

## Planning Commission Staff Report

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June 8, 2011  
Item 6.b.

**SUBJECT:** PCUP-296

**APPLICANT:** Summer Bowers / Summer Time Learning Center

**PROPERTY OWNER:** Bryan Bowers / Southwind Properties

**PURPOSE:** Application for a Conditional Use Permit to operate a State-exempt child care learning center during the summer only.

**LOCATION:** 1020 Serpentine Lane, Suite 109 (Valley Business Park)

**GENERAL PLAN:** General and Limited Industrial

**ZONING:** PUD-I (Planned Unit Development – Industrial) District

**EXHIBITS:**

- A. Draft Conditions of Approval
- B. Narrative, Floor Plan, and Site Plans dated “Received April 15, 2010”
- C. Permitted and Conditionally Permitted Uses for Valley Business Park (Ordinance No. 928)
- D. Valley Business Park CC&R’s
- E. Applicant and Valley Business Park E-mail’s
- F. Child Care Licensing E-mail with Attachment
- G. Location and Noticing Maps
- H. Public Correspondence

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### BACKGROUND

Summer Bowers is requesting to operate a State-exempt child care learning and enrichment center (Summer Time Learning) for children ages 4 to 7 years old during the summer months within Valley Business Park. Mrs. Bowers is proposing to occupy the tenant space that was previously occupied by Longshore Tutoring Center at 1020 Serpentine Lane, Suite 109.

Valley Business Park was approved under Ordinance No. 928 by the City Council on March 11, 1980. The Planned Unit Development plan and the Covenants, Conditions, and Restriction’s (CC&R’s) for Valley Business Park conditionally permit daycare centers. For the Commission’s consideration, Ordinance No. 928 can be found in Exhibit C and the CC&R’s can be found in Exhibit D. Prior to submitting a formal Conditional Use Permit application to

the Planning Division, the applicant, who is also the property owner, submitted the use request to Valley Business Park's Architectural Committee for their consideration. The Committee denied the applicant's request to locate a learning center within Valley Business Park stating that the use (i.e., a school) was in conflict with the Park's CC&R's. Please refer to the applicant's email exchange with Valley Business Park in Exhibit E. Although the applicant and the Park refer to the use as a "school," the City classifies the use as a daycare given the age of the children. Staff notes that additional discussion on Valley Business Park's CC&R's can be found in the "Analysis" section of this report.

### State Licensing

Staff contacted the State Department of Social Services-Community Care Licensing Division (CCLD) to have them assess whether the use would require any State licensing. Based on the information provided by the applicant (Exhibit B), a Licensing Program Manager with CCLD determined that the center would be exempt from licensure. Please refer to Exhibit F for the email from CCLD. Therefore, the use is a State-exempt daycare learning center.

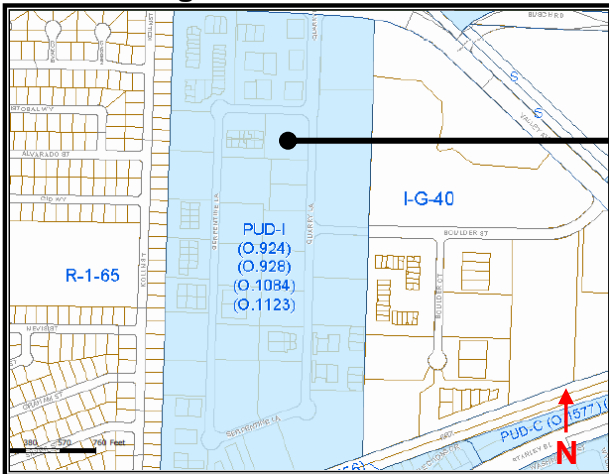
Although Valley Business Park denied the applicants request, the applicant requests that the Planning Commission review and take action on the subject Conditional Use Permit. As described in further detail below, notwithstanding the Valley Business Park Architectural Committee's rejection of the proposal, the City must process the application in accordance with the Pleasanton Municipal Code.

### **SITE DESCRIPTION**

The subject site is an approximately 57,225 square-foot parcel at the southwest corner of the intersection of Quarry Lane and Serpentine Lane. The subject building is a one-story, multi-unit building and is approximately 16,640 square-feet in area. A common hallway in the middle of the building provides interior access to each tenant suite. In addition to this access, each tenant suite has exterior doors that directly access the parking lot to the north and south. The subject site has 61 on-site parking spaces; however, there is shared parking with the adjacent site to the west which has an additional 59 parking spaces; making the total "on-site" parking spaces 120. The applicant is proposing to occupy approximately 1,343 square-feet of floor area (please refer to the floor plan in Figure 4 on page 4).

**Please refer to the next page for Figures 1 through 3**

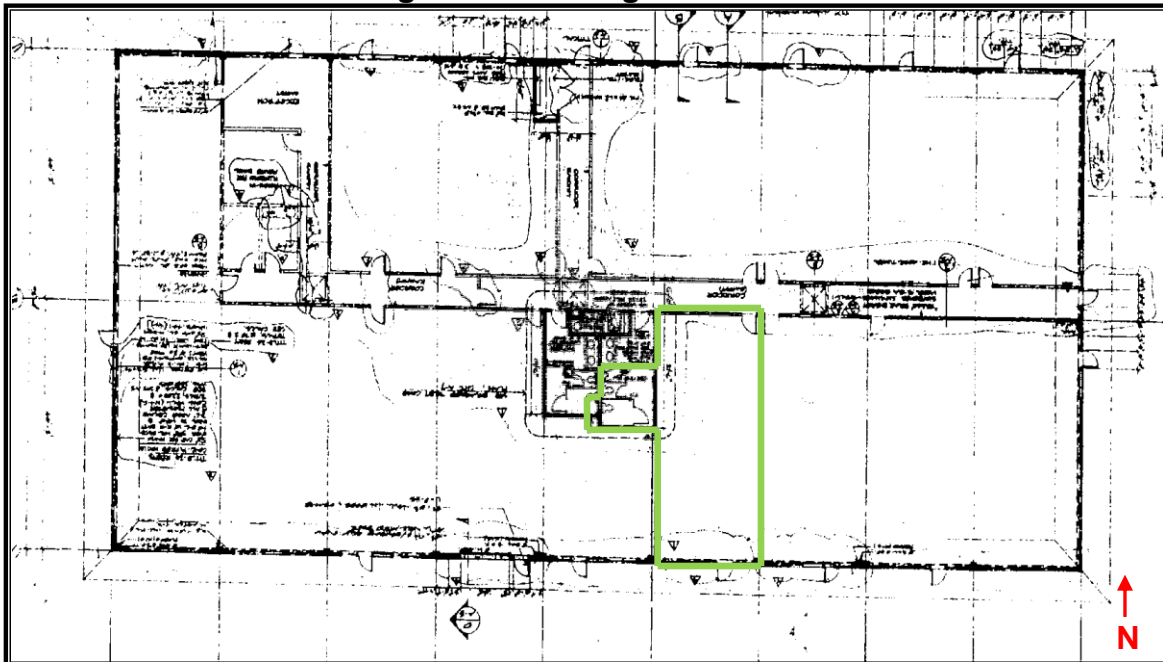
**Figure 1: Aerial Photo**



**Figure 2: Subject Site**

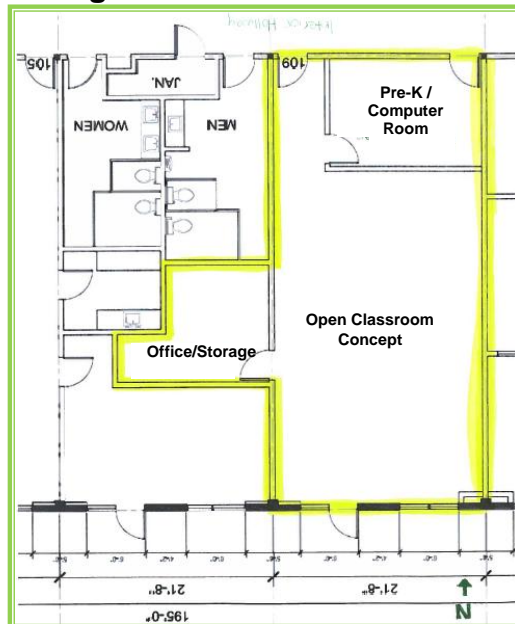


**Figure 3: Building Floor Plan**



**Please refer to the next page for Figure 4 (Tenant Floor Plan)**

**Figure 4: Tenant Floor Plan**



Valley Business Park has a mix of uses that include, but are not limited to; professional offices, light manufacturing and industrial uses, and other uses, such as religious facilities, private schools, and cheerleader training and other sports and recreational facilities. The subject building is currently occupied with professional office uses, with one suite being occupied by a dental equipment manufacturer. The adjacent building (1024 Serpentine Lane) is occupied by office and medical office uses.

## **PROJECT DESCRIPTION**

Summer Time Learning Center (STLC) offers educational programs for children ages 4 to 7 years of age (Pre-Kindergarten, Kindergarten, or First grade). The learning center offers one morning or afternoon three-hour session for a duration of two weeks (Monday through Friday) with eight total summer sessions occurring during the summer months only (June through August). Each morning and afternoon session will have a maximum of 15 children that are taught by a teacher and a teacher's aide (the only two employees on-site). Children will not be signed up for back-to-back sessions (i.e., morning then afternoon or Session One then Session Two). The learning center's operating days and hours, functions, and number of people can be found in Table 1 on page 5. Staff notes that the applicant's narrative states that sessions will begin on June 20<sup>th</sup>; however, should the Planning Commission approve the application, the start date will be adjusted because the June 20<sup>th</sup> start date would be within the Planning Commission's 15-day appeal period.

**Table 1: Proposed Operation of STLC**

<b>Session Date and Days</b>	<b>Time</b>	<b>Grade</b>	<b>No. of People</b>
<u>Session One (6/20 – 7/1)</u> Monday – Friday	9:00 a.m. – 12:00 p.m. <b>OR</b> 1:00 p.m. – 4:00 p.m.	K/1  K/1	15 Children 2 Employees
<u>Session Two (7/11 – 7/22)</u> Monday – Friday	9:00 a.m. – 12:00 p.m. <b>OR</b> 1:00 p.m. – 4:00 p.m.	P  K/1	15 Children 2 Employees
<u>Session Three (7/25 – 8/5)</u> Monday – Friday	9:00 a.m. – 12:00 p.m. <b>OR</b> 1:00 p.m. – 4:00 p.m.	P  K/1	15 Children 2 Employees
<u>Session Four (8/8 – 8/19)</u> Monday – Friday	9:00 a.m. – 12:00 p.m. <b>OR</b> 1:00 p.m. – 4:00 p.m.	K/1  K/1	15 Children 2 Employees

Note: Pre-Kindergarten = P; Kindergarten = K; First Grade = 1

STLC would occupy approximately 1,343 square-feet of tenant space that consists of an open classroom, offices/storage room, and Pre-Kindergarten/computer room. There are shared restroom facilities that are accessible in the common hallway of the building, located adjacent to the subject tenant suite (refer to Figure 4 on page 3).

**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 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 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 “General and Limited Industrial.” The current PUD zoning for Valley Business Park permits land uses such as offices, printing shops, laboratories, and light manufacturing, and requires conditional use permit approval for uses such as gymnasiums and health clubs, indoor recreational sports facilities, trade schools, and daycare centers.

Although the majority of the businesses in Valley Business Park are office/warehouse uses, in recent years child-orientated educational and recreational businesses have located within the Park. These uses include tutoring centers, dance studios, daycares, music facilities, and a

cheerleading and gymnastic training facility, all of which were businesses required to secure conditional use permits to be located in the Park. The proposed use would be in keeping with these uses.

When the proposed use is educational, instructional, recreational, or daycare, staff evaluates how that use integrates into surrounding uses. Staff is cautious about adjacent uses, knowing that although the existing business neighbors may not have an issue, future tenants may. This business park was primarily designed for light-industrial uses, and on several occasions, tenants have questioned whether having uses geared to children in such close proximity to construction, manufacturing and other industrial uses is a good idea. In staff's evaluation, this use is compatible with the other uses in the Valley Business Park. Furthermore, the subject site and building that they are proposing to occupy is unique in that it is an "office" building (i.e., no roll-up with large warehouse areas) that can better accommodate trade schools, office uses, daycares, etc. The site is also separated from the other "industrial" buildings. In the past, the Planning Commission has granted Conditional Use Permits to the two buildings (1020 and 1024 Serpentine Lane) for schools and child-related services (i.e., Longshore Tutoring Center, Child Links, and Enrichment Education Center – Montessori School). To staff's knowledge, those uses did not create any safety concerns or impacts within the Park or to adjacent uses.

#### Valley Business Park CC&R's

Section 3.2.2 *Neighborhood and Support Commercial Use* (n)(1) of the CC&R's states that daycare centers are conditionally allowed if approved by the Architectural Review Board. As stated above, the Architectural Review Board has indicated that it will not approve the applicant's requested use. Notwithstanding the Architectural Board's rejection, planning staff must evaluate the application before in accordance with the standards set forth in the municipal code and on the basis of its merit and conformance with the applicable requirements of the approved PUD development plan. Pleasanton Municipal Code section 18.04.030(B) makes clear that the City's zoning laws are not intended to interfere with or override any deed restriction, covenant, or other private agreement except in cases where the City's Code imposes a greater restriction on use of the land than does the deed restriction or other private agreement (in which case our zoning code will control). The City shall apply its zoning laws notwithstanding the fact that the code may contradict a covenant, deed restriction or private agreement.

Staff believes that the proposed use is appropriate for the subject site and Valley Business Park. The use will be operating during the summer months only and is located within a building that has office-related uses. Furthermore, the subject building and parcel is unique in that the site and building are less likely to accommodate true industrial uses (i.e., no roll-up doors for large truck deliveries). Allowing the center within Valley Business Park is permissible, subject to Conditional Use Permit approval, under the PMC. Staff, therefore, supports the application for this reason. Staff notes that City approval for the use does not invalidate the Park's CC&R's. If a party believes that this use is in conflict with the CC&R's for the Park, then that party may bring private legal action and obtain a determination from the Court.

## Parking

There are a total of 61 parking spaces located on the subject property. With a building area of approximately 16,640 square-feet, the parking ratio would be 1 space per 272 square-feet. The total square-footage of tenant space is approximately 1,343 square-feet, which would theoretically allocate 5 parking spaces to the center. However, there are no assigned parking spaces in this complex.

Per section 18.88.030 (E) (*Schedule of off-street parking space requirements*) of the Pleasanton Municipal Code (PMC), nursery schools 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 2 employees, 2 parking spaces would be required for the proposed use. Therefore, the center would have a surplus of 3 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. Staff believes that there would be adequate parking for drop-off/pick-up given that arrival and departure of cars is staggered and that the parents are only parked in the spaces for a short period of time while they walk the child into and out of the building. Therefore, staff believes that the parking should be sufficient to accommodate the proposed use. However, should parking problems occur, staff has included a condition of approval which allows the Director of Community Development to refer the use permit back to the Planning Commission for possible mitigation measures (Exhibit A, No. 13).

## Noise

The subject site is in an industrial area, and a certain amount of noise is expected. For industrial properties, such as the subject property, the Pleasanton Municipal Code states:

No person shall produce or allow to be produced by any machine, animal, device, or combination of the same, on industrial property, a noise level in excess of seventy-five dBA at any point outside of the property plane.

Immediately outside, with the doors closed, staff believes the noise level from the proposed use would be able to adhere to the 75-dBA noise requirement of the Pleasanton Municipal Code.

The Pleasanton Municipal Code also 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, staff believes that noise from the center would not negatively impact future or existing uses located adjacent to the subject suite. All doors will remain closed during business hours, further limiting noise impacts from

and to surrounding tenants and properties. Therefore, it is unlikely that the noise produced by the use will be in excess of 75 dBA at any point outside of the property plane as prescribed by code (P.M.C. §9.040.50).

Based on the proposal, staff considers the learning center to be a quiet use as instruction would be provided at a low-volume voice level and that students would be focusing on academic exercises. Therefore, staff does not believe that the proposed use would be disruptive to existing or future neighboring businesses/tenants.

### Tenant Improvements

No tenant improvements are proposed with this application. Any future tenant improvements would be subject to the review and approval of the Building and Safety Division and the Livermore-Pleasanton Fire Department.

### 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 Valley Business Park's sign program.

## **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.**

The zoning ordinance endeavors to foster a harmonious, convenient, workable relationship among land uses, protect land uses from inharmonious influences and harmful intrusions, promote a safe, effective traffic circulation system, 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.

The subject business is proposed in Valley Business Park which is zoned Planned Unit Development – Industrial (PUD-I) and 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 close proximity to commercial and residential uses within minimum adverse impact. Staff believes the proposed use, as conditioned, will be compatible with the adjacent residential and industrial park uses. Other child-oriented uses currently operate within the subject building and staff has not received complaints regarding those 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.**

Based on the proposal, the center would be a compatible use to the adjoining uses and Valley Business Park. The building that the center is proposed 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. Additionally, drop-off and pick-up times by the parents will be staggered which will help alleviate parking and traffic concerns. The proposed conditions of approval will ensure that the center 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 G for the Commission's reference. At the time this report was published, staff had received one public comment email from James Drummond. Mr. Drummond is not in support of the proposed application and believes there are safety concerns with allowing child oriented services within Valley Business Park. Please refer to Exhibit H for Mr. Drummond's email.

## **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 learning center would be complementary to the existing businesses and tenants in Valley Business Park.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission approve PCUP-298 by taking the following actions:

1. Make the required conditional use findings as described in the staff report; and
2. Approve PCUP-296 subject to the conditions listed in Exhibit A.

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