

May 5, 2025

City of Aurora Planning and Zoning Commission
44 E. Downer Place
Aurora, IL 60505

RE: Batavia Public School District's Concerns for Proposed Residential School at 998 Corporate Blvd, Aurora, IL

Dear Members of the Planning and Zoning Commission,

It is our understanding that the Planning and Zoning Commission will review a zoning permit and conditional use application for a residential treatment and educational facility at 998 Corporate Blvd, Aurora, Illinois, at its upcoming meeting on May 7, 2025. This proposed facility is located within the boundaries of Batavia Public School District 101 ("District").

The District understands it is not the deciding body and has no vote in the consideration of this zoning permit and conditional use application. The District respectfully submits this letter merely to share its opinion and concerns related to the proposed zoning permit and conditional use application. While our District strongly supports quality educational and therapeutic services for all students, we have concerns regarding this proposal for a multitude of reasons, including the below:

- 1. Historical Context:** Just a few years ago there was a previous residential facility at this location. Northern Illinois Academy was an 87-bed residential treatment center that was closed by the Illinois State Board of Education in 2021 after severe operational deficiencies, including but not limited to, abuse and neglect, inadequate staffing, improper use of restraints, deficiencies in treatment planning, elopements, and a tragic death when a student eloped from this facility and a staff member was struck by a vehicle. This facility is located in a heavily commercial area. Thereafter, Northern Illinois Academy was deemed "non-approved" for educational and residential services and closed its doors.

- 2. Facility Appropriateness and Commercial Area Location:** The proposed residential program site is zoned for commercial use and is a commercial facility, and neither the structure nor the surrounding area is appropriate for residential and educational student services. The listing sheet for this facility on Crexi indicates the property is in an industrial park near the four way interchange of I-88 and Farnsworth. The facility's previous operational failures, as noted above, underscore the unsuitability of this building and industrial park location to safely and effectively accommodate students with specialized residential and educational needs. Per Lydia Home, many of these students have a significant history of trauma, neglect and serious behavior issues in their background. Such often includes a history of elopement from prior school and home facilities. Placing such students in a heavily commercial and industrial area runs significant safety and suitability concerns, including the risks of elopements from the facility and the potential for student and staff member accidents.
- 3. Lack of Clear School Educational Plan and Lack of Understanding of IDEA Obligations:** Lydia Home has indicated that they plan to open a school in their facility to provide educational supports and services for their residents. However, no clarity has been provided related to whether such will be an ISBE approved special education school or an ISBE approved general education school, and the continuum of educational services they plan to provide. Furthermore, the approval process for an ISBE approved educational facility is a lengthy process, and there is no guarantee that ISBE will ultimately approve the school as an ISBE non-public special education facility. If they are not approved or if there is a delay in approval, the provision of all educational services will fall to the District for the residents of Lydia Home. Furthermore, even if Lydia Home does obtain ISBE approval to proceed with a school at their facility, as outlined below, there is no guarantee that the District will not be responsible for the provision of educational services to the students residing at Lydia Home, as school districts are required to provide a continuum of educational services. It will be important for the Planning and Zoning Committee to review Lydia Home's ISBE non-public school facility application as part of its consideration of the permit and conditional use application to gain a clear understanding of what Lydia Home intends to provide as part of a school on its site. Additionally, as noted below, if Lydia Home was to open an ISBE approved non-public special education facility, the District would likely be responsible for funding the education for such students residing at the facility and attending the Lydia Home school and overseeing the provision of a free appropriate public education ("FAPE") to such students, based on the District's obligations under the *Illinois School Code*.
- 4. Resource and Capacity Constraints:** Lydia Home has claimed that once they start a school under the approval of ISBE, the educational needs of their residential students would be the direct responsibility of Lydia Home and there would be no financial or operational costs to the District. Such is not accurate. First, the District

has funding obligations for the educational portion of a residential placement for resident students of the District. Furthermore, pursuant to the *Individuals with Disabilities in Education Act* (“IDEA”), students must be provided educational services in their least restrictive environment. Thus, Lydia Home cannot guarantee that all the students in their residential facility will always be served by their school; such a guarantee would violate the fundamental provisions of the IDEA. For example, while a student may be residing in Lydia Home because there are no foster homes for the student, the student does not automatically require a private or public therapeutic level of educational service. The type of educational setting a student requires is an individualized education program (“IEP”) team determination and there may be circumstances where such students are placed within the District’s school to receive their educational services within their least restrictive environment. On the other end of the educational placement spectrum, there also may be students residing in Lydia Home and attending their private therapeutic day school, where a determination is made by the IEP team that the student requires a more restrictive placement in light of their needs. If it was determined that the student required a higher level of residential programming based on their educational needs than that which Lydia Home provides, the District would be responsible for the provision of FAPE to the student and likely financially responsible for the educational services associated with such.

Additionally, Lydia Home has indicated that they will be servicing students with IEPs; however, there is no guarantee of such. Many DCFS students require residential programming due to difficulties related to home experiences and student functioning in the home, unrelated to schooling. In such situations, the students would not have an IEP and, therefore, must be provided education in a general education setting and school building (i.e. the District’s schools).

The above concerns not only impact the District financially, but there are also space, staffing and resource considerations if a portion of the Lydia Home students are attending District schools. Integrating a significant number of students with highly specialized and complex needs would impose additional staffing and resource requirements, surpassing the District’s current capacities and operational infrastructure. Such substantial growth would negatively impact the District’s ability to effectively serve our existing student population.

5. Statutory and Financial Obligations and Misrepresentation of District Obligations:

In addition to claiming that the District would not be responsible for providing educational services, Lydia Home claims that the role of the District would primarily involve convening a few annual review IEP meetings each year for all Lydia Home special education students. Such is inaccurate and a significant misrepresentation of the legal and practical obligations of educational entities under the IDEA.

Pursuant to the *Illinois School Code* residency requirements (105 ILCS 5/10-20.12a, 105 ILCS 5/14-7.05), the District would be responsible for providing education to students placed by state agencies such as DCFS. Although tuition reimbursements under the Orphanage Act (105 ILCS 5/18-3) offset some direct educational costs, these reimbursements do not cover substantial indirect expenses, including administrative overhead, evaluation obligations, related service expenses (i.e. assistive technology, speech and language therapy, occupational and physical therapy, etc.), special education case management, and external service coordination. Lydia Home's estimates of the operational and financial impact substantially underestimate the complexity of such requirements and the fiscal impact on the District.

When the previous residential, Northern Illinois Academy, closed, all students placed in that facility were dispersed to other ISBE approved residential facilities around the nation, leaving the District legally and financially responsible for the out-of-state educational placements of such students and the provision of a FAPE to such students. This aspect further exacerbates the District's administrative and financial burdens for years after the students moved out of the District to other facilities.

- 6. Lack of Control Over Enrollment:** If this residential facility opens, the District has no influence or control over how many students are enrolled and attending District schools. This unknown factor significantly amplifies the operational and administrative concerns to our District.

Given these substantial safety, statutory, operational, and facility-related concerns, as well as the inaccurate and lack of comprehensive information regarding educational service obligations provided by Lydia Home, Batavia Public School District 101 believed it was important to share its concerns with the Planning and Zoning Commission since we are a public body within the relevant community. Thank you for considering our concerns related to this proposal.

Respectfully submitted,



Thomas Y. Kim
Superintendent of Schools

cc: Board of Education, Batavia Public School District 101