

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

MINUTES FOR August 9, 2004

(Approved as corrected August 23, 2004)

A. CALL TO ORDER: The Chair called the meeting to order at 6:30 p.m. **Council members present:** Andy Frank, Chair; Council members Ineda Adesanya, Ken Carbone, Karla Goodbody, Jeff Moore, and Carol Sugimura. **Council members excused:** Dean Nielsen. **Staff present:** Steve Buckley and Maria Elena Marquez. There were approximately 40 people in the audience.

B. APPROVAL OF MINUTES OF July 26, 2004 as corrected.

Mr. Frank summarized his statement on Trinity Church from the previous meeting (July 26, 2004): "The church passed the litmus test in his opinion and met the criteria for septic system as well as met the criteria for the back up engineering system as required by the County. Because of the location, traffic conditions and narrow roads past the church side, he felt it was clear that the parking would limit the use of one facility from being used at the same time as the other, unless they provide off street parking, which he did not think they could provide. The main issue, regardless of the decision whether the facility is approved or not approved should be discussed between the County and Homeowners Association to open up and have easier access in case of emergency with the upper gate to allow another exit in case of fire. Essentially those are the reasons why I voted in favor of the church".

Mr. Frank moved, Mr. Carbone seconded that the Council approve the minutes of July 26, 2004 as corrected.

The motion passed 6/0.

C. PUBLIC ANNOUNCEMENTS:

None

D. REGULAR CALENDAR

- 1. CONDITIONAL USE PERMIT, C-8305, VALLEY BAPTIST CHURCH** – Application to allow operation of a K through 12 private school, with an enrollment of 50 students, in a one-story, 3,500 sq. ft. building, on the site of an existing church with 57 parking spaces, on a 0.89 acre property, located in a R-1-CSU-RV (Single-Family Residence, Conditional Secondary Unit, Recreational Vehicle) Zoning District, located at 19835 Lake Chabot Road, west side, 213 feet south of Somerset Avenue, unincorporated Castro Valley area of Alameda County, bearing County Assessor's Parcel Number: 084A-0170-009-00.

Mr. Buckley presented the staff report. The project is being reviewed by Interagency Communications. There are no significant issues, only some minor requests for safety improvements. One letter has been submitted in opposition with noise concerns of children playing outdoors and the possibility of added traffic during the day. Copies of other letters are included in the packet (possibly traffic during the day). The school will operate initially with 25 students, from 8:30 a.m. to 3 p.m. There will be 7 (seven) classrooms in the building and they will be used for different classes from Kindergarten to 12th, with an average of 7 (seven) students per classroom, one teacher and a teacher's aide perhaps. There will also be an administration office space. The parking available for this project is for 54 parking spaces. At this point, the estimated adequate number of parking spaces for both the church and the school is 54 spaces, based on assembly space dimensions. Although 8 parking spaces will be locked off during the school day, they will be available for pick up and drop off. Staff recommends

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that 23 to 24 parking spaces will be adequate. The project will be categorically exempt per requirements of the California Environmental Quality Act (CEQA).

Mr. Carbone asked if on the calculations regarding parking, considerations have been given to the fact that most 12th graders in Castro Valley drive to school. Mr. Buckley said that parking calculations are based on square feet. Mr. Carbone said that students potentially will be driving to school will occupy more parking spaces than as required by calculating based on square footage. Mr. Buckley said that the school will require 20 parking spaces based on area calculations, and 11 spaces based on number of occupants of the assembly spaces (classrooms). However, the ordinance permits reducing the number of spaces on the lesser parking demand by half. Therefore, the school would require 10 spaces based on calculating by area, or 6 spaces based on calculating by occupants in the main assembly spaces (classrooms). In the event that there is a memorial service during the day, the school will remove the fencing and accommodate the church functions to allow for adequate on-site parking.

Keith Erickson introduced himself as the founder of A Shepherd's Heart Christian School, located on the Valley Baptist Church site. He has known Pastor Larry Blair for a number of years. He spent 29 years at American Heritage Christian School, from 1973 to June 2002 at which time he resigned. This school was even more than a neighborhood school than A Shepherd's Heart at Valley Baptist Church. He was very familiar working with the neighborhood, and they have great projects to help the senior citizens. He assured minimum traffic disturbance, adding that the traffic situation at American Heritage School was horrendous, with only 40 on-site parking spaces; fortunately there was a shopping center across the street and they were able to use their parking facilities. As far as addressing Mr. Carbone about the seniors, currently he has only one senior and was not sure if he has a driver's license. With the change on driver's licenses for minors over the last few years, a lot of the children do not get a license until they are 18 years old. At this time, he might have only one who is driving. In regards to possible overlap, his experience for the 29 years he always gave priority to the church. He said he is willing to do anything that is necessary to minimize any impact on the surrounding areas. Of the 25 students currently enrolled, only one senior would possibly be driving. They will try to set the drop off time at 8:30 a.m. to reduce traffic on Lake Chabot Road, 3 o'clock as pick up time. They will reserve 8 parking spaces for a play area, which will be temporarily removed during the two 15 minute recess. The other 40 parking spaces will be available for the entire day. The church capacity is 175 people with no day time meetings and only one or two meetings during the week. There will be no night time activities, unless scheduled. At the initial filing of the application, Mr. Orduna asked Mr. Erickson why he wanted to set the school, and how this is going to serve the community. For the 29 years that he spent with American Heritage Christian School, they had developed a very distinct program. For most of the private schools, children who are two years above the national average, they have to pass a test or they do not get into another school; the children who cannot pass the test and if they can fit into one of about 12 spots in a learning disabled class, they can go to any disabled class. They (AHCS) started what is called an inclusion program and some people like the phrase "full inclusion" better. They (AHCS) started a full inclusion program at American Heritage Christian School in 1982, the only private school that was a full inclusion school. Children who are 2 years above the national average were allowed, children who struggle academically to come into the school and be mainstreamed in the traditional classroom. This is almost unheard of whether it is a private school or public.

Oakland Unified is the only school district on this side of the hills that has a full inclusion program. These programs are just about to disappear. A Shepherd's Heart is for children who struggle with their grades, children with hyperactivity, children from mild to moderate, in some cases severe. Mr. Erickson introduced his youngest son Russell, born in 1998 and is handicapped who had been a student at American Heritage Christian School. There were schools that took handicapped children, but these children were deprived of a normal school classroom existence. These children with learning disabilities are known to us as other children who have emotional and psychological problems and they feel they are retarded. Valley Baptist Church feels for people with learning disabilities and handicaps. He had visited several schools where there was one teacher and two aides for 12 severely handicapped students and the attention was terrible; there is no place where children could go and are accepted and allowed to be in a traditional classroom. He said he wished there were a dozen schools like American Heritage. Of the 25 students they have enrolled, almost half have learning disabilities mild to moderate. They do not want to become a larger school, as it would be harder to maintain a one to one relationship with the children, which is very important. This would not be just another private school, but a school with front edge technology. He has a B.S. in Chemistry, a Master's and he has been a therapist since 1988. He is very concerned with the psychological aspects of children who struggle. The majority of staff has worked at American Heritage Christian School for a number of years. In response to the letter we had received and some of the other responses from the neighborhood, we have submitted six pledges to our neighbors (letter entered into the record); a copy of which was submitted for the record.

Mr. Carbone asked if these are local students. Mr. Erickson said American Heritage Christian School had children coming from as far away as Tracy, Morgan Hill, San Jose and Redwood City. He has just grouped a new ministry. He assumes at some point that will happen again. At the present time, the majority of the students coming from Union City, Castro Valley, Hayward and Fremont.

Ms. Goodbody asked Mr. Erickson if he anticipated bussing the children. Mr. Erickson replied that they had no bus and were trying to get the parents to car pool.

Ms. Sugimura asked Mr. Erickson if American Heritage closed after he left. Mr. Erickson replied that he is not sure of the current status of American Heritage; the high school was closed about three months ago and if they do not have 75 students by August 15, the school will close completely. He had left the school because of the changes.

Public Forum:

Glenda Saylor, resident at 19774 Louise Court, stated that she wrote a letter to the County. She had also submitted for the record, a petition from all the neighbors who were not in support. A copy is included in the packet as well. She said she loves children, being a teacher for 35 years, but she also knows that children are noisy. In reference to the pledge letter, she thinks it is not a pledge. Recess is for children to scream and play. She said Castro Valley can survive without another school. She asked why 25 children were enrolled when the school has not been approved. Why American Heritage had closed. None of the letters addresses property value.

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She said she is sorry that Mr. Erickson's son has a problem and that normally we don't use children like that. It made her feel sad.

Clarence Saylor, resident at 19774 Louise Ct., asked the council how would they like to have 50 kids in their backyard. Home school students go to Baptist Valley Church. Students drive him crazy. Regardless of what the school administrators do, the noise is going to be there. The school will damage his property value.

Donna Biddinger, resident at 19768 Louise Court, stated that she is a neighbor of the school church, separated by a fence. They have lived here for 50 years before the church was established. She referred to what Mr. Erickson said about the handicapped children, and said that she has a grand- daughter with learning disabilities. They do have places for children in the school district plus the school district gets money for each child. Ms. Biddinger asked if there is any guarantee that next year the school will not have 100 students. There is no guarantee that the school will stay with 50 students. The property is not large enough for 25 children.

Mr. Frank asked staff how the square footage was calculated. Mr. Buckley replied that assembly space calculations are based on classroom size. Also, the private school would have a maximum of 50 students under this use permit. Mr. Frank continued asking Mr. Buckley if staff can limit the number of students requested. The question being asked is if there is a way to determine how many students are allowed. Mr. Buckley replied that the Conditional Use Permit can limit enrollment to 50 students.

The Council discussed issues regarding parking, density and fence heights. Mr. Buckley said that the Council's recommendation will be heard by the West County of Zoning Adjustments on Wednesday, this week.

Debra Goldenberg, resident at 19760 Louise Court, stated that her property is diagonal to the church in the rear. She is very concerned about the negative impact on her home, the noise level, student activities and property values. The school is too close to their backyard and as such, will have a lot of noise with cars dropping off and picking up students, especially in the morning hours when she is at home. Also, the property behind hers is very large which would be very enticing to the kids. Something has to be done to block the property. She said she would also support Mr. Erickson cause she trained in Special Education program. She thinks it is a great idea so it is hard for her to be against the school. She does not think a playground and noise is going to bother people. In regards to property value, she said she has not had time to see a real estate agent to ask about it but she thinks that the value will certainly go down. Although they do not have the time to find out what the impact will be, she thinks it will have an impact and decrease her property value.

Sandy Williamson, resident at 2933 Lake Chabot Lane, stated that she lives directly across from Valley Baptist Church. She opposes only because the 13 years that she has lived there, she is very concerned with traffic. She is also very concerned about people going in and out of the church. She cannot even pull into her house and she cannot see a bus going in and out of the parking lot even at 8:15 a.m. which means traffic starts at 8:00 a.m. at Lake Chabot. She does

not think it is feasible. She also wants to find out exactly how many parking spaces are there for parents to park. Children will be playing in the parking lot. She opposes the project.

Janey Blair, resident at 21501 Tangelwood Dr., stated that she is a member of Valley Baptist Church. She attended American Heritage Christian School. She is in her third year at the university. She is not opposed, but believes that the school will bring diversity to Castro Valley. Castro Valley started as a small town, it is a beautiful community, diversity care to our church and her hometown. She does believe some of the issues but believes that with communication, this can be a good change. She would also like to say that the school will be used as a Sunday school and will bring good things to the community.

Allan Lyberd, resident at 414 Redbud Lane, Hayward, stated that he wants to address the noise concern. He said that he has lived for about 6 years behind a junior high school, with 300 to 500 junior kids. He does not think that this should be an issue. He has known Mr. Erickson for about 20 years, he has a heart for kids. He has seen him minister to many children over 20 years, until last year he was a member of the Board of Governors at American Heritage Christian School. Part of the reason that Mr. Erickson left was a building spree that left the church in a substantial financial bind. During his four years on the school board, the school did not receive any complaints from the neighbors. There has been no major renovation in the 20 years that he has been a member of Valley Baptist Church. He understands the neighbors' concerns. Mr. Erickson is approachable, he is willing to work and to listen and he is not here to cause problems. He always reaches out to people. A Shepherd's will be an asset to Castro Valley. As far as the school is concerned, education will be provided in many different ways, the more schools you have the better and not many schools offer the same program. He knows Mr. Erickson and said that you will not be disappointed.

Darrel Jones, resident at 21885 Tanglewood Drive, Castro Valley, stated that he is a member of Valley Baptist Church, has lived in Castro Valley for 50 years and is very active in the community. All of his children have gone to Castro Valley schools and also Hayward High School. His wife has been very helpful to the church, they do not have people on the church property through the week. His next door neighbor on the right, Mr. Peters, also has an interest in the church. They feel this would be a wonderful thing for Castro Valley to have a group of educators willing to give their time and their lives to educate children with learning or physical disabilities at the same time. Sometimes in the public schools a child in serious need does not get their needs met very well. That is the kind of ministry needed. He would like you to think about that as you make your decision. He said that we are afraid of a lot of things until we get involved with them. That is why he would like to encourage you to look at this and see if it can be worked out. He believes it can.

Don Moschella, resident at 28225 Hesse Drive, Hayward, stated that he is Headmaster and although he has prepared a written testimony he is going to speak from the heart. He has known Mr. Erickson for 25 years and worked with him for 20 years. He was his boss at one time. For 15 years he served on the Board of Governors. For the last 6 years Mr. Erickson has been his boss, he is a teacher. He has experience working with the community. He has a heart for children like these because he was one of these children himself. He believes that when you take a child who is afraid of learning and you let that fear continue in some way, you have an

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indifference in the teaching methods whatever the case may be. That situation that occurred to him in elementary school years ago impacted him. He understands the needs and issues of the kids. The philosophy of A Shepherd's Heart Christian School is our approach to how you have been created and to what levels they can attain that for you. We want you to be ready for whatever direction your family has for you. He grew in Castro Valley and knows the area. They (Shepherd's Heart) want their students to be part of the community, to grow and be proud of what they have. In regards to noise, our pledge is to you; we respect the neighborhood, we are here for a reason, we respect the community. Regarding parking and traffic congestion, it is a drive-through driveway to drop children off in the mornings and afternoons. No children will be dropped off in the front on Lake Chabot Road. We believe that we presented who we are, this will be very positive in a very short time, just give us a chance, we can prove it.

Elizabeth Westlake, resident at 2446 N.W. Canyon Drive, Redmond, Oregon., stated that she is a member of the Board and she has known Mr. Erickson for 24 years, and she has worked with him for 19 years. She was a high school teacher up to the time her husband and her moved to Oregon. During that time she had several students with a lot of problems, they had managed to get through, she had complete trust in Mr. Erickson, there were some times students that they could not manage to actually learn, even to read. She remembers a couple of teenagers who were very slow readers; as a linguist she had an idea to teach them to learn Spanish, after that, the transition was easy. She was blessed, she had the time and the support from the headmaster to do things that were appropriate, things that one would do in the classroom. She believes that there are students who can succeed if they believe that they can. She believes that if you really work a student to succeed and believe he can and you need time for this, she understands very well how difficult it is to teach when you have a lot of students. It was difficult to give individual attention. She considers it important to educate the mind of those who were already educated or educate the heart of young people so they would become good citizens for the future of this country.

Lillian Houser, resident at 657 Brookfield, stated that she does appreciate concerns that the public has shared. She has been with Mr. Erickson teaching art at American Heritage Christian School for 9 years. It is difficult to work as far as space is concerned (as far as potential for noise, it was successful, we were able to rotate our breaks and our lunches so we could have a maximum of students at the same time. She has been to the site and the size of the lot does not seem large enough by far to keep children in the fenced area area. There are many wonderful systems that we have in public schools to take care of these children who are above average, average and maybe less than average. Mr. Erickson stated that we have a good system, she has not seen a similar system anywhere else. She has known Mr. Erickson for many years. It is very interesting to see how well he has put this education system and the incredible response we have had from the students.

Jessica Blair, resident at 7333 Stoward Dr, Dublin, stated that she is the daughter of Larry Blair, the Pastor at Valley Baptist Church. She met Mr. Erickson when she was a sophomore and has graduated from American Heritage Christian School. She grew up with MS diagnosed with dyslexia. She has been mainstream through her whole life. Nobody ever could say why she was so slow at reading. Mr. Erickson and his staff taught her how to read and taught her many different things. She has graduated from a four year college in Nursing. She is very involved in the Castro Valley community. Mr. Erickson has made a difference in her life.

Veronica Arellano, resident at 27444 Berenda Way, stated that she is one of the parents who had three teenagers. Basically she does respect the elders and tend to be sympathetic to them and the fact that they do not like noisy environments. The school teaches them how to speak not only this language and math but they taught them how to respect elders. She has never seen any problem. The other part is that they teach them to build good hearts.

Donna Blair, resident at 21501 Tanglewood Drive, stated that she grew with Mr. Erickson, who teaches not only academics but character. She is a pre-school director in San Ramon. This man teaches respect for the community, for the government and for the nation. She has lived in the Castro Valley area for 30 years. She just can not say enough about the commitment he has to teach.

Mr. Erickson in rebuttal said that first of all he wanted to express appreciation to the neighbors that have spoken in favor of his effort. He is 53 years old and he is very much aware that a new generation is coming up and will take his place and he has the responsibility to train that generation. The California's school system is running the lowest in the nation, he sees these children not having maximum opportunity. As far as the 25 students already enrolled, he said he is not trying to push anybody as it provides in the conditions of the County, but he has an alternate location set up in case. He knows that this is something he wanted to do for many years, even with all of your expressed concerns. He started teaching in 1973 as a Math/Science teacher, and then took over as Headmaster in 1981. The reason he left A.H.C.S. was because the school wanted to change to a traditional private school and wanted to drop the full inclusion program. He did not have a full inclusion program because it was a nice thing to do; we had to fight for it, we had to work for it, as he said, it was front edge technology, all of the unified schools knew of their school and sent children to their program. Also, they wanted to drop the scholarship program. At one time the American Heritage Christian School was the most culturally diverse private school in the entire State of California. The entire fourth of our student body was based on scholarships, single moms, single dads, minority students, few schools that boast the population that we had. The third reason was that they wanted to make curriculum changes for testing. He worked hard to develop this program, and it is hard when someone wants to come along and change all of that. He decided he did not want to fight so it would be better to step down. As far as the property value, we have a very intimate neighborhood at American Heritage. One of the speakers mentioned that three houses that sold directly next to the school property, with 6 foot fencing and a playground. there is 2 feet and there is a playground. All three of those homes sold for market value or above market value. The church is sold for 1.2 million dollars in homes adjacent to the property. The issue of occupancy and knowing that most private schools have very little room, the maximum would be a 105 students for this property, maximum 15 students per seven rooms. It will probably take us 3 or 4 years to get even closer in terms of growth. It is going to take time to get the name in the community. If we do grow quickly, his desire is to open several campuses in different cities. You have to have a student population, the State of California now requires no more than 20 students Kindergarten to Third grade. He believes they provide a viable need in the community as far as education. As far as fencing is concerned, he had spoken with Mr. Orduna who suggested that Mr. Erickson talks with Mr. Peterson who has a property along the north side of the church, to change his fence in the back. He said that he preferred to keep the

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same fence. He does not believe there will be much noise as anticipated. Most people will admit that is unusual. He said he provided telephone numbers in case someone wants to call about the noise.

Ms. Adesanya asked Mr. Erickson that other than being the founder, what other role he has in the school. Mr. Erickson said he was referred as Headmaster by the school, his responsibility is to teach teachers how to teach, although Mr. Moschella is his onsite headmaster. He will be responsible for fund raising among the business in the community, trying to get them to sponsor scholarships, so hopefully he will raise enough money for the students. He also mentioned that they are pursuing accreditation.

Ms. Adesanya noted that there are 24 kids enrolled and the staff report says there are 25. Mr. Erickson said there are 25 students enrolled.

Mr. Frank said this is a public hearing. The applicant is asking for conditional use permit for 50 students. Even though there is the capacity on site, the applicant said they will be expanding.

Mr. Frank said that at this time this item is closed to the general public and it will go to the Council for review and recommendation.

Ms. Adesanya said that the location on Lake Chabot Road is in the middle of a residential neighborhood. She would be supportive of some sort of limitation on the number of students between 25 and 50, recommending a lower number for maybe one year and see how well they have done. She would like to give them a chance. It will be very simple to renew for five years after a year.

A discussion followed issues regarding parking lot, playground, fence, noise, and other issues.

Mr. Frank said that the corporate pledge be included as part of the Conditional Use Permit.

Mr. Moore stated that he appreciates Mr. Erickson's pledge in the outreach with phone numbers. He thinks that it is unusual, he agrees that most type of projects we see some sort of mitigation with 6 foot high fence. He would agree with Ms. Adesanya to give Mr. Erickson a chance, he does not support limiting the number. We should give him that chance.

Ms. Sugimura said that originally based on one of the letters, if you look at the numbers 16 faculty including two administrators, if Mr. Erickson has students that are driving age, that is adding another 15, that takes 32 parking spaces. Her concern also would be what kind of things will be done to mitigate the noise, if the noise factor is more than anticipated.

Mr. Frank said that there is underlying consensus and asked if the council is ready to make a motion.

Ms. Adesanya said that the majority of residents that will be affected are on west end of the parcel. A discussion continued on fence height and landscape issues.

Mr. Frank said council members are ready to make a motion.

Mr. Moore made a motion for approval of Conditional Use Permit C-8305, with the following clarifications, 1) to specifically include the pledges into the conditions of approval; 2) 6 foot height wooden neighbor fence at the rear of the property in addition to a creek the irrigated landscape strip, with the provision that it is approved for a one year period and then if there are no complaints, go for a 3 years permit.

Mr. Buckley said that a church does not have any expiration date.

Mr. Carbone said if there are no complaints, and everything goes as planned, if neighbors do not have any issues, MAC will be willing to approve this project.

Mr. Frank said this actually comes back as a public hearing. Everybody has a right to address the issues and in the public hearing process we find out whether or not there are any complaints. People agree with it or do not agree with it, no violations during the year, if there are no complaints, a year, two, three years, whatever the discretion of the MAC. We are advisory only.

Mr. Moore moved, seconded by Ms. Adesanya and Mr. Frank. All in favor. Motion passed 6/0.

E. OPEN FORUM – None.

F. CHAIR’S REPORT – None.

G. COMMITTEE REPORTS – None.

H. STAFF ANNOUNCEMENTS, COMMENTS AND REPORTS –

Mr. Carbone asked when are we going to hear from Redwood Place. Mr. Frank replied that Tona Henninger, from Zoning Enforcement, is not here tonight.

I. COUNCIL ANNOUNCEMENTS, COMMENTS AND REPORTS – None.

Ms. Goodbody said that by approving this private school, this Board should not be interpreted as having a lack of confidence in our school system.

The Council discussed public testimonies, what the public can say, their opinions, and limiting public testimonies for three minutes.

J. ADJOURN

The meeting was adjourned at 8:25 p.m.

NEXT HEARING DATE: MONDAY, AUGUST 23, 2004

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