

CASE FILE #PL201700251

TO: City of Bloomington Planning Staff
Attn: Glen Markegard, Londell Pease, Mike Thissen, Amy Schmidt

FROM: Jay Smigielski, Attorney, Ferdinand F. Peters Law Firm
On behalf of: Aljazari Institute DBA Dar Alfarooq Center, Applicant

DATE: December 4, 2017

RE: 8201 Park Avenue, Bloomington, Minnesota (the "Property")
Application to Amend to Conditional Use Permit

Section I — Request

This request outlines the manner in which the Applicant proposes to change the use of the Property by amending an existing conditional use permit.

A conditional use permit ("Permit"), passed and adopted by the City Council of the City of Bloomington on May 2, 2011 and March 5, 2012, is currently in effect for the above-captioned Property, approving use of the Property for a school, a day care, and a place of assembly/community center, which Permit was recorded in the Office of the Recorder and the Office of the Registrar of Titles in Hennepin County on June 6, 2012, as Documents No. T4962087 & A9799106.

Applicant requests that the Permit be amended to allow for the following uses:

1. A preschool and elementary/middle school of up to eighty-four (84) students (a "Primary School"). This represents an increase of 24 students from the 60 students currently allowed by the Permit.

Current Uses to Continue

2. The Permit currently allows a community center and place of assembly ("Dar Alfarooq Center"), which includes a house of worship and weekend religious school ("Weekend School"). No change is requested to the current Permit with regard to these uses except as outlined below.

Section II — Historical Use

1. This request to amend the Permit is designed to be consistent with the historical use of the Property.

- Beginning around 1962, the Property was used as Northgate Elementary School, a public school for the City of Bloomington. On October 17, 2017, Applicant received the following historical enrollment information for Northgate Elementary from Sharon Peck, Data Management Supervisor in the School Finance Division of the Minnesota Department of Education:

Northgate Elementary School Enrollment	
Enrollment Year	Students (as of October 1st)
1980	339
1981	409
1982	437
1983	416
1984	427
1985	441
1986	441
1987	closed

- After Northgate Elementary closed, the Property was sold to Lutheran High School Association, and after that the Property was acquired by Concordia Academy Association of Schools.
- On September 29, 2017, Applicant received the following historical enrollment information from Pastor Timothy Berner, former principal at Concordia Academy when it was located at the Property:

Concordia Academy Enrollment	
Enrollment Year	Students (Approximate)
2006	120
2007	120
2008	120
2009	closed

- Around 1985, Maranatha Community Christian Church began operating at the Property concurrently with the school use noted above, and held religious services there for a number of years.

6. Applicant's use of the Property will be consistent with the historical use noted above.

Section III — No Other Uses and Elimination of Uses

Included in this request to amend the Permit, Applicant requests elimination of certain uses that are currently allowed under the Permit.

1. The Property will not be put to any other uses than those listed above.
2. The Permit allows Applicant to operate a "daycare" at the Property for up to 20 children. Applicant requests that the "daycare" be eliminated as an allowed use on the Permit.
3. The Permit allows for a "Men's Fitness Center" at the Property. Applicant requests that use of the Property for a "Men's Fitness Center" be eliminated as an allowed use on the Permit.
4. The Permit allows for a "Women's Fitness Center" at the Property. Applicant requests that the use of the Property for a "Women's Fitness Center" be eliminated as an allowed use on the Permit.
5. Concurrent use of the gymnasium, cafeteria, and library by non-students will be reduced.

Section IV — Community Center

1. Use of the Property by the Dar Alfarooq Center will primarily consist of the Weekend School and house or worship/place of assembly that will be mostly used on Fridays and religious holidays. No change is requested to the Permit in this regard.
2. Dar Alfarooq Center also uses the Property for the following as part of its operation as a place of worship and community center:
 - Emergency support for individuals and families in need (agency referrals, material support)
 - Continuing Adult Education Classes
 - Periodic educational and informational talks and seminars aimed primarily at adults, sometimes families
 - Support for the religious teachers on staff
 - Other similar uses consistent with the use of the Property as a community center

3. Questions have been raised by City Staff and others as to whether there is a “university” at the Property, and the City has asked that this issue be addressed in the current Application. Applicant can state that there is no “university” or similar institution at the Property. There is an organization called the Islamic University of Minnesota that, on its Facebook page, gives the address of the Property as the location of a “helpdesk;” however, this is simply an un-staffed kiosk or “help desk” that provides informational pamphlets about this outside organization. There is no active presence of this organization at the Property that would constitute a “use” of the Property.

Section V — Primary School

1. Teachers and Staff

The total number of School staff will change depending on the number of students. There are currently 15 staff members. Applicant projects that more staff will not need to be hired until student enrollment reaches 120 students.

2. Student Transportation

- a. The primary means of transportation to and from the school will be by busses operated by a third-party contractor. The School will be proactively directing families to have their children transported by bus, such that it will eventually be a high-requirement that children be transported by bus.
- b. A copy of the site plan that shows the bus drop off and pick up location at the School.
- c. Eight parking spaces will be temporarily eliminated at the bus drop-off and pick-up location during the following times:
 - 7:20 A.M. to 7:40 A.M. Monday through Friday;
 - 2:45 P.M. to 3:15 P.M. Monday through Thursday; and
 - 11:15 to 11:30 on Fridays.
- d. The School is also considering an application process that families will need to follow in order to receive permission to transport their children to and from the School by car. Except for exceptional circumstances (illness, doctor’s appointment, etc.), families will only be permitted to transport their children to and from the school by car with the express permission of the School.
- e. This process will assist the School in knowing the precise number of children it can expect to be transported by car. The school is committed to managing the traffic of its students in a way that decreases any negative impact on the neighborhood and its traffic.

- f. Other components of this action plan may include “access passes” that will allow the registered families to access to the parking lot for drop-offs and pick-ups—no other families would be permitted drop-off/pick-up access, and drop-offs/pick-ups would be prohibited on the public streets. The School expects that the families will comply with the application procedure and the rules regarding transport by car, but plans will be developed to handle potential noncompliance by families.
- g. Currently, fourteen families transport their students by car, and the School projects that the proportion of the total families transporting by car will decrease as the School implements the policies mentioned above, or other policies directed toward the same goals.
- h. Moreover, the primary reason more families do not have their children transported by bus is because there are only two school busses currently serving the School, and these two bussed simply cannot cover all the students and families. In fact, more families would like to have their children transported by bus, but increasing bus service is not an option for the School at current enrollment numbers.
- i. As a result—and perhaps counter intuitively—as the student enrollment increases, the percentage of families that drive their children to school will actually decrease.
- j. It remains highly likely, based on the demographics of the families who have expressed interest or applied to have their children attend the School, that the total number of families at the School will increase at a lower rate than the rate at which the total number of enrolled students increases. That is, it is expected that each new family will enroll multiple children at the school. Accordingly, each family that drives their children to school will be transporting a disproportionately large number of students, thereby leading, in turn, to reduced total number of trips to the school as might have occurred otherwise.
- k. It is additionally expected that a number of children will walk to the School. Currently 9 children walk to the school, and this is expected to increase, as many of the students are expected to live in the neighborhood.

3. School Hours; Before and/or After School Care

- a. School hours are 7:30 a.m. to 3:00 p.m., Monday through Thursday; and 7:30 a.m. to 11:30 p.m. on Fridays.
- b. There will not be any before or after school care by the School at the Property.

4. Before and/or After School Activities or Sports

There are currently no after-school activities. Here is a summary of anticipated out-of-school-time activities:

- Soccer club and basketball club. Each will be for about 4 weeks and meet from 3:15–4:15 two days a week. It is anticipated that each club will have approximately 15% of students population in the first year.
- Lego League in (2018–2019 school year). Students will meet after school for two days a week, 3:15–4:30 from October to March. The School anticipates that about 10% to 15% of student population will participate in the program.
- Chess club and a Math Master club that meets once a week after school for 1 hour once a week from 3:15–4:15. The School anticipates about 10% to 15% of students will participate in those two programs this year.
- Two nights of parent-teacher conferences.
- The School anticipates 2 to 4 family activities each year from 5:30 PM–8:00 PM. It is hard to predict how many families will show up, although the School will encourage carpooling among families. Participation is estimated from 40% to 70% for SY 2017–2018.
- Other similar activities consistent with the use of the Property as a school.

Section VI — Gymnasium, Cafeteria, and Library Use (the “Facilities”)

1. In keeping with the existing conditions of the Permit, concurrent uses of the Property, particularly with regard to the Facilities, will be limited.
2. The primary user of the Facilities will be the Primary School. It is anticipated that no Facility will be used by the Weekend School or the community at large when being used by the Primary School.
3. The secondary use of the Facilities will be for the Weekend School.
4. The tertiary user of these Facilities will be the Dar Alfarooq Center serving the community at large. It is anticipated that the community at large will not utilize any Facility when it is in use by the Primary School or the Weekend School.
5. Use of the Facilities will be limited by all parties when it is expected that attendance at the house of worship will be high.

Section VII — Smith Park and Outdoor Activities

1. Applicant is proud to have continued the previous Property owners’ partnership with the City to expand the public’s access to Smith Park, such as through the granting of an easement for pedestrian and vehicle access to the

Park, and joint parking and facility-use agreements. Applicant looks forward to continuing this partnership.

2. The Primary School will use the Smith Park playground for approximately 20 minutes per day per class, for a total of around one to one-and-a-half hours per day.
3. The Primary School's principal outdoor activities are physical education and recess, weather permitting. Physical education classes occur at the football fields when they are held outdoors.
4. Other outdoor uses at the School will be consistent with the before- and after-school uses of the Property by the Primary School as noted above in Section V-4.

Section VIII — Parking

Required Parking—Current Uses (no changes)			
Location	Code Requirement	Occupants	Spaces
Assembly Halls (2,625 ft ²)	1 space/3 occupants	300	100
Offices (2,466 ft ²)	1 space / 285 ft ²	1 space / 285 square feet	9 spaces
Weekend School	1 space / 800 ft ²	80	40

Required Parking—Proposed Uses Per Requested Amendment			
Location	Code Requirement	Occupants	Spaces
Weekday Primary School (30,876 ft ²)	1 space / 800 ft ²	84	40

Total Parking	
Total Parking Required, Existing Uses	149
Total Parking Required, Proposes Uses	40
Total Parking Required	189
Available Parking (on Property)	~144
Parking Eliminated During Bus Drop-off/Pick up (<i>not included in above</i>)	~8
Available Parking (Smith Park)	~74
Total Parking Available	~236

The attached survey indicates options to expand parking at the Property.

Section IX — Trash-Room Waiver

Applicant will work with the Community Development Director or other applicable Manager with regard to indoor access to the trash area inside the school building, and will request that no indoor access be required. This trash area has water access, it is covered by the building's sprinkler system, it is enclosed, has access from the outside, has painted floors and walls, and has a heat source. Complying with the applicable code provisions will cause undue hardship because the indoor access point will be quite expensive to construct and because the trash area is used by multiple occupants of the building. No variance is requested because the existing design and construction of the trash area, as might be subject to the Development Director's review, is or can be made consistent with the waiver permitted under Code section 19.51(c)(3)(A)(i)–(iv).

Section X — Miscellaneous & Additional Information

1. Fire and Building Code Requirements have been completed.
2. All areas to be used for the Primary School are compliant with E Occupancy.
3. No significant changes are planned for the exterior of the building, though some changes might be required in connection with the trash-room waiver identified above in Section IX.
4. The interior of the building is largely consistent, as-is, with the proposed use of the building, and only minimal construction has been or will be required. All construction and post-construction parking and storage of equipment and materials will occur on the Property.
5. Sufficient bike racks will be installed at the Property as determined in discussions with the City, and as calculated per the number of students. Currently, no students bike to the School.
6. This Application describes Applicant's request for the use of the Property and outlines Applicant's anticipated proposed use in detail. It is not a waiver of any claim, defense, or presentation of facts that Applicant may assert in these or other proceedings.
7. Sewer Availability Charge determination has been submitted.
8. There are no State documents which impose operational requirements or limitations on the Primary School. State documents, issuing the School (nka Success Academy, fka Summit Charter School) its charter ID number, are attached.

Section XI — Information Regarding Future Applications

1. Applicant wishes to take this opportunity to inform the City that should the Primary School be poised to grow in the future, Applicant would anticipate

submitting a request for another amendment to the Permit to allow additional increases to the enrollment of the Primary School. However, that request is *not* being made in this present Application.

2. Applicant understands that per the City Code, a traffic study must be completed before future requests to allow additional enrollment at the Primary School will be considered by the Planning Department or the City Council. Regardless of the results of any such traffic study, Applicant is committed to managing concurrent uses of the building, parking, and traffic in such a way so as to reduce any negative impact on the surrounding community, and to consistently monitor parking at the Property to minimize any effects on the adjoining neighborhood that might result from the proposed uses. Therefore, concurrent uses of the Property will be kept to a minimum and will comply with all parking requirements. The historic use of the Property as a school indicates that the neighborhood has in the past successfully managed the impacts from the traffic that normally results from typical high school and elementary school activities. Applicant will work with the City to continue addressing these concerns in a successful manner.

Section XII — Conclusion

Based on the foregoing and the City's conclusions in issuing the original Permit: (1) the proposed use is not in conflict with the Comprehensive Plan; (2) the proposed use is not in conflict with any adopted district plan for the area; (3) the proposed use is not in conflict with city code provisions; (4) the proposed use will not create an excessive burden on parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the planned development; and (5) the proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.