

City of Albany
Planning and Zoning Commission
Staff Report

Agenda Item: #6a

Meeting Date: October 25, 2005

Subject: **Planning Applications 05-067 - Conditional Use Permit for Albany Berkeley Chinese School.** Applicant proposes to continue to operate a private school within existing structures at a site previously occupied by a public school.

Location: 720 Jackson Street

Applicants: Anthony Wang, Albany Berkeley Chinese School

Zoning: PF, Public Facility

Surrounding Property Use

North - Residential	East - Residential
South - Residential	West - Residential

Attachments:

1. 720 Jackson Site Plan
2. Traffic fliers used by AUSD
3. AB Chinese School Maintenance Agreement from 2002
4. Staff Report from October 11, 2005 P&Z Commission meeting

Recommendation

Staff recommends that the Planning and Zoning Commission review the proposed conditions of approval, and give direction to any revisions or new language that should be added. Based on adequate conditions of approval, staff would recommend that the Planning and Zoning Commission can make the required findings to approve the Conditional Use Permit request for the Albany Berkeley Chinese School.

Background

The Commission originally heard this application at its October 11, 2005 meeting. At that time, the Commission heard public testimony regarding the new portable building, the relocation of the trash dumpster, lack of upkeep of the site, and drop-off/pick-up issues in the morning and at night. The Commission asked that concerns regarding safety, parking, aesthetics, and environmental issues (trash pick-up, maintenance, etc) be more clearly addressed.

Project Proposals

The only change that Albany Berkeley Chinese School is proposing is that the start time be moved from 8:00 am to 7:30 am.

Conditional Use Permit Analysis

As discussed at the previous meeting, there were a number of outstanding issues that needed to be resolved prior to approving an extension of the sunset date for the Conditional Use Permit. These issues are looked at in more detail below:

Outstanding Issues

#1 *Parking and Traffic (Drop-off/Pick-Up)*

As approved for the Bright Star Montessori School, the AB Chinese School will be required to work with the Traffic & Safety Commission to enter into a Joint Traffic Management Plan. The timeline for approvals from the T&S Commission is 4 months from the effective date of CUP approval. Staff has also attached a copy of the flier (written in Chinese and English) that all public schools are currently required to give to parents driving their children to school. These fliers should be handed out to parents of the AB Chinese School regardless of any actions with the T&S Commission.

#2 *Maintenance of site*

Staff has included a site plan that shows the basic location of the areas that each school is currently responsible for. AB Chinese School is responsible for all of the open areas to the south of the main entrance (including the driveway off of Cerrito Street), while Bright Star Montessori is responsible for the open areas to the north (which is basically their playground area). The common areas on the site include the sidewalks on Jackson and Cerrito, the main entry stairs and landing on Jackson, and the sloped vegetated areas.

Each of the schools uses different methods to perform maintenance duties, with BSMS using their own staff to complete the work and ABCS using contract labor. In addition, all complaints regarding site maintenance have been towards ABCS. Therefore, staff does not believe that a joint maintenance contract would be appropriate for the two schools. Staff reviewed the Maintenance Agreement submitted by ABCS in 2002, and finds that the tasks listed are relatively appropriate. Staff is proposing that the Maintenance Agreement be altered to include the following provisions:

- Sweeping and trash pick-up on all sidewalks, including Cerrito Street
- Specific times that work will be completed, with a minimum of twice weekly (i.e. Tuesday and Friday), and more often as needed
- Requirement to submit the following items to the Community Development Department by the first of each month
 - work reports listing dates work completed
 - all tasks performed on those specific days
 - invoices of payment by ABCS to contractor

After an initial time period of 6 months, if the Community Development Department finds ABCS is fulfilling the reporting requirements, the reporting period timeline can be altered to at most 3 month periods.

#3 *Use of portable building for school purposes*

After the previous Commission meeting, planning staff had further discussions with the Albany Unified School District (AUSD). From those discussions, it was determined that the portable building was moved to the site for storage purposes by AUSD, and not at the request of ABCS. Only after the building was placed there did ABCS ask permission to use the building, which AUSD granted (not knowing that this would require an amendment to the conditional use permit).

The Planning and Zoning Commission should determine whether or not ABCS can continue to use the portable building as classroom space. If the building cannot be used, staff will contact the appropriate agencies to determine if the fencing that was moved must stay in its present location or could be relocated to its original configuration. (The question was posed to Community Care Licensing, but no response had been given as of the writing of this report. An update will be given at the October 25th meeting.)

#4 *Waste Management truck access to the site*

As the dumpster is currently positioned, Waste Management vehicles are able to properly access the site and dumpster, but are not able to turn around and exit the site, instead having to back out of the property. If the portable building is no longer allowed to be used, it would be possible to move the fence to a different location. Staff would then recommend a condition of approval requiring that the Albany Berkeley Chinese School submit a site plan of the new fence location, including potential dumpster relocation that would allow proper forward ingress and egress of Waste Management vehicles.

#5 *Change in opening time from 8:00am to 7:30am*

As discussed at the previous meeting, the Commission was in general consensus that a change in the opening hours would not be appropriate at this time.

Sunset Date

As discussed in the staff report for the Bright Star Montessori School, staff is recommending that no sunset date be required for that use. However, based on issues discussed above, staff is of the opinion that granting the same allowance to the AB Chinese School might not be appropriate. Also, in discussions with AUSD, they recommended a sunset date of June 30, 2006, because they believe they will know what their plans for the site are by that time. Therefore staff has included that date as the new CUP sunset date. If at that time AUSD has decided not to make any changes at the site, and ABCS has met all provisions as listed in the conditions of approval, staff would then recommend that no sunset date be required in the future.

Environmental Review

As discussed in the previous staff report, staff found that the previous application was subject to the California Environmental Quality Act (CEQA).

The applicants proposed an intensity of usage that was generally less than or equal to the intensity of usage by Vista School, except for the private schools' longer hours of operation.

Staff found that the proposed use constituted an expansion over the prior use, making impossible an exemption from CEQA Review. As such, staff conducted an Initial Study, after which it recommended the adoption of a Negative Declaration. The Commission adopted the Negative Declaration on January 11, 2000.

The applicants have indicated that they do not intend to increase their usage of the site this year, therefore Negative Declaration remains valid. As such, staff finds that the current application for the schools is exempt from the California Environmental Quality Act per Section 15301 of the CEQA Guidelines in that the project involves negligible or no expansion of an existing approved use.

Staff has included conditions of approval that ensure that the enrollment for both schools remains below the student population of Vista School in 1998.

FINDINGS

The following findings have been drafted to assist the Planning and Zoning Commission in making a determination to approve or disapprove this application. The findings are for information only and should be revised accordingly based on information presented at the public hearing

Conditional Use Permit approval

1. *The size, location and intensity of the project are desirable and compatible with the neighborhood and community. The location has been used as a school for young children for the last 50 years and is thus established in the neighborhood; the number of students and staff members will not significantly exceed levels maintained by the previous user of the site; and the use will allow the Albany Unified School District to utilize and lease an unneeded property*
2. *The project will not be detrimental to the health, safety, convenience or general welfare of people residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:*
 - a. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures; in that the site is already configured for use as a school and the applicants plan to use the existing structures without modifications;*
 - b. *The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading; in that parking demand for the site is expected to be similar or less than the demand for the previous use at the site; and that the schools have made an effort to inform students of the regulations regarding the drop-off and pick-up zones in front of the school.*
 - c. *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor; in that the Commission finds that the proposed use will not foreseeably produce any unreasonable glare, dust, or odor; noise produced at the site will be generated*

primarily during recess hours, which will occur after 8:00 a.m. and not extend beyond 5:00 p.m. on weekdays;

- d. *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; in that the site is fully landscaped and is already well screened from residential development in the vicinity and in that a condition of approval requires the school to have professional maintenance and upkeep services for the outside areas of the site.*
3. *That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan in that with the Conditions of Approval below, the uses will meet all applicable sections of the Zoning Ordinance; allowing the uses will assist and support the Albany Unified School District by enabling it to gain economic use from an unneeded site.*

Conditions of Approval for Albany Berkeley Chinese School:

A. GENERAL

- A-1 This Conditional Use Permit approval is for the operation of the Albany Berkeley Chinese School, retroactively from July 1, 2005 to June 30, 2006 at 720 Jackson Street, as substantially described in the project application and as conditioned herein. If at any time the Albany Unified School District (property owner) were to terminate their lease with the subject applicant, this Conditional Use Permit would also be terminated. Specific performance standards for the school are as listed below.
- A-2 The applicant shall pay any and all City and other related fees applicable to the property. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid prior to issuance of said permit or prior to any City Council final action approval. Notice shall be taken specifically of Plan Check and Inspection Fees

B. SITE PLANNING

- B-1. All exterior lighting shall be installed in such a manner that glare is directed away from surrounding properties and rights-of-way.

C. LANDSCAPING

- C-1. All existing trees on the site shall be preserved to the fullest extent practicable. Removal will be allowed only upon prior written approval from the Planning Division.

D. ARCHITECTURE

No conditions.

E. PARKING

- E-1. The Albany Berkeley Chinese School, in coordination with the Bright Star Montessori School, shall enter into a Joint Traffic Management Plan, to be approved by the Traffic and Safety Commission. The plan may include the creation of a pick-up/drop-off zone on Jackson Street. Albany Berkeley Chinese School shall be responsible for 2/3 of the total costs for any installation costs resulting from the implementation of a Traffic Management Plan.

F. GRADING
No conditions.

G. STREETS
No conditions.

H. INFRASTRUCTURE
No conditions.

I. MISCELLANEOUS

- I-1. The project shall operate as approved. Planning staff may approve minor modifications in the operational aspects of the use, but not the use itself. Any other change shall require further Planning and Zoning Commission approval through the Conditional Use Permit process.
- I-2. Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provide for in Section 66499.37. The City will promptly notify the applicant of any such claim action or proceeding and cooperate fully in the defense.

J. SPECIAL CONDITIONS

- J-1. The total student enrollment shall not exceed 60.
- J-2. No new exterior construction or additions are needed or proposed. Exterior changes for private school purposes will require Design Review approval from the Planning and Zoning Commission.
- J-3. Each parent who enrolls in the school must sign a letter agreement that states that they are aware of and agree to comply with the following conditions of approval of the City of Albany:

- a. Days of operation are Monday through Friday; daily hours of school operation shall not begin before 7:30 a.m., with children to arrive no earlier than 8:00 a.m., and shall be concluded no later than 6:30 p.m. Regular school sessions may not be held on Saturday and Sunday; occasional weekend events may be permitted per the terms of Conditions of Approval J-5 below.
- b. Outdoor recess periods for general unlimited play shall be prohibited before 8:00 a.m. and after 4:00 p.m. daily. Outdoor recess times shall strictly adhere to the "720 Jackson Street Proposed School Schedules" as attached, for the regular and summer camp/school holiday schedule (Attachment C). The school is encouraged to be prudent and sensitive to their surroundings in scheduling and supervising their recess periods. Quiet, outdoor study activity is allowable and permitted at all times.
- c. During drop-off and pick-up times, an adult shall accompany children into and out of the school and sign-in and out with a staff member (according to the procedures outlined in the handout approved as part of this Conditional Use Permit).
- d. All traffic laws and parking regulations shall be obeyed, including no illegal u-turns.

Further, that parents are aware that the School's failure to comply with the above conditions of approval could result in the revocation of the Conditional Use Permit and closure of the School.

- J-4. The school is permitted a total of 2 (two) weekend events per school year. For the purposes of this report, a "weekend event" is defined as a Saturday or Sunday during the school years of July 1, 2003 through June 30, 2005, during which either students and/or parents attend the school site. The hours of these weekend events may not begin before 9:00 a.m. and may extend no later than 6:00 p.m.

At least 4 (four) weeks prior to any such event, the school is required to send written notice of the weekend event to property owners within 300 feet of the site as well as to planning staff. The schools may obtain the list of property owners from planning staff.

- J-5. Clean-Up Saturdays are allowed twice per year and shall not be counted as Saturday events. All parking shall be on site for the Clean-Up days.
- J-6. When children are present in the playground, an adult monitor shall be present at all times to monitor children and help keep the noise levels down. The number of monitors shall be consistent with State licensing requirements (1 adult for a maximum of 14 children).
- J-7. Prior to November 15, 2005, the applicant shall demonstrate in writing (by contract with school staff or other outside labor) that no less than twice weekly upkeep of the school site, including (but not limited to) trash removal, landscaping, maintenance and stair and sidewalk sweeping (including Jackson and Cerrito Streets), is completed. The

contractual document shall list days and times that work will be completed, and shall include a statement that additional maintenance may be required on an as needed basis, in addition to the specified days.

The contractual document shall also include a statement requiring that the following items be submitted to the Community Development Department by the first of each month:

- work reports listing dates work completed
- all tasks performed on those specific days
- invoices of payment by ABCS to contractor

After an initial time period of 6 months, if the Community Development Department finds ABCS is fulfilling the reporting requirements, the reporting period timeline can be altered to at most 3 month periods.

All maintenance activities are subject to review, acceptance and potential comment regarding additional services by Planning Staff during the duration of the use permit. Failure to comply with these requirements could result in the revocation of the conditional use permit.

Appeals: The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council if such appeal is filed within 14 days of the date of action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.