

Planning Commission Staff Report

May 23, 2012
Item 5.a.

- SUBJECT:** P12-0718
- APPLICANT:** Korean Presbyterian Church of Tri-Valley and
Tri-Valley Academy
- PROPERTY OWNER:** Korean Presbyterian Church of Tri-Valley
- PURPOSE:** Application for a Conditional Use Permit to operate a State registered heritage school for Kindergarten through 8th grade students within an existing building.
- GENERAL PLAN:** Business Park (Industrial / Commercial and Office)/Mixed Use
- ZONING:** PUD-I/C-O (Planned Unit Development – Industrial/Commercial - Office) District
- LOCATION:** 5925 West Las Positas Blvd, Suite 200
- EXHIBITS:**
- A. Draft Conditions of Approval
 - B. Written Narrative and Activities Schedule, Site Plan, and Floor Plan
 - C. Hacienda Owner's Association Approval Letter
 - D. Tri-Valley Academy's Current On-Line Registration as a Heritage School with California Department of Education
 - E. Planning Commission Staff Report (PCUP-224) and Excerpt Minutes, dated December 10, 2008; City Council Staff Report (PAP-131) and Excerpt Minutes, dated February 3, 2009
 - F. Sections 33195 and 44327 of the California Education Code, and Sections 1596.70 and 1596.90 of the California Health and Safety Code
 - G. Location and Notification Map
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BACKGROUND

On February 3, 2009, the City Council granted a Conditional Use Permit (Case No. PAP-131/Case No. PCUP-224) to Little Ivy League (LIL) Tutorial School to operate a tutorial school for 90 children in Grades K-8 at the existing Korean Presbyterian Church of the Tri-Valley (KPC) located at 5925 West Las Positas Boulevard, Suite 200. LIL Tutorial School provides tutoring on a variety of English and math subjects with a special focus on Chinese language and cultural programs. The tutorial school had been operating at this location for over three years until it decided to relocate elsewhere in the City in June 2012. Tri-Valley Academy (TVA), a State of California registered heritage school, wishes to replace the LIL Tutorial School and operate as a State registered heritage school within the church. TVA currently has a middle school tutorial center for 40 students located at 5933 Coronado Way, in the Hacienda Business Park.

The proposed site is located within the Hacienda Business Park and is zoned PUD-I/C-O (Planned Unit Development – Industrial Commercial – Office) District. A heritage school is allowed through the process of a Conditional Use Permit. This Conditional Use Permit application is subject to the review and action by the Planning Commission.

Heritage School

Section 33195.4 of the California Education Code (CEC) defines “heritage school” as a school that serves children who are at least (4) years and nine (9) months of age and no older than 18 years of age, and who also attend a public or private full-time day school, and does all of the following:

- (a) Specifies regular hours of operation.
- (b) Offers education or academic tutoring, or both, in a foreign language.
- (c) Offers education on the culture, traditions, or history of a country other than the United States.
- (d) Offers culturally enriching activities, including, but not limited to, art, dancing, games, or singing, based on the culture or customs of a country other than the United States.
- (e) Maintains membership in a state or national cultural or language association.
- (f) Complies with relevant local government regulations, where applicable.
- (g) Does not operate out of a residential home.
- (h) Complies with the requirements of Education Code Section 33195 and maintains in its possession a copy of the registration form electronically filed with the Superintendent. The heritage school shall make this form available upon request, including to the State Department of Social Services, to verify exemption from child care licensure.

CEC Section 33195.6.(e) states that a heritage school, as defined in CEC Section 33195.4, above, shall not be subject to licensure by the State Department of Social Services as a child day care center pursuant to Chapter 3.4 (commencing with Section 1596.70) or Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code. CEC Sections 33195.2 and 44237 require criminal background checks for persons associated with the school or who have contact with pupils.¹

SITE DESCRIPTION

The subject site is a 3.44-acre parcel located on the northwest corner of the West Las Positas Boulevard/ Willow Road intersection. The existing single-story building is approximately 45,525 square feet in area and is divided into two tenant suites with each tenant space occupying approximately half of the building area. The Korean Presbyterian Church/LIL Tutorial School occupies tenant suite 200; the other tenant space used to be occupied by Direct Buy, but is currently vacant. The subject building does not have common hallways for interior access between the two tenant suites; each tenant has its own independent entrance/exit from the parking lot.



Site Location

¹Per California Department of Education (CDE), Heritage Schools are self-certified in terms of background checks, health and safety training, etc. CDE requires that these documents be kept by the director of the heritage school and be available upon request. And, a proposed condition requires the applicant to confirm in writing to the Planning Division that this has been completed (# 7).

The subject site borders Thomas Hart Middle School to the east across Willow Road, a one-story, multi-tenant building to the north, Chabot Canal to the west, and professional/commercial/industrial service offices to the south across West Las Positas Boulevard. The building is surrounded by a shared parking lot with a total of 179 parking spaces, six of which are parking spaces for the disabled. Access to and from the site is from West Las Positas Boulevard or Willow Road. The nearest residential properties are located approximately 900 feet south of the subject site.

PROJECT DESCRIPTION

Cultural and Academic Programs:

Tri-Valley Academy (TVA) proposes a program that is very similar to what has been offered at LIL Tutorial School. TVA, being a heritage school, focuses on Chinese language and cultural programs. It also offers academic enrichment programs in math and English. The following is a sample of some of the programs that would be offered at TVA:

Chinese Language Arts and Culture Program: This program combines the standard Chinese text books with innovation teaching/learning tools; thus, offering a fun yet formal Chinese learning environment.

English Writing, Language Arts, and Critical Reading: The writing program teaches students how to write clear, coherent sentences and paragraphs. It teaches students how to engage readers and develop a central idea. The reading program enhances students' comprehension level and expands students' vocabularies. The reading program helps student to be a fluent reader and build up a life-long habit of reading for success.

Math Program: This program focuses on math fundamentals and math reasoning.

Enrollment Capacity:

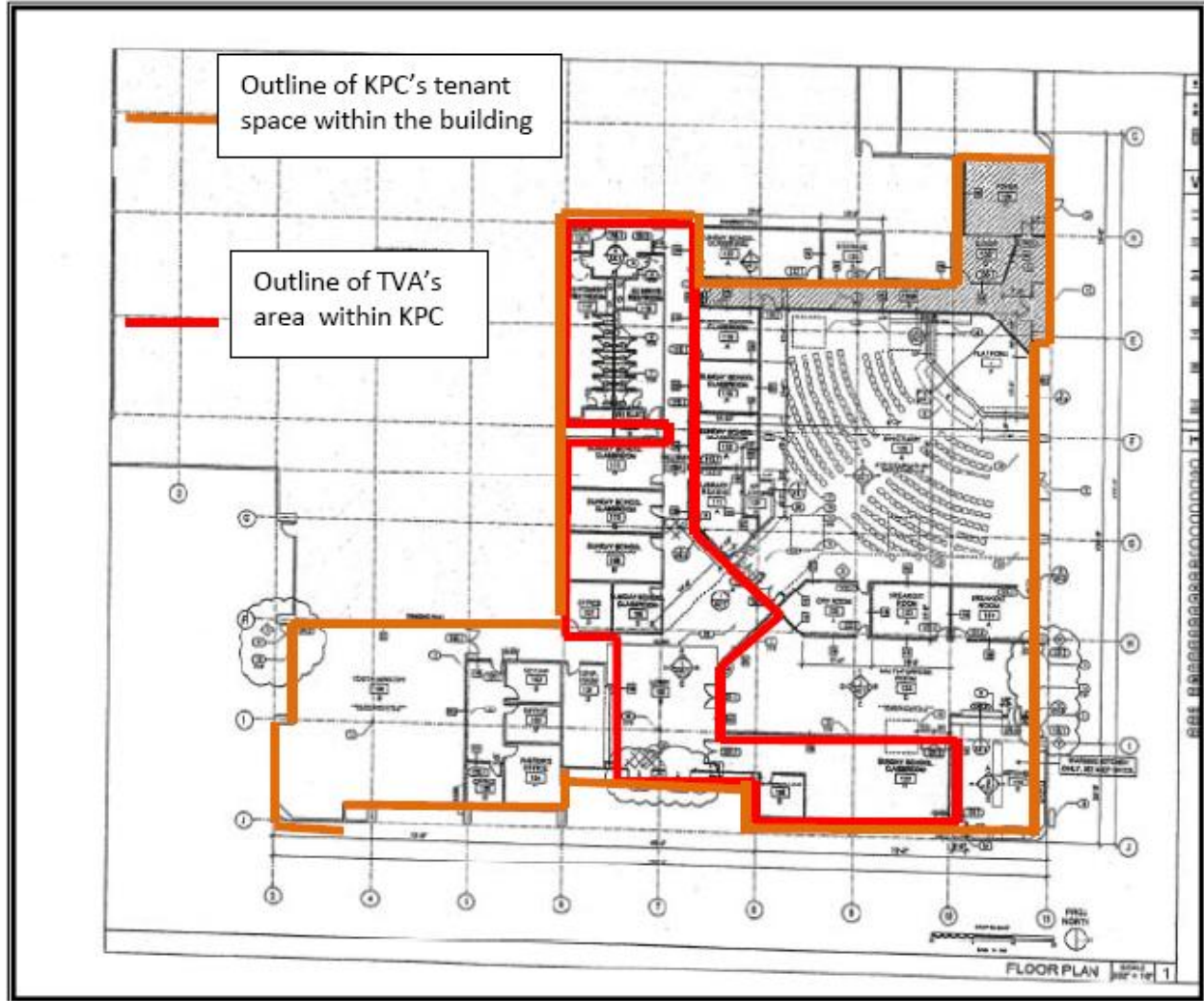
Same as the current LIL Tutorial School, the proposed TVA Heritage School would have a maximum of 90 students at one time. The enrollment would be based on the following age/grade groups:

Kindergarten:	15-20 students
Elementary School:	55-60 students
Middle School:	5-10 students

There would be nine teachers and one administrative employee on site.

Facility Layout

TVA would utilize the church's Sunday school classrooms to conduct its programs. Please see the floor plan below:



Hours of Operation:

As students enrolled in the proposed heritage school are also full-time students at a public or private school, the proposed heritage school programs will be open from 12:00 p.m. to 6:30 p.m. during school days, and from 8:30 a.m. to 6:30 p.m. during school breaks and non-school days. TVA administrative office would open from 9:00 a.m. – 6:30 p.m. The facility will be closed on weekends.

The following is the proposed schedule:

	Regular School Days (90 students)	Spring and Summer Breaks
Kindergarten	12:00 noon. – 6:30 p.m.	8:30 a.m. – 6:30 p.m.
Elementary School	3:15 p.m. – 6:30 p.m.	
Middle School	3:15 p.m. – 6:30 p.m.	

Transportation:

TVA would have a fleet of four to five vans (9-12-passenger vans) to transport students from schools to the proposed facility. The vans will be parked on site during weekdays and will be parked at the TVA Coronado Lane location on weekends.

TVA will implement a parent sign-out procedure so that TVA staff won't release any student to unauthorized person(s). A condition is proposed for sign-out by parents, verification by TVA staff providing pick-up from school, and sign-in by any parent bringing a child to TVA directly (Condition No. 9).

ANALYSIS

Conditional uses are uses that, by their nature, require individual review to ensure that impacts associated with their use will be minimal. Conditional Use Permits may be subject to appropriate conditions to ensure that any potential adverse impacts associated with the use will be mitigated. The following is staff's analysis of the proposed heritage school and its impacts, if any.

Land Use

One of the primary concerns in reviewing a Conditional Use Permit application is the effect of the proposed use on surrounding uses. The Land Use Element of the General Plan designates the subject property as "Business Park (Industrial / Commercial and Office) / Mixed Use." The zoning for this site is PUD-I/C-O (Planned Unit Development – Industrial / Commercial – Office), and is located in the Research and Development / Light Manufacturing Planning District (IPD) of Hacienda Park which permits land uses such as offices and light manufacturing and requires Conditional Use Permit approval for uses such as indoor recreational sports facilities, heritage schools, and tutoring facilities.

When the proposed use is educational, instructional, recreational, or daycare, staff evaluates how that use integrates into the surrounding uses. The proposed heritage school is located directly across from Thomas Hart Middle School. The adjoining property to the north has a variety tenants including a tutorial facility, a dance studio, a music studio, a church, and offices. The TVA's proposed cultural and academic enrichment programs are similar to those offered at other after-school tutorial facilities. In staff's evaluation, this use is compatible with the surrounding uses. In the past, the

Planning Commission has granted Conditional Use Permits for heritage schools in business parks. The subject site has its own parking. As such, the proposed heritage school would be compatible with the surrounding uses.

Noise

The Pleasanton Municipal Code states that a proposed conditional use must be in accord with the objectives of the Zoning Ordinance. One of those objectives is to “promote the stability of existing land uses that conform with the General Plan and to protect them from inharmonious influences and harmful intrusions.” As proposed, the instructional programs would be held indoors with doors closed during business hours. Currently there are no other tenants in the building. The applicant has indicated that noise levels should be minimal since the business provides indoor instruction and doesn’t include indoor or outdoor play.

The subject site is in an industrial area, and a certain amount of noise is expected. For industrial properties, such as the subject property, the Pleasanton Municipal Code states:

No person shall produce or allow to be produced by any machine, animal, device, or combination of the same, on industrial property, a noise level in excess of seventy-five (75) dBA at any point outside of the property plane.

Based on the proposal, staff considers schools, such as the subject proposal, to be a quiet use as instruction would be provided at regular speaker’s voice level and that students would be focusing on academic exercises. To help ensure that noise would be contained indoors, a condition (No. 5) has been added requiring all doors and windows remain closed during business hours.

Parking

There are 179-shared parking spaces within the subject site with six of those parking spaces for the disabled. Based on the subject building's floor area (45,525 square feet) and the number of parking spaces provided on-site (179 spaces) the parking ratio at the subject site is one space for every 254 square feet of floor area. With the tenant space occupying approximately 21,329 square feet of floor area, it would theoretically be “allocated” 84 of the 179 parking spaces; however, there is no assigned parking spaces in this development.

The Municipal Code requires that a school provide one parking space for each employee and one space for each four students in grade 10 or above. The proposed facility would have nine teachers and one administrative employee during business hours. The student parking requirement, one space for each four students, is not applicable since the children are below grade 10. With a maximum of nine teachers, one administrative person, and four to five vehicles that would be owned by TVA,

15 parking spaces would be required for the proposed use. The subject tenant space is “allocated” 84 parking spaces and would, therefore, meet the parking requirements.

Staff notes that the Municipal Code parking requirement does not address parking demand during drop-off/pick-up times, which would be the most impacted time for the proposed heritage school. In this case, TVA proposes to bring students to the facility in the four to five TVA vans, rather than have parent drop-off. For pick-up time, the applicant projects that students will be picked-up by their parents between 4:00 p.m. and 6:30 p.m. The following table shows the projected number of students and number of vehicles during pickup times:

Projected Pickup Schedule		
	No. of Students Projected at Maximum Capacity	No. of Vehicles Projected at Maximum Capacity
4:00 p.m. – 5:00 p.m.	28	19
5:00 p.m. – 6:00 p.m.	35	24
6:00 p.m. – 6:30 p.m.	27	19

The applicant estimated that approximately one-third of the students would be siblings. Thus, the number of vehicles to pick up students is approximately one-third less than the number of students.

From the projected pick-up schedule, there generally would be no more than 24 vehicles on site to pick-up students. Including the 10 parking spaces for school teachers/staff and five spaces for school vans, the proposed heritage school would need a minimum of 39 spaces. The tenant space is “allocated” 84 spaces, which would adequately support the parking needs of 39 spaces by the proposed school. With the school vans being parked at TVA's Coronado Way location on weekends, the proposed heritage school operation would not interfere with the church's peak weekend parking demand.

However, should parking or on- or off-site traffic/circulation problems occur during student pick-up times, staff has included a condition of approval that would require the applicant to revise the pick-up schedule to resolve the problem(s) to the satisfaction of the Director of Community Development (No. 4 and No.19). If necessary, the Director of Community Development could refer the Conditional Use Permit application to the Planning Commission for review and possible modification.

The proposed heritage school would share the tenant space with Korean Presbyterian Church of Tri-Valley (KPC), but they would not occupy the same area at one time. Specifically, the proposed TVA would use the church’s Sunday School classrooms during weekdays, and the church would use the Sunday School classrooms on Sundays when TVA is not in operation. Additionally, the majority of activities between the two users are scheduled at different times.

The table below and on the following page shows KPC and TVA's schedules side-by-side.

KPC and TVA Schedules When School Is In Session

DATE	TIME	KPC	TVA
Monday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	
	9:00 a.m. – 6:30 p.m. 12:00 p.m. – 6:30 p.m.	--	Administrative Staff Heritage School in Session
	8:00 p.m. – 10:00 p.m.	Choir Practice	--
Tuesday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	
	9:00 a.m. – 6:30 p.m. 12:00 p.m. – 6:30 p.m.	--	Administrative Staff Heritage School in Session
	7:00 p.m. – 10:00 p.m.	Bible Study Classes	--
Wednesday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	
	9:00 a.m. – 6:30 p.m. 12:00 p.m. – 6:30 p.m.	--	Administrative Staff Heritage School in Session
	7:00 p.m. – 9:00 p.m.	Church Service	--
Thursday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	
	9:00 a.m. – 6:30 p.m. 12:00 p.m. – 6:30 p.m.	--	Administrative Staff Heritage School in Session
	7:00 p.m. – 9:00 p.m.	Choir Practice/Bible Study Classes	--
Friday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	
	9:00 a.m. – 6:30 p.m. 12:00 p.m. – 6:30 p.m.	--	Administrative Staff Heritage School in Session
	7:00 p.m. – 9:00 p.m.	Youth Ministry/Prayer Meeting	
Saturday	7:00 a.m. – 9:00 p.m.	Church Activities	--
Sunday	8:00 a.m. – 1:00 p.m.	Church Services	--

KPC and TVA Schedules During School Breaks

DATE	TIME	KPC	TVA
Monday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	--
	8:30 a.m. – 6:30 p.m.	--	Heritage School in Session
	8:00 p.m. – 10:00 p.m.	Choir Practice	--
Tuesday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	--
	8:30 a.m. – 6:30 p.m.	--	Heritage School in Session
	7:00 p.m. – 10:00 p.m.	Bible Study Classes	--
Wednesday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	--
	8:30 a.m. – 6:30 p.m.	--	Heritage School in Session
	7:00 p.m. – 9:00 p.m.	Church Service	--
Thursday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	--
	8:30 a.m. – 6:30 p.m.	--	Heritage School in Session
	7:00 p.m. – 9:00 p.m.	Choir Practice/Bible Study Classes	--
Friday	5:30 a.m. – 7:00 a.m.	Prayer Meeting	--
	9:00 a.m. – 10:00 a.m.	Administrative/Office	--
	8:30 a.m. – 6:30 p.m.	--	Heritage School in Session
	7:00 p.m. – 9:00 p.m.	Youth Ministry/Prayer Meeting	--
Saturday	7:00 a.m. – 9:00 p.m.	Church Activities	--
Sunday	8:00 a.m. – 1:00 p.m.	Church Services	--

The above tables show that when school is in session, between 9:00 a.m. and 10:00 a.m. church administrative staff and TVA administrative staff would be on site. Per the church’s schedule submitted for its own Conditional Use permit, there would be four to six administrative staff members. As proposed, TVA would have one administrative staff. Therefore, there would be four to seven people in the tenant space between 9:00 a.m. and 10:00 a.m. The “allocated” parking spaces would adequately support the parking demands from both the church and TVA.

The above tables also show that during school breaks, TVA opens at 8:30 a.m., and between 9:00 a.m. and 10:00 a.m., both the church’s administrative staff members and the school’s administrative staff member and teachers would be present. There would be nine teachers and one administrative staff members for TVA. Together with KPC’s 4-6 administrative staff members, the tenant space would generate a parking demand of 14 to 16 spaces. With the “allocated” 84 parking spaces, staff believes that on-site parking is adequate to support the demand. Furthermore, during school breaks, parents may drop off students between 9:00 a.m. and 10:00 a.m. when the church administrative staff members are present. The

applicant projects there would be no more than 10 parents dropping off students at the same time. As such, between 9:00 a.m. to 10:00 a.m., the tenant space would generate a parking demand approximately 26 parking spaces at one time. The “allocated” 84 parking spaces would adequately support the parking demands from both the church and TVA.

Traffic/Circulation

The City Traffic Engineer has reviewed the scope of the proposed heritage school in comparison to the previous LIL tutorial facility. Based on the proposal, the Traffic Engineer finds that the proposed heritage school operation in terms of hours and projected pick-up schedule are very similar to those of the LIL tutorial facility. Therefore, no traffic fee is required.

Signage

No signage currently exists for the tenant suite. If the applicant wishes to add signage, the proposed signage would be required to adhere to Hacienda Park’s sign guidelines.

FINDINGS

The Planning Commission must make the following findings prior to granting the use permit:

- A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinances and the purpose of the district in which the site is located.**

Objectives of the zoning ordinance include: fostering a harmonious, convenient, workable relationship among land uses; protecting existing land use from inharmonious influences and harmful intrusions; and insuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, staff feels the proposed heritage school would be consistent with these objectives. There are tutoring facilities and schools in Hacienda Business Park that have been found to be compatible with the surrounding businesses. Staff believes that the proposed heritage school should also be compatible.

The subject site is zoned Planned Unit Development – Industrial/Commercial - Office (PUD-I/C-O) District, and it is located in the Research and Development / Light Manufacturing Planning District (IPD) of Hacienda Park which generally has the characteristics of the City’s I-P (Industrial Park) District. One purpose of the Industrial Park District is to provide locations for uses that can operate in proximity to light manufacturing, commercial, and personal services uses with minimum adverse impact. Staff believes the proposed use, as conditioned, will be compatible with the adjacent industrial park uses. The applicant will also be

required to mitigate any future nuisances which may occur as a result of the proposed use. In summary, staff believes this finding can be made.

B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

The building that the proposed heritage school is to occupy is freestanding with an on-site parking lot. The number of parking spaces available on site exceeds the parking demands for the proposed use. The staggered program schedules would off-set parking congestion during pick-up times which will help alleviate parking and traffic concerns. In addition, the subject site is surrounded by streets (being on the corner of Willow Road and West Las Positas Boulevard) on the east and south sides and the Chabot Canal on the west. A multi-tenant building on the north includes similar businesses such as a tutorial facility, and dance and music studios. The proposed heritage school is similar and compatible to the adjoining uses. Further, the proposed conditions of approval will ensure that the facility will not operate in a manner that is detrimental to the public health, safety, or welfare or be materially injurious to the properties or improvements in the vicinity. Therefore, staff believes that this finding may be made.

C. That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code which apply to Conditional Uses.

Staff finds that, as conditioned, the proposed use will comply with all provisions and requirements of the City's zoning ordinance and the approved PUD development. As with any Conditional Use Permit, the use permit may be reviewed and potentially modified if the conditions are not met. Therefore, the proposed use will comply with the provisions of the Zoning Ordinance. Staff believes this finding can be made with the proposed conditions of approval.

PUBLIC NOTICE

Notice of this application was sent to surrounding property owners and tenants within 1,000-feet of the site. Staff has provided the location and noticing maps as Exhibit G for the Commission's reference. At the time this report was published, staff had not received any public comments.

HACIENDA OWNERS ASSOCIATION

James Paxson, General Manager of Hacienda Owners Association, has reviewed the application for the proposed use and found that it is in substantial compliance with Hacienda's guidelines set forth in the CC&Rs. The Association believes that the use, parking, and traffic are compatible with current approved uses within the subject area and, thereby, approved the proposed use.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt from environmental review pursuant to the California Environmental Quality Act Guidelines, Section 15301, Existing Facilities, Class 1. Therefore, no environmental document accompanies this report.

CONCLUSION

Staff believes that the required use permit findings for the project can be met if the project is approved as conditioned. Conditions of approval have been included which will ensure that the safety and general welfare of the surrounding area is maintained. Staff is of the opinion that the proposed heritage school would provide a service to the community and that the proposed location is appropriate.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve P12-0718 by taking the following actions:

1. Make the required conditional use findings as described in the staff report; and,
2. Approve P12-0718 subject to the conditions listed in Exhibit A.

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