



Planning Commission Staff Report

November 12, 2014
Item 6.b.

- SUBJECT:** P14-0970 and P14-1173
- APPLICANT:** Chiung Wang (Young Ivy Academy)
- PROPERTY OWNER:** Douglas Salmon (Oak Hills Management)
- PURPOSE:** Applications at 5460 Sunol Boulevard, Suites 3 and 4 (Oak Hills Shopping Center) to: (1) modify an existing Conditional Use Permit to convert a previously approved tutoring facility with a maximum of 30 students into a Heritage School with a maximum of 30 students and an outdoor playground area; and (2) Design Review approval to remove eight existing parking spaces at the rear of the existing shopping center and construct a new 1,984 square-foot outdoor playground area enclosed with a new 6-foot tall wrought iron fence.
- LOCATION:** 5460 Sunol Boulevard, Suites 3 and 4
- GENERAL PLAN:** Retail/Highway/Service Commercial, Business and Professional Offices
- ZONING:** C-N (Neighborhood Commercial) District
- EXHIBITS:**
- A. [Draft Conditions of Approval](#)
 - B. [Narrative/Project Plans dated "Received September 17, 2014"](#)
 - C. [Letter from Property Owner Regarding Parking Replacement Responsibility dated "Received August 14, 2014"](#)
 - D. [Email from Resident dated October 11, 2014](#)
 - E. [Location and Notification Map](#)

BACKGROUND

Chiung Wang for Young Ivy Academy is requesting to modify an existing Conditional Use Permit (CUP) to convert a previously approved tutoring facility with a maximum of 30 students into a Heritage School with a maximum of 30 students and to construct a new outdoor playground area within the Oak Hills Shopping Center at 5460 Sunol Boulevard, Suites 3 and 4. The subject site is zoned C-N District. Although the Pleasanton Municipal Code does not specifically define Heritage Schools, such schools share common attributes with private

schools, private nursery schools, tutorial schools, and colleges. More specifically, Heritage Schools typically offer education or academic tutoring, or both, in a foreign language, as well as education in the culture, traditions, or history of a country other than the United States. The above mentioned uses are conditionally permitted within the C-N District with the approval of a CUP. The applicant is also requesting to modify the existing CUP to allow for the construction of a new outdoor playground area. Accordingly, the CUP modifications for this application are before the Planning Commission for review and action.

SITE AND AREA DESCRIPTION

The Oak Hills Shopping Center is located on a 9.09-acre parcel on the east side of Sunol Boulevard between Mission Drive and Junipero Street (Figure 1). Properties adjacent to the shopping center include: the Pleasanton Senior Center, across Sunol Boulevard to the west; commercial offices and multi-family residential uses across Mission Drive to the north/northeast; multi- and single-family residences to the east; and offices and single-family residences across Junipero Street to the south.

The shopping center contains six commercial buildings totaling 119,964 square feet in area. The existing businesses in the shopping center include: Raley's Supermarket, a variety of personal service and office uses, a dance studio (Tiffany's Dance Academy), a trophy shop (Crown Trophy), a martial arts studio, quick serve eateries, and a bank, among others. The subject building is a one-story, multi-tenant building; Suites 3 and 4 comprise approximately 2,500 square feet. The adjacent uses are a dental office and a nail salon.

There are a total of 670 on-site parking spaces located throughout the shopping center both in front and behind the commercial buildings. The shopping center driveways are located on Sunol Boulevard (one), Mission Drive (two) and Junipero Street (two).

Figure 1: Aerial Site View (Overview)



PROPOSED PROJECT

The applicant is proposing to continue occupying and operating in Suites 3 and 4 and to construct a new outdoor playground area. The floor plan was previously approved to consist of six classrooms, a library, a computer lab, a storage room, a file room, and a teacher's lounge. No interior modifications are proposed as part of this application. This location has direct access to both the front and rear parking lots within the shopping center; however, the facility picks up and transports the students, via a staff driven van stored within the parking lot at the subject site, from their respective schools to the facility each day. Thus, the existing parking lots are only utilized by facility staff and then by parents in the evening for a few minutes at a time to pick-up their children from the facility. This practice will remain unchanged as part of this application. The previously approved CUP also allows up to five staff on-site at any given time, a maximum of 30 students on-site at any given time for tutoring (fourth through sixth grade), and hours of operation as follows: Monday through Friday from 3:00 p.m. to 6:00 p.m. during the school year and 8:30 a.m. through 6:00 p.m. during the Summer.

The proposed modification to the CUP includes requests for up to eight staff on-site at any given time, a Heritage School for up to 30 students on-site at any given time that provides supplementary academic programming for students in kindergarten through sixth grade and individual tutoring for students in seventh through tenth grade as requested, and hours of operation as follows: Monday through Friday from 11:30 a.m. to 6:00 p.m. during the school year and 8:30 a.m. through 6:00 p.m. during the Summer.

The Heritage School curriculum will focus on academic and cultural supplementation to regular day school programs with an emphasis on Chinese and Spanish language training, math, and English language arts, and will provide opportunities for both exercise and recreation within the proposed outdoor playground area. Additional details related to the State mandated requirements for operating a Heritage School are available on page one of the applicant's narrative (Exhibit B).

The proposed modification to the CUP also includes a new outdoor playground area that will replace eight existing parking spaces at the rear of the shopping center as shown on the plans in Exhibit B. The playground area is approximately 1,984 square feet (31 feet by 64 feet) in area. The playground area will include a 10-foot tall prefabricated play structure surrounded by a rubber synthetic play surface, turf area, a new bench and landscaping as shown on the plans in Exhibit B. The playground is designed to be fully accessible, and will be enclosed and secured with a six-foot tall wrought iron fence and two locking gates. The playground area will be utilized from 2:00 p.m. to 6:00 p.m. for students in kindergarten through sixth grade. Students will be supervised both in walking to and from the playground area and when they are within the fenced area. No more than 16 students will occupy the playground area at any given time.

Please see the attached narrative and project plans (Exhibit B) for additional information on the proposed use.

ANALYSIS

Conditional uses are those uses which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for CUP's.

General Plan

The General Plan designation for the subject site is Retail/Highway/Service Commercial, Business and Professional Offices, which allows the development of a wide range of commercial and office uses, including neighborhood shopping centers. The subject site contains Oak Hills Shopping Center which is classified as a neighborhood shopping center with an anchor tenant grocery store and several ancillary retail and service commercial uses, consistent with the current General Plan designation. The proposed Heritage School shares common attributes with private schools, private nursery schools, tutorial schools, and colleges commonly found in neighborhood commercial centers, and therefore, would be consistent with the current General Plan designation.

Zoning and Uses

The subject property is zoned C-N District. An educational use like a Heritage School shares common attributes with private schools, private nursery schools, tutorial schools, and colleges. Those uses are conditionally permitted within the C-N District with the approval of a CUP. The applicant has applied for a CUP as required for a school in the C-N District. Therefore, if the CUP were granted, the Heritage School would be consistent with the applicable land use regulations.

One of the primary concerns in reviewing a CUP application is the effect of a proposed use on surrounding uses. As stated earlier, the surrounding uses include the Pleasanton Senior Center, across Sunol Boulevard to the west; commercial offices and multi-family residential uses across Mission Drive to the north/northeast; multi- and single-family residences to the east; and offices and single-family residences across Junipero Street to the south. For the most part, a Heritage School would operate similarly to the previous approved use for the subject site and does not include an increase in the number of students at any given time or a change in parking demand. The existing tutoring facility has been operating since 2006 without any apparent adverse impacts on the surrounding area as no complaints have been reported to the City. Therefore, staff does not expect that the proposed Heritage School would create any adverse impacts on the surrounding uses. However, the proposed outdoor playground area could be incompatible with the surrounding uses because it would introduce a new project component intended for use by young children within an area designed specifically for parking, vehicular movements, and delivery vehicles associated with the shopping center. Consequently, staff is recommending denial of this portion of the proposal.

Should future problems arise with the Heritage School, the City would have the ability to bring the application back to the Planning Commission for mitigation, or possible permit revocation, if necessary. Based on past experience with similar uses, staff feels that such an action would be unlikely. In addition, staff has included conditions of approval that will ensure the Heritage

School would not generate noise, traffic, or parking shortages such that surrounding uses would be adversely affected. Therefore, from a land use perspective, staff finds the Heritage School to be acceptable on the subject property, as conditioned.

Noise

With the exception of the proposed outdoor playground area, the proposed use would be operated entirely indoors with the doors closed. Additionally, the previous CUP approval required the applicant to install sound attenuation in the common walls between adjoining tenants within the shopping center. To reiterate, the existing tutoring facility has been operating in the subject location since 2006 without any apparent adverse impacts on the surrounding area as no complaints have been reported to the City.

The outdoor playground area will be fully supervised by facility staff, in use only between the hours of 2:00 p.m. and 6:00 p.m., and the number of students will be limited to 16 at any given time. However, this would be a new ancillary use to the primary use, and is proposed outside of the building close to existing residential uses, with only the existing shopping center soundwall along the eastern property line to provide any type of sound attenuation for those residences to the east. No sound attenuation would be provided for the residences to south on the opposite side of Junipero Street. The introduction of the outdoor playground area, with up to 16 children at any given time, and no significant sound attenuation, could result in increased ambient noise levels during the hours of 2:00 p.m. and 6:00 p.m. Consequently, staff is recommending denial of this portion of the proposal.

With the elimination of the proposed outdoor playground area, noise levels related to the Heritage School would be minimal and staff believes that it is unlikely that the noise generated during facility use would impact the nearby residences or surrounding shopping center tenants. Recommended conditions of approval require that the exterior doors remain closed when not being used for ingress/egress purposes and that the applicant inform all students/parents not to loiter or make loud noises outside the building before or after instruction. Staff has also included a standard condition of approval on the project that allows the City to review the project again to add mitigating conditions should any future complaints regarding noise levels occur. Such conditions could include modifying the hours of operation or reducing the number of students.

Parking

Pleasanton Municipal Code (PMC) Section 18.88.030 (E) "Schedule of Off-street Parking Space Requirements for Educational Facilities" requires one parking space for each employee (including all types of staff) and one parking space for each four students in grade 10 or above. The PMC also requires one parking space for each 180 square feet of building area for retail uses in the C-N District and one parking space for each 300 square feet of building area for office/bank uses. Below is a summary of the required parking for the site based on the existing and proposed uses:

| Use Type | Building Area | Required Parking Rate | Total Spaces Required |
|-----------------|------------------------|--|------------------------------|
| Retail | 113,164 sq. ft. | 1 space per 180 sq. ft. | 629 spaces |
| Office/Bank | 4,300 sq. ft. | 1 space per 300 sq. ft. | 14 spaces |
| Educational | 2,500 sq. ft. | 1 space per employee + 1 space per 4 students in grade 10 or above | 8 spaces |
| Total: | 119,964 sq. ft. | N/A | 651 spaces |

There is a total of 670 parking spaces available for use on this site. Based on the table above, a total of 651 parking spaces are required for both the existing and proposed uses. If the proposed outdoor playground area is approved, with the required removal of eight existing parking spaces necessary for this element, the total on-site parking supply will be reduced to 662 parking spaces, a surplus of 11 parking spaces over the minimum required.

Staff has observed ample parking spaces available at the shopping center throughout the day. All students, with the exception of those in grade 10 or above (i.e., driving age) that may utilize the facility for tutoring on an as-needed basis, are picked up by facility staff and transported to the subject site. This transportation system would continue with implementation of the project. Moreover, parents and/or guardians will only be traveling to the site in the afternoon and early evening hours (25-30 cars over a 6.5 hour period during the typical academic year) to briefly pick-up students, further reducing impacts of the project on traffic patterns.

Therefore, from both a practical and technical standpoint, adequate parking exists on-site to accommodate all existing and proposed uses. Additionally, staff has included a condition of approval that requires the shopping center property owner to remove the proposed outdoor playground area, if approved, and replace the eight parking spaces as originally approved should the Heritage School vacate the subject site and the tenant space be replaced with a use that doesn't utilize the outdoor playground area and does not require additional parking capacity.

Design Review

As previously described, a proposed outdoor playground area will replace eight existing parking spaces at the rear of the shopping center as shown on the plans in Exhibit B. The playground area is approximately 1,984 square feet (31 feet by 64 feet) in area. The playground area will include a 10-foot tall prefabricated play structure surrounded by a rubber synthetic play surface, turf area, a new bench and landscaping as shown on the plans in Exhibit B. The playground is designed to be fully accessible, and will be enclosed and secured with a six-foot tall wrought iron fence and two locking gates.

Staff has concerns related to the location and design of the proposed outdoor playground area. This element is to be located at the rear of the shopping center within an existing parking area. The location of the playground area would be adjacent to an existing shopping center access driveway and drive aisle, used by patrons of the shopping center and for truck deliveries to existing shopping center tenants, primarily Raley's supermarket. While the proposed outdoor playground area will be enclosed by a 6-foot tall wrought iron fence, there is no landscaping buffer or any other significant physical separation element provided. Therefore, the proposed

playground would be incongruous with the design and layout of the surrounding shopping center. Consequently, staff is recommending denial of this portion of the proposal.

Should the Commission find the use and location of the outdoor playground area acceptable, staff recommends the following design modifications be incorporated as conditions of approval:

- Due to drought concerns, staff recommends that the natural grass area be replaced with synthetic turf utilizing a material that closely resembles natural grass, subject to staff review and approval.
- The planter area for the vines along the entire wrought iron fence perimeter shall be 18-inches wide and covered with mulch material to allow for proper treatment of runoff water from the playground area and adequate planting area for the plant materials.
- An irrigation plan shall be submitted for staff review and approval.

FINDINGS

The Commission needs to make the following findings prior to the granting of a use permit:

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

Some of the key objectives of the zoning ordinance are to: foster a harmonious, convenient, workable relationship among land uses, protect existing land uses from inharmonious influences and harmful intrusions, and to ensure 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 because it would operate within an existing location already approved for tutoring in an existing shopping center. The number of students, hours of operation, and minor increase in staffing will not generate substantial noise or increased parking demand. However, the proposed outdoor playground area would be incompatible and inappropriate for the area in the context of the layout of the shopping center. In particular, the proposed outdoor playground area would introduce a new project component intended for use by young children within an area designed specifically for parking, vehicular movements, and delivery vehicles associated with the shopping center.

The C-N District provides appropriately located areas for retail stores, offices, and personal service establishments patronized primarily by residents of the immediate area, and permits development of neighborhood shopping centers of the size and in the appropriate locations shown on the general plan, according to standards that minimize adverse impact on adjoining residential uses. The establishment of the proposed Heritage School is consistent with that purpose in that it provides a personal service establishment in the form of an educational facility for students within the immediate vicinity and the City as a whole.

Staff believes the granting of a modification to the existing Conditional Use Permit to convert the previously approved tutoring facility into a Heritage School and the denial of the proposed outdoor playground area are consistent with the objectives of the C-N District. In summary, staff believes this finding can be made for the Heritage School, but not for the outdoor play area.

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.

Heritage Schools are a common use in Pleasanton and have generally been good neighbors to surrounding occupants. Sufficient parking, adequate separation from the residential neighborhoods, maintenance of noise levels, and safety and security within the premises have been provided or conditioned. The existing shopping center is an appropriate place for a Heritage School and this component of the project would not be detrimental to public health, safety, or welfare, or injurious to the existing shopping center or surrounding residences. However, the outdoor playground area is incompatible with the design of the shopping center and could be detrimental to public health, safety, or welfare, or injurious to the existing shopping center or surrounding residences. Conditions have been included that would require the applicant to mitigate any future nuisances as a result of the proposed Heritage School. Therefore, staff feels this finding can be made provided the proposed outdoor playground area is eliminated.

C. That the proposed conditional use will comply with each of the applicable provisions of the zoning ordinance.

Staff finds that, as conditioned, the proposed use will comply with all provisions and requirements of the City's Zoning Ordinance. As with any CUP, this CUP may be revoked 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

Notices of this application were sent to surrounding property owners and tenants within a 1,000-foot radius of the site. Staff has provided the location and noticing maps as Exhibit E for reference. At the time this report was published, staff had received public comments from one individual regarding this application. Exhibit D is an email from Hengameh Broumand that expresses concerns related to the project including increased traffic congestion, loss of parking, loss of the passageway between the front and rear of the shopping center, noise from the proposed outdoor playground area, and student security. This report details staff's analysis of those issues. Moreover, staff responded to each issue raised via email and sent a copy of the staff report to the individual.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt (Section 15301, Existing Facilities, Class 1; Section 15303, New Construction or Conversion of Small Structures, Class 3; and Section 15304, Minor Alterations to Land, Class 4) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

CONCLUSION

Staff believes that the required CUP findings for the Heritage School can be met if the project is approved as conditioned and the proposed outdoor playground area is eliminated. 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 Case P14-0970, the modification of the CUP for the Heritage School, but deny the CUP modification for the proposed outdoor playground area, and deny P14-1173, the Design Review application for the proposed outdoor playground area, by taking the following actions:

- 1) Make the required CUP findings for the modification of the CUP for the Heritage School as listed in the staff report;
- 2) Determine that the CUP findings for the outdoor playground area cannot be made as described in the staff report;
- 3) Approve Case P14-0970 for the modification of the CUP for the Heritage School subject to the conditions listed in Exhibit A and deny the CUP modification for the proposed outdoor playground area; and
- 4) Deny Case P14-1173, for the Design Review application for the proposed outdoor playground area.

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