

## GENERAL INFORMATION

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

Location: 8201 Park Avenue South

Request: Conditional Use Permit for a place of assembly/community center and 130 student school, thereby expanding the school enrollment from 84 students to 130 students.

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

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

Comprehensive Plan Designation: Quasi-Public and Public

## HISTORY

City Council Actions:

08/17/87 – Approved a two-year temporary conditional use permit for a Montessori day care, latch key, church offices, church school and non-profit office uses at the Northgate Elementary School (Case 8915A-87).

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 convert 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.

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).

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.

04/12/93 – Approved a two-year temporary conditional use permit for a church in a school at 8201 Park Avenue (Case 8915A-93).

04/03/95 – Approved a five year temporary conditional use permit for a church in a school at 8201 Park Avenue (Case 8195A-95).

06/01/98 – Approved revised Final Development Plan for a gymnasium addition subject to conditions (Case 8915A-98).

06/19/00 – Approved a five year temporary conditional use permit for a church in a school at 8201 Park Avenue (Case 8195A-00).

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.

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 Xcel 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).

- City Council Action: 03/02/15 – Approved the Smith Park and Dar Al Farooq property improvements, leases, easements, maintenance and use agreement (“Joint Use Agreement”).
- Staff Action: 12/27/17 – The Community Development Director approved exterior access to the trash collection and storage room serving the multiple tenant building which is attached to and part of the principle building at 8201 Park subject to conditions. (PL2017-282)
- City Council Action: 02/12/17 – Approved a Conditional Use Permit to expand charter school enrolment from 60 students to 84 students subject to 25 conditions and Code requirements. (Case PL2017-251).

### CHRONOLOGY

- Planning Commission Action: 07/26/18 – Continued Public Hearing to August 23, 2018 to amend the application to reduce the request from 350 students to 130 students.
- Planning Commission Action: 08/23/18 – Recommended approval with modifications (Vote: 6-0)
- City Council Agenda: 09/10/18 – Development Business Agenda

### DEADLINE FOR AGENCY ACTION

- Application Date: 06/19/2018  
Notice Application Complete: 06/25/2018  
60 Days: 08/18/2018  
Extension Letter Mailed: No  
120 Days: 10/17/2018  
**Action Deadline: 10/17/2018 (Extended by the City)**  
Newspaper Notification: Confirmed – (08/09/18 Sun Current – 10 day notice)  
Direct Mail Notification: Confirmed – (500-foot buffer – 10 day notice)

### STAFF CONTACT

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## PROPOSAL

Success Academy is an existing public charter school serving students between the grades of pre-school and 8<sup>th</sup> grade. The public school occupies the northern portion of a multi-use facility located at 8201 Park Avenue South (the “Property”). In addition to the school, the building includes a place of assembly and community center, collectively known as Dar al Farooq Center. A new Conditional Use Permit (CUP) has been requested to expand the student enrollment of the existing public school from 84 to 130 students. The application as originally submitted requested a phased student enrollment expansion to 350 students. However, after a review of the Bolton & Menk traffic study and other information provided by City staff, the Applicants modified their request to 209 Students. The Applicants revised their application a second time to the proposed expansion of student enrollment of 130 students.

The Property (Lot 1, Block 1, Smith Park 3<sup>rd</sup> Addition) is a 9.95 acre site, which is an increase from the site (Lot 1, Block 1, Smith Park 2<sup>nd</sup> Addition) originally approved in 2011. The change was due to the acquisition of a parking lot on the Xcel transmission line property that served the Property and replatting to include the football field, which was previously on a separate parcel. The 60,757-square foot building would continue to house the three uses without building expansion. Interior changes have been completed to separate the uses and accommodate the existing 84-student school. The existing classrooms have sufficient capacity to absorb an increase to 130 students.

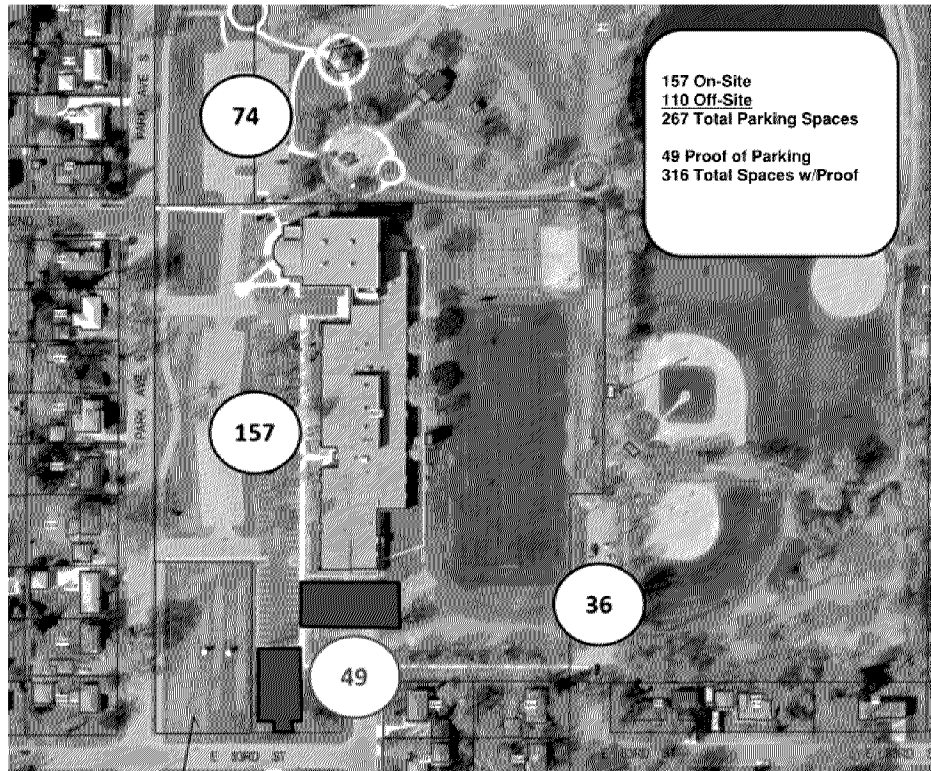
The proposed school hours are 7:30 a.m. to 3:00 p.m. Monday through Thursday and 7:30 a.m. to 11:30 a.m. Fridays. No before or after school care is proposed. It is anticipated that non-school hour activities would be conducted, including school events, conferences, and club activities for the students. These events and activities are customary and incidental, and are similar to other K-8<sup>th</sup> grade schools throughout the City. The applicant would coordinate the scheduling as to eliminate conflicts with the community center and place of assembly activities.

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 for student drop-off and pick-up. These 17 spaces would revert back to standard parking outside of drop-off and pick-up times. The charter school currently uses the public Smith Park Playground as an outdoor play area with larger activities using the Al Jazari owned football field and tennis courts. The school would not be in session during the Friday afternoon assembly activities occurring in other parts of the Center, which is the period of time having the highest traffic volume and parking demand.

The applicant would continue to coordinate the three uses to limit concurrent activities that could overburden the parking capacity onsite. There are currently two busses, a number which is not adequate to provide all the student transportation needs and therefore, parent drop-off and pick-up would occur. To minimize traffic, the applicant proposes several measures to control parent pick-up and drop-off (see page 5 of the Applicant’s project description).

Except where required as part of this approval, no exterior changes are proposed. The site currently has access to 267 parking spaces. There are 157 spaces on the applicant’s property and, by written agreement, use of 110 spaces at Smith Park (two lots containing 74 spaces and 36 spaces respectively). As part of the 2011 approval, 50 proof of parking spaces were approved on the property’s south side (one of those spaces was constructed, so 49 remain). The total parking supply, including approved proof of parking, is 316 spaces (See Figure 1).

**Figure 1 – Parking Layout**



There are no interior building improvements or physical modifications proposed as part of the requested expansion in student enrollment. The plan shows ten classrooms for the school. The approved plans show no more than nine classrooms dedicated to the public charter school use. No changes are proposed to the community center or place of assembly use. However, the requested Conditional Use Permit is intended to include these uses as they currently exist in order to maintain a thorough record of the allowed uses of the site.

Staff have received and Council has heard public comments and questions regarding the narrative submitted by the Applicants, suggesting that the application should be rejected as inaccurate. The narrative includes several historic references and opinions of the Applicants. Many of the statements in the documentation are addressed in this staff report. Some of the issues raised via public input, followed by a staff response, include:

- The application is for Lot 1 Block 1, Smith Park 3<sup>rd</sup> Addition which includes the parking lot.  
**Staff response:** Prior approvals by the Council applied to the previous legal description of the Property at the time of approval, prior to replatting to the current legal description. Since replatting, the CUP attaches to the current legal boundaries and legal description of the land. It is appropriate for the CUP to apply to the entire parcel, and all required steps were followed.
- Top of page 3, the applicant listed a church in operation, including services since 1985.  
**Staff response:** Records indicate in 1987, a temporary conditional use permit for a Montessori day care, latch key, church offices, church school and non-profit office uses at the Northgate Elementary School was approved. There is no record of church services at the site until 1993.
- There are opinions of historical use and property designations in the narrative.  
**Staff response:** Opinions are not prohibited in an application. Please see the “History” section of the report for approval details since 1987. Prior to 1987, any public school use occupancy fluctuated as required to serve the community.
- Use of the facility for other uses during the primary school hours is questioned.  
**Staff response:** A nonconcurrent use condition has been in effect since 2011 and is recommended to continue.
- The Applicants offer an opinion as to the historical use of the Property as an elementary school, noting that the original elementary school was managed well prior to closing.  
**Staff response:** While that may be accurate statement, the site was only a school without a community center or a place of assembly, see the analysis section of the staff report.
- The applicant states the site is zoned Quasi-Public.  
**Staff response:** This is the Comprehensive Land Use plan designation. The Property is zoned R-1(PD). The correct information is listed in this report.
- The applicant refers to “the 2020” comprehensive plan when referencing the 2008 comprehensive plan.  
**Staff response:** This is a simple, non-substantive error by the Applicants. Such an error is common in land use applications.
- Inconsistent operations from that listed in the narrative.  
**Staff response:** The narrative provides a basic use characteristics. City wide, community centers, places of assembly’s and school changes the operations to meet the community needs. The Property has been and would continue to be subject to the nonconcurrent use requirements and the uses must be managed to minimize neighborhood impacts.

None of the issues raised in public comments meet the legal criteria for rejecting the application as incomplete. Similarly, none of the issues raised in public comments affects the authority of the Council to take action on this application.

## **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 after a 2003 approval, a 14,000-square foot gymnasium was added. Due to the parking constraints, the maximum number of users of the gymnasiums was capped at 500 occupants and it was not to 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, the City of Bloomington approved a new conditional use permit application for a community center, place of assembly, weekend and weekday schools, and day care. The proposed uses were restricted based on the traffic and overflow parking impacts on the neighborhood. In 2012, the new owners commenced the community center, place of assembly, and weekend school uses, thereby vesting their Conditional Use Permit. Although not originally established at the same time in 2012, Council CUP approvals for a weekday school with occupancy of 60 students and a daycare of 20 students remained valid, with occupancies capped at the levels originally proposed as a way to satisfy parking requirements and to 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's 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 January of 2017, the Applicants 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 Applicants.

In September of 2017, Success Academy commenced operation of a public charter school under the Conditional Use Permit that allowed for 60 students. In November of 2017, City staff discovered a violation in student population of approximately 80 students. The Applicants subsequently submitted an application to increase the number of students from 60 to 84. This public school use amendment of the CUP was approved by the City Council on February 12, 2018.

## **ANALYSIS**

### **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 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.*

Because the Property has 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. Within this subsection, a prohibition of institutional use expansion is established when the expansion creates traffic levels that exceed certain thresholds unless the negative impacts can be mitigated. The subsection reads as follows:

- (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.*

The Applicants originally requested to increase the public school enrollment from 84 to 350 students in June of 2018. The proposed student enrollment expansion had the potential to exceed the established traffic thresholds, so the City required the Applicants to fund a traffic study to evaluate the proposed expansion. The traffic study dated July 11, 2018 demonstrated that the proposed public school expansion to 350 students would increase traffic levels above the established thresholds. After Applicants' review of the study and further discussion with City staff, the Applicants reduced the school enrollment expansion request to a total of 130 students grades pre-K through 8th, which, based on the traffic study, does not exceed the thresholds listed above.

### **Multiple Uses Requiring a CUP**

While the proposed increase from 84 students to 130 students is significantly less than the 350 originally requested (but never presented to the City Council), the increase must be reviewed based on the total use of the Property. Currently, there are three institutional uses on the Property: place of assembly, community center, and public school. A primary concern related to having three institutional uses at a single location is overall activity potentially impacting the residential character of the neighborhood. When reviewing all three uses at peak capacity, they may not be consistent with the residential character of a single family neighborhood.

The three institutional uses each typically have different hours of demand and use characteristics, including:

**Place of Assembly:** A place of assembly typically has a small number of peak times during assemblies with intermittent periods of heavy use for events.

**Community Center:** A community center generally has higher evening and weekend activity. Weekday demands of a community center typically increase in the summer months, when schools are not in session.

**Schools:** With the exception of high schools, where a greater amount of extracurricular activities are offered, schools generally have peak trip generation on weekdays during the a.m. and p.m. rush throughout the typical school year (September-June). There are occasional high traffic events during the school year for conferences and other education related programming.

In this case, the Property is unique in seeking a conditional use permit for all three uses at a single site, all having different peak use characteristics which increases the building use. Unlike locations where one or two uses may be present, the Property with three uses is anticipated to have higher activity levels seven days a week with fewer low-activity times. In the Applicants' case, the traffic study shows that the highest activity level is Friday, related to the place of assembly use.

**TABLE 1: Similar uses not located on a Collector/Arterial**

<b>Location</b>	<b>Name</b>	<b>Use</b>	<b>Collector or Arterial distance</b>
2201 West 108th St.	Life Church and Life Academy	Assembly / School	200 feet
2300 East 88th St.	Evergreen Community Church	Assembly	300 feet
3211 West 108th St.	Bloomington Jehovah's Witnesses	Assembly	400 feet
8443 2nd Ave.	Emmaus Lutheran Church	Assembly	500 feet
9100 Russell Ave.	Hillcrest Methodist Church	Assembly / Day Care	600 feet
10715 Zenith Ave.	Minnesota Valley Unitarian Church	Assembly	650 feet
<b>8201 Park Ave.</b>	<b>Dar Al Farooq/Success Academy</b>	<b>Assembly / School / Community Center</b>	<b>650 feet</b>
9501 Toledo Ave.	Normandale Hills Elementary	Public School	700 feet
4901 West 112th St.	Southwood Center	Community Center	800 feet
9600 3rd Ave.	Pond Center	Community Center	900 feet
9801 11 <sup>th</sup> Ave.	Indian Mounds Elementary	Public School	950 feet
8650 Russell Ave.	Monastery of St. Clare	Housing	1,100 feet
2600 W 82nd St.	Southtown Baptist Church	Place of Assembly	1,200 feet
9301 Thomas Road	Hillcrest Community School	Public School	1,700 feet
201 East 104th St.	Holy Emanuel Lutheran Church	Place of Assembly	1,900 feet
1401 East 100th St.	Martin Luther Manor	Assisted Living	2,400 feet

Staff completed a City wide analysis of similar uses where one or more of the three proposed uses are established, and where the use is not located on a collector or arterial street. Table 1 identifies 15 properties and their proximity to a collector or arterial street. Of the 15 properties researched, no property utilizes the site for the same three uses discussed above. Only two facilities are used for two of the same activities, and 13 facilities are dedicated to only one of the three uses.

While the Applicants' proposed increase from 84 to 130 students is significantly lower than most schools in Bloomington and lower than the previous school occupancy at this Property, the other Bloomington schools that are not located along a collector or arterial street identified in Table 1 do not have additional uses that also result in higher intensity usage of the site. It is important to review the multiple uses collectively to correctly evaluate the residential livability and pedestrian and motorist safety compared to other similar locations throughout the City.

The most comparable multi-use institutional site is Life Church/Life Academy located at 2201 West 108<sup>th</sup> Street. This former elementary school was purchased in 1983 for a place of assembly use (Case #8974A-83). In 1990, the place of assembly approached the City to establish a private school where a public school once existed. The City Council approved temporary conditional use permits to evaluate the impact on the surrounding residential uses prior to consideration of permanent approval for a multi-use institutional site. Under the temporary permits, the school population increased to 390 students in 1994 and ultimately relocated. A five-year temporary conditional use permit for a day care was approved in 1995, although the record does not indicate that the day care was established. The owner later submitted a request for a permanent conditional use permit for a K-6 school and projected an enrollment of up to 240 students. On July 24, 1995, Council approved a permanent Conditional Use Permit with a condition that the school have not more than 135 students (Case #8974C-95).

In 1995, the use characteristics of a place of assembly and a 135-student school were considered to be compatible with the nearby residential uses. At the time of approval, the school was adjacent to Overlook Drive, a collector street. Since then, the property has been subdivided to allow for construction of townhomes in 1997. Today the school is no longer adjacent to Overlook Drive but does have an easement to Overlook Drive (200 feet in length). Today, the Property is over 600 feet from a collector or arterial street and has an active place of assembly.

As the number of trips generated by a site impacts livability in the surrounding area, so too does the number of institutional uses on a site. With places of assembly and community centers, managing occupancy restrictions can be challenging. Limiting the number of students for a school is easier to manage, because student enrollment increases may not occur without a conditional use permit review. In 2011, staff recommended approval of a school with 60 students, and subsequently an enrollment increase to 84 students in 2018.

The institutional use standards in the City Code do not provide guidance in evaluating residential livability other than traffic levels. As noted previously, the proposed increase of students from 84 to 130 does not exceed any of the thresholds related to traffic volumes according to the traffic study. The anticipated levels of traffic are just below the thresholds established in City Code. The

implementation and use of mitigation techniques is important in evaluating whether the proposal worsens or improves impacts to residential uses.

Staff recommends approval of the application to increase the school use to 130 students based on the traffic thresholds of the institutional use standards not being exceeded, provided the mitigation recommended in the traffic study is implemented to minimize the potential for negative impacts generated by the intensity of the three uses combined. The site changes and mitigations recommended by staff are primarily traffic-related, and are discussed in the subsequent traffic section of this staff report.

A significant and typical aspect of a school is that recreational activities be provided for the students. The existing facilities include a large gym, a football field, tennis courts, and a basketball court. These are primarily recreation facilities consistent with a high school. There is no playground equipment other than the equipment located in Smith Park. While there are several public schools that are adjacent to a public park, all have playground facilities dedicated to the school and do not rely solely on a public park for playground equipment. At the original level of 60 students, staff determined that a separate playground dedicated to the students of the school was not necessary. With the prior increase to 84 students, staff discussed with the applicant the installation of playground equipment dedicated to the public school. If the increase to 130 students is approved by the City Council, staff recommends that a dedicated playground be provided by the Applicants on the Property for the students.

### **Traffic Analysis**

A traffic study dated July 11, 2018 for the proposed expanded use analyzes the traffic impacts in the context of the existing neighborhood, roadways and traffic conditions. The traffic analysis for this proposal is focused on three factors: 1) safety, 2) capacity, and 3) impacts to the neighborhood (due to the site being located within a low density residential neighborhood). In this case, factors #1 and #3 would inform an overall evaluation of “residential livability”, as noted in the institutional use standards.

The past approval for an increase from 60 to 84 students was approved without a traffic study because a staff analysis found that traffic levels would be below the City Code required thresholds. Any future increase in the number of students is analyzed from the original baseline of 60 students as it relates to traffic. For this application to increase from 84 to 130 students, City staff required, and the applicant paid for, a full independent traffic study. This study was completed by Bolton and Menk under the supervision of the City. While the current application has been revised to propose an increase in students from 84 to 130, the original request and study was for an increase to 350 students over a three-year period. After the application was modified, a draft traffic study addendum was completed on August 15, 2018. According to the traffic study and draft addendum, the proposed increase to 130 students will not create an increase in traffic in excess of the City Code threshold that prohibits expansion of an institutional use without City Council approved mitigation.

A traffic study is based on traffic data collected and representing a snapshot in time. In October of 2017, City staff collected traffic data and found higher traffic volumes on Park Avenue than the volumes collected by Bolton & Menk in April/May 2018. Traffic volume numbers are fluid based on many factors, including seasonal demand, construction, weather, etc. The Al Jazari applicant has shared with staff that since the unfortunate bombing incident at the Property, attendance for the place of assembly has decreased, which may have contributed to the lower traffic volumes recorded by Bolton & Menk on Park Avenue.

The mitigation measures recommended in the independent traffic study prepared by Bolton & Menk would mitigate negative impacts and improve safety for the multiple uses on the site. Traffic mitigation measures recommended by the Bolton & Menk study are intended to disperse vehicles more efficiently, enhance circulation, remove on-street parking demand, and improve motorist and pedestrian safety. The mitigation measures recommended by Bolton & Menk include the following:

- Revise site circulation to improve safety for the student drop-off/pick-up and to improve site circulation and reduce driveway congestion
  - Make the eastern parking lot drive aisle one way, northbound;
  - Make the southern driveway an entrance only;
  - Make the northern driveway an exit only;
  - Add a new driveway into Smith Park west lot, from the north side of the lot to improve access to the park for all users and address the one-way circulation of the 8201 Park parking lot;
  - Add a new driveway access to the East 83<sup>rd</sup> Street; and
  - Abandoning or restricting the driveway connection between the Smith Park parking lot and 8201 Park Avenue South
- Add additional on-site parking that will be more convenient and relieve/remove the on-street parking demand on Park Avenue; and
- Address speed and pedestrian safety concerns at the intersection of Park Avenue and E 82<sup>nd</sup> Street
  - Add curb bump outs to the north leg of the intersection of Park Avenue and E 82<sup>nd</sup> Street (both east and west sides) to reduce speeds of vehicles traveling both NB and SB through the intersection and to improve pedestrian safety for students and park user with a marked, signed school crossing at this intersection; and
  - Add curb bump outs to the west leg of the intersection of Park Avenue and E 82<sup>nd</sup> Street (both north and south sides) to control driver speeds turning the corner at this intersection.

These mitigations measured would enhance:

- 1) Bicycle and Pedestrian Safety** – The Bolton & Menk traffic study included a thorough safety evaluation of the site and surrounding roadway network. The recommended site circulation changes are typical for schools and would set-up the parking lot for self-enforcing counter-clockwise circulation to safely drop off and pick up students from the

passenger side of vehicles. The circulation recommendations will help improve the site safety for all users of the site and will reduce the traffic impacts on Park Avenue that occur currently with drivers simultaneously trying to enter and exit the same driveways during peak use times. The recommended new driveway into Smith Park will help to reduce the potential conflicts between park users and 8201 Park Avenue site users.

The recommended curb bump outs on Park Avenue at East 82<sup>nd</sup> Street will help improve pedestrian safety for students and pedestrians walking to the school or other uses at the Property and for pedestrians accessing Smith Park by reducing the driver speeds through this intersection, shortening the pedestrian crossing distance on both legs of the intersection, and improving pedestrian visibility and expectation.

- 2) **Capacity** – Based on the Bolton & Menk traffic study and the analysis of the Engineering Division, the local streets and intersections in the vicinity have sufficient capacity to handle the expected traffic increase. Capacity is not a primary variable to determine the impact on nearby residential uses.
- 3) **Neighborhood Impacts/Livability** – Recent traffic volumes collected during the Bolton & Menk traffic study found traffic volumes experienced throughout the week are consistent with other local roads in residential neighborhoods. The highest traffic volumes are generated by the assembly use on Fridays and during special events.

The traffic study concludes that through the implementation of the recommended mitigation measures, the current proposal is not expected to create new safety or capacity issues on the surrounding roadway network.

### **Parking Analysis**

Upon initiating the previously-approved school use, the applicant dedicated 17 parking spaces, including three handicapped spaces, along the front of the building for temporary bus loading and unloading. The spaces are not 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.

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 2 identifies the Code-required parking, based on the proposed uses and Table 3 identifies the parking available.

Staff visited the site on two recent Fridays during the assembly and had similar observations to those described in the independent traffic study. The observations found on-street parking was used, while the parking lot was underutilized. On the two occasions, staff counted 25 to 40 cars parking on the City streets although the parking lots were not at capacity. Staff also noted some violations of parking too close to intersections or hydrants. The 36 parking spaces north of Chicago Avenue are included in the available parking quantity, but are rarely used by the community center, place of assembly, or school users.

**TABLE 2: 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
Prekindergarten – 8 <sup>th</sup> grade school (130 students – 16,000 SF)	Elementary School: 1 parking space per 800 gross SF	Varied	20 spaces weekdays
Instructional Activities (80 students) Community center classrooms (8,800 SF)	Instructional Center: 1 parking space per 200 gross SF		44 spaces Instructional
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 REQUIRED - IF USED CONCURRENTLY<sup>1</sup></b>		<b>413 Spaces</b>	
<b>TOTAL REQUIRED – During Prekindergarten-8<sup>th</sup> grade school hours</b>		<b>106 Spaces</b>	
<b>TOTAL REQUIRED – Outside school hours during assembly uses</b>		<b>142 Spaces</b>	
<b>TOTAL REQUIRED – Outside school hours w/gymnasiums in use</b>		<b>249 Spaces</b>	

Notes: 1. Property subject to concurrent occupancy restrictions

**TABLE 3: Existing Parking Provided – See Figure 1**

<b>LOCATION</b>	<b>SPACES</b>
West of the building – Al Jazari land	157 spaces
Northwest Smith Park shared parking City constructed 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 Al Jazari land	49 spaces
<b>TOTAL PARKING with Proof</b>	<b>316 spaces</b>

It appears the choice of parking location for many patrons is based on convenience. Some users appear to desire to exit the site quickly following the service and avoid the congestion created from many vehicles exiting the parking lot at one time following an assembly. During larger assemblies, staff observed on a few occasions that egress from the site has been restricted to one exit point, making it more difficult for vehicles to exit the property from the primary western parking lot. Parking on-street appears to provide a quicker exiting time and is also closer to the front door than many off-street lot spaces. The testimony at the public hearing before the Planning Commission reflects this understanding. While the property owner may be able to exert

some influence on the parking behavior of the users, ultimately the decision on where to park is up to the user. Staff finds that the only consistent and enforceable control on users parking on street is on-street parking limitations or restrictions. If on street parking is deemed undesirable, the City Council could consider a parking restriction on the adjacent streets as a way to force the patrons to park on-site where spaces are available. The public may also submit a request to limit on-street parking. No such request has been received by the City.

It should be noted that there would not be an adequate number of parking spaces in the primary lots serving the place of assembly use should street parking be prohibited. Sufficient capacity is available in the Smith Park parking lot off Chicago Avenue to the east, though this lot is seldom used. As part of the review of all uses for this permit application, staff initially recommended that additional parking be constructed along the recommended new driveway to East 83<sup>rd</sup> Street to increase the amount of convenience parking as an appropriate measure as opposed to on-street parking restrictions. However, as noted the Planning Commission Review section of the report that follows, the Planning Commission determined that the construction of additional parking on-site is not necessary at this time. Multiple neighbors also testified against adding parking on site saying they preferred one or two hours per week of on street parking to losing additional green space. Staff concurs with the Planning Commission recommendation. Additional information can be found in the Planning Commission Review section of the report.

### **Mitigation Measures**

Based on the findings of the traffic study, the Applicants decreased the requested student enrollment increase from 350 to 130 students, which is below the threshold where mitigation is required per the institutional use standard. However, the Bolton & Menk traffic study still makes mitigation recommendations to improve pedestrian and motorist safety due to the expansion in the school use on the Property. These recommendations are important to protect the public health, safety and welfare and are within the scope of a conditional use permit review. The recommended measures are intended to mitigate negative impacts attributed to the proposed expansion of the institutional use to levels that are consistent with residential livability and pedestrian and motorist safety. The study verified the most significant traffic issue is the Friday mid-day assembly. The mitigation measures recommended by staff include the following:

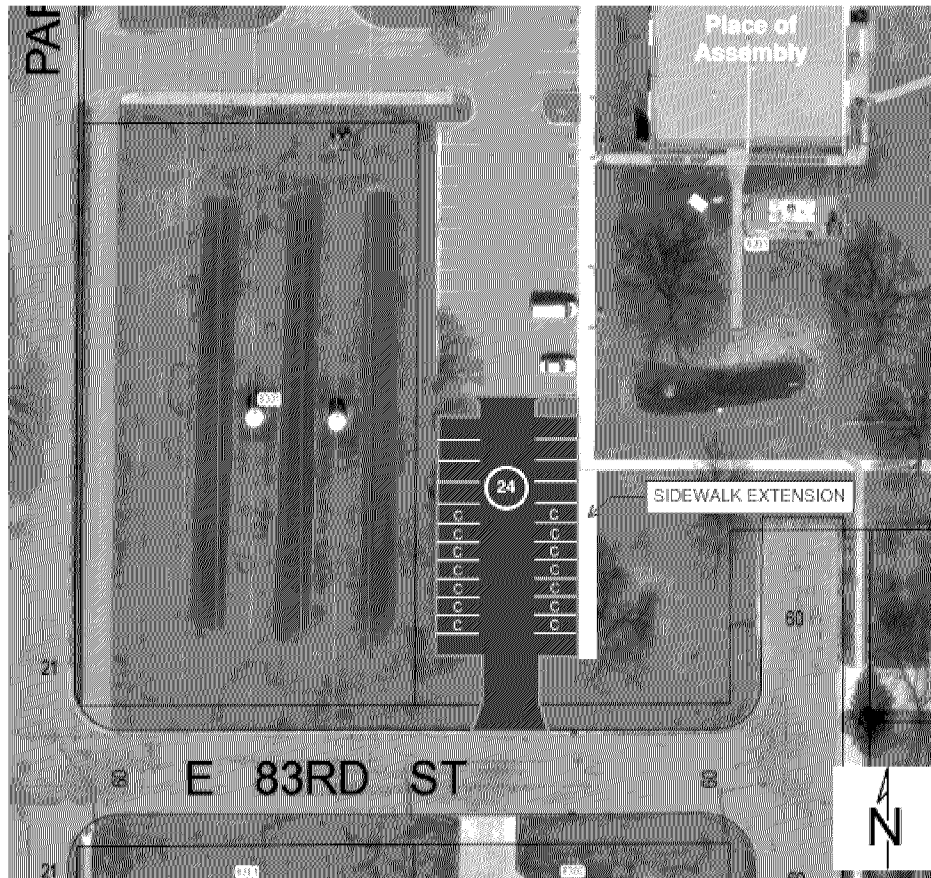
- ***Roadway Improvements*** – Curb bump outs or bulbs are recommended at the intersection of Park Avenue South and East 82<sup>nd</sup> Street. The bump outs are intended to improve the safety of pedestrian crossings, as well as slow down automobile traffic on these roadways. Improving pedestrian safety is particularly important for a school. A stop sign for eastbound traffic on East 82<sup>nd</sup> Street is also recommended for intersection control.
- ***Driveway Connections*** –A new driveway connection southward to East 83<sup>rd</sup> Street would allow for direct ingress/egress, reducing some traffic levels on Park Avenue south of the southern driveway that serves the facility. With an additional access point to enter and exit the site, congestion within the parking lots following large assemblies would be reduced, further encouraging the use of the off-street parking spaces and discouraging on-street parking. See Figure 2 to view the proposed driveway connections to East 83<sup>rd</sup> Street. The

Bolton & Menk traffic study recommends a driveway connection to Park Avenue from the Smith Park parking lot. This additional driveway connection would be necessary if the site circulation plan recommended by the Bolton & Menk traffic study were to be implemented to its full extent. However, the Planning Commission did not come to a consensus on this mitigation measure (Vote: 3-3). Therefore, staff is recommending that the driveway from Park Avenue to the Smith Park parking lot not be included as a mitigation measure. More information pertaining to this recommendation and the Planning Commission discussion is provided in the Planning Commission Review and Additional Staff Review sections that follows.

- **Internal Site Circulation** – To improve internal automobile circulation, the southern driveway on Park Avenue is recommended by the traffic study to be limited to traffic entering the site, while the northern driveway would be limited to traffic exiting the site. The eastern drive aisles of the primary parking lot west of the building is recommended to have one-way northbound circulation. These changes would create one-way circulation that would improve safety for student drop-off west of the main building entrance and make internal traffic patterns more predictable and consistent. After further review of the Planning Commission discussion and recommendation, as well as the further review of the City Attorney, staff now recommends that the circulation only be revised to make the eastern drive aisle one-way northbound. Additional information pertaining to this recommendation and the Planning Commission discussion is provided in the Planning Commission Review and Additional Staff Review sections that follows.
- **Parking** – The Bolton & Menk traffic study recommended additional parking (49 spaces) be provided to mitigate the on-street parking issues. Based on the Bolton & Menk recommendation and further analysis and site observation, staff initially recommended that the applicant construct 24 additional parking stalls along the recommended driveway connection to East 83<sup>rd</sup> Street. Figure 2 provides a sketch of the additional parking to be constructed as originally recommended by staff. Based on the testimony received at the public hearing, the Planning Commission did not support the mitigation measure to construct 24 additional parking stalls. Additional information regarding the Planning Commission review is in the section that follows.

After additional review, staff supports the Planning Commission recommendation. Staff concludes the occurrence of on-street parking is related to convenience and ease of egress, and not based on a lack of off-street parking spaces. As such, the existing proof of parking agreement, requiring 49 parking spaces, is recommended to remain in place. The existing proof of parking agreement originally contemplated 50 total spaces, but one parking stall included in this agreement has already been constructed.

**Figure 2 – East 83<sup>rd</sup> Street Access and Potential Proof of Parking**



In addition to the recommendations of the traffic study, the Planning Commission and staff recommend the implementation of the following measures to mitigate other negative impacts generated by the expansion in use and to address City Code requirements:

- **Playground Equipment** – Staff recommends the property owner install playground equipment for its students. The proposed increase in student enrollment warrants a separate and exclusive playground area. Per the Smith Park Joint Use Agreement dated March 2, 2015, the school and Al Jazari will continue to have the right to use the facilities of Smith Park. However, similar to other schools in Bloomington that are adjacent to public parks, the Applicants should install exclusive playground equipment in order to reduce access and availability conflicts in the use of Smith Park facilities by the general public and the school. It is recommended the equipment be reviewed and approved by the Parks and Recreation Director.
- **Screening** – To buffer the institutional use from the surround residential uses, staff recommends the Property owner install landscaping as required by City Code.

The increase in school enrollment from 84 to 130 students intensifies the overall use of the Property to a level where mitigation should be implemented to mitigate the negative impacts to surrounding land uses. As described earlier in the staff report, having three institutional uses present and the scheduling of these uses results in the Property being used consistently throughout each day with minimal downtime, unlike other similar institutional uses on local residential streets.

### **Stormwater Management**

Should mitigation measures be implemented, the Applicants will need to prepare Final Site and Building Plans for any new driveways and associated site improvements. The civil plans for these improvements will be reviewed according to applicable rules and regulations for stormwater management. Stormwater must be managed to meet the City's requirements for stormwater rate control (quantity), stormwater quality and volume.

### **Fire Preventions and Public Safety**

The application shows 10 classrooms to be used by the public charter school. Fire Prevention has inspected and approved nine rooms for classroom purposes (subject to the past approvals). Fire Prevention also approved an office area, cafeteria and gymnasium for the school. Any additional areas to accommodate additional students must obtain the required permits, inspections and approval from the Fire Prevention Division.

One mitigation measure proposed is the closure or blocking of the access between the Smith Park parking lot and the 8201 parking lot. Fire opposed any loss of circulation on the site and would recommend the connection be maintained.

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 by Fire Prevention. The open permits must be finalized prior any increase in student enrollment. The Environmental Health Division must also be consulted should the facility desire the use of the kitchen.

### **Status of Enforcement Orders**

The property is not currently subject to open enforcement orders.

### **Unpaid Water Charges**

Staff have received public input on this application related to the owner's unpaid water bill. From a land use perspective, the water bill is a separate matter, unrelated to Zoning Code requirements for a conditional use permit.

**Existing Conditional Use Permit**

The existing CUP for a school, community center and place of assembly is regulated by numerous conditions established under previous approvals from 2011 and 2018. As the requested Conditional Use Permit includes all existing uses in addition to the proposed school enrollment expansion for the purposes of a thorough record, previous conditions from prior approvals are recommended to remain in place to manage the established limits of operational intensity. These conditions include, but are not limited to, the following:

- **Large Gymnasium** - The large gymnasium is limited to 500 occupants.
- **Nonconcurrent Use Conditions** – Use of the large gymnasium, small gymnasium and cafeteria while weekday or weekend school is in session is limited to school activities. Use of these facilities while assembly areas are in use are limited to activities that do not generate additional parking demand.
- **Assembly Areas** – The floor area of assembly areas is limited to the approved floor plans, which match previous approvals.
- **Pre K – 8 School** – Due to parking and trip generation, the weekday school is limited to grades Pre K – 8.
- **Traffic Control Services** – The property owner must provide traffic control when overflow parking occurs.

To provide a thorough record, these conditions from previous approvals are carried forward, as the proposed Conditional Use Permit will replace all previous approvals. These conditions are intended to limit and manage the use of the site in order to balance the public benefits associated with the institutional uses while mitigating potential impacts to the residential livability and pedestrian and motorist safety, such as traffic and other impacts. The recommended conditions of approval were revised by City staff following the publication of the Planning Commission Agenda, but prior to the public hearing. The revisions were intended to provide clarity to the previous restrictions on concurrent occupancy and intensity of use. The revised conditions were presented to and supported by the Planning Commission. The Planning Commission recommendation of approval included the revised conditions presented at the meeting.

**Public Correspondence**

The City has received numerous items of public correspondence related to this application. There are a variety of topics and concerns covered within the public correspondence. Major themes from the correspondence include concerns relating to traffic, parking, roadway safety, the use of Smith Park, the operation of the place of assembly/community center, and other miscellaneous topics. Staff has reviewed the correspondence in the context of the proposed expansion of student enrollment from 84 to 130 students. More specifically, mitigation measures recommended within the staff report directly impact roadway safety, traffic, on-street parking, and park usage. It should be noted that previous operational conditions that were imposed on previous conditional use permits

are recommended to be carried forward, such as nonconcurrent use of the gymnasium and other restrictions. The recommended conditions of approval reflect previous conditions that have established the existing limits of use on the site.

### **Planning Commission Review**

The Planning Commission held a public hearing on August 23, 2018. Following the staff presentation, the Applicants' representative responded to multiple elements of the staff report and recommended conditions. First, the Applicants objected to two specific mitigation measures: 1) The site circulation as recommended in the traffic study, and 2) the construction of a driveway to the Smith Park parking lot. These two measures are linked in that access to the Smith Park parking lot would be worsened as a result of the recommended site circulation unless an additional access drive were added. The traffic study recommends that the south driveway along Park Avenue to the Property be restricted to enter-only, whereas the north driveway along Park Avenue would be restricted to exit-only. The Applicants objected to these specific circulation measures related to access, but do support changing the circulation of the eastern drive aisle in the primary parking lot to northbound one-way movements to promote safer student drop-off actions.

Regarding the construction of the driveway to the Smith Park parking lot, the Applicants' representative stated that this mitigation measure is overly burdensome from a cost perspective, is disproportionate to the increase of use requested in the subject application, and does not benefit or serve the school, place of assembly or community center.

In addition to the objection of two mitigation measures recommended by the traffic study, the Applicants' representative spoke about the required timing and completion of the mitigation measures. More specifically, Condition #2 as presented at the Planning Commission meeting reads the following:

2. The following mitigation measures must be constructed and/or funded prior to any increase of prekindergarten-8<sup>th</sup> grade school enrollment:...

In response to this recommended condition, the Applicants' representative requested that the Applicants be provided an 18-month time period to construct the required mitigation measures. Should the required measures not be completed before the deadline, the student enrollment could be reduced back to the existing allowance of 84 students.

Finally, the Applicants' representative spoke about the revised conditions as presented at the Planning Commission meeting, specifically related to Condition #9, which pertains to occupancy and concurrent use limitations. Condition #9b as presented would limit instructional activities associated with the place of assembly or community center during prekindergarten-8<sup>th</sup> grade school hours and vice-versa. The Applicants' representative requested that staff review this condition for consistency with existing conditions pertaining to concurrent use. The Applicants desire that the community center have the ability to host day-time activities, as well as do not want to limit the school from periodic evening activities while the community center is in use.

In addition to the Applicants' representative, 25 members of the public provided testimony. Twenty one people spoke in favor of the Conditional Use Permit application, whereas four persons spoke in opposition. The testimony received covered a number of different subjects. It was reported that patrons who park on the street typically do so as a matter of convenience and easy egress, as many attendees who visit the place of assembly on Friday do so during their lunch hour and have limited time. This testimony confirmed staff's understanding regarding the parking situation at the Property. Two adjacent residents stated their preference that additional parking as recommended by the staff report not be constructed. These residents did not object to the use of the public street for parking purposes on an infrequent basis, especially since the on-street parking typically occurs for a one to two hour period on Fridays. These adjacent residents stated their preference to maintain the existing green space on the site. Finally, the City received testimony noting concerns about the hours of operation, the maintenance of the property, traffic safety, and other issues that are similar to the concerns noted in the correspondence received from the public. The full detail of the testimony received is found in the attached Planning Commission minutes.

The Planning Commission discussed the application extensively. The Planning Commission review focused mainly on the recommended mitigation measures. To focus the discussion, the Planning Commission specifically polled members on eight key discussion items:

- 1) **Bump-Outs at E 82<sup>nd</sup> St and Park Ave Intersection** – The Planning Commission supported the construction of the bump-outs (Vote: 4-2) to improve pedestrian safety. The two members who opposed this measure did so on the basis that they felt the applicants should not bear the full cost burden associated with these improvements in the public right-of-way.
- 2) **Removing the Connection Between Smith Park and the Property** – The Planning Commission rejected the removal of the driveway connection between the Smith Park parking lot and school, place of assembly, and community center due to the concerns of the Fire Marshal (Vote: 6-0).
- 3) **One-Way Driveways on Park Avenue** – The Planning Commission did not reach consensus on this mitigation measure pertaining to site circulation (Vote: 3-3). The members who opposed this measure did so on the basis that changing the driveways to one-way circulation would worsen access to the Smith Park parking lot.
- 4) **New Driveway to Smith Park Parking Lot** – The Planning Commission did not reach consensus on this mitigation measure (Vote: 3-3). The members who opposed this measure did so on the basis that they felt the applicants should not bear the full cost burden of this off-site improvement.
- 5) **New Driveway to East 83<sup>rd</sup> Street** – The Planning Commission unanimously supported this mitigation measure in order to provide increased access and encourage better distribution of traffic (Vote: 6-0)
- 6) **Construction of 24 Parking Stalls** - The Planning Commission rejected the construction of 24 additional parking stalls along the new driveway to East 83<sup>rd</sup> Street for multiple

reasons (Vote: 2-4). First, they did not believe the additional parking stalls would relieve or reduce the occurrence of on-street parking due to the reasons reported in the public testimony. Second, open or available parking stalls within parking lots that serve the Property have consistently been observed while on-street parking is occurring. Third, significant on-street parking typically only occurs for a one to two hour period on Fridays related to the place of assembly use. Finally, adjacent residents testified during the hearing that they did not desire the construction of the parking, but rather preferred the green space to remain. The members who supported the construction of the parking did so on the basis that additional parking in closer proximity to the place of assembly would be useful to reduce the occurrence of on-street parking.

- 7) **Proof of Parking Agreement** – Given that the construction of 24 additional parking stalls was not supported, the Planning Commission reaffirmed the importance of maintaining the existing proof of parking agreement for 49 additional parking stalls (Vote: 6-0).
- 8) **Timing of the Mitigation Measures** – Following up on the applicants’ request for an 18-month timeline to construct all mitigation measures, the Planning Commission supported the staff recommendation that all measures be constructed or funded prior to the increase in student enrollment for the prekindergarten-8<sup>th</sup> grade school (Vote: 6-0).

Following action on the eight discussion items above, the Planning Commission moved to recommend approval of the Conditional Use Permit application (Vote: 6-0) with the revised conditions as presented by staff at the meeting. The full detail of the Planning Commission discussion and action is found in the attached minutes.

**Additional Staff Analysis Following the Planning Commission Meeting**

Following the changes to the mitigation measures and conditions as recommended by the Planning Commission, staff has continued working to review the recommended mitigation measures and to improve the clarity and effectiveness of the recommended conditions of approval. In response to the testimony of the Applicants’ representative and input of the Planning Commission at the August 23, 2018 public hearing, staff reviewed two specific mitigation measures recommended by the traffic study, namely, – the enter and exit-only accesses on Park Avenue and the new driveway to the Smith Park parking lot. It is the Applicants’ position that these measures are disproportionate to the increase of use proposed, do not benefit the property owner (in the case of the Smith Park driveway), and are overly burdensome from a cost perspective. These mitigation measures are linked in that if the entrances to the Property from Park Avenue are enter/exit-only, the public travelling to the Smith Park parking lot would now have to utilize the southern driveway serving 8201 Park Avenue to travel to the park parking lot. Along with the travel distance associated with this access scenario, the City only has an access easement to the northern driveway along Park Avenue, not the southern driveway. As a result, a new driveway would need to be constructed to the Smith Park parking lot in order to fully execute the circulation recommendations of the Bolton & Menk traffic study.

Based on the testimony received at the Planning Commission regarding these mitigation measures, the recommendation of the Planning Commission, and additional internal review, staff is not recommending inclusion of the northerly Smith Park entrance as recommended in the traffic study or the associated one way entrance/exit requirements. The one-way northbound circulation of the eastern drive aisle of the parking lot continues to be recommended.

In addition to the review of the mitigation measures, staff further refined the conditions of approval following the Planning Commission meeting. More specifically, recommended condition 9b presented a use restriction that the school and instructional activities associated with the place of assembly or community center could not occur concurrently. This use restriction was recommended in error due to the terminology of use (“weekday school vs weekend school”) that the revised conditions seek to clarify. The interpretation and intent of the existing CUP is not to restrict these uses from occurring at the same time, as concurrent school and instructional activity use would not trigger noncompliance with parking requirements. As such, condition 9b as presented at the Planning Commission has been eliminated. The staff report includes a revised list of conditions that reflects the intent of the Planning Commission with further clarifications. The revised conditions are intended to bring greater clarity to the concurrent occupancy restrictions and overall use of the facility.

Finally, the Applicants’ representative requested at the Planning Commission meeting that the timeline to complete mitigation measures be extended 18 months. Such a request, if supported, would allow the student enrollment to increase prior to the completion of the mitigation measures. Staff does not support such a timeline, and the Planning Commission concurred with the staff recommendation. However, in order to respond to the Applicants’ desire to increase student enrollment while ensuring that all mitigation measures are financially secured or completed prior to enrollment increase, staff has modified Condition #2 related to the mitigation measures. The mitigation measures fall into three categories and should be treated as such prior to the increase in student enrollment:

- 1) Measures that must be completed prior to enrollment increase – These mitigation measures include revising the circulation of the eastern drive aisle of the parking lot to one-way northbound travel, providing a vehicular circulation plan to be communicated to site users, and providing Code-required screening.
- 2) Measures that must be constructed or financially secured on private property prior to enrollment increase – These mitigation measures include the new south driveway to East 83<sup>rd</sup> Street, the private playground, and the minor sidewalk extension. All of these measures must be financially secured prior to the enrollment increase and completed prior to the 2019-2020 school year. As structured in the condition, the City would accept a financial surety and right-of-entry agreement to allow an increase in student enrollment.
- 3) Measures to be completed in the public right-of-way – These mitigation measures include pedestrian safety bump-outs at the intersection of East 82<sup>nd</sup> Street and Park Avenue. The Applicants must enter into an agreement approved by the City Attorney, for example a petition and waiver, for these improvements prior to an increase in school enrollment.

These conditions are structured to satisfy both the City’s desire to require and ensure the construction of the mitigation measures while satisfying the applicants desire to increase student enrollment as soon as possible. Having the applicant provide a surety and right-of-entry agreement would allow the City to complete certain mitigation measures should the applicant not complete said measures. Revised Condition #2 structures the mitigation measures in a manner that ensures completion of the measures while respecting the desired outcome of the applicant. Staff recommends approval of the Conditional Use Permit with the revised conditions as presented.

**FINDINGS**

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

<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 84 to 130 are consistent with the Quasi-Public and 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 from 84 to 130 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 84 students to 130 students 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 provided the mitigation measures are undertaken. Mitigation measures include roadway safety improvements and the construction of dedicated playground equipment. These measures are intended to reduce the burden on public facilities associated with the proposed use.
(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 84 to 130 students is not anticipated to be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare of the community provided the mitigation measures are undertaken. Mitigation measures include roadway safety improvements and the construction of dedicated playground equipment. These measures are intended to mitigate negative impacts to the surrounding residential uses associated with the student enrollment expansion.

**RECOMMENDATION**

The Planning Commission and staff recommend the following motion:

In Case PL2018-226, having been able to make the required findings, I move to adopt a resolution approving a Conditional Use Permit for a place of assembly/community center and 130-student school at 8201 Park Avenue South, subject to the conditions and Code requirements listed in the resolution.

## RECOMMENDED CONDITIONS OF APPROVAL – REVISED 09/06/18

Case PL2018-226

**Project Description:** Conditional Use Permit for an existing place of assembly, community center and charter school, and to expand the existing charter school student enrollment from 84 students to 130 students.

**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 property owner and the City and must be properly recorded by the property owner with proof of recording provided to the Director of Community Development.
2. Prior to Release The following mitigation measures must be provided as specified prior to any increase of prekindergarten-8<sup>th</sup> grade school enrollment above 84 students:
  - a) Add traffic control signs and striping as required by the City Engineer to make the eastern parking lot drive aisle one way, northbound;
  - b) Construct screening to buffer the institutional use from abutting residential uses as required by the City Code;
  - c) A vehicular circulation plan must be prepared and at least annually communicated with site users;
  - d) Prior to any increase of prekindergarten-8<sup>th</sup> grade school enrollment above 84 students, provide a financial surety and right-of-entry agreement as approved by the City Attorney to construct the following on-site mitigation measures prior to the start of the 2019-2020 school year:
    - i. A new driveway access to East 83rd Street as depicted in the traffic study dated July 11, 2018;
    - ii. Playground equipment dedicated to the prekindergarten-8<sup>th</sup> grade school use as approved by the Parks and Recreation Director; and
    - iii. The sidewalk along the southerly access driveway to Park Avenue as depicted in the traffic study as approved by the City Engineer.
  - e) Provide an agreement approved by the City Attorney to address pedestrian safety concerns at the intersection of Park Avenue and East 82nd Street to add:
    - i. Curb bump outs to the north leg of the intersection of Park Avenue and East 82nd Street (both east and west sides) to reduce speeds of vehicles traveling both northbound and

southbound through the intersection and to improve pedestrian safety for students and other users with a marked, signed school crossing at this intersection; and

- ii. Curb bump outs to the west leg of the intersection of Park Avenue and East 82nd Street (both north and south sides) to protect pedestrians at the corner of this intersection.

3. Prior to Release Final Site and Building Plans must be approved for all on-site changes related to the required mitigation measures.
4. Prior to Release 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 and approved by the Planning Manager.
5. Prior to Release All Sewer Availability Charges (SAC) must be paid.
6. Prior to Release Prior to any increase in prekindergarten-8<sup>th</sup> grade school enrollment above 84 students, life safety requirements must be reviewed and approved by the Fire Marshal.
7. Prior to Release Fire lanes must be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3).
8. Prior to Release Bicycle parking spaces must be provided and located throughout the site as approved by the City Engineer.
9. Ongoing The following occupancy restrictions must be followed to manage the multiple concurrent uses on the site:
  - a. The prekindergarten-8<sup>th</sup> grade school is limited to an enrollment of 130 students;
  - b. 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;
  - c. The use of the large gymnasium is limited to 500 occupants at any one time;
  - d. Assembly uses may not occur in the assembly rooms, large gymnasium, small gymnasium or cafeteria during prekindergarten-8<sup>th</sup> grade school hours, athletic programming, or instructional activities; and
  - e. 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.
10. Ongoing The floor area of the assembly rooms is limited to the size and location shown in the floor plan for Case #PL2018-226.
11. Ongoing The property owner must maintain rights to utilize the off-site parking spaces identified in the staff report 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 identified in the staff report must be reviewed and approved by the Planning Manager and may require an amendment to the Conditional Use Permit.
12. Ongoing All prekindergarten curriculum must meet Minnesota's early learning instructional program standards for children.

13. Ongoing The property owner must provide and fund traffic control services as required by Chapter 14 of the City Code.
14. Ongoing Due to parking availability and the increase in trip generation, the school use is limited to grades prekindergarten-8<sup>th</sup> grade.
15. 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.
16. Ongoing The property owner, subject to the 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.
17. Ongoing Any use of the kitchen must be reviewed and approved by the Environmental Health, Planning and Fire Prevention Divisions.
18. Ongoing Parking lot and site security lighting plans for new parking areas must comply with Section 21.301.07 of the City Code.
19. Ongoing All pickup, drop-off, loading and unloading must occur on-site and off public streets.
20. Ongoing Interior or exterior site alterations must comply with the Minnesota State Accessibility Code.
21. Ongoing Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code and Uniform Design Plan.
22. Ongoing All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
23. Ongoing Recyclable materials must be separated and collected (Sec. 10.45).
24. 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).
25. Ongoing Alterations to utilities must be at the property owner's expense.