

I. INTRODUCTION

A. PURPOSE OF THE EIR

This report describes the environmental consequences of the Bentley School Major Conditional Use Permit (Project), which seeks to legalize existing conditions at the school site and allow for a maximum enrollment of up to 360 students. The Project is a code enforcement issue and is considered an “existing facility” under the California Environmental Quality Act (CEQA).¹ The Bentley School is located primarily in the City of Oakland and partly in the City of Berkeley in Alameda County, California. This Environmental Impact Report (EIR), which should be used as a planning document, is designed to inform City of Oakland decision-makers, responsible agencies and the general public of the proposed Project. This EIR also examines alternatives to the Project. The City of Oakland (City) is the Lead Agency for environmental review of the Project. This EIR will be used by the City and the public in their review of the Project, which is described in more detail in Chapter III.

B. PROPOSED PROJECT

The Hiller Campus of the Bentley School (school) is an independent school comprising a Lower School (Kindergarten-grade 5) and Middle School (grades 6-8). The Hiller Campus of the school is located at 1 Hiller Drive in the North Oakland Hills, near the intersection of Hiller Drive, Tunnel Road/Highway 13. The school property encompasses approximately 4.2 acres on five contiguous parcels and straddles the City of Oakland and City of Berkeley border. Bentley School also owns and operates a campus in the City of Lafayette.

Under existing conditions, the school is currently in violation of its existing Conditional Use Permit (CUP), which was granted by the Oakland City Council in 1969. Specifically, the school is in violation of Condition of Approval #4, which requires “that the maximum enrollment not exceed 200 students at any one time.” On the first day of the 2007/2008 school year, 352 students were enrolled at the school (352 students were enrolled during the 2006/2007 school year, and 359 students were enrolled during the 2004/2005 school year). In addition, the school is also in violation of Condition of Approval #1: “that school activities be operated during the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday only with no evening or weekend use of the site for school assembly purposes.” Over the past academic year, the school opened at 7:30 a.m. and closed at 6:00 p.m., following the end of daily on-campus childcare services. In addition, the school has held evening events, typically ending

¹ For purposes of evaluating environmental impacts under CEQA, the lead agency compares the existing, physical baseline conditions (usually at the time of the zoning application) against the future conditions with the project. CEQA authorizes/permits the lead agency to follow this same type of analysis where, as here, there has been an unauthorized expansion of activity. The expansion is considered to be a code enforcement matter rather than a CEQA issue. Here, the existing conditions are the operations of a school for 352 students, when only 200 students are authorized under the 1969 Conditional Use Permit. The applicant is seeking to legalize its existing operations and allow for a maximum enrollment of up to 360 students, but is not proposing a significant physical increase/expansion of the existing activity/facility as it now operates. Thus, the existing conditions are virtually the same as the future conditions with the Project and therefore, there is no change in the physical conditions and thus no environmental impacts under CEQA. Nevertheless, in the interest of being conservative and responsive to community concerns, this EIR is being prepared, although it is not legally required.

before 8:00 p.m., and limited weekend and summer activities. In addition, the lower parking lot owned by the school on Tunnel Road (in the City of Berkley) is currently considered illegal because the school has not received a conditional use permit for parking activity.

The new Major CUP would legalize the school's existing enrollment and operations, and would reflect existing conditions at Bentley School. The new Major CUP would reflect existing (or current) conditions by permitting a maximum enrollment of 360 students (approximately eight more students than enrolled during the 2007/2008 school year), expanded hours of operation for a variety of school activities, and a limited number of weekend, evening and summer events. The new Major CUP would also permit a maximum of 62 employees at the school, which also reflects existing conditions. In addition, the Project includes a comprehensive busing, carpooling, parking, traffic, and circulation plan, and emergency evacuation program, which have been implemented at Bentley School at the time of this writing.

The new CUP does not include any construction or physical alterations to the campus and would not result in any physical improvements or operational changes to the school beyond what exists today. The conditions of approval from the original CUP would still apply. In May 2008, the City approved construction of a protected walkway on the south side of the school's Hiller Drive parking lot. This walkway, which has been constructed, connects the existing on-site drop-off area to the public sidewalk. The City also issued permits for dry-rot repairs and the removal of an interior wall from a classroom. Since these projects required no further discretionary decisions, they were considered ministerial permits, and are not considered part of the Project.

In general, all of the components of the Project are in place at Bentley School at the time of EIR preparation. In this way, the proposed Project is different from other projects typically analyzed pursuant to CEQA. Typically, CEQA documents analyze a theoretical "with-project" condition, the impacts of which are compared to environmental conditions that exist *prior* to project approval ("baseline conditions"). In the case of the Project analyzed in this EIR, "existing conditions" approximate the "Project," and "baseline conditions" refer to a theoretical enrollment and operational scenario that would exist if the School complied with the approved 1969 Major CUP. Approval of the new Major CUP (the Project) would legalize existing conditions – the enrollment and operational characteristics that currently exist at Bentley School – and would provide for a slight expansion and clarification of operations. However, if the new Major CUP is not approved, the School's enrollment and operational characteristics would be limited to those specified in the approved 1969 Major CUP (baseline conditions). This EIR evaluates the environmental effects of the enrollment and operational characteristics that would be permitted as part of the Major CUP. This analysis is based as much as possible on existing conditions, which closely approximate Project conditions.

This EIR uses the following terms to describe Project and non-Project conditions (refer to Table III-1 for a summary of enrollment and operational characteristics under these three conditions):

Baseline: Refers to the enrollment and operational characteristics that would exist if the School complied with the conditions of its approved 1969 Major CUP. The student enrollment under baseline conditions is 200 students.

Existing: Refers to the enrollment and operational characteristics that exist under current conditions (i.e., the date of preparation of this EIR). The student enrollment under existing

conditions is 352 students. The enrollment and operational characteristics under existing conditions closely approximate the enrollment and operational characteristics that would be permitted under the proposed Project.

Project: Refers to the enrollment and operational characteristics that would be permitted as part of the proposed Major CUP. The Major CUP would permit 360 students (a net increase of 160 students over baseline conditions) to be enrolled at Bentley School, in addition to a number of other operational characteristics that are similar to, or deviate slightly from, existing conditions.

C. EIR SCOPE

The City of Oakland circulated a Notice of Preparation (NOP) for the Project on May 1, 2007, notifying responsible agencies and interested parties that an EIR would be prepared for the Project and indicating the environmental topics anticipated to be addressed in the EIR. The NOP was mailed to public agencies, organizations, and individuals likely to be interested in the potential impacts of the Project. Comments on the NOP were received by the City and considered during preparation of the EIR. A scoping session for the Draft EIR was held as a public meeting before the Planning Commission on May 16, 2007. A total of 41 comment letters regarding the NOP were received in addition to verbal comments made at the Oakland Planning Commission public hearing. A copy of the NOP and the comment letters received are included in Appendix A of this EIR.

The following environmental topics are addressed as separate sections in this EIR. In addition, Chapter V of the EIR contains an analysis of the Project's consistency with local planning-related policies.

- Land Use
- Transportation and Circulation
- Air Quality (including Global Climate Change)
- Noise
- Hazards
- Public Services

Other environmental topics, which were found not to be significant on the basis of preliminary environmental analysis conducted by City staff and LSA Associates, Inc., and through verbal and written comments submitted during the EIR scoping period, and were therefore not included in the EIR analysis, include the following topics: Aesthetics; Agricultural Resources; Biological Resources; Cultural Resources, Geology and Soils; Hydrology and Water Quality; Mineral Resources; Population and Housing; Recreation; and Utilities and Service Systems. These topics are briefly discussed in Section VII, CEQA-Required Assessment Conclusions.

D. REPORT ORGANIZATION

This EIR is organized into the following chapters:

- *Chapter I – Introduction:* Discusses the overall EIR purpose, provides a summary of the proposed Project and the environmental impact report scope, and summarizes the organization of the EIR.
- *Chapter II – Summary:* Provides a summary of the proposed Project, the impacts that would result from its implementation, and recommended measures to reduce certain less-than-significant impacts (no significant impacts would result from the Project). A list and brief discussion of alternatives to the proposed Project is also provided.
- *Chapter III – Project Description:* Provides a description of the Project site, site development history, Project objectives, required approval process, and details of the Project itself.
- *Chapter IV – Setting, Impacts and Mitigation Measures:* Describes the following for each environmental topic: existing conditions (setting); City of Oakland Policies, including Standard Conditions of Approval (if applicable); significance criteria; and potential environmental impacts and their level of significance. Potential adverse impacts are identified by levels of significance, as follows: less-than-significant impact (LTS), significant impact (S), and significant and unavoidable impact (SU). Cumulative impacts are also discussed in each technical topic section.
- *Chapter V- Consistency with Plans and Policies:* Describes key plans and policies and evaluates the consistency of the proposed Project with these policies.
- *Chapter VI– Alternatives:* Provides an evaluation of three alternatives to the proposed Project in addition to the No Project alternative.
- *Chapter VII – CEQA Required Assessment Conclusions:* Provides additional specifically-required analyses of the proposed project’s growth-inducing effects, significant irreversible changes, cumulative impacts, and effects found not to be significant.
- *Chapter VIII – Report Preparation:* Identifies preparers of the EIR, references used, and persons and organizations contacted.

The Draft EIR is available for public review for the period identified in the Notice of Availability attached to the front of this document. During this time, written comments on the Draft EIR may be submitted to the City of Oakland Community & Economic Development Agency, Planning Division at the address indicated on the Notice of Availability. Responses to all comments received on the environmental analysis in the Draft EIR during the specified review period will be included in the Response to Comments Document/Final EIR.