

## Planning Commission Staff Report

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March 25, 2015  
Item 5.a.

**SUBJECT:** P15-0014

**APPLICANT:** Academic Center of Volitation (ACV)

**PROPERTY OWNER:** Larry Enos

**PURPOSE:** Application for a Conditional Use Permit (CUP) to establish a Heritage School

**LOCATION:** 6665 Owens Drive

**GENERAL PLAN:** Business Park (Industrial/Commercial and Office)

**ZONING:** PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District

**EXHIBITS:**

- A. [Draft Conditions of Approval](#)
- B. [Narrative/Project Plans dated "Received March 3, 2015"](#)
- C. [Location and Notification Map](#)

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### BACKGROUND

Andra Cheung, a realtor, is representing the ACV and is requesting approval of a CUP to establish a Heritage School with a maximum of 70 students at any one time at 6665 Owens Drive. The school would provide instruction in learning, development, and skills for students in kindergarten through eighth grades, with a focus on the development and comprehension of language (English and Chinese), including verbal, reading, writing, and mathematics. ACV is currently operating as a Heritage School at 5200 Franklin Drive and is relocating to the proposed location. The subject site is zoned PUD-I/C-O District. Heritage Schools, considered similar to tutoring facilities and private schools, are conditionally permitted within the PUD-I/C-O District with the approval of a CUP. Accordingly, the CUP for this application is before the Planning Commission for review and action.

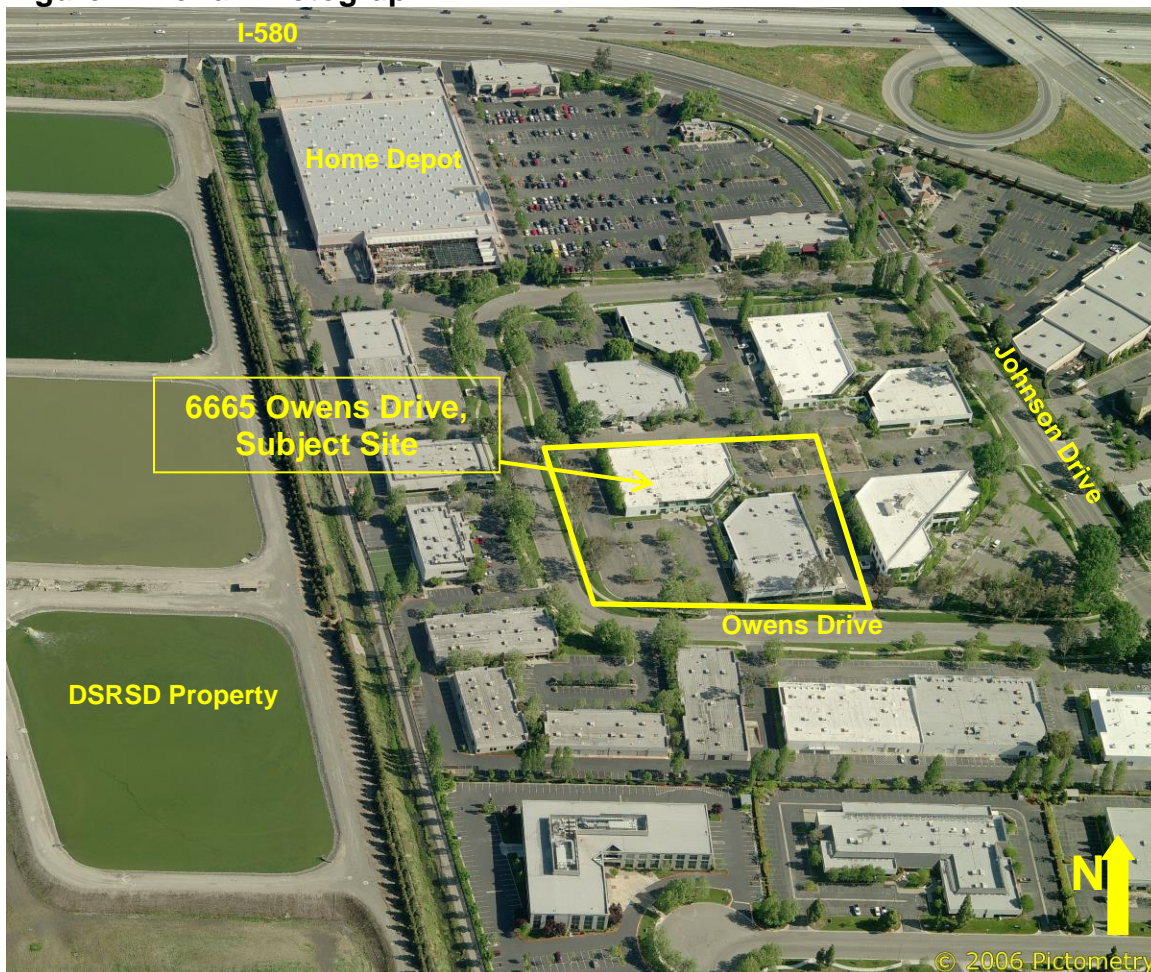
## SITE AND AREA DESCRIPTION

The subject site is a flat and fully developed 3.59-acre parcel located on the northeast corner of the inner Owens Drive loop, west of Johnson Drive (Figure 1). There are two existing, single-story buildings on the subject site. The southernmost building is approximately 25,500 square feet in size and is fully occupied by an AT&T data center (two full-time employees on-site at any given time). The other building is approximately 22,904 square feet in size, of which 13,300 square feet is occupied by a photography software development company (20 full-time employees on-site at any given time) and the remaining 9,604 square feet is vacant and would be occupied by the proposed use.

The project site has a total of 160 shared parking spaces in front and behind the two existing buildings. Access to and from the subject site and parking areas is provided by three driveways on Owens Drive.

The subject site is surrounded primarily by office and commercial uses to the north, south, east and west.

**Figure 1: Aerial Photograph**



## PROPOSED PROJECT

Section 33195.4 of the California Education Code (CEC) defines a “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.

The CEC also states that a Heritage School shall not be subject to licensure by the State Department of Social Services as a child day care center and requires criminal background checks for persons associated with the school or who have contact with the students.

ACV proposes to relocate its Heritage School with a maximum of 70 students and eight staff present on-site at any one time into an approximately 9,604 square-foot suite at 6665 Owens Drive. The purpose of the school, which operates primarily during the normal school year, is to provide an after school center for learning, development, and skills for students in kindergarten through eighth grade, with a focus on the development and comprehension of language (English and Chinese), including verbal, reading, writing, and mathematics.

The current floor plan configuration, which will remain unchanged, consists of eight classrooms (A through H), a library, an activity area, a storage room, three offices, a reception area, a break room, and restrooms for exclusive use by ACV. The subject suite has direct access to the parking areas; however, ACV picks up and transports the students, via seven standard-sized staff driven vans stored within the parking lot (four vans stored on-site daily) at the subject site, from their respective schools to ACV each day. Thus, the existing parking lots are only utilized by ACV staff and then by parents in the evening to pick-up their children. It is noteworthy, that when regular school is not in session, during such times as Spring or Summer break, ACV will still offer their normal class schedule; however, it is anticipated that attendance will be significantly reduced as most students are vacationing, are enrolled in other activities, or simply take time-off from the program. During these times, no pick-ups will occur, and students will be dropped off and picked up by their parents/guardians.

The hours of operation are as follows: Monday through Friday from 9:00 a.m. to 7:00 p.m. for administrative activities and Monday through Friday from 1:40 p.m. to 6:40 p.m. for teaching, tutoring, and pick-up activities.

Each instructional period would last approximately 45 minutes. On average, six instructional periods will be conducted on any given day with as many as six different class subjects being taught concurrently within each instructional period (15 minute break between each instructional period). Each class will have a maximum attendance of eight students with one instructor per classroom. Student ages would range between kindergarten through eighth grade aged children. In addition to the maximum of 48 students and six staff members engaged during each instructional period, up to 22 additional students may be utilizing the facilities' activity area or library for studying or doing homework. Two additional staff members will also be on site. Collectively, up to 78 persons may be on-site at any given time, although total enrollment would be 130 students.

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.

### Land Use

The subject site is located in the PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District. In June 2010, the City approved a PUD Minor Modification (Case No. PUD-80-14-12M) to conditionally permit tutoring facilities and private schools with more than 20 students on-site at any given time. Staff characterizes Heritage Schools similar to both tutoring facilities and private schools in nature. ACV has applied for a CUP as required by the PUD Minor Modification. Therefore, if the CUP were granted, the proposed 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. ACV will be located on a parcel with two existing buildings where the current tenants include a photography software development company and an AT&T data center. The adjacent land uses consist of offices and commercial uses. There are no residential uses within close proximity to the subject site.

To be sensitive to the other tenants within the subject building complex and to ensure that ACV would have minimal impact in terms of parking and circulation, ACV would have staggered classes and students would be transported via seven ACV owned vans from their respective schools to the facility, with a maximum of 78 persons on-site at any given time. Additionally, given that the other businesses operate during regular business hours (generally 8:00 a.m. to 5:00 p.m.), ACV's instructional periods would be compatible with the other uses in that most

classes would occur in the mid-to-late afternoon and early evening hours during the week, minimizing peak hour overlap with the surrounding uses. Therefore, if the CUP were granted, ACV would be compatible with the surrounding uses.

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

### Noise

The subject parcel and building are in an area containing both office and commercial uses, and a certain amount of noise is expected. The Pleasanton Municipal Code states that a proposed conditional use must be in accordance 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.”

Based on ACV’s project narrative, all proposed activities would occur inside of the subject suite. With the exception of the activity area, which may generate some noise slightly above ambient levels when students are using the area for breaks in between instructional periods, staff believes that it is unlikely that the noise generated during the proposed activities would exceed the Municipal Code standard or impact other tenants. Moreover, the proposed activity area is separated from the shared wall between the adjoining tenant space, further lessening the potential for noise impacts on other tenants. A recommended condition of approval requires that the exterior doors remain closed when not being used for ingress/egress purposes and that ACV inform all students, parents, and staff not to loiter or make loud noises outside the building before or after classes. Similarly, staff believes that students would not be adversely affected by noise generated in the surrounding area.

Furthermore, staff has 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, reducing the number of people allowed in the building and requiring soundproofing of the subject building.

### Parking

As previously mentioned, there are two existing single-story buildings on the subject site that collectively are approximately 48,404 square feet in floor area and there are a total of 160 on-site parking spaces. The parking ratio at the subject site is one space per 303 square feet of gross floor area. Based on this ratio, there are approximately 32 parking spaces theoretically allocated to the subject suite (9,604 square feet multiplied by 1 parking space /303 square feet = 32 parking spaces). However, there are no assigned parking spaces in this development. The Pleasanton Municipal Code parking standards require that educational facilities, such as a Heritage School, provide one parking space for each employee and one parking space for

every four students in grade 10 or above. Based on these requirements, ACV could generate a demand of up to eight parking spaces at any given time based on the occupancy of:

- Eight staff members = Eight parking spaces
- No students in grade 10 or above (all students will be kindergarten through eighth grade and be transported to the facility via seven ACV owned vans) = Zero parking spaces

Additionally, while the Pleasanton Municipal Code does not specify parking provisions for shuttle vans, one parking space would be occupied for each van to be stored on-site when not in use. Based on this, the ACV vans would generate a demand of up to four additional parking spaces at any given time based on the following:

- Seven ACV vans, four of which will be stored permanently on-site on a daily basis when not in use and fit within standard-sized parking spaces and three of which would be driven to and from work by staff (and their parking demand was already counted above), = Four parking spaces.

Therefore, based on the analysis above, a total of 12 parking spaces would be required at any given time for the proposed use. Since 32 parking spaces are theoretically allocated for the subject suite and only 12 parking spaces are required, there would be a surplus of 20 additional parking spaces available for the proposed use at any given time.

Staff notes that the Pleasanton Municipal Code parking requirements do not directly address parking demand during pick-up times, which would be the most impacted times from a parking standpoint since it is expected that all students would be picked up by parents or guardians from the subject site. Staggered pick-up times are proposed to alleviate parking demand and potential congestion that may occur.

Therefore, based on the above parking analysis and recommended conditions of approval, staff believes that the proposed use would not adversely affect parking at the subject site or surrounding properties and that adequate parking exists on-site to accommodate all existing and proposed uses. However, should parking problems occur, staff has recommended a condition of approval that allows the Director of Community Development to refer the use permit back to the Planning Commission for possible mitigation measures.

### Signage

No signage is proposed at this time. If ACV wishes to add signage, the proposed signage would be subject to Sign Design Review 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 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 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 and would create more cultural instructional opportunities in the City. The proposed Heritage School would be conducted so as to not impact or interfere with the surrounding uses in that the number of students, hours of operation, pick-up and drop-off procedures, and staffing levels will not generate substantial noise or parking demand.

The subject site is zoned PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District, which generally has the characteristics of the City's O (Office) District. One purpose of the O District is to protect offices from the noise, disturbance, traffic hazards, safety hazards, and other objectionable influences incidental to certain commercial uses. As conditioned, staff feels the proposed Heritage School would be consistent with the Zoning Ordinance objectives and O District purpose in that it would be operated so as to not impact or interfere with the surrounding office uses. The proposed Heritage School will be operated entirely indoors and on a property with adequate circulation and parking to support the use. The applicant will also be required to mitigate any future nuisances that may occur as a result of the proposed use. Therefore, 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.**

Academic facilities, including Heritage Schools, are a common use within or near office areas in Pleasanton. The City's past experience shows that these uses generally make "good neighbors." Heritage Schools generally do not subject surrounding uses to heavy truck traffic, hazardous odors, high noise levels, or other objectionable influences. If the recommended conditions of approval are met, staff feels the Heritage School will not detrimentally impact surrounding uses. All streets around the subject site are designed per City standards to provide safe ingress and egress into and out of the site. In addition, staff believes the Heritage School will have adequate off-street parking to meet project demand. Conditions have also been included that would require the applicant to mitigate any future nuisances as a result of the proposed use. Therefore, staff believes

this finding can be made.

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

The site's PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District zoning conditionally permits the establishment of Heritage Schools. In addition, the Heritage School complies with all relevant sections of the zoning ordinance. Granting a CUP to the Heritage School would be consistent with the City's ability to regulate zoning as listed in Chapter 18.124 of the Municipal Code. Therefore, staff believes this finding can be made.

**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 C for reference. At the time this report was published, staff had not received any public comments about the project.

**ENVIRONMENTAL ASSESSMENT**

This project is categorically exempt (Section 15301, Class 1, Existing Facilities) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

**CONCLUSION**

As proposed, staff believes that the ACV will be compatible with the surrounding businesses/offices and will not detrimentally affect the surrounding uses. Conditions of approval have been included which will ensure that the safety and general welfare of the surrounding area, and the City in general, is maintained. Staff believes that the ACV will fulfill a community need and that the proposed location is appropriate.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission approve Case P15-0014 by taking the following actions:

- 1) Make the required CUP findings as listed in the staff report; and
- 2) Approve Case P15-0014, subject to the conditions listed in Exhibit A.

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