

VILLAGE OF ARLINGTON HEIGHTS

ORDINANCE NO. 2024-_____

AN ORDINANCE GRANTING A SPECIAL USE PERMIT, VARIATIONS, AND
A LAND USE VARIATION FOR A DAY CARE CENTER
(308 N. Evergreen Ave.)

ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF ARLINGTON HEIGHTS
THIS ____ DAY OF _____, 2024.

Published in pamphlet form
by the authority of the
President and Board of Trustees
of the Village of Arlington Heights,
Cook County, Illinois this
_____ day of _____, 2024

Village Clerk

AN ORDINANCE GRANTING A SPECIAL USE PERMIT, VARIATIONS,
AND A LAND USE VARIATION FOR A DAY CARE CENTER
(308 N. Evergreen Ave.)

WHEREAS, Christian Education Pre-K NFP (“*Applicant*”) are the lessees of record of that certain property owned by St. John’s United Church of Christ (“*Owner*”) located in the B-2 General Business District (“*B-2 District*”) and R-7 Multi-Family Dwelling District (“*R-7 District*”), commonly known as 308 N. Evergreen Ave., and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance (“*Property*”); and

WHEREAS, the Property is currently improved with a church occupied by St. John’s United Church of Christ; and

WHEREAS, the Applicant leases space within the basement of the church and is operating a day care center, known as the Christian Pre-K Prep Day Care (“*Proposed Use*”), pursuant to a Proceed At Own Risk Declaration and a Village-issued temporary business license; and

WHEREAS, pursuant to Section 8.6 of “The 2002 Comprehensive Amendment of the Zoning Ordinance of the Village of Arlington Heights,” as amended (“*Zoning Code*”), a day care center may only be constructed and used on the portion of the Property located in the B-2 District upon issuance by the Village Board of Trustees of a special use permit therefor; and

WHEREAS, pursuant to Section 12.2 of the Zoning Code, the portion of the Property located in the R-7 District may only be used for the Proposed Use upon issuance by the Village Board of Trustees of a land use variation therefor; and

WHEREAS, pursuant to Section 6.12-1(3) of the Zoning Code, a traffic study and parking analysis prepared by a qualified engineer or prepared in a manner acceptable to the Village is required for any special use that is not adjacent to a major or secondary arterial street as defined by the Village’s Thoroughfare Plan; and

WHEREAS, the Applicant proposes to not prepare a traffic study and parking analysis, in violation of Section 6.12-1(3) of the Zoning Code; and

WHEREAS, pursuant to Section 10.4 of the Zoning Code, 137 parking spaces are required for all uses on the Property, including the Proposed Use; and

WHEREAS, the Applicant proposes that the Property have 50 parking spaces, in violation of Section 10.4 of the Zoning Code; and

WHEREAS, pursuant to Sections 8 and 12 of the Zoning Code, the Applicant, with the Owner’s consent, has filed an application for approval of: (i) a special use permit to permit the operation of the Proposed Use on the portion of the Property located in the B-2 District; (ii) a land use variation to permit the operation of the Proposed Use on the portion of the Property located in the R-7 District; (iii) a variation from Section 6.12-1(3) of the Zoning Code to waive the requirement of a traffic study and parking analysis, and (iv) a variation from Section 10.4 of the Zoning Code to reduce the required parking from 137 spaces to 50 spaces (collectively, the “*Requested Relief*”); and

WHEREAS, a public hearing of the Plan Commission of the Village to consider approval of the Requested Relief was duly advertised in the *Daily Herald* on December 5, 2023, and held on December 20, 2023; and

WHEREAS, on December 20, 2023, the Plan Commission made findings and recommendations in support of the Requested Relief, with conditions; and

WHEREAS, the President and Board of Trustees have determined that the Requested Relief meets the required standards for a special use permit, land use variation, and variations as set forth in Sections 8.2 and 12.2 of the Zoning Code; and

WHEREAS, the President and Board of Trustees have determined that it will serve and be in the best interest of the Village to grant the Requested Relief, subject to the conditions, restrictions, and provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ARLINGTON HEIGHTS:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. GRANT OF SPECIAL USE PERMIT. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 5 of this Ordinance, and in accordance with, and pursuant to, Section 8 of the Zoning Code and the home rule powers of the Village, the Village hereby grants a special use permit to the Applicant for the Proposed Use, to authorize the use of a day care center on the portion of the Property in the B-2 District.

SECTION 3. GRANT OF LAND USE VARIATION. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 5 of this Ordinance, and in accordance with, and pursuant to, Section 12 of the Zoning Code and the home rule powers of the Village, the Village hereby grants a land use variation to the Applicant for the Proposed Use, to authorize the use of a day care center on the portion of the Property in the R-7 District.

SECTION 4. GRANT OF VARIATIONS. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 5 of this Ordinance, and in accordance with, and pursuant to, Section 12 of the Zoning Code and the home rule powers of the Village, the Village hereby grants the following variations:

- A. Traffic Study and Parking Analysis. A variation from Section 6.12-1(3) of the Zoning Code to waive the requirement of a traffic study and parking analysis prepared by a qualified professional engineer for the Proposed Use.
- B. Required Parking. A variation from Section 10.4 of the Zoning Code to reduce the required parking on the Property, from 137 spaces to 50 spaces.

SECTION 5. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Code, the approvals granted pursuant to Sections 2, 3, and 4 of this Ordinance are hereby expressly subject to, and contingent upon, the development, use, and maintenance of the Property in compliance with each and all of the following conditions:

- A. Compliance with Regulations. Except to the extent specifically provided otherwise in this Ordinance, the development, use, operation, and maintenance of the Proposed Use and the Property must comply at all times with all applicable Federal, State, and Village statutes, codes, ordinances, and regulations, as the same have been or may be amended from time

to time. Additionally, the Proposed Use must conform with all applicable Illinois Department of Children and Family Services regulations.

- B. Compliance with Floor Plan. Except for minor changes and site work approved by the Village Director of Building & Life Safety (for matters within their permitting authority) in accordance with all applicable Village standards, the development, use, operation, and maintenance of the Proposed Use must be substantially compliant with the Floor Plan prepared by the Applicant and with a last revision date of October 10, 2023, consisting of two sheets, attached to this Ordinance as Exhibit B.
- C. Maximum Occupancy. No more than 25 students may occupy the Proposed Use at the same time.

SECTION 6. RECORDATION; BINDING EFFECT. A copy of this Ordinance will be recorded on title to the Property with the Cook County Clerk's Recording Division. This Ordinance and the privileges, obligations, and provisions contained herein inure solely to the benefit of, and are binding upon the Applicant and each of its heirs, representatives, successors, and assigns.

SECTION 7. FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Applicant to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, as applicable, the approvals granted in Sections 2, 3, and 4 of this Ordinance may, at the sole discretion of the Village President and Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village President and Board of Trustees may not so revoke the approvals granted in Sections 2, 3, and 4 of this Ordinance unless they first provide the Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village President and Board of Trustees. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the B-2 District and R-7 District and the applicable provisions of the Village Code, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such enforcement action as may be appropriate under the circumstances.

SECTION 8. AMENDMENTS. Any amendments to the approvals granted in Sections 2, 3, or 4 of this Ordinance that may be requested by the Applicant after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Code.

SECTION 9. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance are to remain in full force and effect, and will be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 10. EFFECTIVE DATE.

- A. This Ordinance will be effective only upon the occurrence of all of the following events:
 - 1. Passage by the Village President and Board of Trustees in the manner required by law; and
 - 2. The filing by the Applicant with the Village Clerk of an Unconditional Agreement and Consent, in the form of Exhibit C attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations

set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.

- B. In the event the Applicant does not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 10.A.2 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the Village President and Board of Trustees will have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

AYES:

NAYS:

PASSED AND APPROVED THIS ___ day of _____, 2024

Village President

ATTEST:

Village Clerk

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

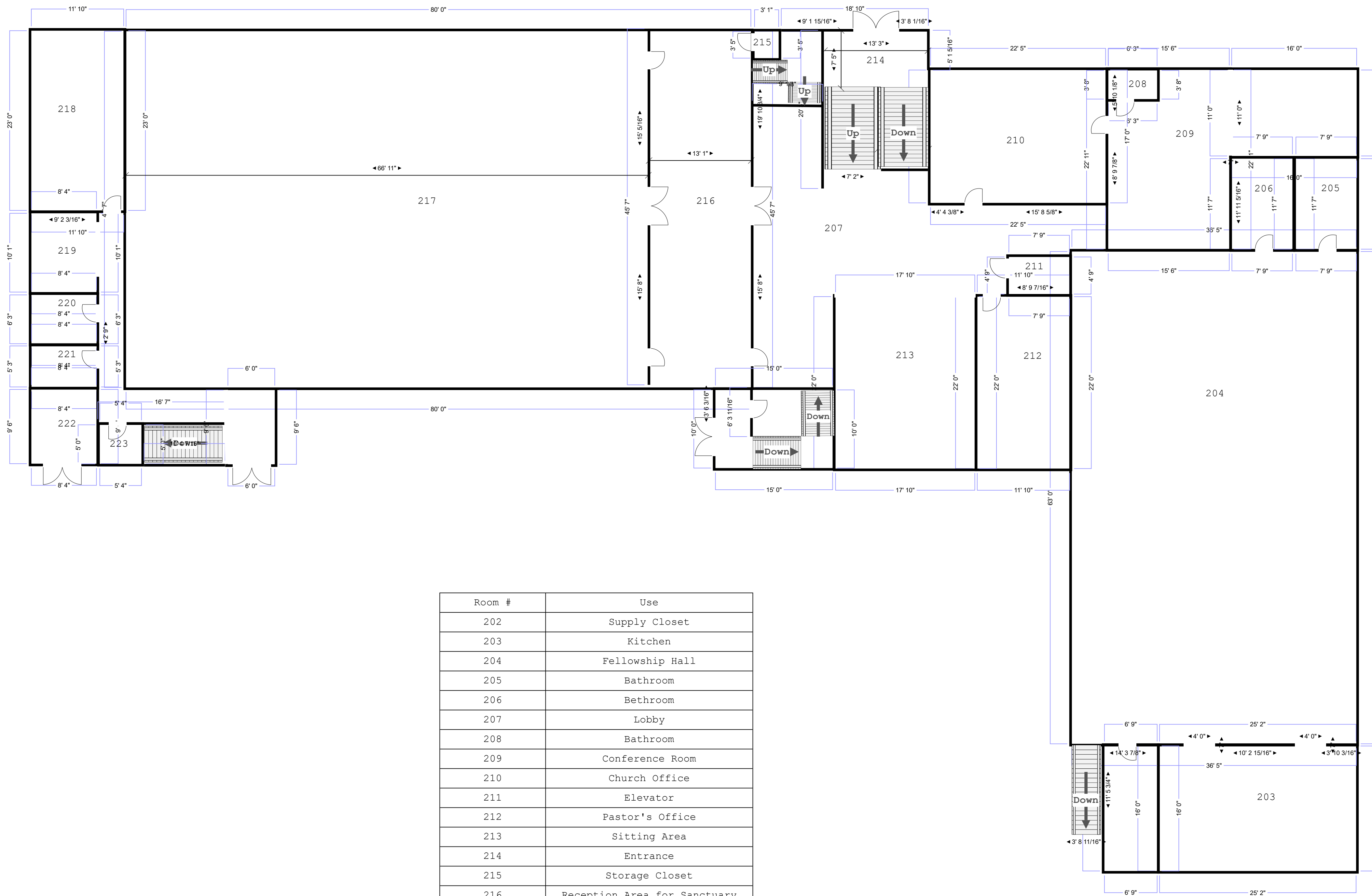
LOT 1, 2, 3, AND 4 IN BLOCK 11 IN THE TOWN OF DUNTON, BEING A SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 308 N. Evergreen Ave., Arlington Heights, Illinois 60004

P.I.N.: 03-29-318-005

EXHIBIT B
FLOOR PLAN

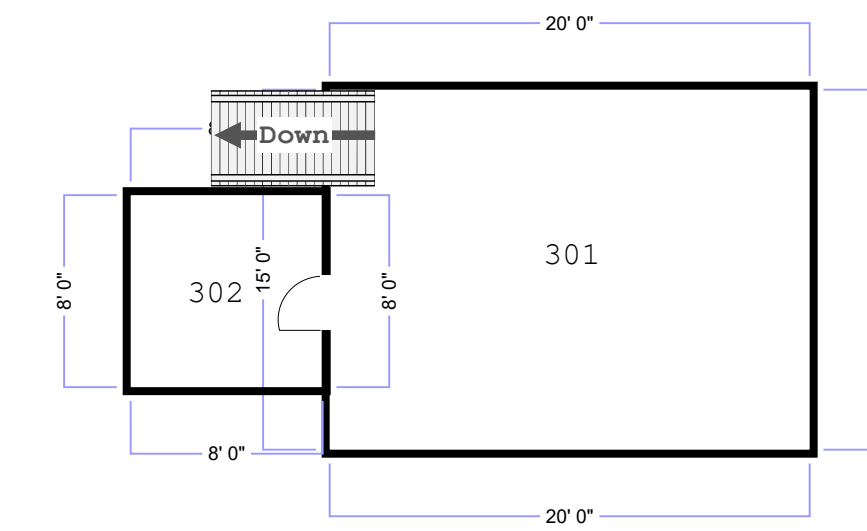
First Floor



Room #	Use
202	Supply Closet
203	Kitchen
204	Fellowship Hall
205	Bathroom
206	Bathroom
207	Lobby
208	Bathroom
209	Conference Room
210	Church Office
211	Elevator
212	Pastor's Office
213	Sitting Area
214	Entrance
215	Storage Closet
216	Reception Area for Sanctuary
217	Sanctuary
218	Choir Room
219	Kitchen
220	Bathroom
221	Storage Closet
222	Garage
223	Storage Closet

Note: Sanctuary has individual chairs for seating (not pews)

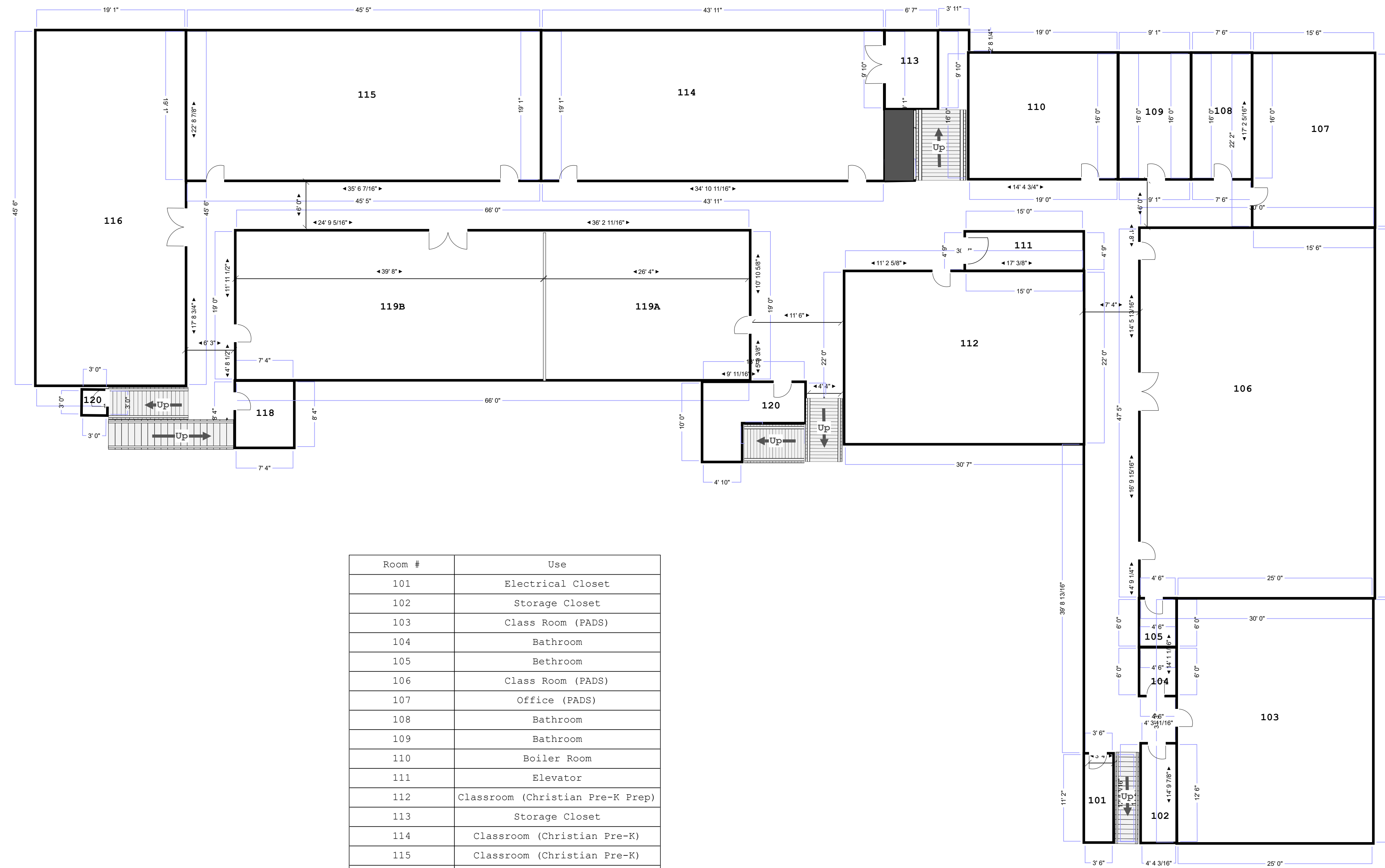
Second Floor



Room #	Use
301	Balcony and Audio/Visual Desk
302	Storage Closet

Note: Balcony has individual chairs for seating (not pews)

Basement



Room #	Use
101	Electrical Closet
102	Storage Closet
103	Class Room (FADS)
104	Bathroom
105	Bathroom
106	Class Room (FADS)
107	Office (FADS)
108	Bathroom
109	Bathroom
110	Boiler Room
111	Elevator
112	Classroom (Christian Pre-K Prep)
113	Storage Closet
114	Classroom (Christian Pre-K)
115	Classroom (Christian Pre-K)
116	Hand Bell Choir Practice Room
117	Storage Closet
118	Storage Closet
119A	Office (Christian Pre-K)
119B	Office (Tenant Church)
120	Utility Closet

EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Arlington Heights, Illinois (“*Village*”):

WHEREAS, Christian Education Pre-K NFP (“*Applicant*”) are the lessees of record of that certain property owned by St. John’s United Church of Christ (“*Owner*”) located in both the B-2 General Business District (“*B-2 District*”) and R-7 Multi-Family Dwelling District (“*R-7 District*”), commonly known as 308 N. Evergreen Ave. (“*Property*”); and

WHEREAS, Ordinance No. 2024-_____, adopted by the Village President and Board of Trustees on _____, 2024 (“*Ordinance*”), approves a special use permit, a land use variation, and variations for the Applicant for the operation of a day care center on the Property; and

WHEREAS, Section 10 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Applicant and Owner file, within 30 days following the passage of the Ordinance, their unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Applicant and Owner hereby agree and covenant as follows:

1. The Applicant and Owner hereby unconditionally agree to, accept, consent to, and will abide by, each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.

2. The Applicant and Owner acknowledge that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.

3. The Applicant and Owner acknowledge and agree that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village’s granting of the special use permit, variations, and a land use variation for the Property or its adoption of the Ordinance, and that the Village’s approvals do not, and will not, in any way, be deemed to insure the Applicant or Owner against damage or injury of any kind and at any time.

4. The Applicant and Owner hereby agree to jointly and severally hold harmless and indemnify the Village, the Village’s corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village’s adoption of the Ordinance granting the special use permit, variations, and a land use variation for the Property.

[SIGNATURES ON FOLLOWING PAGE]

Dated: _____, 2024

ATTEST:

CHRISTIAN EDUCATION PRE-K NFP

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

ST. JOHN'S UNITED CHURCH OF CHRIST

By: _____

By: _____

Its: _____

Its: _____