



## Planning Commission Staff Report

February 22, 2012  
Item 5.c.

- SUBJECT:** P11-0938
- APPLICANT:** Jennifer Zheng / Little Ivy League
- PROPERTY OWNER:** Jack Balch / Balch Enterprises, Inc.
- PURPOSE:** Application for a Conditional Use Permit to operate a private heritage school for kindergarten through 8<sup>th</sup> grade students.
- LOCATION:** 4160 Hacienda Drive
- GENERAL PLAN:** Business Park (Industrial / Commercial and Office) / Mixed Use
- ZONING:** PUD-I/C-O (Planned Unit Development-Industrial/Commercial & Offices) District.
- EXHIBITS:**
- A. Draft Conditions of Approval
  - B. Narrative, Floor Plan, and Site Plans dated "Received February 13, 2012"
  - C. Approval Letter Allowing Heritage Schools as a Conditionally Permitted Use within Hacienda Business Park
  - D. Hacienda Owner's Association Approval Letter
  - E. Little Ivy League's Current On-Line Registration as a Heritage School with California Department of Education
  - F. Sections 33195 and 44327 of the California Education Code, and Sections 1596.70 and 1596.90 of the Health and Safety Code
  - G. Planning Commission Staff Report (P11-0063) and Excerpt Minutes, dated August 10, 2011
  - H. Location and Noticing Maps

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### BACKGROUND

In February 2009, the City Council approved a Conditional Use Permit (Case No. PCUP-224) from Jennifer Zheng to operate Little Ivy League (LIL), a tutorial facility for 90 children in Grades K-8 at 5925 West Las Positas Boulevard, sharing the building with the existing Korean Presbyterian Church of the Tri-Valley. LIL provides tutoring on a variety of English and Math subjects with a special focus on Chinese language and culture. Since its operation in 2009, LIL's programs have expanded. In July 2010, LIL received a Conditional Use Permit approval

(Case No. PCUP-270) to operate a tutorial facility with a maximum of 40 middle school students at 5933 Coronado Lane, Suite 200. In August 2011, the 40-student middle school tutoring center, with the approval of a Conditional Use Permit (Case No. P11-0036), was relocated from Coronado Lane to 4160 Hacienda Drive. The middle school tutoring center occupies approximately 9,000 square feet of the existing 23,168 square-foot, multiple-tenant building. On November 29, 2011, Ms. Jennifer Zheng filed a Conditional Use Permit to relocate the existing K-8 tutoring facility from the current location on West Las Positas Boulevard to 4160 Hacienda Drive where the middle school program is currently located/operated. With the proposed relocation, LIL will be expanding the current student enrollment and therefore occupying the entire building. In addition, with the expansion (including the middle school program), LIL is now a Heritage School registered with California Department of Education.

### Heritage School

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

Section 33195.6.(e) states that a heritage school, as defined in Section 33195.4, shall not be subject to licensure by the State Department of Social Services as a child day care center pursuant to Chapter 3.4 (commencing with Section 1596.70) or Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code. Section 44237 requires criminal record information for persons associated with the school.<sup>1</sup>

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<sup>1</sup>Per California Department of Education (CDE), Heritage Schools are self-certified in terms of background checks, health and safety training, etc.. CDE requires that these documents be kept by the director of the heritage school and be available upon request.

Sections 33195 and 44237 of the California Education Code, and Sections 1596.70 and 1596.90 of the Health and Safety Code are attached as Exhibit F.

In addition, the state requires heritage schools to register annually online with the California Department of Education in order to exempt them from licensure by the State Department of Social Services as a child day care center. LIL's 2012 registration can be verified via CDE's website: <http://www3.cde.ca.gov/hsrs/search.aspx> , and a copy is attached as Exhibit E.

### Hacienda Business Park

In June 2011, Mr. James Paxson, on behalf of Hacienda Business Park, requested a modification to the approved Planned Unit Development plans for the business park (Case Nos. PUD-81-30-49M and PUD-85-08-23M) to allow both state licensed childcare facilities and heritage schools as a conditionally allowed use on all Hacienda properties, with the exception of those currently designated solely as High Density Residential. The requested modification was approved on August 3, 2011. A copy of the approval letter is attached as Exhibit C.

The proposed site is located within Hacienda Business Park and is zoned PUD-I/C-O (Planned Unit Development – Industrial Commercial – Office) District. With the recently approved modification, a heritage school is allowed through the process of a Conditional Use Permit. The Conditional Use Permit application is subject to the review and action by the Planning Commission.

### **SITE DESCRIPTION**

The subject site is an approximately 2.7 acre parcel at the southwest corner of the intersection of Gibraltar Drive and Hacienda Drive. The site has 140 on-site parking spaces (135 standard stalls and 5 ADA stalls) and contains a one-story, multiple-tenant building with a mezzanine area. The building is approximately 23,168 square-feet in area. Currently Little Ivy League's middle school program occupies approximately 9,000 square-feet of floor area; the rest of the building is vacant. Each of the two existing tenant suites has exterior doors that allow for direct access to the tenant spaces; there is no common hallway or internal access between suites.



**Location Map**

## **PROJECT DESCRIPTION**

The existing LIL facility is operated in two locations: 5725 West Las Positas Boulevard, Ste. 200 and 4160 Hacienda Drive, Ste. 200. The proposed LIL Heritage School would consolidate both facilities into one center location. LIL currently provides a variety of tutoring programs, including but not limited to Chinese language and arts, English language, and math. The proposed LIL Heritage School will continue the current programs/curriculums.

### Cultural and Academic Programs:

LIL provides a variety of programs emphasizing Chinese culture and art, and different levels of enrichment tutorial for English language and math. The details of the programs, as described by LIL, are as follows:

*Chinese Language Art and Culture Program:* This program uses a combination of standard Chinese textbook for overseas Chinese students and innovative-patented interactive learning tools for elementary school aged students. This program provides a fun yet formal Chinese learning environment for students.

*English Reading Program:* This program includes three areas – Accelerated Reading, Fluent Reading, and Writing/Language Arts.

*Accelerated Reading:* This is a Guided Independent Reading program that allows the students to choose a library book and take a series of comprehension exercises. The tutoring program would then be crafted based on individual student’s needs.

*Fluent Reading:* This is an instructor-directed reading program that teaches the students advanced comprehension skills.

*Writing/Language Arts Program:* This program is designed to reinforce and enhance students' writing skills in the areas of creative writing, report writing, and standardized test preparation.

*Math Program:* The program includes Accelerated Math and Reasoning Math. Accelerated Math is a computer based math program that helps students to get familiar and master the math levels taught at school. Reasoning Math teaches and improves cognitive, logical and critical thinking skills in solving problems.

The existing middle school tutoring program will continue per the previous approval (Exhibit G).

Enrollment Capacity:

The proposed heritage school would have a maximum of 300 students including the existing 40 middle school students. The enrollment is based on the following age/grade groups:

Kindergarten:	80 students
Elementary School:	180 students
Middle School:	40 students (existing)

There would be 25-30 teachers on site at one time.

The enrollment would be reduced from the 300 students during regular school year to 150 students during summer and spring breaks. During the breaks, there would be 10 teachers.

Transportation:

LIL currently has a fleet of five vans (three, 15-passenger and two, 12-passenger) to transport students from schools to the facility on West Las Positas. The vans are parked on site. LIL will continue using the existing transportation to shuttle students. The number of vehicles will increase as the enrollment increases. At the maximum capacity, LIL would have 20, 15-passenger vans (when enrollment reaches maximum capacity) to shuttle students from schools to the proposed facility. LIL would own one half of the fleet and contract the other half. The vehicles that are owned by LIL would be parked on site.

Hours of Operation:

As students enrolled in the proposed heritage school are also full-time students at a public or private school, the proposed heritage school will be open from 11:45 a.m. to 7:00 p.m. during school days, and from 8:00 a.m. to 7:00 p.m. during spring and summer breaks, and non-school days. The facility will be closed on weekends and during winter break. The following is the proposed business schedule:

	Regular School Days (300 students)	Spring and Summer Breaks (150 students)
Kindergarten	11:45 a.m. – 7:00 p.m.	8:00 a.m. – 7:00 p.m.
Elementary School	3:15 p.m. – 7:00 p.m.	
Middle School	3:15 p.m. – 7:00 p.m.	

Facility Layout:

The proposed heritage school would have 15 classrooms, three activity rooms, a staff training room, one break room, reception areas, restrooms, and storage area on the main floor. The mezzanine area is for LIL’s office and storage uses. No student access is allowed.

The existing patio area located on the south side of the building, and the two lawn areas located on the west side of the building, would be used as the outdoor activity areas for students. The proposed kindergarten schedule shows that the outdoor play areas would primarily be used by kindergarteners. As proposed, there would be a maximum of 40 students (K-5) using the outdoor play areas at one time. Fencing is proposed around the play areas.



**Site Plan**

## **ANALYSIS**

Conditional uses are 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 their effects on surrounding properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for use permits.

### Land Use

One of the primary concerns in reviewing a conditional use permit application is the effect of the proposed use on surrounding uses. The Land Use Element of the General Plan designates the subject property as “Business Park (Industrial / Commercial and Office) / Mixed Use.” The zoning for this site is PUD-I/C-O (Planned Unit Development – Industrial / Commercial – Office), and is located in the Research and Development / Light Manufacturing Planning District (IPD) of Hacienda Park which permits land uses such as offices and light manufacturing and requires conditional use permit approval for uses such as indoor recreational sports facilities, schools, and tutoring facilities.

When the proposed use is educational, instructional, recreational, or daycare, staff evaluates how that use integrates into the surrounding uses. The proposed heritage school is located next to Thomas Hart Middle School. The proposed cultural and academic enrichment programs are similar to those offered at after-school tutorial facilities. In staff’s evaluation, this use is compatible with the surrounding uses. In the past, the Planning Commission has granted Conditional Use Permits for tutoring facilities in business parks. The subject site has its own parking and outdoor play area. It is located on the southwest corner of Hacienda Drive and Gibraltar Drive. LIL would occupy the entire building and Thomas Hart Middle School is the only adjoining use. As such, the proposed heritage school would be compatible with the surrounding uses.

### Parking

There are a total of 140 parking spaces located on the subject property. Per section 18.88.030 (E) (*Schedule of off-street parking space requirements*) of the Pleasanton Municipal Code (PMC), this type of use would require one parking space for each employee, including teachers and administrators, and one space for each four students in grade 10 or above. The student parking requirement, one space for each four students, is not applicable since the children are below grade 10. With a maximum of 30 teachers and 10 vehicles that would be owned by LIL, 40 parking spaces would be required for the proposed use (note: per the applicant, the 10 vehicles that LIL does not own would not be parked on site). The subject site has 140 parking spaces and would, therefore, meet the parking requirements.

Staff notes that section 18.88.030 of the PMC does not address parking demand during drop-off/pick-up times, which would be the most impacted time from a parking standpoint for this proposed 300-student facility (which includes the existing 40 middle school students).

Based on the current operation, the applicant stated that the majority of the students would be shuttled to the facility by LIL. A small percentage of students may be dropped off at the facility by parents/guardians. The existing 140-space parking lot would be adequate to handle the parking demand during drop-off time.

The applicant stated in the written narrative that based on the current experience, approximately one-third of families have more than one child at the facility or they arrange to carpool with another family. If one third of the 300 students (or 100 students) would carpool, it means two third of the 300 students (or 200 students) would need vehicles to pick them up at the end of the day. As such, there would be 200 vehicles using the parking lot between 6:30 p.m. and 7:00 p.m.

To prevent all vehicles arriving at the same time, the proposed daily schedule shows that the kindergarten program ends at 6:30 p.m., 1<sup>st</sup> through 5<sup>th</sup> grade program ends at 6:40 p.m., and the middle school program ends at 6:35 p.m. This staggered schedule may relieve some parking congestion but the five-minute break between the end of classes is less than the 10-15 minutes break that staff normally recommends to reduce parking overlap. However, since the school would occupy the entire building, staff is willing to see if the applicant's proposed schedule would work. Should parking or on- or off-site traffic/circulation problems occur during student pick-up times, staff has included a condition of approval that would require the applicant to revise the pick-up schedule to resolve the problem(s) to the satisfaction of the Director of Community Development. If necessary, the Director of Community Development could refer the conditional use permit application to the Planning Commission for review and possible modification.

### Traffic and Circulation

Located at the southwest corner of Hacienda Drive and Gibraltar Drive, the subject site has two entrances to the site, one from each street. The corner location provides convenient vehicle access to enter/exit the site.

The Traffic Engineering Division has reviewed the proposal. As the proposal shows that the facility's operation hours are outside the PM traffic peak period, the Traffic Engineer did not require a traffic study be conducted to evaluate traffic and circulation. The Traffic Engineer indicated that the local and regional traffic fees would need to be paid for the proposed use. A condition has been added to address this item.

### Noise

The Pleasanton Municipal Code states that a proposed conditional use must be in accord 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." As proposed, the instructional programs would be held indoors with doors closed during business hours. There would be no other tenants in the



building. As such, staff believes that noise from inside the facility would not negatively impact surrounding uses.

The proposed heritage school, however, includes three outdoor activity/play areas, which would be used when weather permits. As shown on the proposed daily schedule for kindergarteners, the outdoor areas would be frequently used by the kindergarteners. As proposed, there would be a maximum of 40 supervised kindergarteners in the outdoor play areas at one time. As mentioned earlier, the subject site is located on the southwest corner of Hacienda Drive and Gibraltar Drive, and is surrounded on the west and south sides by Thomas Hart Middle School, an office complex to the north, and office/light industrial uses to the east. Staff does not believe the noise from outdoor activity areas would impact the adjoining school's activities as the proposed facility would make similar or less outdoor noise compared to the school. Staff does not believe the noise from outdoor activity areas would impact the office complex to the north and the office/light industrial uses to the east as they are separated from the subject site by a wide street, landscaped berms, and parking lot. Additionally, staff does not believe that noise generated from the play areas would be beyond the 70 dBA<sub>Ldn</sub> allowed by the Pleasanton Municipal Code at the property line. Therefore, staff does not believe that the proposed use would be disruptive to existing or future neighboring businesses/tenants.

### Signage

No signage currently exists for the tenant suite. If the applicant wishes to add signage, the proposed signage would be required to adhere to Hacienda Park's sign guidelines.

## **FINDINGS**

The Planning Commission must make the following findings prior to granting the use permit:

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

Objectives of the zoning ordinance include: fostering a harmonious, convenient, workable relationship among land uses; protecting existing land use from inharmonious influences and harmful intrusions; and insuring 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. There are tutoring facilities and schools in Hacienda Business Park that have been found to be compatible with the surrounding businesses. Staff believes that the proposed heritage school should also be compatible.

The subject site is zoned Planned Unit Development – Industrial/Commercial - Office (PUD-I/C-O) District, and it is located in the Research and Development / Light Manufacturing Planning District (IPD) of Hacienda Park which generally has the characteristics of the City's I-P (Industrial Park) District. One purpose of the Industrial Park District is to provide locations for uses that can operate in proximity to light

manufacturing, commercial, and personal services uses with minimum adverse impact. Staff believes the proposed use, as conditioned, will be compatible with the adjacent industrial park uses. The applicant will also be required to mitigate any future nuisances which may occur as a result of the proposed use. In summary, 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.**

The building that the proposed heritage school is to occupy is freestanding with an on-site parking lot. The number of parking spaces available on site exceeds the parking demands for the proposed use. The staggered program schedules would off-set parking congestion during pick-up times which will help alleviate parking and traffic concerns. In addition, the subject site is surrounded either by streets (being on the corner of Hacienda Drive and Gibraltar Drive) or by Thomas Hart Middle School. The noise from the outdoor play areas would unlikely be disruptive to the surrounding uses. Further, the proposed conditions of approval will ensure that the facility will not operate in a manner that is detrimental to the public health, safety, or welfare or be materially injurious to the properties or improvements in the vicinity. Therefore, staff believes that this finding may be made.

**C. That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code which apply to Conditional Uses.**

Staff finds that, as conditioned, the proposed use will comply with all provisions and requirements of the City's zoning ordinance and the approved PUD development. As with any conditional use permit, the use permit 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**

Notice of this application was sent to surrounding property owners and tenants within 1,000-feet of the site. Staff has provided the location and noticing maps as Exhibit H for the Commission's reference. At the time this report was published, staff had not received any public comments.

## **HACIENDA OWNERS ASSOCIATION**

James Paxson, General Manager of Hacienda Owners Association, has reviewed the application for the proposed use and found that it is in substantial compliance with Hacienda's guidelines set forth in the CC&R's. The Association believes that the use, parking, and traffic

are compatible with current approved uses within the subject area and, thereby, approved the proposed use.

## **ENVIRONMENTAL ASSESSMENT**

This project is categorically exempt from environmental review pursuant to the California Environmental Quality Act Guidelines, Section 15301, Existing Facilities, Class 1. Therefore, no environmental document accompanies this report.

## **CONCLUSION**

Staff believes that the required use permit findings for the project can be met if the project is approved as conditioned. 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 P11-0938 by taking the following actions:

1. Make the required conditional use findings as described in the staff report; and,
2. Approve P11-0938 subject to the conditions listed in Exhibit A.

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