

RESOLUTION NO. 2011- 62

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A PRIVATE SCHOOL, A DAY CARE, AND A PLACE OF ASSEMBLY/COMMUNITY CENTER AT 8201 PARK AVENUE SOUTH, BLOOMINGTON, MINNESOTA

WHEREAS, the City Council of the City of Bloomington is the official governing body of the City of Bloomington; and

WHEREAS, an application for a conditional use permit for a private school, a day care, and a place of assembly/community center has been filed on behalf of Lutheran High School Association of Greater Minneapolis, the owners of the premises located at 8201 Park Avenue South, Bloomington, Minnesota, and legally described as follows:

Lot 2, Block 1, Smith Park 2nd Addition, Hennepin County, Minnesota

WHEREAS, the Planning Commission has reviewed said request at a duly called public meeting and recommends approval.

WHEREAS, the City Council is empowered to approve a conditional use permit when the use is not in conflict with the Comprehensive Plan or an adopted district plan for the area, is not in conflict with the stated intent of the zoning district in which it is to be located, will not unreasonably harm the public health, safety and welfare, will not create a nuisance or unreasonable congestion injurious to nearby

properties, does not interfere with the creation of a beneficial environment within its own boundaries and on adjoining properties, will not interfere with a reasonable economic benefit to the community, interrelationship provisions with contiguous and noncontiguous adjacent properties will not adversely affect pedestrian and vehicular movement, and will not adversely affect the buffering of service facilities and parking areas.

WHEREAS, the City Council has considered the report of the City staff, the findings and decision of the Planning Commission, the comments of persons speaking on the issue of the conditional use permit and the factors in Bloomington City Code Section 21.501(e)(1), (2), (3), (4), and (5).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON IN REGULAR MEETING ASSEMBLED:

- A. That the affirmative findings of the Planning Commission are adopted by the City Council;
- B. That the conditional use permit shall expire if not used or applied in accordance with the provisions of City Code Section 21.501.04(g);
- C. That the conditional use permit may be suspended or revoked in accordance with the provisions of City Code Section 21.201.04(h);
- D. That the requested conditional use permit is approved, subject to the following conditions:
 - 1) Prior to the issuance of any certificate of occupancy, Sewer Availability Charges (SAC) shall be satisfied, if applicable;
 - 2) Prior to the issuance of any certificate of occupancy, the site development agreement must be updated to reflect all conditions of approval in Case 8915A-11.
 - 3) To ensure sufficient off-street parking:
 - a. Prior to the issuance of a certificate of occupancy for use of the building for assembly, the property owner/applicant must obtain all required approvals for and construct at least 25 City Code compliant additional on-site parking spaces on land owned by the property owner/applicant;
 - b. Prior to use of the building as a school and prior to the use of the spaces identified as school classrooms, the property owner/applicant must obtain all required approvals for and construct at least 25 City Code compliant on-site parking spaces (in addition to parking spaces described in Condition #3a above) on land owned or permanently controlled by the property owner/applicant;

- c. Prior to the issuance of any certificate of occupancy, the property owner/applicant must sign a proof of parking agreement prepared by the City that:
 - 1. identifies the location for the construction of 50 City Code compliant on-site parking spaces (in addition to the parking spaces identified in Conditions #3a and #3b above) on land owned or permanently controlled by the property owner/applicant; and
 - 2. agrees that the additional 50 parking spaces must be constructed if overflow parking occurs.
- d. While the school/day care is in session, the use of the large gymnasium and cafeteria is limited to school/day care activities.
- e. While other on-site assembly areas are in use, the use of the large gymnasium and cafeteria is limited to student activities that do not generate additional parking demand.
- f. A sidewalk connection, as approved by the City Engineer, linking the school with the southeast Smith Park parking spaces must be constructed if overflow parking occurs.
- g. The user of the site must maintain rights to utilize the parking spaces on land not owned by the property owner/applicant as identified in the staff report and must provide copies of agreements/leases to the Planning Manager.
- h. Changes in occupancy, building use or access to the parking spaces on land not owned by the property owner/applicant as identified in the staff report must be reviewed and approved by the Planning Manager and may require an amendment to the Conditional Use Permit.
- i. Joint parking and outdoor recreation/athletic facilities usage agreements between the City and the property owner must be updated by September 1, 2011 to reflect proposed site use patterns, subject to the approval of the Parks and Recreation Manager.
- j. The property owner, subject to the review and approval of the Parks and Recreation Manager, must prepare in January of each year, an annual plan that coordinates the use of joint parking areas and outdoor recreation/athletic facilities in a manner that minimizes overlapping demand.
- k. The capacity of the large gymnasium is limited to 500 occupants.
 - 1. The property owner must provide traffic control services if overflow parking occurs.
- 4) Development must comply with the Minnesota State Accessibility Code.
- 5) All pickup, drop-off, loading and unloading must occur on site and off of public streets; and
- 6) Alterations to utilities are at the developer's expense;

and subject to the following Code Requirements:

- 1) Building shall be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903);
- 2) All trash and recyclable materials be stored inside the principal building (Sec. 19.51);

- 3) Recyclable materials shall be separated and collected (Sec. 10.45);
- 4) Fire lanes be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3);
- 5) Parking lot and site security lighting shall satisfy the requirements of Section 21.301.07 of the City Code;
- 6) Sign Design be in conformance with the requirements of Chapter 19, Article X of the City Code;
- 7) The building shall not be occupied until the Building Official has issued a certificate of occupancy (Sec. 15.04); and
- 8) All underground tanks that have been out of service for at least one year must be removed as approved by the Fire Marshal (International Fire Code Section 3404.2.12.1.3)

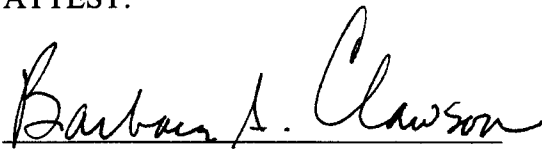
E. That additional conditional use permit documents relating to the subject premises including Case 8915A-11 will be available for inspection pursuant to Minnesota Statutes Section 462.36, Subd. 1, through the Bloomington City Planning Office.

Passed and adopted this 2nd day of May, 2011.



Mayor

ATTEST:



Secretary to the Council

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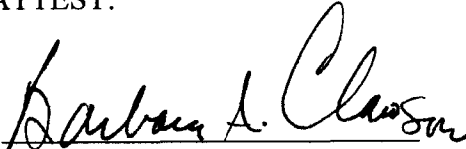
The attached resolution was adopted by the City Council of the City of
Bloomington on May 2, 2011.

The question was on the adoption of the resolution, and there were 7 YEAS
and 0 NAYS as follows:

CITY OF BLOOMINGTON COUNCILMEMBERS:	YEA	NAY	OTHER
Gene Winstead	<u>✓</u>	_____	_____
Tim Busse	<u>✓</u>	_____	_____
Amy Grady	<u>✓</u>	_____	_____
Tom Hulting	<u>✓</u>	_____	_____
Karen Nordstrom	<u>✓</u>	_____	_____
Steve Peterson	<u>✓</u>	_____	_____
Vern Wilcox	<u>✓</u>	_____	_____

RESOLUTION ADOPTED.

ATTEST:


Secretary to the Council

Originator Community Development	Item Conditional Use Permit	# 5.2D
Agenda Section HEARING/PUBLIC INPUT Development Business	By LDP <i>SM</i>	Approved <i>[Signature]</i>
		Date April 18, 2011

After holding a public hearing on this item on April 4, 2011, the City Council continued consideration until April 18th and requested additional information. A memorandum responding to the information request and recommending revisions to the conditions of approval will be transmitted with the CMI newsletter on Friday, April 15th. The previous staff report is included below for reference purposes.

Case 8915A-11

GENERAL INFORMATION

Applicant: Concordia Academy Association of Schools (owner)
Al Farooq Youth and Learning Center (user)

Location: 8201 Park Avenue South (Property)

Request: A Conditional Use Permit for a private school, a day care, and a place of assembly/community center.

Existing Land Use and Zoning: Vacant school; zoned R-1(PD)

Surrounding Land Use and Zoning: North and East—Park; zoned R-1 and R-1(FH)
South and West—Single-family residential; zoned R-1

Comprehensive Plan: The Comprehensive Land Use Plan recommends Quasi-Public land use for the property.

Council Action

Motion by _____ Second by _____ to _____

HISTORY

- City Council Action: 08/17/87--Approved a two-year temporary conditional use permit for a day care and office uses at the Northgate Elementary School. (Case 8915A-87)
- City Council Action: 07/19/89--Approved a Comprehensive Land Use Plan amendment from Public to Office and Low-density Residential and Preliminary and Final Development Plans to covert Northgate Elementary School to an office use and creates four new single family lots subject to conditions. (Case 8915ABCD-89) NOTE: Although approved, the school was not converted to an office use and the single family lots were not created.
- City Council Action: 07/16/90--Approved a Comprehensive Land Use Plan amendment from Office and Low-Density Residential to Quasi-Public and Preliminary and Final Development Plans for a private high school subject to conditions. (Case 8915AB-90)
- City Council Action: 03/18/91--Approved revised Final Development Plan for a 24,560 square foot gymnasium addition and a 2,200 square foot music room addition subject to conditions. (Case 8915A-91) NOTE: Although approved, these additions were not constructed.
- City Council Action: 04/12/93 -- Approved a two-year temporary conditional use permit for a church in a school at 8201 Park Avenue (Case 8915A-93).
- City Council Action: 04/03/95 – Approved a five year temporary conditional use permit for a church in a school at 8201 Park Avenue (Case 8195A-95)
- City Council Action: 06/01/98—Approved revised Final Development Plan for a gymnasium addition subject to conditions (Case 8915A-98)
- City Council Action: 06/19/00 – Approved a five year temporary conditional use permit for a church in a school at 8201 Park Avenue (Case 8195A-00)
- City Council Action: 08/18/03—Approved a revised Final Development Plan for a 14,000 square foot gymnasium with options for gym storage space and additional restrooms and shower facilities (as

presented in plans contained in Case 8915A-03) with nine conditions and 10 Code requirements.

CHRONOLOGY

Planning Commission Action: 03/24/11 – Recommended approval of a Conditional Use Permit for a private school, a day care, place of assembly and a community center with six conditions and six Code requirements.

City Council Action: 04/04/11 – Continued item to the meeting of April 18, 2011.

City Council Agenda: 04/18/11 –

DEADLINE FOR AGENCY ACTION

Application Date: 02/15/11
60 Days: 04/15/11
Extension Letter Mailed: Yes – 4/5/11
120 Days: 06/14/11

STAFF CONTACT

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APPLICABLE REGULATIONS Section 19.27(d)

REQUIRED FINDINGS 21.501.04(e)(1), (2), (3), (4), and (5)

PROPOSAL

The Al Farooq Youth and Learning Center plans to purchase the vacant school after obtaining a Conditional Use Permit to operate a private elementary school, a day care center, a place of assembly and community center at 8201 Park Avenue South. The 8.2 acre site contains a 60,757 square foot building. There would be no exterior modification with minor interior modifications to construct prayer service rooms to accommodate the proposed Friday afternoon prayer services.

The site currently has 216 parking spaces. There are 48 spaces on the applicant's property, 58 spaces developed on the Xcel property and by written agreement use of 110 spaces at Smith Park (two lots

containing 74 spaces and 36 spaces). As part of the 1991 approval, 50 proof of parking spaces were approved on the property's south side. The total parking supply, including approved proof of parking, is 266 spaces.

ANALYSIS

Background

The site was originally constructed as Northgate Elementary School, a 46,757 square foot public elementary school, in 1962. Northgate Elementary School was closed in the late 1980s and converted to a private high school in 1990. In 1991, the property was rezoned to a Planned Development and they added a 14,000 square foot gymnasium. The Final Development Plan limited the occupancy of the larger Gymnasium to 500 people. The high school operated until it vacated the property in 2009. The property remains vacant.

Land Use

The proposed re-use of the school with the variety of functions maximizes the occupancy of the vacant school. The options for the reuse of a school site are limited, without redevelopment. The proposed uses would occupy the building with minimal changes. As the proposed uses are diverse in services offered, they are all tied together by the single organization. This allows for the coordination of the uses to assure compliance with the City Code performance standards for the site. This includes but is not limited to occupancy limitations and parking.

The varieties of uses proposed are compatible with the building and the surrounding property. The school, while a private educational institution, is open to public enrollment. The fitness center will be available only to members of the school and the organization. According to the applicant, community style activities will be conducted and would open to the community throughout the year. The property owner may lease spaces for community meetings and activities, much like Creekside Community Center.

The proposed uses, if operated concurrently, could exceed the site's parking capacity. There is a need to limit uses to only school and worship activities weekdays and most weekends, under normal circumstances. When the school and worship services are not being conducted, the auxiliary use of the gyms and other meeting spaces for activities not associated with the school or the prayer services would be acceptable. A condition of limiting the concurrent occupancies would assure compatibility with the surrounding park, business and residential uses. The primary concern for staff is assuring adequate parking is provided to meet the needs of the proposed uses.

Approval of the conditional use permit is predicated upon strict adherence to conditions that would control any off-site or on-street parking on local residential streets and mitigate potential parking problems. Staff is recommending conditions on area, hours of use or operation, and occupancy. The occupancy number is contingent upon Building and Inspection Division and Fire Marshal permitting.

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Traffic and parking:

The existing roadway network should adequately accommodate new and existing trips from the site. No new safety issues are expected to occur, nor any existing issues exacerbated by the expected trip generation. Given the broad based use characteristics and limitation of the concurrent uses of the property, the primary concern is parking.

Parking is provided along the west side of the building. Through written agreement with the City, shared parking is also available in two Smith Park parking lots, on the northwest, and southeast sides of the building. A private sidewalk connection exists between the site building and the northwest Smith Park lot but not between the building and the southeast Smith Park lot. By the agreement dated May 17, 1999, the site may count the City's northwest Smith Park parking lot towards their parking capacity calculations. The agreement is for 25 years with an additional 10 year renewal with the same terms, subject to both parties agreement. Should this parking no longer be available in 2034, the applicant will be required to construct parking to maintain the parking provided under this Conditional Use Permit application.

As shown in Table 1, the total parking supplied by the use is 216 spaces. The Final Development Plan, approved in 1998, provides a 50 space "proof of parking" lot on the Xcel property at the southwest side of site. Including proof of parking, total parking supply available for the site is 266 parking spaces.

A Condition in the 1998 revised final development plan required a lease or other legal document for the use and improvement of parking and proof of parking area be provided to the Planning Manager. Because the proof of parking area is shown on property not owned by the community center, a lease was secured to assure that the applicant could construct the parking lot, if needed. That lease has expired and is no longer valid. Therefore, the applicant must obtain the required lease or prepare and file a proof of parking agreement to provide an alternate location on the property.

TABLE 1: Parking provided or approved

LOCATION	SPACES
West of the building on the applicant's property	48 spaces
West of the building on Xcel's property	58 spaces
Northwest Smith Park parking	74 spaces
Southeast Smith Park Parking	36 spaces
Proof of Parking approved in 1991	50 spaces
TOTAL PARKING APPROVED	266 spaces (216 developed)

Table 2 defines the City Code required parking for the proposed uses, which, if used independently and concurrently, would be 380 parking spaces (114 spaces greater than the approved parking in the Final Development Plan). However, the applicant does not request approval for multiple uses at any single time. The applicant is concerned with student safety and parking while school is in session. Therefore, the applicant agrees that a condition limiting the gyms' use to only school related functions during the school or

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prayer activities. Additionally, Table 3 lists the applicant's anticipated hours of operations for various uses of the site.

TABLE 2: Required parking for each use evaluated individually

Location	Code Requirement	Occupants	SPACES
Assembly Halls (2,625 Square Feet)	1 space/3 occupants	300	100 spaces
Day Care (20 students/4 staff)	0.12 /student + 1/employee		7 spaces
Weekday elementary school (60 students – 30,876 square feet) or weekend school (80 students – 30,876 square feet)	1 space / 800 Square feet		40 spaces
Fitness Center (4,125 square feet)	1 space/250 square feet		17 spaces
Small Gym (3,414 Square feet)	1 space/3 occupants	123	41 spaces
Large Gym (14,000 square feet)	1 space/3 occupants	500	166 spaces
Offices (2,466 square feet)	1 space / 285 Square feet		9 spaces
TOTAL - ALL USES IF USED INDEPENDANTLY			380 Spaces
TOTAL - USES – without using gyms for non-school activities			173 Spaces

While these uses meet the City Code required parking provided concurrent use of the various spaces is limited, the 36 parking spaces near the baseball fields are not readily accessible. Prior to the construction of the Gymnasium, there was sidewalk access from that parking to the school. Staff recommends the applicant construct a sidewalk connection to the Smith Park parking lot at the southeast corner of the site.

TABLE 3: Anticipated hours of operation for specific uses

USE	DAY/TIME OF OPERATION
PRIMARY SCHOOL	M-F 8AM – 2:30 PM
DAY CARE	M-SU 7AM – 5PM
WOMEN'S FITNESS	M-SU 5PM – 9PM
MEN'S FITNESS	M-SU 5PM – 9PM
FRIDAY ASSEMBLY	FRI 12PM- 1PM
WEEKEND SCHOOL	SA-SU 9AM – 2PM

NOTE: Gym use would be limited to times other than school or prayer services.

In addition, the application should consistently monitor and manage parking to assure that the proposed uses do not impact the adjoining neighborhood. City staff is concerned without a revised proof of parking agreement assuring construction of the proof of parking area if proposed site uses, or changes to proposed site uses, result in site parking demand to exceed the parking supply supplied. This agreement shall be provided.

FINDINGS

Section 21.501.04(e)

... The following findings must be made prior to the approval of a conditional use permit:

(1) **The proposed use is not in conflict with the Comprehensive Plan;**

- * The proposed uses for the vacant high school are consistent with the Quasi-Public Land Use designation.

(2) **The proposed use is not in conflict with any adopted District Plan for the area;**

- * The proposed use of the building and property is not in conflict with any adopted District Plan and does not propose any significant alteration to the building or site that would prevent reuse or redevelopment of the property.

(3) **The proposed use is not in conflict with City Code provisions;**

- * The proposed use, the use restriction, is not in conflict with City Code provisions for the proposed use when 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; and**

- * The proposed use would not place excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.

(5) **The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.**

- * The proposed uses are consistent with other uses in similar locations and buildings throughout the City. Subject to Conditions of Approval, the proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare of the community.

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RECOMMENDED CITY COUNCIL ACTION

The Planning Division and Engineering Division Staff and the Planning Commission recommend adoption of a resolution approving a Conditional Use Permit for a private school, a day care, place of assembly/community center at 8201 Park Avenue South subject to conditions of approval. The proposed conditions with modifications based on City Council requests will be transmitted with the CMI newsletter on Friday, April 15th.

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