

## **MEMORANDUM**

**TO:** LOMBARD PLAN COMMISSION  
Donald Ryan, Chairperson

**FROM:** Stuart Moynihan, Associate Planner

**DATE:** January 26, 2009

**SUBJECT: PC 08-32; 215 and 220 S. Lincoln Street (St. John's Evangelical Lutheran Church & School)**

At the December 18, 2008 Village Board meeting, the Village Board remanded PC 08-32 back to the Plan Commission for further consideration and discussion related to specific issues. The petition is scheduled to be heard at the January 26, 2009 Plan Commission meeting. This memorandum outlines the process and steps associated with this action and provides direction to the Commissioners relative to this petition.

### **BACKGROUND**

At the December 18 Village Board Meeting, the Village Board discussed PC 08-32 related to the evidence presented and the testimony given at the November 17, 2008 Plan Commission hearing. The Village Board determined that a complete evaluation of the petition requires further discussion regarding specific land use considerations.

As the Village Board has determined that additional testimony is necessary and that any new information should be reviewed with the Commissioners as part of the public hearing process, this petition was remanded back to the Plan Commission. This action ensures that the public hearing record has been perfected and that the public hearing provisions established in *Klaeren v. Lisle* are satisfactorily addressed.

In the Village Board's remand back to the Plan Commission, the Board specifically directed the Plan Commissioners to review only the following items:

1. The introduction of a commercial enterprise in a residentially zoned district;
2. The impacts of providing for a use exception for a separate commercial establishment within the confines of an institutional planned development;

3. How establishing the commercial use will enhance the previously approved planned development and would be within the public interest;
4. Consideration of precedent this action could have, for other commercial entities or uses not associated with St. John's, if they were to seek to operate on the premises;
5. How can further parking variations be granted and how traffic flow can be adequately handled between the various use operations;
6. Additional discussion regarding day care operations throughout the day, in addition to the drop off and pick up periods noted by the petitioner; and
7. Additional discussion and testimony by St. John's as to why they are authorizing a request to amend their planned development, contrary to the conditions or limitations set forth in the 2005 approval.

The Plan Commissioners are asked to review this information and offer a recommendation back to the Village Board accordingly.

#### **REFERENCE MATERIALS**

For the Commissioner's reference, staff is providing a copy of the following information:

1. Copies of the IDRC staff report as previously presented to the Commissioners;
2. Notes of the November Plan Commission meeting;
3. Notes of the December 18 Village Board Meeting;
4. Information on existing day care centers within the Village.
5. All correspondence related to PC 08-32, transmitted from or received by the petitioner following the public hearing, for reference purposes only.

#### **MEETING FORMAT**

The format of the Plan Commission meeting will be as follows:

1. Staff Presentation – staff will outline the reason for the Special Meeting and will note the actions to be considered as part of the meeting. Staff will provide a very brief history of the petition and will summarize the zoning actions and development regulations associated with the petition. Once completed, an opportunity to cross-examine staff by anyone in the public will be provided. The cross-examination will be limited to the items as set forth by the Village Board.

2. Upon completion of staff cross-examination, any objector will be offered the opportunity to speak. Once completed, an opportunity to cross-examine the objector by anyone in the public will be provided. The cross-examination will be limited to the items as set forth by the Village Board and shall relate specifically to the objector's presentation.
3. Upon completion of objector's cross-examination, the petitioner (Creative Day Learning Center) will be given an opportunity to review their petition to the Village as it specifically relates to the Village Board remand. Once completed, an opportunity to cross-examine the petitioner by anyone in the public will be provided. The cross-examination will be limited to the items as set forth by the Village Board and shall relate specifically to the petitioner's presentation.
4. After completion of the cross-examination, the public participation period will be closed. The Plan Commissioners shall then be given an opportunity to discuss the petition. Questions may be asked to staff, objectors or the petitioner. The Plan Commission should provide a response to each of the seven questions raised by the Village Board.
5. The Plan Commissioners shall then vote to deny, approve or approve the petition subject to conditions. The Commissioners do have the ability to add any conditions they deem appropriate should they recommend approval.
6. The recommendation will be forwarded to the Village Board for consideration at their February 5, 2009 meeting.

### **STAFF REVIEW**

Staff has reviewed each of the items identified by the Village Board and offers the following corresponding comments:

*1. The introduction of a commercial enterprise in a residentially zoned district;*

Staff expressed their initial concerns regarding this item within the staff report. The majority of parcels near the subject property are residentially zoned. With the exception of some properties to the east and the northeast, these properties are residential in use as well. Residential properties are particularly sensitive to other uses that draw additional traffic and activity to the vicinity. It is staff's opinion that the introduction of a commercial entity at the subject property does have the potential to adversely affect residential properties within the neighborhood. As stated within the Comprehensive Plan, "Commercial operations, including traffic, parking, loading, and business activities should not be allowed to affect neighborhood quality."

If the Plan Commission deems that this commercial use is appropriate and compatible with the adjacent residential zoning districts, it should make a finding as to how it is compatible. For reference purposes, in the November Plan Commission meeting minutes, the following statements were made:

- Karen Ness stated that this is a for-profit business wanting to operate in a non-profit, non-commercial area.
  - Commissioner Sweetser stated that some of the daycare centers referred to in the staff report may be commercial enterprises, such as Kindercare, but others are 501(c)(3)s. We should look at the kind of operation, regardless of how it may be classified.
  - Commissioner Cooper stated that to the north is all green space and to the east of the property it's residential and institutional. Three blocks south it's multifamily. She would beg to differ with the comment that this is primarily a residential area.
2. *The impacts of providing for a use exception for a separate commercial establishment within the confines of an institutional planned development;*

But for the granting of a use exception, the proposed use is prohibited in the R2PD zoning district. The Comprehensive Plan identifies the subject property for Public and Institutional uses. The establishment of a commercial entity on the property would be contrary to the intended usage for the property established by the Comprehensive Plan.

The Plan Commission should make a statement noting how the commercial use is compatible with an institutional planned development.

3. *How establishing the commercial use will enhance the previously approved planned development and would be within the public interest;*

Staff stated that the proposed use may diminish the overall quality of the planned development as the proposed use has the potential to interfere with the operations of the existing uses. The petitioner and St. John's have stated there will be areas shared by Creative Day and other uses on the property including indoor/outdoor play areas, the gymnasium, the kitchen, lunchroom, and a downstairs bathroom. St. John's has stated that the school use on the property would take precedence over the day care center should overlapping use of these areas arise.

If the Plan Commission deems that this commercial use would be beneficial to the public interest, it should make a finding as to how it is within the public interest.

4. *Consideration of precedent this action could have, for other commercial entities or uses not associated with St. John's, if they were to seek to operate on the premises;*

If the requested relief is granted, another commercial day care operator could make use of the relief in the future, provided that they operate under the conditions of approval. The Village may have little control over who this operator might be. Further, the presence of this relief would strengthen the arguments of other commercial entities wishing to occupy space within the old school building.

Staff has researched day care operations within Lombard that are registered with the Department of Children and Family Services. Attached is a summary of those operations. Of the ten such operations in Lombard, seven were given Conditional Uses. One operation, The Growing Place, was issued a Certificate of Occupancy as a legal non-conforming use. Another operation, Creative Montessori Learning Center, was issued a Certificate of Occupancy for a school and day care center as a continuation of the previously established Edgewood School use. Lombard Park District Kiddie Campus has not been issued a Certificate of Occupancy as a day care center. As it operates as a state licensed preschool, it would not fall under the Zoning Ordinance definition of a day care center.

Of the ten day care centers, three are located within residentially zoned districts. Creative Montessori Learning Center and The Growing Place were issued Certificates of Occupancy for the reasons stated above. The Nursery School of Congregation Etz Chaim was established following the approval of a Conditional Use for a Religious Institution including an associated nursery/day school operated by the religious institution itself as an ancillary use.

5. *How can further parking variations be granted and how traffic flow can be adequately handled between the various use operations;*

The Village's traffic consultant, KLOA, prepared a report detailing an analysis of parking and traffic circulation between the existing and proposed uses on the subject property. Within that report, KLOA stated that they did not foresee a problem with the drop off and pick-up plan proposed by Creative Day. They also suggested that the provision of some parking spaces on the south lot will ensure that no additional vehicles queue on Ash Street.

If the Plan Commission deems that additional traffic flow and parking demand can be adequately managed, it should make a finding that this additional demand will not adversely affect the subject property and the surrounding properties.

6. *Additional discussion regarding day care operations throughout the day, in addition to the drop off and pick up periods noted by the petitioner; and*

Creative Day's daily activities would be within the scope of normal day care operations and would include: teaching and educational activities, indoor and outdoor play, lunch preparation and service, and occasional field trips to nearby establishments.

The petitioner will be present at the Plan Commissioner hearing to further discuss the operation of the day care center and the trip generation throughout the day.

7. *Additional discussion and testimony by St. John's as to why they are authorizing a request to amend their planned development, contrary to the conditions or limitations set forth in the 2005 approval.*

A representative from St. John's will be present at the Plan Commission hearing to provide testimony regarding this item.

#### **ACTION TO BE TAKEN**

At such time that the Plan Commission is ready to make a motion, the Commissioners have the following options:

1. *If the motion is to approve the petition, the Commissioners can use the language below or amend it as they deem appropriate. The Plan Commission does have the ability to add or strike any conditions as they deem appropriate.*

Based on the submitted petition and the testimony presented, the proposed conditional use amendment, planned development use exception, and variation does comply with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission does not accept the findings of the Inter-departmental Review Report as the findings of the Plan Commission and I move that the Plan Commission make the following findings of fact as the finding of the Lombard Plan Commission:

1. The proposed commercial use is appropriate and compatible with the adjacent residential zoning districts.
2. The proposed commercial use is compatible with an institutional planned development.
3. The proposed commercial use would be beneficial to the public interest.

4. The approval of this petition would not set an undesirable precedent for other commercial entities or uses not associated with St. John's, if they were to seek to operate on the premises.
5. The additional traffic generation and parking demand associated with the proposed commercial use will not adversely affect the subject property and the surrounding properties.
6. The day care operations throughout the day, in addition to the drop off and pick up periods, will not adversely affect the subject property and the surrounding properties.
7. St. John's has satisfactorily addressed concerns as to why they are authorizing a request to amend their planned development, contrary to the conditions or limitations set forth in the 2005 approval.

*The Plan Commission should note any other findings of fact to be part of the public record as deemed necessary.*

Therefore, I move that the Plan Commission recommend to the Corporate Authorities approval of the conditional use amendment, planned development use exception, and variation associated with PC 08-32, subject to the following conditions:

1. The petitioner shall occupy only two classrooms and one office on the first floor of the St. John's Lutheran old school building, making periodic use of the kitchen and gymnasium in that building.
2. Should the petitioner seek to make a substantial change to the proposed use such as, but not limited to, expanding the proposed day care center by occupying other rooms on the subject property or increasing the number of children accommodated at the facility beyond forty (40), a conditional use amendment will be required.
3. Any portions of the existing school building not indicated in condition one (1) shall be used exclusively for capital plant, storage purposes, offices and/or meeting space. Should any additional use be proposed beyond these uses, a conditional use amendment will be required.
4. The petitioner and property owner shall agree upon a location within the southern parking lot to designate four (4) parking spaces for Creative Day drop-off/pickup, subject to the review by the Director of Community Development. Signage shall be installed at these parking spaces indicating that

parking is reserved for Creative Day drop-off between 7:00 a.m. and 8:30 a.m. and pickup between 4:00 p.m. and 5:30 p.m. on Monday through Friday.

5. Previous to occupying the old school building, the petitioner shall meet all requisite code compliance and life safety issues. Also, the petitioner shall apply for and receive a building permit for any interior building improvements.
  6. The petitioner shall bring any portion of the subject building, which is to be occupied by or ancillary to the subject day care facility, into full compliance with the requirements set forth by the Americans with Disabilities Act and the Illinois Accessibility Code.
2. *If the motion is for denial, the Commissioners can use the language below or amend it as they deem appropriate. The Commissioners could amend the language as they deem appropriate, provided that the reasons for denial are tied to the standards for conditional uses and planned developments.*

Based on the submitted petition and the testimony presented, the proposed conditional use amendment, planned development use exception, and variation do not comply with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission accept the findings of the Inter-departmental Review Report as the findings of the Plan Commission and therefore, I move that the Plan Commission recommend to the Corporate Authorities denial of the conditional use amendment, planned development use exception, and variation associated with PC 08-32.