

Department of Community Planning and Economic Development
Conditional Use Permit, Variance
BZZ-5903

Date: February 4, 2013

Applicant: Hamdi Nur

Address of Property: 2505-09 5th Avenue S

Project Name: Not applicable

Contact Person and Phone: Hamdi Nur, (612) 229-4745

CPED Staff and Phone: Aly Pennucci, (612) 673-5342

Date Application Deemed Complete: January 7, 2013

End of 60-Day Decision Period: March 8, 2013

Ward: 6 **Neighborhood Organization:** Phillips West Neighborhood Organization

Existing Zoning: R4 Multiple-family Residence District

Zoning Plate Number: 20

Legal Description: LOT 4, BLOCK 1, AND THE NORTH 46 FEET OF THE WEST 120 FEET OF LOT 3, BLOCK 1, R.D. BEEDE'S 2ND ADDITION TO MINNEAPOLIS, HENNEPIN COUNTY, MINNESOTA

Proposed Use: Child care center

Concurrent Review:

Conditional use permit to allow a child care center.

Variance: to reduce the minimum off-street parking requirement from 11 spaces to 10 spaces.

Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; and Chapter 525, Article IX Variances, specifically section 525.520 (6) "To vary the applicable minimum and maximum number of required off-street parking, stacking or loading spaces."

Background: The applicant is proposing a child care center in the existing building located at 2505-09 5th Avenue S. The applicant will convert the vacant building to a child care center. A child care center in the R4 district requires a conditional use permit.

The existing building where the child care center will be located is a non-residential structure that most recently housed an automobile repair facility. The previous automobile use in this building was non-

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conforming due to the fact that the property is zoned R4, Multiple-family Residence District. The establishment of a child care center will bring the property into conformance with the zoning code in terms of land use. Per Section 531.40 of the zoning code, when a non-conforming use is discontinued for a continuous period of more than one (1) year, it shall be deemed to be abandoned and may not thereafter be reestablished or resumed. Any subsequent use of the land or structure shall conform to the requirements of the district in which it is located.

The proposal includes renovations to the existing building to accommodate the conversion from an automobile repair facility to a child care center. The renovation includes removing the existing overhead doors facing the front lot line and replacing it with windows and storefront doors. In addition, the applicant will remove the curb cut and driveway leading to the overhead doors and will replace with a sidewalk and landscaping.

The minimum vehicle parking requirement for a child care center is one (1) space per 500 square feet of gross floor area (GFA) plus two (2) drop off spaces (either off-street or on-street by permission of the city engineer). In this case the proposed child care center will have 5,230 square feet of GFA, which results in a minimum off-street parking requirement of 10 parking spaces plus 2 drop off spaces. The applicant is proposing two drop-off spaces in front of the building, in the public right-of-way (working with Public Works staff accordingly), and eight parking spaces in the accessory parking area. With this, the child care center will be deficient two (2) off-street parking stalls. To meet the parking requirement, the applicant can also receive a reduction from 12 spaces to 11 spaces by providing a bicycle rack, per Section 541.220 of the zoning code. The applicant is proposing four bicycle parking stalls in the public right-of-way (boulevard) and is working with Public Works staff accordingly, resulting in a needed parking variance of only one off-street parking space.

As of the writing of this report staff has not received comments from the Phillips West Neighborhood Organization. Any comments, if received, will be forwarded to the Commission.

CONDITIONAL USE PERMIT: to allow a child care center in the R4, Multiple-family Residence district

Findings as Required by the Minneapolis Zoning Code:

The Minneapolis Department of Community Planning and Economic Development has analyzed the application and from the findings below concludes that the establishment, maintenance, or operation of the proposed conditional use:

- 1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The child care center will not be detrimental to or endanger the public health, safety, comfort or general welfare. The proposed child care center will be located within an existing, non-residential building. The existing building was previously used as an automobile repair facility. The applicant has proposed changes to the exterior of the building to eliminate the overhead doors used for the auto repair use, will add windows and a new entrance and will remove the

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paved area and curb cut leading to the existing overhead doors. In addition, the applicant will convert a portion of the existing accessory parking area to an outdoor play area that will be enclosed with a six foot tall solid wood fence.

- 2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

Locating a child care center in the existing building will not be injurious to the use and enjoyment of other property in the vicinity or impede the normal or orderly development and improvement of surrounding property for uses permitted in the district. The surrounding area is fully developed with residential uses to the north, south and east and faces the interstate to the west. A child care center is allowed as a conditional use in the R4 district and therefore the proposed use will bring the property into conformance with the zoning code in terms of land use. The proposal to incorporate this type of neighborhood oriented use into an existing building is expected to contribute to the overall goal of providing a wide range of goods and services for the area.

The applicant intends to renovate the existing building, as described above. As a condition of approval staff is recommending that a walkway is added that connects the front entrance to the public sidewalk to comply with section 535.95 of the zoning code; this will be consistent with surrounding property and typical developments in the area. The existing parking area is nonconforming in terms of the location of the drive aisle in a required yard and the screening requirement. This is an existing condition and will not be expanded as part of this project. To soften the edge of the existing surface parking area staff is recommending that screening is added between the public street and the parking area. With the proposed conditions of approval the proposed use will be in keeping with the character of the area.

- 3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

Utilities and access roads are existing and adequate. There will be no impacts made on the utilities, roads or drainage with the establishment of a child care center in the existing building.

- 4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The use is not expected to contribute to traffic congestion in the public streets. The vehicle parking requirement for child care centers is one space per 500 square feet of gross floor area, or a minimum of four spaces, plus two drop off spaces. The proposed child care center will have 5,230 square feet of GFA, which results in a minimum off-street parking requirement of 11 parking spaces plus 2 drop off spaces. The applicant is proposing two drop-off spaces in front of the building, in the public right-of-way, and eight parking spaces in the accessory parking area. With this, the child care center will be deficient two (2) off-street parking stalls. To meet the parking requirement, the applicant can also receive a reduction from 12 spaces to 11 spaces by providing a bicycle rack, per Section 541.220 of the zoning code. The applicant is proposing four

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bicycle parking stalls in the public right-of-way, resulting in a needed parking variance of only one off-street parking space. Off-street parking for the proposed development is further analyzed below in the variance section of the staff report.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

This site is designated as Urban Neighborhood on the future land use map in *The Minneapolis Plan for Sustainable Growth*. The Urban Neighborhood designation is describe as predominantly residential with a range of densities, with highest densities generally to be concentrated around identified nodes and corridors. Urban Neighborhood may include undesignated nodes and some other small-scale uses, including neighborhood-serving commercial and institutional and semi-public uses (for example, schools, community centers, religious institutions, public safety facilities, etc.) scattered throughout. According to the principles and polices outlined in *The Minneapolis Plan for Sustainable Growth*, the following apply to this proposal:

Land Use Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

Land Use Policy 1.3: Ensure that development plans incorporate appropriate transportation access and facilities, particularly for bicycle, pedestrian, and transit.

1.3.1 Require safe, convenient, and direct pedestrian connections between principal building entrances and the public right-of-way in all new development and, where practical, in conjunction with renovation and expansion of existing buildings.

1.3.2 Ensure the provision of high quality transit, bicycle, and pedestrian access to and within designated land use features.

Land Use Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing or increased density in order to attract and retain long-term residents and businesses.

1.8.2 Advance land use regulations that retain and strengthen neighborhood character, including direction for neighborhood-serving commercial uses, open space and parks, and campus and institutional uses.

Allowing a child care center to be established in an existing building is consistent with the above policies of the Comprehensive Plan.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.

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The existing parking area is nonconforming in terms of the location of the drive aisle in a required yard and the screening requirement. This is an existing condition and will not be expanded as part of this project. To soften the edge of the existing surface parking area staff is recommending that screening is added between the public street and the parking area. With the proposed conditions of approval the proposed use will be in keeping with the character of the area. As a condition of approval staff is recommending that a walkway is added that connects the front entrance to the public sidewalk to comply with section 535.95 of the zoning code; this will be consistent with surrounding property and typical developments in the area. With these conditions, the approval of the conditional use permit and the requested parking variance, the site and use will be in compliance with the applicable regulations of the R4 district.

Specific Development Standards:

In addition to the conditional use standards, the following specific development standards also apply to child care centers:

1. In the residence and OR1 Districts, the use shall be located in a nonresidential structure existing on the effective date of this ordinance, or nursing home.

Staff comment: The proposed child care center will be located in a nonresidential structure.

2. The use shall provide a designated area for the short-term parking of vehicles engaged in loading and unloading children, as specified in Chapter 541, Off-street Parking and Loading. The designated area shall be located as close as practical to the principal entrance of the building and shall be connected to the building by a sidewalk.

Staff comment: The applicant is proposing two drop-off spaces within the right-of-way directly in front of the building and is working with Public Works accordingly.

3. Play equipment shall not be located in required front, side, or rear yards and shall be effectively screened from any adjacent residential use located in a residence or office residence district or from a ground floor permitted or conditional residential use, as specified in Chapter 530, Site Plan Review.

Staff comment: Play equipment will be located to the side of the building and will be screened from adjacent residential uses by a six foot tall wood fence.

4. To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood.

Staff comment: No new construction is proposed. The child care center is proposed in an existing building.

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5. An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening, and other site improvements consistent with the character of the neighborhood.

Staff comment: The properties to the north, south and east of the site are residential uses. The outdoor area is screened from the property to the north by the building and will be screened from the residential property to the south and east by a six foot tall fence.

VARIANCE: to reduce the minimum off-street parking requirement from 11 spaces to 10 spaces

Findings Required by the Minneapolis Zoning Code:

1. **Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The vehicle parking requirement for child care centers is one space per 500 square feet of gross floor area, or a minimum of four spaces, plus two drop off spaces. The subject building is 5,230 square feet, which results in a minimum off-street parking requirement of 10 parking spaces plus 2 drop off spaces. The applicant is proposing two drop-off spaces in front of the building, in the public right-of-way, and eight parking spaces in the accessory parking area. With this, the child care center will be deficient two (2) off-street parking stalls. To meet the parking requirement, the applicant can also receive a reduction from 12 spaces to 11 spaces by providing a bicycle rack, per Section 541.220 of the zoning code. The applicant is proposing four bicycle parking stalls in the public right-of-way.

This proposal requires a parking variance from 11 stalls to 10 stalls. In order to accommodate an outdoor play area for the child care center a portion of the existing accessory parking area will be converted to accommodate this. The State of Minnesota requires that child care centers have access to an outdoor play area. There is limited space on the site where an outdoor play area can be accommodated. The only alternate location is in front of the existing building which is a required front yard; this location would also require a variance to allow play equipment in a required yard. Due to the size of the building and the existing site configuration it is practically difficult to accommodate all of the required parking and an outdoor play area without requiring a variance. This circumstance was not created by the applicant and is unique to this property.

2. **The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

Parking minimums established in the zoning ordinance are intended to strike a balance between the needs of automobile users and the need to efficiently use land in a constrained urban environment. While there is likely to be an overall increase in parking demand and traffic near

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the site, that demand will occur at a time when on street parking is more readily available. Furthermore, the applicant is proposing two designated drop-off spaces in front of the building, in the public right-of-way. The applicant will be required to provide a minimum of four bicycle parking stalls, which reduces the required variance from a two stall reduction one stall.

3. **The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

As mentioned previously, the character of the surrounding area is largely residential, with a mixture of low to high density housing. Reducing the off-street parking requirement for this use may result in utilization of on-street parking in an area where most uses supply adequate off-street spaces for their use. Designating on-street drop of spaces should help alleviate the demand. In addition, the property is located across the street from the interstate so there are two sides of on street parking. For these reasons, the requested variance is not detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development for the conditional use permit:

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the findings above and **approve** the Conditional Use Permit for a child care center at the property of 2505-09 5th Avenue S, subject to the following conditions:

- 1) The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within two years of approval.
- 2) The use shall comply with the child care center development standards required by section 536.20 of the zoning code, and applicable signage standards in Chapter 543 of the zoning code.
- 3) A walkway at least four (4) feet in width shall connect the front building entrance to the adjacent public sidewalk.
- 4) Screening consisting of either a masonry wall, fence, berm or hedge or combination thereof that forms a screen three (3) feet in height and not less than sixty (60) percent opaque shall be provided to screen the accessory parking area along 5th Avenue S.
- 5) The outdoor play area shall be screened be screened from the residential property to the south and east by a six foot tall fence.

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- 6) Approval of the final site plan by the Department of Community Planning and Economic Development Department.

Recommendation of the Department of Community Planning and Economic Development for the variance:

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the findings **approve** a variance to reduce the minimum off-street parking requirement from 11 spaces to 10 spaces for a child care center at the property of 2505-09 5th Avenue S, subject to the following conditions:

- 1) Two designated drop-off spaces shall be provided as approved by Public Works, as specified in Chapter 541, Off-street Parking and Loading.
- 2) A minimum of four (4) bicycle parking spaces shall be provided. The bicycle parking shall be located in the right-of-way as approved by Public Works, or, if located on the subject site, outside of all required yards.

Attachments:

1. Statement and findings from applicant.
2. Correspondence
3. Zoning map.
4. Site plans and floor plans.
5. Photos.