

December 4, 2008

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

Subject: PC 08-32; 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:

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.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on November 17, 2008. 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 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 Ms. 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 centers in 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 then 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.

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

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

Mr. Dennis indicated that a schedule could be worked out to use the playground in the back of the building. CDC has an active curriculum as mandated by DCFS and the state. There is a library across the street which could be used. Mrs. Holtz also likes to take field trips on the train and would utilize some things in the area like the pool at Moran Water Park. He stated that the amenities in the area are conducive to her business. He mentioned Lilacia Park. He emphasized again the area is very conducive to the type of drop off and pick up they will be conducting. He mentioned the traffic study which came back favorably. St. John's has a very structured drop off and pick up and he explained the procedure. He mentioned their major drop off time would be from 7 a.m. to 8:15 a.m. with pick up time being after 4:00 p.m. resulting in minimal overlap. He mentioned that the eight spaces on Lincoln Avenue can't be counted toward parking but they can be used. He stated that there are more than enough spaces to accommodate both the school and the day care. He stated that staff has said there should be four spots reserved for Creative Day in the parking lot. He stated that the parish administrator said there would be no problem with this.

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

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 community.

Chairperson Ryan then opened the meeting for public comment.

Tracy Bingham declined to speak.

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, non-commercial area.

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 is 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 there were a lot of uses mentioned. She felt they would have to determine whether it's an appropriate use for that zoning and then take a look at the terms and definitions used. There have been a number of terms used such as private and commercial. They should look at the operation itself however it is classified. In terms of day care centers being commercial, that may be true of Kindercare but other day care centers such as The Growing Place are 501c3's. The staff report mixes terms and does not allow a fair understating of what is going on. If you take a 501c3 and you take a look at one of those which will be capped at forty, that would be contradictory to the staff report that states it would be growing. If you compare it to a 501c3, you would not be able to tell the difference as to the category it falls under.

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 that she was not sure if 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 cost 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.

Commission 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.

Commission 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.

Commissioner Sweetser motioned to approve PC 08-29. The motion was seconded by Commissioner Flint.

After due consideration of the petition and the testimony presented, the Plan Commission found that the proposed conditional use amendment, planned development use exception, and variation **comply** with the standards required by the Lombard Zoning Ordinance; and, therefore, moved that the Plan Commission does not accept the findings included as part of the Inter-departmental Review Report be the findings of the Plan Commission and therefore, by a roll call vote of 4 to 1, recommends to the Corporate Authorities **approval** of the zoning actions 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 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.

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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.

Respectfully,

VILLAGE OF LOMBARD

Donald Ryan, Chairperson
Lombard Plan Commission

c. Petitioner
Lombard Plan Commission

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