

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit & Variance
BZZ-4294

Date: January 20, 2009

Applicant: Correctional Transition Services, Inc.

Address of Property: 1901 44th Avenue North

Project Name: Correctional Transition Services, Inc.

Contact Person and Phone: Paul Kustermann, (612) 588-7530

Planning Staff and Phone: Janelle Widmeier, (612) 673-3156

Date Application Deemed Complete: December 26, 2008

End of 60-Day Decision Period: February 24, 2009

Ward: 4 **Neighborhood Organization:** Webber-Camden Neighborhood Organization

Existing Zoning: OR1 Neighborhood Office Residence District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 3

Legal Description: Not applicable for this application

Proposed Use: developmental achievement center

Concurrent Review:

Conditional Use Permit: to allow a developmental achievement center.

Variance: to increase the allowed height of a fence in the required front yard adjacent to Logan Avenue North.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits; and Chapter 525, Article IX Variances, specifically section 525.520 (5) “To permit an increase in the maximum height of a fence.”

Background: The applicant, Paul Kustermann, on behalf of Correctional Transition Services, Inc (CTSI), is proposing to establish a developmental achievement center at the property of 1901 44th Avenue North. The use would provide counseling and life skill development services and is required to be licensed by the Minnesota Department of Human Services. A two-story building exists on the site.

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The building was previously occupied by a dental clinic and a dwelling unit. The proposed use would occupy the entire building.

A conditional use permit is required to allow a developmental achievement center in the OR1 district. Upon approval of a conditional use permit, the action must be recorded with Hennepin County as required by state law.

A variance to increase the height of a fence in a required front yard from 3 feet to 6 feet is required for the existing fence located adjacent to Logan Avenue North. The site is a reverse corner lot because it includes a side lot line that is substantially a continuation of the front lot line of the adjacent property to the rear, therefore it has required front yards adjacent to 44th Avenue and Logan Avenue. The maximum height allowed for an opaque fence in a required front yard is 3 feet. The fence was installed without first obtaining a variance to increase the height. A portion of the fence was constructed in the right-of-way. If the variance is approved, an encroachment permit will need to be obtained from Public Works. If the variance is not approved, the fence must be removed. Only the existing garage received variances of the yard requirements in 1987.

As of the writing of this report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

Findings as required by the Minneapolis Zoning Code:

CONDITIONAL USE PERMIT

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

The use of the site for a developmental achievement center should not be detrimental to or endanger the public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards. The applicant has indicated that the use provides a public and community asset by building positive relationships within the lives of their client's families and communities through the delivery of their services.

- 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.**

The use would provide counseling and life skill development services and is required to be licensed by the Minnesota Department of Human Services. Staff believes that the use will have little impact on the surrounding properties.

- 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. Run-off from the parking area drains across the Logan Avenue sidewalk. Section 541.310 of the zoning code ordains that water from a parking area shall not drain across a public walkway except through curb cuts. A 3.5 foot

interior boulevard exists between the sidewalk and the property line. If the paving in the boulevard is removed, the water would not drain directly across the sidewalk. Staff is recommending that this condition be corrected.

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

The site has vehicle access to Logan Avenue and the adjacent alley. The minimum parking requirement for a development achievement center is equal to one space per 500 square feet of gross floor area plus 2 drop off spaces either off-street or on-street by permission of the city engineer. The use would occupy approximately 2,700 square feet of floor area. Therefore 5 spaces plus 2 drop off spaces are required. One of the 5 on-site parking spaces must be accessible (an accessible space must be 8 feet wide by 8 feet deep with an 8 foot wide by 18 foot deep access aisle). A 3-car garage exists on the site. A parking area is also available for parking south of the garage. Three spaces, including an accessible space, oriented perpendicular to the alley can be provided in the parking area. On-site drop off spaces are required to be the same dimensions as standard parking spaces (8.5 feet wide by 18 feet deep). Because there is not enough room to accommodate both drop off spaces on-site, the applicant will need to request permission from the city engineer to provide at least one drop off space in the street. This use does not have a minimum bicycle parking or loading requirement. The site is adjacent to 3 transit routes that run on 44th Avenue. The applicant has indicated that clients will arrive to the site by transportation provided by CTSI, public transit or personal vehicle. The use should not increase or create traffic congestion.

5. Is consistent with the applicable policies of the comprehensive plan.

The application for a conditional use permit to allow a developmental achievement center is consistent with the following applicable policies of the Minneapolis Plan:

9.23 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

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.

A developmental achievement center must comply with the following development standard: 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. The building was originally built as a mixed use building.

Some existing conditions on the site are not in compliance with district requirements.

The fence located in the required front yard adjacent to Logan Avenue exceeds the 3 foot maximum. The applicant is requesting a variance.

The refuse container is not screened from the street and adjacent residential uses. The container

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is required to be screened on all four sides by screening compatible with the principal structure not less than 2 feet higher than the refuse container or screened within an enclosed structure. Staff is recommending that the container be screened as required.

As previously stated, water from the parking area drains across the public sidewalk. Vehicles are not allowed to maneuver over the sidewalk as well. The applicant has not provided the layout of the parking area on the site plan; however, the site is only 39 feet wide. The site is not wide enough to accommodate 18 foot deep parking stalls and a 22 foot wide drive aisle. Staff is recommending that the parking spaces, including the accessible parking space, are oriented perpendicular to the alley and striped to show their location. Staff is also recommending that the pavement in the interior boulevard right-of-way south of the curb cut is removed to prevent water from draining over the sidewalk. To prevent vehicles from parking on and driving over the sidewalk and interior boulevard, staff is recommending that an on-site decorative fence or shrubs 3 feet in height are installed between the south side of the curb cut and the alley.

The site would conform to the applicable regulations of the district in which it is located upon the approval of the conditional use permit and the variance.

VARIANCE

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The site is a reverse corner lot. Because the house to the south is set back approximately 20 feet from Logan Avenue, the required front yard extends to the middle of the site. The existing locations of the building and parking area leave limited room for a private area. The applicant has indicated that retaining the fence will help maintain privacy for their clients as well as nearby residents. Reducing the height of the fence to 3 feet would result in a loss of privacy. The request is reasonable.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The site is a reverse corner lot. Because the house to the south is set back approximately 20 feet from Logan Avenue, the required front yard extends to the middle of the site leaving little buildable area of the site. These circumstances have not been created by the applicant.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Fence regulations are established to promote the public health, safety and welfare, encourage an aesthetic environment and allow for privacy, while maintaining access to light and air. The fenced area is located over 60 feet from the residence to the south. The fence is made of painted wood of durable construction. The fence should have little effect on surrounding properties.

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- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Granting the height variance would likely have no impact on the congestion of area streets or public safety.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Conditional Use Permit:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit to allow a developmental achievement center for the property located at 1901 44th Avenue North, 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 one year of approval.
- 2) Permission for on-street drop off spaces shall be obtained from the city engineer as required by Table 541-1 of the zoning code.
- 3) An accessible parking space shall be provided as required by section 541.400 of the zoning code.
- 4) To prevent water from draining across the sidewalk from the parking area and to prevent vehicles from parking on or over the interior boulevard, the parking spaces shall be oriented perpendicular to the alley and striped to show their location, the pavement in the Logan Avenue interior boulevard right-of-way south of the curb cut shall be removed, and an on-site decorative fence or shrubs 3 feet in height shall be installed between the south side of the curb cut and the alley.
- 5) Refuse containers shall be screened in compliance with Section 535.80 of the Zoning Code.
- 6) CPED Planning staff review and approval of the final site and landscaping plans.
- 7) All site improvements shall be completed by January 20, 2009, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to increase the allowed height of a fence from 3 feet to 6 feet in the required front yard adjacent to Logan Avenue North at the property of 1901 44th Avenue North.

Attachments:

1. Statement of use and findings
2. Zoning map
3. Plans
4. Photos