

PRIOR ACTIONS

McDougal School was constructed in the 1950's as a K-6 public school with a 450-student population.¹

July 13, 1982: The City Council adopted Resolution No. 5655 approving a School Utilization Plan for McDougal School, subject to the following condition:

1. *That the landscape buffer along Solano(sic) Drive be installed no later than six months after occupancy by the first tenant. Such landscaping shall be maintained by the School District.*

May 22, 1984: The City Council adopted in Ordinance No. 721 to rezone the property from SC to PD/A and Resolution No. 5944 adopting a General Plan Amendment to the Land Use/ Open Space

¹ Student population identified in Table 6 of the Belmont General Plan.

Element to change the land use designation from Public Facilities (P) to Institution (In).

July 1, 1984: Charles Armstrong School entered into a "Lease/ Option Agreement" with the Belmont School District.

August 21, 1984: The Planning Commission adopted Resolution No. 1984-20 approving a Conditional Use Permit for Charles Armstrong School to operate a private school on land previously used for a public school. The school is certified by the State of California as a non-public special education school for specific language disabled (dyslexic) students. The private school use was described in application materials as including 52 parking spaces and 27,900 square feet of building area. The CUP approval was subject to the following conditions:²

1. *Conditions shall remain the same as referenced to in the "Reciprocal Easement Agreement for Access, Parking and Exclusive Use" agreement between the Belmont School District and Charles Armstrong School of March 1984.*
2. *South County Fire conditions need further resolution between Charles Armstrong School and the Fire Authority.*

Planning staff later determined that a Conceptual Development Plan should have been submitted at this time, but it was not.

March 26, 1985: The City Council agreed to purchase McDougal Playfield from the Belmont School District. An "Entire Agreement" was executed on April 15, 1985 and included the following provisions:

- 3.a *District shall convey to City a non-exclusive easement for ingress and egress and public access to the playing fields on the McDougal School site as described in Exhibit G attached hereto. Said easement shall provide that it can be used by City only after 4:00 pm, Monday through Fridays, during the school year of the Armstrong School and after 12:30 pm during the Armstrong School Summer Session; provided, however, that there shall be no limitation on the use thereof by City maintenance personnel and maintenance vehicles and equipment for the purpose of servicing the playing field. Should the Armstrong School or its assigns or successor in interest cease to be a tenant and fail to exercise this option to purchase the property, the above limitations or the use of the easement shall terminate.*
- 3.b *The parties hereto understand and agree that the School District has leased part of the McDougal School site to the Armstrong School. The provision of the lease gives to the school the right to the exclusive use of the playing fields between 8:00 am and 4:00 pm during the regular school year and prior to 12:30 pm during summer session. In addition to the lease, the Armstrong School has an option to buy the property it is leasing.*

² Italics indicate verbatim quote from the Resolution and Notice of Action.

July 1987: Charles Armstrong School purchased the site from the Belmont School District and made application to add modular classrooms. It was at this time, upon review of an application to add modular classrooms, that planning staff became aware that the original Use Permit had been issued without a Conceptual Development Plan as required by the Belmont Zoning Ordinance.

September 15, 1987: The Planning Commission adopted Resolution No. 1987-54 recommending approval of the CDP, and Reso No. 1987-55 approving a CUP and DDP to allow classroom additions (new modular classrooms). Resolution No. 1987-54 contained the following conditions:

1. *Approval of a CDP for a private school granted as shown on plans received August 27, 1987.*
2. *Development standards for building size and location and the general location of parking, site circulation and access, and landscape improvements shall be as established on the approved CDP.*
3. *The CDP is approved for a 32,094 sq. ft. private school.*
4. *Private school enrollment shall not exceed 260 students.*
5. *The modular classrooms are approved for a period of three years after which the proponent may re-apply to the Planning Commission for further use permit approval.*
6. *The operator of the school shall work with the neighbors, Planning Department staff, and homeowner's association to minimize the negative effects of the school operation, including traffic and noise impacts to adjoining residences.*
7. *Install quiet zone signs at appropriate places within the school parking lot, the wording and location of "quiet zone" signs shall be subject to review and approval by the planning director.*
8. *Limit gardener's hours to Monday through Friday, 9:00 am – 5:00 pm.*
9. *Contact BFI to arrange for a later garbage pick-up.*
10. *This DDP and CUP shall not become effective until after the effective date of the City Council approved CDP.*

Resolution No. 1987-55 contained the following conditions in addition to those listed for Resolution No. 1987-54 above:

1. *Improvements shall be as shown on plans received and dated by the Planning Department on August 27, 1987 and as modified by the following conditions.*
2. *The modular buildings shall be painted to match the existing school buildings. The roofs shall be non-reflective to the satisfaction of staff.*

Conditions 5-8 were included in an attempt to balance the needs of the Charles Armstrong School and those of the neighbors whose homes were adjacent to the school. They had voiced concerns about the increased traffic, noise (from early morning trash collections, cars parking in the upper parking lot near their homes and the gardeners' power tools) and congestion generated by the school's employees and students.

October 5, 1987: City Council reviewed the Commission's recommendation to approve an Ordinance amendment to eliminate the Agricultural Development standards from the PD/A zoning designation and conditionally approve the CDP; Council continued the matter.

October 27, 1987: Application for CDP continued at Charles Armstrong School's request to November 24 and December 8 to allow for development of alternatives that did not require new structures and to minimize impacts on the surrounding neighborhood.

On December 3, 1987, Elizabeth Allyn, Charles Armstrong School's Director of Administration & Financial Planning, contacted Elayne Costello, Director of Planning for the City advising that a meeting with neighbors had been conducted December 1, 1987. Ms. Allyn conveyed the following information:

1. *We are withdrawing our request for the placement of the portable classrooms.*
2. *We shall allow only 10 cars for parking in the upper parking lot, and the rest of our staff will park down far below.*
3. *The chain on the upper parking lot will remain locked over weekends and holidays. Cars will park below.*
4. *Refuse collection will be cut back to 2 times a week.*
5. *We request that our student population be held to 14 per classroom. (When McDougal School was at its peak, it housed 488 students.)*
6. *We will be allowed to construct our Tutoring Center (Phase II). This will not add significant cars, staff, or students as it is mainly an in-house service.*
7. *That we will plan to paint the buildings, and up-date the landscaping on the hillside.*
8. *That we will meet periodically with our neighbors, either at their request or ours.*

December 8, 1987: The City Council considered and approved a revised Conceptual Development Plan (deleting two proposed modular buildings but allowing conversion of portions of the multi-use building to tutoring rooms and setting a maximum enrollment of 266 students). Testimony was received from neighbors concerned with the number of cars parked in the upper lot; the number of students being considered, the total on site enrollment and traffic generated as a result.

January 12, 1988, the City Council waived the second reading and adopted by title Ordinance No. 783 approving the CDP for the Charles Armstrong School and amended the zoning ordinance and zoning map to eliminate the agricultural development standards from PD/A for the school and to establish a CDP within the PD zoning designation. The ordinance directed the Planning Commission to reconsider action on the DDP and CUP to develop:

1. *A condition to limit current enrollment to 220 students*
2. *A procedure and criteria for permitting increases in enrollment up to the 266-student maximum allowed by the Concept Plan. The criteria included the type of traffic study and data needed to permit enrollment increases.*
3. *Conditions addressing the parking permitted on the upper parking lot.*

The approved conditions and development standards of Ordinance No. 783 included:

1. *Approval of a CDP for the existing private school and Phase II is granted as shown on plans received November 10, 1987. The approved floor area is 29,550. The school enrollment shall not exceed 266 students.*
2. *Development standards for building size and location and the general location of parking, site circulation, access, and landscape improvements shall be as established on the approved*

Conceptual Development Plan.

3. *The applicant shall arrange for garbage collection services to be performed no more than twice per week, after 7 am.*
4. *The gardener(s) should work outside on the site only during normal school hours (i.e., between 9 am – 5 pm Monday - Friday).*
5. *Students should be dropped off and picked up from the school only within the confines of the school property.*

February 2, 1988, As directed by City Council, the Planning Commission held a public hearing and adopted Resolution No. 1988-10, approving a revised DDP and set up a procedure and criteria for increasing the number of students from 220 to a concept plan maximum of 266 students. The Resolution contained the following conditions:

1. *A detailed development plan dated November 10, 1987 is hereby approved for a maximum school enrollment of 220 students. Expansion of enrollment to the maximum enrollment of 266 students allowed by the approved concept plan may be approved by the Planning Commission, provided 1) the director of Public Services ascertains whether the level of service of any nearby intersections may be affected by the requested enrollment increase and, if so, the applicant shall provide a traffic analysis detailing the traffic impacts to nearby intersections and any possible mitigations, and 2) the Planning Commission approves a use permit to modify the detailed development plan to allow the increased enrollment. All exterior changes required to convert the storage area within the multi-purpose building into tutoring rooms shall be submitted to the Planning Commission for design review approval.*
2. *The applicant shall maintain a carpool assistance program, whereby employees, students, and student teachers can register and access information about other employees willing to carpool.*
3. *The applicant shall instruct employees to park on-site. Quiet zone signs shall be installed at appropriate locations within the school parking lot, the wording and location of the signs shall be subject to the review of the Planning director. Said signs shall be installed within 60 days.*
4. *During the month of February 1989, the applicant shall submit a statement listing the number of employees and students enrolled at the school. A Planning Commission review of parking availability and on-site parking needs shall be conducted. The applicant shall install any additional parking spaces necessary to accommodate the parking demand.*
5. *Within 60 days, the applicant shall submit a statement to the Planning Department indicating a) how the school operations have been made compatible with the neighborhood in the following areas: noise from garbage pick up, noise from gardeners, traffic noise and parking impacts from parent drop off and pick up of children (and how drop off and pick up of students has been accomplished entirely on site, and b) steps the applicant has taken to:*
 - *advise parents of the need to not use the public street for the pick up and drop off of students,*
 - *implement the carpool assistance program, and*
 - *provide instructions to employees to park on-site.*
6. *Use of the school shall be permitted strictly for school activities between 7 a.m. and 9 p.m. Monday through Friday, except the gardener's hours shall be limited to 9 a.m. to 5 p.m., Monday through Friday. The applicant shall monitor all activities to minimize negative impacts*

- (e.g. noise, traffic, litter and loitering) on surrounding properties. The applicant shall be responsible for picking up any excessive litter resulting from the school's use of the adjacent city park and shall protect the park improvements from damage from school activities.*
7. *If the Planning Commission receives substantial evidence that the use of the site may be in violation of the terms of this permit, the Commission may direct the Planning Director to seek corrective action. If the alleged violations are not resolved to the satisfaction of the Planning Commission, then the Planning Commission may schedule a public hearing to review this permit for possible revocation.*

March 15, 1988: The Planning Commission approved a CUP and DDP to expand from 220 to 245 students but limited the type, frequency, and number of evening activities at the school, in response to a new application. The Planning Commission Resolution No. 1988-17 contained the following conditions:

1. *The applicant shall comply with the conditions established by Planning Commission Resolution No. 1988-10, except Condition 6 of said Resolution is amended as follows:*
Use of the school shall be permitted strictly for school activities between 7 a.m. and 9 p.m. Monday through Friday, except the following activities are permitted from 6 p.m. to 9 p.m. Monday through Friday:
- *graduation (not more than once/year),*
 - *parent meetings (not more than once/year),*
 - *adult workshops (not to exceed 20 persons),*
 - *school board meetings (not to exceed 20 persons),*
 - *educational information meetings (not to exceed 50 persons), and*
 - *neighborhood meetings.*

- The gardener's hours shall be limited to 9 a.m. to 5 p.m., Monday through Friday. The applicant shall monitor all activities to minimize negative impacts (e.g. noise, traffic, litter and loitering) on surrounding properties. The applicant shall be responsible for picking up any excessive litter resulting from the school's use of the adjacent city park and shall protect the park improvements from damage from school activities.*
2. *A 25 student increase in school enrollment is approved for a maximum total enrollment of 245.*
3. *Site improvements shall be as shown on plans received by the Planning Department on March 4, 1988.*
4. *The upper parking lot shall be striped to show ten parking spaces. The area east of the existing buildings (where the remainder of the teachers and students currently park) shall be striped to provide the remainder of the required parking space.*

On March 25, 1988, three neighbors appealed the Planning Commission's decision of March 15, 1988 increasing the size of the enrollment from 220 to 245 and hours from 7:00 a.m. to 9:00 p.m. The Mc Dougal Homeowners Association requested that the school hours be limited to 7:00 a.m. to 6:00 p.m., no national conventions be held on site and all night school classes be terminated.

April 11, 1988: Appeal hearing held by City Council and matter continued to April 26, 1988.

April 26, 1988: The City Council adopted Resolution No. 6539 upholding the Commission's approval of the Conditional Use Permit but eliminated adult workshops after June 1988 and reduced the concept plan maximum of 266 students down to 245 students, as shown in the Conditions of Approval:

1. *The applicant shall comply with the conditions established by Planning Commission Resolution No. 1988-10, except Condition 6 of said Resolution is amended as follows:
Use of the school shall be permitted strictly for school activities between 7 a.m. and 9 p.m. Monday through Friday, except the following activities are permitted from 6 p.m. to 9 p.m. Monday through Friday:*
 - *graduation (not more than once/year),*
 - *parent meetings (not more than once/year),*
 - *adult workshops (not to exceed 20 persons),*
 - *school board meetings (not to exceed 20 persons),*
 - *educational information meetings (not to exceed 50 persons),*
 - *neighborhood meetings, and*
 - *adult workshops through June 1988.*

The gardener's hours shall be limited to 9 a.m. to 5 p.m., Monday through Friday. The applicant shall monitor all activities to minimize negative impacts (e.g. noise, traffic, litter and loitering) on surrounding properties. The applicant shall be responsible for picking up any excessive litter resulting from the school's use of the adjacent city park and shall protect the park improvements from damage from school activities.

2. *A 25 student increase in school enrollment is approved for a maximum total enrollment of 245.*
3. *Site improvements shall be as shown on plans received by the Planning Department on March 4, 1988.*
4. *The upper parking lot shall be striped to show ten parking spaces. The area east of the existing buildings (where the remainder of the teachers and students currently park) shall be striped to provide the remainder of the required parking space.*

October 14, 1988: The applicant filed an application for a writ of mandate with the San Mateo County Superior Court, asking the court to set aside the following conditions attached to its approval: Condition #1 limited use of the school after 6 p.m. to yearly graduations; parent meetings; workshops of 20 or fewer people; school board meetings of 20 or fewer people; educational information meetings of 50 or fewer people; neighborhood meetings and adult workshops through June 1988. Condition #2 of Resolution No. 6539 allowed an increase of 25 students from the previous enrollment of 220 to 245 as requested by Charles Armstrong School. Condition #4 of Resolution 6539 limited the use of the upper parking lot to ten parking spaces.

November 30, 1988: A hearing on the writ application was conducted. A judgment in favor of the City was signed by Judge Bible on December 15, 1988. Charles Armstrong School thereafter filed a motion to vacate the judgment, but withdrew the motion prior to hearing. City files contain a memo dated January 31, 1989 from Elaine Costello, the Planning Director, to Ed Everett, the City Manager. The memo provides:

“Attached are several memos relating to the use permit for Armstrong School. The School has dropped their litigation against the City. They have decided, instead, not to accept the use permit approved in April 1988 by the City Council. They will continue to function under their previous use permit. The result of their decision will be that they cannot increase the enrollment of their school beyond 220 students. They will not have to accept the restrictions in the April 1988 use permit on the evening use of the school. For example, they can continue their evening adult workshops. I have discussed this with Colleen Doherty [Deputy City Attorney]. It is her opinion that their refusal to accept the use permit and rely on a previous use permit is legal and acceptably resolves the lawsuit they had against the City.”

The result of this determination was that the School would continue to operate per Resolution No. 1988-10 (i.e., Resolution limiting enrollment to 220 unless further Planning Commission approval of an increase in enrollment up to a maximum of 266 students and establishment of school hours of operation 7:00 a.m. to 9:00 p.m., Monday through Friday).³

November 19, 2002: The Planning Commission adopted Resolution No. 2002- 39 approving a CUP to allow the Charles Armstrong School to increase student enrollment from 220 to 260 students. The enrollment increase did not involve any increase in floor area. The approved conditions and development standards of Resolution No. 2002- 39 included:

1. *Parking shall be reconfigured to conform to the plans on file in the Planning Division for Appl. No. 2001-0106 and date-stamped March 28, 2002. The parking plan includes 70 parking spaces and the Director of Community Development may approve minor modifications to the plan.*
2. *The school shall continue to encourage carpooling, bus and train use in order to minimize school traffic impacts on the residential neighborhood.*
3. *The applicant shall continue to advise parents and employees to park on-site.*
4. *The following “Student Loading Policy” shall be required to minimize school traffic impacts on the residential neighborhood.*
 - *Morning drop-off for the school begins at 7:30 am until the start of school at 8:30 am. School staff has assigned a traffic director to direct school traffic off of Solana Drive and down to the lower parking lot. A second traffic director, in the parking lot, opens the car door and assists the student out of the vehicle. Once the student is safely away from the vehicle the vehicle driver is directed out of the lot and back out of the campus and off of the neighborhood streets as quickly as possible.*
 - *Afternoon pick-up includes staggered class dismissal times. Drivers begin arriving at approximately 2:45 pm where a staff person directs pick-up traffic to the lower*

³ Staff reported in November 9, 2002 that Charles Armstrong School’s abandonment of Council approved CUP of April 26, 1988 would cause the school to operate under a previous CUP approved in December 8, 1987. This date should have been reported as February 2, 1988 and refer to Resolution No. 1988-10. Staff reviewed the conditions of the 2002 CUP (Reso No. 2002-39) and found no conflict with the conditions of Reso No. 1988-10.

driveway and into the schoolyard. At a designated time all vehicles are halted and the students are allowed to go to their vehicle. Homeroom teachers accompany their students to the lower schoolyard and when the first group of students are safely in their vehicles, student movement is halted and the loaded vehicles are directed out of the lot. There are at least six traffic directors managing the pedestrian and vehicle traffic movement at all times.

5. *Private school enrollment shall not exceed 260 students with this approval.*
6. *The applicant shall install quiet zone signs at appropriate places within the school parking lot; the wording and location of quiet zone signs shall be subject to review and approval by the Director of Community Development.*
7. *The applicant shall install landscape screening along the Solana Street frontage of the school, the landscape/irrigation plan shall be subject to review and approval by the Planning Director.*
8. *The applicant shall limit the gardener's hours to Monday through Friday, 9:00 am to 5:00 pm.*
9. *The applicant shall arrange for refuse/recycling pick-up to occur between Mondays through Friday, 7:00 am to 5:00 pm.*
10. *The applicant shall monitor all activities to minimize negative impacts (e.g., noise, traffic, litter and loitering) on surrounding residential properties.*
11. *The applicant shall be responsible for picking-up excessive litter resulting from the school's use of the adjacent city park and shall protect the park improvements from damage from school activities.*
12. *No Charles Armstrong School students shall drive to school; during school operating hours; the 70 required parking spaces are intended for school employees and school visitors.*
13. *The school shall prepare and mail a calendar of special events on a quarterly basis to all property owners within 300 feet of the school property in order to notify neighbors of school events.*
14. *The school shall conduct a minimum of one open house meeting annually in order to foster neighbor communication and continued neighborhood compatibility.*
15. *A report, verifying continued conditions of approval compliance, shall be generated by the school and presented to the Director of Community Development on an annual basis.*
- II.1 *All remaining vertical structures in the paved rear yard area (i.e. basketball poles) shall have reflective tape wrapped around them, top to bottom.*
- II.2 *Fire access roads shall be provided for every facility and building. (and maintained).*
- III.1 *All activities shall be subject to the requirements of the Belmont Noise Ordinance.*
- III.5 *The applicant shall install adequate lighting on the black top area if it is going to be used for night parking.*

May 20, 2003: The Planning Commission reviewed a Preliminary Design Review for construction of new campus facilities. The proposed plan included an addition to the Multipurpose Building a new gymnasium building, and future structures to the east of the existing classroom buildings; the Preliminary Design Review provided an opportunity for early identification of issues and alternatives that should be considered by the applicant before submitting a formal development review plan for a project. The Commission provided the following general direction (meeting minutes Attachment 2):

- Consider moving the gymnasium to another location on the site – closer to existing

- structures and or the to the east (into the slope).
- Reduce building height and bulk – consider submerging the floor
 - Consider removing pavement around trees rather than removal of distressed trees.
 - Request that the applicant reduce the impacts on the community.
 - Request that staff prepare a comparison with new gymnasiums in San Carlos and Belmont areas.

In summary, the existing private school is operating under a combination of controlling conditions:

- Resolution No. 1984-20, to operate a private school on land previously used for a public school,
- Resolution No. 1987-55 (approving a CUP and DDP to allow classroom additions)
- Ordinance No. 783 (established the current 1987 Conceptual Development Plan)
- Resolution No. 1988-10 (establishing enrollment of 220, procedure for increasing enrollment to 266 and hours of operation 7:00 a.m. to 9:00 p.m., Monday through Friday)
- Resolution No. 2002- 39 (approving increase in student enrollment to maximum of 260). See Attachment 3 for a table that brings together the controlling conditions of approval.