

## GENERAL INFORMATION

Applicant: Al Jazari Institute Property LLC (Owner)  
Success Academy (User)

Location: 8201 Park Avenue South

Request: Amend Conditional Use Permit to expand the maximum number of students from 60 to 84 for an existing elementary charter school.

Existing Land Use and Zoning: Community center, school and place of assembly; zoned R-1 and R-1(PD)

Surrounding Land Use and Zoning: North and East – City Park; zoned R-1 and R-1(FH)  
West – Single Family dwellings and power transmission lines; zoned R-1  
South – Single Family dwellings; zoned R-1

Comprehensive Plan Designation: Quasi-Public and Public

## HISTORY

City Council Action: 08/17/87 – Approved a two-year temporary conditional use permit for a day care and office uses at the Northgate Elementary School (Case 8915A-87).

City Council Action: 07/19/89 – Approved a Comprehensive Land Use Plan amendment from Public to Office and Low-density Residential and Preliminary and Final Development Plans to covert Northgate Elementary School to an office use and create four new single family lots subject to conditions (Case 8915ABCD-89). **NOTE:** Although approved, the school was not converted to an office use and the single family lots were not created.

City Council Action: 07/16/90 – 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).

- City Council Action: 03/18/91 – Approved revised Final Development Plan 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.
- City Council Action: 04/12/93 – Approved a two-year temporary conditional use permit for a church in a school at 8201 Park Avenue (Case 8915A-93).
- City Council Action: 04/03/95 – Approved a five year temporary conditional use permit for a church in a school at 8201 Park Avenue (Case 8195A-95).
- City Council Action: 06/01/98 – Approved revised Final Development Plan for a gymnasium addition subject to conditions (Case 8915A-98).
- City Council Action: 06/19/00 – Approved a five year temporary conditional use permit for a church in a school at 8201 Park Avenue (Case 8195A-00).
- City Council Action: 08/18/03 – Approved a revised Final Development Plan for a 14,000 square foot gymnasium with options for gym storage space and additional restrooms and shower facilities (as presented in plans contained in Case 8915A-03) with nine conditions and 10 Code requirements.
- City Council Action: 05/02/11 – Approved a Conditional Use Permit for a community center, place of assembly, school, and a day care, with six conditions and eight Code requirements (Case 8915A-11).
- Staff Action: 08/15/11 – Approved a minor revision to final site and building plans for a parking lot expansion and associated stormwater improvements at 8201 Park Avenue South (Case 8915B-11).

City Council Action: 05/02/11 – 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 corridor); (Case 8915C-11); and a Preliminary and Final Plat of SMITH PARK 3RD ADDITION, a combining 8201 Park Avenue, 8200 Chicago Avenue and a portion of 8101 Park Avenue into one lot (Case 8915DE-11).

### CHRONOLOGY

Planning Commission Action: 01/11/2018 – Recommended approval (Vote 5-0)  
City Council Agenda: 01/22/2018 – Continued (inclement weather)  
02/12/2018 – Development Business

### DEADLINE FOR AGENCY ACTION

Application Date: 12/04/2017  
60 Days: 02/02/2018  
Extension Letter Mailed: No  
120 Days: 04/03/2018  
**Applicable Deadline: 04/03/2018 – extended by City**  
Newspaper Notification: Confirmed – (12/28/17 Sun Current – 10 day notice)  
Direct Mail Notification: Confirmed – (500 foot buffer – 10 day notice)

### STAFF CONTACT

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### PROPOSAL

The applicant proposes a Conditional Use Permit amendment to remove a 20-student daycare and two fitness centers while increasing the allowed weekday school student enrollment from 60 to 84 students. No additional use changes are proposed as part of this application.

School hours are 7:30 AM to 3:00 PM Monday through Thursday and 7:30 AM to 11:30 AM on Friday. A total of 17 parking spaces along the front of the building would be reserved and used for up to three student busses each morning and afternoon and for standard parking outside drop off times. The charter school has non-exclusive use of the Smith Park Playground as an outdoor play area with larger activities using the football field. The school would not be in session during the Friday afternoon assembly activities, which is the period of time having the highest traffic volume and parking demand.

Activities outside the typical school hours include soccer club, basketball club, Lego league, chess club, math master club, occasional parent teacher conferences and occasional evening family activities. The applicant intends to schedule the activities to eliminate peak use conflicts with other uses on site.

## **BACKGROUND**

The site was originally developed in 1962 as Northgate Elementary School, a 46,757 square-foot public elementary school. Northgate Elementary School was closed in the late 1980s and the property was sold and converted to a private high school in 1990. In 1991, most of the property was rezoned to a Planned Development and a 14,000-square foot gymnasium was added. Due to the parking constraints, the maximum use of the gymnasiums was set at 500 occupants and would not be used for other activities when the school was in session. The high school operated until it vacated the property in 2009.

On May 2, 2011, a new owner submitted and the City of Bloomington approved a conditional use permit for a community center, place of assembly, weekend and weekday schools and day care. The uses were limited to the size proposed by the applicant due to the traffic and overflow parking impacts and potential impacts on the neighborhood. In 2012, the new owners commenced the community center, place of assembly and weekend school uses, thereby vesting the Conditional Use Permit. Although not originally established, approvals for a weekday school with occupancy of 60 students and a daycare of 20 students remained valid, with occupancies capped at the originally proposed levels as a way to satisfy parking requirements and minimize traffic conflicts for the variety of uses.

The property ownership changed again on January 26, 2016. As part of the change, staff met with the new owner representatives to discuss the Conditional Use Permit conditions and allowances. Under state law, Conditional Use Permits attach to the land and do not terminate with a change of ownership. In this meeting, staff explained all of the existing conditions and allowances. In January of 2017, the applicant submitted a pre-application Development Review Committee (“DRC”) review request to increase the daycare use from 20 students to 264 students. During the review, the approved use limits were discussed with the applicant.

The owners did not follow through on an application to amend the Conditional Use Permit to expand the daycare. Instead, owner representatives inquired later in 2017 regarding the ability to lease space to a charter school. On numerous occasions, staff verbally informed representatives of both the owners and the charter school that the Conditional Use Permit allowed a school to open provided it was limited in size to 60 students and met all other conditions of approval and applicable Code standards. A reminder of the 60 student limit was again transmitted in writing on August 11, 2017, in a letter from the City Manager to the Executive Director of Dar al Farooq (attached). Staff met with the property representatives on August 22, 2017, where the representatives assured staff they were aware of the limitation.

In the fall of 2017, the applicant commenced a Charter School. On September 5, 2017, the Development Review Committee reviewed a pre-application request to increase the student count from 60 to 120 by December of 2017, and to 175 in the fall of 2018, with a maximum number desired of 300 students. The representative assured staff there were 58 students attending the school, complying with the maximum number of students allowed in the 2011 Conditional Use Permit.

The City received a complaint regarding the number of students. On October 17, 2017, staff inspected the site and available records, and verified over 60 children were attending the school. The Minnesota Department of Education verbally confirmed both the charter school's submitted enrollment projections and student roster show 80 students for the 2017-2018 school year. The applicant was contacted regarding the violation, and was given a deadline for compliance. Following this letter from staff, the applicant submitted this application to cure the alleged violation. The applicant did not contact staff about the increased enrollment violation prior to the notice.

## **ANALYSIS**

Since the 2011 Conditional Use Permit approval, two City Code amendments regarding daycare and institutional uses were approved. Section 21.302.27, daycare facilities, requires daycares of greater than 13 persons must be located on arterial or collector streets. Therefore, if established, the approved daycare would be a legally non-conforming use. As such, it could not be expanded beyond the approved occupancy of 20 persons. This application to remove the daycare eliminates any future daycare with greater than 13 persons without a City Code amendment and removes the potential for establishing the legal non-conforming use.

Section 21.302.06, institutional use standards, establish criteria to reduce the impacts of institutional uses on surrounding uses, particularly surrounding residential uses. Criteria are established to address several potential types of impact, including traffic. The Public Works Department has concluded the anticipated traffic generation from the proposed amendments falls below the levels prohibited by the institutional use standards. Therefore, a traffic study is not

required for this application, but would likely be for any future expansion proposal. A detailed analysis on traffic is included in the following sections of the report.

To support the student increase, the applicant provides significant background on the past property school use as a. The applicant emphasizes its belief the requested changes would be consistent with or lower than past school use. Staff recognizes the prior use as a school had a higher school enrollment, although the previous use did not include a community center, specific weekend school or a place of assembly matching the size or operational characteristics of the current place of assembly. The past places of assembly were temporary uses. The conglomeration of uses create a complex set of use characteristics which impact neighborhood traffic and parking. For that reason, it is important to evaluate the multiple-use occupancy to minimize the impacts of the combined uses of the property as opposed to only reviewing school occupancies.

The applicant requests and this review primarily focuses on the weekday school student increase from 60 to 84 students. Other than the removal of the daycare and fitness centers, there are no other use-related changes from what was previously approved (Community Center, school and Place of assembly with associated offices). However, significant changes to the floor plan have occurred since the original approval. The changes are mostly related to the approved Community Center use. Staff incorporated the new floor plan into this review and adjusted the parking calculations for the room changes. In addition, all the past ongoing conditions for all uses are included into this approval to create a comprehensive list of new conditions.

To accommodate the change, the previously approved daycare and fitness centers are proposed to be eliminated. The women's fitness center would be converted to offices and the men's fitness center and locker rooms converted to weekend classrooms. The charter school currently occupies a majority of the daycare area, although the 832 square foot toddler room would be converted to community center offices.

Since the original approval, there have been several interior modifications approved as they related to the approved uses as a community center or place of assembly. The floor area changes since the original approval have been within the allowances for a community center and school and did not require a Conditional Use Permit amendment. The overall size of the building has not changed.

### **Traffic Analysis**

A traffic analysis for a proposed new or expanded use analyses the traffic impacts of the proposed new or expanded use in the context of the existing neighborhood, roadway and traffic conditions. The traffic analysis for this proposal is focused on **1) safety, 2) capacity, and 3)** (because the site is situated within a low density residential neighborhood) impacts to the neighborhood. In this case, #1 and #3 would generally be referred to as "livability".

The current application proposes to increase the number of students from 60 to 84. However as noted above, the applicant has indicated a long term desire for approval for up to 300 weekday school students. The actual number of students in attendance becomes important because the number of students is the independent variable used in order to determine the range of vehicle trips potentially being generated by the change in use, and because there are specific triggers in City Code for the expansion of an institutional use, depending on the magnitude of those trips, as follows:

**Bloomington City Code, 21.302.06 (b)(7)(A)(i)-(iii)**

- (7) *Traffic impacts.* The City Council finds that high traffic levels associated with institutional uses can have significant negative impacts on nearby residential uses.
- (A) *Prohibition.* 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.
- (B) *Traffic study.* When the Public Works Director or designee determines a proposal has the potential to cross the thresholds listed above, the applicant must fund a traffic study to be prepared by a qualified, independent traffic engineering professional under the supervision of the city. \* \* \*

The current application for an additional 24 students did not trigger the threshold identified in the City Code that would prohibit the requested change without a traffic study prepared by a qualified, independent traffic engineering professional. Using trip generation rates from the *Institute of Transportation Engineers (ITE) Trip Generation Manual*, the 24-student increase in this application represents an estimated 31 to 99 new trips per day from the site. Section (7)(A)(ii) of the Code listed above mandates a traffic study be completed if a proposal 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 over 1,000 trips per day at least once per week on a regular basis. The traffic volumes on Park Avenue near the site were measured at 1,100 vehicles per day on Fridays. So based on this existing street volume and the proposed institutional land use increase, the combination of existing trips plus new trips added would have triggered the need for a traffic study if there was one more student than proposed (25 or more students added).

During the pre-application DRC meeting the applicant indicated its intention to be request an amendment to the CUP to allow 120 students, and its intention to request further amendment to the CUP for a maximum of 300 students in the future. At that meeting, staff indicated the proposed increase of 120 students exceeded the thresholds in Section 21.302.06(b)(7) allowed for expansion (see Attachment A) and a traffic study would be required to evaluate the impacts of that request.

With this current application, the traffic study was not triggered by Code as a requirement and the applicant chose not to complete one. As such, the analysis included in the remainder of this section is based on the ranges of traffic that could potentially be generated by the site using ITE trip generation rates and based on traffic volume data available from unrelated data collection efforts in the area, and do not constitute an in-depth study of traffic associated with the proposed expansion.

### **Staff-Prepared Traffic Data and Analysis**

#### **Trip Generation Data**

The addition of 24 students is expected to generate a range of 31 to 99 new trips per day, this includes trips both to and from the site. This range is based on data collected by the Institute of Transportation Engineers (ITE) for school facilities in North America, and reflects averages for a broad range of similar school types (public, private and charter schools) and means of transportation for students (bussing, carpool, parent pick-up and drop-offs, walking and biking).

The specific routes those new trips will use to reach the site are also not known, however based on the roadway network and site driveway locations, traffic will approach on Park Avenue using East 81<sup>st</sup>, East 82<sup>nd</sup>, East 83<sup>rd</sup> and East 84<sup>th</sup> Streets.

Details about the ITE Trip Generation rates and use codes applied can be found in the attached memo (Attachment B). This memo was created by staff based on the initial applicant discussions of student use now and in the future, to determine if a traffic study would be needed. This memo should not be construed as a formal traffic study on par with the type of study that the City Code contemplates.

The applicant has indicated efforts would be made by the school to place limitations on how the students (and families) would access the school – with details about requiring bussing and limiting the number of trips the families could make to the school. While these use restrictions would be good efforts to minimize neighborhood impacts and with a full traffic study could be considered as traffic mitigation efforts, unless these efforts are contractually obligated or memorialized in a condition of approval, the efforts cannot be used in the analysis to reduce the estimated number of trips. When expanded uses are permitted, the approved use is permitted even if the specific user changes and therefore there is the potential for the mitigation efforts to change or go away with a different user.

#### **Traffic Data**

Traffic volume data was available for this surrounding neighborhood from historic data, data collected in spring/summer 2017 for neighborhood intersection control evaluation, and one count collected on Park Avenue in the fall of 2017 in anticipation of this application after pre-application DRC. The traffic volumes in this neighborhood are mapped and shown in the neighborhood impacts section below.

## Traffic Analysis

**1a) Safety:** New trips generated from the site are not expected to create new safety problems or exacerbate existing problems in the area. Some intersections in the immediate neighborhood were converted from uncontrolled (no stop signs) to two-way stop control based on documented crashes that have occurred at those locations over time. However, those crashes don't conform to any specific patterns that would make them attributable to a single use or parcel, including the subject site. Intersection conversions like these are standard Public Works practice throughout the City in response to emerging and long-standing traffic issues, including long term changes in traffic patterns, problems with sight distance (vegetation, fences) and changes in driver expectations. The changes in the immediate area were the outcome of a resident-initiated neighborhood intersection control evaluation completed by City Staff in 2017, and are unrelated to this application.

**1b) Bicycle and Pedestrian Safety:** Both Smith Park and the proposed school expansion are generators for pedestrian traffic in this neighborhood. Although it is unknown how many students live in the immediate vicinity and could be expected to walk or bike to school, pedestrian safety and accessibility should be considered in this park and school area. Portland Avenue is the nearest adjacent arterial street to potentially be crossed, and Hennepin County is developing plans to remove the signal at 82<sup>nd</sup> Street over the summer of 2018 as it no longer meets the traffic criteria required. However, the City and County are developing plans for an improved pedestrian crossing just north of the existing signal, including a pedestrian refuge island. Those improvements, along with the conversion of Portland Avenue to a three lane section (instead of 4-lanes currently) should continue to allow safe and efficient access across the arterial to the Smith Park area. For pedestrians accessing the site from the east there are sidewalks, bikeways and park trails to accommodate access. Traffic volumes on roadways adjacent to the site are low enough that marked crosswalks are not generally placed except to aid school crossing guards (if used) or to help delineate safe crossing areas in the presence of parked or waiting cars, and could be deployed at 82<sup>nd</sup> Street and Park Avenue (for example) if needed. Those changes would be coordinated between Public Works staff, school personnel and City Park staff if warranted.

**2) Capacity:** The local streets and intersections in the vicinity have sufficient capacity to handle the expected increase in traffic, and capacity is not typically the controlling variable for a proposal in these circumstances.

**3) Neighborhood Impacts/Livability:** Figure 1 includes recent traffic volumes collected as part of the aforementioned intersection changes that occurred earlier in 2017:

**Figure 1: Recent traffic volumes**



The existing daily volumes are typical for residential streets in the City, and will remain within those ranges under the current proposal. The highest volume local street in the area is Park Avenue, which has an average daily volume of 800 cars per day, and 1,100 vehicles per day on Friday.

The City Comprehensive Plan includes characteristics for classes of roads in the City, and includes a desirable volume threshold of less than 1,000 cars per day for local streets. However, that number only provides a general guideline, and there are many local streets in the City that carry volumes above 1,000 cars per day without having a deleterious effect on the neighbors, including streets that provide access to schools, parks and other amenities (similar to Park Avenue). So while this particular proposal is not expected to elevate volumes sufficient to create a burden on the neighbors, some roadways in the vicinity are approaching those thresholds. Because of this, staff recommends for any future CUP amendments, the trip generation should be considered cumulative from this application, and a traffic study as indicated in Section 21.302.06(b)(7) (as may be amended) be included in that future application.

**Traffic and Transportation Summary:**

The current proposal is not expected to create new safety or capacity issues on the surrounding roadway network. While the current proposal is not expected to adversely impact the livability of the surrounding neighborhood, any future modifications should consider trip changes to be cumulative from this point. Since the applicant has indicated more than once it desires to have 300 students at the school in the future, and given the fact the applicant arguably violated the existing CUP by enrolling more than the approved 60 students despite clear and repeated direction from staff, a condition of approval on this CUP requiring any future application to modify this CUP must first complete a traffic study as indicated in Section 21.302.06(b)(7) is reasonable.

**Parking Analysis**

Upon initiating the previously-approved school use, the applicant dedicated 14 parking spaces, including three handicapped spaces, along the front of the building for temporary bus loading and unloading. The spaces would not be available for general parking use Monday through Friday from 7:20 AM to 7:40 AM, Monday through Thursday from 2:45 PM to 3:15 PM, and Friday from 11:15 AM to 11:30 AM. This modification requires the handicapped parking stalls to be relocated as they must remain available at all times. The applicant proposes moving them to the south, thereby the net result is 17 standard spaces are temporarily dedicated to bus loading and unloading.

Parking demand is altered by the proposed weekday student count increase, the elimination and reduction of some uses, and the reallocation of other space within the building. Table 1 identifies the Code-required parking, based on the proposed uses and Table 2 identifies the parking available.

**TABLE 1: Required parking**

<b>Location</b>	<b>Code Requirement</b>	<b>Occupants</b>	<b>SPACES</b>
Assembly rooms (2,582 Square Feet)	1 space/3 occupants	300	100 spaces
Weekday elementary school (84 students – 16,000 Sq. Ft.)	Elementary School: 1 parking space per 800 gross Sq. Ft.	Varied but nonconcurrent	20 spaces weekdays
Weekend school (80 students)	Weekend School – 1 parking space per 200 gross Sq. Ft.		44 spaces weekends
Community center classrooms (8,800 Sq. Ft.)			
Small gym (3,414 Sq. Ft.)	1 parking space / 3 occupants	123	41 spaces
Large gym (14,000 Sq. Ft.)	1 parking space / 3 occupants	500	166 spaces
Offices (12,173 square feet)	1 parking space / 285 Sq. Ft.		42 spaces
<b>TOTAL - IF USED CONCURRENTLY (WEEKDAY)</b>		<b>369 Spaces</b>	
<b>TOTAL - IF USED CONCURRENTLY (WEEKEND)</b>		<b>393 Spaces</b>	
<b>TOTAL – with gyms limited to nonconcurrent use (Weekday)</b>		<b>162 Spaces for non-gym use or 207 spaces for gym use</b>	
<b>TOTAL - with gyms limited to nonconcurrent use (Weekend)</b>		<b>186 Spaces for non-gym use or 207 spaces for gym use</b>	

**TABLE 2: Parking provided**

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<b>LOCATION</b>	<b>SPACES</b>
West of the building – Dar al Farooq land	157 space
Northwest Smith Park shared parking City Owned on Xcel and City land	74 spaces
Southeast Smith Park shared parking City Owned on City land	36 spaces
<b>TOTAL PARKING Existing</b>	<b>267 spaces</b>
Proof of Parking Agreement – south of the building on Dar al Farooq land	49 spaces
<b>TOTAL PARKING with Proof</b>	<b>316 spaces</b>

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Relative to the original approval, the proposed change in uses and space allocation decreases the weekday parking demand by 11 spaces while increasing the weekend demand by 13 spaces. The weekend increase is primarily related to reallocation of space to Community Center uses. Provided the concurrent use limitations previously approved via conditions of approval are maintained, the parking would comply with the City Code.

**Fire Prevention**

The plans submitted to the Planning Division show 10 classrooms to be used by the Charter School. Fire prevention has inspected and approved nine rooms for classroom purposes (subject to the 60 students maximum). Fire prevention also approved an office area, cafeteria and gymnasium for the school. Any additional area to accommodate 84 students must obtain the required permits and approval from the Fire Prevention Division.

There are several open permits related to the kitchen remodel. The kitchen may not be used until all the systems have been tested, all necessary inspections have been completed and all permits approved and closed.

**Status of Enforcement Orders**

There are existing outstanding orders which were the impetus for the application. These are described in the background earlier in the report. As these are open orders, additional information is not public.

**Planning Commission Review**

The Planning Commission considered the Conditional Use Permit application on January 11, 2018, holding a public hearing. Excluding the applicant, eight individuals provided testimony at the hearing. Both support and opposition of the subject application was registered. Full detail of the public hearing and Planning Commission discussion can be found in the attached minutes from the meeting. The Planning Commission unanimously recommended approval of the Conditional Use Permit to expand the allowed enrollment of the weekday school from 60 to 84 students. In addition, the Planning Commission clarified that their recommendation includes the school offering educational programming to Pre K students, as long the instruction is aligned with Minnesota’s early learning standards for children. This discussion topic is relevant due to the fact the City Code presently does not contemplate Pre K, only referring to K-8 schools. However, it must be noted any Pre K instruction offered at the subject school must comply with the State standards, be an approved educational curriculum and may not be a day care use as defined in City Code.

**FINDINGS**

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

<b>Required Finding</b>	<b>Finding Outcome/Discussion</b>
(1) The proposed use is not in conflict with the Comprehensive Plan.	<b>Finding Made</b> - The use of the property as a Community Center, school and place of assembly and the proposed increase in the weekday student count from 60 to 84 are consistent with the Quasi-Public Land Use designation. The proposed use does not conflict with the Comprehensive Plan.
(2) The proposed use is not in conflict with any adopted District Plan for the area.	<b>Finding Made</b> – There is no adopted District Plan for the area.
(3) The proposed use is not in conflict with City Code provisions.	<b>Finding Made</b> - The proposed uses and associated increase in weekday student count is not in conflict with City Code provisions provided the non-concurrent use limits and the proposed conditions of approval are observed.
(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.	<b>Finding Made</b> - The proposed increase from 60 students to 84 students and removal of the 20-student daycare are not anticipated to place excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development. The anticipated use of Smith Park by the school for up to 84 students is non-exclusive use of a public park, not dissimilar from use of other public parks by other institutional uses throughout the City.
(5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	<b>Finding Made</b> - The proposed increase from 60 students to 84 students and removal of the 20-student daycare subject to Conditions of Approval is not anticipated to 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 of the Conditional Use Permit amendment through the following motion:

In Case PL2017-251, having been able to make the required findings, I move to adopt a resolution amending a Conditional Use Permit to expand the maximum number of students for a Pre K-8 Charter School from 60 to 84 for an existing school at 8201 Park Avenue, subject to the conditions and Code requirements attached to the staff report.

## ATTACHMENT A

### City Code Excerpt - Section 21.302(b)(7)

- (7) *Traffic impacts.* The City Council finds that high traffic levels associated with institutional uses can have significant negative impacts on nearby residential uses.
- (A) *Prohibition.* 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.
- (B) *Traffic study.* When the Public Works Director or designee determines a proposal has the potential to cross the thresholds listed above, the applicant must fund a traffic study to be prepared by a qualified, independent traffic engineering professional under the supervision of the city. The traffic study must, at a minimum, identify the following components:
- (i) Existing and new trips generated from the site;
  - (ii) The distribution of the new trips to and from the site along all affected roadways. The distribution of trips must extend from the site to the arterial network;
  - (iii) Associated impacts from the new trips to the local streets, including factors that contribute to the general health, safety and sense of well-being for adjacent residents, including, but not limited to:
    - (aa) Safety and capacity impacts to intersections;
    - (bb) Speeding and other nuisance behavior from drivers;
    - (cc) Time of peak impacts, including the peak hour of trip generation from the site, the occurrence of delivery and/or service vehicles; and
    - (dd) Context of traffic visiting the site (emergency vehicles, local patrons, employees, regional traffic and the like).
  - (iv) Mitigation measures to address livability concerns, including but not limited to:
    - (aa) Intersection control changes;
    - (bb) Roadway geometric changes;
    - (cc) Construction of pedestrian facilities, including sidewalks, curb bulbs and pedestrian warning devices; and
    - (dd) Construction or purchase of traffic management devices, including traffic circles, speed radar signs and other context sensitive solutions identified in the Cities Traffic Management Program.
- (C) *Mitigation measures.* Any mitigation measures proposed to address the negative traffic impacts must be implemented or constructed as part of the development or expansion.

**ATTACHMENT B**

**DATE:** October 5, 2017  
**TO:** Karl Keel, Public Works Director  
**FROM:** Amy Marohn, Civil Engineer  
**RE:** Success Academy Traffic Study

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The applicant, Success Academy, is requesting Council approval for a Charter School use of up to 300 students at 8201 Park Avenue. It is understood that the site has a conditional use permit in place that allows a maximum of 60 students. The request is for a conditional use permit that would allow an increase in students from that base number.

**Institutional Use Traffic Study Requirements**

Per Bloomington City Code, 21.302.06 (b)(7)(A)(i)-(iii), the City Council finds that high traffic levels associated with institutional uses can have significant negative impacts on nearby residential uses and has applied the following guidance:

- (A) *Prohibition.* 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.
- (B) *Traffic study.* When the Public Works Director or designee determines a proposal has the potential to cross the thresholds listed above, the applicant must fund a traffic study to be prepared by a qualified, independent traffic engineering professional under the supervision of the city.

**Definitions**

The Institute of Transportation Engineers (ITE) is the international educational and scientific association of transportation professionals and their reference documents are the industry standard for transportation professionals. ITE defines “trip” as a single or one-direction vehicle movement with either the origin or the destination (exiting or entering) inside a study site. For trip generation purposes, the total trip ends for a land use over a given period of time are the total of all trips entering plus all trips exiting a site during a designated time period.

The proposed land use is for an Elementary Charter School. The ITE Trip Generation Manual, 8<sup>th</sup> Edition and 10<sup>th</sup> Edition, provides trip generation study data for the following similar uses:

Land Use Code	Lane Use	Description (From ITE)
520	Elementary School	Elementary schools typically serve students attending kindergarten through the fifth or sixth grade. Elementary schools are usually centrally located in residential communities in order to facilitate student access and have no student drivers. This lane use consists of schools where bus service is usually provided to students living beyond a specified distance from the school. Both public and private elementary schools are included in this land use. Note: Many of the studies included in this land use did not indicate if the schools were public or private.
534	Private School (K-8)	Private schools in this land use category primarily serve students attending kindergarten through the eighth grade but may also include students beginning with pre-K classes. These schools may also offer extended care and day care. Students may travel a long distance to get to private schools.
536	Private School (K-12)	Private schools in this land use category primarily serve students attending kindergarten through the 12th grade but may also include those beginning with pre-K classes. These schools may also offer extended care and day care. Students may travel a long distance to get to private schools. Note: Some of the schools included in this land use provided bus service.
537	Charter Elementary School	A charter elementary school is an elementary school that is publicly funded and privately managed. It primarily serves students attending kindergarten through the fifth, sixth, or eighth grade. These schools may also offer extended care and day care.

**Estimated Potential Trip Generation**

The following trip generation rate data is from the ITE Trip Generation Manual, Edition 8 and 10. Trip generation for the proposed use is estimated on the proposed land use and proposed use levels to determine if the application will be accepted as complete without a traffic study or if a traffic study is requirement threshold is met.

The requested use is for a 300 student Charter School. The trip generation for 60 students will be calculated so this number (the number approved for the existing conditional use permit) can be subtracted from the estimates for the requested use increase estimates. The trips are estimated for 60, 120, 200 and 300 students based on the applicants anticipated incremental student growth. However the application is for a conditional use of the site for up to 300 students and trip generation estimates to determine if a traffic study is needed will be based on the proposed 300 student use, minus the existing and approved use of 60 students, for a net potential increase of trips from 240 more students.

There is a “Charter School” use in the ITE Trip Generation Manual, but trip estimates have been calculated for this and three other similar land use types to create an anticipated range of trips generated from the proposed use.

Table 1. ITE Estimated Trip Generation for Proposed Charter School Land Use

Use Type	Ind. Variable	Daily Trips					Peak A.M. Hour Trips					Peak P.M. Hour (of Generator) Trips				
		Rate	60	120	200	300	Rate	60	120	200	300	Rate	60	120	200	300
520	Students	1.29	77	155	258	387	0.45	27	54	90	135	0.28	17	34	56	84
534	Students	4.11	247	493	822	1233	1.04	62	125	208	312	0.65	39	78	130	195
536	Students	2.48	149	298	496	744	0.80	48	96	160	240	0.53	32	64	106	159
537	Students	1.85	143	286	477	716	1.07	29	58	96	144	0.72	12	24	40	60

Daily trips for proposed 300 student use = 387 to 1233 trips per day  
 Daily trips for 300 student minus 60 existing/approved use = 310 to 986

A.M. peak hour trips for proposed 300 student use = 135 to 312  
 A.M. peak trips for 300 minus 60 existing = 108 to 250

P.M peak hour trips for proposed 300 student use = 60 to 195  
 P.M peak hour trips for 300 minus 60 existing/approved use = 48 to 156

**Thresholds for Traffic Study**

Per the City Code, when the Public Works Director or designee determines a proposal has the potential to cross any of the thresholds listed below, the applicant must fund a traffic study to be prepared by a qualified, independent traffic engineering professional under the supervision of the city.

Study Threshold	Calculated Trips	Meets or Not Met
Adds 300 or more trips per day to a local residential street at least once per week on a regular basis	Adds 310 to 986 trips per day	Meets
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	Adds 310 to 986 trips per day to a local residential street, Existing ADT on Park Avenue=800 vpd Total trips on Park Avenue would be 1,110 to 1,786	Meets
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.	a.m. peak hour trips between 108 and 250	Meets

**Conclusion**

The proposed 300 student charter school use (-60 approved students) has the potential to cross **all three of the trip generation thresholds** (only one is needed) defined in the City Code that require the applicant to fund a traffic study to be prepared by a qualified, independent traffic engineering professional under the supervision of the city to be included with the development application.

cc: Shelly Hanson, City Engineer  
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## RECOMMENDED CONDITIONS OF APPROVAL

Case PL201700251

**Project Description:** Conditional Use Permit to expand the maximum number of students from 60 to 84 for an existing Pre K-8 Charter 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 Release 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 Release All Sewer Availability Charges (SAC) must be satisfied no later than March 31, 2018, if applicable.
3. Ongoing Proof of parking agreement, Hennepin County Recorder Document #A9710204 as filed via case 8915A-11 remains in effect.
4. Ongoing While the weekday or weekend school is in session, the use of the large gymnasium, small gymnasium and cafeteria is limited to school activities.
5. Ongoing While other 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.
6. Ongoing The weekend school is limited to 80 students at one time.
7. Ongoing The weekday school is limited to 84 students.
8. Ongoing The capacity of the large gymnasium is limited to 500 occupants.
9. Ongoing The floor area of the assembly rooms is limited to the size and location shown in the floor plan for case PL2017-251.
10. Ongoing All pickup, drop-off, loading and unloading must occur on site and off of public streets.
11. Ongoing Due to parking demand, the joint use agreements 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.
12. Ongoing The property owner must provide traffic control services if overflow parking occurs.
13. Ongoing Due to parking and trip generation, the weekday school is limited to grades Pre K-8.
14. Ongoing The previously approved fitness center and day care uses are no longer valid.
15. Ongoing The property owner, subject to the review and approval of the Parks and Recreation Manager, 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.

16. Ongoing Bicycle parking spaces must be provided and located throughout the site as approved by the City Engineer.
17. Ongoing All preschool or prekindergarten curriculum must meet Minnesota's early learning instructional program standards for children.
18. Code Requirement 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).
19. Code Requirement Any future application to modify this CUP must include a traffic study if required in Section 21.302.06(b)(7).
20. Code Requirement Recyclable materials must be separated and collected (Sec. 10.45).
21. Code Requirement Fire lanes must be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3).
22. Code Requirement Parking lot and site security lighting plans must satisfy the requirements of Section 21.301.07 of the City Code.
23. Code Requirement Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code.
24. Code Requirement All trash and recyclable materials must be stored inside the principal building (Sec. 19.51). Exterior access to the room is allowed pursuant to Case PL201700282.
25. Code Requirement Development must comply with the Minnesota State Accessibility Code.