

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION

For Inclusion on Board Agenda
Resolution or Ordinance (Blue) Waiver of First Requested
Recommendations of Boards, Commissions & Committees (Green)
Other Business (Pink)

X

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Huliseberg, Village Manager

DATE: January 28, 2009 (BOT) Date: February 5, 2009

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

SUBMITTED BY: Department of Community Development *DK*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits its recommendation relative to the above-mentioned petition. The Village take the following actions on the property located within the R2PD Single Family Residence Planned Development District:

1. Pursuant to Section 155.504(A) of the Lombard Zoning Ordinance (major changes to a planned development), amend the conditional use for the St. John's Evangelical Lutheran Church & School Planned Development, as established by Ordinance 5665, to allow a private day care center to be operated within the old school building;
2. Approve a use exception, pursuant to Section 155.508 (B) of the Zoning Ordinance, for a private day care center; and
3. A further variation from Section 155.602 (C), Table 6.3 of the Zoning Ordinance, as approved by Ordinance 5665, to not require additional parking spaces to be constructed as part of the petition. (DISTRICT #1)

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 seven specific items. At the January 26, 2009 Plan Commission meeting these seven items were considered. As there were neither four votes for approval or denial of the petition, it is being forwarded to the Village Board with no recommendation.

Please place this item on separate action on the February 5, 2009 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

_____	Village Attorney X
_____	Finance Director X
_____	Village Manager X

[Signature]

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: David A. Hulseberg, Village Manager

FROM: William Heniff, AICP, Director of Community Development *WH*

DATE: February 5, 2009

SUBJECT: PC 08-32; 215 and 220 S. Lincoln Street Remand (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 the following seven specific 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.

Please see page 11 of the attached referral letter for specific Plan Commission discussion related to the seven items noted above.

At the January 26, 2009 Plan Commission meeting, The Plan Commission was unable to obtain four votes for either approval or denial of the petition. Therefore, this petition is being forwarded to the Village Board with **no recommendation**. Should the Village Board decide to approve the petition, the draft ordinance previously submitted at the December 18, 2008 meeting may be used.

Attached please find the following additional items for Village Board consideration as part of the February 5, 2009 Village Board meeting:

1. Plan Commission Remand Memorandum, which included the IDRC report for PC 08-32;
2. January 26, 2009 Plan Commission meeting referral letter;
3. Letters from St. John's received after the January Plan Commission meeting.

Please place this petition on the February 5, 2009 Board agenda under items for separate action. If any Board members would like additional copies of any information previously transmitted to the Board, please let me know.

Plan Commission
Remand Memorandum
which included the
IDRC report for PC 08-32



MEMORANDUM

TO: LOMBARD PLAN COMMISSION
Donald Ryan, Chairperson

FROM: Stuart Moynihan, Associate Planner *SM*

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.

**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Lombard Plan Commission
FROM: Department of Community Development
PREPARED BY: Stuart Moynihan Associate Planner
HEARING DATE: November 17, 2008

TITLE

PC 08-32; 215 and 220 S. Lincoln Street (St. John's Evangelical Lutheran Church & School): The petitioner requests that the Village take the following actions on the property located within the R2PD Single Family Residence Planned Development District:

1. Pursuant to Section 155.504(A) of the Lombard Zoning Ordinance (major changes to a planned development), amend the conditional use for the St. John's Evangelical Lutheran Church & School Planned Development, as established by Ordinance 5665, to allow a private day care center to be operated within the old school building;
2. Approve a use exception, pursuant to Section 155.508 (B) of the Zoning Ordinance, for a private day care center; and
3. A further variation from Section 155.602 (C), Table 6.3 of the Zoning Ordinance, as approved by Ordinance 5665, to not require additional parking spaces to be constructed as part of the petition.

The petitioner, Creative Day Learning Center, is proposing to occupy two classrooms and an office in St. John's old school building for use as a private day care center.

GENERAL INFORMATION

Petitioner: Creative Day Learning Center
442 N. Park Ave.
Lombard, IL 60148

Owner: St. John's Evangelical Lutheran Church/School
215 South Lincoln Avenue
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2PD Single-Family Residence District Planned Development

Existing Land Use: East side of Lincoln: Religious Institution
West side of Lincoln: Educational Institution,
Senior/Recreation Center

Size of Property: East side of Lincoln: Approximately 1.97 acres
West side of Lincoln: Approximately 1.41 acres

Comprehensive Plan: East side of Lincoln: Recommends Public and Institutional
West side of Lincoln: Recommends Low-Density
Residential Development

Surrounding Zoning and Land Use:

North: R2 Single-Family Residence District; developed as single-family residences and
CR Conservation / Recreation District; developed as the Helen Plum Library and
single-family residences

South: R5 General Residence District; developed as multiple family residences and R2
Single-Family Residence District; developed as single-family residences

East: R2 Single-Family Residence District; developed as a Religious Institution
(Calvary Episcopal Church) and single-family residences

West: R2 Single-Family Residence District; developed as a single-family residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of
Community Development on October 8, 2008 and included within the petitioner's application
packet:

1. Petition for Public Hearing
2. Business description prepared by Creative Day Learning Center, undated.
3. Applicable Response to Standards for:
 - a. Conditional Uses
 - b. Planned Developments (General Standards)

- c. Planned Developments with Use Exceptions
- d. Variations

- 4. Plat of Survey for the subject property, prepared by The Heinze Surveyors, dated April 20, 1964.
- 5. Site Plan for the proposed business prepared by Creative Day Learning Center and drawn on the Plat of Survey for the subject property, prepared by The Heinze Surveyors, dated April 20, 1964.

DESCRIPTION

The petitioner, Creative Day Learning Center, is proposing a private, commercial day care center at the former site of the St. John's Lutheran School, 215 S. Lincoln Avenue. The petitioner wishes to occupy two classrooms and an office within the "old school" building on the east side of Lincoln Avenue. The petitioner will also use the kitchen, gymnasium, and outdoor play areas at the old school building. The petitioner states that the Illinois Department of Children and Family Services has reviewed Creative Day Learning Center's proposal to accommodate forty (40) children with four (4) employees. Pursuant to Ordinance 565, which established the planned development, a conditional use amendment, use exception and parking variation are required.

INTER-DEPARTMENTAL REVIEW REPORT

PUBLIC WORKS

Public Works has reviewed the petition and has no comments.

PRIVATE ENGINEERING

The PES Division of Community Development has no comments on the above petition.

FIRE AND BUILDING

Upon review of the above referenced request for exceptions and variations for a day care center at St. John's School, the Fire Department/Bureau of Inspection Services has the following comments:

- The day care facility is to follow all requirements of the State Fire Marshal's office in terms of any life safety issues, along with any requirements from the Village.

- Both DCFS and the State Fire Marshal have inspected the proposed facilities and have made their comments regarding safety, etc.
- The Fire Department/BIS still need to walk through and inspect the facility to verify code compliance and life safety issues.

PLANNING

Compatibility with the Zoning Ordinance

Conditional Use Amendment and Use Exception

Staff offers the following definitions as listed in the Zoning Ordinance:

Day Care Center is an institution or place in which are received three or more children, not of common parentage, apart from their parent or guardian, for part of or all of a day, but not later than 12:00 a.m. The term "day care center" includes, but is not limited to, the following: nursery schools, child care centers, day nurseries, kindergartens and play groups, but does not include bonafide kindergartens or nursery schools operated by public or private elementary or secondary school systems.

Schools, Private, Full-time: Elementary, Middle, High any building, group of buildings or portion of a building used for full-time education which meets state requirements for elementary, secondary, or higher education and which does not secure the major part of its funding from any governmental agency.

Schools, Public, Full-time: Elementary, Middle, High any full-time school which is licensed by the state and which meets the state requirements of a school.

Both public and private schools are listed as conditional uses within all residential zoning districts in the Village. Day care centers have not be established by the Zoning Ordinance as appropriate uses within residential zoning districts as they are listed neither as permitted uses nor conditional uses. Day care centers, being commercial enterprises are listed only as conditional uses, only within commercial zoning districts.

In 1997, the Board of Trustees granted approval of a conditional use for a religious institution and for a private elementary school (with companion variations) at 215 S. Lincoln Avenue, the east side of Lincoln. As the student population grew, the school had outgrown its existing facility and requested approval for new school on the west side of Lincoln.

In 2005, the Board of Trustees approved Ordinance 5665 granting a conditional use for a planned development along with a parking variation to allow the construction of a new private elementary

school at 220 S. Lincoln Street, located directly west of the subject property. During the public hearing process, the property owner indicated that the old school building was outdated and generally an inadequate learning facility for children. Due to this testimony, one of the conditions of Ordinance 5665 required that any proposed day care facilities, pre-school activities, or elementary school activities within the old school building proceed as an amendment to the conditional use for a planned development. Therefore, the Village would have the opportunity to review proposals for any such uses. In addition, since day care centers are not listed as a permitted or conditional use within the underlying R2 Single-Family Residence District zoning on the subject property, a use exception is necessary as well.

In 2007, the old school building was vacated for educational purposes as the students and faculty were moved into the newly constructed St. John's Lutheran School across the street. Creative Day Learning Center plans to lease space from St. John's Lutheran Church within the old school building. Staff has concerns that these facilities remain outdated and inadequate for educational uses as was represented during the previous public hearing. There are no exterior construction plans or site alterations associated with this petition.

Staff notes that during a comprehensive review of the property, an item of concern has arisen. According to the property owner, a second church has been meeting within the old school gymnasium. The parish administrator has indicated that this church meets on Sunday from 2:00 p.m. until 5:00 p.m. The church, Rehoboth Empowerment Christian Church, is not affiliated with St. John's Lutheran but is allowed to use the gymnasium space for free. As this use is not consistent with the conditions of approval of Ordinance 5665, the property owner has been informed that a conditional use amendment would be necessary to allow the church to continue its current operation within the old school building. In the alternative, the second church could move its worship service into the church building without the need for zoning relief.

Variation for Parking

Ordinance 5665 also granted a variation from the required number of parking spaces on the subject property. As the proposed day care center would be a new use not providing any new parking spaces on the property, a further parking variation is necessary.

The property has a total of 94 on-site spaces. While there are an additional 30 spaces within the adjacent public right-of-way, the Zoning Ordinance does not allow these spaces to be counted within their parking supply. The Zoning Ordinance considers each use within the overall development as a separate and distinct use for which parking would need to be provided. Although the existing parking lot serves both the church and school, primary parking demand on weekdays is generated from the school activities and not the church.

The petitioner has indicated that the parking area at 215 S. Lincoln Avenue most often fills to less than one-third of its capacity during the hours which Creative Day would operate. Staff

Finds this to be an accurate representation and that the additional vehicles generated by this use could be accommodated in the parking lot. The Zoning Ordinance requires that a day care center provide two (2) spaces per one thousand (1000) square feet of floor area. As the two classrooms and office proposed to be occupied by Creative Days total 2011 square feet in area, the petitioner would need to provide four (4) additional parking spaces. As the petitioner will be periodically sharing use of the kitchen and gymnasium with St. John's and because these areas will not create further traffic generation, staff finds that parking need not be provided for these areas.

The Village's traffic consultant KLOA has conducted a review and has indicated that a day care center of this size would have a peak parking demand of seven (7) spaces including a constant demand of four (4) parking spaces for employees. KLOA finds that these spaces could be accommodated within the parking area in the adjacent right-of-way or the southern parking lot. However, should the proposed use be denied, no action regarding the parking variation would need to be taken.

Compatibility with Adjacent Land Uses

Staff has reviewed the operations of the proposed day care center for compatibility with surrounding land uses. As part of this review, staff has considered that the area surrounding St. John's Lutheran Church/School site is particularly sensitive to intensified uses as many of the properties are residential.

The petitioner has stated that the proposed use would operate in a manner similar to the school which previously occupied the building but on a smaller scale. It is staff's opinion that although a private day care facility may operate in a similar manner, the use is inherently different as a commercial entity. It is the goal of most commercial businesses to grow into larger, more profitable businesses. Staff believes that the St. John's campus has reached its usage capacity and that an introduction of new uses may adversely affect the neighborhood.

Traffic Analysis

KLOA reviewed the proposed development and visited the site to determine the impacts of the proposed use. They have completed a report, which is also transmitted with the staff report.

The petitioner proposes to conduct drop-off and pickup activities within eight public parking spaces on the eastern side Lincoln Avenue. During drop-off and pickup activities, parents will enter the old school building to bring their children to or retrieve them from the classrooms. According to the petitioner, the primary times for drop-off will be between 7:00 and 8:00 a.m. and for pickup between 4:00 and 5:30 p.m. There may be some overlap with the drop-off for St. John's school which KLOA states occurs primarily between 7:40 and 7:55 a.m. According to KLOA observations, parents begin staging within the southern parking lot at 2:30 p.m., with pickup times starting at 2:55. At 3:10 p.m., the final group of vehicles has loaded and departed;

and at 4:00 p.m., Creative Day's pickup operation is to begin, avoiding overlap between the two operations.

KLQA finds that the existing drop-off and pickup procedures currently utilized by St. John's work well, causing little conflict on adjacent rights-of-way. With respect to the proposed use, KLQA states that the day care facility is anticipated to generate thirty-five (35) in/out trips during their peak hours.

KLQA has recommended that some spaces within the southern parking lot be allocated for Creative Day drop-off and pickup as an alternative to the public spaces located Lincoln Avenue should those spaces be occupied. It is staff's opinion that, as condition of approval, signage should be used to designate four (4) parking spaces within the southern parking lot 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.

Compatibility with the Comprehensive Plan

The proposed use is contrary to the objectives of the current Comprehensive Plan. As previously stated, the Comprehensive Plan identifies the property for public and institutional uses. The introduction of a commercial entity onto a property which is intended to be used for public and institutional uses sets a precedent not only for that property but other such properties as well. It is staff's concern that the old school building will eventually begin to serve a truly commercial function through the proposed day care use, its future growth, or the introduction of other business entities.

STAFF RECOMMENDATION

Staff is not supportive of the conditional use amendment to the planned development and use exception as the request does not meet the following standards as required by the Zoning Ordinance:

A. Standards for Conditional Uses

2. *That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood in which it is to be located.*

As the subject property is located in a primarily residential area, the establishment of additional entities, commercial or otherwise, does have the potential to be injurious to the enjoyment of other property in the immediate vicinity and to diminish property values. Staff believes that as the subject property, which currently supports multiple uses, nears its operational capacity, this potential becomes greater.

6. *That the proposed conditional use in not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard.*

The Comprehensive Plan identifies the property for public and institutional uses. Staff finds that, from a land use perspective, a commercial day care center as proposed would be not compatible with the religious/institutional uses on the property.

B. Standards for Planned Developments

General Standards

4. *That the proposed planned development is in the public interest and is consistent with the purposes of this Zoning Ordinance.*

Staff finds that the petitioner's proposal is not within the public interest as the potential for incompatibility with surrounding land uses outweighs the potential public benefit.

Standards for Planned Developments with Use Exceptions

1. *The proposed use exceptions enhance the quality of the planned development and are compatible with the primary uses.*

Staff finds 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 addition of the proposed use is not expected to benefit the existing uses (other than financially).

2. *Proposed use exceptions are not of a nature, nor are located, so as to create a detrimental influence in the surrounding properties.*

For the reasons stated above, staff finds that the use will potentially have a detrimental influence to the surrounding properties.

ALTERNATIVE RECOMMENDATION

Staff does not believe that the Standards for Planned Developments and Standards for Conditional Uses have been met. However, in the event that the Plan Commission finds that the standards required by the Zoning Ordinance have been met and that the proposed use will

enhance the planned development, it is staff's opinion that a recommendation for any favorable action should include the following conditions:

1. The petitioner shall occupy only two classrooms and one office on the first floor 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 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.

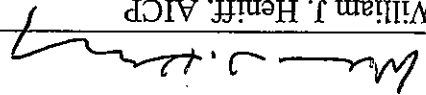
5. Previous to occupying the old school building, the petitioner shall meet all requisite code compliance and life safety issues. Also, the petitioner shall apply for and receive a building permit for any interior building improvements.

FINDINGS AND RECOMMENDATIONS

Based on the above considerations, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **denial** of this petition:

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.

Inter-Departmental Review Group Report Approved By:

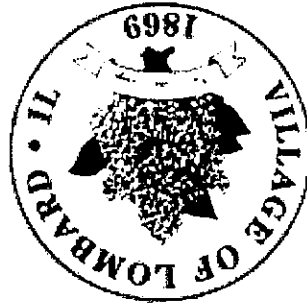


William J. Heniff, AICP
Director of Community Development

WJH
c: Petitioner

Village of Lombard

Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageofflombard.org



Meeting Minutes

Monday, November 17, 2008

7:30 PM

Village Hall

Plan Commission

Donald F. Ryan, Chairperson
Commissioners: Martin Burke,
Stephen Flint, Ronald Olbrysh,
Ruth Sweetser, Andrea Cooper and Richard Nelson
Staff Liaison: William Heniff

William Dennis, husband of Cheryl Holtz (owner and operator), 442 N. Park Ave., Lombard, presented the petition. He stated that he and his wife have been residents for twenty years. Creative Day Learning Center was opened in 1981 in Villa Park and has been operating for twenty-six years. An expansion of another program in Villa Park led them to seek another place to operate their business and they have been out of the Villa

(DISTRICT #1)

as part of the petition.

3. A further variation from Section 155.602 (C), Table 6.3 of the Zoning Ordinance, as approved by Ordinance 5665, to not require additional parking spaces to be constructed

2. Approve a use exception, pursuant to Section 155.508 (B) of the Zoning Ordinance, for a private day care center; and

1. Pursuant to Section 155.504(A) of the Lombard Zoning Ordinance (major changes to a planned development), amend the conditional use for the St. John's Evangelical Lutheran Church & School Planned Development, as established by Ordinance 5665, to allow a private day care center to be operated within the old school building;

Requests that the Village take the following actions on the property located within the R2PD Single Family Residence Planned Development District:

& School)

PC 08-32: 215 and 220 S. Lincoln Street (St. John's Evangelical Lutheran Church

080693

Public Hearings

William Heniff read the Rules of Procedures as written in the Plan Commission By-Laws.

withdrawn.

Chairperson Ryan noted that the petitioner has requested that their petition be

R1 Single-Family Resident District (UNINCORPORATED)

3. Approval of a map amendment from the R0 Single-Family Residence District to the

2. Annexation to the Village of Lombard; and

1. Approval of an Annexation Agreement;

Requests the following actions be taken on the subject property:

PC 08-15: 1312 S. Meyers Road

080634

Chairperson Ryan called the order of the agenda.

Commission.

Moynihan, Associate Planner, and George Wagner, legal counsel to the Plan

Stilling, Assistant Director of Community Development; Michael Toth, Planner I; Stuart

Also present: William Heniff, AICP, Director of Community Development; Christopher

Absent: Commissioner Martin Burke

and Andrea Cooper

Present: Chairperson Donald F. Ryan, Commissioner Stephen Flint, Commissioner Ronald Olbrysh, Commissioner Ruth Sweetser, Commissioner Richard Nelson

Roll Call of Members

Chairperson Ryan called the meeting to order at 7:30 p.m.

Call to Order

Park location since July actively looking for another space. He stated that they have always wanted to do business in Lombard and that they have not found an acceptable space other than the proposed space.

He stated that they wish to occupy the old school across the street from the new school building at St. John's. He stated that Creative Day approached St. John's looking for space rather than the other way around. A friend of theirs had mentioned that there was empty space in the old school. They had discussions with St. John's and afterward it was decided that they could take two rooms on the first floor. He stated that state agencies such as DCFS, the Health Department, and state Fire Marshal had inspected the areas they proposed to occupy. The state agencies were considerate of time constraints involved and after going through the school, it was determined they could occupy the first floor with some modifications. State regulations mandate that as of October 1st they have to conform to strict standards for kitchens similar to restaurants - it has to be a fully commercial kitchen and the heat and smoke detectors and strobes must run throughout the building. Creative Day plans to do this.

Mr. Dennis stated that Creative Day only plans to have 40 students. He mentioned concerns about bathrooms and sprinkling and stated that they could never expand to the third floor as it would require sprinkling and Creative Day couldn't absorb that cost. After talking to state agencies, they were told that if they stayed on the first floor, there would be adequate windows for egress.

They were informed about applying for the conditional use after coming to the Village. They had initial meetings with all the departments and staff told them what they needed to do. David Hulseberg and other heads of departments asked questions and they were answered. The answers seemed to be adequate. Recently, they were informed it was strictly a zoning issue of putting a for-profit business in a residentially zoned area. In order to address that issue, you have to look at that area and the property to understand that the area is not predominately residential in nature. He mentioned churches, the library, parking lots, condominiums and homes. He stated that he had received the letter of complaint sent by Mrs. Ness. He stated that they were informed about the contentions concerning the new school so they walked the area on Ash Street and talked to residents including Mrs. Ness. Other than Mrs. Ness and one of her neighbors who had concerns about St. John's in general, no one had any concerns in the immediate area about the proposal. A few were actually glad.

Mr. Dennis asked how this could be a precedent. They found out about the decision to recommend denial earlier this week. He believes there are private day center in other churches elsewhere in Lombard and mentioned The Growing Place on Madison. He stated that there are many large home day care facilities and mentioned websites that take groups within that area in homes. He also mentioned other facilities in other communities that have this situation.

Regarding the tax situation at the church, he stated that would be handled easily. The church will have an income from this which would be no different than them renting out their hall. From previous experience with churches, the church understands they have to pay tax on that and that has not been an issue. He stated that the request will not set an undue hardship or precedent for this community. This use is compatible with the area and what is across the street. He again stressed that Creative Day approached the church looking for space. This area has the green space that they require for the day care. He stated that they were asked to cap at forty children and are agreeable to that as Mrs. Holtz wants to keep it small. She likes to have a personal relationship with the kids and their parents. She is not an absentee director - she is always there. He mentioned that the church may have inadequacies but stated that he could not speak for the church.

Tracy Bingham declined to speak.

Chairperson Ryan then opened the meeting for public comment.

community.

Creative Day will use two classrooms and will have four teachers. He mentioned the things they have already done to improve the space. They painted one of the rooms and kitchen at a cost of about \$4,000. They have received estimates from Fox Valley for fire equipment. He had contacted a carpenter and plumber for the kitchen and wall break outs. They have had the locks changed on doors. They have paid for a traffic study and the application. He estimated they have spent \$10,000 to get to this point of preparing to occupy the space. He stated that he hopes the Commissioners look at all the issues and the nature of the immediate neighborhood. He felt that this use would not adversely affect the residential neighborhood as this proposal will not set a precedent as The Growing Place has been there for 30 years. He stated that several home day cares are within the vicinity. Unless staff has done research, there are these types of small businesses in homes or in churches that have the same impact on the

overlap. The parking spaces are not being used at the same time.

Mr. Dennis discussed the variation for parking. He stated that the church does not have uses that overlap with the day care times. There may be a rare funeral which might

parish administrator said there would be no problem with this.

should be four spots reserved for Creative Day in the parking lot. He stated that the accommodate both the school and the day care. He stated that staff has said there but they can be used. He stated that there are more than enough spaces to He mentioned that the eight spaces on Lincoln Avenue can't be counted toward parking 7 a.m. to 8:15 a.m. with pick up time being after 4:00 p.m. resulting in minimal overlap. and he explained the procedure. He mentioned their major drop off time would be from study which came back favorably. St. John's has a very structured drop off and pick up to the type of drop off and pick up they will be conducting. He mentioned the traffic business. He mentioned Lillacia Park. He emphasized again the area is very conducive Moran Water Park. He stated that the amenities in the area are conducive to her take field trips on the train and would utilize some things in the area like the pool at state. There is a library across the street which could be used. Mrs. Holiz also likes to back of the building. CDC has an active curriculum as mandated by DCF and the Mr. Dennis indicated that a schedule could be worked out to use the playground in the

be put in each classroom.

windows are of sufficient diameter should they need egress. Air conditioning would also There will be one in each stairwell, one in each classroom, and one in bathroom. The lighting. Smoke detectors and strobes will be put in the gym and down each hallway. He stated that with regard to fire equipment there are pull stations and emergency

became bigger.

number one and over time would move into the second classroom as enrollment going through load-bearing walls is non-existent. Creative Day will use classroom doorways that would have to be cut to make way to the bathroom. The concern about the state agencies. He referred to the removal of walls on the second floor and the stated that they do not need to have upgraded toilets right in the room which satisfies used by St. John's. The lunchroom would be shared with other uses by the church. He convection oven, and freezer and refrigerator. The remainder of the kitchen would be the first floor. The kitchen will have a commercial grade triple sink, prep sink, improvements they will be making. He indicated that the architect put the basement as Mr. Dennis then referred to an architect stamped building plan which shows the

Kenneth Bohl, 213 W. Ash St., stated that he lives three homes west of Lincoln on Ash. He stated that as a neighbor, his impression of Creative Day is that it is a fine organization. He has met and was very impressed with William and Cheryl and wishes them the best. He indicated that he takes exception that this is the place for their business and had three concerns.

Mr. Bohl believes the old building to be inadequate. He believes the proposal is lacking handicap accessibility and does not see it addressed in the proposal. This is the law. This is a new use proposed for the building and therefore, should be brought up to compliance. There are also issues with fire escape. It was stated two years ago that this was inadequate. Escaping from the window would mean taking a flying leap out of the windows and he felt that should not be part of the plan. He asked if St. John's tax advantages as a religious institution had been addressed as this represents an unfair competitive advantage over day cares in private facilities. He stated that if they are to have forty children there is an overlap with the school regarding parking. He stated that he has seen the review group report that some study has been done and that the parking is adequate. He indicated that as a neighbor, he has tried to get out in time of traffic congestion and has been totally frustrated. The reality is that people are stopped waiting blocking the street.

Chairperson Ryan asked if anyone would speak in favor of the petition.

Janet Imbrogno, 14 Lincoln Court, stated that she had come in support of the petition and that she would like to read a letter of support from another woman that could not attend. The letter was from Alice Glennon, 331 W. Brookfield Street. She stated that she has lived in Lombard for thirteen years and is raising three children. She has known the petitioners for ten years, they have lived in Lombard for twenty-one years, and have been on many committees. She understands the concerns about the proposal but asked how many other businesses are in that area? Creative Day is unique and gives a personal touch. It gives the young children a home away from home feeling with a great environment. Mrs. Holtz's business will bring in more revenue while they will use other community facilities. It will be a great asset. The letter stated that she had witnessed the owners and their relationships with kids who used to go there.

Ms. Imbrogno stated that she has knows both of the petitioners and that they were looking for a place in Lombard. She said she was trying to help and it was her idea that they approach St. John's. She stated that Cheryl is Lutheran and a thoughtful person and she knows how thoughtful St. John's has been in Lombard. She stated that she thought it was the perfect fit, and she hopes that it can be worked out.

Karen Ness, 219 W. Ash St., stated that she had submitted a letter with complete objections. She stated that this is a for-profit business wanting to operate in a non-profit. She asked if a request like this one was ever approved before. She asked should the action be approved could any owner be allowed to operate a commercial business on their property. She mentioned the parking plan that St. John's has and stated that she wished they would use it. She mentioned how she used to live in a residential area before St. John's decided to expand. She stated that property values continue to drop because of St. John's intrusion.

Mr. Dennis offered to respond to the comments made. With regard to the ADA, the petitioners had not heard back from them. However, they had talked to state agencies and it was not deemed necessary to be handicap accessible to operate in that building. With regard to the windows, the egress is for firemen to get to the children and get them out. If they had to one could hold a child's arm and lower them to the ground. With regard to parking overlap, there will be four spaces taken all day. The rest is used for

drop off and pick up. All forty kids will not be dropped off or picked up at one time. Part of the problem with Ash Street is that the parking on Ash is from the condos across the street who also park in St. John's. With regard to tax advantages, he stated that Creative Day will pay rent just like anywhere else and that St. John's is looking into property taxes. There is no competitive advantage, it's just that this space is open and there are no other sufficient green spaces in Lombard. Creative Day will have four dedicated parking spaces with signs within the parking lot of St. John's. With regard to this being a residential area, he stated that while Creative Day is a business, it is also a school. The Village of Lombard chooses to zone churches as residential and this is like a campus. There are more parking spaces than there are buildings on that block. He stated that to say this is a purely residential zoned area is a misnomer.

Chairperson Ryan then requested the staff report.

Stuart Moynihan, Associate Planner, presented the staff report. Staff has prepared a report and is submitting it to the public record in its entirety. Additionally, staff has received from the petitioner: a letter from the petitioner, five letters of support, and an interior plan to be submitted to the record.

The petitioner, Creative Day Learning Center, is proposing a private, commercial day care center at the former site of the St. John's Lutheran School, 215 S. Lincoln Avenue. The petitioner wishes to occupy two classrooms and an office within the "old school" building on the east side of Lincoln Avenue. The petitioner will also use the kitchen, gymnasium, and outdoor play areas at the old school building. The petitioner states that the Illinois Department of Children and Family Services has reviewed Creative Day Learning Center's proposal to accommodate forty (40) children with four (4) employees. Pursuant to Ordinance 5665, which established the planned development, a conditional use amendment, use exception and parking variation are required.

Both public and private schools are listed as conditional uses within all residential zoning districts in the Village. Day care centers have not be established by the Zoning Ordinance as appropriate uses within residential zoning districts as they are listed neither as permitted uses nor conditional uses. Day care centers, being commercial enterprises are listed only as conditional uses, only within commercial zoning districts.

In 2005, the Board of Trustees approved Ordinance 5665 granting a conditional use for a planned development along with a parking variation to allow the construction of a new private elementary school at 220 S. Lincoln Street, located directly west of the subject property. During the public hearing process, the property owner indicated that the old school building was outdated and generally an inadequate learning facility for children. Due to this testimony, one of the conditions of Ordinance 5665 required that any proposed day care facilities, pre-school activities, or elementary school activities within the old school building proceed as an amendment to the conditional use for a planned development. Therefore, the Village would have the opportunity to review proposals for any such uses. In addition, since day care centers are not listed as a permitted or conditional use within the underlying R2 Single-Family Residence District zoning on the subject property, a use exception is necessary as well.

Creative Day Learning Center plans to lease space from St. John's Lutheran Church within the old school building. Staff has concerns that these facilities remain outdated and inadequate for educational uses as was represented during the previous public hearing.

Staff notes that during a comprehensive review of the property, an item of concern has arisen. According to the property owner, a second church has been meeting within the old school gymnasium. The parish administrator has indicated that this church meets

on Sunday from 2:00 p.m. until 5:00 p.m. The church, Rehoboth Empowerment Christian Church, is not affiliated with St. John's Lutheran but is allowed to use the gymnasium space for free. As this use is not consistent with the conditions of approval of Ordinance 5665, the property owner has been informed that a conditional use amendment would be necessary to allow the church to continue its current operation within the old school building. In the alternative, the second church could move its worship service into the church building without the need for zoning relief.

Ordinance 5665 also granted a variation from the required number of parking spaces on the subject property. As the proposed day care center would be a new use not providing any new parking spaces on the property, a further parking variation is necessary.

The Zoning Ordinance considers each use within the overall development as a separate and distinct use for which parking would need to be provided. Although the existing parking lot serves both the church and school, primary parking demand on weekdays is generated from the school activities and not the church.

The Zoning Ordinance requires that a day care center provide two (2) spaces per one thousand (1000) square feet of floor area. As the two classrooms and office proposed to be occupied by Creative Days total 2011 square feet in area, the petitioner would need to provide four (4) additional parking spaces.

The Village's traffic consultant KLOA has conducted a review and has indicated that a day care center of this size would have a peak parking demand of seven (7) spaces including a constant demand of four (4) parking spaces for employees. KLOA finds that these spaces could be accommodated within the parking area in the adjacent right-of-way or the southern parking lot.

Staff has reviewed the operations of the proposed day care center for compatibility with surrounding land uses. As part of this review, staff has considered that the area surrounding St. John's Lutheran Church/School site is particularly sensitive to intensified uses as many of the properties are residential.

The petitioner has stated that the proposed use would operate in a manner similar to the school which previously occupied the building but on a smaller scale. It is staff's opinion that although a private day care facility may operate in a similar manner, the use is inherently different as a commercial entity. It is the goal of most commercial businesses to grow into larger, more profitable businesses. Staff believes that the St. John's campus has reached its usage capacity and that an introduction of new uses may adversely affect the neighborhood.

KLOA reviewed the proposed development and visited the site to determine the impacts of the proposed use.

The petitioner proposes to conduct drop-off and pickup activities within eight public parking spaces on the eastern side Lincoln Avenue. During drop-off and pickup activities, parents will enter the old school building to bring their children to or retrieve them from the classrooms. According to the petitioner, the primary times for drop-off will be between 7:00 and 8:00 a.m. and for pickup between 4:00 and 5:30 p.m.

KLOA finds that the existing drop-off and pickup procedures currently utilized by St. John's work well, causing little conflict on adjacent rights-of-way.

KLOA has recommended that some spaces within the southern parking lot be allocated for Creative Day drop-off and pickup as an alternative to the public spaces located

Lincoln Avenue should those spaces be occupied.

The proposed use is contrary to the objectives of the current Comprehensive Plan. As previously stated, the Comprehensive Plan identifies the property for public and institutional uses. The introduction of a commercial entity onto a property which is intended to be used for public and institutional uses sets a precedent not only for that property but other such properties as well. It is staff's concern that the old school building will eventually begin to serve a truly commercial function through the proposed day care use, its future growth, or the introduction of other business entities.

Staff is not supportive the conditional use amendment to the planned development and use exception as the request does not meets the following standards as required by the Zoning Ordinance:

A. Standards for Conditional Uses

2. That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood in which it is to be located. As the subject property is located in a primarily residential area, the establishment of additional entities, commercial or otherwise, does have the potential to be injurious to the enjoyment of other property in the immediate vicinity and to diminish property values. Staff believes that as the subject property, which currently supports multiple uses, nears its operational capacity, this potential becomes greater.

6. That the proposed conditional use in not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard. The Comprehensive Plan identifies the property for public and institutional uses. Staff finds that, from a land use perspective, a commercial day care center as proposed would be not compatible with the religious/institutional uses on the property.

B. Standards for Planned Developments

General Standards

4. That the proposed planned development is in the public interest and is consistent with the purposes of this Zoning Ordinance.

Staff finds that the petitioner's proposal is not within the public interest as the potential for incompatibility with surrounding land uses outweighs the potential public benefit.

Standards for Planned Developments with Use Exceptions

1. The proposed use exceptions enhance the quality of the planned development and are compatible with the primary uses.

Staff finds 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 addition of the proposed use is not expected to benefit the existing uses (other than financially).

2. Proposed use exceptions are not of a nature, nor are located, so as to create a detrimental influence in the surrounding properties.

For the reasons stated above, staff finds that the use will potentially have a detrimental

influence to the surrounding properties.

Staff does not believe that the Standards for Planned Developments and Standards for Conditional Uses have been met. However, in the event that the Plan Commission finds that the standards required by the Zoning Ordinance have been met and that the proposed use will enhance the planned development, it is staff's opinion that a recommendation for any favorable action should include the five conditions in the staff report.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser stated that the staff report and testimony equate "private" with "for profit" which is inaccurate and hampers an accurate analysis of this petition. Some of the daycare centers referred to in the staff report may be commercial enterprises, such as KinderCare, but other are 501(c)(3)s. We should look at the kind of operation, regardless of how it may be classified. This petition, being capped at 40 by mutual agreement, is not growing, so it is not truly commercial as the staff report states.

Commissioner Olbrysh stated that the petitioner had addressed a lot of his concerns. The history of this site goes back several years. He recalled that when he questioned the petitioner a few years ago as to what was wrong with the old building, St. John's replied that it would be better than trying to correct an old, old building. He stated that one of his concerns, as set forth in staff report, is about code enforcement and life safety issues in the old building. He stated that he must go back to the church and why they couldn't use the old existing building. He indicated that he does not think they should force anything new on the neighborhood. He has driven down that block in the afternoon and the traffic is a disaster. He mentioned all the amenities and they are private uses. He has major concerns about it being a commercial endeavor as well as the life safety issues.

Commissioner Cooper stated that she was not part of the new school discussion and what the future intention for the old school was.

Chairperson Ryan answered that one of the things discussed at great lengths at that time was that the old building could only be used for storage and meeting rooms and that it would not be used for anything for kids. He asked staff to look at the previous discussions.

Mr. Moynihan read condition #2 of Ordinance 5665:

That upon the opening of the new school, the existing school building shall be used exclusively for capital plant, storage purposes, offices and/or meeting space. Should the petitioner or any subsequent property owners seek to operate uses such as, but not limited to, day care facilities, pre-school activities or elementary school activities within the old school building, a conditional use amendment will be required.

Commissioner Flint stated that his initial thought was that this use would be similar to First Church where there is a day care and nursery co-op. One of his concerns is the life safety issue which needs to be dealt with. ADA compliance is also an issue and that should be brought up to code.

Commissioner Sweetser stated they should give credence to the state agencies. She asked if that was something that the Plan Commissioners should accept or if it was their responsibility to question them and find out additional information.

Mr. Heniff stated that a building permit and a Certificate of Occupancy would be

necessary. This would force the petitioner to bring these issues up to code. The applicability of ADA requirements would be determined.

Commissioner Sweetser stated that there should be no question one way or another. She asked if they would have to meet these requirements and if they should condition it or not. Mr. Heniff stated that this was accurate.

Commissioner Sweetser said the ordinance speaks about St. John's intention to have a day care center. She asked if that was the case. Mr. Moynihan stated that St. John's has stated that they have no plans to start their own day care center.

Mr. Heniff stated that the request is for a conditional use amendment to the planned development. The provision applies to the property and that is why the term "St. John's or any subsequent property owner" was included.

Chairperson Ryan asked if that could be why ADA doesn't have to be brought up to code. Commissioner Sweetser stated that we can't assume that. She stated whatever needs to be done, needs to be done.

Chairperson Ryan indicated that if the ownership still reflects St. John's that could be the reason why the ADA requirements would be grandfathered.

Mr. Heniff stated that if it is determined they need to meet ADA requirements then they will have to.

George Wagner stated that it could be added as a condition of approval.

Commissioner Flint stated that they could condition accessible toilets, getting to the classrooms, etc.

Mr. Wagner stated that the ADA applies where there is new construction or repairs over a certain amount. He stated he doesn't think it is related to the owner.

Chairperson Ryan stated that he believed that the number is over fifty percent of the cost of the building. That is why it becomes an important point. It says it's fifty percent of the value of the building. The petitioner is talking about two classrooms; their remodeling could be waived if correct. He asked staff if that was their understanding.

Mr. Heniff stated that he did not know the full provisions. If they are obligated to make those changes through the IAC and ADA requirements for new businesses, then they will complete the improvement prior to occupancy.

Chairperson Ryan stated that using the fifty percent rule they will never be required to make those improvements.

Commissioner Cooper stated that in looking at the land use plan, the comments from the staff report indicate that this is a residential area. She stated that to the north is all green space and to the east of 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. There are a lot of synergies with the land uses. She stated that when she personally thinks of safety, you want eyes on the street. Bringing people to this vacant building could make it a safer more welcoming community.

Commissioner Sweetser suggested that they add one extra condition to require that the areas being used by the petitioner be brought into compliance with full ADA standards.

Specifically, she indicated the two classroom spaces, the kitchen, bathrooms, and entrance and exit.

It was moved by Commissioner Sweetser, seconded by Commissioner Flint, that this matter be Recommended for approval to the Corporate Authorities subject to the amended condition(s). The motion carried by the following vote:

Aye: 4 - Flint, Sweetser, Nelson and Cooper

Nay: 1 - Olbrish

Absent: 1 - Burke

1. The petitioner shall occupy only two classrooms and one office on the first floor 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 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.

PC 08-31: 801 E. Roosevelt Road

080692

Requests conditional use approval to allow for a Restaurant, which includes entertainment, dancing, and/or amusement devices in the B4A Roosevelt Road Corridor District. (DISTRICT #6)

Chairperson Ryan asked if there was anyone to cross-examine the witnesses. Hearing none, he requested that the petitioner begin their presentation.

Katie Wasserman, J. Riley's, 801 E. Roosevelt, thanked the Plan Commission for their consideration of a conditional use entertainment license. She stated that she reviewed the IDRC report and appreciates the efforts of the report, but one assumption being made is that granting the license will make J. Riley's become a tavern or cocktail lounge. Ms. Wasserman added that J. Riley's is a restaurant and the business plan is based on that. She stated that she knows the importance of creating a business plan and sticking to it, which is what they are doing with J. Riley's. Their menu, decor and floor plan support that proposition. Ms. Wasserman stated that their desire for the conditional use

is to provide home-style meals with entertainment as people are looking for affordable ways to entertain themselves. She mentioned that their lunch business is the biggest profit generator and provides for the most growth potential. Ms. Wasserman added that J. Riley's sustained financial hardship since opening their doors. She added that they are a restaurant (not a tavern) and they are not altering the building. Quoting a sentence from the IDRC report, Ms. Wasserman read "the integration of live music into the existing establishment would intensify the existing restaurant use which could be construed as a change of use to a more appropriately labeled "tavern & cocktail lounge" use, which is neither permitted nor conditional in the B4A District," and indicated that it was an inaccurate statement. They are not asking for a capital drain on the Village budget, but just a way to add patrons. She finished by stating that nobody wants another empty storefront.

Chairperson Ryan then opened the meeting for public comment. No one spoke in favor of the petition.

Doris Dorberger, 19W020 13th Street, indicated she lives in the "backyard" of this restaurant and spoke against the petition. She stated that she appreciates the staff report and she referred to the letter her neighbor issued, which is included in IDRC report. Ms. Dorberger stated that she shares those concerns. She mentioned that the music would start late at night and based on other operations that have occurred there, there are already problems that occur in that parking lot late at night. She added that there are also problems sometimes during the day. Ms. Dorberger stated that there have been car accidents back there and she is also very concerned about people being outside talking and fighting. She stated that she appreciates this restaurant making a go of it, but has concerns being able to sleep in her house uninterrupted.

James Alliman, 801 E. Roosevelt, responded to the concerns about music and stated that it will stay the same as the current jukebox levels and the bands that perform won't be different than before this time. He mentioned that he has been in bands before, so when he hires his bands, he knows to keep the music at a level so talking can be heard. Mr. Alliman added that he would personally monitor the music levels.

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, presented the staff report. The petitioner currently operates a restaurant (J. Riley's American Cafe) in the B4A zoning district, which is a permitted use. The petitioner wishes to integrate live entertainment into the establishment. Pursuant to the B4A zoning district, restaurants, which include entertainment, dancing, and/or amusement devices, require conditional use approval.

The petitioner is proposing to designate forty-eight (48) square feet of floor area along the western wall of the building for live entertainment. The petitioner has indicated that there would be no new construction to the interior or exterior of the building. The petitioner has also indicated that live entertainment will occur only on Saturday nights with an occasional Friday performance. Any performances would take place from approximately 10:30 pm to 1:00 am.

Restaurants, not including entertainment and dancing are listed as a permitted use in the B4A zoning district; however, restaurants which include entertainment, dancing, and/or amusement devices are listed as a conditional use. Although the entertainment (i.e. live music) is intended to be a subordinate activity to the principal use (restaurant), as a conditional use they merit a more critical review.

When the petitioner applied for their business and liquor license in 2007, staff worked closely with them to ensure that the proposed use operates as a sit down restaurant (a

permitted use) versus a tavern or bar, which is no longer listed as a conditional use (or permitted) in the B4A District. As a result, the petitioner made certain improvements to the menu offering "home cooked" meals and provided a partition wall between the dining area and the bar. Staff feels that the integration of live music into the existing establishment would intensify the existing restaurant use which could be construed as a change of use to a more appropriately labeled "tavern & cocktail lounge" use, which is neither permitted nor conditional in the B4A District.

Compatibility with adjacent residential properties was also identified as a primary concern within the recently adopted Roosevelt Road Corridor Report, adopted in 2007 as a supplement to the Comprehensive Plan. The Roosevelt Road Corridor Report ranked 143 different land uses from "highly desirable" to "highly undesirable". As previously mentioned, the integration of live music into the existing establishment could constitute a change of use more appropriately labeled as a "tavern & cocktail lounge" use. According to the Roosevelt Road Corridor Report a "tavern & cocktail lounge" is a less-desirable use within the Roosevelt Road Corridor. The Report lists taverns and cocktail lounges as 109th out of 143 uses.

Referring to the public health, safety and morals portion of the standards for conditional uses, the implications imposed by a change of use could place more of a burden on the health, safety, and general welfare than the previous restaurant use. Enjoyment of other property in the vicinity could also be affected by the intensification of the existing use through the integration of live music and could adversely affect those residential properties in a negative manner by increasing noise and traffic volumes. Objectives of the current Comprehensive Plan are not satisfied as compatibility with adjacent residential properties was also identified as a primary concern within the recently adopted Roosevelt Road Corridor Report. The Roosevelt Road Corridor Report lists taverns and cocktail lounges as 109th out of 143 uses.

Staff has reviewed the petition and finds that petition does not meet the standards set forth in the Zoning Ordinance. Therefore, staff is recommending denial of PC 08-31. Chairperson Ryan then opened the meeting for questions and comment among the Commissioners.

Commissioner Cooper asked if the hours of the restaurant will change and asked the owner if they still serve food until 1 a.m.

Jim Allman replied by stating that all hours will stay the same.

Chairperson Ryan indicated other establishments in Lombard that have music and examined Casey's and Eric in Yorktown. He asked what makes them any different.

William Heniff replied that Eric is part of the Yorktown Planned Development, which through the 1965 Yorktown Planned Development provides for entertainment there. Mr. Heniff stated that he does not have a ready answer for Casey's and is not sure whether it was granting as a conditional use or if it is a non-conforming activity.

Jim Allman stated that the live entertainment would not be every day - just a couple times a month. Mr. Allman added that during the summer, they will not have a use for it.

Commissioner Olibrysh asked what types of local bands and type of music will be playing.

Jim Allman stated that most of the bands will be local and some of those bands will have members old enough to bring grandkids or other the way around. He added that these

will not be touring bands.

Commissioner Sweetser was curious as far as what an occasional Friday means.

Jim Allman stated that there may be one Friday a month.

Commissioner Sweetser stated that she understands it's approximate.

Jim Allman stated that it's just to generate more attention to the place other than lunch.

Commissioner Sweetser stated that there have more comments from neighbors and residents and that the current activity without music has been a disturbance for them.

Chairperson Ryan asked Ms. Dorberger if the issues have been in the past or over the recent past.

Ms. Dorberger stated that she has not personally had any recent issues, but her neighbor has.

Chairperson Ryan asked if the issues have occurred since J. Riley's came in.

Ms. Dorberger stated that prior to J. Riley's coming in and as well as now, there are periodic issues. She added that the noise from people out there is inappropriate and people are racing cars in the parking lot. She stated that when you have music it can invite different kinds of people. She added that when people drink late, they are noisier.

Commissioner Flint asked if it was this establishment or is it just the whole complex in general.

Ms. Dorberger stated that she has concerns about what has happened in the past and this makes it more of a nuisance.

Commissioner Olbrysh stated that he recalls another restaurant being at that location. He added that this issue is the parking lot and not the business. He mentioned that it is an enclosed parking lot.

Commissioner Sweetser asked if it possible to condition the live entertainment for a certain time period. She mentioned that if they want music, we could allow a trial period of six months, that way to see how it works out. She added that it would be a pilot situation.

William Heniff stated that his only concern is that when time expires, the question then is what standards are looked at as an approval or denial for the future. He mentioned one suggestion to the Plan Commission would be to reference the site plan itself or the parking lot in front and rear. Mr. Heniff stated that staff cautions this approach because relief runs with the land.

Commissioner Olbrysh stated that the parking lot in front doesn't meet the required number of spaces so you need the one in back.

Michael Toth stated that the front provides 48, but you have a situation where those adjacent businesses are closed (with the exception of the Mexican restaurant). He added that you could block off the back lot and share the front lot with the Mexican restaurant.

Jim Allman stated that he doesn't know how much parking they'll need, but he thinks

they will need some of the additional spaces in the back.

William Heniff mentioned that managing the site better might alleviate some of the issues.

Jim Allman stated that he will monitor the parking lot and if something does happen and he finds out who it is, they will be banned.

Commissioner Sweetser added that managing the parking lot is a good preventive measure.

Chairperson Ryan asked the petitioner if he is locked into the proposed hours or if it would be a problem if the music ended at midnight.

Jim Allman replied that he didn't think this would be a problem. He added that it usually takes people a while to leave, especially on a Saturday night.

It was moved by Commissioner Nelson, seconded by Commissioner Olbrsh, that this matter be recommended to the Corporate Authorities for approval subject to conditions. The motion carried by the following vote:

Aye: 5 - Flint, Olbrsh, Sweetser, Nelson and Cooper

Absent: 1 - Burke

1. Any music associated with the entertainment activity shall not extend beyond midnight on Friday or Saturday nights.

2. To ensure that the use/activity does not create a negative impact on adjacent residents, the petitioner shall manage the parking lot during the period in which the entertainment activity is occurring

080694

SPA 08-08ph; 800, 801, 820-860, 829-881, 901-939, 941-955, and 1000-1080 S. Parkview Blvd.

Pursuant to Section 155.504(C) of the Zoning Ordinance, the petitioner, Woodlake Parkview Investors, LLC, requests Site Plan Approval with a deviation from Section 153.218(B) of the Sign Ordinance to increase the maximum surface area for an informational sign from six (6) square feet to seven and one half (7.5) square feet in an OPD Office District Planned Development. (DISTRICT #2)

Adam Stokes of Nicholson Porter & List, 1300 W. Higgins Road, #104, Park Ridge, presented the petition. He indicated that they manage Woodlake Corporate Park and are the owner of 7 parcels within the Center. Their request is straight forward in that they are asking for relief from the Sign Ordinance. He described the site indicating that it is approximately 25 acres and each of the 7 buildings in the park have signage which are approximately 6 square feet. They are requesting that the existing signs remain at 7.5 square feet and also wish to construct 2 additional signs to be installed at driveways that currently don't have any signage with the same square footage. He mentioned how their tenancy has changed in the 4 years they have managed the Park. While the number of tenants has grown, the size of each tenant's space has become smaller. Buildings having 4 tenants have now expanded to having 7-10 tenants with the square footage of each tenant space around 3,000-4,000 square feet. Trying to fit all the names and addresses of the businesses on 6 square feet of signage is not possible. Lastly, he stated they have visited with Fire Prevention and the Planning Department for guidance to address these issues and to make a request that was compatible.

Chairperson Ryan then opened the meeting for public comment. There were no comments in favor or in opposition to the proposal. Chairperson Ryan then requested

the staff report.

Stuart Moyrhan, Associate Planner, presented the staff report. Staff has prepared a report and is submitting it to the public record in its entirety. The subject properties are located just west of Illinois Route 53 and are developed as the Woodlarks of Lombard Planned Development, also known as the Woodlake Corporate Center. The planned development consists primarily of office uses in both single and multi-tenant buildings. The petitioner, owner of seven parcels within the Woodlake Corporate Center, is seeking to construct two (2) new informational signs. The site currently has six (6) similar informational signs located throughout the development. The proposed signs and existing signs are seven and one half (7.5) square feet in size. The Zoning Ordinance allows a maximum of six (6) square feet, therefore the petitioner is requesting zoning relief for all signs (proposed and existing) for the seven parcels.

The signs will consist of monuments approximately three and one half (3.5) feet in height. At the top of each sign, a number range will be displayed to identify which tenant spaces are accessible from the drive aisle nearest to the sign. Additional cabinets below the number range will be used to display the names and/or logos of tenant businesses. The signs as currently proposed are not illuminated. The proposed signs will meet all other provisions of the Sign Ordinance including placement outside of clear line of site areas.

Mr. Moyrhan then reviewed the interdepartmental Review Committee's comments. Private Engineering Services stated that all free-standing signs shall be located a minimum of 15' from any Village owned utility. Fire Prevention stated they would be supportive of the deviation as the additional sign space should enhance the ability for emergency responders to see address ranges per entrance from the street.

Planning comments included compatibility with the Comprehensive Plan as the proposed signage is intended to serve an informational and directional function by assisting people in finding the appropriate driveway entrance to a particular tenant space.

Staff does not anticipate any negative effects on surrounding land uses as the proposed signage is intended to assist in wayfinding for individuals already on Parkview Boulevard rather than for advertising outside of the planned development. Further, the signs are not proposed to be illuminated.

Section 155.504(C) of the Zoning Ordinance states that minor changes to a planned development which would require a deviation in the number, size, type, or location of signage shall require approval through the Site Plan Approval process. The petitioner is utilizing this process to increase the allowable square footage of informational signs within the planned development.

The proposed new informational signs are being requested because the petitioner has recently increased the number of tenant spaces within 901-939 and 941-955 S. Parkview Boulevard and no longer have sufficient signage space for the new business names and addresses. However, it should be noted that one of the existing signs at 901-939 S. Parkview Boulevard was recently increased in size and height without a permit being issued. The petitioner has agreed to reduce this sign to its original dimensions to match the other existing informational signs.

Staff believes that the proposed signs will be effective by directing traffic into the appropriate driveway for each tenant space. This is especially important because wall signs are not displayed within the planned development by preference of the property owner.

Public Participation

There was no public participation.

2. Page 7, 7th line, strike the word "not" and insert the word "no" so the sentence reads "Mr. Heniff stated that there is no such prohibition for real estate signs."

1. Page 5, second paragraph, change the word "Chairperson" to "Commissioner" so the sentence reads "Commissioner Cooper asked how the petitioner came up with a sign....."

Mr. Heniff noted that:

Approval of Minutes

The minutes of the October 20, 2008 meeting were unanimously approved by the members present with the following corrections:

The business meeting convened at 9:37 p.m.

Business Meeting

1. The petitioner shall apply for and receive building permits for the proposed signage. The proposed signs size and location shall be consistent with the plans prepared by Vital Signs, Inc., dated June 30, 2008, and site plans submitted by Woodlake Parkview Investors, LLC, undated, and made a part of this request.

2. The informational sign located at the most western drive aisle on the 901-939 S. Parkview Boulevard property shall be reduced in size to meet the dimensions indicated on the plans prepared by Vital Signs, Inc., dated June 30, 2008 and made a part of this request.

Absent: 1 - Burke

Aye: 5 - Flint, Olbrish, Sweetser, Nelson and Cooper

vote:

It was moved by Commissioner Olbrish, seconded by Commissioner Flint, that this matter be approved with conditions. The motion carried by the following
Chairperson Ryan then opened the meeting for comments among the Commissioners. There were no comments or questions from the Commissioners.

Concluding he stated that staff recommends approval subject to the conditions noted in the staff report.
Staff is supportive of this deviation. The wayfinding function of these informational signs is important not only for normal traffic but also for emergency services as indicated by the statement given by the Fire Department. In the event of an emergency, these signs could assist emergency services in reaching the appropriate tenant spaces as quickly as possible.

The Woodlands of Lombard Planned Development does not speak to the issue of signage. However, a uniform set of informational signage has been established throughout the planned development. Staff finds that it is desirable to maintain this consistency in signage.

DuPage County Hearings

There were no DuPage County hearings.

Chairperson's Report

The Chairperson deferred to the Director of Community Development.

Planner's Report

Mr. Heniff indicated that the third Monday in January is the Martin Luther King holiday. Being a federal holiday, Village offices are closed and the Plan Commission meeting regularly scheduled for that day needs to be rescheduled. Staff has suggested the following Monday or January 26 as an alternate date but needs to make sure enough of the Commissioners can attend in order to ensure a quorum. After getting the Commissioners' input as to their attendance, it was agreed that the January meeting would be rescheduled to January 26.

Unfinished Business

There was no unfinished business.

New Business

There was no new business.

Subdivision Reports

There were no subdivision reports.

Site Plan Approvals

There were no site plan approvals.

Workshops

There were no workshops.

Adjournment

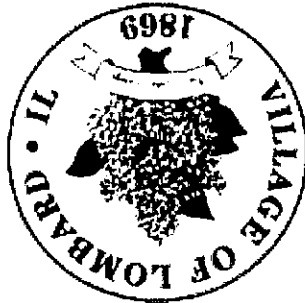
The meeting adjourned at 9:40 p.m.

Donald F. Ryan, Chairperson
Lombard Plan Commission

William Heniff, AICP, Director of Community Development
Lombard Plan Commission

Village of Lombard

Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org



Meeting Minutes

Thursday, December 18, 2008

7:30 PM

Village Hall Board Room

Village Board of Trustees

Village President: William J. Mueller

Village Clerk: Brigitte O'Brien

Trustees: Greg Gron, District One, Richard J. Tross, District Two, Jack O'Brien, District Three, Dana Moreau, District Four, Laura Fitzpatrick, District Five and Rick Soderstrom, District Six

I Call to Order and Pledge of Allegiance

The regular meeting of the President and Board of Trustees of the Village of Lombard was called to order by Village President William J. Mueller at 7:30 pm Thursday, December 18, 2008 in the Board Room of the Lombard Village Hall. Village Clerk Brigitte O'Brien led the Pledge of Allegiance.

II Roll Call

Present: Village President William J. Mueller, Village Clerk Brigitte O'Brien, Trustee Greg Gron, Trustee Richard J. Tross, Trustee Dana Moreau, Trustee Laura Fitzpatrick and Trustee Rick Soderstrom
Absent: Trustee Jack O'Brien

III Public Hearings

IV Public Participation

080774

* Presentation - Veteran's Memorial

Village President Mueller called Rose Roth and Eagle Scout Ben Pelz up to the front. President Mueller stated Ben had been working hard to raise funds for the Veterans' Memorial in the Commons Park.
Rose Roth presented a \$1,000 check to the Village on behalf of the Veterans' Memorial to pay for the flag poles. She stated men from her family have been in the service and she wanted to donate on behalf of them.
Ben thanked Rose Roth.
President Mueller indicated the project will cost \$70,000 and the Village had received two grants from Bob Biggins and Gernon Henderson.
Rose Roth said she loved Lombard and there should be a couple of lilac bushes there also.
President Mueller stated there were 4 people who wanted to speak regarding the item on the agenda for St. John's. One person wished to speak now and the others wished to wait to speak later.
Karen Ness, 219 W. Ash, distributed documents to the Village Board. She stated she was concerned about the commercial business aspect of this proposal in a residential district. She felt approving this request would set a precedent for commercial development. She indicated in the original proposal from St. John's, reasons were given that the old school was inadequate and now they want to turn around and allow a day care to open in the school that was previously described as inadequate. She stated she was opposed to the commercial enterprise being allowed on the property.

V Approval of Minutes

It was moved by Trustee Soderstrom, seconded by Trustee Moreau, to approve minutes of the Special Meeting of October 22, 2008, the Special Meeting of December 2, 2008 and the Regular Meeting of December 4, 2008. The motion carried by the following vote:

Aye: 5 - Gron, Tross, Moreau, Fitzpatrick and Soderstrom

Absent: 1 - O'Brien

VI Committee Reports

Community Relations Committee - Trustee Laura Fitzpatrick, Chairperson

Trustee Laura Fitzpatrick, Chairperson of the Community Relations Committee, reported the committee had not met. She stated the January meeting is scheduled for January 21 as the 19th is a holiday.

Economic/Community Development Committee - Trustee Dana Moreau, Chairperson

Trustee Dana Moreau, Chairperson of the Economic and Community Development Committee, reported the committee had not met. The next meeting is scheduled for January 7.

Environmental Concerns Committee - Trustee Greg Gron, Chairperson

Trustee Greg Gron, Chairperson of the Environmental Concerns Committee, reported the committee had not met. The next meeting is scheduled for January 27.

Finance Committee - Trustee Rick Soderstrom, Chairperson

Trustee Rick Soderstrom, Chairperson of the Finance Committee, reported the committee had not met. The next meeting is scheduled for January 20.

Public Works Committee - Trustee Richard J. Tross, Chairperson

Trustee Dick Tross, Chairperson of the Public Works Committee, reported the committee had not met. The next meeting is scheduled for January 13.

Transportation & Safety Committee - Trustee Jack O'Brien, Chairperson

In Trustee O'Brien's absence, President Mueller stated the committee had not met and the committee will possibly meet on January 5.

Board of Local Improvements - Trustee Richard J. Tross, President

Trustee Dick Tross, President of the Board of Local Improvements, reported the committee had not met. The next meeting is scheduled for January 8.

Community Promotion & Tourism - President William J. Mueller, Chairperson

President William Mueller, Chairperson of the Community and Promotion Committee, reported the committee had met today. He stated there were two items that had been approved and would be on the January agenda. One item was a request of the Park District for \$12,000 for Lillac Time advertising and one was a request for \$3,000 for the Sculpture program. Both items were approved by the committee.

Lombard Historical Commission - Brigitte O'Brien

Village Clerk Brigitte O'Brien, member of the Historical Commission, stated the committee had not met. The next meeting is scheduled for January 20.

VII Village Manager/Village Board Comments

Village Manager Hulseberg reminded the Village board of the special meeting on January 6 at 7 pm regarding the budget.

President Mueller recognized Village Manager Hulseberg for his manager accreditation through ICMA.

VIII Consent Agenda

Payroll/Accounts Payable

- A. 080760 Approval of Accounts Payable
For the period ending December 5, 2008 in the amount of \$154,437.80.
This Matter was approved on the Consent Agenda.
- B. 080771 Approval of Village Payroll
For the period ending December 18, 2008 in the amount of \$927,636.22.
This Matter was approved on the Consent Agenda.
- C. 080772 Approval of Accounts Payable
For the period ending December 12, 2008 in the amount of \$1,708,988.03.
This Matter was approved on the Consent Agenda.

Ordinances on First Reading (Waiver of First Requested)

- *D. PC 08-32: 215 and 220 S. Lincoln Street (St. John's Evangelical Lutheran Church & School)
(Continued from December 4, 2008) (Moved to IX-B)

- E. 080734 Proposed One-Side No Parking on Various Streets
Staff request to establish one-side "no parking" restrictions on various streets in an area bounded by Main Street, Grace Street, Washington Boulevard and Parkside Avenue.
(DISTRICTS #4 & #5)
This Matter was waived of first reading and passed on second reading with suspension of the rules on the Consent Agenda.
- F. 080736 Eastgate Road, East of Highland Avenue
Request to install "No Parking" signage on both sides of the street. (DISTRICT #3)
This Matter was waived of first reading and passed on second reading with suspension of the rules on the Consent Agenda.

Other Ordinances on First Reading

Ordinances on Second Reading

- G. 080692 PC 08-31: 801 E. Roosevelt Road
Requests conditional use approval to allow for a Restaurant, which includes entertainment, dancing, and/or amusement devices in the B4A Roosevelt Road Corridor District. (DISTRICT #6)
This Matter was passed on second reading on the Consent Agenda.

- H. 080723 Tax Levy Ordinances (Two Ordinances)
Providing for the levy and assessment of taxes for the fiscal year beginning June 1, 2008 and ending May 31, 2009 for the Village of Lombard and Helen M. Plum Memorial Library.

This Matter was passed on second reading on the Consent Agenda.

I. 080732 Amendment to Lombard Village Code - Vehicle Sticker Time Period Penalties
 Amending Title 7, Chapter 70, Section 70.04 regarding the one month penalty period ending May 31st with additional late fees to be applied beginning June 1st.
 This Matter was passed on second reading on the Consent Agenda.

Resolutions

J. 080721 Westmore-Meyers Road Underground Utility Project, Final Balancing Change Order No. 6
 Authorizing a decrease to the contract with John Neri Construction Company, Incorporated, in the amount of \$1,280.58. (DISTRICT #5)
 This Matter was adopted on the Consent Agenda.

K. 080730 Main Street Lighting Phase 1, Change Order No. 4
 Authorizing a decrease to the contract with Utility Dynamics in the amount of \$37,686.78. (DISTRICTS #1, #2, #4, #5, & #6)
 This Matter was adopted on the Consent Agenda.

L. 080753 South Booster Station, Change Order No. 1
 Reflecting a time extension of 120 days and an increase of \$27,835.00 to the contract with Genco Industries, Inc.
 This Matter was adopted on the Consent Agenda.

M. 080754 Review of Executive Session Minutes
 Authorizing the Village Clerk to make certain Closed Session Minutes available for public inspection.
 This Matter was adopted on the Consent Agenda.

N. 080761 FY 2009 Asphalt Paving and Patching, Change Order No. 2
 Reflecting a time increase of seven months to the contract with Brother's Asphalt Paving. (DISTRICTS - ALL)
 This Matter was adopted on the Consent Agenda.

O. 080768 369 N. Stewart Avenue
 Accepting watermain and valves and storm sewer main at the property located at 369 N. Stewart Avenue and known as Lombard Gospel Church. (DISTRICT #4)
 This Matter was adopted on the Consent Agenda.

Other Matters

P. 080759 Police Squad Car
 Request for a waiver of bids and award of a contract to Morrow Brothers Ford in the amount of \$21,452.00. Public Act 85-1295 does not apply.
 This Matter was approved on the Consent Agenda.

ZBA 08-15: 1300-1366 S. Finley Road (Continued from December 4, 2008) 080697 A.

Requests that the Village approve the following actions for the subject property located within the R5PD General Residential Planned Development District:

1. A variation from Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to seven and one half feet (7.5').
2. A variation to Section 155.205(A)(1)(e)(4) of the Lombard Zoning Ordinance to increase the maximum allowable width for supporting members of a fence in the clear line of sight area from six inches (6") to thirty inches (30") in width. (DISTRICT #2)

Ordinances on First Reading (Waiver of First Requested)

IX Items for Separate Action

Absent: 1 - O'Brien

May: 5 - Gron, Tross, Moreau, Fitzpatrick and Soderstrom

Aye: 0 -

It was moved by Trustee Soderstrom, seconded by Trustee Moreau, to approve the Consent Agenda. This approval includes suspension of the rules, waive first reading and pass on second reading, waive competitive bidding and award contracts, approve and adopt resolutions as needed for the preceding items as read by the Clerk on the Consent Agenda

The motion carried by the following vote:

Passed The Consent Agenda

This Matter was approved on the Consent Agenda.

369 N. Stewart Avenue
 Motion approving a Plat of Easement for stormwater detention on the property located at 369 N. Stewart and known as Lombard Gospel Church. (DISTRICT #4)

080764 T.

This Matter was approved on the Consent Agenda.

Recycling Education Grant - Pleasant Lane PTA
 Recommendation from the Environmental Concerns Committee to approve a grant in the amount of \$300.00. (DISTRICT #4)

080728 S.

This Matter was approved on the Consent Agenda.

Recycling Education Grant - Montini Catholic High School
 Recommendation from the Environmental Concerns Committee to approve a grant in the amount of \$837.00. (UNINCORPORATED)

080656 R.

This Matter was approved on the Consent Agenda.

Request for a waiver of bids and award of a contract to All-American Exterior Solutions for an amount not to exceed \$26,925.00. (DISTRICT #1)

Roof Replacement and Installation of Cupola for Renovations at the Lombard Metra Station

080773 Q.

Bill Dennis, 442 N. Park, stated he was speaking on behalf of his wife Cheryl Dennis who was the owner of Creative Daycare and had owned the business since 1981. He stated his wife wanted to expand her business and had been looking for the right location with no success until the opportunity at St. John's became available. He stated they have to receive certification from the State, the Department of Children and Family Services and the fire marshals and building inspectors. He indicated he, by marriage, inherits part of the responsibility of the daycare. He noted that Sacred Heart and St. John have a close working relationship and help each other out. He had heard through a friend of this possible location at St. John's. He reported that the daycare must have 100 square feet of space for each child which is required and each agency has approved St. John's has a couple of rooms that could be utilized and each agency has approved the proposed day care to allow 20 children per room. He indicated St. John's old school was not adequate for the student population of 200, but that the rooms are adequate for the daycare. He noted the bathroom by the office can be utilized for daycare as well. He noted it was difficult to find a place with all the amenities, and the size of the daycare business would make this location feasible. He stated the Methodist Church next door has a daycare and the Growing Place Daycare on Madison is also privately owned. He asked the Village Board if they had any suggestions for another location with the amenities and stated it was difficult to find such a place. He felt this business was consistent with the use of the facility by St. John's. He indicated their daycare will not have over 40 kids. He reported he had spoken to neighbors in the area and most had no problem with the daycare proposal. He was aware of the residential area, but also noted the proximity to downtown. He did not feel that approving this proposal would set any precedent. He did indicate that window air conditioners could be used in the two rooms. He also spoke regarding the ADA compliance and felt there was a considerable expense in complying with handicapped accessibility. He noted that in 26 years, they have not had one handicapped child in the daycare. He did state that ADA compliance was not a life safety issue. He spoke about the lock-down procedure and not wanting to

PC 08-32: 215 and 220 S. Lincoln Street (St. John's Evangelical Lutheran Church & School) (Continued from December 4, 2008)
 Requests that the Village take the following actions on the property located within the R2PD Single Family Residence Planned Development District:
 1. Pursuant to Section 155.504(A) of the Lombard Zoning Ordinance (major changes to a planned development), amend the conditional use for the St. John's Evangelical Lutheran Church & School Planned Development, as established by Ordinance 5665, to allow a private day care center to be operated within the old school building;
 2. Approve a use exception, pursuant to Section 155.508 (B) of the Zoning Ordinance, for a private day care center, and
 3. A further variation from Section 155.602 (C), Table 6.3 of the Zoning Ordinance, as approved by Ordinance 5665, to not require additional parking spaces to be constructed as part of the petition. (DISTRICT #1)

*B. 080693

Absent: 1 - O'Brien

Aye: 5 - Gron, Tross, Moreau, Fitzpatrick and Soderstrom

It was moved by Trustee Tross, seconded by Trustee Soderstrom, that this matter be waived of first reading and passed on second reading with suspension of the rules. The motion carried by the following vote:

Items requested including overgrown bushes, a drainage issue and the sidewalk on Finley by the fence.
 Trustee Tross indicated International Village was about 35-40 years old and the new owner, who had previously owned the complex, recognized the need for these items. He stated staff had met with the owner and was happy with the conditions in these economic times.

keep people out of the building, but keep people from roaming. They will provide a security system and buzz people in after viewing them on the monitor. He felt there would be a minimal increase in traffic as St. John's School is already there. He stated parents will drop off their kids early and go on to work and return later in the day to pick up their children. He felt there was ample parking on Lincoln for this and it would be a small price to pay for someone if they had a few minute delay. He felt there were two issues - the zoning amendment and the ADA compliance. He reminded the Board that the school, library and Historical Society were all located in close proximity. He encouraged the Village Board to approve this proposal.

Cheryl Dennis declined to speak at this time.

John Eggersdorfer, architect, declined to speak at this time.

Janet Imbrogno, 14 Lincoln Court, felt the empty building at St. John's was more of a safety problem and felt allowing the daycare proposal for the site was a better solution. She praised Ms. Ness as an eloquent speaker and stated she understood how people do not like change. She stated as a child, the prairie located behind the house where she lived was developed into multi-family housing. At the time, she was against the change, but felt in the long run, it was good as now looking back, the prairie was dangerous for children. She felt the space at St. John's could not be used for anything better and more appropriate than the daycare center and was an extension of taking care of children. She also felt this was beneficial to St. John's as far as upkeep and costs. She noted that Main and Ash is commercial and this area was not truly just a residential area.

President Mueller indicated the public participation was concluded and asked for questions and comments from the Village Board members.

Trustee Gron stated there were many issues associated with this petition and going back 3-1/2 years ago when St. John's indicated they would use this space for meetings and storage. He felt there was an issue having a for-profit daycare using a not-for-profit location for business. He felt there were issues that were not resolved including 5 points from the Plan Commission. He felt this proposal was diluting the area with things that did not belong there. He also noted that it was not the job of the Village Board to find a location for the daycare and felt there were other choices for the daycare.

President Mueller suggested referring this petition back to the Plan Commission. Trustee Tross also felt this should be referred back to the Plan Commission for further review and recommendation on all the issues.

Attorney Bayer indicated that Board could continue to discuss the item until a motion was made to refer the petition back to the Plan Commission and then discussion would not be allowed.

Trustee Gron noted the following issues regarding the proposal. Please see attached. Trustee Tross stated there are daycare providers located in residential homes. He noted that as a home occupation, there are only 8 children allowed. He felt there were problems with conditions and changes to conditions that had already been granted to St. John's such as the use of the building was to be office space, storage and meetings. He inquired about the hours of operation for the daycare. He asked if the drop-off hours would be 7-8:30 am and the pick-up hours 4-5:30 pm. He felt more information was needed and asked about structured hours. He felt the regimen was not at 8 am to 4 pm routine. He also felt the Plan Commission needed additional information. He questioned if the owner of the property, St. John's, had recanted its previous position and agreement regarding the building and stated the Village Board had not heard from the property owner. He indicated the property owner had said one thing and now wants to do something else. He was not in favor of the proposal.

Trustee Moreau questioned the 2005 statement and potential for available change. Director of Community Development Bill Heniff stated that part of the statement was that any changes would need to go through the process.

Trustee Fitzpatrick stated there are a number of older buildings in town and felt the ADA restrictions should be checked regarding daycare. She felt this was an excellent use for and liked the idea of using old school buildings for schools.

Other Ordinances on First Reading

Ordinances on Second Reading

Resolutions

Other Matters

X Agenda Items for Discussion

President Mueller wished Trustee O'Brien a speedy get well. He wished everyone a very Merry Christmas and Happy New Year. He noted the snowplows would be out again.

XI Executive Session

It was moved by Trustee Gron, seconded by Trustee Moreau, to recess to Executive Session at 8:30 pm for the purpose of discussion of three collective negotiating matters. The motion carried by the following vote:

Aye: 5 - Gron, Tross, Moreau, Fitzpatrick and Soderstrom

Absent: 1 - O'Brien

The recessed regular meeting of the President and Board of Trustees of the Village of Lombard was called to order by Village President William J. Mueller at 9:14 pm, Thursday, December 18, 2008. Upon roll call:

Present: Village President William J. Mueller, Village Clerk Brigitte O'Brien, Trustee Greg Gron, Trustee Richard J. Tross, Trustee Dana Moreau, Trustee Laura Fitzpatrick and Trustee Rick Soderstrom
Absent: Trustee Jack O'Brien

XII Adjournment

It was moved by Trustee Fitzpatrick, seconded by Trustee Moreau, to adjourn at 9:15 pm. The motion carried by the following vote:

Aye: 5 - Gron, Tross, Moreau, Fitzpatrick and Soderstrom

Absent: 1 - O'Brien

Licensed Day Care Centers within Lombard*

HIS GRACE CHRISTIAN CHILDCARE	1000 N ROHLWING RD STE 16	B3PD	PC 03-36: CU Day Care	109	0	0	6 Weeks	13 Years
KINDERGARTEN LEARNING CTR	249 W SAINT CHARLES RD	B5	PC 92-12: CU Day Care	123	0	0	6 Weeks	13 Years
TENDER LOVING CARE MONTESSORI SCHOOL	30 N PARK AVE	B5	PC 93-22: CU Day Care	20	0	0	15 Months	3 Years
COOP NS 1ST CHURCH- LOMBARD	220 S MAIN ST	B5APD	PC 02-33: CU Day Care	52	0	0	6 Weeks	6 Years
CREATIVE MONTESSORI LEARNING CENTER	550 S EDGEWOOD AVE	R2	CO Issued for day care (no relief found for day care or school)	16	0	0	2 Years	6 Years
THE GROWING PLACE	1111 E MADISON ST	R2	CO indicates legal non- conforming	56	0	0	2 Years	6 Years
LOMBARD PARK DISTRICT-KIDDLE CAMPUS P.S.	820 S FINLEY RD	CRPD	Operating as preschool	60	60	0	2 Years	6 Years
PIONEER CHILD CARE SERVICE, INC.	543 E TAYLOR RD	CR	PC 00-43: CU Day Care	148	0	0	6 Weeks	13 Years
KINDERGARTEN LEARNING CENTERS, INC.	1214 S MEYERS RD	B3	PC 03-18: CU Day Care	119	0	0	6 Weeks	13 Years
NURSERY SCHOOL OF CONGREGATION ETZ CHAIM	1710 S HIGHLAND AVE	R1	PC 97-16: CU Religious Institution	32	0	0	3 Years	6 Years

*List excludes home day care operations.

Source: Illinois Department of Children and Family Services records, December 2008.

Additional Correspondence Related to PC 08-32 Received
and Transmitted Since the Public Hearing

Moynihan, Stuart

From: Kloris, Ted
Sent: Thursday, December 04, 2008 8:42 AM
To: Moynihan, Stuart
Cc: Heniff, William; Stilling, Christopher
Subject: Creative Day Care Center/St. John's School

Stuart: Per our visit to the school yesterday, the school itself is not up to current ADA standards. In order to bring up to compliance, it would require a "vertical transportation element"(i.e. elevator, handicap lift) which would be required if the facility underwent an extensive renovation or remodeling. With the use of 2 existing classrooms, existing washroom and existing office space, with minor construction for new passage ways between rooms, I suggested that Mr. Dennis contact Doug Gamble, ADA Specialist at the Capital Development Board in Springfield and explain the situation. If Doug agrees that the facility is acceptable as is for the intended use, we would be alright with it also. The Learning Center would still need to meet all the fire safety issues that were noted by the State Fire Marshal's Office, DCFS and any issues that our fire prevention bureau would deem necessary for occupying the space. If they need to install vertical lifts, etc., it could pose a financial hardship which would need to be addressed by Doug Gamble. If you have any further questions, please contact me. Thanks, Ted.

VILLAGE OF LOMBARD
 255 E. Wilson Ave.
 Lombard, Illinois 60148-3931
 (630) 620-5700 Fax (630) 620-8222
 www.villageoflombard.org



December 8, 2008

William Dennis and Cheryl Holtz-Dennis

Village President
 William J. Mueller

442 N. Park Ave.
 Lombard, IL 60148

Village Clerk
 Brigitte O'Brien

RE: ADA/AC Requirements for Creative Day Learning Center

Trustees

Greg Alan Gron, Dist. 1
 Richard J. Tross, Dist. 2
 John "Jack" T. O'Brien, Dist. 3
 Dana L. Moreau, Dist. 4
 Laura A. Fitzpatrick, Dist. 5
 Rick Soderstrom, Dist. 6

I am writing this letter in response to your request for clarification regarding the condition that the Plan Commission has added to their recommendation for approval of PC 08-32. This condition is as follows:

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.

Village Manager
 David A. Hulseberg

The intention of this condition is that all areas to be used by Creative Day within St. John's old school building shall be brought up to the same standards required for new construction regarding the Americans with Disabilities Act and the Illinois Accessibility Code. The installation of an elevator was specifically excluded by the Plan Commission. As you have expressed concern about the potential costs associated with this condition, staff has researched the requirements of this condition and has conducted a walkthrough evaluation of the spaces to be used by Creative Day. Below are some of the improvements staff has identified and their estimated cost:

"Our shared Vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."
 "The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Charliff	\$12,000 - \$17,000
Two proposed openings in classrooms (Proper width – no additional cost)	
Doors 3' wide (Meets width requirement)	\$200
Door levers	\$4000
Downstairs washroom enhancements	\$7500
Upstairs washroom build-out to meet size requirements	\$23,700 - \$28,700
Total estimated cost	

The above table is not meant to be inclusive of all costs associated with this condition but rather to give you an estimated budget to work from. Please have your architect review these items and provide you with a more precise estimate.

Creative Day Learning Center
ADA Requirements Letter

These are the primary items identified by staff at this time. However, this list is subject to further review and may be revised at a future point in time.

Please note that this list is exclusive of any requirements of the State Fire Marshal or DCFS that would be applicable regardless of the added condition of approval. Creative Day Learning Center will still have to meet all separate life safety requirements.

The Village Board will consider this petition and the recommended conditions of approval at its December 18, 2008 meeting. However, if you have any concerns regarding this condition, please provide said concerns in writing to me by Tuesday, December 9, 2008 so we can inform our Village Board accordingly. If you find this condition acceptable, please notify us of this as well.

Sincerely,

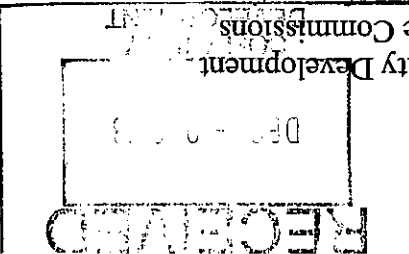
VILLAGE OF LOMBARD
Department of Community Development



Stuart Moynihan
Associate Planner

C: David A. Hulseberg
William J. Heniff
Chris Stilling

H:\CD\WORD\USBR\PC\CASES\2008\FC 08-32\ADA compliance letter.doc



This is in response to a request from Stuart Moynihan from the Community Development Department to know Creative Day Learning Center's stance regarding the ADA regulations for portions of St. John's Lutheran Church 'Old School' that are to be used for Creative Day's day-to-day operations due to 'life safety' issues.

Creative Day has consulted with Doug Gamble of the Illinois State Capital Development Board, a contractor experienced in ADA compliance issues and an architect also familiar with ADA compliance issues and none of them believe Creative Day Learning Center is mandated to convert St. John's 'Old School' to ADA compliance. This is relying upon Section 400.510 (b) page 105 of the Illinois Accessibility Code, which reads as follows:

All Public Facilities - Alteration Costs 15% or Less.

If the alteration costs 15% or less of the reproduction cost of the public facility, the element or space being altered shall comply with the applicable requirements for new construction. Further, after discussing this issue with Mr. Gamble, he referred to the \$100,000.00 alteration threshold. Meaning that if the alterations are under \$100,000.00 ADA compliance is limited to those areas altered and not to the remainder of the structure.

This Section is interpreted to mean that the alterations themselves, not the entire used space are to comply with applicable requirements. The only alteration that relates to access for handicapped individuals is the opening of the walls from each classroom to the office for access to the bathroom on the first floor. No bathroom is being altered, no stairwell, or entrance is being altered. The only alterations being considered that pertain directly to accessibility issues are one wall in each classroom. Additional modifications to the fire protection system and updating the kitchen are also planned but are not accessibility issues.

The entire cost of alterations necessary to open Creative Day Learning Center are under \$50,000.00 and therefore well under 15% of the reproduction cost of the facility. Just as a reference the 'New School' cost over \$6,500,000.00 to build and if built today would be substantially more and that is substantially a substitute for the 'old school'. Further, the alterations are under the \$100,000.00 threshold referenced in the Illinois Accessibility Code.

To further comply with the Community Development Department's request, Creative Day answers that if mandated to comply with all ADA requirements outlined in their recent correspondence from Village Staff it would more than double the build-out costs and effectively keep Creative Day Learning Center from opening at St. John's Lutheran 'Old School'. Creative Day has only been able to negotiate a lease for two years with St. John's. While there is the possibility of extending lease periods beyond that time, there are no guarantees that further leases will take place. Creative Day Learning Center would be hard pressed to recoup this additional initial investment in two years. St. John's has discussed many different long range plans for the 'Old School' including tearing the building down.

Creative Day Learning Center is owned and operated by Cheryl Holtz-Dennis and as such does not have the resources that larger, corporate day care centers have to comply with this type of mandate. Additionally, Creative Day Learning Center is not equipped with the manpower and/or training to take on handicapped individuals as outlined here. Additionally, after writing this I spoke to Mr. Gamble of the Illinois Capital Development Board and he will be replying by e-mail, which I will forward on to you as soon as I receive it.

Thank You,
Bill Dennis for Cheryl Holtz-Dennis
Creative Day Learning Center

Douglas / Gamble

If the alterations are less than \$100,000, then the only requirements for accessibility would be to make the element you are altering accessible. No elevator, lift, or ramp or alterations to the existing toilet rooms are required.

Hi Dennis

From: Gamble, Doug <Doug.Gamble@Illinois.gov>
Subject: RE: Creative Day Learning Center-Lombard Illinois
To: attydennis1@sbcglobal.net
Date: Tuesday, December 9, 2008, 4:15 PM

--- On Tue, 12/9/08, Gamble, Doug <Doug.Gamble@Illinois.gov> wrote:

IRS Circular 230 Disclaimer: To ensure compliance with IRS Circular 230, any U.S. Federal Tax advise provided in this communication is not intended or written to be used by the recipient or any other tax payer (i) for the purpose of avoiding tax penalties that may be imposed on the recipient or any other tax payer, or (ii) in promoting, marketing or recommending to another party a partnership or other entity, investment plan, arrangement or other transaction addressed herein.

Law Office of William J. Dennis
18 West 140 Butterfield Road, 15th Floor
Oakbrook Terrace, IL 60181
Phone: 630-613-7700
Direct: 630-953-0787
Fax: 630-953-0788
e-mail: attydennis1@sbcglobal.net

Bill Dennis

Attached is the e-mail received from Mr. Gamble of the Illinois Capital Development Board.

Stuart,

From: William Dennis [attydennis1@sbcglobal.net]
Sent: Tuesday, December 09, 2008 2:34 PM
To: Moynihhan, Stuart
Subject: Fw: RE: Creative Day Learning Center-Lombard Illinois

Moynihhan, Stuart

Douglas I. Gamble

Accessibility Specialist

State of Illinois

Capital Development Board

3rd Floor Stratton Building

401 South Spring Street

Springfield, Illinois 62706

Phone: (217) 782-8530

FAX: (217) 524-4208

December 16, 2008

Village of Lombard
Board of Trustees
Mayor Mueller
Village Manager Hulseberg

Dear Trustee,

My name is Bill Dennis, my wife is Cheryl Holtz-Dennis and she is the owner/director at Creative Day Learning Center. I have been helping to represent my wife in her endeavor to open her day care business here in Lombard. We have lived in Lombard for over 20 years and have been active in community and school district affairs. Our daughter, Taylor, is a sophomore at Glenbard East High School.

Cheryl previously ran her day care business in Villa Park, however, expansion of other programs at that location caused her to lose her space as of the end of July 2008. We have been looking for an alternate site since earlier last summer and had been unsuccessful in finding an adequate location until a friend reminded us that St. John's Lutheran Church and School had recently built a new school and that their old school was now sitting vacant.

We contacted St. John's and were given the opportunity to rent two classrooms and the office space between them. We would also be able to use the kitchen, gym, playground area. The State Fire Marshal, DuPage County Health Department and DCFs were contacted and all three entities performed a pre-inspection of the site. There were upgrades that needed to be done, but general approval of the location was granted.

We then contacted various contractors to see how expensive the build-out costs would be. The fire system needs to be updated with smoke detectors and strobes in certain areas. We need to break-out a doorway leading from each classroom into the rear office to access a bathroom on the first floor. Air conditioners need to be purchased for the two classrooms. The kitchen needs to be brought up to commercial code. This includes installing a hand wash sink and a prep sink, and, purchasing a commercial microwave and convection oven. The first classroom and kitchen have already been painted and carpet was ordered, and is on hold, for the first classroom and the office area. Additionally, all doors along the first floor and basement corridors must have automatic returns installed, the office door must be replaced, or at least the glass must be replaced, and an access system has to be installed at the entrance to allow parents to be buzzed-in. Build-out costs will be approximately \$40,000.00 and with cost overruns I figure it to be closer to \$50,000.00.

We then went to the Village of Lombard for permits and were informed that Creative Day Learning Center would need to apply for a Conditional Use, Special Use and Parking Variation. We then learned that some of the immediate neighbors to St. John's

were still upset regarding the building of the new school and that a letter had been circulated against Creative Day Learning Center coming into St. John's.

Cheryl and I walked the immediate neighborhood and spoke with whomever was home at the time, 10 out of 20 households and 8 out of those 10 had no objection to Creative Day occupying space at St. John's. The 2 dissenters were Karen Ness and her immediate neighbor. They both appeared at the Plan Commission meeting and spoke against the petition. The neighbor voiced concerns regarding ADA compliance.

At the Plan Commission meeting there was considerable discussion between the commissioners stating that the intended use was of two classrooms as a day care facility is compatible with the previous use of the 'old school' property and surrounding community and that the residential nature of the property is not truly residential in nature due to the green space, number of churches and public uses found in the immediate area. Commissioner Sweetser brought the motion to recommend, but added condition 6 which relates to ADA compliance.

There was some confusion as to whether Creative Day had to comply with ADA regulations due to St. John's being a church and further why Creative Day might be exempt. No one on the panel knew ADA regulations and how they might apply to this situation. Commissioner Sweetser was concerned that it was a 'life safety' issue. There was no definition of what compliance would encompass, or, whether there were other issues to be considered. At no time during this discussion did the commission solicit any comments from Creative Day or the community at large regarding this new condition. Other than one citizen's comment, one question from the commission to my self and my previous comments during my presentation that the State Fire Marshal, DuPage County Health Department and DCFS did see ADA compliance as an issue with the building as planned, and that I was not sure what their reasoning was. At that point in time, I had done no research into ADA compliance and neither had the Village.

The motion to recommend was passed with 6 conditions. The first five conditions were in place prior to the meeting and will be addressed. However, condition #6 goes beyond both Federal and State ADA guidelines and regulations and will create substantial additional expenses for Creative Day Learning Center.

In an effort to research the ADA compliance issue Creative Day was told initially to contact Doug Gamble of the Illinois State Capital Development Board. We attempted to call and e-mail Mr. Gamble several times with no reply. We decided to contact a contractor experienced with ADA compliance. Mr. Richard Battaglin has modified numerous Post Office facilities and schools to meet ADA compliance regulations. Mr. Battaglin inspected the building and determined that Creative Day Learning Center would be compliant with current ADA regulations absent modification of the building, other than to the areas being altered. We then contacted the architect who drafted the building plans submitted to the Village. Mr. John Eggersdorfer re-inspected the building and after consulting the Illinois Accessibility Code and determined that Creative Day

Learning Center would be compliant with the Illinois Accessibility Code by modifying only those areas altered through renovation.

Due to the fact that we could not contact Mr. Gamble, the Village arranged for the Village Inspection Supervisor, Mr. Ted Klioris, to inspect the 'old school' building. Mr. Klioris mentioned several modifications that could be made if it were found that the building needed to be ADA compliant. Within a few days we received an e-mailed correspondence from the Community Development Department outlining what it thought the estimated cost to bring portions of the 'old school' building up to ADA compliance.

After I e-mailed a response to the Community Development Department, we finally got in contact with Mr. Gamble. We had a fairly lengthy discussion in which he read an e-mail I sent him, conferred with the Illinois Accessibility Code and determined that pursuant to Section 400.510 b: "If the alteration cost is 15% or less of the reproduction cost of the public facility, the element or space being altered shall comply with the applicable requirements for new construction." The reproduction cost of the facility is anywhere from \$4-6.5 million dollars, \$50,000.00 is less than 1% of the reproduction costs.

Mr. Gamble, Mr. Eggersdorfer and Mr. Battaglin have all submitted this opinion in writing and we have submitted these documents to the Community Development Department for inclusion in the Village Board Packet for the upcoming meeting this Thursday.

The reproduction cost of the facility is anywhere from \$4 - 6.5 million dollars, \$50,000.00 is less than 1% of the reproduction costs. We received an e-mail from the Village outlining what they believe the costs would be to comply with ADA accessibility requirements. We respectfully disagree with those figures. We spoke to the ADA contractor and he felt that the lift aspect of the proposal alone would easily cost \$25 - 30,000.00 and building out a bathroom on the first floor, having to move plumbing and such would easily cost \$15 - 20,000.00.

Creative Day Learning Center is a privately owned day care center and has always remained small in nature. If Creative Day is allowed to open at St. John's one of the other conditions attached to the petition is that there is a cap of 40 students. Creative Day has not been operational since the end of July. Creative Day has continued to pay a valued employee since that time on a weekly basis. Creative Day is concerned about lost clientele due to the length of time it has been closed. Parents needed to place their children in other situations. Creative Day will open one classroom and then expand into the second classroom as needed.

There are inquiries as to when Creative Day might open. There has been interest from members of the community as to when Creative Day might open. We foresee a gradual buildup of clientele, but that buildup takes time. There will be advertising costs and while the present staff is adequate for the opening, there will be additional costs when/if Creative Day expands into the second classroom.

Further, St. John's is uncertain of their long range plans for the old school building and will only offer a 2 year lease, however there are contingencies for continuation of lease periods. Our intentions are to work with St. John's and the community to provide a valued service for many years. We would like to utilize the library, the parks, the pool, the Dairy Queen, the Aquatic Pet Store, the Metra train, Mr. Z's and many other area businesses. Clientele would possibly utilize area businesses as they are on their way either to, or from, Creative Day. Creative Day would offer the growing downtown section of Lombard a valued service that might attract families with children to reside in the immediate area. We see the inclusion of Creative Day Learning Center at St. John's 'old school building' as a win-win-win for Creative Day, for the Village and for the community.

Please feel free to contact either Cheryl or myself at 630-953-2187, or via e-mail at dennistree@sbcglobal.net, or attydennis1@sbcglobal.net, with any questions and/or comments.

Thank you for your consideration in this matter,

Bill Dennis
Cheryl Dennis
Creative Day Learning Center

POSTSCRIPT

It has come to my attention since drafting this letter that a Trustee is considering pulling portions of this petition from the agenda of the Board of Trustees at the Thursday meeting and remand it back to the Plan Commission for further clarification regarding allowing a commercial business to operate in a residentially zoned area.

It was said there is concern that allowing Creative Day Learning Center into St. John's will set a precedent which could lead to a "Kindercare" type business taking over the location.

I would have to respectfully disagree with that view. If you look at the petition as it is structured, you will see that it is very particular with Creative Day Learning Center in mind. There was a traffic evaluation completed based upon 40 additional students, not 60, not 80, not 100, only 40. Based on those numbers, there was minimal effect on traffic. The parking spaces directly in front of the building can not be used to configure parking access and a variance would have to be sought again if enrollment were ever to be increased. Enrollment is capped at 40. Kindercare and other corporate child care centers normally have enrollments 3 times that number of children. They would have to submit a petition to raise the enrollment numbers.

The reason this space makes sense for Creative Day Learning Center and not for a larger day care center has to do with usable space in the old school building. Any attempts to expand to the upper floor would require the entire building to comply with ADA regulations and to conform to fire safety regulations by installing a sprinkler system throughout the entire building and to furnish additional bathrooms on both floors. These issues were all discussed and resolved by the Community Development Department and the Plan Commission. These issues were also discussed when St. John's came before you to build a new school. These issues did not disappear. They would continue to adversely affect any entity wanting to utilize the entire building. Costs to renovate the entire school were reported to be approximately \$1.6 million dollars several years ago and would likely be over \$2 million and rising as time goes by.

Comparing Creative Day Learning Center with larger day care facilities is comparing apples to oranges. They are not comparable even though they are both fruit. It is my understanding that the Plan Commission and Board of Trustees review each petition individually and not based upon dissimilar situations and/or vaguely similar situations. To say allowing Creative Day into this location sets a precedent for larger centers, or even other types of business, to follow after it, is a specious argument at best.

Again, Thank You for your time and consideration in this matter.

William J. Dennis
Cheryl B. Holtz
Creative Day Learning Center



MEMORANDUM

TO: The Honorable President and Board of Trustees

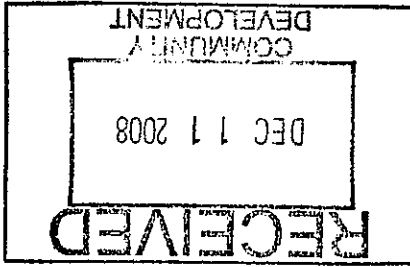
FROM: Stuart Moynihan, Associate Planner

DATE: December 12, 2008

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

The attached letters were received on December 11, 2008, after the public hearing for PC 08-32. The letters were not received in time to be included with the packet transmitted for the December 18 Village Board of Trustees meeting but have been submitted to the public record.

H:\CD\WORD\USER\PC\CAS\SES\2008\PC 08-32\Additional materials memo.doc



CC. Bill & Cheryl Dennis

John J Eggersdorfer

Eggersdorfer Architect & Assoc, Inc

Sincerely, [Signature]

Please call our office if you have any questions or comments.

Clearly the chairlift, washroom enhancements and build-out improvements identified in your letter fall under code scope #2, and exceed the code requirements when the alteration cost are less than 15% of the building reproduction cost. These improvements are not consistent with the Illinois Accessibility Code.

The estimated cost of these improvements is \$35,000. The existing building area is 23,859 sq. ft. The estimated cost of building replacement is \$200.00 per sq. ft. The reproduction cost of the building is 23,859 x 200 = \$4,771,800. The alteration cost percentage is \$35,000/\$4,771,800=0.74%. Therefore only the space and elements being altered shall comply with the applicable requirements stated in item #1 above.

- a. The elements or space being altered.
b. An entrance and means of egress intended for use by general public.
c. All spaces and elements necessary to provide horizontal and vertical accessible routes...
d. At least one accessible toilet room for each sex...
e. Accessible parking space...
f. An accessible route from sidewalk or from accessible parking space...

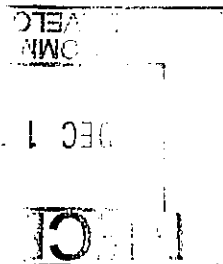
The code scope item #2, states: If the alteration cost 15%-50% the reproduction cost, than the following shall comply with the applicable requirements.
The code scope item #1 states that "If the alteration cost 15% or less of the reproduction cost of the public facility, the element or space being altered shall comply with the applicable requirements for new construction".
We have been requested by William & Cheryl Dennis to respond to your letter dated 12/08/08. We have reviewed the Illinois Accessibility Code "Public Facility, Alterations-Minimum Requirements, Section 400.510 a. This section states "No alteration shall be undertaken that decreases or has the effect of decreasing accessibility or usability of a building or facility...")

Dear Stuart Moynihan,

Re: ADA & Illinois Accessibility Code for Creative Day Learning Center

Village of Lombard
255 E. Wilson Av.
Lombard, Illinois 60148

December 10, 2008



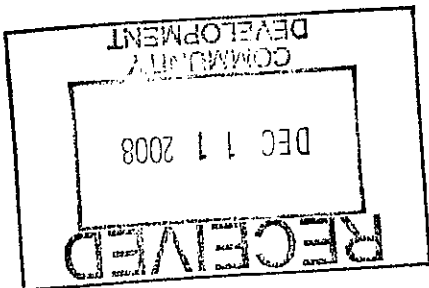
EGGERSDORFER ARCHITECTS & ASSOC. INC. P.C.

Colleen Yoakum

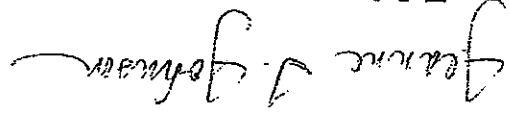
Thank you,
Colleen Yoakum
840 Foxworth Blvd # 101
Lombard, IL 60148
(630) 889-8220

My name is Colleen Yoakum. My daughter went to Creative Day Care in Villa Park, IL for 3 1/2 years. Her teacher was Ms. Cheryl Holtz. Ms Holtz is a caring and responsible teacher and caretaker for young children. She taught my daughter great lessons that enables her to be the great student she is today in school. She has been a daycare provider for many years and is shows in the way she cares for the children. She is a teacher that you can trust to care for and protect the children while in her capable hands. Ms. Holtz moving her business to Lombard would be an asset to the village.

To Whom It May Concern:



Jeanne T. Johnson
1005 E. Maple St, B
Lombard IL 60148
630.530.1494



Sincerely,

Please know that I highly recommend Creative Day Learning Center be approved to operate at 215 S. Lincoln Ave. in Lombard without further hesitation, especially with the need of excellent, quality day care in the community.

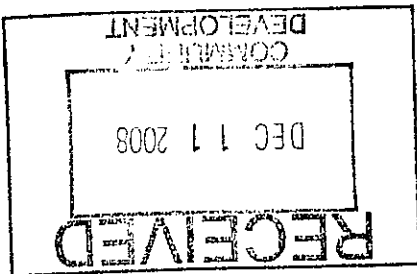
I was attracted to the size of Creative Day Learning Center, feeling that more attention could be given to my son and the other children, and indeed it was. Flexibility was also a requirement for me since I owned a small business in Lombard at the time. She was very reasonable and willing to work with me to achieve that

My son was enrolled at Creative Day Learning Center from 1995-1999. At that time it was located in Villa Park. I was extremely pleased with the care, education and safe environment provided by Cheryl and her staff. We always felt welcomed there. She took a personal interest in the children attending her facility, getting to know the whole family. She would have her own family and extended family participate in some of the activities throughout the year, so we got to know her family as well.

Re: Letter of Reference for
Cheryl Holtz-Dennis, Director and Owner of Creative Day Learning Center

Dear Gentlemen:

David Hulseberg, Village Manager
William Heniff, Senior Planner
Village of Lombard Trustees
Village of Lombard
255 E. Wilson Ave.
Lombard IL 60148



December 4, 2008

ELECTRO-CIRCUITS MFG. CO.
1651 MITCHELL BLVD. SCHAUMBURG, IL 60193
FAX (847) 352-5073 PH. (847) 352-5015

RECEIVE
COMMUNITY DEVELOPMENT
DEC 12 2008

Village of Lombard
Lombard, IL
Re: Creative Day

To Whom It May Concern:

My daughter, Arianna, attended Creative Day for about two years. I was very happy with her progress and the activities she enjoyed. She is now 7 years old, and although it has been a few years since she attended Creative Day, she still talks about her friends and teachers from there. Unfortunately when she began Kindergarten it was out of my way to bring her there in the afternoons so she could no longer attend.

My daughter also attended the summer program at Creative Day, which included swimming days, movie and train trips, and outdoor activities. My husband and I always felt comfortable knowing she was in safekeeping.

Creative Day was not only a safe, healthy, and fun program for my daughter to attend, it was also affordable compared to most Daycares I looked into. There were healthy meals provided, contact between the parents and teachers, educational activities, and fun crafts for my daughter to bring home.

I am excited for the move Creative Day is making to a larger building and a great location. I will always keep them in mind and would definitely use them in the future.

Thank you,

Melissa Ortiz

Melissa Ortiz
357 W. Winthrop Ave
Addison, IL 60101
(630) 479-4742

12-11-08

To Whom it may Concern:

This letter is to help
 expand our support for families
 with a child in the Learning Center.
 We have been working for a
 number of years and would be
 on staff to provide Community
 support for children with
 special needs. We are
 currently attending the day care
 center. The Learning Center
 that change and we are
 had been very difficult to find
 in another center. Please
 help the center open soon, my
 children really miss the
 atmosphere the center has
 Learning Center provides!

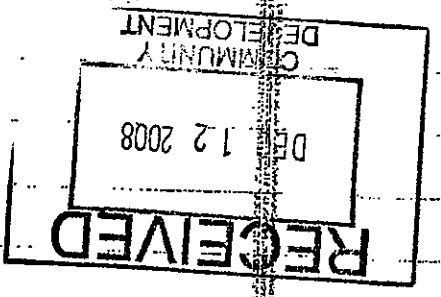
Jeanne K. Kozicki

635-4442

410 N. Mantua Street

forward of

60148



Date: January 21, 2009

To: Plan Commission

CC: The President

The Trustees
The Village Manager

From: Karen Ness
219 W. Ash St., Lombard

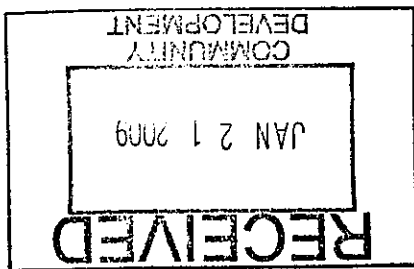
Re: St. John's Planned Development
Request PC 08-32

This is the second Plan Commission Meeting that Request PC 08-32 has been reviewed. At the first meeting, I heard Commissioners express some of St. John's neighbor's concerns about an unrelated business operating on St. John's property. It was not clear that the concerns were resolved. Some of the concerns included traffic in the area and the need for "eyes on the street" to protect a building that is assumed to be mostly vacant.

I would like to thank the Commissioners for their support and input, and further address the main concerns.

1. When St. John's ordinance to build a new school on the west side of Lincoln St. was approved, they agreed to restrict the usage of their old school building to office space, meetings and storage. These restrictions were based on St. John's sworn testimony about the condition of the existing structure as being sub-standard. Since the ordinance for the new school building was approved, St. John's has used or allowed others to use the old school building including the gymnasium and possibly for a profit.

2. Anyone not living within 250' of St. John's development may not be aware of the level of activity that occurs on St. John's property throughout the year. I would encourage everyone to visit St. John's website to view the calendar of their scheduled activities, (<https://stjohnslombard.cisconnect.net/home-crtl.do>). You will see there are events that occur throughout the day, week and year regardless of the school year. This is not a vacant building. Other activities that occur on St. John's property which are not on the calendar include public entertainment events, wedding and funeral functions, senior activities, building maintenance, landscaping and snow removal. Within 250' of St. John's property on Ash Street east of Lincoln and within direct view of St. John's property, there are 3 single family homes and 20 condominium units plus 2 apartment buildings. There are more single family homes west of Lincoln Street on Ash and Maple Streets. Additionally, there is a substantial amount of public activity surrounding the library, park, medical center and other churches. In short, there is no lack of "eyes on the street" and eyes within St. John's property. Should there be any concern on the part of the Village regarding the safety of the



neighborhood, I would hope that increased police protection would be recommended since St. John's has a full new elementary school building operating directly across the street from their old school building where this commercial business wants to operate. I would not think that a day care center operation would be effective in warding off crime nor would I think that a day care center would be approved in an area that needs its help to protect the building that they are occupying.

3. This petition is asking for approval for an unrelated day care center to operate a commercial business on St. John's premises located within a residential zoned neighborhood. St. John's development includes their new school building which is surrounded by single family residential homes on Ash and Maple Streets. Approval of this petition would in effect change the zoning of this entire development and would allow any and all commercial use in any part of St. John's development. St. John's has already violated the ordinance by using their old school building outside of the restrictions. What do you think St. John's will do next if they are granted the right to allow the operation of commercial businesses on their premises?

Thank you for your attention.

Karen Ness

January 26, 2009
Plan Commission meeting
referral letter

VILLAGE OF LOMBARD
 255 E. Wilson Ave.
 Lombard, Illinois 60148-3931
 (630) 620-5700 Fax (630) 620-8222
 www.villageoflombard.org



February 5, 2009

Village President
 William J. Mueller

Mr. William J. Mueller,
 Village President, and
 Board of Trustees

Village Clerk
 Brigitte O'Brien

Village of Lombard

Trustees
 Greg Alan Gron, Dist. 1
 Richard J. Tross, Dist. 2
 John "Jack" T. O'Brien, Dist. 3
 Dana L. Moreau, Dist. 4
 Laura A. Fitzpatrick, Dist. 5
 Rick Soderstrom, Dist. 6

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

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner, Creative Day Learning Center, requests that the Village take the following actions on the property located within the R2PD Single Family Residence Planned Development District:

Village Manager
 David A. Hulseberg

1. Pursuant to Section 155.504(A) of the Lombard Zoning Ordinance (major changes to a planned development), amend the conditional use for the St. John's Evangelical Lutheran Church & School Planned Development, as established by Ordinance 5665, to allow a private day care center to be operated within the old school building;

"Our shared Vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."

2. Approve a use exception, pursuant to Section 155.508 (B) of the Zoning Ordinance, for a private day care center; and
3. A further variation from Section 155.602 (C), Table 6.3 of the Zoning Ordinance, as approved by Ordinance 5665, to not require additional parking spaces to be constructed as part of the petition.

"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on November 17, 2008. The Plan Commission recommended approval of the petition at that hearing subject to the following conditions:

1. The petitioner shall occupy only two classrooms and one office on the first floor 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 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.

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 the following seven 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 petition was heard at the January 26, 2009 Plan Commission meeting. William Heniff opened the discussion by mentioning that this item was remanded back to the Plan Commission. He stated that there is no need to repeat any testimony that was given in November as it is part of the public record. He referenced the seven items that the Board of Trustees remanded back for discussion and further recommendation. He stated that any comments should be related to these items.

Commissioner Burke stated that he was not at the November 17 meeting and that he had reviewed all the materials and would participate in the process tonight.

Stuart Moynihan, Associate Planner, presented the staff report. 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.

In the Village Board's remand back to the Plan Commission, the Board specifically directed the Plan Commissioners to review only seven items which will be reviewed following the 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. 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.

3. Upon completion of petitioner's cross-examination, the public will be offered the opportunity to speak. Once completed, an opportunity to cross-examine 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 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. However, these conditions should be related to the items that were remanded back.

6. The recommendation will be forwarded to the Village Board for consideration at their February 5, 2009 meeting.

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.

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. 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.

At this point, I would like to give Chris Stilling an opportunity to discuss his own observations.

Chris Stilling stated he went out that morning to observe drop off at 7:45 a.m. He indicated that stacking was occurring along Lincoln Avenue and the eastbound leg of Ash. The queue extended approximately for one half of the block between Lincoln and Main Street.

Stuart Moynihan continued, 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 is present 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 is present to provide testimony regarding this item.

Chairperson Ryan asked if there were any questions or comments of the staff report. Hearing none, he called upon the petitioner.

William Dennis, husband of Cheryl Holtz-Dennis (owner and operator), 442 N Park Ave., Lombard, discussed the petition. He stated that most of this was previously discussed and he would go number by number. He stated that with respect to the concern about commercial enterprise it has preschool credentials and is considered a day care center. He stated that any operation with three kids that aren't of the same parentage would be considered day care. The proposed use would be regulated by state and county entities. He stated that with respect to residential zoning of the area, the area is not what you would traditionally think of a residential area. You have 2 homes across the street. He stated that across from the property in question are a library, churches, the new school that acts as a buffer and the condos across the street. The only true residential area is west of the property in question. He mentioned traffic concerns at

Parkview School as well as traffic problems in other areas caused by school drop-off and pick up. He stated that with St. John's there might be some slight overlap but there will not be forty kids dropped off at the same time. The parents bring them as they go to work as other schools would do. That is a red herring in that you won't have a concentrated mass. The parents will drop off and pick up with little conflict once traffic patterns are learned. The only people that park are staff and volunteers, only a few spaces by Creative Day staff during working hours. The pick up in the afternoon is after St. John's has let out. He asked the Plan Commission take into consideration what the old building was used for. It is a school and they teach kids there and it is a compatible use. St. John's doesn't have day care and cannot accommodate all children and families. They are compatible uses in that they both teach kids.

With regard to item two, he stated that it's the same use, teaching kids and having kids stay for the day. Number one and two are tied in together.

With regard to item three, he stated that if you go by the church, the parking lot it is not fully used all the time. It is only full for special gatherings and Sunday services. He stated that Creative Day will not be operating during those times. It wouldn't be in competition with peak uses. He stated that he takes exception to the statement that it would not be an enhancement. He thinks a daycare and a school can be compatible and complement each other. So, it will enhance the serviceability of the school. He noted that staff said it was a "potential" conflict. He questioned if staff had hard evidence of conflict. He mentioned again that other schools have traffic issues and referenced Glen Westlake. He stated that Creative Day will not add to this.

He stated that this would not set a precedent. Staff already mentioned other entities that are already in residential areas. He made the distinction between a commercial endeavor and the use of the building and use across the street. Several daycares are already in operation and he doesn't see any difference. He mentioned the Growing Place. He stated that they are using the same parameters and operate in an area with more houses across the street than this area.

He stated that with regard to the parking variation, the parking area would see no more use than a typical time. The traffic study states that St. John's traffic works well as a whole. St. John's and Creative Day will not be adverse to each other. Creative Day will rely on four spaces in the parking lot. KLOA stated that even if they used the front spaces they would have the ability to back in and out of those spaces. So it shouldn't tie up traffic any more than it is.

With regard to item six, he stated that use of shared spaces is flexible. There have been meetings between St. John's and Creative Day about scheduling, and there is no problem. Creative Day can utilize other areas to do what they need to do. He indicated it has been worked out and that it seems like micromanagement for the Village to state something about that. Creative Day has worked out times and schedules and has been doing so for twenty six years. He questioned why couldn't they do it now. The gym and outside play area are the only areas that might cause conflict. However, you can be creative to get around that by using nearby parks within walking distance and other options.

Mr. Dennis stated that he had no comments regarding item seven. He stated that he has looked over the document that was the 2005 agreement and believes St. John's is not doing anything

contrary to their agreement. They told us we needed to go through the process and that is what we are doing. He stated that he did not think the church was deliberately going against the agreement.

He stated that he thinks Creative Day will be a valuable asset and a good use of the building. Having children in the building might not be deterrence to crime. However, if there are people around and activities, it is less likely there will be graffiti or damage to the building if someone knows its being used. He also referred to previous discussions why the building is good enough for kids. He felt that the building is outdated but they have talked with Fire Marshal and Building Department about the necessary upgrades. What needs to be updated for the first floor and for fire prevention in the entire building are two different issues. Creative Day would only need to install strobes and warning lights. If anyone where to occupy the third floor, the whole building would have to be sprinkled. The cost would be several hundred thousand dollars and they would also need bathroom access.

Chairperson Ryan asked if there were any questions of the petitioners.

William Heniff asked if the petitioner could clarify some issues related to item six. He asked if they could make clear for the record about midday activities or trips as how it relates to traffic.

Mr. Dennis indicated that most of the drop-offs and pick ups would occur during the morning and evening hours indicated. However, if a child needs to be picked up for a doctor's appointment or another reason, a parent could do that. As for field trips, the students would walk to the train station which would take them to the aquarium. This would create no additional traffic.

Mr. Heniff asked if there would be morning and afternoon classes which might cause a midday rush.

Mr. Dennis stated that some children may do half days. However, some may come directly from St. John's and would simply walk across the street. If the students come from another school, there may be some small number of additional vehicles.

Commissioner Cooper asked if there would be any food delivery.

Mr. Dennis stated that there may be food delivery for a short period until the kitchen is fully functioning. However, all meals would be prepared onsite.

Mr. Heniff asked for a representative from St. Johns to provide testimony related to item seven.

Dave Freese, 569 Brewster Avenue, stated that he is the Chairman of the Congregation at St. John's. He then introduced Joe Jaruszeski as the former Chairman. Mr. Freese stated that Creative Day came to the church looking for space to rent. He stated that the church never hung out a for rent sign. St. John's council met on the issues and decided that because it was a daycare center it would be compatible with what they were doing as it fits on their campus. The church indicated to them that they would have to go through the process with the Village. He addressed

what has changed since 2005 and indicated that it is the economy that has changed. He stated that the church thought that if this is an opportunity to have income and if it fits into that campus, then why not.

Commissioner Olbrysh stated that in 2005 the church agreed to use the old school for storage and office space due to a substandard building. He had taken a look at the website calendar. He stated that for January, every Tuesday at 9 a.m. and 6 p.m. there is a quilt meeting. He asked if there are any other meetings like that.

Mr. Freese mentioned a room for Boy Scouts once a month. The lady quilters do use a room on the third floor on a regular basis and there is a room being used as storage for the food pantry. Joe Jaruscki, 1107 Michelle Lane, stated that he wanted to clarify some items. He mentioned the traffic concerns and asked that be taken into consideration that the weather is bad right now. It takes longer to get out of the car and drop off children than normally. He also stated that food delivery should not interfere with traffic as there is an area at the rear of the old school building where such deliveries have taken place in the past.

Chairperson Ryan asked what other commercial interests would fit into St. John's.

Mr. Freese stated that he didn't think any would. This was a unique situation and he thought that God brought Creative Day to them as it was such a good fit. He stated that he doesn't see any other commercial use that would fit in, and they don't want an outside commercial use in that building especially with all the children nearby.

Chairperson Ryan referred back to what they said in 2005 when it was agreed to it couldn't be used for kids.

Mr. Freese indicated that the building was not adequate for 233 students which would require retrofitting the entire building. Creative Day would only have to retrofit certain areas. He stated that he did not see anything within the wording of the 2005 Conditional Use that would prohibit St. John's from making a petition for a daycare center. There was discussion about a daycare related to whether St. John's wanted to open up its own day care. Again, the opportunity came before them and they thought it was a good fit.

Commissioner Olbrysh asked if there were plans for the old school building beyond two years.

Mr. Freese stated that there were not, in part because of economy. They found that groups within the congregation like to use it for storage, the second gym is used for occasional basketball practice, and the stage might be used for the fall play. He estimated that they use about fifty percent of the facility.

Chairperson Ryan asked for the general public to ask questions or comments related to the seven items remanded back.

Janet Imbrogno, 14 Lincoln Court, referred to the seven items and wanted to comment on them. She stated that numbers one and two interact and contradict each other. With regard to commercial enterprises in residential districts and having commercial in an institutional development, she thought it is a commercial establishment that fits into an institutional development. A daycare is like a preschool and would fit into education of children. She did not think it's truly a residential area. With regard to item four, it is obvious that other uses would be put under the same scrutiny and that everything would be considered. With regard to items five and six, she mentioned that the traffic study found everything acceptable. As far as traffic and children, she doesn't think that is an issue. She stated that items three and seven complemented each other. With regard to item seven, she stated that she did not think the intent was to shut down the building completely. It would be such a waste to let it sit and rot. With regard to item three, she did not know any better use for the property than to have children in it.

Karen Ness, 219 W Ash St., recapped her letter that she sent to the Village. She stated that this is a for profit business that would be paying rent to St. John's, a not for profit institution. She also stated that there should not be children in a building with such inadequacies as were previously represented. She stated that St. John's has been violating the previous planned development ordinance by allowing other users to use the old school building.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser stated that she wanted to lay groundwork in terms of terminology and its importance this time. The word commercial has a broad interpretation and broad scope and gives the sense that there is a lot of activity, that there may be lights, action, and anticipation of growth. It is unfortunate that commercial casts this type of designation. We have to address that and what it really means. It has been pointed out that commercial can mean a lot of things other than what the staff report indicates. Staff has indicated that of ten operations in item four, seven were given conditional uses. It strikes me that when 70 percent of something has to be given a conditional use that the definitions might not be characterized the best they can be.

William Heniff referred to the table included in the packet. He stated that for clarity, where there are conditional uses most are located within business districts.

Commissioner Sweetser stated that was not her point, it was that there were conditional uses needed for 70 percent of the institutions.

Commissioner Cooper added that do we want our children in the middle of a strip mall. As Commissioner Sweetser was indicating, the way our codes and ordinances are set up they aren't keeping our children in the forefront. She indicated that she has comments in response to the seven items.

PLAN COMMISSION RESPONSE TO THE SEVEN (7) ITEMS

Chairperson Ryan mentioned that they should go through the points one by one. He requested that Commissioner Cooper begin by discussing **item one**.

Commissioner Cooper stated that this item requires consideration of the type of operation in this church. It is different than a car wash or auto body shop and this is a service provided to families for children. However, it has different connotations for the type of entity that it is. The day care has agreed to limit growth to forty students. In this case, the owner of the day care is willing and wants to cap growth. So, that might be one of the ways to decipher this as a separate approval and reject something in the future. Caring for children is compatible with neighborhoods and that is where children are. That is a wonderful part of Lombard's community and a marketable and unique quality. This type of use is conducive to residentially zoned district. As mentioned, there was a school in the building before and it had worked for many years. There is synergy between the two and the other uses in the area. Lastly, looking at an aerial at what the physical build out looks like, some of the adjacent land is zoned residential, this an R2PD. To the north is recreational and includes a library. Where else do you want your children to go? The historical museum is nearby. When you look at the land how it is developed the uses are synergistic to this business.

Commissioner Sweetser asked if this is a commercial business then what commercial area would we want that in. Commercial areas are strip areas. Is that something we would say as a community, that is where a daycare center should be? Or in a quasi-residential area?

Commissioner Olbrish stated that he realizes that day care facilities are part of society today because of both parents and single family parents working and there is a need for them. They have a place in the proper environment. After listening to all this today, he is still opposed to this petition because granting it would set a precedent for setting a commercial, for profit business into an residentially zoned residential area. He believes it would set a horrendous example for the Village. As an extreme example of this, East Central Avenue is one block south of where we sit. Central is a short distance from the Roosevelt Road Corridor. Does that mean we could establish commercial endeavors on Central? You don't only have to look at proximity to residential areas but how it is zoned. If St. John's wanted its own daycare center, we would still have to look at it. A standard building would be an issue but the major concern is establishing a for-profit in a residential area.

Commissioner Sweetser stated that she had thoughts along the same line but these issues are very interrelated and woven. This is where terminology doesn't service well. As far as precedent, St. John's would not be forced to accept any other if they are sought out. She asked if because this is a planned development it would not set a precedent as each planned development is different.

Mr. Heniff stated that it is not automatic.

Commissioner Flint stated that he had the same thought as Commissioner Sweetser. A precedent would not be set because this is a Conditional Use. He understands Commissioner Olbrish's comments but this petition should be evaluated on its own merits and if something else came along we would have to look at it.

Commissioner Burke stated that he lives in the area. He stated that he does not believe it is a quasi-residential neighborhood. We think it's a nice residential neighborhood. He stated that he did not know how you can say it wouldn't set a precedent. Churches are looking for ways to increase funding because of the economy and change of demographics. This would have an effect on other opportunities for this to occur in other planned developments in Lombard. It would be hard to stop that trend. Part of the issue is that the language is getting in our way and without changing that, it's difficult to address the situation.

Chairperson Ryan asked that the Commissioners begin discussion of **item two**.

Commissioner Cooper stated that there is compatibility with the school and the institutional planned development. So, the daycare doesn't fall under institutional heading.

Mr. Heniff stated that she is correct; it's a separate entity.

Commissioner Cooper stated that with the similarity of the educational focus we might want to look at those issues in the future.

Chairperson Ryan cautioned the Commissioners to stick to the present and not worry about the future at this point.

Chairperson Ryan asked that the Commissioners begin discussion of **item three**.

Commissioner Cooper stated that safety is increased by having people in the building and eyes on streets. She also stated that there is the financial contribution made in updating the building so it doesn't go into disrepair with the benefits of safety to public and entrances and sidewalks being cared for. She stated that working families need safe, loving environments to take children to. She mentioned that there is proven clientele relying on them. She noted that with all of the physical resources within this complex, they have something most do not have. Physical activity is so hard to come by and finding a place for physical activity is a challenge. This is a service for our community.

Commissioner Cooper also mentioned the location of the property and its proximity to transit and biking opportunities. She mentioned the Prairie Path, transit for commuting parents, and York theater. Also, no new construction would be required with having the old building. There would be no new buildings impacting the neighborhood. Bringing people to our downtown and enlivening the downtown and farmer's market is a benefit. We need people to patronize our downtown businesses and by having people coming into the downtown corridor it will be easier for people to access downtown.

Commissioner Olbrysh stated that he agreed with Commissioner Cooper as to the benefits. However, the issue is talking about a for profit organization in a residentially zoned area. He cannot get past that point. All the other points are great but the question is what organization is running the business. That is what bothers him.

Chairperson Ryan asked that the Commissioners begin discussion of **item four**.
Commissioner Flint stated the Plan Commission looks at each petition on its own merit. There is not a car dealership coming in here, it's something compatible with the area. We should look at it on a per case basis and this is a conditional use.

Commissioner Sweetser stated that she wished to reiterate the points she made before.

Chairperson Ryan asked that the Commissioners begin discussion of **item five**.

Commissioner Cooper stated that she would defer to KLOA regarding this item. The traffic study was completed and said this is one of the most efficient traffic flows they have seen. With the provision of the parking spaces, additional queuing should not be an issue.

Commission Sweetser stated that drop off times would only occasionally conflict with St. John's so she was not sure why an example was given about the queuing.

Mr. Heniff stated that it was meant to clarify discussion from the November meeting about traffic being delayed by queuing. It was given for reference purposes.

Commissioner Sweetser stated that she doesn't see the relevance.

Commissioner Burke stated that the petitioner acknowledged that there would be some overlap in traffic, particularly during morning drop off. He stated that he thinks there will be some overlap and will verify that Ash has a lot of cars waiting to get onto Lincoln. The petitioner's testimony comparing other schools traffic concerns is understandable but Westlake and Parkview are public schools and they are obligated to take that traffic. They are not asking to add to that traffic. If there is already a problem do we need to add to it?

Commissioner Sweetser stated that she did not think they would be adding to a problem because you mentioned it's an occasional overlap due to the time the center is open.

Commissioner Burke asked that the petitioner clarify the testimony.

The petitioner stated that pickup in the afternoon is usually after work, after the school is closed. In the morning, there will be some overlap for drop off times. However, the Creative Day parents will not be in the same queue and are not adding to any lines on Ash.

Chairperson Ryan indicated that **item six** has been discussed by the petitioner and Plan Commission. He asked that the Commissioners begin discussion of **item seven**.

Commissioner Cooper stated that St. John's has indicated that their decision has a lot to do with the economy.

Commissioner Sweetser stated that it serves a cause or it doesn't but to point to something and say you were going to do this and do that. Circumstances change and things come up not of our own doing and that is the issue here. She stated she is concerned that this opportunity came along and St. John's looked into it and it is coming across as a violation. Ultimately, it is more technical in nature and does not constitute premeditation or intent.

Chairperson Ryan asked for any other discussion.

Commissioner Flint asked staff if by approving this, would it set a precedent in their mind.

Mr. Heniff stated that there are two things to look at. We have a planned development in place. As information indicates that we have noted in the staff report, we haven't approved a use exception of a commercial day care in a residentially zoned R2 property. If approved, it could set a precedent. Day care centers are not listed as permitted or conditional use in residential districts. They can only be brought forward through use exception through their planned development. The Plan Commission gets to review every use exception on its own merit. One of the challenges is that we look at each case on own merits, but we have many institutional uses in the Village. The question comes up, they did it why can't we?

Commissioner O'Byrsh stated that his background is in law and lawyers look at precedent. We can't ignore that. That is why he has his opinion. He has nothing against daycare centers and they help the working family. However, it is where it is located and the precedent that is being set and where does all this stop. That is the concern.

Mr. Heniff stated that counsel has given additional direction as to a finding they should make prior to any final consideration in this matter. Now that additional information has been included as public testimony, the Plan Commission will be asked to make findings related to the items presented this evening.

Mr. Moynihan stated that in addition to the findings to be made regarding the seven items identified by the Board, counsel has added an eighth finding to be made:

The petition complies with the Standards of Planned Developments, Standards for Planned Development with Use Exceptions, and Variation Standards for not requiring additional parking spaces as set forth in the petitioner's Responses to those Standards attached to the November 17, 2008 staff report.

George Wagner explained that in the staff report there is a summary of two possible options. In the event the Plan Commission wishes to approve, there should be along with those findings of fact, an eighth finding that provides that part of the motion of the Plan Commission is adopting their previous findings that the petition has complied with the Standard for Planned Developments, Use Exceptions and Variations. If there is a motion for denial, he pointed out the recommended language should include the acceptance of the Inter-departmental Review Reports from both November 17, 2008 and January 26, 2009.

Commissioner Sweetser stated that she would like attention paid to terminology as it hasn't served us well in this case.

Commissioner Burke agreed with that. He said that looking at the seven items there are some that are problematic and some that are non-issues. The precedence is something we need to consider and that could be problematic. He asked staff is it only two options: either we approve with all eight findings or deny altogether.

Mr. Heniff stated that with the seven findings the Board of Trustees wanted, ultimately, with the additional testimony, we come back to a favorable or unfavorable recommendation from the Plan Commission. Within those seven provisions there may be one response you may or may not feel comfortable with but it does meet the Standards required. The seven items should give clarity for final recommendation.

Commissioner Sweetser stated that they have observed the letter of the law but the terminology doesn't begin to help us understand how they fit or don't fit. The spirit of the law should be in play and she will use that in her vote.

Commissioner Olbrysh asked that if he made motion, will he get a second?

Mr. Wagner suggested making a motion.

On a motion by Commissioner Olbrysh and a second by Chairperson Ryan, the Plan Commission voted 3 to 3 that the Village Board deny the petition based on the finding that the petitioner had not met the required Standards as set forth in the Zoning Ordinance. The motion having failed, George Wagner asked for a motion to approve.

Commissioner Cooper made a motion to approve the petition as written within the PC 08-32 Remand Memo with the seven finding as requested by the Village Board and the eight finding:

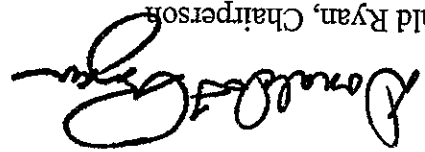
8. The petition complies with the Standards of Planned Developments, Standards for Planned Development with Use Exceptions, and Variation Standards for not requiring additional parking spaces as set forth in the petitioner's Responses to those Standards attached to the November 17, 2008 staff report.

Commissioner Cooper stated that her motion for approval should be subject to the six conditions as written within the PC 08-32 Remand Memo. The motion was seconded by Commissioner Flint. The Plan Commission voted 3 to 3 that the Village Board approve the petition based on the finding that the petitioner had met the required Standards as set forth in the Zoning Ordinance.

As the Plan Commission was unable to obtain four votes for either approval or denial of the petition, this petition will be forwarded to the Village Board with no Plan Commission recommendation.

Respectfully,

VILLAGE OF LOMBARD



Donald Ryan, Chairperson

Lombard Plan Commission

c. Petitioner

Lombard Plan Commission

Letters from St. John's
received after the
January Plan Commission
meeting

The bottom line is that we want to work with our Village not against it. We have had a successful relationship with our Village and I think it has worked well. Our new building is an asset both for our congregation and the

Meetings.
the Village staff and has had a representative at both the Planning Commission Meeting and Village Board needed to go through the approval process. The Church has engaged in many conversations and meetings with owners of the day care center they needed to see if the Village would approve of this type of use and they careful thought and consideration our Church thought it may be a good fit. From the very beginning we told the As I told Mr. Gron, we did not seek out this opportunity the day care center approached us and after some that our trustee was able to relay any questions that the board had on this issue.
was under the impression that our meeting on Wednesday morning with the Village staff and Greg Gron was so until the night of the meeting we were under the impression that the item was a consent agenda item. I also During the Village meeting on the 18th you indicated that you were disappointed that you had not heard from "St. John's" prior to that meeting. Please know that we did not intentionally refuse to speak to the Board, in fact

worth sharing with you and it would be appreciated if a copy could be left for Dick Tross.
not had a response from him. The following is from his last communication. The communication is Our congregational chair has tried to communicate with Dick Tross via email on three occasions and has to the pastoral level.

Their use is a good match for the ministry of St. John's. This support is full, from the congregational level desire to officially go on record as the owner of the school as being in support of Creative's request.
In regards to the request by Creative Learning Day Care to use space within our old school building, we

Dear Stuart:

Subject: Creative Learning Day Care

Stuart Moynihan
Village of Lombard
255 E. Wilson
Lombard, IL 60148

January 26, 2009

St. John's
Lutheran Church & School



RECEIVED
JAN 27 2009
COMMUNITY DEVELOPMENT



**St. John's
Lutheran Church & School**

community and I hope we continue to grow and improve our facilities and community together. I would be happy to discuss this in detail in person or over the phone at your earliest convenience. Please give me a call and I will do my best to accommodate whatever works best for you. Phone: 630-932-7649. Email: dave@freeseandassociates.com

I hope that the foregoing clarifies matters.

Sincerely,

Andy Arndt,
Parish Administrator

cc: Dan Wegrzyn, pastor
Dave Freeze, congregational chair

Dear Village Manager, Community Development Board, and Trustees of Lombard:

It is with great pleasure and confidence that I recommend Cheryl Holtz-Dennis and the Creative Day Learning Center to the Village of Lombard. I have been a resident of Lombard for 17 years and have known Cheryl 15 of those years. I first met Cheryl when I enrolled my children into her daycare program, located then in Villa Park. During that first year, Cheryl and I became friends, and I immediately grew to respect her as a loving and caring day care supporter as well as a sound business woman in the child care provider field.

Friendly, honest, supportive, positive, dedicated, hard-working are just a few of the words that I would use to describe Cheryl and the atmosphere she provided in her Day Care Center in Villa Park. Cheryl and her day care were also very personable. Not only did my children as well as all the children love her, but she had gained respect from parents and community members within the center as well.

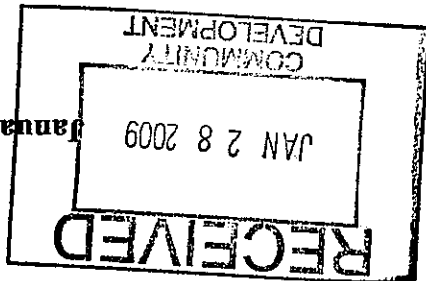
Knowing Cheryl and her business for as long as I have, I can certainly vouch for her as a great individual and day care provider who is a concerned and active citizen in the Lombard community.

Creative Day Learning Center is a credit to any community it is associated with. I strongly believe Creative Day Learning Center (located in St. John's Lutheran School) will be a good viable business for Lombard and recommend it to the Village of Lombard community.

Sincerely yours,



Susan Tepper
335 South Grace Street
Lombard, Illinois 60148
Home: (630) 627-6137

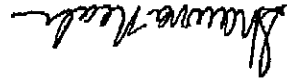


January 26th, 2009



326 W Wilson
Lombard, IL 60148
(217) 840-9873

Shawna Neale



Sincerely,

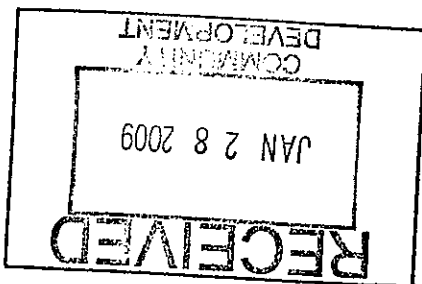
To whom this may concern,

I am writing this letter of recommendation on behalf of Creative Day Learning Center. My son attended Creative Day at its previous location in Villa Park. He attended from January through May of 2008. My family currently resides in Lombard. During our search for childcare we were unable to find a daycare service in Lombard with a reasonable enough rate to send our son. Creative Day provided great childcare at a rate we could afford.

I would highly recommend Creative Day Learning Center to its new location in Lombard.

Village Manager
Lombard Trustee
Community Development Board

January 27, 2009





Jennifer Smylie
1500 Sandstone Dr. #106
Wheeling, IL 60090
(847) 529-2690



I am writing this letter of recommendation regarding Cheryl Holtz - Dennis and Creative Day Learning Center. We were a client of Creative Day for 2 years. During this time we became great friends with Cheryl, her staff and her family. We were always treated with the utmost quality of care and professionalism. Creative Day staff have always been warm and inviting people who are great at planning fun, safe projects and activities for the children, providing healthy meals and snacks and communicating any concerns immediately with the parents. It is my heartfelt opinion that Cheryl Holtz - Dennis, her staff and Creative Day Learning Center will be a wonderful asset to your community now, and for many years to come. Thank you.

To:
The Community Development Board,
The Village Manager of Lombard,
The Village of Lombard Trustees.

