

From: Planning
Sent: Friday, January 7, 2022 4:21 PM
To: Johnson, Nick M
Subject: FW: PL2021-256
Attachments: previous proposed use (3).png; off street parking requirement.png; 20210310.png; 20210316 DRC Meeting Minutes 1701.pdf; 20210408 without legislative action.png; 20210416 Londell Pease.png; 20210429 Glen Markegard Cultural Campus.png; 20210430 Larkin a.png; 20210430 Larkin b.png; cultural campus zoning.png

From: sally [REDACTED]
Sent: Friday, January 7, 2022 3:54 PM
To: Planning <planning@BloomingtonMN.gov>
Subject: PL2021-256

Planning,

Please add this to the packet for the Planning Commission and City Council to read.

RE: PL2021-256

This email addresses concerns with the Cultural Campus event center. Specifically noting that the original request was from 8am to 2am and the current request is from 5pm to 2am, and the inability of the City to address any use outside of the 5pm to 2am proposed time, regardless, if it that it the stated time that is proposed and if the City makes it a condition.

The attached are data I would like the commission to read concerning the event center.

Attached 20210310 email from Mukhtar Sharif of proposed uses for 1701 American Blvd, and correctly indicates the uses are permitted and conditional uses. Note that the email does not state an event center as a proposed use which at the time was not a permitted or conditional use.

Attached 20210316 DRC meeting minutes 1701 is for a conditional use permit for a university. The DRC introduction states that the plan submitted includes an event hall. At the time an event center was not a permitted or conditional use and the minutes do not reflect this.

Attached 20210408 email from Jacob Steen, *"As discussed, we are seeking guidance for how we can accomplish this proposed use within the existing code without the need for legislative action by the Council."*

Attached 20210416 Londell Pease is an email from Londell Pease to Jacob Steen that states...

"After staff review, the proposed party area and event center are not accessory to the restaurant nor allowed in the FD-2 Zoning District. The event center and the party room hours of operation far exceed the restaurant operation hours, verifying the concern the uses would operate independently. The hours combined with the floor area differences clearly make the event center and the party area primary uses."

In addition, considering the parking needs of all uses, nearly a 20% parking deviation would be requested. The level of deviation would require a parking study."

Staff encourages you and your client to work with staff to formulate and apply for Code amendments accommodating the desired uses and to begin a parking study."

Comment - at this point staff is encouraging a Code amendment for what appears to be the addition of an event center. Again, the event center was not mentioned in the March 10, 2021 email, it was mentioned in the CUP request but at the time the CUP request was only for the university.

Attached previous proposed use, event center 8am to 2am.

Comment - this data indicates the previous proposed hours for the event center to be 8am to 2am, the current proposed use indicates a use from 5pm to 2am. The City has previously stated that the City does not have required hours for a property/business, regardless of what was proposed. The City has also been unable to require compliance to conditions that restrict a property use.

Attached 20210429 Glen Markegard Cultural Campus, is an email from Markegard to Jacob Steen that states...

Consider:

"Cultural Campus. An interrelated collection of at least three of the following ... event center... Additional use in FD-2."

Comment - City is recommending a City Code change and yet recall the DRC meeting was for the university only, not for an event center.

Attached 20210430 Larkin a and b, is an email to Markegard that states:

Based on the proposed range of uses, Afrique is seeking to establish a new land use classification... "Cultural Campus. An interrelated collection of at least three of the following ... event center... in FD-2 District."

Comment - again, the DRC meeting was for the university only, not for an event center. Additionally, there is no data to indicate the City involved any of the businesses in FD-2 concerning this change.

Attached cultural campus zoning, is staff data where Glen Markegard replies to a question about stand-alone use, and states,

"... industrial zoning districts (such as FD-2), do not allow stand-alone retail uses due to land use balance concerns. Not allowing stand-alone retail in industrial districts preserves areas of the city for manufacturing and ancillary industrial activities. Retail and residential, with higher rents and purchases prices, has the ability to price out industrial land uses if allowed to do so."

My comment - the reply did not address the concerns with the additional use of an event center in the industrial zoning district.

Attached off street parking requirement, that states:

"To remain in compliance with off street parking requirements, the applicant will need to enter into a shared parking agreement..."

My comment, the shared parking agreement is needed for the proposed event center use from 5pm to 2am and does not address the parking concerns if the event center is used from 8am to 5pm as originally proposed.

Additionally, if the City has not addressed the noncompliance to the off street parking requirement in the Smith Park neighborhood, planning should be concerned about the potential use of the event center before 5pm.

Also, there could be a greater demand for parking than parking available if the event center begins at 5pm and the other uses end at 5pm.

From: Mukhtar Sharif <msharif34@gmail.com>
Sent: Wednesday, March 10, 2021 12:24 PM
To: Pease, Londell
Subject: Re: FW: DRC deadline noon tomorrow

African Business Community (ABC), a coalition of small businesses and investors seeking to develop the property at 1701 American Blvd East ("Property") as a business hub for the south-metro East African business community. In the near term, ABC plans to sign a lease with Afrique Hospitality Group, which will build out a portion of the Property as a restaurant. Other proposed uses of the Property will include offices/co-working space, and we will be bringing forward a CUP application for a small university at the Property.

In addition, ABC intends to develop a portion of the Property as a small-business training and incubator center ("Business Center"). ABC will act as a community development finance corporation that will use the Business Center to educate, train, and develop African and African diaspora entrepreneurs from A through Z of the business startup process. Entrepreneurs will be provided office space, access to critical resources, and space in a curated indoor East African business plaza, with a limited number of retail shops, professional, and medical services. This effort is consistent with City of Bloomington's racial equity and inclusion initiatives, which include building a diverse skilled workforce, growing diverse businesses, and eliminating barriers to equity.

While these near-term uses are permitted and conditional uses under the current zoning, we understand that there are likely additional processes necessary to allow the Business Center and retail elements of ABC's planned business model.

From: Markegard, Glen <gmarkegard@BloomingtonMN.gov>
Sent: Thursday, April 29, 2021 4:57 PM
To: Steen, Jacob W. <jsteen@larkinhoffman.com>; Pease, Londell <lpease@BloomingtonMN.gov>
Cc: Rogers, Megan <mrogers@BloomingtonMN.gov>
Subject: RE: 1701 American Boulevard

This Message Is External to Larkin Hoffman:

This message was sent securely using Zix®

Jake,

Consider:

Cultural Campus. An interrelated collection of at least three of the following uses on one site that assist in cultural development with no one use occupying more than 50 percent of the floor area on site: community center, arts center, office, place of assembly, event center, recreation and entertainment, university, makerspace, business incubator with shops and production space, restaurant, library, museum, and social service distribution facility.

Conditional use in FD-2.



Development Review Committee

Approved Minutes

Development Application, #PL202100256

Mtg Date: 12/21/2021

WebEx

Bloomington Civic Plaza

1800 West Old Shakopee Road

Staff Present:

Brian Hansen (Eng., Chair) 952-563-4543
 Laura McCarthy (Fire Prev) 952-563-8965
 Kelly Beyer (Bldg & Insp) 952-563-4519
 Tim Kampa (Utilities) 952-563-8776
 Maureen O'Brien (Legal) 952-563-8781
 Renae Clark (Park & Rec) (952) 563-8890
 Erik Norling (Police) 952-563-8847

Jason Heitzinger (Assessing) 952-563-4512
 Erik Solie (Env. Health) 952-563-8978
 Mike Thissen (Env. Health) 952-563-8981
 Nick Johnson (Planning) 952-563-8925
 Kate Ebert (Public Health) 952-563-4962
 Rozlyn Tousignant (Eng) 952-563-4627

Project Information:

Project	Afrique Cultural Campus - 1701 American Blvd E - CUP
Site Address	1701 American Boulevard East, Bloomington, MN 55425
Plat Name	CEDAR PARK ADDITION;
Project Description	Conditional Use Permit for a cultural campus located within an existing office/warehouse building.
Application Type	Conditional Use Permit
Staff Contact	Nick Johnson
Applicant Contact	Mukhtar Shariff ceo@eatafrique.com Jake Steen jsteen@larkinhoffman.com
PC	01/13/2022
CC (tentative)	01/24/2022

NOTE: All documents and minutes related to this case can be viewed at www.blm.mn/plcase, enter the permit number, "PL202100256" into the search box.

Guests Present:

Name	Email
Pam Anderson	panderson@292designgroup.com
Jack Steen	jsteen@larkinhoffman.com

Introduction:

- Nick Johnson (Planning):
 - Conditional Use Permit for a cultural campus located within an existing office warehouse building. The campus is approximately 28,500 square feet in size. The uses in the campus include restaurant, office, event center, makerspace and business incubator.

Discussion/Comments:

PLEASE NOTE: Below is not a complete list of comments. Please read the comment summary and review plan mark-ups for a full list of comments.

- Renae Clark (Park and Recreation):
 - No comment
- Jason Heitzinger (Assessing):
 - Heitzinger asked if the applicant will occupy the entire space. The applicant indicated the space will remain a multi-tenant building.
- Mike Thissen (Environmental Health):
 - Thissen indicated that any food preparation/service permitting will need to go through Environmental Health.
- Kelly Beyer (Building and Inspection):
 - Beyer noted that B&I comments are provided in the Comments Summary report.
- Laura McCarthy (Fire Prevention):
 - McCarthy inquired as to what type of occupancy designation the property will have, noting that it will determine the type of fire suppression requirements.
- Erik Norling (Police):
 - No comment
- Brian Hansen (Engineering) provided the Public Works comments and noted the following:
 - Hansen requested that the applicant submit projected trip-generation numbers for the proposed use.
- Tim Kampa (Utilities):
 - Kampa discussed the external gravity grease interceptor requirements.
- Kate Ebert (Public Health):
 - No comment
- Maureen O'Brien (Legal):
 - No comment
- Nick Johnson (Planning):
 - Johnson highlighted the shared parking agreement discussing the non-concurrent use agreement.
 - Johnson addressed the lighting requirements with a conditional use permit.

From: Pease, Londell <lpease@BloomingtonMN.gov>

Sent: Friday, April 16, 2021 6:49 PM

To: Steen, Jacob W. <jsteen@larkinhoffman.com>; Markegard, Glen <gmarkegard@BloomingtonMN.gov>

Cc: Rogers, Megan <mrogers@BloomingtonMN.gov>; Mukhtar Sharif <msharif34@gmail.com>;
mahad.ibrahim@gmail.com; momar@daralfarooq.com; Pam Anderson <panderson@292designgroup.com>

Subject: RE: Afrique Usage Chart - 1701 American

This Message Is External to Larkin Hoffman.

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Jake,

Thank you for the information regarding the uses at 1701 American Boulevard East. I apologize for the delay in this reply.

After a staff review, the proposed party area and event center are not accessory to the restaurant nor allowed in the FD-2 Zoning District. The event center and the party room hours of operation far exceed the restaurant operations hours, verifying the concern the uses would operate independently. The hours combined with floor area differences clearly make the event center and the party area primary uses.

In addition, considering the parking needs of all uses, nearly a 20 percent parking deviation would be requested. The level of deviation would require a parking study.

Staff encourages you and your client to work with staff to formulate and apply for Code amendments accommodating the desired uses and to begin a parking study. That would be the best process to accomplish your clients' short and long term goals.

We look forward to working cooperatively with you and your clients in this matter.

**Larkin Hoffman**

8300 Norman Center Drive
Suite 1000
Minneapolis, MN 55437-1060

General: 952-835-3800

Fax: 952-896-3333

Web: www.larkinhoffman.com

April 30, 2021

Mr. Glen Markegard
Planning Manager
City of Bloomington
1800 West Old Shakopee Road
Bloomington, MN 55431-3027

Re: Text Amendment Application

Dear Mr. Markegard:

I represent Afrique Hospitality Group LLC ("Afrique"), which is seeking to develop the property at 1701 American Blvd East ("Property"), in the city of Bloomington (the "City") as a business hub ("Project") for the south-metro East African business community. Afrique is seeking to amend the Bloomington City Code of Ordinances ("City Code") to allow for an expanded range of uses at the Property, within the FD-2 Freeway Development District. Please accept this letter, together with the enclosed materials, as an application for a City Code text amendment.

Afrique is actively working to improve a portion of the Property as a restaurant, an existing permitted use in the FD-2 District. The Property will also include other uses, including offices and co-working space. In addition to the uses currently permitted in the FD-2 District, Afrique is seeking to obtain approval to allow several other community-oriented uses within the Project, including an event center, university, business incubator, and private rooms, as well as an opportunity to bring in a broader range of uses.

A critical element of the Project will be a small-business training and incubator center ("Business Center"). Afrique will act as a community development finance corporation that will use the Business Center to educate, train, and develop African and African diaspora entrepreneurs from A through Z of the business startup process. Entrepreneurs will be provided office space, access to critical resources, and space in a curated indoor East African business plaza, with a limited

A critical element of the Project will be a small-business training and incubator center ("Business Center"). Afrique will act as a community development finance corporation that will use the Business Center to educate, train, and develop African and African diaspora entrepreneurs from A through Z of the business startup process. Entrepreneurs will be provided office space, access to critical resources, and space in a curated indoor East African business plaza, with a limited number of retail shops, professional, and medical services. This effort is consistent with City of Bloomington's equity and inclusion initiatives, which include building a diverse skilled workforce, growing diverse businesses, and eliminating barriers to equity.

Proposed Text Amendment

Based on the proposed range of uses, Afrique is seeking to establish a new land use classification described as a Cultural Campus, which could include a range of complimentary uses, as follows:

Mr. Glen Markegard
April 30, 2021
Page 2

Cultural Campus. An interrelated collection of at least three of the following uses on one site that assist in cultural development with no one use occupying more than 50 percent of the floor area on site: community center, arts center, office, place of assembly, event center, recreation and entertainment, university, school, makerspace, business incubator with shops and production space, restaurant, library, museum, and social service distribution facility.

Afrique is seeking an amendment to Table 21.209(e) to establish a Cultural Campus a conditional use in the FD-2 District.

On behalf of Afrique, we respectfully request consideration and support of this text amendment. Please do not hesitate to let me know if you have any questions or would like to discuss further.

From: Steen, Jacob W. [<mailto:jsteen@larkinhoffman.com>]

Sent: Thursday, April 8, 2021 4:55 PM

To: Pease, Londell <lpease@BloomingtonMN.gov>; Markegard, Glen <gmarkegard@BloomingtonMN.gov>

Cc: Rogers, Megan <mrogers@BloomingtonMN.gov>; Mukhtar Sharif <msharif34@gmail.com>;
mahad.ibrabim@gmail.com; momar@daralfarooq.com; Pam Anderson <panderson@292designgroup.com>

Subject: Afrique Usage Chart - 1701 American

Londell/Glen,

I am forwarding the use chart for the proposed use of 1701 American. You'll see there are three taps with information addressing the proposed use. As discussed, we are seeking guidance for how we can accomplish this proposed use within the existing city code without the need for legislative action by the Council.

7.2 – City Code Amendment - Cultural Campus

Council Member Nelson: Is there a meaningful difference between a stand-alone use that is not appropriate and a combination of appropriate and inappropriate uses that makes it appropriate?

Glen Markegard, Planning Manager: Yes. For example, the industrial zoning districts (such as FD-2), do not allow stand-alone retail uses due to land use balance concerns. Not allowing stand-alone retail in industrial districts preserves areas of the city for manufacturing and ancillary industrial activities. Retail and residential, with higher rents and purchase prices, has the ability to price out industrial land uses if allowed

to do so. Another land use balance argument is that the retail areas would suffer as they lose tenants to lower priced industrial areas. That would put further negative pressure on the city's neighborhood commercial nodes, which already have vacancy issues. However, staff believes that a business incubator with shops, when collocated with other cultural development activities, is an appropriate use in the FD-2 District. The business incubator could foster a mix of new businesses and is unlikely to compete with traditional retail areas due to small start-up tenants not being able to afford higher costs. Some of the new incubated businesses may be more industrial focused and include production, others may be more retail focused. The incubator would provide a chance to test things, learn and grow. Businesses that are successful would likely "graduate" to Bloomington's commercial areas as a permanent spot is selected. Allowing a business incubator (with some retail component) as part of a cultural campus allows the applicant to broaden how it can assist the community it serves.

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Planning Review Contact: Nick Johnson at nmjohnson@BloomingtonMN.gov, (952) 563-8925

- 1) To remain in compliance with off street parking requirements, the applicant will need to enter into a shared parking agreement per Section 21.301.06(c)(2)(C) that must be recorded against the property in perpetuity. The Conditional Use Permit would also be subject to a non-concurrent use condition separating typical daytime/business use from evening/weekend use associated with the event center/multi-purpose space.

Johnson, Nick M

From: Planning
Sent: Monday, January 10, 2022 7:58 AM
To: Johnson, Nick M
Subject: FW: PL2021-256
Attachments: traffic (1).jpg; traffic (1).png; traffic (2).png; traffic (3).png; traffic (4).png; traffic (5).png; traffic (6).png; Screenshot (2468)_LI.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

From: sally [REDACTED]
Sent: Friday, January 7, 2022 10:41 PM
To: Planning <planning@BloomingtonMN.gov>
Subject: PL2021-256

Planning,

Please add this to the packet for the Planning Commission and City Council to read.

RE: PL2021-256

This is another email to address the concerns with the Cultural Campus event center. Specifically noting that the original request was for an event center from 8am to 2am and the current request is from 5pm to 2am, and the inability of the City to address any use outside of the 5pm to 2am proposed time, regardless of what stated time is proposed and if the City makes it a condition.

First of all, an event center is an assembly and therefore it is appropriate to compare the concerns with the assembly at 8201 Park to the concerns of the event Center.

The first traffic concern at 8201 Park was March 2011 while the building did not have a certificate of occupancy and before AFYFC/DAF purchased the property, which was not until August 2011. The March 2011 event drew 800 to 1000 people, which was a lot more people than what was proposed.

AFYFC/DAF originally proposed an assembly for one hour for a maximum of 150 to 200, in what was identified as the Chapel, which was said can accommodate approximately 150, with a required 78 parking spaces. The floor plan showed assembly in two rooms that totaled 2,625 sq ft (1,755 sq ft and 870 sq ft). Apparently, the pews were removed, and the room was determined to hold 300 with a required 100 parking spaces. The Conditional Use Permit required AFYFC/DAF to add 50 more parking spaces.

The 50 more parking spaces were not enough, which did not make sense for an assembly of 300. AFYFC/DAF had a total of 157 parking spaces, and if there were two patrons to each vehicle that would be 314 patrons. AFYFC/DAF not only filled DAF parking lot but the park parking lot and the street.

The shared parking agreement AFYFC/DAF has with the City is for a nonexclusive use of the parking lot. That would be parking needed for special events and not for regular use, but instead AFYFC/DAF uses the park parking lot regularly, filling it up every Friday, negatively impacting the park.

In addition to filling up both parking lots and parking in the streets AFYFC/DAF also overparked and parked where parking was not allowed.

On September 25, 2016 I wrote the following on the Smith Park Facebook page (see attached):

August 1, 2012, the planning manager indicated that "the best external indication of a potential occupancy limit violation would be overflow parking."

DAF fills the DAF parking lot of 151 spaces and double parks. DAF fills the park parking lot of 73 spaces and double parks and parks where parking is not allowed. This Friday 33 patrons of DAF parked in the street. That is 257 + parked for a proposed assembly of 150-200 maximum in a room with an occupancy for 300.

Again, AFYFC/DAF filled up both parking lots and parking in the streets, and overparked and parked where parking was not allowed, which would indicate a potential occupancy limit violation and yet the City would not address it.

Planning states:

"To remain in compliance with off street parking requirements, the applicant will need to enter into a shared parking agreement..."

Yet the City does not address the regular off street parking by DAF. It did early on, back when AFYFC/DAF hired police. Early on there were police officers that would remind patrons not to park in the street.

There is nothing to indicate that what has happened here will not happen at 1701 American Blvd.

The Smith Park neighborhood has been concerned about the hours of operation after 10pm of the Dar Al Farooq building, and the City response was that the City does not have required hours for a property/business.

The City was informed that the proposed use of the Dar Al Farooq (DAF) building ended at 10pm, and instead the property is used through the night, which includes DAF use of the Smith Park parking lot, which was not open through the night. The shared agreement between the City and the building included a parking lot that was not open through the night, and yet DAF used the parking lot through the night, which was against City Code until the City changed the City Code.

Therefore, regardless that the project description indicates 5pm-2am, that does not mean the property will be used from 5pm-2am.

Additionally, even if the City makes it a condition that the event center operation is limited from 5pm to 2am, that does not mean the property will adhere to the condition, and that the City can address it.

An example is the condition that the large gymnasium at Dar Al Farooq is limited to 500, a condition that goes with the land. The use of the large gym has seen too many uses over the 500, and one that included a Council member on social media inviting more to the facility even though it was over 500. Regardless that it is a condition that goes with the land, the City does not address it, and has provided a response that included if the numbers are not over fire code, they can't address it. Therefore, it does not make sense to approve a condition that can't be addressed.

The proposed use did not include assembly in the large gymnasium and yet DAF has regularly used the large gymnasium for assembly. The point is that even if 1701 American Blvd proposes space for an event center and proposes the use from 5pm to 2am, that does not mean that is how it will be used, and parking should be based on the availability of the space.

The event center is a concern that needs to be addressed. Again, because the City is unable to restrict its use, the potential for a greater parking demand, and the inability to remain in compliance with the off street parking requirements. Additionally, the danger it poses as it does in the Smith Park neighborhood as noted by the pictures that include parking in the fire lane, parking where it is designated no parking, parking too close to neighbors' driveways, and not parking in parking spots as required in the Smith Park parking lot (see attached).

IMG_20211203_121439

Date taken

December	3	2021
12	19	PM

Size

552.2 KB

Dimensions

1200 x 1600

Shot

ISO

Device

Folder path

[Open folder](#)


Filename

IMG_20211217_174816

Date taken

December	17	2021
17	48	PM

Size

534.9 KB

Dimensions

1600 x 1200

Shot



Filename

IMG_20220107_124725

Date taken

January	7	2022
9	15	PM

Size

493.4 KB

Dimensions

1600 x 1200

Shot



Filename

IMG_20211210_122214

Date taken

December	10	2021
12	22	PM

Size

8 MB

Dimensions

4608 x 3456

Shot

1/160 sec. f/1.8 3.61 mm



Filename

IMG_20211217_133937

Date taken

December	17	2021
12	39	PM

Size

8 MB

Dimensions

4608 x 3456

Shot

1/500 sec. f/1.8 3.61 mm

ISO

112

Device



IMG_20211203_121430

Date taken

December	3	2021
12	14	PM

Size

532.2 KB

Dimensions

1700 x 1600

Shot

ISO

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Device

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Folder path

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[Open folder](#)



Filename
IMG_20211217_121649

Date taken
December 17 2021
12 17 PM

Size
606.9 KB

Dimensions
1200 x 1800

Shot
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ISO
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Device



Filename
IMG_20220107_173154

Date taken
January 7 2022
12 34 PM

Size
494.7 KB

Dimensions
1600 x 1200

Shot
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ISO
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From: Planning
Sent: Monday, January 10, 2022 7:58 AM
To: Johnson, Nick M
Subject: FW: PL2021-256

From: sally [REDACTED]
Sent: Saturday, January 8, 2022 10:07 AM
To: Planning <planning@BloomingtonMN.gov>
Subject: PL2021-256

Planning,

Please add this to the packet for the Planning Commission and City Council to read.

RE: PL2021-256

This is the third email to address the concerns with the proposed event center within the Cultural Campus. Specifically noting that the original request was for a use from 8am to 2am and the current request is from 5pm to 2am. The City has not addressed the late night use of the property at 8201 Park regardless that it proposed and ending time of 10pm, and therefore there is concern that the City will not address the use of the event center before 5pm, which would need additional parking to comply with the off street parking requirement.

The City has also not addressed the numbers greater than what was proposed and approved either, which residents were concerned about early on.

After the City approved the AFYFC/DAF use at 8201 Park, residents expressed their concern over the traffic due to the additional need for 50 parking spaces. The City and the previous owners added the westerly parking lot of 58 spaces, and then the City approved another 50 parking spaces without a traffic study.

Residents were also concerned knowing that 800-1000 showed up March 2011 for a building that proposed a maximum of 150-200 for an assembly.

The City provided residents with several City staff numbers to call. Residents called and reported concerns, but too many concerns were denied and not addressed. Residents would report the Smith Parking lot being full and vehicles on the street and the City would report differently. Residents would take photos to support what they were reporting and the City would state that the City can't limit the use in numbers or hours.

The police went from addressing the noncompliance of the off street parking requirement, to a Sgt. responding to the legal activity of documenting, to stating to a resident they had "a right to film," but their "presence was intimidating," and to "be more sensitive," to "record" and "move on."

The legal decision concerning the constitutionality of the state harassment statute and the City Code that restricted photography stated that the Sgt asked the resident, "to study the Harassment Statute ... suggesting that her repeated and extended presence was 'bordering on a harassment issue...' and said he thought she was going 'overboard on ... oversight of all this, and it is turning into a harassment type issue,'" and to "read the [harassment] statute, make sure you're not violating it so you don't get a charge on you."

The point, the City informed residents they would be the ones to report the overuse and noncompliant uses, and when they did the City was not receptive and many residents moved at great expense and away from family and friends.

The City should not subject the businesses at 1701 American Blvd, to what the residents in the Smith Park neighborhood were and continue to be subjected to, by permitting an event center that is physically available 24 hours, but does not have the needed parking 24 hours.

If the proposed use includes an event center then the parking should reflect the potential use of the space and not the proposed use that the City has stated it cannot address.

From: Planning
Sent: Monday, January 10, 2022 7:59 AM
To: Johnson, Nick M
Subject: FW: PL2021-256

From: sally [REDACTED]
Sent: Sunday, January 9, 2022 12:30 PM
To: Planning <planning@BloomingtonMN.gov>
Subject: PL2021-256

Planning,

Please add this to the packet for the Planning Commission and City Council to read.

RE: PL2021-256

The proposed use of 1701 American Blvd is for the institutional use of an event center for a cultural campus which is a newly identified conditional use in the FD-2 zone, and yet not only is the request for a conditional use but a conditional use that is requesting the City deviate from the required parking standard. A Conditional use that the City has already stated there are concerns with overflow on-street parking and yet 1701 American Blvd is proposing that it not be required to provide the needed parking for the use.

The following is from City Code of Ordinances.

INSTITUTIONAL USES. Land uses that serve a community's social, educational, health, cultural and recreational needs. Uses include, but are not limited to schools, colleges, day care facilities, libraries, places of assembly, switching stations, funeral homes, nursing homes, monasteries, fire stations, assisted living facilities and community centers.

§ 21.302.06 INSTITUTIONAL USE STANDARDS.

(a) *Purpose and intent.* The city recognizes that institutional uses, while providing valuable services to the community, often also create negative impacts on surrounding uses, particularly surrounding residential uses. Negative impacts of institutional uses may include, but are not limited to: high traffic levels; increased truck and delivery traffic; increased emergency vehicle traffic; nighttime traffic; overflow on-street parking; noise; visual impacts and building massing inconsistent with low density residential character; construction impacts; and lighting levels. The purpose of this section is to establish appropriate standards for institutional uses that reduce impacts on surrounding uses.

1701 American Blvd is stating the area designated for the event center will be used from 5pm to 2am, when the other uses are not open, and therefore not require parking that this need generates. This is what Council has referred to as a moving part and one that compliance would require the public to contact the City, which the City has already stated it is unable to address.

The following are a few examples of moving parts.

The event center being used 8am to 2am as originally proposed.

The event center needing staff to prepare and set up for events and therefore need daytime parking throughout the week and on the day of an event.

Other tenants closing at 5pm and not leaving the parking lot until after 5pm while those attending the event center for an event at 5pm are in the parking lot earlier than 5pm.

Other tenants needing to change their hours of operation to be open past 5pm and/or workers staying late.

The City has recognized the negative impact institutional uses have on the surrounding area and therefore the City requires institutional use standards for parking lots that 1701 American Blvd is requesting it not be required to comply with, and it should.

If 1701 American Blvd wants an event center than it should be required to provide the needed parking for the event center.

Additionally, the proposed use indicates a need of 99 parking spaces for the event center based on seating at tables for 296. The event center is 4,432 sq feet and therefore can accommodate more than the proposed 296 seats. The tables that determined the 296 seats are not permanent and can be removed. The Dar Al Farooq assembly is 2,474.9 sq ft and it is approved for 300 people with a need for 100 parking spaces. The event center is almost 2,000 sq ft larger which would at least hold an additional 210 people with a need for 70 more parking spaces.

Parking should be based on the amount of people that 4,432 sq ft can accommodate.

Parking should also be based on the whether the use generates people who carpool to an event or not. For a business to later say that the intended assemblies generate more parking needs because the attendees drive one to a car vs the standard assembly use of 3 to a car, that should be known, and parking be based on the actual use.

There is also an attached lobby of 1,538 sq ft that can be used as well for an event at the event center, and unless it is designed so that the area cannot accommodate an overflow of people attending the event center, additional parking spaces should be required.

Again, if 1701 American Blvd wants an event center than it should be required to provide the needed parking the event center can generate.

From: Planning
Sent: Monday, January 10, 2022 7:59 AM
To: Johnson, Nick M
Subject: FW: PL2021-256 Valley View condition for assembly, "concurrent use of the entire facility is not allowed"
Attachments: DAF Staff Report and Conditions SA 130 to 180.pdf; Staff Report Valley View.pdf; Valley View conditions.png

From: sally [REDACTED]
Sent: Sunday, January 9, 2022 9:19 PM
To: Planning <planning@BloomingtonMN.gov>
Subject: PL2021-256 Valley View condition for assembly, "concurrent use of the entire facility is not allowed"

Planning,

Please add this to the packet for the Planning Commission and City Council to read.

RE: PL2021-256

This email addresses the event center again by comparing Valley View Conditional Use Permit condition of approval to 1701 American Blvd and 8201 Park Ave. Valley View has a condition that when there is assembly concurrent use of the entire facility is not allowed.

1701 American Blvd and 8201 Park allow concurrent uses.

That does not make sense.

Valley View is adjacent to arterial/collector and has the most parking spaces at 359.
 1701 American Blvd is adjacent to arterial/collector but is proposing only 205 parking spaces.
 8201 Park Ave is not adjacent to an arterial/collector and has only 157 parking spaces, and an agreement with the city for nonexclusive use of 104 parking spaces.

And yet Valley View School is the only property that has a condition where if there is an assembly concurrent use of the entire facility is not allowed.

The following is from 1701 American Blvd Staff report:

Condition number 12. Ongoing Per the applicant's project description dated 12/06/2021, the event center use must not operate Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m.. Use of the multi-purpose space during weekday business hours (8:00 a.m. - 5:00 p.m.) is limited to activities that do not generate additional 40 parking demand beyond what can be supported by the existing parking supply as determined in Section 21.301.06(d) of the City Code.

The following is from Valley View School Staff Report:

Staff report condition number 1. While the place of assembly is in operation, concurrent use of the entire facility is not allowed. Code compliant parking must be maintained.

The assembly request at Valley View for 40 patrons, although growth is anticipated, in a room that is said to hold 365 people, and a need for 122 parking spaces. The overall site has 359 parking spaces and yet the condition for the assembly is that "concurrent use of the entire facility is not allowed," while 1701 "is limited to activities that do not generate additional 40 parking demand beyond what can be supported by the existing parking supply." That does not make sense.

The following is from 8201 Park Staff report 8/3/2020 increasing school from 130 to 180:

Staff report condition number 8.

e) Assembly uses may not occur in the assembly rooms, large gymnasium, small gymnasium or cafeteria during prekindergarten-8th grade school hours, athletic programming, or instructional activities; and

f) While the on-site assembly areas are in use, the use of the large gymnasium, small gymnasium or cafeteria is limited to activities that do not generate additional parking demand.

Again, compare that to Valley View condition, "While the place of assembly is in operation, concurrent use of the entire facility is not allowed."

GENERAL INFORMATION

Applicant: Maranatha Christian Church (Applicant)
Bloomington Public School District (Owner)

Location 351 E 88th Street (property address)
8900 Portland (Building address)

Request: Conditional use permit for a place of assembly within a school

Existing Land Use and Zoning: Junior High and Elementary School; Zoned R-1

Surrounding Land Use and Zoning: West and North – Single Family dwellings; Zoned R-1
South – Valley View Park; Zoned R-1
East – Public library, Multiple Family housing and single family dwelling; Zoned R-1 and R-4

Comprehensive Plan Designation: Quasi-Public

HISTORY

City Council Action: November 19, 2012 – Approved a conditional use permit for a place of assembly in an existing school (Case 10494A-12).
NOTE: The use was vacated and the approval expired.

CHRONOLOGY

Planning Commission 09/24/2020 – Recommended approval.

City Council 10/05/2020 – Consent agenda

DEADLINE FOR AGENCY ACTION

Application Date:	08/19/2020
60 Days:	10/18/2020
Extension Letter Mailed:	No
120 Days:	12/17/2020
Applicable Deadline:	10/18/2020
Newspaper Notification:	Confirmed – (09/10/2020 Sun Current – 10 day notice)
Direct Mail Notification:	Confirmed – (500 buffer – 10 day notice)

STAFF CONTACT

Liz O'Day

Phone: (952) 563-8919 E-mail: ecoday@BloomingtonMN.gov**PROPOSAL**

Maranatha Christian Church (Maranatha) began a search for a new location after the closing of Creekside Community Center. Maranatha and the Bloomington School District requests a conditional use permit to use part of Valley View Middle School for worship services.

The services would be in the cafetorium and stage, which could accommodate up to 365 people, far more than the typical 40 parishioners, although Maranatha anticipates growth. Anticipated worship would be on Sunday from 10:00 AM to 1:00 PM. A school employee would be on-site during the services. Men's and women's handicap accessible restrooms would be available.

ANALYSIS

Maranatha intends to utilize the east parking lot and enter through the doors closest to the cafetorium. On-site parking exceeds the parking requirements for the place of assembly use. The Code requires parking spaces equal in number to 1/3 occupancy of the church capacity in persons. The capacity is 365 persons, which would necessitate 122 spaces. The east parking lot has 114 spaces and the overall site has 359 spaces, which is adequate to meet the need of the 40 parishioners. Typical church services would occur outside of regular school hours.

The applicant's project description notes they would request additional services for religious holidays and special events. School operations would not be in session during the religious holidays. In addition, the applicant noted they may use the pool for occasional baptisms. Considering the church and school operations are not occurring simultaneously, staff does not have concerns with the use or parking. It is important for the user and owner to monitor parking to avoid conflicts.

The Valley View Middle and Elementary School parking lot and security lighting is compliant. The lighting must be maintained. Additionally, no landscaping upgrades are required at this time. The approved landscaping plan must be maintained.

The applicant identified the indoor trash room on the floor plans. There are no upgrades needed at this time.

FINDINGS**Required Conditional Use Permit Findings - Section 21.501.04 (e) (1)**

Required Finding	Finding Outcome/Discussion
(1) The proposed use is not in conflict with the Comprehensive Plan.	Finding Made - The property is guided Quasi-Public. The designation allows for places of assembly in schools to utilize the large assembly spaces that schools provide. The proposed use is not in conflict with the Comprehensive Plan.
(2) The proposed use is not in conflict with any adopted District Plan for the area.	Finding Made - The property is not located in an area with an adopted District Plan.
(3) The proposed use is not in conflict with City Code provisions.	Finding Made - Places of assembly are conditional uses in the R-1 Zoning District. The recommended conditions of approval address compliance with City Code provisions.
(4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	Finding Made - The place of assembly has a small number of parishioners and there is adequate parking and facilities on-site to accommodate the use. The place of assembly would occur outside of normal school hours. The use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities.
(5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	Finding Made - The proposed use previously occupied another facility in Bloomington. The place of assembly at the Valley View Middle School would provide a new opportunity for the church. Places of assembly within schools are common. The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

RECOMMENDATION

The Planning Commission and Staff recommend approval using the following motion:

In Case PL2020-156, having been able to make the required findings, I move to adopt a resolution approving a Conditional Use Permit for a place of assembly within a school at 351 E 88th Street, subject to the conditions and Code requirements attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL**Case** PL202000156**Project Description:** Conditional use permit for a place of assembly in an existing school**Address:** 351 E 88TH ST

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Ongoing While the place of assembly is in operation, concurrent use of the entire facility is not allowed. Code compliant parking must be maintained.
2. Ongoing The place of assembly must be as shown on the approved plans in Case File # PL2020-156.
3. Ongoing Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code.

GENERAL INFORMATION

Applicant:	Al Jazari Institute Property, LLC (Owner) Success Academy (User)
Location:	8201 Park Avenue South
Request:	1) Conditional Use Permit to expand the student enrollment from 130 to 180 students through a hybrid educational program and for a greenhouse addition at an existing school 2) Major Revision to Final Development Plan to construct an approximately 900 square-foot attached greenhouse addition at an existing school
Existing Land Use and Zoning:	School (pre-k – 8 th grade), community center and place of assembly; zoned Single-Family Residential (Planned Development) (R-1)(PD)
Surrounding Land Use and Zoning:	North and East – City park; zoned R-1 South – Single-family residential dwellings; zoned R-1 West – Single-family residential dwelling and electrical transmission lines; zoned R-1
Comprehensive Plan Designation:	Quasi-Public and Public

HISTORY

City Council Action:	08/17/1987 – Approved a two-year temporary Conditional Use Permit for a Montessori day care, latch key, church office, church school and non-profit office uses at the Northgate Elementary School (Case #8915A-87). 07/19/1989 – Approved a Comprehensive Land Use Plan amendment from Public to Office and Low Density Residential and Preliminary and Final Development Plans to convert Northgate Elementary School to an office use and create four new single-family residential lots subject to conditions (Case #8915ABCD-89). NOTE: Although approved, the school was not converted to an office use and single-family residential lots were not created/subdivided.
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07/16/1990 – Approved a Comprehensive Land Use Plan amendment from Office and Low Density Residential to Quasi-Public and Preliminary and Final Development Plans for a private high school subject to conditions (Case #8915AB-90).

03/18/1991 – Approved revised Final Development Plans for a 24,560 square-foot gymnasium addition and a 2,200 square-foot music room addition subject to conditions (Case #8915A-91). **NOTE:** Although approved, these additions were not constructed.

04/12/1993 – Approved a two-year temporary Conditional Use Permit for a church in an existing school (Case #8915A-93).

04/03/1995 – Approved a five-year temporary Conditional Use Permit for a church in an existing school (Case #8915A-95).

06/01/1998 – Approved revised Final Development Plans for a gymnasium addition subject to conditions (Case #8915B-98).

06/19/2000 – Approved a five-year temporary Conditional Use Permit for a church in an existing school (Case #8915A-00).

08/18/2003 – Approved revised Final Development Plans for a 14,000 square-foot gymnasium with options for gym storage space and additional restroom and shower facilities subject to conditions (Case #8915A-03).

05/02/2011 – Approved a Conditional Use Permit for a community center, place of assembly, school, and a day care subject to conditions (Case #8915A-11).

Staff Action:

08/15/2011 – Approved a Minor Revision to Final Site and Building Plans for a parking lot expansion and associated stormwater improvements (Case #8915B-11).

City Council Action:

05/02/2011 – Approved a Platting Variance to allow conveyance of a portion of the Xcel Energy Transmission Corridor without platting the remainder of 8101 Park

Avenue South (the entire Xcel corridor) and Preliminary and Final Plat of SMITH PARK 3RD ADDITION, a combining of 8201 Park Avenue South, 8200 Chicago Avenue South and a portion of 8101 Park Avenue South into one lot (Case #8915CDE-11).

03/02/2015 – Approved the Smith Park and Dar Al Farooq property improvements, leases, easements, maintenance and use agreements (“Joint Use Agreement”).

Staff Action: 12/27/2017 – Approved exterior access to the trash collection and storage room serving the multiple tenant building which is attached to a part of the principle building, subject to conditions (Case #PL2017-282).

City Council Action: 02/12/2018 – Approved a Conditional Use Permit to expand charter school enrollment from 60 students to 84 students, subject to conditions (Case #PL2017-251)

09/10/2018 – Approved a Conditional Use Permit to expand charter school (pre-K – 8th Grade) enrollment from 84 students to 130 students, subject to conditions (Case #PL2018-226).

Staff Action: 09/21/2018 – Approved a Minor Revision to Final Site and Building Plans for a driveway connection to East 83rd Street to serve an existing school, community center and place of assembly, subject to conditions (Case #PL2018-317).

CHRONOLOGY

Planning Commission	07/23/2020	Recommended approval (Vote: 7-0)
Council	08/03/2020	Consent Business

DEADLINE FOR AGENCY ACTION

Application Date:	06/17/2020
60 Days:	08/16/2020
120 Days:	10/15/2020
Applicable Deadline:	08/16/2020
Newspaper Notification:	Confirmed (07/09/2020 Sun Current – 10 day notice)
Direct Mail Notification:	Confirmed (500-foot buffer – 10 day notice)

STAFF CONTACT

Nick Johnson, Planner
Phone: (952) 563-8925
E-mail: nmjohnson@BloomingtonMN.gov

PROPOSAL

Success Academy, an existing charter school within a multi-use facility located at 8201 Park Avenue South, is requesting a Conditional Use Permit to increase student enrollment from 130 students to 180 total students through the implementation of a 50-student hybrid middle school program. The proposed hybrid educational program would offer on-site instruction at the school Monday through Thursday. On Fridays, the 50 hybrid middle school students would attend virtual instruction off-site. No internal modifications are proposed to accommodate the proposed increase in student enrollment. New students that would attend the school can be accommodated within existing classrooms in the building. The floor plan of the existing facility, except for the proposed greenhouse addition, remains unchanged.

In addition to the proposed increase in student enrollment, Success Academy is proposing to construct an attached greenhouse in the southeast portion of the facility. The greenhouse would be approximately 900 square feet in size, 11 feet in height, include a small storage area, and have transparent windows. The greenhouse facility would be utilized for educational purposes associated with Success Academy's curriculum and programming. Prior to construction, both a Conditional Use Permit and Final Development Plans must be approved for the proposed greenhouse.

BACKGROUND

The subject property has been utilized as a multi-use facility, including school, community center and place of assembly since 2012. Success Academy commenced operation as a public charter school at the subject property under a Conditional Use Permit (CUP) in 2017. Prior to the existing occupancies, use mix and format, the facility was originally utilized as a public elementary school (Northgate) from 1962 to the late 1980s, and later converted to a private high school. During its operation as a private high school, multiple temporary Conditional Use Permits were approved for places of assembly to utilize the school facility. In 2003, the school received approval for a 14,000 square-foot gymnasium addition. The high school operated at the subject property until 2009.

Since Success Academy began operation in 2017, two additional CUP approvals were granted to increase the total student enrollment. In February of 2018, the student enrollment increased from 60 students to 84 students. Following the completion of an independent traffic study performed by Bolton & Menk (dated July 11, 2018), approval was granted in September of 2018 for an additional student enrollment increase from 84 students to 130 students. Given the recency of the CUP

application and associated public hearing in September of 2018, the prior staff review and traffic study includes relevant information that informs the present review of the requested Conditional Use Permit and Final Development Plans. The staff report from the previous Conditional Use Permit review in 2018 is attached for reference. All other documents associated with the last CUP approval can be found at the following link:

<https://permits.bloomingtonmn.gov/ProdPortal/Planning/StatusReference?referenceNumber=PL201800226>

The traffic and parking study completed in 2018 studied the existing traffic and parking conditions associated with the total multi-use facility, not just the school in isolation. The traffic analysis completed focused on safety, capacity and impacts to the surrounding neighborhood. Multiple mitigation measures recommended by Bolton & Menk in the original study were implemented at the property and surrounding area, including:

- **One-Way Site Circulation** – Site circulation was modified to a one-way circulation pattern for the two driveways to Park Avenue South and along the facility main entrance for improved safety associated with student drop-offs and pick-ups (see Figure 1)
- **Intersection Improvements** – Curb bump outs were added to the intersection of Park Avenue South and East 82nd Street to address speed and pedestrian safety concerns (see Figure 1)
- **Additional Driveway Access** – A driveway was extended from the main facility parking areas southward to East 83rd Street to provide an additional option for site ingress/egress to better distribute traffic movements in the area (see Figure 1).
- **Smith Park Dedicated Driveway** – The property owner of the multi-use facility entered into an agreement with the City to participate financially in the construction of a dedicated driveway serving the Smith Park parking lot (see Figure 1). Previous access to the Smith Park parking lot was solely provided through the subject property via access easement.
- **Sidewalk Improvements** – An ADA compliant pedestrian ramp and missing sidewalk segment were required to be installed to improve pedestrian connections from the public sidewalk network along Park Avenue South to the facility (See Figure 1).

The mitigation measures implemented improved pedestrian and bicycle safety, roadway capacity, and neighborhood livability. In conjunction with the recommendation of these mitigation measures, the Bolton & Menk independent traffic study determined the proposed increase in student enrollment up to 130 full-time students did not exceed the maximum traffic levels established in the Institutional Use Standards ordinance (Sec. 21.302.06). As a result, the CUP to increase student enrollment from 84 to 130 students was approved subject to operational conditions applicable to the total multi-use facility. The existing Conditional Use Permit (Case #PL2018-226) replaced all prior CUPs.

Figure 1 – Traffic Mitigation Measures Implemented**One-Way Site Circulation****One-Way Site Circulation****Intersection Improvements**
(Park Ave & E 82nd St)**Additional Driveway Access (E 83rd St)****Smith Park Driveway****Sidewalk Improvements**

ANALYSIS

Land Use

All of the uses associated with the multi-use facility (school, community center and place of assembly) are conditional uses in the R-1 zoning district. The City Council is required to take action upon CUPs for a school or place of assembly use (see Section 21.501.04(d)(1) of the City Code). As such, the City Council must act upon the subject Conditional Use Permit application and associated Final Development Plans for the proposed greenhouse. Per the place of assembly standards in City Code (Sec. 19.63), the structure coverage on a place of assembly site can only be expanded beyond 12 percent, up to a maximum of 15 percent, via the approval of a CUP by the City Council. As such, the proposed greenhouse addition also requires CUP approval.

The requested Conditional Use Permit, if approved, would replace the existing CUP that governs the subject facility and property. As such, there are a number of ongoing conditions that apply to the building's full occupancy as opposed to solely the school use. Conditions that are still pertinent to the facility's ongoing use from the 2018 CUP approval (Case #PL2018-226, Resolution #2018-117) are recommended to remain in place with a new CUP. The resolution for the existing CUP approval (Resolution #2018-117) is attached to the staff report for reference. In addition, should the requested CUP application be approved, staff recommends that the applicant enter into a new site development agreement memorializing all of the conditions of approval prior to any increases in student enrollment.

Institutional Use Standards

In 2013, the City adopted performance standards for institutional uses (Section 21.302.06 of the City Code). The intent of the standards is to reduce the impacts of institutional uses on surrounding land uses, particularly residential uses. An institutional use is defined in the City Code (Sec. 19.03) as the following:

Land uses that serve a community's social, educational, health, cultural and recreational needs. Uses include, but are not limited to schools, colleges, day care facilities, libraries, places of assembly, switching stations, funeral homes, nursing homes, monasteries, fire stations, assisted living facilities and community centers.

Due to the subject property's use as a school, place of assembly and community center, the institutional use standards apply to the review of the requested Conditional Use Permit. More specifically, the subsection on traffic impacts (Sec. 21.302.06(b)(7)) is the most significant standard related to the subject application. A prohibition of institutional use expansion is established within this subsection when the expansion creates traffic levels that exceed certain thresholds unless the negative impacts can be mitigated. The specific traffic level thresholds identified in the Institutional Use Standards are outlined in the Traffic Analysis section of the staff report that follows.

Similar to the analysis and evaluation completed in 2018 (Case #PL2018-226) with the most recent increase in student enrollment, the applicant paid for an independent traffic study to determine if the proposed institutional use expansion would exceed the traffic thresholds identified in City Code. Based upon the previous data collection and analysis completed in 2018, Bolton & Menk was again selected to perform follow-up analysis to evaluate the proposed student enrollment expansion based on the hybrid educational program. The Bolton & Menk Special Traffic and Parking Study Addendum, dated July 7, 2020, finds that none of the three traffic thresholds identified in the institutional use standards would be exceeded with the proposed student enrollment expansion and corresponding hybrid program schedule. Additional analysis and discussion of the traffic study findings are found in the traffic section that follows.

Traffic Analysis

Bolton & Menk completed an addendum, dated July 7, 2020, to the traffic study and amendment finalized in 2018 to analyze the proposed expansion of the elementary school, Success Academy, at 8201 Park Avenue South. The school is currently approved for up to 130 students. The previous study analyzed an increase in 70 students from the baseline of 60 students. The most recent addendum analyzed the peak hour and daily trip generation, trip distribution, and any mitigation measures for the proposed additional 50 hybrid program students on-site Monday through Thursday, totaling 120 students above a baseline of 60 students.

The Bloomington City Code 21.302.06(b)(7)(A) states that “The establishment of a new institutional use or the expansion of an existing institutional use that creates traffic levels above the following thresholds as documented by a traffic study prepared by a qualified, independent traffic engineering professional under the supervision of the city is prohibited unless the City Council finds that the negative impacts, reasonably attributable to the proposed institutional use, on surrounding residential uses can be sufficiently mitigated to levels consistent with residential livability and pedestrian and motorist safety:

- (i) Adds 300 or more trips per day to a local residential street at least once per week on a regular basis;
- (ii) Adds 100 or more new trips per day on a local residential street, such that the total trips on that local residential street add up to a total of over 1,000 trips per day at least once per week on a regular basis; or
- (iii) The proposed use or expansion is expected to produce 100 or more trips per hour on a local residential street during the peak hour of trip generation for the proposed site, at least once per week on a regular basis.”

Bolton & Menk’s site analysis concluded the proposed increase of students at Success Academy would impact the three identified traffic thresholds as follows:

- **Threshold i** – The increase in trips per day is 298 with an increase in students of 120 from the 60 student baseline. Since 298 trips is less than 300, the proposed number of students does not exceed this City Code threshold.
- **Threshold ii** – An additional 185 trips per day (Monday-Thursday) will be added to Park Avenue south of E 82nd St. The volume on E 82nd St remains under 1,000 vehicles with this increase in trips Monday through Thursday when the 50 additional students (120 student addition from 60 student baseline). Therefore, the proposed number of students does not exceed this threshold. However, it is important to note that threshold ii would be exceeded if the hybrid program students were on-site on Fridays.
- **Threshold iii** – The peak hour increase in trips is 96 with an increase in students of 120 from the 60 student baseline. The number of students currently proposed does not exceed the City Code threshold of 100 peak hour trips.

An analysis of mitigation measures implemented since the 2018 Traffic Study was completed. The analysis considered factors such as bicycle and pedestrian safety, capacity & neighborhood impacts/livability. It was concluded the mitigation measures currently in place are sufficient and no other measures are recommended as a result of the proposed student increase.

The traffic study concludes that the current proposal is not expected to create any new safety or capacity issues on the surrounding roadway network. Based upon the proposed schedule of the hybrid education middle school program, none of the three traffic thresholds established in the Institutional Use Standards would be exceeded. As a result, the proposed student enrollment expansion complies with City Code from a traffic perspective. Staff is recommending an ongoing condition that the proposed increase in student enrollment (50 students) is limited to the hybrid education middle school program and associated schedule, which limits on-site instruction to Monday through Thursday, restricting on-site instruction on Fridays.

Code Compliance – Greenhouse Addition

The proposed greenhouse addition to the existing school is subject to performance standards for nonresidential structures in the R-1 zoning district and standards for place of assembly sites. Table 1 provides a Code compliance analysis of the proposed addition according to these and other performance standards in City Code.

Table 1: City Code Compliance Analysis

Standard and Code Section	Proposed	Meets Standard?
Site Area – 30,000 square feet (Sec. 21.301.01(c)(2))	433,186 square feet	Yes
Minimum Site Width – 120 feet (Sec. 21.301.01(c)(2))	527 feet	Yes

Standard and Code Section	Proposed	Meets Standard?
Maximum Floor Area Ratio – 0.5 (Sec. 21.301.01(c)(2))	0.143	Yes
Maximum Impervious Surface – 75 percent (Sec. 21.301.01(c)(2))	37.9 percent	Yes
Minimum Building Setback Along Street 50 feet (Sec. 21.301.02(d)(2))	241 feet (south)	Yes
Minimum Rear Yard Building Setback 30 feet (Sec. 21.301.02(d)(2))	219 feet (east)	Yes
Maximum Structure Height Three stories/40 feet (Sec. 21.301.02(d)(2))	One story/11 feet	Yes
Maximum Place of Assembly Expansion Building Coverage – 15 percent (Sec. 19.63(c)(1))	14.3 percent	Yes

Building Design

The proposed greenhouse addition would be attached to the existing facility and constructed out of transparent glazing. In addition to the growing space (800 square feet), there is a small entry and storage area (100 square feet) that serves as the primary access to the greenhouse. The structure is approximately 11 feet tall. The proposed exterior materials do not conflict with City Code provisions.

Landscaping, Screening and Lighting

The site currently complies with the required lighting requirements and is nonconforming for landscaping quantities. However, the size of the proposed building expansion would not trigger conformance for nonconforming site characteristics under the nonconformity provisions of City Code (Sec. 21.504). As a result, the applicant is responsible to add landscaping based upon the amount of site disturbance at a rate of one tree per 2,500 square feet and one shrub per 1,000 square feet. In addition, any existing trees or shrubs removed to construct the proposed greenhouse must be replaced. The applicant must submit a landscape plan for Planning Manager review and approval prior to the issuance of the building permit.

Regarding screening of institutional uses and schools, the property owner installed a screen fence along the southern property line abutting single-family dwellings as part of the CUP approval in 2018. The screening required by City Code (Sec. 21.302.06 and 21.302.25) must remain in place unless a waiver is obtained from all applicable property owners. Staff has recommended an ongoing condition that the institutional use be screened to abutting residential uses unless otherwise waived per the procedures outlined in City Code.

Access, Circulation, and Parking

Site access and circulation within the multi-use facility is not proposed to change with the subject application and proposed improvements. Modifications to site access and circulation were required to be implemented as part of the mitigation associated with the traffic study findings in the 2018 Bolton & Menk study. All mitigation measures must remain in place to ensure adequate pedestrian and bicycle safety, capacity, and to minimize traffic impacts to the surrounding neighborhood.

Site parking supply is not proposed to change as a result of the subject application. The facility is currently subject to concurrent occupancy restrictions, limiting the full occupancy of the building at the same time. To analyze the different parking requirements of the permitted use scenarios as determined by the occupancy restrictions, three different parking requirements were tabulated as part of the last staff review in 2018 (see staff report from Case #PL2018-226). Table 2 outlines the parking requirement associated with the three different use scenarios.

Table 2 – Parking Requirement by Use Scenarios

Use Scenario	Description	Parking Requirement
1	During prekindergarten-8 th grade school hours	106 spaces
2	Outside school hours during assembly uses	142 spaces
3	Outside school hours w/gymnasiums in use	249 spaces
Maximum Parking Requirement w/Occupancy Restrictions		249 spaces

The maximum parking requirement under the City Code for the facility is 249 parking spaces as of the CUP approval in 2018, whereas there are 261 parking spaces available on-site and via shared agreement. As part of the Smith Park driveway project, six parking stalls were removed from the Smith Park parking lot, reducing the available parking supply from 267 spaces (the quantity available in 2018) to 261 parking spaces. A proof of parking agreement is also recorded against the property that could add 49 parking spaces to the site, raising the possible supply to 310 spaces.

The proposal includes a greenhouse addition, approximately 900 square feet in size. Per Section 21.30106(d) of the City Code, one parking space is required per 800 square feet of gross floor area of an elementary school. As a result, the proposed greenhouse addition increases the parking requirement of the facility during school hours from 106 spaces to 107 spaces. However, due to the existing concurrent occupancy restrictions, such an increase in the school-related parking requirement does not substantively change the maximum parking requirement of the facility (249 total parking spaces), which reflects the largest use scenario allowed – outside of school hours w/gymnasiums in use. There is an adequate supply of parking at the site for the existing facility with the proposed greenhouse addition, so long as concurrent occupancy restrictions are maintained in the future.

There have been frequent instances of on-street parking in proximity to the multi-use facility, mostly associated with larger events and activities associated with the place of assembly. Site parking was studied as part of the 2018 Bolton & Menk study. The study findings and previous City staff observations note the occurrence of on-street parking has more to do with location and convenience parking than a lack of parking supply. During most times when on-street parking occurred, there were more empty parking spaces on site than there were cars parked on street. The only exception has been during large holiday events.

Staff does not recommend any additional off-street parking be constructed at this time. More information about site parking quantity and characteristics can be found in the staff report of the previous CUP approved in 2018, the link to which is found in the Background section of this report.

Stormwater Management

The proposed building addition is not of a size or scale that would trigger a formal stormwater management review. Should the proposed site disturbance exceed 5,000 square feet or 50 cubic yards, stormwater management facilities may need to be provided to accommodate the proposed greenhouse addition. Erosion control measures will need to be provided depending on methods of construction.

Fire Prevention and Public Safety

Prior to new occupancy of any classrooms, the property owner must demonstrate that all fire suppression systems that serve the classrooms proposed for use comply with the 2020 MN Fire Code. Fire sprinkler testing must be performed prior to occupancy, and associated reports provided to the Fire Marshal. Staff is recommending a condition that prior to occupancy, all life safety requirements and systems be reviewed and approved by the Fire Marshal.

Environmental Health Review

The existing school does not plan to change the food program offered at the facility at this time. Any changes to the food program must be approved by the Environmental Health Division through the review of a revised Food Service Plan. Staff is recommending an ongoing condition that the school and broader facility comply with the food licensing and inspection requirements of the Environmental Health Division and City Code.

Status of Enforcement Orders

The property is not currently subject to enforcement orders.

Public Correspondence

The City has received 30 items of public correspondence from 13 parties. All of the correspondence received to date is attached to the staff report for consideration. Some of the correspondence received objects to the student enrollment expansion of the school, while other correspondence received is supportive of the application. It should be noted that a significant amount of public correspondence was also received as part of the previous Conditional Use Permit approval in 2018. This correspondence can be viewed through the public application portal for the previous CUP application (Case #PL2018-226), a link to which is found on page five of this staff report.

Planning Commission Review

The Planning Commission held a public hearing for the subject application on July 23, 2020. Two people spoke in favor of the application during the public hearing. Following the hearing, the Planning Commission discussed the application and related traffic study findings. Full detail of the Planning Commission discussion can be found in the attached minutes from the meeting. The Planning Commission unanimously recommended approval of the application (Vote: 7-0).

FINDINGS**Required Conditional Use Permit Findings - Section 21.501.04(e)(1)-(5)**

Required Finding	Finding Outcome/Discussion
(1) The proposed use is not in conflict with the Comprehensive Plan.	Finding Made – The subject property is guided Public and Quasi-Public in the Comprehensive Plan. The Public and Quasi-Public designation includes schools, churches, government facilities, parks, and conservation areas. The expansion of an existing school at a multi-use facility located at a site guided Public and Quasi-Public is not in conflict with the Comprehensive Plan. Similarly, the addition of a greenhouse is consistent with the school and community center use and is not in conflict with the Comprehensive Plan.
(2) The proposed use is not in conflict with any adopted District Plan for the area.	Finding Made – There is no District Plan for the area.
(3) The proposed use is not in conflict with City Code provisions.	Finding Made – Subject to compliance with the conditions of approval attached to the Conditional Use Permit, the proposed use is not in conflict with City Code provisions.

Required Finding	Finding Outcome/Discussion
(4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	Finding Made - The proposed student increase is not anticipated to place an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development. The property has implemented recommended mitigation measures including roadway safety improvements. The student increase will be limited to Monday through Thursday on-site learning. These measures reduce the burden on public facilities associated with the proposed use. The greenhouse is proposed for educational use, 900 square feet in size, 11 feet in height will not create an excessive burden on utilities or site circulation.
(5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	Finding Made – Subject to Conditions of Approval, specifically limiting hybrid education program students to Monday through Thursday on-site learning, the proposed student enrollment increase and greenhouse would not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare of the community.

Required Final Development Plan Findings - Section 21.501.03(e)(1)-(7)

Required Finding	Finding Outcome/Discussion
(1) The proposed development is not in conflict with the Comprehensive Plan.	Finding Made – The subject property is guided Public and Quasi-Public in the Comprehensive Plan. The Public and Quasi-Public designation includes schools, churches, government facilities, parks, and conservation areas. The expansion of an existing school at a multi-use facility located at a site guided Public and Quasi-Public is not in conflict with the Comprehensive Plan. Similarly, the addition of a greenhouse is consistent with the school and community center use and is not in conflict with the Comprehensive Plan.
(2) The proposed development is not in conflict with any adopted District Plan for the area.	Finding Made – There is no District Plan for the area.
(3) The proposed development is not in conflict with the approved preliminary development plan for the site.	Finding Made – The approved Preliminary Development Plan for the property is for a school. The proposed greenhouse building addition is not in conflict with the approved Preliminary Development Plan for the site.
(4) All deviations from city code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval.	Finding Made - The proposed uses and associated increase in weekday student count in which the increased students will have remote learning on Fridays is not in conflict with City Code provisions provided the non-concurrent use limits and the proposed conditions of approval are observed.

Required Finding	Finding Outcome/Discussion
(5) The proposed development is of sufficient size, composition, and arrangement that its construction, marketing and operation is feasible as a complete unit without dependence upon any subsequent unit.	Finding Made – The proposed greenhouse addition at an existing school is feasible as a complete unit without dependence on any subsequent unit.
(6) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	Finding Made – The proposed student increase is not anticipated to place an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development. The property has implemented recommended mitigation measures including roadway safety improvements. The student increase will be limited to Monday through Thursday on-site learning. These measures reduce the burden on public facilities associated with the proposed use. The greenhouse is proposed for educational use, 900 square feet in size, 11 feet in height will not create an excessive burden on utilities or site circulation.
(7) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	Finding Made – Subject to Conditions of Approval, specifically limiting hybrid education program students to Monday through Thursday on-site learning, the proposed student enrollment increase and greenhouse would not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare of the community.

RECOMMENDATION

The Planning Commission and staff recommend approval through the following motions:

In Case #PL2020-98, having been able to make the required findings, I move to adopt a resolution approving a Conditional Use Permit to increase the maximum student enrollment from 130 students to 180 students through a hybrid educational program and to construct a greenhouse addition at an existing Pre-K – 8th Grade school located at 8201 Park Avenue South, subject to the conditions and Code requirements attached to the staff report.

In Case #PL2020-98, having been able to make the required findings, I move to approve a Major Revision to Final Development Plans to construct an approximately 900 square-foot greenhouse addition at an existing Pre-K – 8th Grade school located at 8201 Park Avenue South, subject to the conditions and Code requirements attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL2020-98

Project Description: Conditional Use Permit to increase student enrollment from 130 to 180 students utilizing a hybrid educational program and a Major Revision to the Final Development Plans to add a greenhouse addition at an existing elementary and middle school

Address: 8201 Park Avenue South

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to Enrollment Increase A Site Development Agreement, including all conditions of approval, must be executed by the applicant and the City and must be properly recorded by the applicant with proof of recording provided to the Director of Community Development.
2. Prior to Enrollment Increase Sewer Availability Charges (SAC) must be satisfied.
3. Prior to Enrollment Increase Prior to any increase in prekindergarten-8th grade school enrollment above 130 students, life safety requirements must be reviewed and approved by the Fire Marshal.
4. Prior to Enrollment Increase Bicycle parking spaces must be provided and located throughout the site as approved by the City Engineer.
5. Prior to Permit A building permit for all required changes to accommodate the proposed greenhouse be obtained.
6. Prior to Permit Grading, Drainage and Erosion Control plans must be approved by the City Engineer for the proposed greenhouse addition.
7. Prior to Permit Based upon the amount of site disturbance and landscape material removal associated with the greenhouse addition, a landscape plan must be reviewed and approved by the Planning Manager and landscape surety must be filed (Sec 19.52).
8. Ongoing The following occupancy restrictions must be followed to manage the multiple concurrent uses on the site:
 - a) The prekindergarten-8th grade school is limited to a total enrollment of 180 students, at least 50 of which must be enrolled in the hybrid education program;
 - b) The hybrid education school program is limited to on-site instruction Monday - Thursday. No on-site instruction may be provided on Fridays to hybrid education program participants;
 - c) Instructional activities associated with the community center or place of assembly are limited to a combined total of 80 participants at any one time. Athletic program participants are not subject to the 80 participant total;
 - d) The use of the large gymnasium is limited to 500 occupants at any one time;

- e) Assembly uses may not occur in the assembly rooms, large gymnasium, small gymnasium or cafeteria during prekindergarten-8th grade school hours, athletic programming, or instructional activities; and
- f) While the on-site assembly areas are in use, the use of the large gymnasium, small gymnasium, and cafeteria is limited to activities that do not generate additional parking demand.

9. Ongoing The greenhouse building addition is limited to the size and location as shown on the approved plans in Case File #PL2020-98.
10. Ongoing The floor area of the assembly rooms is limited to the size and location shown in the approved floor plan for Case File #PL2020-98.
11. Ongoing The existing or equivalent Proof of Parking Agreement (Hennepin County Recorder Document #A9710204) between the City and the property owner for 49 new parking spaces must be maintained or approved by the Planning Manager if revised.
12. Ongoing The property owner must maintain rights to utilize the off-site parking spaces identified in the staff report in Case #PL2018-226 and must provide copies of agreements and leases to the Planning Manager. Changes in occupancy, building use, or access to the off-site parking spaces must be reviewed and approved by the Planning Manager and may require an amendment to the Conditional Use Permit.
13. Ongoing All prekindergarten curriculum must meet Minnesota's early learning instructional program standards for children.
14. Ongoing The property owner must provide and fund traffic control services as required by Chapter 14 of the City Code.
15. Ongoing Due to parking availability and the increase in trip generation, the school use is limited to grades prekindergarten-8th grade.
16. Ongoing Due to parking availability, the Joint Use Agreement dated March 2, 2015, providing shared access to 110 off-site parking spaces on adjacent land must be maintained unless the Conditional Use Permit is amended to reflect a new use mix parking demand that can be met through on-site parking.
17. Ongoing The property owner, subject to review and approval of the Parks and Recreation Director, must prepare in January of each year, an annual plan that coordinates the use of joint parking areas and outdoor recreation/athletic facilities in a manner that minimizes overlapping demand.
18. Ongoing Any expanded use of the kitchen must be reviewed and approved by the Environmental Health, Planning and Fire Prevention Divisions.
19. Ongoing Parking lot and site security lighting plans must comply with Section 21.301.07 of the City Code.
20. Ongoing All construction related pick-up, drop-off, loading, unloading, staging and parking must occur on-site and off public streets.
21. Ongoing Interior or exterior site alterations must comply with the Minnesota State Accessibility Code (Chapter 1341).
22. Ongoing Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code.
23. Ongoing All trash and recyclable materials must be stored inside the principal building (Sec. 21.301.17).
24. Ongoing Recyclable materials must be separated and collected (Sec. 10.45).

- 25. Ongoing Interior modifications must be reviewed and approved by the Fire Marshal to verify automatic fire sprinkler system coverage is in compliance (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903).
- 26. Ongoing Alterations to utilities must be at the property owner's expense.

Johnson, Nick M

From: Planning
Sent: Thursday, January 13, 2022 7:10 PM
To: Johnson, Nick M; Markegard, Glen
Subject: FW: what I intended to say January 13 planning commission meeting

Follow Up Flag: Follow up
Flag Status: Completed

From: sally [REDACTED]
Sent: Thursday, January 13, 2022 7:03 PM
To: Planning <planning@BloomingtonMN.gov>
Subject: what I intended to say January 13 planning commission meeting

Planning,

Below is what I planned to say.

The City should include on the Agenda that there is a limited time allowed to speak.

Thanks.

The event center should have the number of parking spots that are required by City Code, it does not.

The Cultural Campus is a conditional use in FD-2 because it includes uses that were previously not permitted that the City has determined potentially negatively impact the surrounding area.

These uses should have the required number of parking spaces, the event center should have the required number of parking spaces, and then the City should address the potential negative impacts of the use, such as high traffic levels.

The event center should comply with the parking requirement and then the City should determine the potentially negative impact to the surrounding area and create conditions to mitigate the concerns.

Valley View school meets the parking requirements and has a condition that when there is assembly concurrent use of the entire facility is not allowed.

Additionally, the proposed 99 parking spaces for the event center is too low. It is based on table seating of 296, and yet the tables are not permanent and therefore could accommodate hundreds more. My estimate is a total of 510 people and a need for 170 parking spaces. Also, there is an attached lobby of 1,538 sq ft that can be used as well, and unless it is designed so the area cannot accommodate an overflow of people from the event center, additional parking spaces should be required.

The Cultural Campus request to include an event center does not meet the parking requirement and should not be permitted.

This is different than the event center meeting the parking requirement and then the City approving the use with conditions to address the potential negative impact.

The reduction of the previous proposed hours, as a reason not to comply with the parking requirement, should not be permitted.

When the city adds conditions to approve a conditional use permit, it should be for a property that meets the requirements.

The conditions to approve a conditional use permit should not be used as a way to excuse a property from meeting all requirements

The original request for the event center was for a use from 8am to 2am, and based on another property, regardless, if the property proposes a reduction of hours of 5pm to 2am, the City either won't or can't address it. The City has previously stated that the City does not have required hours for a property/business, regardless of what was proposed.

The City has also been unable to require compliance to conditions that restrict a property use. An example is the noncompliance to the condition at 8201 Park that limits the gym to 500, a condition that goes with the land, the gym has had over 500 too many times which included a Council member on social media inviting more to the facility, even though it was over 500.

If the City has not addressed the noncompliance, in the Smith Park neighborhood, specifically noncompliance to the off street parking requirement, planning should not rely on a condition for compliance, and instead require 1701 American Blvd to provide the required parking.

Not providing the required parking will make it difficult for 1701 American Blvd to be in compliance with the off street parking requirement, especially the parking demand that is likely the greatest when an event begins. An event that begins at 5pm will demand parking earlier than 5pm while other 1701 American Blvd businesses will likely still have vehicles parked in the parking lot.

Again, the original request for use was from 8am to 2am, and regardless that the project description indicates 5pm-2am, that does not mean the event center will be used from 5pm-2am.

The Dar Al Farooq building proposed a use that ended at 10pm, and the City response to concerns of the use after 10pm was that the City does not have required hours for a property/business.

Regardless if there is a condition that the event center operation is limited from 5pm to 2am, that does not mean the property will adhere to the condition, and/or that the City can or will address it.

The City provided residents with numbers to call concerning overuse and noncompliance, relying on residents to call, but when residents did call the City was not receptive and negative to those who did call and document the concerns.

The City should not subject neighboring properties of 1701 American Blvd, to what the residents in the Smith Park neighborhood were and continue to be subjected to, by permitting an event center that does not meet the parking requirements.

Also, page 58 of the Staff Report, the Comment Summary, Traffic Review states, "Provide trip generation numbers for the site using ITE Trip Generation Standards." I did not see the any "trip generation numbers" or data why they are not provided.