct the required study and by implementing Dowling's recommendation, we have met the requirements of Condition No. 24.

We strongly disagree with your assertion that "even one car trying to maneuver into the queue will block the travel lane." We disagree for several reasons. First, the queue works even when there are cars that enter or exit at points other than the entry for the queue. Second, the queue is designed for pick-up of students released at staggered times which invariably leads to gaps from time to time. Third, and most importantly, the mitigation measure and condition do not prohibit such activity. You also criticize a suggested solution of waving excess traffic that the queue cannot handle. While we respect your thoughts on this matter, we are attempting to find solutions for an extremely minor point and are working closely with the professionals at Dowling to find a solution. We also note that Condition No. 24 requires us to seek solutions and, if we cannot solve

the very occasional extended queuing, to ask for the City to extend the no parking zone further up the hill. We do not believe that the extremely occasional extended queuing should give rise to such additional no parking zone, but if you feel that it does, then we would make the request.

With respect to the training of qualified monitors, it is true that Ms. Fahey received training this past fall. Ms. Fahey in turn trained the school's staff and conducted the monitoring and reporting in the Fall of 2008. The City advised us that the monitoring and reporting did not meet the standard that it expected, and then we requested additional training from Dowling.

You also state that the "submittal does not describe the qualifications for the other person contrary to the mitigation measure." However, the mitigation measure does not require us to describe the qualifications of the monitors, only that the individuals be "qualified." Nevertheless, if the City feels that the training and qualifications of the monitors can be improved or better described, we are willing to provide such additional information.

You also claim that the school did not monitor as frequently as the condition requires. However, we can assure you that the queue is monitored *every day for the entire period of the afternoon pickup*. While informal reporting internal to the school is not as frequent as formal written reporting within the School, the monitoring and reporting is constant. Moreover, the condition requires formal reporting to the City on "every two weeks" "based on the information gathered". We believe that our reporting has been adequate under the terms of the condition. Nevertheless, we are willing to work with the City to improve our reporting processes if this is a material issue.

You also claim that the report does not describe "cars ... blocking the travel lane" and you conclude that the report is incomplete on this basis. However, the condition does not discuss this issue and does not specifically require the reporting of cars entering the queue at points other than the top of the hill.

You also claim that "once the queue exceeded the driveway and red zone area," "additional monitoring is required." The conditions do not specify that additional monitoring is required in such an instance. Rather, the condition requires that we work with Dowling to explore potential reductions or, as an alternative, request a longer queue. As discussed above, we do not believe that the occasional extended queuing justifies a request for a longer queue, we will defer to the City on whether to make that request.

2. Student Enrollment (Condition of Approval No. 26)

We restate the facts of our current situation: "Regarding student enrollment for 2009-10 we note that with an enrollment of 800 students we are only .0025% over the maximum allowed under phase 1 limits, surely not a significant variance." Because we believe we have satisfied the 34 conditions of improvement we also believe we are entitled to enroll 820 students. The standards being applied to us appear to require a level of perfection far beyond that required by the CUP and the mitigations and we do not believe that those

standards are being set at an appropriate level or, for that matter, are applied to other educational institutions in Oakland.

3. Traffic rules (Condition of Approval No. 34)

Condition 34 states as follows:

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

"2. Hold parent meetings at the beginning of each semester to discuss the traffic rules and any changes since the start of the year or semester."

Condition 34 does not state that the traffic rules must, as you claim, "explain how students are dropped-off and picked-up."

It is important to note that the traffic rules and practices that are currently in place are essentially the same as the rules that were in place when the CUP application was approved. While we have always understood the condition to continue requirements relating to those rules, we have sought to improve the way they are communicated and enforced and believe that we have been successful in doing so. Specifically, the traffic rules are explained clearly in the traffic and parking rules document that is sent to all of our families. The rules themselves are outlined in section 1, The Big 10 Traffic Rules. The packet also contains a graphic showing the correct way to drop off and pick up students as required in condition number 34. The consequences for not following school rules are outlined in the packet under section 5 in the 2010-11 school year. All parents/guardians delivering students will be required to sign and return a form in the 2010-11 school year with a pledge to follow all the rules.

You state that "several parents" approached City staff and "were unsure of the rules." We are continually concerned that some parents may, from time to time, forget some of the traffic rules. For this reason, we post the rules in prominent spots at the entry and on campus. We also give parents and guardians written and oral reminders about the rules. However, we cannot vouch for the memory of every parent or guardian.

You state that the school has "not submitted any documentation indicating that every parent has signed and returned the traffic rule packet." We note that the condition does not require that the school submit such documentation and will further note that such documentation is extremely voluminous and is included with other documentation where

we have privacy concerns. Of course, we are willing to provide the additional information substantiating compliance with this requirement.

Finally, you requested "a copy of the line instructing parents and guests where to park." Although this is not a requirement of the condition, we will provide you with a copy of an e-line communication. Please note that every e-line or other invitation that brings people to the school contains such a request. Should you want copies of such documents (in written and electronic form), we can provide you with them.

4. Parking (Condition of Approval No. 33)

We appreciate the fact that the City now notes our compliance with all parking requirements.

5. 4-way Stop Sign (Condition of Approval No. 33)

Previously we sent you a check for \$2000 as requested to evaluate the installation of a four-way stop sign at Whittle and Funston that you returned to us for re-designation. Enclosed please find a check made payable to the City of Oakland for this purpose.

6. Enforcement (Condition of Approval No. 33)

We would be glad to review with you our system of enforcement including the hotline calls we monitor, the extensive logs that we maintain, the self reporting of violations that occur, the enforcement procedures followed by our traffic monitors and our follow-up with our parents. Like all schools, there is congestion during pickup and drop-off and we ask that the City acknowledge this aspect of our doing business when noting that there are occasional violations of the specific rules that have been stipulated.

7. Landscaping (Condition of Approval No. 29)

We believe the reference in the Whittle agreement is to a landscape plan from an earlier project. Since then we have worked with the Neighborhood Liaison Committee to make improvements that have been agreeable to all including regular fire maintenance of the hillside and the installation of a running path. We are reluctant to do anything further because we believe that both the school and the neighbors are pleased with the current state of the landscaping. If this is not the case, we can discuss this matter at the next NLC meeting.

8. Carpooling, Van Pooling and other mass transit (Condition of Approval No. 33)

The Alida Agreement provision 4 provides as follows:

"HR to continue to encourage and subsidize vanpooling and mass transit transportation options. HR has and will continue to encourage staff and students to consider mass transportation and carpooling options, and will continue to provide private, school-subsidized bus and van service to the campus. Head Royce pledges continued support of these options that have the effect of decreasing the number of cars moving throughout the neighborhood."

You request "that the school submit the current transit numbers to Planning and Zoning for both morning and drop-off and evening pick-up." Although not required by the provision in the Alida Agreement, we can provide you with the following.

The number of multi-vehicle trips to the school are as follows: (a) four AC Transit buses that service Oakland and Berkeley on lines 604, 605 and 606, and (b) one Michael's Transportation bus line from the School to Alamo in Contra Costa county and back. The School's carpooling initiatives have also been described for you in the packet you received previously. We periodically count the number of transit or carpool riders, but are confident that the incentives that we have put in place and the services that we provide are creating an environment that exceeds the requirement in the Alida Agreement that we "encourage staff and students to consider mass transportation and carpooling options."

Although not required by the Alida Agreement, the School is also examining its current mass transit services in light of slight shifts in the demographics of our students and staff. For instance, we have seen a gradual and continuing increase in students that live in the immediate vicinity of the school and have observed an increased number of students that walk to school. We have also seen an increase in the number of students coming from southern Alameda County and from the City of Alameda. We are exploring ways to serve this population with multi-vehicle transportation.

In short, we believe that we have and are continuing to meet and exceed the standard set forth in the Alida Agreement.

9. Event Parking at the Greek Orthodox Church (Condition of Approval No. 33)

The Alida Agreement provision 9 provides as follows:

"Head Royce will continue to support shared parking with the Greek Orthodox Church for special events. HR and the Greek Orthodox Church have historically made parking at their institutions available to the other institution for special events. Head Royce will continue to support this reciprocal arrangement."

You have requested additional information regarding information that "communicates parking and events procedures to parents and guests of the school." The Alida Agreement does not require that the school do anything further than continue the long-standing reciprocity with the Greek Orthodox Church. Nevertheless, we previously provided you with the special events parking information in our Head-Royce Traffic and Parking pamphlet, section 7. Pursuant to your further request, we have enclosed examples of the kind of regular communication we send to our community regarding special events.

10. Deliveries (Condition to Approval No. 33)

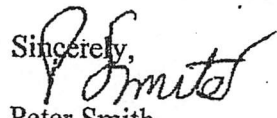
We clearly have a difference of opinion regarding the deliveries required for our school to operate. Moreover, the Lincoln Agreement provision number 5 does not restrict the type of trucks, merely the type of items delivered. Currently, small deliveries are made at the Lincoln entrance while bulk deliveries are made at the Whittle entrance. We are working with the Neighborhood Liaison Committee, and we have made every effort to determine which deliveries are appropriate for Lincoln Avenue and which are appropriate for the Whittle Avenue entrance. Although not required by provision number 5, we are working to have trucks that park while making small deliveries move uphill to do so further away from residences. In response to concerns, we have moved early morning Café deliveries to late morning during less intensive traffic. We do not believe that truck deliveries are a greater "problem" than before the construction of the master plan. However, the moving of the business office to adjacent to the Lincoln entrance and the construction of an on campus Café have changed the nature of deliveries slightly. Previously, the business office was closer to Whittle and there was no Café. However, these slight changes were contemplated in the CUP process. In fact, there was open discussion of the benefit to having an on campus Café because students were less likely to come and go from campus for snacks and meals. Moreover, the moving of the business office from the center of campus to the entrance accomplished many of the shared goals of the school and the neighbors – specifically, better monitoring of the front entrance and fewer truck deliveries on Whittle. Nevertheless, the School is committed to further reducing any concerns that may exist with respect to deliveries. We do maintain that the School is in full compliance with the condition as drafted.

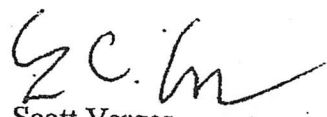
11. Monitoring at Lincoln and Burlington (Condition to Approval No. 33)

Prior to the application for master plan approval the School monitored Burlington infrequently. Currently, the School monitors Burlington several times per week, and we evaluate and adjust as needed. We continue to believe that our efforts comply with section 13 of the Lincoln Avenue agreements.

In summary, we believe that the staff does not fully understand the significant efforts the school has undertaken to comply with all the items in our conditional use permit. We further believe that we are being held to a standard of perfection that no school or any institution can possibly achieve. We suggest that a meeting would be the most appropriate way to resolve the differences of opinion that clearly are before us. We stand ready to meet with you and your staff at any time.

Sincerely,


Peter Smith
Chair, Neighbor Liaison Committee
Board of Trustees
Head-Royce School


Scott Verges
Chair, Facilities Planning Committee
Board of Trustees
Head-Royce School

Enclosures:
Check to the City of Oakland for Whittle Stop Signs
Event Parking Memoranda

cc. Head-Royce Neighborhood Liaison Committee

Jean Quan, Councilmember for District 4

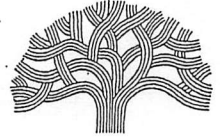
Walter Cohen, Director of Community and Economic Development Agency

Eric Angstadt, Deputy Director, Community and Economic Development Agency

Ray Derania, Deputy Director, Services

Heather Lee, Deputy City Attorney

CITY OF OAKLAND



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NOTICE OF COMPLAINT

April 13, 2010

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

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

Dear Mr. Chapman.

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

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

DOCUMENTATION REQUIRED FOR REVIEW OF COMPLIANCE WITH THE CONDITIONS OF APPROVAL

Traffic Rules (Condition #34)

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

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

124.1

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

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

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

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

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

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

Landscaping (Condition #33- Whittle Agreement 7)

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

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

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

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

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

Deliveries (Condition #33- Lincoln Agreement 5)

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

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

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

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

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

Please submit the following information:

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

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

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

Mitigation Measure TRAF-1(Condition #24)

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

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

Since staff is concerned 1) with the accuracy of the monitoring and 2) that the monitoring was not done according to the Mitigation Measure, we have decided to have the reports and the afternoon traffic situation peer reviewed. Per Condition of Approval #45 of Case File PUDF05-339, staff may require that the School submit a deposit with Building Services to cover the full costs of independent technical and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. Based on the City's determination that the School is not in compliance, the city is requesting that the School submit a deposit to cover the peer review and inspections of violations with the Conditions of Approval. Staff will use this deposit to investigate further compliance issues. Please submit a deposit in the amount of \$7,500 within 30 days for this letter to cover these expenses.

Student Enrollment (Condition #26)

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

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

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

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

THE SCHOOL'S COMPLIANCE WITH THE CONDITIONS OF APPROVAL

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

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

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

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

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

SUMMARY

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

Paul Chapman
Head Royce
April 13, 2010
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Also, please be aware that staff will not extend the deadline noted above, but will be happy to meet with you to discuss the contents of this letter and the school's compliance with the Conditions of Project Approval. Please contact me at (510) 238-3659 or hklein@oaklandnet.com to schedule a meeting.

Sincerely,



Heather Klein
Planner III, Major Projects Division



ERIC ANGSTADT
Deputy Director
Community and Economic Development Agency

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