



CITY OF HAYWARD AGENDA REPORT

Meeting Date 11/06/03
Agenda Item 3

TO: Planning Commission

FROM: Erik J. Pearson, AICP, Associate Planner

SUBJECT: Planning Director's Referral of Modification of Use Permit No. PL-2003-0373 – for an Existing Church – Christian Vigilance Church (Owner)

The Project Location Is 28767 Ruus Road, in a Residential Single-Family (RS) Zoning District

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15301 *Existing Facilities*; and
2. Modify the Use Permit with the addition of the attached conditions.

DISCUSSION

The church building was constructed in 1960 prior to annexation to the City of Hayward. The Alameda County building permit records refer to a use permit (BZA # 173) issued for the construction of the church; however, the records transferred to the City from the County did not include the conditions of approval of the use permit nor do the County records address the conditions under which the use permit was granted. The property was annexed into the City in 1962.

The property is surrounded by churches to the north and west and homes to the south and east across Ruus Road. The church building is located about 130 feet back from Ruus Road and 55 feet from the nearest dwellings, and the parking area is 15 feet from the nearest dwellings. The street frontage is not improved and the gravel covers the driveway and parking area. There is minimal landscaping on the property. The church recently erected a white metal fence along the front of the property with a gate across the driveway. The property is located in a Residential Single-Family (RS) zoning district, which allows religious uses subject to approval of an Administrative Use Permit. The church has 1,927 square feet of assembly area. The City's Off-Street Parking Regulations require one parking space for each 100 square feet of assembly area. Twenty parking spaces would be required and forty-two are proposed.

The Christian Vigilance Church has occupied the property since May 2000. The City began receiving complaints about parking and noise from the church property in September 2002.

Some neighbors have spoken with representatives of the church about noise problems and City staff have spoken with the church about the complaints received regarding the church activities, but the complaints have continued. Section 10-1.3260 of the Zoning Ordinance authorizes the Planning Commission to revoke, modify or add to the conditions of approval to a use permit in order to ensure the use remains compatible with the surrounding neighborhood. Accordingly, the Planning Director is referring this matter to the Planning Commission in order to impose new conditions of the use permit intended to render the church operation compatible with the surrounding neighborhood..

The original complaint filed was of cars parking off the designated driveway, resulting in mud being tracked into the street by cars driving through puddles at the edge of Ruus Road. One neighbor has also complained of an exterior light shining from the building toward his house. According to letters received from neighbors, the church plays amplified music until 10 to 11 p.m. every night of the week. Neighbors also indicate that church members talk and children play in the parking lot on their way to their cars, which create a disturbance. One letter states that car stereos can be heard and cars honk horns on their way out of the parking lot.

In order to assure that the church functions in maximum harmony with the area, staff is recommending the following:

1. Require the church to pave the parking area and create a designated driveway entrance from Ruus Road no later than 6 months after the effective date of this approval. This condition is intended to prevent mud and dust from being tracked onto the public right-of-way as mud and dust on the street can create a traffic hazard. The church has agreed to this condition.
2. Require that landscaping be installed in and around the parking lot within 60 days of the completion of the parking lot.
3. Require the that, no later than 60 days after the effective date of this approval, the church install lights in accordance with a lighting plan to be submitted by the church to the Planning Director that shows that the site will be well-lit without creating glare for neighboring properties. Existing lights would either be removed, replaced or redirected to alleviate impacts on neighbors. In the interim, existing lights must be removed, shielded or redirected so that light is not cast onto neighboring properties.
4. In an effort to lessen the noise impact on the neighbors, the church has agreed to install double pane windows and air conditioning so that windows and doors can be kept closed even on warm days. Staff is recommending that a condition of approval require these improvements no later than 60 days after the effective date of this approval.
5. Most of the music is performed from the altar, the rear wall of which is directly opposite the homes on Collins Court. Sound insulation on the wall behind the altar has been agreed to by the church and has been made a condition of approval
6. In order to minimize outdoor noise emanating from the church and from people talking and automobiles, staff is recommending the construction of an 8-foot tall masonry sound wall

to be erected along the south property line where the church and parking area abut the residential area. Staff recommends that a building permit application for the wall be submitted within 60 days and the sound wall be installed within 30 days after the issuance of the building permit. In the meantime the church members are asked to keep noise to a minimum.

7. Upon a site inspection by a Community Preservation Inspector, an unattractive accessory building that does not meet the City of Hayward Design Guidelines was found built within the side yard setback without permits. A condition of approval has been included requiring removal of the shed within 30 days.
8. The church's meeting schedule (Attachment D) includes evening meetings until 10 p.m. Monday through Friday. In order to help alleviate the noise problems experienced by neighbors, staff is recommending that meetings end by 9:30 p.m. and that the cars exit the property by 10 p.m.

ENVIRONMENTAL REVIEW

The proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Sections 15301, *Existing Facilities*.

PUBLIC NOTICE

On July 9, 2003, a Referral Notice was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Tennyson-Alquire Homeowners Association, the Warren Curtis Homeowners Association, the Eastwood Homeowners Association, the South Hayward Neighborhood Group, the South Hayward Parish and interested parties. Five neighboring households contacted staff and registered complaints based on past experiences with the church.

On October 27, 2003, a Notice of Public Hearing for the Planning Commission meeting was mailed. In addition, a public notice sign was placed at the site prior to the Public Hearing to notify neighbors and interested parties residing outside the 300-foot radius.

CONCLUSION

The new conditions are intended to assure that the church operates in maximum harmony with the neighborhood. The conditions are expected to reduce impacts to the neighbors and improve the appearance of the property. Staff recommends that the Planning Commission modify the use permit by approving the attached conditions.

Prepared by:



Erik J. Pearson, AICP
Associate Planner

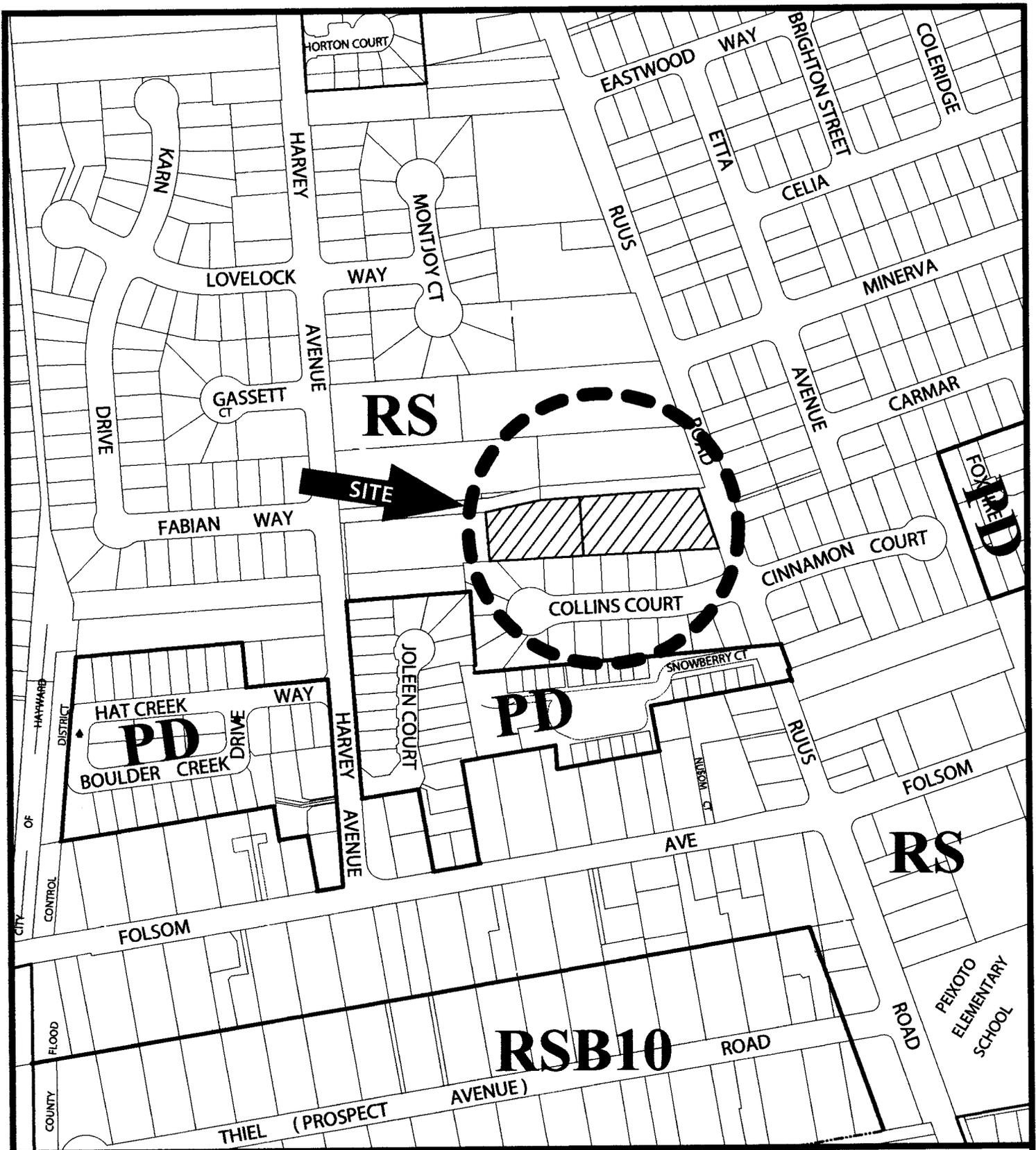
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area & Zoning Map
 - B. Findings for Approval
 - C. Conditions of Approval
 - D. Proposed Church Meeting Schedule
 - E. Letters from Neighbors
- Plans



Area & Zoning Map

PL-2003-0373 AUP

Address: 28767 Ruus Road

Applicant: Juan Ramon Coruejo

Owner: Christian Vigilance Church

PD-Planned Development
 RS-Single-Family Residential,RSB4,RSB6



**CITY OF HAYWARD
PLANNING DIVISION
USE PERMIT MODIFICATION**

November 6, 2003

**MODIFICATION OF USE PERMIT NO. PL-2003-0373: Christian Vigilance Church
(Owner)**

The Project Location Is 28767 Ruus Road, in a Residential Single-Family (RS) Zoning District

FINDINGS FOR APPROVAL:

1. The modification of the Use Permit as conditioned, will have no significant impact on the environment, cumulative or otherwise, and the project reflects the City's independent judgment and is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities).
2. That the church is desirable for the public convenience or welfare in that the additional conditions provide a means of assuring that the church operation is desirable for the public convenience or welfare.
3. That the church, with the additional conditions of approval, will not impair the character and integrity of the Residential Single-Family District or surrounding area in that the proposal includes improvements both physical and operational that should limit noise impacts on the neighborhood and will improve the appearance of the site.
4. That the church, with the additional conditions of approval, will not be detrimental to the public health, safety or general welfare in that, as conditioned, the use will not cause any significant negative impacts (including noise) to the public.
5. The use, with the additional conditions of approval, will be in harmony with applicable City policies and the intent and purpose of the Residential Single-Family District. The use is consistent with the City Zoning Ordinance, the Design Guidelines and the Tennyson Alquire Neighborhood Plan.

ATTACHMENT B

**CITY OF HAYWARD
PLANNING DIVISION
USE PERMIT MODIFICATION**

November 6, 2003

**MODIFICATION OF USE PERMIT NO. PL-2003-0373: Christian Vigilance Church
(Owner)**

**The Project Location Is 28767 Ruus Road, in a Residential Single-Family (RS) Zoning
District**

CONDITIONS OF APPROVAL:

1. Any and all conditions of approval of the use permit issued by the County of Alameda shall remain in full force and effect.
2. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
3. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
4. An 8-foot high masonry sound wall shall be erected along the south property line where the church and the parking area abuts the property line. The wall shall be decorative (including pilasters and caps) and shall be compatible with the surrounding buildings. A building permit application for the wall shall be submitted within 60 days of the effective date of this approval and the sound wall shall be installed within 30 days after the issuance of the building permit. In the meantime the church members shall keep noise to a minimum.
5. Plans and a sign permit application for a new monument sign shall be submitted for review and approval by the Planning Director within 6 months of the effective date of this approval.
6. The accessory structure constructed in the side yard shall be removed within 30 days of the effective date of this approval.
7. A lighting plan prepared by a qualified consultant showing that the parking and pedestrian areas will have a minimum one foot candle of light during hours of darkness as required by the Security Ordinance shall be submitted within 60 days of the effective date of this approval. The lighting plan shall include details of decorative fixtures to be installed. Fixtures shall be controlled by photocells. Light shall not illuminate or create glare for neighboring properties.
8. The project shall comply with the provisions of the Security Ordinance that pertain to address numbers, and all newly-installed doors, windows and locks.

ATTACHMENT C

9. The doors and windows shall remain closed during meetings/services.
10. The hours of operation shall be no earlier than 7 a.m. and no later than 10 p.m. daily. Services/meetings shall end by 9:30 p.m. and all cars (with the exception of custodial or administrative staff) shall exit the premises and the gate closed and locked across the driveway by 10 p.m. nightly.
11. Church management shall take necessary steps to assure the orderly conduct of members and visitors on the premises.

Landscaping:

12. Trees shall be preserved in accordance with the Tree Preservation Ordinance. Prior to the commencement of clearing and grading operations, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans, and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes. A separate tree removal permit is required prior to the removal of any tree. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.
13. Landscaped areas adjoining drives and/or parking areas shall be separated by a 6-inch-high class "B" Portland Cement concrete curb. Separate turf areas from shrub areas with a permanent header such as a 6-inch concrete mow strip. Turf areas should not exceed more than 50 percent of the total landscape area.
14. One 24-inch box street tree is required for every 20 – 40 lineal feet of frontage. Spacing of the trees is dependant on the species of trees. Smaller trees will require closer spacing. Trees shall be planted to fill vacancies in the street tree pattern, and to replace any declining or dead trees. Trees shall be planted according to the City Standard Detail SD-122.
15. Masonry walls, solid building walls, trash enclosures or fences facing a street or driveway shall be continuously buffered with shrubs and vines.
16. Parking lots shall include one 15-gallon tree for every six parking stalls. Parking lot trees shall be planted in tree wells or landscape medians or islands located within the parking area. In addition, parking rows shall be capped with a landscaped island. All tree wells, islands and medians shall be a minimum of 5' wide measured inside the curbs. Parking and loading areas shall be screened from the street with shrubs, masonry walls or earth berms, as determined by the Planning Director. Where shrubs are used for screening, the type and spacing of shrubs shall create a continuous 30" high hedge within two years. This measurement shall be from the top of curb.
17. A landscape buffer including shrubs and one 15-gallon tree for every 20 lineal feet of property line shall be planted along property lines adjacent to residential uses.
18. Landscaping shall be maintained in a healthy, weed-free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size

determined by the City Landscape Architect, within the timeframe established by the City and pursuant to Municipal Code.

Engineering:

19. The project shall identify Best Management Practices (BMPs) appropriate to the new parking and driveway areas in order to limit the entry of pollutants into the storm water runoff to the maximum extent practicable.
20. If work is done during the rainy season (Oct. 15 to April 15), an Erosion and Sedimentation Control Plan shall be in place.
21. Improvement plans prepared by a registered Civil Engineer shall be submitted to the City and shall include:
 - a) Details showing that the parking area and the driveway will be paved with asphalt concrete (AC) or Portland concrete (PCC) and the parking stalls will be striped.
 - b) Details showing that the Ruus Road frontage will be improved with new curb, gutter, sidewalk and tie-in pavement. An Encroachment Permit shall be required for these improvements.
 - c) The existing and proposed on-site drainage system within the new parking and driveway areas. Use of a grassy swale along the south property line should be incorporated.
22. The driveway shall be completed within 6 months of the effective date of this approval. If the applicant wishes to defer the installation of the curb, gutter and sidewalk for the remainder of the frontage, then a Deferred Street Improvement Agreement shall be filed and recorded. The Agreement shall state that the remainder of the street frontage improvements will be completed within 5 years of the effective date of this approval.

Fire Department:

23. The plans shall be modified to provide an adequate turning radius for fire apparatus to enter the site. Access to within 150' of the rear-most portion of the existing building is required.
24. Due to the setback of the existing building from the street (greater than 150' to the rear-most portion), a fire truck turnaround shall be designed for the parking lot. The preferred location is on the west side of the building. Standards for the design may be obtained from the Fire Department.
25. Red-curb and fire lane signage shall be installed in the parking lot in all areas where vehicle parking is not dedicated.
26. An address shall be installed at the driveway entrance with minimum 6" high numbers on a contrasting background. In addition, a minimum 6" building address shall be installed on the building so as to be visible from the street. Address numbers shall be decorative and shall be approved by the Planning Director.

General:

27. Violation of these conditions or requirements may result in the City of Hayward instituting a revocation hearing before the Planning Commission.

SERVICES

				People Attending
Monday	Workshop	From	6:00 PM - 10:00 PM	(80-100)
Tuesday	Evangelism	From	7:00 PM - 10:00 PM	(20-30)
Wednesday	Workshop	From	6:00 PM - 10:00 PM	(80-110)
Thursday	Evangelism	From	7:00 PM - 10:00 PM	(20-30)
Friday	Workshop	From	6:00 PM - 10:00 PM	(80-110)
Saturday	Evangelism	From	8:00 AM - 3:00 PM	(25-30)
Sunday	Workshop	From	9:00 AM - 11:00 AM 1:00 PM - 3:00 PM 5:00 PM - 7:00 PM	(80-120)

Project #
PL-2003-0373 AUP

RECEIVED

JUN 25 2003

PLANNING DIVISION

ATTACHMENT D

RECEIVED

JUL 21 2003

PLANNING DIVISION

MR ERICK J PEARSON
ASSOCIATE PLANNER
PLANNING DIVISION
777 "B" ST HAYWARD CA 94541

7-19-03

In response to your notice concerning the application for a church permit on Ruus Rd.

We oppose the operating of the CHRISTIAN VIGILANCE CHURCH under JUAN RAMON CORNEJO at 28767 RUUS Rd HAYWARD CA 94544, due to the excessive and loud noise they make from the early morning hours to the late hours of the night, practically every day of the week.

We are church goers and have acceptance and understanding of church practices, but this situation is something else, this is a loud disturbance to the peace and quietness that we should have in a neighborhood.

This practice should be enclosed within ~~acred~~ sound proof walls.

SINCERELY

PEDRO & MARIA COLUSSI
28798 RUUS Rd HAYWARD CA 94544

Pedro Colussi
Maria & Colussi

ATTACHMENT E

RECEIVED

JUL 21 2003

PLANNING DIVISION

Mr. Erick J Pearson
Associate Planner
Planning Division
777 B St., Hayward, Ca 94541

In response to your notice concerning the application for a church permit on Ruus Rd;

I would like to make you aware that the schedule they keep is not a normal church conduct that most of us are accustomed to. They start at 5:00 a.m. and continue until 10:00 to 11:00 p.m. seven days a week.

Two or three days a week, they have a group rehearse loud drum beating for two to three hours and on Sunday they begin a loud drum beating along with 50 to 75 people clapping and singing from 7:30 or 8:00 a.m. to late afternoon.

This group should apply for a play ground permit as they have children running around their lot screaming, often until 10:30 to 11:00 p.m.

The adults come out of the building about 10 p.m. or later and gather outside talking loudly and honking car horns as they leave.

I still can't understand how this group has been allowed to operate for such a long period of time without a permit nor any restrictions, which allows them to do what they want, when they want and don't have to answer to anyone. I have always thought you qualify for a permit and then open up for business.

Suggestions:

If they wish to beat on drums, sing and clap the building should be sound proof and doors and windows kept closed like other churches in the area do.

Rather than have people talking loudly past 10 p.m. and cars leaving and honking at each other, make it mandatory that the lot has to clear by 10 p.m.

Sat. March 22, 2003. Kids screaming and running around lot while adults gather outside building until 10:30 p.m.

Sat. March 29, 2003. Loud drumming from 2 p.m. to 8:30 p.m.

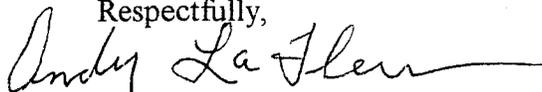
Mon March 31, 2003 Loud drumming and clapping until 10:25 p.m.

Mon April 7, 2003. Kids screaming and running on lot until 10:30 p.m.

Wed April 30, 2003. 10:30 p.m. people standing around outside building talking loudly, cars leaving lot honking. Last vehicle left 11 p.m.

The list goes on and on with a pattern. Adults standing around talking very loud and kids running around well past 10 p.m. almost every night.

Respectfully,



Andy LaFleur

July 20, 2003

Mr. Erick J. Pearson
Associate Planner
Planning Division
777 B. Street
Hayward, CA 94541

Dear Mr. Erick Pearson,

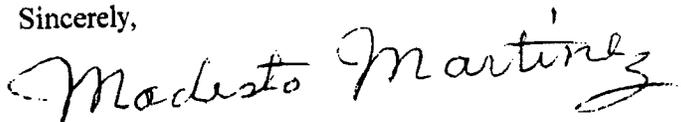
This letter is in response to your notice regarding the application by the Christian Vigilance Church for a church permit at 28767 Ruus Rd. Hayward, California. We are against this church permit being approved and issued for the following reasons.

Their services are excessively loud and held during hours when many of the neighborhood residents are trying to relax and/or sleep. Loud services are held Monday – Friday until approximately 10:00 – 11:00 pm, and on Saturdays and Sundays from as early as 7:30 am until 10:00 – 11:00 pm. While we are not opposed to religious services, this group is very loud, with amplified music and loud drums that consistently disturbs the peace in our neighborhood. This noise is particularly disturbing to those of us who live in homes in the surrounding area as the church group does not close its doors allowing their loud music and singing to be clearly heard throughout the surrounding neighborhood.

In addition to the loud services and music, the 30 minutes following the services are equally as disruptive. The adults are loud as they exit the building and enter their cars, often playing their car radios loudly and honking their horns as they exit the parking lot. They appear to have no regard for how loud and disruptive they are to the neighborhood residents. Often times there are children running around and playing loudly in the parking lot with no adult supervision until 10:00-11:00 pm when the services have finished.

We have lived in our home for over 20 years and have witnessed many uses by many groups of the building at 28767 Ruus Rd. in Hayward. The most common use has consistently been for religious services. However, this group appears to stand out as being exceptionally loud during early morning and late evening hours. We appreciate your attention to this important matter and hope that you will recognize our rights for peace and quiet in our homes within this neighborhood.

Sincerely,



Modesto Martinez

Date: July 18, 2003

Mr. Erik J. Pearson:

We are against a permit for the Christian Vigilance Church under Juan Ramon Cornejo at 28767 - Ruus Rd., Hayward, CA 94544.

Hayward Police have been called many times about this problem with their loud amplifiers and disrespect towards all of us. They have **Services Monday thru Friday 5 DAYS a week** from 7:00 p.m. to 10:00 p.m. or **LATER** and Saturday and Sunday for 8:00 a.m. until ? (7 days total). During their services they play very loud music which includes very loud and noisy drums and other loud instruments. They also disturb us by blowing car horns, playing car radios and visiting in the parking lot before leaving .until 10:30 p.m. or **LATER**.

We cannot enjoy any peace in quiet in our homes because of this. In addition one of our family members works graveyard and is trying to sleep at these hours and it is impossible with all of this loud disturbing noise.

We would appreciate it very much if we could have a meeting about this matter and also appreciate if you didn't allow them to have a permit to have these services in our residential area. We have lived in our home since 1967 and do not think that this is fair to us and our neighbors. There should be some other areas available where they could have their services without disturbing residents. Thank you for your understanding and help in regards to this great **continuous problem**.

Sincerley,

Tom and Helen Madrid
925 Collins Ct.
Hayward, CA 94544
Phone: (510) 784-9823

Erik Pearson

From: ruthagain@juno.com
Sent: Thursday, July 17, 2003 11:30 PM
To: Erik Pearson
Subject: Ref PL-2003-0373 AUP

Dear Mr. Pearson,

My husband and I have owned and lived in our home on Collins Court, around the corner from 28767 Ruus Road, for over 27 years. The property in question has been used as a church for as long as we can remember, and we see no need to change that. We are in favor of granting a permit for the Christian Vigilance Church to operate at that address. We hope, however, that the congregation will take steps to tend to landscaping of the property to enhance the appearance of the neighborhood.

Sincerely,

Ruth Gaines
973 Collins Court
Hayward, CA 94544-5705
(510) 785-6470

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