

City of Albany
Planning and Zoning Commission
Notice of Action

- Applicants:** Anthony Wang, Albany Berkeley Chinese School
- Project Address:** 720 Jackson Street (Vista School Site)
- Application:** Amendment to Notice of Action for Planning Application 05-067. Amend the Notice of Action, approved on October 25, 2005, to include a condition of approval related to Fire Department requirements.:
- Date of Action:** November 22, 2005
- Appeal Deadline:** December 6, 2005
- Commission Action:** The Commissioners voted 3-1 to amend the October 25, 2005 Notice of Action for Planning Application 05-067, to include a new condition of approval (J-9) relating to Fire Department concerns.

FINDINGS

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 a condition of approval of this project is that the Albany Berkeley Chinese School enter into a Joint Traffic Management Plan with Bright Star Montessori School to improve the drop-off and pick-up processes at the school site;*
 - 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; and,*

- 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.

As a stipulation of the maintenance contract, ABCS shall work with Waste Management of Alameda County and City of Albany Planning Staff regarding the pick-up/removal of refuse containers from the 720 Jackson Street site. The pick-up/removal of refuse containers shall ensure that no Waste Management vehicles will be required to reverse/back-out in order to enter or exit the site. The dates and method of trash collection shall be included as a maintenance task in the final maintenance contract.

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.

- J-8. The Planning and Zoning Commission advises the ABCS, in conjunction with the Bright Star Montessori School, to create a Joint Oversight Board. This board, which would be comprised of parents from both schools, would be tasked to oversee the compliance with the measures of this conditional use permit, including, but not limited to, maintenance, traffic/parking and state licensing regulations. A copy of any documents created by such board (pamphlets, meeting minutes, etc) should be submitted to the Community Development Department.
- J-9. By February 2, 2006, the applicant must comply with the following to the satisfaction of the Fire Department:
1. Access gate from Cerrito St. This access gate would be best if it was placed at the bottom of the driveway. A swinging gate would give access to the fire department vehicles and would prevent children from walking out on the street and to the private resident next to your school. The gate entrance must be at least 20 feet wide. The current gate must be removed, as it does not meet current fire code.
 2. Remove all temporary fencing. Temporary fencing shortens fire apparatus turnarounds.
 3. Move all garbage collection away from fire access.
 4. Adjust play structure, as discussed, to improve fire access and turnaround.

5. Build a permanent fence around play structure that is not to be used by children. This fence must be built inside the play area to maximize fire access.
6. All low-level plate glass windows, must be protected from possible broken glass.
7. Fire access must be labeled on the pavement in red "Fire Access".
8. Submit all plans through the City of Albany Building Department. Failure to comply with the stated requirements and date will result in a \$100 per day fine.
9. If the applicant fails to complete the actions stated above, the approval of the CUP shall be null and void and the right to operate the Albany Berkeley Chinese School shall cease.

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.