



# Memorandum

**Date:** January 28, 2014

**To:** Members of the Planning Commission

**From:** Margaret Kavanaugh-Lynch, Zoning Administrator

**Subject:** 1800 Elm Street

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## Chronology

On October 10, 2013, Doug Giffin on behalf of Educational Ventures, LLC, requested a Zoning Administrator Determination regarding 1800 Elm Street. The applicant requested that the Zoning Administrator find that the existing use permit would allow Summit Public Schools to create a 240 student middle school on the subject property. Provided with that request was a paragraph describing the proposed school. It noted that the school would enroll up to 240 students. It would operate within the existing buildings on the campus and would adhere to all the parameters for operation stated in the use permit entitlement in place for the subject property. (Attachment 1)

On November 4, 2013, staff asked additional questions of the applicant. Although it was noted that the proposed middle school was expected to operate at or under the performance criteria set out in the existing use permit, more detail was needed to confirm that goal.

On November 6, 2013, the applicant responded to the questions asked and supplied additional information as to the proposed operation of the middle school. The applicant also submitted additional clarification as to the role of the property owner in this application. The correspondence stipulated hours of operation (including outside play areas and the gymnasium), the proposed school year, and a plan to address noise issues, if needed. In all, 12 points of operation were noted. (Attachment 2)

On December 5, 2013, staff requested some final clarifications on the project, including how student's access to and from the campus was planned, if any other users would have access to the site in addition to Summit; and was any construction or grading planned as part of this use.

On December 20, 2013, the applicant submitted responses to these last questions posed by the city staff. The applicant stated that while a building permit would be submitted for work on the site, no exterior changes to the buildings or grounds was planned. And further, other than community uses stipulated in the existing use permit, no other users were intended on the property. (Attachment 3)

In addition to the correspondence sent by applicant noted above, they have also supplied additional information for the Planning Commission to review as part of this report. (Attachment 4)

#### Context for the Purview of the Planning Commission

Pursuant to the El Cerrito Municipal Code, 19.33.040 states that the Zoning Administrator shall have the authority to make zoning determinations for interpretations of the Zoning Ordinance, verifications of zoning regulations, or verifications related to previous permits and other matters related to the application and interpretation of the Zoning Ordinance. However Section 19.31.060.J. allows her to refer a zoning clearance/determination to the Planning Commission for action. It is the practice of the City of El Cerrito planning staff to elevate administrative decisions that have a high level of community interest to the Planning Commission in order to allow a greater level of public transparency and to provide additional opportunity for community input.

The subject property has a use permit in effect at this time. After careful review, the Zoning Administrator believes that the applicant has submitted adequate information to verify that the proposed middle school is in compliance with the existing use permit. The research completed by the Zoning Administrator is included in this staff report. The role of the Planning Commission at this hearing is to review the staff analysis, take public testimony and then as one body, determine whether or not the use proposed in the application is consistent with the use permit currently in place at 1800 Elm Street.

For the sake of educating the larger public audience, staff is noting what is beyond the purview of the Planning Commission. The Planning Commission must frame their deliberations strictly on the topic of the land use issue before them. They are legally limited to the action regarding the determination of consistency; other issues such as the terms of the Charter or other possible projects not a part of this application are beyond the scope of the Commission's review.

#### Environmental Review

To the extent that the determination, whether the proposal fits within the existing Conditional Use Permit approvals is not discretionary, it is not subject to the California Environmental Quality Act ("CEQA") (Public Resources Code §§ 21000, et seq., and 14 Cal. Code Regs., §§ 15000, et seq. ("CEQA Guidelines")). To the extent that the decision is discretionary, it is categorically exempt from the provisions of CEQA pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). Additionally, approval of the application is exempt from CEQA under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and in this case, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. CEQA Guidelines § 15061(b) (3).

## Historic Uses and Entitlement Information

1800 Elm Street is a 4 acre campus located two blocks from the Del Norte BART station. It is surrounded by residential uses. The initial known use of the property was as a dairy farm. In 1935, the campus was created as the Chung Mei Home for Chinese Boys. It was in operation until 1954. In 1956 the property was transferred to the Western Baptist Bible College. In 1974, the school complex was owned and operated by Armstrong Preparatory School. During its use of the site, the school administration applied for and received approval from the City of El Cerrito of a use permit to define its operation and therefore limit its potential impacts on the surrounding neighborhood.

In April 1987, Windrush School moved to the site under the previously approved use permit for the preparatory school. A new use permit for Windrush School to operate a K-8 private school was approved by the Planning Commission on January 20, 1988. (Attachment 5) This approval was appealed to Council based on noise concerns. City Council denied the appeal and upheld the Planning Commission approval. (Attachment 6) On March 1, 1989, the Planning Commission held a public hearing at the request of Windrush School to address several issues they were experiencing regarding their conditions of approval. (Attachment 7) The Planning Commission approved modifications to the use permit. This decision was appealed to City Council. Council denied that appeal and upheld the use permit approval in April 1989. (Attachment 8) On November 8, 1998 the Planning Commission approved an amendment to the original use permit with additional conditions of approval. (Attachment 9) A sound wall was built in order to mitigate noise impacts from the play area on the southern portion of the campus. In June 1999, a traffic plan for the school was proposed and a formal complaint procedure was established in the form of a communication and conflict resolution plan worked out cooperatively with the neighbors.

On May 16, 2007, the Planning Commission approved a revised Master Plan further amending the use permit.(Attachment 10) The applicant proposed an amendment to their use permit conditions of approval, as an update to the school's Master Plan, which was to be carried out in four phases over 20 years. Highlights included:

- Phase one includes the replacement of an existing one-story classroom wing in front of the existing gym with a new two-story addition in the same location.
- Phase two consists of the construction of a new library, performing arts classroom, and a dance classroom adjacent to the gymnasium and Phase 1 classrooms.
- Phase three is the renovation of the existing main classroom and administration building; no new building area will be added.
- Phase four consists of the replacement of the existing 5,000 square foot rear classroom building with a new 5,500 square foot classroom building.

On May 31, 2007 the City received an appeal of the Planning Commission action. The City Council heard the appeal on June 18, 2007. (Attachment 11)

On September 26, 2007 a building permit was issued to build new classrooms, a new library and renovate the gymnasium. Windrush School initiated and completed those improvements.

Windrush School closed on April 21, 2012. While the subsequent phases were not completed before the School was closed it should be noted that the use permit and Master Plan remain in effect and the approved work can be completed without any additional discretionary review.

On August 2, 2013, the State Historic Resources Commission recommended the State Historic Preservation Officer (SHPO) forward The Chung Mei Home for Chinese Boys Historic District to the Keeper of the National Register for listing. For the sake of this discussion, this means that the campus should be considered a historical resource under CEQA. Exterior changes to the campus or its buildings would need to be considered through this criterion. Interior changes to buildings would not be impacted by this status.

**Comparison of Uses**

The table below compares the information submitted by Educational Ventures, LLC with the use permit parameters in effect on the site, today. Staff has included citations as to the source of each operational characteristic to allow the Commission members to track the source of each notation. A site plan has been added as Attachment 12 to assist with the discussion.

General use information:  
The applicant states that:

1. No exterior building or site modifications are proposed. Interior work is being proposed consistent to Phase 3 of the current Master Plan. (The pending building permit is only noted here for clarity as to proposed improvements. It is not a part of the Zoning Administrator Determination.)
2. The use is a middle school, only.

<b>Operational Characteristic</b>	<b>Existing Entitlement</b>	<b>Proposed New Use</b>
Academic Years	Elementary/Middle (PC 07-08 c of a #1)	Middle School (October 10 <sup>th</sup> application)
Hours of Operation	<p>The primary hours of operation at the school are from 8:00am to 3:00pm during the business week. A limited number of students will arrive at 7:00am for early morning program, and some students will stay until 6:00pm for the extended after school program.(PC 07-08, p.2)</p> <p>All community use and inter or intramural competition shall occur between the hours of 8:30 am and 9:00 pm and be confined to the interior of the gymnasium building, with the exception of reasonable pedestrian traffic, related to the activities, quietly</p>	<p>Primary hours: 8 am to 3 pm Some number of students from 7 am to 8 am and 3 pm to 6 pm (November 6<sup>th</sup> letter)</p>

	going to and between building and parking areas.(CC 89-28 c of a #18 as modified by PC98-16 c of a #6)	
School Year	Use of the site, subject to these conditions, shall be allowed throughout the year, which shall be divided into a regular school year, generally September through June and a summer session generally June through September(PC 89-10 c of a #4)	Regular: Generally September through June. Summer: Generally June through September. (November 6th letter)
Summer Program	Enrollment during the summer session shall be limited to no more than 175 students total, and summer operation shall conform to all of the conditions for the regular school year, except enrollment.(PC 07-08 c of a #2)	Generally June through September. (November 6th letter)
Student Population	Enrollment during the regular school year shall not exceed 347 students with combined enrollment between elementary and middle school programs. (PC 07-08 c of a #1)	240 students (November 6th letter)
Staff Population	49 FTE employees (IS/MND 06-07 p. 11)	15 employees (November 6th letter)
Parking	A total of 61 parking spaces shall be provided on the entire campus to accommodate staff members and the school's other parking needs.(PC 07-08 c of a #5)  Bicycle parking at the completion of the Master Plan shall be 19 spaces. (IS/MND 06-07 p. 11)	61 parking spaces (November 6th letter)
Student pick up and Drop off	Student drop-offs and pick-ups would continue to occur at the lower parking lot and the main driveway that extends from the intersection of Hill Street and Elm Street. In addition, school start/stop times would continue to	The school will stagger student drop offs such that up to 50% of the maximum 240 students will have an scheduled arrival time at 8:00 am, and up to 50% of the maximum 240 students will have a scheduled arrival

	<p>be staggered, as under existing conditions. (IS/MND 06-07 p. 15)</p>	<p>time of 8:30 am. School dismissal will occur at 3:00 pm. (Dec 20<sup>th</sup> letter, response 6)</p> <p>The school will also follow the approved student drop off plan...student drop offs and pickups would continue to occur only at the lower parking lot and the main driveway that extends from the intersection of Hill and Elm Street. (Dec 20<sup>th</sup> letter, response 6)</p> <p>To ensure that parents use these locations and that drop off and pick up flows smoothly, the school will have a staff member or volunteer supervise drop off and pick up. (Dec 20<sup>th</sup> letter, response 6)</p>
Noise Complaints	<p>If three formal complaints from three separate parties are submitted to the school over a 120-day period in regard to noise impacts, a new noise evaluation shall be conducted and new mitigation measures shall be investigated.(PC 07-08 c of a #10)</p>	<p>If three formal complaints from three separate parties are submitted to the school over a 120-day period in regard to noise impacts, a new noise evaluation shall be conducted and new mitigation measures shall be investigated. (November 6th letter)</p>
Use of the Gymnasium:	<p>All community use and inter or intramural competition shall occur between the hours of 8:30 am and 9:00 pm and be confined to the interior of the gymnasium building, with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between building and parking areas.(CC 89-28 c of a #18 as modified by PC98-16 c of a #6)</p>	<p>Evening activities shall be confined to the interior of buildings, and areas away from the perimeter of the site (areas E (multiuse play area), H(upper parking area), and J (upper parking area)) with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas. (November 6th letter)</p> <p>After school inter or intra mural competition in the gymnasium will be typical for a school and</p>

		<p>may include such activities as basketball, badminton and volleyball. All after school activities will be consistent with all the requirements of the approved use permit. (Dec 20<sup>th</sup> letter, response 1)</p>
<p>Outdoor Play Areas</p>	<p>Area A All school related activities in Area A, except for work parties, and as limited by other conditions of this approval, shall begin no earlier than 9:30 am and end no later than 4:30 pm, Monday through Friday and shall be supervised by adults at all times. (CC 89-28 c of a #13)</p> <p>In Area A, a maximum of 2 hours and 30 minutes of scheduled, active, non-directed play shall be permitted each day, prior to 3:30, Monday through Friday. (CC 89-28 c of a #16)</p> <p>Work parties allowed not to exceed 12 days per year not to commence before 8:30 am, shall generally be limited to daylight hours. Children shall be supervised in interior areas.(CC89-28 c of a #9)</p> <p>It shall be the responsibility of the primary user to maintain the nighttime lighting of Area A during all hours of darkness. (CC89-28 c of a #25)</p> <p>In Area A on weekends throughout the regular school year, there shall be no more than 3 special outdoor activities, such as fairs, and no more than one day in duration. No less than 30 days prior to any such event, residents adjoining the site shall</p>	<p>Use of Area A (upper play area):</p> <ul style="list-style-type: none"> <li>a. Supervised activities allowed between 9:30 am and 4:30 pm, Monday through Friday, except work parties.</li> <li>b. Maximum of 2 hours 30 minutes of scheduled, active, non-directed play per day.</li> <li>c. Nighttime lighting during all hours of darkness.</li> </ul> <p>Work parties allowed not to exceed 12 days per year not to commence before 8:30 am, shall generally be limited to daylight hours. (November 6th letter)</p>

	<p>be so notified by the primary user.(CC89-28 c of a #26)</p> <p>Area B All school related activities in Area B, except for work parties, and as limited by other conditions of this approval, shall begin no earlier than 8:30 am and end no later than 4:30 pm, Monday through Friday and shall be supervised by adults at all times. Use of Areas B and C may continue to 4:45 to allow for clean up and exiting the area.(CC89-28 c of a #15)</p> <p>In Area B, a maximum of 2 hours and 30 minutes of scheduled, active, non-directed play shall be permitted each day, prior to 4:30, Monday through Friday. (CC 89-28 c of a #16)</p> <p>The physical improvements to Area B shall be limited to a half court basketball court facing west on the east end and a tether ball at the northwest corner and two poles for net games. (CC 89-28 c of a #20)</p> <p>Work parties allowed not to exceed 12 days per year not to commence before 8:30 am, shall generally be limited to daylight hours. Children shall be supervised in interior areas.(CC89-28 c of a #9)</p> <p>In Area B on weekends throughout the regular school year, there shall be no more than 3 special outdoor activities, such as fairs, and no more than one day in duration. No less than 30 days prior to any such event, residents adjoining the site shall be so notified by the primary</p>	<p>Use of Area B (gym play area):</p> <ol style="list-style-type: none"> <li>a. Supervised activities allowed between 8:30am and 4:30 pm (4:45 with clean up), Monday through Friday.</li> <li>b. Maximum of 2 hours 30 minutes of scheduled, active, non-directed play per day prior to 3:30 pm.</li> </ol> <p>Work parties allowed not to exceed 12 days per year not to commence before 8:30 am, shall generally be limited to daylight hours. (November 6th letter)</p>
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	<p>user. (CC89-28 c of a #26)</p> <p>Area C Area C may be used by the school for organized sports practice from 3:30 pm to 5:30 pm Mondays through Fridays (PC 98-16 c of a #5)</p> <p>All school related activities in Area C, except for work parties, and as limited by other conditions of this approval, shall begin no earlier than 8:30 am and end no later than 5:30 pm, Monday through Friday and shall be supervised by adults at all times.(CC89-28 c of a #15 as modified by PC98-16 c of a #5)</p> <p>In Area C, a maximum of 2 hours and 30 minutes of scheduled, active, non-directed play shall be permitted each day, prior to 3:30, Monday through Friday. (CC 89-28 c of a #16)</p> <p>Work parties allowed not to exceed 12 days per year not to commence before 8:30 am, shall generally be limited to daylight hours. Children shall be supervised in interior areas.(CC89-28 c of a #9)</p> <p>In Area C on weekends throughout the regular school year, there shall be no more than 3 special outdoor activities, such as fairs, and no more than one day in duration. No less than 30 days prior to any such event, residents adjoining the site shall be so notified by the primary user. .(CC89-28 c of a #26)</p>	<p>Use of Area C (main lower play area):</p> <ol style="list-style-type: none"> <li>a. Supervised activities allowed between 8:30 am and 5:30 pm, Monday through Friday.</li> <li>b. Maximum 2 hours 30 minutes of scheduled, active, non-directed play per day prior to 3:30 pm.</li> <li>c. Area may be used by the School, for organized sports practice for up to 2 hours between 3:30pm and 5:30 pm Monday through Friday.</li> </ol> <p>Work parties allowed not to exceed 12 days per year not to commence before 8:30 am, shall generally be limited to daylight hours. (November 6th letter)</p> <p>Soccer practice afterschool on weekdays during soccer season. Area C. (main lower play area) 3:30 to 5:30 pm, Monday – Friday.</p>
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	<p>Areas D, E and N  Area D, E and N shall be used for General directed or non directed play, with no limitations on the play structures permitted, beginning no earlier than 8 am and ending no later than 6 pm. (CC89-28 c of a #21)</p>	<p>Use of Area D (area of former play structures, E (multi use area, and N (callisthenic exercise area):</p> <ol style="list-style-type: none"> <li>a. General directed or non-directed play allowed, with no limitation on the play structures permitted, beginning no earlier than 8 am and ending no later than 6 pm.</li> </ol>
Large Scale Events	<p>Outdoor  In Area A, B and C on weekends throughout the regular school year, there shall be no more than 3 special outdoor activities, such as fairs, and no more than one day in duration. No less than 30 days prior to any such event, residents adjoining the site shall be so notified by the primary user. (CC89-28 c of a #26)</p> <p>Indoor  In addition, Windrush School occasionally holds evening or weekend events. These events occur several times a year. (IS/MND p. 11)</p> <p>All community use and inter or intramural competition shall occur between the hours of 8:30 am and 9:00 pm and be confined to the interior of the gymnasium building, with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between building and parking areas.(CC 89-28 c of a #18 as modified by PC98-16 c of a #6)</p>	<p>The school will hold special events, some of which will be large scale events and require overflow parking. An event will require overflow parking if the necessary parking requirement exceeds the parking that is provided on site (61 spaces) and along the Elm St frontage abutting school property (approximately 10 spaces.) No outdoor events will be held in the evenings, consistent with the requirements of the use permit. (Dec 20<sup>th</sup> letter, response 2a)</p> <p>The school may hold indoor special events will be held as typical for a school like back to school night, an informational night and an open house. These events will be confined to the interiors of buildings. (Dec 20<sup>th</sup> letter, response 2a)</p>

<p>Overflow Parking Plan</p>	<p>Overflow Parking Plan Part of Condition 17 speaks to a plan to remove a parking lot which is not entirely relevant to this project. However, this notation by the applicant is consistent with the spirit and intent of the on-going requirement for an overflow parking plan. It seems appropriate that the School would implement part of this condition to address this issue. Specifically, the School shall notify City Planner not less than two weeks before a special event. The School shall file a plan for the possible overflow parking. In that plan, the School shall provide shuttle services, remote parking such street perimeter parking around BART station or valet parking or other techniques to avoid overflow onto neighborhood streets. The City Planner is responsible to monitoring for compliance and to receiving any reports of violations to the relevant use permit conditions. (98-16 c of a 17.)</p>	<p>The School will provide overflow parking for all events where attendance would exceed the combined capacity of onsite parking (approx 61 spaces) and the Elm St frontage abutting the school property (approx 10 spaces). Overflow parking during large events will be arranged with BART to use the El Cerrito del Norte BART parking lot approximately one block east of the school site. If the BART lot is ever unavailable, the school will provide valet parking consistent with the use permit.</p>
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**Public Comment**

There has been an extraordinary amount of public comment regarding this action. Attached in a CD are the letters and email correspondence that has been received by city staff. Staff has reviewed the comments and much of the concerns expressed are addressed in the staff report, itself. In sum, approximately 230 members of the public have expressed support for of finding the charter school consistent with the use permit while 8 members of the public have expressed opposition to a compliance determination. Two written comments received did not seem to take a position. (Attachment 13)

**Attachments**

1. Application submitted October 10, 2014
2. Letter dated November 6, 2014
3. Letter dated December 20, 2014
4. Applicant Additional Submittal dated January 20, 2014
5. Planning Commission Resolution 88-5

6. City Council Resolution 88-17
7. Planning Commission Resolution 89-10
8. City Council Resolution 89-28
9. Planning Commission 98-10
10. Planning Commission Staff Report and Resolution of May 16, 2008
11. City Council Resolution 2007-53
12. Site Plan of the Subject Property
13. Public Comment

Additional References:

On the City of El Cerrito Website, under Planning Division, Major Projects, 1800 Elm

There are additional reference documents available to review. These documents include:

1. Initial Study of June 2007 for the Master Plan of Windrush School
2. Plan Set of 2006 Master Plan

NOV 06 2013

RECEIVED

November 4, 2013

Ms. Margaret Kavanaugh-Lynch  
Development Services Manager  
City of El Cerrito  
10890 San Pablo Ave  
El Cerrito, CA 94530

Re: 1800 Elm Street Application for Zoning Administrator Determination  
Request for Additional Information

Dear Margaret:

Thank you for meeting with me and discussing the proposed Summit Public Schools middle school campus at 1800 Elm Street. As requested, we are providing a more detailed description of the proposed middle school program along with some background on Summit as an organization and their educational model. Also, as a clarification, Educational Ventures is the landlord and owner of the 1800 Elm Street campus and Summit Public Schools will be the tenant and operator of the middle school. Summit ultimately plans to open a high school in West Contra Costa County. Originally, Educational Ventures was in discussions with Summit to lease the Elm Street campus to them for a middle and high school. We have stepped back and are now only offering to lease the campus to them for a Middle School under a five-year lease.

Educational Ventures' primary goal as owner and landlord is to provide a high quality educational opportunity for the kids of West Contra Costa County by leasing the 1800 Elm Street Campus to a high performance school operator. Consistent with this goal, our strategy is to lease the campus to Summit for use as a middle school in the near term and to preserve flexibility to choose what operator or concept will best achieve this goal in the future. Summit, as tenant and operator, is entering a new market and a new community and we want to see them establish themselves here and evaluate their performance. In order to assure that the operator will be performing at the highest level, our lease will have a performance clause that will require the operator to meet specific performance metrics. Our future strategy will be driven by Summit's performance along with the evolving educational opportunities and needs in West Contra Costa County.

We are planning to lease the campus to Summit to open a middle school and are asking for confirmation that the existing conditional use permit allows that. We look forward to an outstanding school and a great relationship with the city and community. Before any change with the program or operator, we will sit down with the city to discuss. Please feel free to contact me with any questions and thank you for all of your help.

Sincerely,



Doug Giffin  
Educational Ventures

## **Summit Public Schools Middle School**

Summit Public Schools proposes to operate a middle school at 1800 Elm Street. Summit will provide a phenomenal free public middle school for students in West Contra Costa County. The school aims to provide a personalized learning experience that affords each and every student the opportunity to achieve their academic goals regardless of their previous preparation and background. To this end, Summit seeks to develop educators that are trained and skilled in best practices that enhance achievement for all students. The school aspires to serve as a model for middle schools endeavoring to prepare all students for secondary and post-secondary academic pursuits.

### **Summit Educational Model**

First designed and implemented at Summit's flagship school, Summit Prep, the Summit Model is a proven organizational design for small, college preparatory schools serving heterogeneous student populations, and ensuring they are on track for rigorous high school coursework and ultimately, college and career readiness. It's "the place we always wanted to go to school and where every teacher wants to teach."

### **Summit Schools are rigorous**

- All students take the same rigorous middle school courses, ensuring a college-preparatory track.

### **Summit Schools are creative**

- Students experience eight week, in depth "Expeditions" each year
- Teachers utilize state-of-the-art teaching practices, and continually improve their methods based on research and results

### **Summit Schools are involved**

- Students, teachers and parents take an active part in Summit life
- Mentors are assigned to students in the seventh grade

### **Summit Schools are successful**

- Success is clearly defined as are the steps to reaching it
- Goals are ambitious yet attainable, starting with academic rigor to ensure readiness for rigorous high school work, and then college and career

### **Expeditions: Eight life-changing weeks**

For eight weeks a year, students experience Expeditions where they participate in a course, internship or journey like no other. Students immerse themselves into subjects about which they are passionate, learn from professionals in these fields and emerge with a new perspective of the world and their future plans. The growth is immeasurable, the accomplishments undeniable.

At this same time, teachers undergo 40 days of intensive professional development, preparation and planning, focused on improving student performance. Everyone returns to the classroom reinvigorated and prepared to tackle the challenges ahead.

## Summit School Program

There will be a maximum of 240 students during the regular school year. Summit will have approximately 15 staff members. They will be operating within the existing campus buildings. They will operate within all conditions of the existing conditional use permit as found in Resolution 89-28 as modified by Resolution 98-16 and further modified by Resolution PC07-08. The following is a summary of the relevant conditions that Summit Public Schools will be required to follow in their use of the 1800 Elm Street campus:

- 1) Hours of Operation:
  - a. Primary hours of 8 am to 3 pm during the business week.
  - b. Limited number of students from 7am to 8am and from 3pm to 6pm
- 2) School year:
  - a. Regular school year: generally from September through June.
  - b. Summer Session: generally from June through September.
- 3) Parking and circulation:
  - a. 61 parking stalls to be provided.
  - b. Overflow parking – Staff must notify the planning division if an event will overflow. An overflow parking plan will be used for parking that does not occur on site or the Elm Street frontage abutting the property. The plan will demonstrate how the school will use shuttle services, remote parking such as the street perimeter of the BART station, valet parking, or other techniques to avoid overflow on to neighborhood residential streets.
- 4) Noise: If three separate noise complaints from three separate parties are submitted over a 120 day period in regards to noise impacts, a new noise evaluation shall be conducted and new mitigation measures shall be investigated.
- 5) Complaint procedure: The Windrush School Complaint Procedure, dated June 1999 will be followed.
- 6) Evening activities shall be confined to the interiors of buildings, and areas away from the perimeter of the site (areas E (multiuse play area), H(upper parking area), and J (upper parking area)) with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas.
- 7) Use of Area A (upper play area):
  - a. Supervised activities allowed between 9:30am and 4:30pm, Monday through Friday, except for work parties.
  - b. Maximum 2 hours 30 minutes of scheduled, active, non-directed play per day
  - c. Nighttime lighting during all hours of darkness.

- 8) Use of Area B (gym play area):
  - a. Supervised activities allowed between 8:30am and 4:30pm (4:45 with cleanup), Monday through Friday.
  - b. Maximum 2 hours 30 minutes of scheduled, active, non-directed play per day prior to 3:30pm.
  
- 9) Use of Area C (main lower play area):
  - a. Supervised activities allowed between 8:30am and 5:30pm, Monday through Friday.
  - b. Maximum 2 hours 30 minutes of scheduled, active, non-directed play per day prior to 3:30pm.
  - c. Area may be used by the School, for organized sports practice for up to 2 hours between 3:30pm and 5:30pm Monday through Friday.
  
- 10) Use of Areas A, B, and C:
  - a. Work parties allowed not to exceed 12 days per year not to commence before 8:30am, shall generally be limited to daylight hours.
  - b. Can have up to 3 special outdoor activities, such as fairs, of no more than one day in duration, on weekends throughout the regular school year. Must give 30 days prior notice to residents adjoining the site.
  - c. Schedules of uses to be distributed to neighbors on a regular basis.
  
- 11) Use of Gymnasium:
  - a. Inter/intramural competition allowed between 8:30am and 9pm, with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas.
  - b. Community uses allowed.
  
- 12) Use of Areas D (area of former play structures), E (multiuse play area), & N (calisthenics exercise area):
  - a. General directed or non-directed play allowed, with no limitation on the play structures permitted, beginning no earlier than 8am and ending no later than 6pm.



**DEVELOPMENT REVIEW APPLICATION**  
 Environmental and Development Services Dept.  
 Planning Division  
 10890 San Pablo Avenue, El Cerrito, CA 94530  
 (510) 215-4330 – FAX (510) 233-5401  
 planning@ci.el-cerrito.ca.us

<b>Application No:</b> PL13-046
<b>Date Received:</b> 10/10/13
<b>Revised:</b>

Please discuss your proposal with Planning Staff prior to completing this form. Please print or type legibly. Attach additional sheets if necessary. Incomplete applications will not be accepted.

<b>1. Type of Application</b> <input type="checkbox"/> Use Permit <input type="checkbox"/> Administrative Use Permit <input type="checkbox"/> Variance <input type="checkbox"/> Lot Line Adjustment <input type="checkbox"/> Certificate of Compliance <input type="checkbox"/> Tentative Map (Minor) <input type="checkbox"/> Tentative Map (Major) <input type="checkbox"/> Parcel Map <input type="checkbox"/> Environmental Review	<input checked="" type="checkbox"/> Zoning Administrator Determination <input type="checkbox"/> Design Review <input type="checkbox"/> Administrative Design Review <input type="checkbox"/> Planned Sign Program <input type="checkbox"/> RAD Review <input type="checkbox"/> Planned Development <input type="checkbox"/> Zoning Amendment/Rezone <input type="checkbox"/> General Plan Amendment <input type="checkbox"/> Zoning Clearance <input type="checkbox"/> Temporary Use Permit	<b>Application Fee(s):</b> Fee(s): \$ <u>248.00</u> (6055) \$ _____ (____) Pub. Notice: \$0.52 x _____ = \$ _____ (1700) Mail List: \$ _____ (6055) Env. Fee: \$ _____ (6053) Total: \$ <u>248.00</u>

**2. Property Location:** Zoning District: PS APN: 502-122-041  
 Address of Subject Property: 1800 Elm Street

**3. Requested Action:**  
 Please provide a Zoning Administrator Determination that the existing use permit allows Summit Public Schools to open a 240 student middle school at 1800 Elm Street.

**4. Applicant:** *In signing this application, I, as Applicant, certify that I have obtained written authorization from the property owner and have attached separate documentation showing my full legal capacity to file this application. I agree to be bound by the conditions of approval, subject only to the right to object at the public hearings or during the appeal period. I further certify that the information and exhibits submitted are true and correct.*

Applicant's Name: Educational Ventures LLC  
 Contact Person: Doug Giffin  
 Capacity: Vice President  
 Company: Educational Ventures LLC  
 Address: 5860 W. Las Positas Blvd, #21  
Pleasanton, CA Zip: 94588  
 Applicant's Phone: (925) 227-0707  
 Contact Person's Phone: (925) 227-0707  
 Fax: (925) 227-0277  
 Email Address: doug@chamb.com  
 Signature:   
 Date: 10/10/13

**5. Property Owner:** *In signing this application, I, as Property Owner, certify that I have full legal capacity to, and hereby do, authorize the filing of this application. I understand that conditions of approval are binding. I agree to be bound by those conditions, subject only to the right to object at the public hearings or during the appeal period. I further certify that the information and exhibits submitted are true and correct. Note: all property owners must sign if property is jointly owned.*

Name: Doug Giffin  
 Capacity: Vice President  
 Company: Educational Ventures LLC  
 Address: 5860 W. Las Positas Blvd  
Suite 21  
Pleasanton, CA Zip: 94588  
 Phone: (925) 227-0707  
 Fax: (925) 227-0277  
 Email Address: doug@chamb.com  
 Signature:   
 Date: 10/10/13

**APPLICANT AGREES TO HOLD THE CITY OF EL CERRITO (CITY) HARMLESS FOR ALL COSTS AND EXPENSES, INCLUDING ATTORNEY'S FEES, INCURRED BY THE CITY OR HELD TO BE THE LIABILITY OF THE CITY IN CONNECTION WITH THE CITY'S DEFENSE OF ITS ACTIONS IN ANY PROCEEDING BROUGHT IN ANY STATE OR FEDERAL COURT CHALLENGING THE CITY'S ACTIONS WITH RESPECT TO THE APPLICANT'S PROJECT.**

October 10, 2013

Ms. Margaret Kavanaugh-Lynch  
Development Services Manager  
City of El Cerrito  
10890 San Pablo Ave  
El Cerrito, CA 94530

Re: 1800 Elm Street Application for Zoning Administrator Determination

Dear Margaret:

Thank you for taking the time to sit down with me and work through some questions about our 1800 Elm Street campus. This application is for a zoning administrator determination that the existing use permit allows Summit Public Schools to open a middle school at this campus. The attached school program provides details on the proposed middle school. Once you have had the opportunity to review the program and the existing use permit details, would it be possible to meet in the next few weeks and discuss any questions that you have? Our goal is to walk through the program and make sure that our understanding of the existing use permits is consistent with yours. Also, I understand that your attorney had some concerns regarding the proposed middle school. Would it be alright if our land use attorney, Margo Bradish, speaks with Sky Woodruff prior to us getting together to make sure we understand his concerns? Please feel free to contact me with any questions you may have and thank you for all of your help.

Sincerely,

A handwritten signature in black ink, appearing to read 'Doug Giffin', with a long, sweeping horizontal line extending to the right.

Doug Giffin  
Educational Ventures

### **Summit Public Schools Middle School Program**

Summit Public Schools will be operating a middle school at 1800 Elm Street. There will be a maximum of 240 students. They will be operating within the existing campus buildings. They will operate within all conditions of the existing conditional use permit as found in Resolution 89-28 as modified by Resolution 98-16 and further modified by Resolution PC07-08.

December 20, 2013

Ms. Margaret Kavanaugh-Lynch  
Development Services Manager  
City of El Cerrito  
10890 San Pablo Ave  
El Cerrito, CA 94530

Re: 1800 Elm Street Application for Zoning Administrator Determination  
Request for Additional Information

Dear Margaret:

Thank you for taking the time to speak with me regarding our current application. We are very excited about the opportunity to work with the City of El Cerrito and Summit Public Schools to create a great new educational option for children at 1800 Elm Street. On October 10, 2013, we submitted an application for a Zoning Administrator Determination for the property. The application requested a Zoning Administrator Determination for a middle school consistent with the existing school use permit approval and with no modifications to the approved use permit's conditions of approval. On October 23<sup>rd</sup>, 2013, City staff requested additional information after the application submittal. A written response to this request was provided on November 6, 2013. Additional information was then requested by City staff on December 5, 2013. This letter is a response to the second information request made by City staff on December 5, 2013.

**City Staff Requests—December 5, 2013**

City staff requested a fuller summary of each item below. Our responses immediately follow each request.

**Request 1:** More detail regarding planned after-school sports activities, especially those not completed inside the gymnasium.

**Response 1:**

*Outdoor*

The school plans to have outdoor soccer practice after school on weekdays during soccer season. Soccer practice would occur in Area C (the main lower play area) from 3:30 pm to 5:30 pm, as allowed by the use permit. (See Section C.5 of Planning Commission Resolution PC07-08, modifying Condition 17 of City Council Resolution 89-28, to state that "Area C may be used by the School for organized sports practice" from 3:30 pm to 5:30 pm, Mondays through Fridays.) No other outdoor, after-school sports activities are planned.

*In the Gymnasium*

As proposed, after school inter- or intra-mural competition in the gymnasium will be typical for a school and may include activities such as basketball, badminton, and volleyball. This inter- or intra-mural competition will be equivalent to what is allowed under the approved use permit for the site. Specifically, City Council Resolution No. 89-28 Condition 18, as modified by Planning

Commission Resolution 98-16, states “community use and inter- or intra-mural competition” is allowed in the gymnasium between the hours of 8:30 am and 9:00 pm. (See also the gymnasium-related responses in numbers 2a and 5 below.) All after-school activities in the gymnasium will be consistent with all requirements of the approved use permit for the site.

*Additional Comment*

At least 107 fewer students will attend the school than the maximum allowed under the approved use permit. This will lead to an even further reduction in impacts, such as noise and traffic, as studied in the approved Mitigated Negative Declaration dated April 2007.

**Request 2a:** More detail regarding any planned large-scale events (fundraisers, concerts, etc.)

**Response 2a:**

***Large-Scale Events***

For the purpose of this response, we assume that “large scale events” are those that require overflow parking. As allowed in the use permit, the school will hold special events (those that occur outside of the daily school curriculum), some of which will be large scale events and require overflow parking. An event will require overflow parking if the necessary parking for that event exceeds the parking that is provided on-site (approximately 61 spaces) and along the Elm Street frontage abutting school property (approximately 10 spaces).

As proposed, special events will be typical for a school and consistent with the existing use permit. The overflow parking plan attached as Exhibit A will be followed for any events requiring overflow parking. The types of proposed special events will be substantially similar to those held by Windrush and are described below:

1. Special outdoor activities: As required by Condition 26 of City Council Resolution 89-28, “[i]n Areas A, B and C, on weekends throughout the regular school year,” there would be “no more than three special, outdoor activities, such as fairs, of no more than one day in duration” and the school will give notice to “residents adjoining the site” “no less than 30 days prior to any such event.” These events include activities such as the school picnic (described on page 3, paragraph 7 of the Addendum to Windrush School Transportation Assessment dated 2/23/98). No outdoor special events will be held in the evenings, consistent with the requirements of Condition 8 of City Council Resolution 89-28.
2. Indoor community special events: These events include activities such as the Neighborhood Night Out (described on page 8, paragraph 1 of Windrush’s project application dated August 18, 2006) that may be held in the gymnasium, as permitted by the modification of Condition 18 of City Council Resolution 89-28 in Planning Commission Resolution 98-16 (which states that “community use” of the gymnasium is allowed between the hours of 8:30 am and 9:00 pm).
3. Other indoor special events: As proposed, indoor special events will be typical for a school, such as performances, a back to school night, an informational event, and an open house (such events were also held by Windrush as described on page 3, paragraph 7 of

the Addendum to Windrush School Transportation Assessment dated 2/23/98), and consistent with the approved use permit. Allowed events are described on page 3, paragraph 4 of Windrush's project narrative for its application dated August 18, 2006 as follows: "Some school programs and functions require a few evening assemblies throughout the year and the school occasionally hosts weekend events." Allowed events are further detailed on page 11, paragraph 4 of the approved April 2007 Mitigated Negative Declaration. The school's events would be consistent with the descriptions of Windrush's events. As discussed above, any evening activities will be confined to the interiors of buildings consistent with the modification to City Council Resolution 89-22 Condition 8 (under section C.2.) on page 6 of Planning Commission Resolution 98-16.

As noted above, at least 107 fewer students will attend the school than the maximum allowed under the approved use permit, which decreases the number of people expected to attend school events (and the traffic and noise associated with such events) from the number anticipated for Windrush's events.

**Request 2b:** (please include a plan for the accommodation of overflow parking for these events)

**Response 2b:** Please see Exhibit A, attached.

**Request 3:** Will users other than Summit be operating any programs on the school campus?

**Response 3:** No users other than Summit will be operating programs on the school campus. Community use consistent with the use permit approval may occur in the gymnasium (see responses number 1 and 2 above, and number 5 below).

**Request 4:** Will Summit be altering the existing campus as part of their operations (including any grading, lighting, building or parking lot changes or alterations)?

**Response 4:** Interior building modifications consistent with Phase 3 of the project analyzed in the approved April 2007 Mitigated Negative Declaration and described on page 15 of that document will be pursued. The modifications will improve ADA accessibility and the seismic performance of the structure. No exterior building or site modifications are proposed.

**Request 5:** Please clarify the possible conflict regarding of hours of operation between #11 and #1 of the revised submittal (the use of the gymnasium extends until 9 pm while the general hours of operation that cease at 6 pm).

**Response 5:** We believe the information provided in numbers 1 and 11 of our December 4, 2013 letter are consistent with the approved use permit. Numbers 1 and 11 of the revised submittal state the following:

- 1) Hours of Operation:
  - a. Primary hours of 8 am to 3 pm during the business week.

Limited number of students from 7 am to 8 am and from 3 pm to 6 pm

- 11) Use of Gymnasium:
  - a. Inter/intramural competition allowed between 8:30 am and 9 pm, with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas.
  - b. Community uses allowed.

Number 1 is consistent with Windrush's approved use permit. Page 2 of Planning Commission Resolution PC07-08 provides for primary hours of school operation between 8:00 a.m. and 3:00 p.m. during the business week and allows a limited number of students for the early morning program from 7:00 a.m. - 8:00 a.m. and extended after school program from 3:00 p.m. - 6:00 p.m. This is consistent with Windrush's project narrative on Page 3 of its use permit modification application, dated August 18, 2006.

Number 11 also is consistent with Planning Commission Resolution PC07-08, page 2, number 2, lines 1 and 2 which states: "the hours of operation shall continue to be the same as those outlined in the original use permit." The original use permit approval is City Council Resolution 89-28. Condition 18 on page 5 of City Council Resolution 89-28 states:

"All inter- or intra-mural competition shall occur between the hours of 8:30 a.m. and 9:00 p.m., and be confined to the interior of the gymnasium building, reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas."

This condition was revised as shown on page 7 of Planning Commission Resolution 98-16, (Section C.6) to "add 'community use' in addition to 'inter-or intra-mural competition,' in recognition of non-school uses of the gym." The school would operate consistently with the conditions in the existing use permit.

**Request 6:** It would be very helpful if Summit could provide a traffic management plan that listed the anticipated pick-up and drop-off times of the 240 students. In the reports and documents that describe the approval of the master plan of 2007 by Windrush, there is information that noted that the school had instituted a staggered drop off time to alleviate traffic concerns. Information as to how the drop off and pick up of Summit school children would be scheduled would assist staff in verifying no additional impact.

**Response 6:** The school will stagger student drop offs such that up to 50 percent of the maximum 240 students will have a scheduled arrival time at 8:00 a.m., and up to 50 percent of the maximum 240 students will have a scheduled arrival time of 8:30 a.m. School dismissal will occur at 3 p.m., consistent with the Windrush dismissal time of grades three through eight (see page 3, paragraphs 6 and 7 of Windrush's project narrative for its application dated August 18, 2006). In addition, a limited number of students may arrive before 8:00 a.m. and some students will leave after 3:00 p.m. (for the allowed early morning program between 7:00 a.m. and 8:00 a.m. and after school program between 3:00 p.m. and 6:00 p.m.), which would decrease the number of students arriving at 8:00 am and 8:30 am and leaving at 3:00 p.m. In addition, the school proposes an enrollment with substantially fewer children at the school than the 347 maximum allowed under the approved use permit for the site (see page 13, Planning Commission condition of approval number 1 of Planning Commission Resolution PC07-08).

Thus, in addition to the staggered arrival times, there will be approximately 107 fewer students than studied in the traffic analysis for the April 2007 Mitigated Negative Declaration arriving at the school, leading to an even further reduction in impacts, such as noise and traffic, from those disclosed in the approved Mitigated Negative Declaration.

The above-noted start and end times are consistent with Planning Commission Resolution PC07-08, which provides for primary hours of operation at the school between 8:00 a.m. and 3:00 p.m. (see page 2, paragraph 2 of Planning Commission Resolution PC07-08). The staggered times (before 8:00 a.m., 8:00 a.m., and 8:30 a.m.), are consistent with page 3, paragraph 5 of Windrush's project narrative in its use permit modification application dated August 18, 2006, and page 11, paragraph 3 of the approved Mitigated Negative Declaration dated April 2007.

The school also will follow the approved student drop-off and pick-up locations as stated on Page 15, Paragraph 6 of the approved Mitigated Negative Declaration dated April 2007: "Student drop-offs and pick-ups would continue to occur only at the lower parking lot and the main driveway that extends from the intersection of Hill Street and Elm Street." These drop-off and pick-up locations are also described on Page 5, Paragraph 4, of the Planning Commission Staff Report dated May 16, 2007. To ensure that parents use these locations and that drop off and pick up flows smoothly, the school will have a staff member or volunteer supervise drop off and pick up.

### **Concluding Remarks**

We believe our application is complete and consistent with the approved use permit for the site. In request number 6 (above) City staff mentions "impact." As noted above, our request for a Zoning Administrator Determination proposes: 1) 107 fewer students at the school than the maximum allowed under the approved use permit; and 2) no new uses, structures, hours of operation, or overflow parking changes. We believe the use is consistent with what is approved, and the reduction in students will lead to an even further reduction of the impacts studied in the approved Mitigated Negative Declaration dated April 2007.

We agree to adhere to the use permit conditions of approval for the site.

Furthermore, for any future changes proposed (for example, if the parking lot ever needs to be repaved, a temporary banner for National Night Out is proposed, etc.), we will apply for required permits, approvals, etc., through the City of El Cerrito.

We thank City staff for its continued input and professionalism. We look forward to your response.

Sincerely,



Doug Giffin  
Educational Ventures

**Exhibit A**  
**Overflow Parking Plan**  
**December 13, 2013**

Consistent with Condition 17 of Planning Commission Resolution 98-16, the school will provide overflow parking for all events where attendance would exceed the combined capacity of on-site parking (approximately 61 spaces) and the Elm Street frontage abutting school property (approximately 10 spaces). Overflow parking during large events will be arranged with BART to use the El Cerrito del Norte BART parking lot approximately one block east of the school site. This is consistent with page 7, paragraph 2 of Windrush's project narrative dated August 18, 2006. If parking at the BART parking lot is ever unavailable, the school will provide valet parking, consistent with one of the strategies recommended in Condition 17 of Planning Commission Resolution 98-16.

January 20, 2014

El Cerrito Planning Commission  
City of El Cerrito  
10890 San Pablo Ave  
El Cerrito, CA 94530

Re: 1800 Elm Street Application for Zoning Administrator Determination

Dear Members of the El Cerrito Planning Commission:

This letter provides additional information for the upcoming Planning Commission meeting on January 28<sup>th</sup> that will consider our request for a Zoning Administrator Determination at our 1800 Elm Street campus. The information below provides background on our site, the Chamberlins, Summit Public Schools and on charter schools in general. Although the items presented below are not factors that will impact the decision, we thought the additional information would be helpful in providing context.

### **1800 Elm Street**

This site started as an orphanage in 1935 and transitioned into a school campus in 1956. For the last 58 years, the campus has served the community as a college, a middle and high school, an adult education program, and most recently, as an elementary and middle school. We are excited to choose to lease the campus to Summit Public Schools because they are an amazing group of educators with an outstanding track record. Summit is planning to open a small, free, middle school, consistent with the existing conditional use permit.

### **Transportation**

As with other West Contra Costa County schools, students will get to and from school through a combination of public transit, parent drop-off and pick-up, and walking or biking. One of the great advantages to this site is that 1800 Elm Street has far better access to public transportation than other schools in the area. Nine AC Transit bus lines and BART have stops two blocks from the site.

### **Charter Schools**

Charter schools are free public schools. A charter school is typically created by a group of teachers, parents or community leaders who believe new ideas can result in a unique, high quality school. Charter schools may not charge tuition and may not discriminate against any pupil on the basis of ethnicity, national origin, gender or disability. If applications exceed available seats, a lottery system is used to determine enrollment.

**Summit Public Schools**

Summit Public Schools operates six highly regarded schools in the Bay Area. The original group of teachers and parents who created Summit had a dream to reimagine American public schools. They envisioned a school where every child, regardless of family circumstances or background, receives a high-quality public education. In 2003, Summit started its first school. Today, that school has been listed in the top-100 public high schools in the nation by *Newsweek*, which also counted it among the *10 Miracle High Schools* for "taking students at all skill levels, from all strata, and turning out uniformly qualified graduates."

**Summit Student Diversity**

Summit schools aim to reflect the diversity of the local school district. Summit believes a heterogeneous student body creates a more vibrant learning community, a fact which has been supported by leading research institutions.

The make-up of Summit’s schools show that this organization is able to deliver on this belief:

	Hispanic/ Latino	African American	English Learners	Low Income (FRL)	Special Education
Summit Schools (Redwood City and San Jose)	59%	4%	15%	42%	9%
Local School Districts (SUHSD and ESUHSD)	49%	3%	18%	38%	9%

**Summit’s Partnership with School Districts**

Summit has a commitment to working collaboratively with school districts to share best practices. School districts from across the country come to see their cutting-edge blended learning and project-based learning in action. In addition, Summit hosts free webinars to share their academic model to those unable to visit their schools. Summit also runs a summer-long professional development program. It is available for district leaders and teachers to attend for free, where they can learn about Summit’s instructional approach. These educators are paid, at no cost to their school districts, to create open source curriculum, which is available online for everyone to use in education of students.

**The Chamberlins**

Susan and Steve Chamberlin retired in recent years and continue to live nearby in Richmond, as they have for nearly 20 years. They both attended public schools and have a long history in real estate, including historical preservation, architecture and teaching at the university level. They have a close connection to UC Berkeley, especially at the education and business schools. They both taught at the Haas Graduate School of Business. Steve had a wonderful 15 years serving in the classroom. These experiences are among the reasons they remain deeply committed to education.

### **The Chamberlin Family Foundation**

Through many years of hard work and some good luck, the Chamberlins have been blessed late in life. It is their wish to give back to their home community. They support a number of local schools, youth organizations and the arts. Much of their giving is directed through the Chamberlin Family Foundation, established in 2006. The Foundation is largely focused on supporting K-12 public education in West Contra Costa County. Their efforts are focused on the vision that, one day, every child will have access to an excellent public school, especially students with the greatest need. They believe excellent public schools are at the core of strong communities. Susan and Steve purchased 1800 Elm Street, as announced last year, to continue its long history as a wonderful school campus.

### **Summit K2 Performance**

Consistent with Steve and Susan's goal of helping to ensure excellent public education opportunities, it is incredibly important to us that Summit's new middle school lives up to their exceptional reputation. In order to assure that they will be performing at the highest level, our lease will have a performance clause that will require the school to meet or exceed specific performance metrics. This oversight will help ensure the school is accountable and expectations are met.

We thank City staff for its continued input and professionalism. We look forward to the opportunity to meet with the Planning Commission on January 28<sup>th</sup>.

Sincerely,

A handwritten signature in cursive script that reads "Doug Giffin". The signature is written in black ink and is positioned above the printed name.

Doug Giffin  
Educational Ventures

Steve Chamberlin  
1800 Elm Street  
El Cerrito, CA 94530

January 9, 2014

Dear El Cerrito Neighbor,

As your new neighbor at 1800 Elm Street, the former Windrush campus, we'd like to wish you a very happy and healthy New Year. Susan and I, as the new owners of this beautiful campus, would like to share an update and let you know more about our family and the plans for the property.

After retiring in recent years, Susan and I continue to live nearby in Richmond, as we have for nearly 20 years. We both attended public schools and have a long history in real estate – including historical preservation, architecture and teaching at the university level. We have a close connection to UC Berkeley, especially at the education and business schools. We both taught at the Haas Graduate School of Business, and for me, it was a wonderful 15 years serving in the classroom. These experiences are among the reasons we remain deeply committed to education.

Through many years of hard work and some good luck, we have been blessed late in life. It is our wish to give back in service of others, particularly in our home community. We support a number of Richmond schools, youth organizations and the arts. Much of our giving is directed through the Chamberlin Family Foundation, established in 2006. The Foundation is largely focused on supporting K-12 public education in West Contra Costa County with a vision of, one day, helping to ensure an excellent public school for every child, especially students with the greatest need. We believe excellent public schools are at the core of strong communities.

Susan and I purchased 1800 Elm Street, as announced last year, to continue its long history as a wonderful campus in service of children. It started out as an orphanage in 1935 and transitioned into a school campus in 1956. For the last 57 years, the campus has served the community as a college, a middle and high school, an adult education program, and most recently, as an elementary and middle school. We are excited to choose to lease the campus to Summit Public Schools because they are an amazing group of educators with an outstanding track record. They are planning a new public charter school option for families, consistent with the existing conditional use permit.

The Summit team plans to open with a seventh grade of about 120 students in the fall of this year. The full middle school, including seventh and eighth graders, would have about 240 students. Ultimately, Summit plans to grow into a 7-12 school, although they do not know where the high school will be located yet. They have a couple of years to figure that out. The existing use permit, under which the Windrush School operated, allows for grades K through 8 with up to 347 students; again, the Summit middle school plans are consistent with all the conditions of this use permit.

Please know that Susan and I have a deep sense of responsibility for the stewardship of this campus, both its aesthetics and its history. We already have committed a significant amount of time and effort over the last year in caring for this property, including upgrading the landscaping and completing plans to invest significantly to make the original building both seismically safe and handicapped accessible.

We care deeply about which school program is located at 1800 Elm Street – just as we know you do. We want nothing less than an amazing public school – one that is truly preparing our children for a rigorous academic experience, putting them on a path of success in high school, college, career and life. Susan and I, along with Summit, are committed to ensuring this school will provide an excellent school option for families – one that the community will be proud to have as a neighbor.

Summit Public Schools already operates six highly regarded schools in the Bay Area. The original group of teachers and parents who created Summit had a dream to reimagine American schools. They envisioned a school that would achieve the promise of providing a high-quality public education to every child, regardless of family circumstances or background. In 2003, the first Summit school was born. Today, that school has been listed in the top-100 public high schools in the nation by *Newsweek*, which also counted it among the *10 Miracle High Schools* for "taking students at all skill levels, from all strata, and turning out uniformly qualified graduates."

As with all charter schools, Summit's middle school will be a free public option for families. If there are more students interested in attending than there are seats available, then Summit will have a lottery drawing, as required by law, giving every child an equal chance to attend. Their upcoming lottery drawing, as we understand it, is scheduled for February 15<sup>th</sup>, in keeping with the calendar of other public charter schools in the area.

To learn more about your new neighbor and Summit's highly successful (and unique) approach to free public education, as well as how to attend, you can visit their website at [www.summitps.org](http://www.summitps.org). You also can visit them at the West Contra Costa Education Fair at the Richmond Public Library on Saturday, February 1, from 1-4 p.m.

In addition to this fantastic school option for families, we remain excited to support many other impactful public education initiatives locally. We look forward to continuing to support quality public schools and programs within those schools that create a transformative educational experience for students, especially those from low-income families.

It is important to us – as it is to Summit Public Schools – to be a good neighbor. Please visit their website, learn more, and we'll share additional details in the coming months. In the meantime, please know that we're working hard to keep the campus in exceptional condition. If you have a question regarding the property or notice something that needs attention, please contact Sharon Lamonica, property manager, at 925-227-0707 or [SharonL@chamb.com](mailto:SharonL@chamb.com). We wish you – and the youth of West Contra Costa County – a wonderful 2014.

Sincerely,

Steve Chamberlin

*Stephen and Susan Chamberlin  
1323 Sanderling Island  
Point Richmond, California 94801*

January 20, 2014

Planning Commission  
City of El Cerrito

Dear Members of the El Cerrito Planning Commission:

On behalf of Educational Ventures and our related organizations I write to introduce our firm and myself personally. We have over 40 years of experience, on both coasts, with the ownership and use of land. I earned a Master's Degree in Planning at the University of Pennsylvania before I started my professional career, and I spent 15 years teaching responsible land use at UC Berkeley's Haas School. I believe you will find us responsible and responsive stewards of this important piece of the El Cerrito and Contra Costa County community.

We have worked hard to find the very best tenant to operate the new school at 1800 Elm Street. We believe Summit Public Schools has the ability and track record to be a responsible member of this community and meet all of the conditions of the Conditional Use Permit.

We will incorporate the terms of the CUP in our lease and provide that failure to comply will be a default.

Our lease to Summit will include a school performance clause to insure the academic, demographic and behavioral objectives are met.

Both our organization and Summit acknowledge our responsibility to comply with the CUP, and commit to address any issue of concern that arises from the operation of the school, whether included in the CUP or not.

We look forward to being a vital part of the El Cerrito community.

Sincerely,

A handwritten signature in cursive script that reads "Steve Chamberlin".

Steve Chamberlin

El Cerrito  
Planning Commission  
RESOLUTION NO. 88-5

*Windrush School*  
*Use Permit*  
*Application No. 4943*

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EL CERRITO APPROVING A USE PERMIT FOR THE OPERATION OF A SCHOOL IN THE R-1 (SINGLE FAMILY) DISTRICT AT 1800 ELM ST.

I. BACKGROUND:

- A. The site is located at 1800 Elm Street, which is the former Armstrong School, and is surrounded on three sides by homes located on Manor Circle, Walnut Street, and Glen Mawr Ave..
- B. The subject site is located in the R-1 (single-family residential) zone and is operation under Use Permit application No. 4041, originally approved May 15, 1974 for Armstrong School, and which has been most recently reviewed by the Planning Commission on May 7, 1980, and is subject to ten (10) conditions.
- C. The City of El Cerrito has an adopted Zoning Ordinance, which specifies that schools are permitted by Planning Commission Use Permit in the R-1 (single-family Residential) district.
- D. On April 20, 1987 Windrush School requested that a Use Permit be granted to allow the operation of a private, K-8 school, with a maximum enrollment of 250 students, on the subject site.
- E. On June 17, 1987 Staff permitted the applicant to operate under the existing Use Permit application No. 4041, with the understanding that the permit would be reviewed by the Planning Commission no later than July 1988.
- F. In response to neighborhood complaints of unauthorized use, by Windrush School, of the north-east corner of the subject site as a play yard, the Planning Department directed the School to apply for an Administrative Use Permit.
- G. On September 15, 1987 Rebecca Grether, for Windrush School, requested an Administrative Use Permit for play equipment and a play yard be located in the Northeast corner of the school, an area that had not previously been used in this way, and which was not specifically permitted by the terms of the existing Use Permit No. 4041.

- H. On September 25, 1987 the Zoning Administrator held a public hearing on the proposed Administrative Use Permit, and approved Administrative Use Permit application no. 4903 by Zoning Administrator Resolution 87-2 with ten (10) conditions
- I. On October 8, 1987 Rebecca Grether, for Windrush School, appealed two conditions of Zoning Administrator Resolution 87-2.
- J. On November 4, 1987 the Planning Commission held a public hearing on the appeal of Zoning Administrator approval of Administrative Use Permit application no. 4903, and adopted Resolution 87-49 upholding the appeal of conditions 2 and 5 of Zoning Administrator approval of Administrative Use Permit application no. 4903, subject to two conditions.
- K. On November 17, 1987 Catherine Dusterdick, 1769 Walnut St., appealed Planning Commission Resolution 87-49.
- L. On December 7, 1987 the City Council held a public hearing to consider the appeal, and without taking testimony determined that the entire Use Permit should be reviewed by the Planning Commission, so that conditions appropriate to the new use could be established.
- M. On December 7, 1987, during the City Council public hearing, Catherine Dusterdick, the appellant, agreed to withdraw the appeal on the condition that the Planning Commission would conduct a thorough review of Use Permit 4041 no later than February 3, 1988.
- N. The Planning Department has determined that the subject Use Permit review is exempt from the further application of the California Environmental Quality Act under class 14 (§15314), Article 19, of the State CEQA Guidelines
- O. On January 20, 1988 the Planning Commission held a public hearing on the proposed Use Permit, and heard testimony concerning:
1. the use, needs, costs and impacts of play areas on adjacent residents
  2. play areas at other K-8 schools in El Cerrito
  3. feasibility and effectiveness of buffers and barriers
  4. specifics of previous, existing and proposed use of three areas shown on the Master Plan as "A", "B" and "C"
  5. measures that are being and could be taken to reduce the impacts of the play areas
  6. the anticipated increase in impacts due an expanding enrollment
  7. Planning Department procedures in extending Use Permit No. 4041
  8. improved relations between the School and the neighbors
  9. extended day-care use of the site

## II. FINDINGS:

In reviewing the application the Planning Commission found that:

- A. The proposed Use Permit is consistent with the General Plan designation of Low Density Residential.
- B. The proposed Use Permit is consistent with the provisions of the R-1 (single-family Residential) district
- C. The proposed use is consistent with the history of the site as a school
- D. The existing Use Permit does not prohibit the use of the subject areas as play yards.
- E. Restrictions of hours of use will substantially mitigate the impacts of the play areas and will not be hardship on the School, and will encourage the use of less sensitive areas and possibly the development of new play areas..
- F. The problems of excessive noise and unauthorized use of the play yard should be minimized by the volunteer patrol, and can referred to the Police Department.

## III. ACTION:

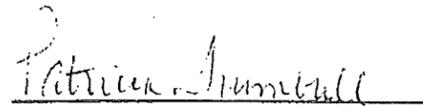
The Planning Commission of the City of El Cerrito hereby adopts Resolution 188-5 approving Use Permit Application No. 4943, subject to the following conditions:

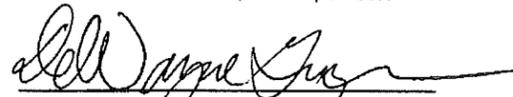
1. The school shall be operated substantially in compliance with the plans titled "Windrush School Master Plan", dated 29 Dec. 87, and labelled Exhibit A, except as amended by subsequent conditions of this Resolution.
2. The school shall be operated substantially in compliance with the document titled "Windrush School Outline of Anticipated Uses—Windrush School Site", dated 12/28/87, and labelled Exhibit B, except as amended by subsequent conditions of this Resolution.
3. The play areas designated "A", "B" and "C" shall be used 8:30 a.m. to 5:00 p.m., and shall be limited to two (2) hours of play per day, per area.
4. The play areas designated "A", "B" and "C" shall be reviewed no later than January 31, 1989 for noise level and appropriateness of use.

IV. CERTIFICATION:

This resolution was adopted by the Planning Commission of the City of El Cerrito, County of Contra Costa, State of California, at an adjourned regular meeting thereof, held on the January 20, 1988, upon motion of Commissioner Scott, second by Commissioner Bellows:

AYES: Scott, Bellows, Porter, Chairperson Trumbull  
NOES: Miner  
ABSENT: none  
ABSTAIN: none

  
Patricia Trumbull, Chairperson

  
De Wayne Geyer, Planning Dir.

El Cerrito  
Planning Commission  
RESOLUTION NO: 89-10

*Windrush School*  
*Use Permit*  
*Application No.5030*

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EL CERRITO APPROVING A USE PERMIT APPLICATION TO OPERATE A PRIVATE SCHOOL AT 1800 ELM ST.

I. BACKGROUND:

- A. The site is located at 1800 Elm Street, which is the former Armstrong School, and is surrounded on three sides by homes located on Manor Circle, Walnut Street, and Glen Mawr Ave.
- B. The subject site has a General Plan land use designation of Low Density Residential, and the zoning is R-1 (single-family Residential) district.
- C. The subject site is zoned R-1 (single-family Residential) district.
- D. The City of El Cerrito has an adopted Zoning Ordinance, which specifies that schools are permitted by Planning Commission Use Permit in the R-1 (single-family Residential) district.
- E. The Planning Department has determined that the subject Use Permit review is exempt from the further application of the California Environmental Quality Act under class 14 (S15314), Article 19, of the State CEQA Guidelines.
- F. On January 20, 1988 the Planning Commission adopted Resolution 88-5 approving Use Permit application no. 4943, for the operation of Windrush School, subject to four conditions.
- G. On January 30, 1988 Catherine Dusterdick, 1769 Walnut St., appealed Planning Commission adoption of Resolution 88-5.

**Planning Commission Resolution No. 89-10**

- H. On February 3, 1988 Rebecca Grether, representing Windrush School, appealed the two hour limitation placed on the use of Areas A, B and C by Planning Commission adoption of Resolution 86-5.
- I. On March 7, 1988 the City Council held a public hearing to consider the appeals, and found that:
- A. *The proposed Use Permit is consistent with the General Plan designation of Low Density Residential.*
  - B. *The proposed Use Permit is consistent with the provisions of the R-1 (single-family Residential) district*
  - C. *The proposed use is consistent with the history of the site as a school*
  - D. *The existing Use Permit does not prohibit the use of the subject areas as play yards.*
  - E. *Restrictions of hours of use will substantially mitigate the impacts of the play areas and will not be a hardship on the School, and will encourage the use of less sensitive areas and possibly the development of new play areas.*
  - F. *The problems of excessive noise and unauthorized use of the play yard should be minimized by the volunteer patrol provided by the School, and can referred to the Police Department.*
- J. On March 7, 1988 the City Council adopted Resolution No. 88-17 denying the appeals of Planning Commission resolution no. 88-5, and establishing 28 conditions to the use of the subject site.
- K. Condition No. 5 of Council Resolution No. 88-17 states:
- 5. *Enrollment during the regular school year shall not exceed 250 students total, with no more than 140 students for either of the two school programs.*

**Planning Commission Resolution No. 89-10**

L. Condition No. 24 of Council Resolution No. 88-17 states:

*24. The Areas "A", "B" and "C" shall be reviewed by the Planning Commission no later than March 7, 1989 for noise level and appropriateness of use.*

M. On January 17, 1989 Windrush School requested that a hearing be held to amend condition 5, to reallocate the number of students in the two approved schools, and to review condition 24 of City Council Resolution No. 88-17

N. On March 1, 1989 the Planning Commission held a public hearing to review conditions 5 and 24 of City Council Resolution No. 88-17, and heard testimony concerning violations of various conditions related to Areas A, B and C by Windrush School.

**II. FINDINGS:**

In reviewing the application the Planning Commission found that:

- A. The Use Permit is consistent with the General Plan designation of Low Density Residential.
- B. The Use Permit is consistent with the provisions of the R-1 (single-family Residential) district.
- C. The proposed use is consistent with the history of the site as a school
- D. The existing Use Permit does not prohibit the use of the subject areas as play yards.
- E. Restrictions of hours of use have substantially mitigated the impacts of the play areas and have not been a hardship on the School.
- F. The proposed amendment to allow 175 students in the K-6 program, and 75 students in the middle school program is consistent with the intent of the Use Permit.

**III. ACTION:**

The Planning Commission of the City of El Cerrito hereby adopts Resolution 89-10 approving Use Permit Application No. 5030, and superseding City Council Resolution No. 88-17, subject to the following conditions:

***Planning Commission Resolution No. 89-10***

1. The school shall be operated substantially in compliance with the plans titled "Windrush School Master Plan", dated 29 Dec. 87, and labelled Exhibit A, except as amended by subsequent conditions of this Resolution.
2. Exhibit A depicts the site as referred to in these conditions, and all references to specific areas, such as "Area A", are based on Exhibit A.
3. The use of the site shall consist of the operation of two school programs, hereafter referred to as "primary user": an elementary school for kindergarten through sixth grade (currently known as Windrush School), an unspecified middle school for seventh and eighth grade, and after-school day care programs associated with these two programs. These school programs, together with their licensees, shall operate within the specifications of the conditions contained in this resolution.
4. Use of the site, subject to these conditions, shall be allowed throughout the year, which shall be divided into a regular school year, generally from September through June, and a summer session generally from June through September.
5. Enrollment during the regular school year shall not exceed 250 students total, with no more than 175 students for either of the two school programs.
6. Enrollment during the summer session shall be limited to no more than 125 students total, and summer operation shall conform to all of the conditions for the regular school year, except enrollment.
7. Evening and weekend use of the site, by the primary user and their licensees shall be permitted subject to all of the limitations specified in these conditions, and it shall be the responsibility of the primary user to ensure compliance with all these conditions.
8. All evening activities shall be confined to the interior of buildings, with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas.
9. Work parties in Areas A, B and C on weekends shall not exceed twelve (12) days per year, shall not commence before 8:30 A.M., and shall generally be limited to daylight hours. Children shall be supervised in interior areas.

10. The primary user shall provide a minimum of one parking space for each full time equivalent staff member for all activities currently permitted on the site, and shall inform and require staff members, and participants in weekday, as well as evening and weekend activities, to park in the parking areas on the site, rather than on the surrounding streets.
11. No dogs or other animals shall be brought to or kept on the site by the primary user or their licensees, outside of buildings, for more than one hour per day.
12. The dwelling and its surrounding area, marked as "Area F", shall be used as a residence, subject to all the provisions of the R-1 (single-family residential) district.
13. All school-related activities in Area A, except for work parties, and as limited by other conditions of this approval, shall begin no earlier than 9:30 A.M. and end no later than 4:30 P.M., Monday through Friday, and shall be supervised by adults at all times.
14. In Area A, a maximum of 2 hours and 30 minutes of scheduled, active, nondirected play shall be permitted each day.
15. All school-related activities in Areas B and C, and as limited by other conditions of this approval, shall begin no earlier than 8:30 A.M. and end no later than 4:30 P.M., Monday through Friday, and shall be supervised by adults at all times. Use of Areas B and C may continue to 4:45 to allow for cleanup and exiting the area.
16. In Areas B & C, a maximum of 2 hours and 30 minutes of scheduled, active, nondirected play shall be permitted each day, prior to 3:30 P.M., Monday through Friday.
17. Area C may be used for organized sports practice for no more than one hour per day between 3:30 P.M. and 4:30 P.M., Monday through Friday.
18. All inter- or intramural competition shall occur between the hours of 8:30 A.M. and 9:00 P.M., and be confined to the interior of the gymnasium building, with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas.
19. The "buffer zone", Area M, shall be no less than six feet in width adjacent to Areas B and C, and a chainlink fence at least nine (9) feet in height shall be maintained adjacent to Areas B & C.

**Planning Commission Resolution No. 89-10**

20. The physical improvements in Area B shall be limited to a half-court basketball court facing west at the east end, a tether ball at the north-west corner, and two poles for net games.
21. Areas D, E, & N shall be used for general directed or nondirected play, with no limitation on the play structures permitted, beginning no earlier than 8:00 A.M. and ending no later than 6:00 P.M.
22. The "Future Roadway Extension", labelled "K" on Exhibit A shall be reviewed and approved by Public Works staff prior to any related construction on the site.
23. Current schedules for all uses of Areas "A", "B" and "C" shall be distributed to residents adjoining the site on a regular basis, so that the specific time periods for approved uses may be determined.
24. It shall be the responsibility of the primary user to be vigilant for unauthorized use of the site, and to abate any such use in a timely manner.
25. It shall be the responsibility of the primary user to maintain nighttime lighting of Area A during all hours of darkness.
26. In Areas A, B and C, on weekends throughout the regular school year, there shall be no more than three (3) special, outdoor activities, such as fairs, of no more than one day in duration. No less than 30 days prior to any such event, residents adjoining the site shall be so notified by the primary user.
27. It shall be the responsibility of the primary user to maintain all areas of the site, particularly those areas adjacent to existing residences to be free of health and fire hazards, weeds, debris and unauthorized use.

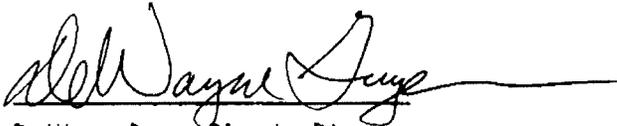
IV. CERTIFICATION:

This resolution was adopted by the Planning Commission of the City of El Cerrito, County of Contra Costa, State of California, at a regular meeting thereof, held on March 1, 1989, upon motion of Commissioner Renteria, second by Commissioner Kosel:

AYES: Bellows, Kosel, Renteria, Trumbull  
NOES: Jellison, Chair Miner  
ABSENT: none  
ABSTAIN: Furst



F. William Miner, Chair



De Wayne Guyer, Planning Dir.

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RESOLUTION NO. 89-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO DENYING THE APPEAL OF THE PLANNING COMMISSION CONDITIONAL APPROVAL OF USE PERMIT NO. 4943 FOR WINDRUSH SCHOOL.

WHEREAS, The site is located at 1800 Elm Street, which is the former Armstrong School, and is surrounded on three sides by homes located on Manor Circle, Walnut Street, and Glen Mawr Ave.

WHEREAS, The subject site has a General Plan land use designation of Low Density Residential, and the zoning is R-1 (single-family residential) zone, and

WHEREAS, The City of El Cerrito has an adopted Zoning Ordinance, which specifies that schools are permitted by Planning Commission Use Permit in the R-1 (single-family Residential) district.

WHEREAS, On April 20, 1987 Windrush School requested that a Use Permit be granted to allow the operation of a private, K-8 school, with a maximum enrollment of 250 students, on the subject site.

WHEREAS, The Planning Department has determined that the subject Use Permit review is exempt from the further application of the California Environmental Quality Act under class 14 (S15314), Article 19, of the State CEQA Guidelines

WHEREAS, On November 4, 1987 the Planning Commission held a public hearing on the appeal of Zoning Administrator approval of Administrative Use Permit application no. 4903, and adopted Resolution 87-49 upholding the appeal of conditions 2 and 5 of Zoning Administrator approval of Administrative Use Permit application no. 4903, subject to two conditions.

WHEREAS, On November 17, 1987 Catherine Dusterdick, 1769 Walnut St., appealed Planning Commission Resolution 87-49.

WHEREAS, On December 7, 1987 the City Council held a public hearing to consider the appeal, and without taking testimony determined that the entire Use Permit should be reviewed by the Planning Commission, so that conditions appropriate to the new use could be established.

WHEREAS, On December 7, 1987, during the City Council public hearing, Catherine Dusterdick, the appellant, agreed to withdraw the appeal on the condition that the Planning Commission would conduct a thorough review of Use Permit 4041 no later than February 3, 1988.

WHEREAS, On January 20, 1988 the Planning Commission held a public hearing on the proposed Use Permit, and adopted Resolution 88-5 approving Use Permit application no. 4943, subject to four conditions.

WHEREAS, On January 30, 1988 Catherine Dusterdick, 1769 Walnut St., appealed Planning Commission adoption of Resolution 88-5, and

WHEREAS, On February 3, 1988 Rebecca Grether, representing Windrush School, appealed the time two hour limitation placed on the use of Areas A, B and C by Planning Commission adoption of Resolution 88-5, and

WHEREAS, On March 7, 1988 the City Council held a public hearing to consider the appeals, and adopted Resolution No. 88-17 denying the appeals of Planning Commission resolution no. 88-5, and establishing 28 conditions to the use of the subject site, including the following:

5. *Enrollment during the regular school year shall not exceed 250 students total, with no more than 140 students for either of the two school programs.*

24. *The Areas "A", "B" and "C" shall be reviewed by the Planning Commission no later than March 7, 1989 for noise level and appropriateness of use.*

WHEREAS On January 17, 1989 Windrush School requested that a hearing be held to amend condition 5, to reallocate the number of students in the two approved schools, and to review the performance of the play areas, as called for by condition 24 of City Council Resolution No. 88-17

WHEREAS On March 1, 1989 the Planning Commission held a public hearing to review conditions 5 and 24 of City Council Resolution No. 88-17, and adopted Resolution No. 89-10 approving the change to condition No. 5, and eliminating the requirement for a subsequent review.

WHEREAS, On March 10, 1989 Catherine Dusterdick, 1769 Walnut St., appealed Planning Commission adoption of Resolution 89-10, and

WHEREAS, On April 3, 1989 the City Council held a public hearing to consider the appeal.

WHEREAS, In reviewing the appeal the City Council found that:

- A. The proposed Use Permit is consistent with the General Plan designation of Low Density Residential.

- B. The proposed Use Permit is consistent with the provisions of the R-1 (single-family Residential) district
- C. The proposed use is consistent with the history of the site as a school
- D. The existing Use Permit does not prohibit the use of the subject areas as play yards.
- E. Restrictions of hours of use will substantially mitigate the impacts of the play areas and will not be a hardship on the School, and will encourage the use of less sensitive areas and possibly the development of new play areas.
- F. The problems of excessive noise and unauthorized use of the play yard should be minimized by the volunteer patrol provided by the School, and can be referred to the Police Department.

NOW, THEREFORE, BE IT RESOLVED that after considering the presentations of the appellant and the applicant, the actions of the Planning Commission, and the public testimony, the City Council of the City of El Cerrillo denies the appeal of Planning Commission resolution no. 89-10, and imposes the following conditions:

1. The school shall be operated substantially in compliance with the plans titled "Windrush School Master Plan", dated 29 Dec. 87, and labelled Exhibit A, except as amended by subsequent conditions of this Resolution.
  2. Exhibit A depicts the site as referred to in these conditions, and all references to specific areas, such as "Area A", are based on Exhibit A.
  3. The use of the site shall consist of the operation of two school programs, hereafter referred to as "primary user": an elementary school for kindergarten through sixth grade (currently known as Windrush School), an unspecified middle school for seventh and eighth grade, and after-school day care programs associated with these two programs. These school programs, together with their licensees, shall operate within the specifications of the conditions contained in this resolution.
  4. Use of the site, subject to these conditions, shall be allowed throughout the year, which shall be divided into a regular school year, generally from September through June, and a summer session generally from June through September.
-

5. Enrollment during the regular school year shall not exceed 250 students total, with no more than 175 students for either of the two school programs.
  6. Enrollment during the summer session shall be limited to no more than 125 students total, and summer operation shall conform to all of the conditions for the regular school year, except enrollment.
  7. Evening and weekend use of the site, by the primary user and their licensees shall be permitted subject to all of the limitations specified in these conditions, and it shall be the responsibility of the primary user to ensure compliance with all these conditions.
  8. All evening activities shall be confined to the interior of buildings, with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas.
  9. Work parties in Areas A, B and C on weekends shall not exceed twelve (12) days per year, shall not commence before 8:30 A.M., and shall generally be limited to daylight hours. Children shall be supervised in interior areas.
  10. The primary user shall provide a minimum of one parking space for each full time equivalent staff member for all activities currently permitted on the site, and shall inform and require staff members, and participants in weekday, as well as evening and weekend activities, to park in the parking areas on the site, rather than on the surrounding streets.
  11. No dogs or other animals shall be brought to or kept on the site by the primary user or their licensees, outside of buildings, for more than one hour per day.
  12. The dwelling and its surrounding area, marked as "Area F", shall be used as a residence, subject to all the provisions of the R-1 (single-family residential) district.
  13. All school-related activities in Area A, except for work parties, and as limited by other conditions of this approval, shall begin no earlier than 9:30 A.M. and end no later than 4:30 P.M., Monday through Friday, and shall be supervised by adults at all times.
  14. In Area A, a maximum of 2 hours and 30 minutes of scheduled, active, nondirected play shall be permitted each day.
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15. All school-related activities in Areas B and C, and as limited by other conditions of this approval, shall begin no earlier than 8:30 A.M. and end no later than 4:30 P.M., Monday through Friday, and shall be supervised by adults at all times. Use of Areas B and C may continue to 4:45 to allow for cleanup and exiting the area.
  16. In Areas B & C, a maximum of 2 hours and 30 minutes of scheduled, active, nondirected play shall be permitted each day, prior to 3:30 P.M., Monday through Friday.
  17. Area C may be used for organized sports practice for no more than one hour per day between 3:30 P.M. and 4:30 P.M., Monday through Friday.
  18. All inter- or intramural competition shall occur between the hours of 8:30 A.M. and 9:00 P.M., and be confined to the interior of the gymnasium building, with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas.
  19. The "buffer zone", Area M, shall be no less than six feet in width adjacent to Areas B and C, and a chainlink fence at least nine (9) feet in height shall be maintained adjacent to Areas B & C.
  20. The physical improvements in Area B shall be limited to a half-court basketball court facing west at the east end, a leather ball at the north-west corner, and two poles for net games.
  21. Areas D, E, & N shall be used for general directed or nondirected play, with no limitation on the play structures permitted, beginning no earlier than 8:00 A.M. and ending no later than 6:00 P.M.
  22. The "Future Roadway Extension", labelled "K" on Exhibit A shall be reviewed and approved by Public Works staff prior to any related construction on the site.
  23. Current schedules for all uses of Areas "A", "B" and "C" shall be distributed to residents adjoining the site on a regular basis, so that the specific time periods for approved uses may be determined.
  24. It shall be the responsibility of the primary user to be vigilant for unauthorized use of the site, and to abate any such use in a timely manner.
  25. It shall be the responsibility of the primary user to maintain nighttime lighting of Area A
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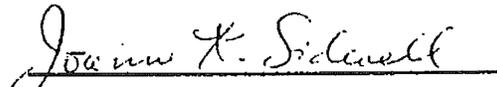
during all hours of darkness.

26. In Areas A, B and C, on weekends throughout the regular school year, there shall be no more than three (3) special, outdoor activities, such as fairs, of no more than one day in duration. No less than 30 days prior to any such event, residents adjoining the site shall be so notified by the primary user.
  27. It shall be the responsibility of the primary user to maintain all areas of the site, particularly those areas adjacent to existing residences to be free of health and fire hazards, weeds, debris and unauthorized use.
  28. The Areas "A", "B" and "C" shall be reviewed by the Planning Commission no later than March 7, 1991 for noise level and appropriateness of use.
-

I HEREBY CERTIFY that the above and foregoing resolution was duly passed and adopted by the City Council of the City of El Cerrito, County of Contra Costa, State of California, at a regular meeting thereof, held on the 3rd day of April, 1989, by the following vote:

AYES:	COUNCIL MEMBERS	Bacon, Mank, Porter, Ritz, Siri
NOES:	COUNCIL MEMBERS	None
ABSENT:	COUNCIL MEMBERS	None

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed the corporate seal of said City this 3rd day of April, 1989.

  
\_\_\_\_\_  
Joanne K. Sidwell, Acting City Clerk

APPROVED:

  
\_\_\_\_\_  
Jean B. Siri, Mayor

## Planning Commission Resolution 98-16

### APPLICATION NO. 5578

A RESOLUTION OF THE EL CERRITO PLANNING COMMISSION AMENDING USE PERMIT NO. 4943 TO APPROVE A MASTER PLAN FOR SHORT-TERM AND LONG-TERM SITE IMPROVEMENTS AND AMENDMENTS TO CERTAIN CONDITIONS OF THE EXISTING PERMIT FOR A PRIVATE SCHOOL AT 1800 ELM STREET.

#### I. BACKGROUND

A. On April 20, 1987, Windrush School applied for a use permit to operate a K-8 school with a maximum enrollment of 250 students, at 1800 Elm Street on a site previously used successively for an orphanage, a bible college and a private high school.

B. After a series of approvals and appeals, the use permit was approved by the City Council on April 3, 1989. The dates and purposes of past hearings are recited in Council Resolution No. 89-28.

C. On March 6, 1991, the Planning Commission, as required by a condition of the approved use permit, reviewed noise levels and the appropriateness of the use of play areas abutting adjacent residences. At that time, the Planning Commission added a complaint procedure to the list of conditions of the use permit.

D. On February 13, 1998, Windrush School submitted an application to amend the use permit to include a master plan for building and site improvements with no increase in maximum authorized enrollment, and to modify certain conditions of the use permit which limited use of specified play areas.

E. On March 4, 1998, the Planning Commission held a public hearing on the application for use permit amendment, and after considering relevant reports, documents, correspondence and testimony, concluded that expanded information on noise effects was required, and continued consideration of the application to a future time.

F. On May 6, 1998, the Planning Commission held a study session to review a revised proposal by Windrush School and to give preliminary consideration to additional information on noise effects, pending completion of an environmental study as required by CEQA.

G. On October 20, 1998, Windrush School submitted a revised application package including modification of the request for additional hours of playground usage.

H. City staff prepared an Initial Study of potential environmental effects and circulated a notice of a proposed Negative Declaration for a 20-day public review period starting October 29, 1998.

I. On November 18, 1998, the Planning Commission considered the revised application, the proposed Negative Declaration and related documents, heard additional testimony on the application, and adopted this resolution.

#### II. FINDINGS

A. The Planning Commission has reviewed the Initial Study of Potentially Significant Environmental Effects dated October 23, 1998, and supporting documents, and finds that, although the proposed

project could have a significant effect on the environment, there will not be significant effect in this case because mitigation measures, regarding effects of traffic, parking, drainage and noise, have been added to the project through conditions incorporated in this resolution. A Negative declaration is therefore the appropriate environmental document in compliance with CEQA regulations.

*Findings B through E below are based on criteria set forth in Municipal Code Section 19.40.160., Use Permit Criteria for Churches, Private Schools, Nursery Schools, Family Care Facilities, Day Care Centers, Parks and Playgrounds.*

B. With implementation of conditions as applied by this resolution, including environmental mitigation requirements, and including limitations on hours of usage, noise generated from outdoor activity on the site will not have a material adverse impact on the livability or desirability of the surrounding area.

C. Hours of operation are limited by conditions to minimize conflict with uses on adjacent and surrounding properties. Operating hours, specifically for noise-generating usage of outdoor play areas, are specified in the use permit as amended hereby.

D. Uses on surrounding properties are typical of single-family homes. There has been no history of such uses having adverse impacts on the school-related uses of the subject parcel. The site has been used historically for educational purposes and has been adapted for the present operation; there is no significant impact from prior use of the property which affects the use of the property by the applicant.

E. The location, design, landscaping and screening, and overall site planning of the school constitutes an attractive, useful, and convenient facility. With mitigations and conditions incorporated in this Resolution, the proposed improvements will enhance those qualities, while minimizing impacts upon the surrounding residential area.

*NOW, THEREFORE, BE IT RESOLVED:*

That, after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, the El Cerrito Planning Commission hereby adopts this Resolution approving amendments to Use Permit No. 4943, subject to the following conditions; and that the conclusions supporting the findings specified in this Resolution are contained in the Public Hearing record of said application as set forth in the Minutes of the Planning Commission meetings of March 4 and November 18, 1998, and are incorporated by reference as though fully set forth herein.

**A. APPROVED EXHIBITS**

The project shall be developed and maintained substantially in compliance with a drawing titled "Master Plan Windrush School" prepared by Barbara Maloney dated October 19, 1998, and text titled "Exhibit B - Windrush School Master Plan" submitted with a letter dated October 19, 1998 from Lynn DeJonghe, Windrush School Director, collectively labeled Exhibit A to this Resolution, except as amended by subsequent conditions of this Resolution.

**B. CONDITIONS OF MASTER PLAN APPROVAL:**

*(Note: Environmental mitigation measures required in support of the Negative Declaration are designated below with **boldface** reference. Each measure is accompanied by statements on implementation methods, compliance schedules and enforcement of conditions, which constitute a Mitigation Monitoring and Reporting Program as required by CEQA and the Municipal Code. )*

1. Construction of a maximum of 7500 square feet of additional floor space is authorized for school purposes including classrooms, library, performance space and offices. If, within 7 years of the date of this resolution, plans for such construction have not been filed for building permit approval, the use permit shall be subject to review and re-evaluation by the Planning Commission.
2. No element of new construction shall exceed two stories in height. Additions or new buildings in the vicinity of the main building shall not exceed the height of the main building. Additions or new buildings in the vicinity of the gym shall not exceed the height of the gym.
3. Placement and design of any building expansions, and associated grading and landscape improvements, shall allow for continuous access for emergency vehicular around the building complex, to the satisfaction of the Fire Chief.
4. Expansion of the main building is approved in concept, on condition that the Design Review Board find that the design is compatible with the historic character the facade of the main building.
5. Construction on the site shall meet City codes including requirements for site and building access and fire roads; any changes to internal access or changes to fire roads must be approved by the Fire Chief.
6. Proposed buildings and additions shall comply with State Fire Marshall regulations and shall be provided with an automatic fire sprinkler system and automatic fire alarm. Additional fire hydrants may be required, to be determined upon Fire Department review of construction plans.
7. Construction shall comply with adopted codes and ordinances in effect at the time of submittal of plans for approval by the Building Division.
8. At the time of the first submittal of any plans for site improvements, including driveways, parking area, and landscaped areas, Applicant shall submit a plan for the entire site which shows compliance for handicap accessibility from all points of arrival to the existing and proposed buildings. Accessibility is required to be available without driving from one parking lot entrance to another.
9. Plans to be submitted for each phase of master plan development shall show compliance with State accessibility requirements.
10. Applicant shall be responsible for funding all modifications to the signalization of the Elm/Hill/Key intersection necessary to accommodate the operation of the two-way driveway connection with the intersection.
11. Applicant shall post a sign at the exit of the main driveway reading "No direct access to Key Blvd. - Use Cutting Blvd", or equivalent language acceptable to the City Engineer.
12. At the time of application for demolition of the house fronting on Elm Street, the Applicant shall provide to the Planning Division, in accordance with the City's Housing Element, verification that equivalent alternative housing for the occupants is available in the local housing market.
13. If, in the course of grading or excavation for any site or building improvements, any remains or artifacts of potential archeological or cultural value are discovered, the Applicant shall retain a qualified archeologist to advise on and oversee appropriate protection and/or removal of any

materials of value.

14. Prior to approval of any demolition or construction permits, applicant shall submit, for approval by the Building Official and the City Engineer, a construction staging plan which describes the nature and location of operations and functions which will be carried on by the applicant during construction, and how adequate vehicular access, off-street parking and handicap access for all such operations and functions will be maintained during the phase or phases of construction for which permits are requested.

15. Designated parking areas, with appropriate striping to meet City standards, shall consist of 39 spaces in the revised lower parking lot, 6 spaces behind the main building, and a minimum of 12 spaces along the main access drive to the main building. Parking areas shall meet conditions 8 and 9 for handicap accessibility, to the satisfaction of the Building Official.

16. **(Mitigation Measure T-1)** At the time plans for driveway and parking improvements are submitted for City review, a parking management plan shall be submitted, with specifications as to how school staff will be assigned to direct traffic, and accommodate parking demand, during AM and PM peak activity.

Method of implementation and compliance schedule: The City Planner shall be responsible for reviewing the submitted plan and determining its compliance with the condition of the use permit. Approval of the parking management plan shall be required before the City Planner will approve the project for grading and other permits required for driveway and parking improvements.

Enforcement: Compliance will be monitored through the plan review process and approvals will be withheld if necessary.

17. **(Mitigation Measure T-2)** Prior to removal of the existing inner parking lot, the Applicant shall file with the Planning Division a plan for management of overflow parking for all events where attendance would exceed the combined capacity of planned on-site parking (57 to 60 spaces) and the Elm Street frontage abutting school property (approximately 10 spaces). Such plan shall demonstrate how the school will use shuttle services, remote parking such as the street perimeter of the BART station, valet parking, or other techniques to avoid overflow on to neighborhood residential streets. School shall notify the Planning Division at least 2 weeks in advance of such events.

Method of implementation and compliance schedule: The City Planner shall be responsible for reviewing the submitted plan and determining its compliance with the condition of the use permit. Approval of the overflow parking plan shall be required before the City Planner will approve the project for grading and other permits required for removal of the existing parking lot. The permittee shall be responsible for notifying the Planning Division in advance of events which are subject to the overflow plan. The City Planner shall be responsible for requiring compliance, and for receiving any reports of violations of the relevant use permit conditions.

Enforcement: Compliance with the requirement to submit the plan will be monitored through the plan review process and approvals will be withheld if necessary. On-going compliance with the approved plan will be determined through review of the permittee's performance in events covered by the plan. Failure to notify the Planning Division in advance of events involving parking overflow may be grounds for review and possible revocation of the use permit.

18. Grading and drainage plans of widening of main driveway/drop-off, rear parking and new expansion parking shall be approved by City Engineer prior to commencement of work.

19. **(Mitigation Measure W-1)** A drainage inlet, coordinated with footings and/or curbing at the base of the sound wall shall be provided along the south side of the turf play field in Area C, in order to prevent any drainage from the school site to adjacent properties on Manor Way. Drainage shall be carried to Elm Street by piping under the sidewalk. Design plans shall be approved by City Engineer prior to removal of paving.

Method of implementation and compliance schedule: The City Engineer shall be responsible for reviewing plans for the sound wall and assuring that the drainage inlet design is coordinated with the design of the wall, and that drainage is carried under the sidewalk to Elm street. Approval of the plan for the drainage inlet and piping shall be required before the City Engineer will approve the project for grading and other permits required for removal of the existing parking lot.

Enforcement: Compliance will be monitored through the plan review process and approvals will be withheld if necessary.

20. **(Mitigation Measure W-2)** Submittal of plans for Areas C and G (play field and 39-space parking lot) shall be accompanied by soil tests for the purpose of determining the likelihood that properties of Manor Way would be affected by any alteration of subsurface drainage patterns. Such tests are to be reviewed by the City Engineer prior to approval of grading and drainage plans.

Method of implementation and compliance schedule: The City Engineer shall be responsible for reviewing and accepting the results of required soil tests prior to approving grading and drainage plans.

Enforcement: Compliance will be monitored through the plan review process and approvals will be withheld if necessary.

21. **(Mitigation Measure N-1)** A sound wall shall be constructed in order to reduce noise exposure for residents abutting the proposed play field. Such wall shall be designed for a height in a range of a minimum of 7 feet to a maximum of 9 feet. Prior to application for a building permit for a sound wall, the design of the wall shall be evaluated by an acoustic professional other than the designer, to be retained by the City at Applicant's expense, to determine that the design is likely to achieve a noise level reduction in the range predicted by the Applicant's acoustical consultant (Hillingworth & Rodkin 10-23-98.) The same professional shall be retained by the City at Applicant's expense to perform post-construction tests to determine that design objectives have been achieved; such tests shall be made on three regular school days, unannounced to the Applicant, when active use is being made of the play field, within 6 months of completion of the wall. The Applicant shall be responsible for any required modifications necessary to achieve the design objectives, and subsequent testing to verify the results of modifications.

Method of implementation and compliance schedule: The City Planner shall be responsible for retaining an acoustic professional, other than the designer of the wall, to determine that the design is likely to achieve a noise level reduction required by the use permit condition. The permittee shall be responsible for making advance payment of the cost of such determination plus the required post-construction tests. The Building Official shall be responsible for coordinating City review, including planing and engineering reviews, of the submitted plan and determining its compliance with the conditions of the use permit prior to issuance of a construction permit. The City Planner shall be responsible for coordinating

the post-construction tests according to the terms of the use permit condition. The permittee shall be responsible for any required modifications necessary to achieve the design objectives, and subsequent testing to verify the results of modifications. Post construction testing and any necessary modifications shall be completed to the satisfaction of the City Planner and the City Building Official within eight months of the initial completion of the wall.

Enforcement: Compliance with pre-construction requirements will be monitored through the plan review process and approvals will be withheld if necessary. Failure to meet satisfactorily the standards for the post-construction testing shall be cause for review by the Planning Commission to consider alternative means, including use restrictions, which may reduce noise to acceptable levels.

22. Final plans for the sound wall, with evidence that abutting property owners have been given opportunity to review the plans, shall be reviewed and approved by City Planner and City Engineer prior to issuance of a building permit for wall construction.

23. Any building construction shall be approved by Stege Sanitary District for compliance with terms of Stege Letter of February 23, 1998.

24. At the time plans for driveway and parking improvements are submitted for City review, such plans shall include designation of areas for deposit and collection of refuse and recyclable materials, in locations which are accessible to collection personnel and vehicles. If necessary, the pavement of access drives shall be upgraded in order to provide proper support for sanitation and re-cycling vehicles.

25. Prior to issuance of a certificate of occupancy for any new building element, the Applicant shall enter into a standard landscape maintenance agreement with the City, to assure that the sponsor will provide on-going maintenance of site landscaping including plantings in abutting rights of way to the curb lines, and providing for City action to maintain at the sponsor's cost in case of sponsor's failure to maintain landscaping to adequate standards.

**C. AMENDMENTS TO PRIOR CONDITIONS:** Condition numbers referenced are as listed in Council Resolution 89-28.

1. Condition #3: Condition is modified to acknowledge that the current grade distribution is kindergarten through fifth grade for elementary school and sixth through eighth grade for middle school.

2. Condition #8: Condition is modified to read: All evening activities shall be confined to the interiors of buildings, and areas away from the perimeter of the site (areas E, H, J and K) with the exception of reasonable pedestrian traffic, related to the activities, quietly going to and between buildings and parking areas.

3. Condition #12: Condition is deleted in recognition that the referenced dwelling is to be removed under the master plan for site development.

4. Condition #15: Condition is modified to specify that 4:30 P.M. is the ending time of activities for Area B and 5:30 P. M. is the ending time of activities for area C.

5. Condition #17: Condition is modified to specify that Area C may be used by the School , for

organized sports practice, and to increase such use from one hour to two hours, ending 5:30 P.M., Monday through Friday.

6. Condition #18: Condition is modified to add "community use" in addition to "inter - or intra-mural competition", in recognition of non-school uses of the gym. Additional language is added, as follows: "By February 18, 1999, applicant shall submit a plan for reduction of noise from the gym, along with a time table for construction of improvements to implement the plan. This plan shall be considered by the Planning Commission at a public hearing, at the conclusion of which the Planning Commission may consider reducing the hours of operation at the gym, if the Planning Commission finds that the noise reduction plan is not acceptable and that the present hours of operation at the gym constitute a public nuisance".

7. Condition #19: Condition is modified to read: The landscaped "buffer zone", Area M, shall be no less than six feet in width adjacent to Areas B and C. A sound wall ranging in height from 7 feet to a maximum of 9 feet shall be maintained at the property line adjacent to areas B and C. Material above the height of 7 feet may be of chain link or similar material.

8. Condition #22: Condition is deleted in acknowledgment that the future roadway extension is no longer is part of the master plan.

9. (Additional condition) At each play area, a sign, stating the permitted hours of usage, shall be posted in a visible location.

**D. AMENDMENT OF COMPLAINT PROCEDURE:**

The complaint procedure stipulated in Planning Commission Resolution #91-5 is hereby suspended for a period of 120 days, during which time a committee composed of a representative of the school administration, a representative of abutting property owners, one Planning Commissioner and a City staff member shall draft a revised procedure which shall be brought to the Planning Commission within the 120-day period, for consideration as a replacement of the previously adopted procedure.

**E. PAYMENT OF FEES**

All outstanding fees owed to the City, if any, shall be paid prior to issuance of a building permit.

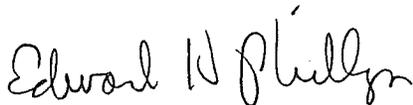
**CERTIFICATION**

I certify that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on November 18, 1998, upon motion of Chair Groch, second by Commissioner McKinley:

AYES: Abelson, McKinley, Moore, Potter, Price, Chair Groch

NOES: None

ABSENT: Rogers



Edward H. Phillips  
City Planner

## **Planning Commission Resolution PC07-08**

### **APPLICATION NO. 6324**

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION APPROVING: 1) A MITIGATED NEGATIVE DECLARATION; AND 2) AN AMENDMENT TO USE PERMIT CONDITIONS TO ALLOW WINDRUSH SCHOOL TO PROCEED WITH KEY CHANGES TO THE EXISTING MASTER PLAN OVER A FOUR PHASE, 20-YEAR PERIOD (19.12.112 ECMC) AT 1800 ELM STREET.

WHEREAS, on January 20, 1988, the Planning Commission approved use permit resolution PC88-05 for Windrush School to operate a K-8 school with a maximum enrollment of 250 students.

WHEREAS on April 3, 1989, after a series of approvals and appeals, the City Council approved City Council Resolution 89-28 that upheld use permit resolution PC88-05;

WHEREAS, on November 18, 1998, the Planning Commission approved an amendment to the original use permit and a related negative declaration;

WHEREAS, on August 18, 2006 the applicant submitted an application requesting an amendment to use permit resolution PC98-16 to allow Windrush School to proceed with key changes to the existing Master Plan over a four phase, 20-year period;

WHEREAS, the General Plan land use classification of the site is institutional/utility;

WHEREAS, the zoning district of the site is R-1 (single-family residential) and R-2 (duplex residential);

WHEREAS, the site is located on at 1800 Elm Street;

WHEREAS, on December 7, 2006, the Planning Division deemed the application complete;

WHEREAS, on April 12, 2007, a Notice of Intent to Adopt a Mitigated Negative Declaration was filed with the Contra Costa County Recorder's Office;

WHEREAS, on May 11, 2007, the public review period for the draft Mitigated Negative Declaration was completed;

WHEREAS, on May 16, 2007, the Planning Commission held a duly noticed public hearing and considered relevant documents, reports and testimony;

WHEREAS, the Planning Commission of the El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

#### **Use Permit Amendment**

1. The increase in enrollment would contribute to an increase in existing noise levels both during recess and lunch periods from students playing and through an intensification of staff and

parent use of the parking areas and driveways. However, per the MND, the overall noise level for a 24-hour period would not exceed 60 dBA, the maximum allowable level as outlined in the City's General Plan and Noise Ordinance. The noise generated from staff and parent use of the parking areas and driveways and the outside play time by the students shall be limited to the hours of operation for the school, which are 7:00am to 6:00pm. Due to the restricted hours of operation at the school, the impact from noise generated from the school would not interfere with the single-family and duplex-family nature of the neighborhood.

2. Although the number of students at the school will increase, the hours of operation shall continue to be the same as those outlined in the original use permit. The primary hours of operation at the school are from 8:00am to 3:00pm during the business week. A limited number of students will arrive at 7:00am for early morning program, and some students will stay until 6:00pm for the extended after school program.
3. The use on the subject parcel will not change. The site was originally built as a home for Chinese boys and was later used as Bible college and secondary school, before its occupation by Windrush School in 1987. Although the land uses surrounding the subject property are single- and duplex-family residences, the site has functioned as a school for approximately 70 years. The impacts from this school in a residential neighborhood have been continuously identified and mitigated throughout its existence.
4. The proposed improvements to the site shall enhance the subject property as an attractive, useful, and convenient facility. The suggested renovations and additions to the campus structures follow the same architectural style as the existing buildings. The location of the new play area in the northeast corner of the property will be screened from the surrounding neighborhood by the landscaping and buildings on the site. The layout of the additions continues to frame the open space on the site, showcasing the historic buildings as well as keeping student activity contained on the campus.

## **Environmental**

1. The proposed project will not have a significant adverse impact on overall environmental quality of the site and surrounding neighborhood, subject to the implementation of mitigation measures as outlined in the Mitigation Monitoring Plan.
2. No impacts that cause substantial adverse effect on human beings, either directly or indirectly, have been identified as a result of this project.
3. Although some environmental impacts were identified as "Less than Significant", with the implementation of mitigation measures, no "Potentially Significant Impacts" were identified related to the development of the proposed project.
4. The Mitigated Negative Declaration has been prepared and publicly noticed pursuant to the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED, that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Planning Division hereby approves Application No. 6324, subject to the following conditions:

## Mitigation Measures:

1. Mitigation Measure AIR-1:
  - a. Prior to demolition of structures on the site, a comprehensive United States Environmental Protection Agency/United States Department of Housing and Urban Development (EPA/HUD) level Lead Based Paint (LBP) survey shall be conducted. If any LBP is identified, it shall be removed from the site in accordance with all applicable regulations, including Occupational Safety and Health Administration (OSHA) guidelines.
  - b. Prior to demolition of structures on the site, a complete Asbestos Hazard Emergency Response Act-level pre-demolition Asbestos Survey shall be conducted. If asbestos is identified, a licensed asbestos abatement contractor shall be retained to abate identified asbestos-containing material in accordance with all applicable regulations.
2. Mitigation Measure AIR-2:
  - a. Consistent with BAAQMD guidance, the following measures shall be implemented on the project site during the construction period:
    - Water all active construction areas at least twice daily.
    - Cover all trucks hauling soil, sand, and other loose materials *or* require all trucks to maintain at least two feet of freeboard.
    - 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.
    - Sweep daily (preferably with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
    - Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
    - Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas.
    - Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles dirt, sand, etc.
    - Limit traffic speeds on unpaved access roads to 15 mph.
    - Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
    - Replant vegetation in disturbed areas as quickly as possible.
3. Mitigation Measure AIR-3:
  - a. Consistent with BAAQMD guidance, the following measures shall be implemented on the project site during the construction period:
    - Water all active construction areas at least twice daily.
    - Cover all trucks hauling soil, sand, and other loose materials *or* require all trucks to maintain at least two feet of freeboard.
    - 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.
    - Sweep daily (preferably with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
    - Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
    - Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas.
    - Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles dirt, sand, etc.
    - Limit traffic speeds on unpaved access roads to 15 mph.

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
  - Replant vegetation in disturbed areas as quickly as possible.
4. Mitigation Measure BIO-1:
- a. The project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality during the construction period of the project. It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and shall include both dry and wet weather inspections.
  - b. The project applicant shall prepare a Final Storm Water Control Plan that fulfills the requirements outlined in the Contra Costa Clean Water Program, Stormwater Quality Requirement for Development Applications, C.3 Guidebook (October 2006).
5. Recommended Measure CULT-1:
- a. The project applicant shall undertake the following activities:
    - *Photo-documentation*: photo-document the gymnasium prior to its modification. This should consist of photographs of the gymnasium's principal elevations, those portions of the gymnasium that will be removed, and several representative views from the gymnasium toward other portions of the District and from the District grounds toward the gymnasium;
    - *Historical Summary*: prepare a brief historical description of the district and its historical significance to accompany the photo-documentation. The bulk of this summary could be taken from the existing evaluation report, but focused research should be done to obtain additional photographs and information from the District's period of significance. The historical summary and photo-documentation should be distributed to the El Cerrito Historical Society and the Northwest Information Center, and made available at the Windrush School Library.
    - *Interpretive Panel*: design and install an outdoor interpretive panel to allow visitors to the Windrush School campus to gain a sense of the historical significance of the District. This panel could be placed in a location that would allow a visitor to view a photo of the pre-project gymnasium and a brief description of the history of the District. From that position, the visitor could look up to have an instant visual connection to the gymnasium.
6. Mitigation Measure CULT-2:
- a. If deposits of prehistoric or historical archaeological materials are encountered during project activities, all work within 25 feet of the discovery shall be redirected and a qualified archaeologist contacted to assess the finds, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. Adverse effects to such deposits shall be avoided by project activities. If avoidance is not feasible, the archaeological deposits shall be evaluated

for their eligibility for listing in the California Register. If the deposits are not eligible, avoidance is not necessary. If the deposits are eligible, adverse effects on the deposits shall be avoided or mitigated.

- b. Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results of the assessment, and provide recommendations for the treatment of the archaeological deposits. The report shall be submitted to the applicant, the City of El Cerrito, and the Northwest Information Center.
7. Mitigation Measure CULT-3:
- a. If paleontological resources are discovered during project activities, all work within the vicinity of the discovery shall be redirected until a qualified paleontologist has assessed the situation and made recommendations regarding the treatment of fossils. Project personnel shall not move or collect any paleontological resource.
  - b. Adverse effects to paleontological resources shall be avoided by project activities. If avoidance is not feasible, the paleontological resources shall be evaluated for their significance. If the resources are not significant, avoidance is not necessary. If the resources are significant, project activities shall avoid disturbing the deposits, or the adverse effects of disturbance shall be mitigated. Upon completion of the paleontological assessment, a report shall be prepared documenting the methods, results, and recommendations of the assessment. The report shall be submitted to the project applicant and the City of El Cerrito.
8. Mitigation Measure CULT-4:
- a. If human remains are encountered during construction of the proposed project, work within the vicinity of the discovery shall be redirected and the County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation. Project personnel shall not collect or move any human remains or associated materials. If the human remains are of Native American origin, the Coroner shall notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission shall identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the MLD. The report shall be submitted to the project applicant, the appropriate City of El Cerrito agencies, and the Northwest Information Center.
9. Mitigation Measure GEO-1:
- a. Implement the recommendations outlined in the *Geotechnical Study, Windrush School, El Cerrito, California*, prepared by Fugro West, Inc., and published in October 2004. The recommendations include:
    - Construction in accordance with the seismic design criteria outlined in the 1997 Uniform Building Code (UBC);
    - Proper site preparation and grading;
    - Management of surface water so that it does not flow over the top of slopes or down slope faces;
    - Limiting the grade of cut slopes;
    - Supporting buildings on conventional continuous and isolated spread footings;
    - Adequate supporting interior slabs-on-grade;

- The provision of adequate clearance between exterior slabs and buildings that overhang these slabs (such as window sills or doors that open outward);
- Design of basement/retaining walls to resist both lateral earth pressures and any additional lateral loads caused by surcharging; and
- Use of flexible pavement design.

10. Mitigation Measure GEO-2:

- a. Implement the recommendations outlined in the *Geotechnical Study, Windrush School, El Cerrito, California*, prepared by Fugro West, Inc., and published in October 2004. The recommendations include:

- Construction in accordance with the seismic design criteria outlined in the 1997 Uniform Building Code (UBC);
- Proper site preparation and grading;
- Management of surface water so that it does not flow over the top of slopes or down slope faces;
- Limiting the grade of cut slopes;
- Supporting buildings on conventional continuous and isolated spread footings;
- Adequate supporting interior slabs-on-grade;
- The provision of adequate clearance between exterior slabs and buildings that overhang these slabs (such as window sills or doors that open outward);
- Design of basement/retaining walls to resist both lateral earth pressures and any additional lateral loads caused by surcharging; and
- Use of flexible pavement design.

11. Mitigation Measure GEO-3:

- a. The project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality during the construction period of the project. It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and shall include both dry and wet weather inspections.
- b. The project applicant shall prepare a Final Storm Water Control Plan that fulfills the requirements outlined in the Contra Costa Clean Water Program, Stormwater Quality Requirement for Development

12. Mitigation Measure GEO-4:

- a. Implement the recommendations outlined in the *Geotechnical Study, Windrush School, El Cerrito, California*, prepared by Fugro West, Inc., and published in October 2004. The recommendations include:

- Construction in accordance with the seismic design criteria outlined in the 1997 Uniform Building Code (UBC);
- Proper site preparation and grading;

- Management of surface water so that it does not flow over the top of slopes or down slope faces;
  - Limiting the grade of cut slopes;
  - Supporting buildings on conventional continuous and isolated spread footings;
  - Adequate supporting interior slabs-on-grade;
  - The provision of adequate clearance between exterior slabs and buildings that overhang these slabs (such as window sills or doors that open outward);
  - Design of basement/retaining walls to resist both lateral earth pressures and any additional lateral loads caused by surcharging; and
  - Use of flexible pavement design.
- b. The project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality during the construction period of the project. It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and shall include both dry and wet weather inspections.
- c. The project applicant shall prepare a Final Storm Water Control Plan that fulfills the requirements outlined in the Contra Costa Clean Water Program, Stormwater Quality Requirement for Development.

### 13. Mitigation Measure GEO-5:

- a. Implement the recommendations outlined in the *Geotechnical Study, Windrush School, El Cerrito, California*, prepared by Fugro West, Inc., and published in October 2004. The recommendations include:
- Construction in accordance with the seismic design criteria outlined in the 1997 Uniform Building Code (UBC);
  - Proper site preparation and grading;
  - Management of surface water so that it does not flow over the top of slopes or down slope faces;
  - Limiting the grade of cut slopes;
  - Supporting buildings on conventional continuous and isolated spread footings;
  - Adequate supporting interior slabs-on-grade;
  - The provision of adequate clearance between exterior slabs and buildings that overhang these slabs (such as window sills or doors that open outward);
  - Design of basement/retaining walls to resist both lateral earth pressures and any additional lateral loads caused by surcharging; and
  - Use of flexible pavement design.

### 14. Mitigation Measure HAZ-1:

- a. Prior to demolition of structures on the site, a comprehensive United States Environmental Protection Agency/United States Department of Housing and Urban

Development (EPA/HUD) level Lead Based Paint (LBP) survey shall be conducted. If any LBP is identified, it shall be removed from the site in accordance with all applicable regulations, including Occupational Safety and Health Administration (OSHA) guidelines.

15. Mitigation Measure HAZ-2:

- a. Prior to demolition of structures on the site, a complete Asbestos Hazard Emergency Response Act-level pre-demolition Asbestos Survey shall be conducted. If asbestos is identified, a licensed asbestos abatement contractor shall be retained to abate identified asbestos-containing material in accordance with all applicable regulations.

16. Mitigation Measure HAZ-3:

- a. Prior to demolition of structures on the site, a comprehensive United States Environmental Protection Agency/United States Department of Housing and Urban Development (EPA/HUD) level Lead Based Paint (LBP) survey shall be conducted. If any LBP is identified, it shall be removed from the site in accordance with all applicable regulations, including Occupational Safety and Health Administration (OSHA) guidelines.
- b. Prior to demolition of structures on the site, a complete Asbestos Hazard Emergency Response Act-level pre-demolition Asbestos Survey shall be conducted. If asbestos is identified, a licensed asbestos abatement contractor shall be retained to abate identified asbestos-containing material in accordance with all applicable regulations.

17. Mitigation Measure HYD-1a:

- a. The project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality during the construction period of the project. It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and shall include both dry and wet weather inspections.

18. Mitigation Measure HYD-1b:

- a. The project applicant shall prepare a Final Storm Water Control Plan that fulfills the requirements outlined in the Contra Costa Clean Water Program, Stormwater Quality Requirement for Development Applications, C.3 Guidebook (October 2006).

19. Mitigation Measure HYD-2:

- a. The project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality during the construction period of the project. It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. The SWPPP shall specify a monitoring program to be

implemented by the construction site supervisor, and shall include both dry and wet weather inspections.

- b. The project applicant shall prepare a Final Storm Water Control Plan that fulfills the requirements outlined in the Contra Costa Clean Water Program, Stormwater Quality Requirement for Development Applications, C.3 Guidebook (October 2006).

20. Mitigation Measure NOISE-1:

- a. Construction of the proposed project shall comply with the following multi-part mitigation measure:
  - When school is not in session, the contractor shall comply with the hours of construction listed in the Municipal Code: construction work shall be limited to the hours of 7:00 a.m. to 6:00 p.m., weekdays, and 8:00 a.m. to 5:00 p.m. on weekends and holidays. When school is in session, Windrush School shall work with City staff to determine construction timing that would have the least effect on school activities (and adjacent residential uses).
  - During all construction, the project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards.
  - The project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the active project site.
  - The construction contractor shall locate equipment staging in areas that will create the greatest possible distance between construction-related noise sources and noise-sensitive receptors nearest the active project site during all project construction.
  - The construction contractor shall coordinate with Windrush School to schedule construction operations to minimize impacts to existing school facilities.

21. Mitigation Measure NOISE-2:

- a. Construction of the proposed project shall comply with the following multi-part mitigation measure:
  - When school is not in session, the contractor shall comply with the hours of construction listed in the Municipal Code: construction work shall be limited to the hours of 7:00 a.m. to 6:00 p.m., weekdays, and 8:00 a.m. to 5:00 p.m. on weekends and holidays. When school is in session, Windrush School shall work with City staff to determine construction timing that would have the least effect on school activities (and adjacent residential uses).
  - During all construction, the project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards.
  - The project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the active project site.
  - The construction contractor shall locate equipment staging in areas that will create the greatest possible distance between construction-related noise sources and noise-sensitive receptors nearest the active project site during all project construction.
  - The construction contractor shall coordinate with Windrush School to schedule construction operations to minimize impacts to existing school facilities.

22. Mitigation Measure NOISE-3:

- a. Construction of the proposed project shall comply with the following multi-part mitigation measure:
- When school is not in session, the contractor shall comply with the hours of construction listed in the Municipal Code: construction work shall be limited to the hours of 7:00 a.m. to 6:00 p.m., weekdays, and 8:00 a.m. to 5:00 p.m. on weekends and holidays. When school is in session, Windrush School shall work with City staff to determine construction timing that would have the least effect on school activities (and adjacent residential uses).
  - During all construction, the project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards.
  - The project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the active project site.
  - The construction contractor shall locate equipment staging in areas that will create the greatest possible distance between construction-related noise sources and noise-sensitive receptors nearest the active project site during all project construction.
  - The construction contractor shall coordinate with Windrush School to schedule construction operations to minimize impacts to existing school facilities.

23. Mitigation Measure TRANS-1:

- a. The contractor shall submit a Traffic Control Plan for approval by City staff prior to the issuance of necessary grading and building permits. The Traffic Control plan shall designate travel routes. It shall also stipulate that site access points be monitored and controlled by flaggers for large construction equipment access and egress. It shall require construction employee parking to be provided on the project site for all employees to assure no conflict with other school parking demands.

**Planning Division:**

1. The project shall be developed and maintained substantially in compliance the plans dated October 26, 2006 except as amended by subsequent conditions of this Resolution.
2. Approval shall be limited to an amendment to use permit conditions to allow Windrush School to proceed with key changes to the existing Master Plan over a four phase, 20-year period and the respective mitigated negative declaration (MND).
3. If not used, this use permit amendment shall expire one year from the date of this action.
4. Prior to the submittal of building permits, the applicant shall obtain Design Review Board approval for each phase of the project.
5. The mitigation monitoring plan shall be incorporated herein as conditions of approval of this use permit amendment.

**Fire Department:**

1. Building construction shall meet current UFC, UBC, UMC, NED, CFC, CBC, and the El Cerrito Fire code.
2. Fire suppression system NFPA 13 is required and shall be interconnected with required standpipes for this project tied into existing system, 24-hour monitoring shall be provided by an approved monitoring company.
3. FDC locations shall be identified and approved with submission of building permit plans.

4. Fire hydrant locations shall be identified and approved with submission of building permit plans.
5. Plans and specifications shall be submitted under separate cover for Fire Marshal approval.
6. System plan check fees to be determined based upon plan specifications.
7. Sprinkler system shall protect all areas including storage closets and be of approved NFPA-13 type with 24-hour monitoring provided.
8. Fire Department shall witness all system and acceptance tests including: underground fire sprinkler riser, PIV, and FDC pressure tests prior to backfilling.
9. Fire Alarm System NFPA 72 is required for this project tied into existing system; 24-hour monitoring shall be provided by an approved monitoring company.
10. Plans and specifications shall be submitted under separate cover for Fire Marshall approval.
11. System plan check fees to be determined based upon plan specifications.
12. Smoke and heat detection devices shall protect all areas including storage areas and be approved type.
13. Fire detection systems shall protect areas above and below suspended ceilings.
14. Fire Department shall witness all system and acceptance tests.
15. Exit doors for emergency escape or rescue shall be in accordance with the California Building Code.
16. Exterior doors and openings shall be maintained readily accessible for emergency access by the Fire Department.
17. All-weather surface(s) shall be provided to exterior egress doors.
18. Occupant load signs shall be posted in all Assembly occupancy spaces. Occupant load signs shall be approved by the Fire Marshall or provided by Fire Department prior to final inspection.
19. All electrical breakers shall be labeled.
20. Ornamental landscaping is encouraged to enhance fire safety. Ornamental landscaping consists of decorative plants growing within a tended garden or yard, which is well-watered, maintained, and located to provide aesthetic decoration and functional utility. Contact the Fire Department for Vegetation Management Standards.
21. Fire Department inspection is required prior to receiving Certificate of Occupancy. Please provide 48-hour notice prior to inspection.

**Integrated Waste Services:**

1. The applicant shall contact the City of El Cerrito's Integrated Waste Services Division if more 96- or 64-gallon carts for recyclables are needed due to the increase in staff, students, and buildings.
2. The applicant shall ensure that the existing garbage and recycling handling/storage areas can accommodate more or receptacles, if needed. The areas should be accessible and convenient for collecting and loading solid waste and recyclable materials.

**Stege Sanitary District:**

1. The minimum inside diameter of side sewers (laterals) to serve commercial buildings shall be six (6) inches.
2. All new building side sewers (laterals) including side sewer (lateral) replacements shall be equipped with a backflow protection device (BPD).

**Public Works Department:**

1. A draft Stormwater Control Plan (SCP) shall be included prior to the approval of the use permit.
2. A complete SCP, as approved by the Public Works Department, must be submitted at the application of the building permit.

**Planning Commission:**

1. Enrollment during the regular school year shall not exceed 347 students with combined enrollment between elementary and middle school programs.
2. Enrollment during the summer session shall be limited to no more than 175 students total, and summer operation shall conform to all of the conditions for the regular school year, except enrollment.
3. Construction of a maximum of 23,000 square feet of additional floor space is authorized for purposed including classrooms, library, performance space and offices. If, within 20 years of the date of this resolution, plans for such construction have not been filed for building permit approval, the use permit shall be subject to review and re-evaluation by the Planning Commission.
4. At the time of the final submittal of plans for the Master Plan update, including driveways, parking area, and landscaped areas, the applicant shall submit a plan for the entire site which shows compliance for handicap accessibility from all points of arrival to the existing and proposed buildings. Accessibility is required to be available without driving from one parking lot entrance to another by the end of phase four.
5. A total of 61 parking spaces shall be provided on the entire campus to accommodate staff members and the school's other parking needs.
6. No element of new construction shall exceed the height limitations of 30 feet plus 5 as set forth in the El Cerrito Municipal Code. The massing of additions or new buildings will be designed in relation to the height and scale of adjacent buildings.
7. The applicant shall evaluate the second-story additions of all phases of the project to determine how privacy on the neighboring homes would be impacted and utilize privacy glass or other materials that preserve neighbors privacy but also preserve interior light in the design as often as possible.
8. The applicant shall present to City Council consideration of the striping of "Keep Clear" in front of the entrance to Manor Circle from Elm Street.
9. The applicant shall complete an evaluation with a noise consultant of the existing sound wall to determine the following:
  - a. If there has been an overall net decrease in noise impacts, as compared to the 1998 noise evaluation completed by Illingworth and Rodkin.
  - b. If the sound wall has physically deteriorated since its construction and if it is still functioning to its fullest capability
  - c. If any additional improvements can be implemented in regard to the sound wall based on new noise reduction technology.
  - d. Consider utilizing masonry materials for a new sound wall if masonry would reduce the noise above that of the original sound wall.
10. If three formal complaints from three separate parties are submitted to the school over a 120-day period in regard to noise impacts, a new noise evaluation shall be conducted and new mitigation measures shall be investigated.

## CERTIFICATION

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I CERTIFY that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on May 16, 2007 upon motion of Commissioner O'Keefe, second by Commissioner Silva:

AYES: O'Keefe, Silva, Butt, Brandt, McKinley

NOES:

ABSTAIN:

ABSENT: Cheng, Kavanaugh-Lynch



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Jennifer P. Carman, AICP  
Planning Manager



**Community Development Department – Planning Division**  
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(510) 215-4330 - FAX: (510) 233-5401  
planning@ci.el-cerrito.ca.us

***PLANNING COMMISSION STAFF REPORT***  
**Meeting Date: May 16, 2007**

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**I. SUBJECT**

Application: 6324  
Applicant: Brian Feagans, Ratcliff Architects for Windrush School  
Location: 1800 Elm St. (Windrush School)  
Zoning: R-1 (Single Family Residential)/R-2 (Duplex Residential)  
General Plan: Institutional & Utility  
APN: 502-122-041  
Request: Planning Commission consideration of: 1) a mitigated negative declaration and; 2) an amendment to use permit conditions to allow Windrush School to proceed with key changes to the existing Master Plan over a four phase, 20-year period (19.12.112 ECMC).  
CEQA: A Mitigated Negative Declaration (MND) has been prepared for this project.

**II. BACKGROUND**

Windrush School is a non-profit, non-denominational, K-8 school located at 1800 Elm Street. The current enrollment is 250 students. The school employs 33 full-time and 17 part-time employees, at total of 41 full-time equivalents (FTE). The school was founded in 1976 and has been operating at the Elm Street site since 1987.

The school is located on a four-acre site with 24,150 square feet of building footprint that houses about 35,500 square feet of interior space. The four buildings on the hillside campus include the three-story main building (with classrooms and administration on five different levels), a split-level one and two story classroom building at the rear of the site, a one-story gymnasium/classroom building, and a small-one-story art studio. The original structures on the campus are the main building and the art studio, both built in 1935. In 1949, the gymnasium was constructed. The split-level classroom building at the rear of the site was built between 1956 and 1959.

The site was originally built in 1935 as an orphanage for Chinese boys and operated as the Chung Mei Home for Chinese Boys until 1954. Since 1954, the campus served as a part of the Western Baptist Bible College (1956-1974) and the Armstrong Preparatory School (1974-1987), before Windrush School moved to the site in 1987.

Previous approvals

In April 1987, Windrush School located at 1800 Elm Street under the previously approved use permit for Armstrong Preparatory School. After a review of the original use permit as well as

subsequent approvals and appeals, a new use permit specifically for Windrush School to operate a K-8 educational facility was approved by the Planning Commission in Resolution PC88-05 on January 20, 1988. This approval was appealed to Council based on noise concerns and was upheld by the City Council via Resolution 89-28 in April 1989. In January 1998, a noise assessment of the play areas was conducted in response to complaints lodged by neighbors. After completion of the noise assessment studies and reevaluating the school's land use impact as a whole, the Planning Commission approved an amendment to the original use permit decision in November 1998 as PC resolution 98-16 with additional conditions on the school operations. A sound wall was built in order to mitigate the noise impacts from the play area on the southern portion of the campus. In June 1999, a traffic plan for the school was proposed and a formal complaint procedure was established in the form of a communication and conflict resolution plan worked out cooperatively with the neighbors. Since the filing of this plan, there have been no complaints requiring formal conflict resolution. Currently, the applicant is proposing an amendment to use permit conditions, as an update to the school's Master Plan, which is to be carried out in four phases over 20 years.

### III. PROJECT PROPOSAL

The proposed project will be implemented in four phases, described here briefly. (Detailed descriptions of each phase are included in Attachment 7.) Phase one includes the replacement of an existing one-story classroom wing in front of the existing gymnasium with a new two-story addition in the same location. Phase two consists of the construction of a new library, performing arts classroom, and a dance classroom adjacent to the gymnasium and Phase 1 classrooms. Phase three is the renovation of the existing main classroom and administration building; no new building area will be added. Phase four consists of the replacement of the existing 5,000 square foot rear classroom building with a new 5,500 square foot classroom building. A summary of all proposed revisions to the school's Master Plan update are outlined in the table below.

#### **Summary of Proposed Revisions: Windrush School Master Plan Amendment**

<i>Condition</i>	<i>Provisions Under Current Use Permit</i>	<i>Proposed New Condition</i>
<b>Enrollment Cap during Regular School Year</b>	250 students with no more than 175 students in either elementary school or middle school	330 students +/- 5% combined enrollment between elementary and middle school
<b>Enrollment Cap during Summer</b>	125 students	175 students
<b>Increase in Building Floor Space</b>	7,500 square feet increase in additional floor space over 7 years from date of initial resolution	23,000 square feet net increase of additional floor space over 20 years from date of amended resolution
<b>Handicap Accessibility</b>	Applicant shall submit a plan for the entire site which shows compliance for handicap accessibility from all points of arrival to the existing and proposed buildings.	Submitted plan provides for compliance, as required. Campus accessibility shall be achieved incrementally through phased projects in the master plan. Each phase of

	Accessibility is required to be available without driving from one parking lot entrance to another.	the project will be accessible and contribute toward the condition of overall site accessibility.
<b>Building Height Limits</b>	No element of new construction shall exceed two stories in height. Additions or new buildings in the vicinity of the main building shall not exceed the height of the main building. Additions or new buildings in the vicinity of the gym shall not exceed the height of the gym.	No element of new construction shall exceed the height limitations of 30 feet plus 5 as set forth in the El Cerrito Municipal Code. The massing of additions or new buildings will be designed in relation to the height and scale of adjacent buildings.
<b>On-site Parking Requirements</b>	56 parking spaces  Provide a minimum of one parking space for each full-time equivalent staff member.	61 parking spaces
<b>Duration of Plan</b>	1988 to present	2007 to 2027

Proposed Amendments to Use Permit Resolutions

In order to achieve the proposed revisions to the Windrush School Master Plan outlined above, the applicant is requesting modification of use permit conditions. Resolutions PC88-05, CC89-28 and PC 98-16 are included as Attachments 5, 6 and 7 for reference. The original conditions of approval and the proposed revisions are detailed in the table below.

<b>Item</b>	<b>Condition</b>
City Council Resolution 89-28, Item 5	<i>Original: Enrollment during the regular school year shall not exceed 250 students total, with no more than 175 students for either of the two school programs [elementary school and middle school]</i> <b>Proposed: Enrollment during the regular school year shall not exceed 330 students +/- 5% with combined enrollment between elementary and middle school programs.</b>
City Council Resolution 89-28, Item 6	<i>Original: Enrollment during the summer session shall be limited to no more than 125 students total, and summer operation shall conform to all of the conditions for the regular school year, except enrollment.</i> <b>Proposed: Enrollment during the summer session shall be limited to no more than 175 students total, and summer operation shall conform to all of the conditions for the regular school year, except enrollment.</b>
Planning Commission Resolution 98-16, Item II.B.1	<i>Original: Construction of a maximum of 7500 square feet of additional floor space is authorized for purposes including classrooms, library, performance space and offices. If, within 7 years of the date of this resolution [November 2005], plans for such construction have not been filed for building permit approval, the use permit shall be subject to review and re-evaluation by the Planning Commission.</i>

	<b>Proposed: Construction of a maximum of 23,000 square feet of additional floor space is authorized for purposes including classrooms, library, performance space and offices. If, within 20 years of the date of this resolution, plans for such construction have not been filed for building permit approval, the use permit shall be subject to review and re-evaluation by the Planning Commission.</b>
Planning Commission Resolution 98-16, Item II.B.8	<i>Original: At the time of the first submittal of any plans for site improvements, including driveways, parking area, and landscaped areas, applicant shall submit a plan for the entire site which shows compliance for handicap accessibility from all points of arrival to the existing and proposed buildings. Accessibility is required to be available without driving from one parking lot entrance to another.</i> <b>Proposed: At the time of the final submittal of plans for the Master Plan update, including driveways, parking area, and landscaped areas, the applicant shall submit a plan for the entire site which shows compliance for handicap accessibility from all points of arrival to the existing and proposed buildings. Accessibility is required to be available without driving from one parking lot entrance to another by the end of phase four.</b>
a. Planning Commission Resolution 98-16, Item II.B.15 and b. City Council Resolution 89-28, Item 10	<i>a. Original: Designated parking areas, with appropriate striping to meet City standards, shall consist of 39 spaces in the revised lower parking lot, 6 spaces behind the main building, and a minimum of 12 spaces along the main access drive to the main building. Parking areas shall meet conditions 8 and 9 for handicap accessibility, to the satisfaction of the Building Official.</i> <i>b. Original: The primary use shall provide a minimum of one parking space for each full time staff member for all activities currently permitted on the site, and shall inform and require staff members, and participants in weekday, as well as evening and weekend activities, to park in the parking areas on the site, rather than on the surrounding streets.</i> <b>Proposed: A total of 61 parking spaces shall be provided on the entire campus to accommodate staff members and the school's other parking needs.</b>
Planning Commission Resolution 98-16, Item II.B.2.	<i>Original: No element of new construction shall exceed two stories in height. Additions or new buildings in the vicinity of the main building shall not exceed the height of the main building. Additions or new buildings in the vicinity of the gym shall not exceed the height of the gym.</i> <b>Proposed: No element of new construction shall exceed the height limitations of 30 feet plus 5 as set forth in the El Cerrito Municipal Code. The massing of additions or new buildings will be designed in relation to the height and scale of adjacent buildings.</b>

#### IV. DISCUSSION

##### Use Permit Requirement

Per Sections 19.12.112.A. and 19.12.212.A. ECMC, a use permit is required for private schools in the R-1 single-family and R-2 duplex residential zoning districts. Due to the extensive proposed revisions to the Master Plan, Planning Division staff determined that a use permit amendment to the original approval and subsequent amendments is required.

##### Design Review Requirement

Design Review approval is required for each phase of the project, in accordance with Section

19.36.100 ECMC. This application is tentatively scheduled for Design Review Board consideration of phase one on June 6, 2007.

### Neighborhood Context

The Windrush School site straddles the R-1 single-family and R-2 duplex-family residential zoning districts. The school is bordered primarily by single-family residences on the north, east and south. (One multi-family residential building is located east of the site.) Beyond Elm Street, which borders the school on the west, the area consists of residential uses. Approximately one block to the east of the project site, residential uses transition to large parking lots surrounding the El Cerrito del Norte BART station, which is about two blocks from Windrush School.

### Impact Analysis

#### *Parking and Traffic*

Per Section 19.28.400.B.3.v.iii. ECMC, junior high and elementary schools are to provide one parking space per employee. The school site currently has 56 on-site parking spaces (38 spaces in the lower lot, 6 spaces behind the main building, and a minimum of 12 spaces along the main access drive to the main building). Presently, the school has 41 full-time equivalent (FTE) employees. With the proposed revisions, the number of employees could increase to 49 FTE, who would require 49 parking spaces. This amount is still below the number of parking spaces provided. Although no additional parking spaces are needed, the applicant is proposing increasing the number of parking spaces to 61 (38 in the lower lot, 11 spaces behind the main building, and 12 spaces along the main access drive to the main building). (During construction of phase 1, 2 regular parking spaces and 1 handicapped space will be used to accommodate construction equipment.) In terms of bicycle parking, currently a bike rack has space available for 11 bikes. Under the proposed project, the bike rack would contain space for 19 spaces. According to the applicant, the vehicle parking facilities on the site are currently underused and could easily accommodate the additional staff members. A recent study determined that at any given time during school operation there is an average of 24 empty spaces in the Windrush parking lot. All staff members arriving by car are required to park on the school campus rather than on nearby city streets. Many staff members carpool, arrive by bicycle or commute by BART. Thus, an increase in employees should not create any new parking impacts on the surrounding neighborhood.

The school has taken measures to reduce negative impacts from school operations on circulation in the surrounding neighborhood. A school traffic plan was filed with the city in 1998, with some of the key components noted here. Drop-off and pick-up of students occurs only at the parking lots and along the main interior driveway of the school, preventing curbside unloading of students along Elm Street. Access times to the school are staggered to help alleviate congestion near the school. The school operates a bus for its students.

In the mitigated negative declaration (MND), the intersection of Key Boulevard, Hill Street, Elm Street and the project driveway was evaluated to determine the impacts of existing traffic conditions at the school during the morning arrival and afternoon school dismissal period. As part of the analysis, the existing trips generated from school activity were evaluated along with those anticipated from the proposed project. Although the increase in students would result in more trips generated, these additional trips would increase the delay at the intersection of Key Boulevard, Hill Street, Elm Street and the project driveway by less than one second. Thus, the increase in students would not greatly adversely affect traffic conditions in the surrounding area.

## *Aesthetics*

The design of the new buildings and landscaping proposed as part of the Master Plan update is devised to complement the architecture of the existing buildings, particularly the design features of the main administration/classroom building, which is considered to have historic value. As the design of the proposed revisions harmonize with the existing buildings, the additions would not pose a stark architectural contrast to the neighborhood. As the site has been developed as an educational facility with a distinctive architectural theme since 1935, the neighborhood has acclimated to this unique campus. The proposed additions would not be out of character with the area.

The proposed additions to campus will not be out of context with the existing structures, nor will they significantly impact any views from surrounding private property. The project architect has included a view preservation analysis in the plans. As part of phase one, a 33-foot tall addition, containing classrooms, will be constructed onto the northwestern portion of the gymnasium, which is currently 28 feet tall. As this is the only significant elevation change proposed in the Master Plan update, the views most affected would be from the residences on Walnut Street. However, as seen in the visual simulations in the project plans, the change in the views would be minimal.

## *Historic Resources*

As part of the preliminary research for the initial study, the environmental review consultant, LSA Associates, determined that the Windrush campus site could potentially be a significant cultural resource, due to its past history as the Chung Mei Home for Chinese Boys. As the site is not currently on the California Register or on any local listing and no historical assessment had previously been completed, the consultant concluded that an historical resources evaluation needed to be conducted as part of the initial study. Through this historical resources evaluation, LSA Associates determined that the site as a whole is a cultural resource, with four contributing buildings, thus the designation of a historic district was used. The Chung Mei Home for Chinese Boys Historic District appears to qualify for listing in the California Register at the local level for its association with the history of the East Bay Chinese. Because it appears eligible for listing in the California Register, the District is considered a historical resource under the California Environmental Quality Act (CEQA).

Although the most important contributing structure to the district, the main administrative/classroom building, will not be externally altered as part of the proposed Master Plan update, the proposed project as a whole would diminish some aspects of the entire District's historical integrity, notably those revisions made to the gymnasium. While the gymnasium itself is not a historical structure, it is considered to contribute to the historic district as a whole. In order to reduce the impacts of the proposed changes to the campus on the District, the applicant has developed design approaches that will effectively reduce the potential impact of new construction and building renovation on the significance of the District. The consultant also outlines mitigation measures, listed below, in the historical resources evaluation to be implemented in conjunction with the proposed revisions in the Master Plan update. (Each of these measures is discussed in detail on p. 21 of the Historical Resources Evaluation for the Windrush School Project, part of Attachment 3.)

- Photo-documentation of the gymnasium prior to its modification
- Historical summary with a brief historical description of the district and its historical significance to accompany the photo-documentation
- Interpretive panel to allow visitors to the Windrush School campus to gain a sense of the historical significance of the District

## *Noise*

The increase in enrollment would contribute to an increase in existing noise levels during both recess and lunch periods from playing students and through an intensification of staff and parent use of the parking areas and driveways. However, per the noise analysis in the MND, the overall noise level for a 24-hour period would not exceed 60 dBA, the maximum allowable level as outlined in the City's General Plan and Noise Ordinance. Therefore, the increase in decibels would not be significant. The noise generated from staff and parent use of the parking areas and driveways and the outside play time by the students would be limited to the hours of operation for the school, which are 7:00am to 6:00pm. Per the noise monitoring measurements in the MND, the time when the most noise is generated from the school is around 1:00pm, when children are outside at the play area. This high noise level, an average of 70.5 dBA, is compounded by BART passing and traffic on Elm Street. .

Due to a series of complaints from surrounding neighbors about the noise generated by the students at the outdoor play areas, the use permit was reassessed by the Planning Commission in 1998 and noise studies were conducted. As a result of this review, a formal complaint procedure was devised and a sound wall was constructed in 1999 on the south side of the property to aid in mitigating noise from the adjacent play area. This barrier has provided some reduction in noise impact from school-related activities for neighbors on Manor Circle. Since the establishment of the complaint procedure in 1999, there have been no instances requiring formal conflict resolution.

## General Plan Consistency

Per the General Plan, the site conforms to its designated use as Institutional and Utility. The proposed update to Windrush School's Master Plan is consistent with the following General Plan policies:

- R2.1 Historic Preservation: "Ensure that the remodeling and renovation of historic structures respects the character of the structure and its setting."
- CF1.5 Responding to Growth: "Provide new or expanded community facilities as the need increases due to increased population or development."
- LU4.1 Mixture of Uses: "Encourage a mix of uses that promotes community values such as convenience, economic vitality, fiscal stability, public safety, a healthy environment, and a pleasant quality of life."
- CD1.3 High Quality Design: "Encourage higher-quality design through the use of well-crafted and maintained buildings and landscaping, use of higher-quality building materials, and attention to the design and execution of building details and amenities in both public and private projects."

## Environmental Review

A Mitigated Negative Declaration (MND), pursuant to the California Environmental Quality Act, was prepared and published for this project. On April 12, 2007, the environmental consultant (LSA Associates) filed a Notice of Intent with the Contra Costa County Recorder's Office and submitted the MND to the State Clearinghouse. Staff has not received any formal comments as of the publication of this staff report.

The MND identifies several environmental factors that could result in “Potentially Significant Impact Unless Mitigation are Incorporated.” They include: Air quality, Biological Resources, Cultural Resources, Geology/Soils, Hazards and Hazardous Materials, Hydrology/Water Quality, Noise and Transportation. Through the MND, these environmental factors were analyzed and mitigation measures identified to reduce the environmental impact to less than significant. A Mitigation Monitoring Reporting Plan has been prepared to ensure compliance and implementation of the mitigation measures and is included as Attachment 4.

#### **IV. FINDINGS**

##### Use Permit

Per Section 19.40.160.I. (ECMC), the Planning Commission must make the following findings prior to approving improvements to a private school:

1. *Noise generated from outdoor activity on the site shall not have a material adverse impact on the livability or desirability of the surrounding area and shall be limited to hours that will not interfere with surrounding land uses.*

The increase in enrollment would contribute to an increase in existing noise levels both during recess and lunch periods from students playing and through an intensification of staff and parent use of the parking areas and driveways. However, per the MND, the overall noise level for a 24-hour period would not exceed 60 dBA, the maximum allowable level as outlined in the City’s General Plan and Noise Ordinance. The noise generated from staff and parent use of the parking areas and driveways and the outside play time by the students shall be limited to the hours of operation for the school, which are 7:00am to 6:00pm. Due to the restricted hours of operation at the school, the impact from noise generated from the school would not interfere with the residential nature of the neighborhood.

2. *Hours of operation shall be limited to minimize conflict with uses on adjacent and surrounding properties. Operating hours shall be specifically noted during the use permit approval process.*

Although the number of students at the school will increase, the hours of operation shall continue to be the same as those outlined in the original use permit. The primary hours of operation at the school are from 8:00am to 3:00pm during the business week. A limited number of students will arrive at 7:00am for early morning program, and some students will stay until 6:00pm for the extended after school program.

3. *Impacts on the proposed use from existing land uses on surrounding properties, and from prior uses on the subject parcel, shall be evaluated.*

The use on the subject parcel will not change. The site was originally built as a home for Chinese boys and was later used as Bible college and secondary school, before its occupation by Windrush School in 1987. Although the land uses surrounding the subject property are primarily residential, the site has functioned as an educational facility for children for approximately 70 years. The impacts from a school on a residential neighborhood have been continuously identified and mitigated throughout the subject property’s existence.

4. *The location, design, landscaping and screening, and overall site planning of the proposed land use shall create an attractive, useful, and convenient facility.*

The proposed improvements to the site shall enhance the subject property as an attractive, useful, and convenient facility. The suggested renovations and additions to the campus

structures follow the same architectural style as the existing buildings. The location of the new play area in the northeast corner of the property will be screened from the surrounding neighborhood by the landscaping and buildings on the site. The layout of the additions continues to frame the open space on the site, showcasing the historic buildings as well as keeping student activity contained on the campus. As depicted in the visual simulations in the plans, no views from surrounding private residences will be significantly impacted.

### Environmental Review

Staff believes that based on information in the MND and response to comments:

1. The proposed project will not have a significant adverse impact on overall environmental quality of the site and surrounding neighborhood, subject to the implementation of mitigation measures as outlined in the Mitigation Monitoring Plan.
2. No impacts that cause substantial adverse effect on human beings, either directly or indirectly, have been identified as a result of this project.
3. Although some environmental impacts were identified as “Less than Significant”, with the implementation of mitigation measures, no “Potentially Significant Impacts” were identified related to the development of the proposed project.
4. The Mitigated Negative Declaration has been prepared and publicly noticed pursuant to the California Environmental Quality Act.

## **V. RECOMMENDATION**

Staff recommends approval of application 6324 as conditioned by the draft resolution in Attachment 1 for: 1) a mitigated negative declaration and; 2) an amendment to use permit conditions to allow Windrush School to proceed with key changes to the existing Master Plan over a four phase, 20-year period (19.12.112 ECMC).

**Proposed Motion:** Move adoption of the draft resolution in Attachment 1, to approve: 1) a mitigated negative declaration and; 2) an amendment to use permit conditions to allow Windrush School to proceed with key changes to the existing Master Plan over a four phase, 20-year period (19.12.112 ECMC) at 1800 Elm Street.

**Appeal Period:** Within fifteen (15) days after the date of the decision, the Planning Commission action may be appealed to the City Council.

### **Attachments:**

- 1) Draft Resolution
- 2) Project Plans prepared by Ratcliff Architects, dated August 2006
- 3) Windrush School Master Plan Initial Study/Mitigated Negative Declaration: Public Review Draft, prepared by LSA Associates, April 2007
- 4) Mitigation Monitoring Program
- 5) Planning Commission Resolution PC88-05, dated January 20, 1988
- 6) Planning Commission Resolution PC98-16, dated November 18, 1998
- 7) City Council Resolution 89-28, dated April 3, 1989
- 8) Windrush School Master Plan, dated October 1998
- 9) Letter from Windrush School, dated August 18, 2006

RESOLUTION 2007 – 53

A RESOLUTION OF THE CITY OF EL CERRITO COUNCIL DENYING AN APPEAL AND AFFIRMING THE DECISION OF THE PLANNING COMMISSION REGARDING APPLICATION NO. 6324, APPROVING A MITIGATED NEGATIVE DECLARATION PREPARED FOR A USE PERMIT AMENDMENT TO AN EXISTING MASTER PLAN OVER A FOUR PHASE, 20-YEAR PERIOD AT 1800 ELM STREET

WHEREAS, on January 20, 1988, the Planning Commission approved use permit resolution PC88-05 for Windrush School to operate a K-8 school with a maximum enrollment of 250 students; and

WHEREAS, on April 3, 1989, after a series of approvals and appeals, the City Council approved City Council Resolution 89-28 that upheld use permit resolution PC88-05; and

WHEREAS, on November 18, 1998, the Planning Commission approved an amendment to the original use permit and a related negative declaration; and

WHEREAS, on August 18, 2006, the applicant submitted an application requesting an amendment to use permit conditions to allow Windrush School to proceed with key changes to the existing Master Plan over a four phase, 20-year period and the necessary environmental review; and

WHEREAS, the Planning Division determined that the proposed Project was not categorically exempt under CEQA and that an initial study should be prepared; and

WHEREAS, on November 22, 2006, the Planning Division distributed a Request for Bids to five environmental consulting firms to conduct the initial study; and

WHEREAS, a Public Review Draft entitled "Windrush School Master Plan Initial Study/Mitigated Negative Declaration" was prepared under contract to the City by the independent environmental consulting firm of LSA Associates; and

WHEREAS, on April 12, 2007, a Notice of Intent to Adopt a Mitigated Negative Declaration was filed with the Contra Costa County Recorder's Office and copies of the Draft MND were delivered to the State Clearing House (SCH No. 2007042071); and

WHEREAS, the Draft MND was circulated for a duly noticed thirty (30) day public review period that began on April 12, 2007 and ended on May 11, 2007. Copies of the notice were duly posted and published. Copies of the Draft MND were also made available at City Hall; and

WHEREAS, on May 2, 2007, the Planning Division received one letter of comment on the draft MND. LSA Associates prepared a response to the comment; and

WHEREAS, on May 16, 2007, the Planning Commission held a public hearing on the MND and the Project, and received comments from the public. The Commission reviewed the MND and considered the record and all relevant materials; and

WHEREAS, on May 16, 2007, the Planning Commission adopted resolutions approving the MND, and the amendment to use permit conditions to allow Windrush School to proceed with key changes to the existing Master Plan over a four phase, 20-year period, and

WHEREAS, on May 31, 2007, Mr. Franklin Leong of 1780 Manor Circle appealed the Planning Commission approval of the Mitigated Negative Declaration, claiming discrepancies in the noise monitoring report and inadequate discussion time for the item; and

WHEREAS, on June 5, 2007, a Notice of Determination (NOD) for the MND was filed with the Contra Costa County Recorder's Office; and

WHEREAS, on June 18, 2007, the City Council held a duly noticed public hearing to consider the appeals; and

WHEREAS, based upon the evidence presented in the record on this matter, including the staff reports for both the May 16, 2007 Planning Commission meeting and the June 18, 2007 City Council meeting, and oral and written testimony and the proceedings before the Planning Commission, the Council has considered the Appeal.

NOW THEREFORE, BE IT RESOLVED:

**Section A.** The City Council of the City of El Cerrito finds the Mitigated Negative Declaration (MND) adequately describes and analyzes the Project as stated in Application 6324. Specifically, the City Council finds that:

1. The proposed project will not have a significant adverse impact on overall environmental quality of the site and surrounding neighborhood, subject to the implementation of mitigation measures as outlined in the Mitigation Monitoring Plan, prepared pursuant to section 21081.6 of the Public Resources Code.
2. No impacts that cause substantial adverse effect on human beings, either directly or indirectly, have been identified as a result of this project.
3. Although some environmental impacts were identified as "Less than Significant", with the implementation of mitigation measures, no "Potentially Significant Impacts" were identified related to the development of the proposed project.
4. The Appellant, Mr. Franklin Leong, was afforded an opportunity to provide oral testimony in accordance with the Brown Act at both the May 16, 2007 Planning Commission meeting and the June 18, 2007 City Council Meeting.
5. The alleged discrepancies in the noise monitoring report cited by the Appellant have been addressed in the June 18, 2007 staff report and do not identify any significant environmental impacts or defects in the MND.
4. The Mitigated Negative Declaration has been prepared and publicly noticed pursuant to the California Environmental Quality Act.

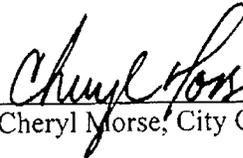
5. The City Council approves the MND for an amendment to use permit conditions to allow Windrush School to proceed with key changes to the existing Master Plan over a four phase, 20-year period.
6. A certified copy of this Resolution shall be filed with the City Clerk.

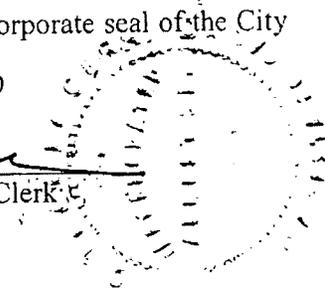
**Section B.** After careful consideration of facts, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings stated above, the El Cerrito City Council hereby denies the appeal, upholds the Planning Commission's approval of the Project, approves the MND and associated MMRP and incorporated herein by reference, for Application 6324.

I CERTIFY that at a regular meeting on June 18, 2007, the El Cerrito City Council passed this Resolution by the following vote:

AYES: Councilmember Abelson, Bridges, Jones, Potter and Mayor Moore  
NOES: None  
ABSENT: None  
ABSTAIN: None

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June 20, 2007.

  
Cheryl Morse, City Clerk



APPROVED:

  
Letitia D. Moore, Mayor

