

**Department of Community Planning and Economic Development – Planning  
Division**

Conditional Use Permit, Variances and Site Plan Review  
BZZ-3802

**Date:** October 29, 2007

**Applicant:** Jardin Magico, Attn: Natalie Lopez, 3836 Minnehaha Avenue South,  
Minneapolis, MN 55406, (612)360-3196

**Addresses of Property:** 3836 Minnehaha Avenue

**Project Name:** Jardin Magico Expansion

**Contact Person and Phone:** Aspen Builders, Attn: Jorj Ayaz, 4844 Island View Drive,  
Mound, MN 55364, (612)670-4999

**Planning Staff and Phone:** Becca Farrar, (612)673-3594

**Date Application Deemed Complete:** September 25, 2007

**End of 60-Day Decision Period:** November 23, 2007

**End of 120-Day Decision Period:** Not applicable for this application

**Ward:** 12    **Neighborhood Organization:** Longfellow Community Council

**Existing Zoning:** OR1 (Neighborhood Office Residence) District and PO (Pedestrian  
Oriented Overlay) District

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 33

**Lot area:** 12,000 square feet or .28 acres

**Legal Description:** Not applicable for this application.

**Proposed Use:** A 2,880 square foot building addition on to an existing child care center.

**Concurrent Review:**

- Amend the existing conditional use permit for a child care center.
- Variance of the front yard setback requirement along the east property line adjacent to Minnehaha Avenue from approximately 18 feet to 5 feet.
- Variance of the off-street parking requirement.

- Site plan review for a single-story, 2,880 square foot building addition to an existing child care center in the OR1 (Neighborhood Office Residence) district.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits, Article IX, Variances and Chapter 530 Site Plan Review.

**Background:** The applicant proposes to construct a single-story 2,880 square foot building addition on to an existing child care center located at 3836 Minnehaha Avenue. The property is zoned OR1 and is located in the 38<sup>th</sup> Street Transit Station Area Pedestrian Oriented (PO) Overlay District. Child care centers are conditional uses in the OR1 district and are subject to specific development standards. The applicant received initial approval for the child care center by receiving approval of a conditional use permit (BZZ-3130) in August of 2006. In order to expand the facility, the conditional use permit must be amended. Further, a variance of the front yard setback requirement is necessary adjacent to Minnehaha Avenue as is a variance of the off-street parking requirement. Site plan review is also required based on the size of the proposed addition.

Staff has not received any official correspondence on the proposed applications from the Longfellow Community Council prior to the printing of this report. Neighborhood letters have been attached for reference.

**CONDITIONAL USE PERMIT** –Amend the Conditional Use Permit for an existing child care center.

**Findings as Required by the Minneapolis Zoning Code:**

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above 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.**

An expansion of an existing child care center would not be expected to be detrimental to or endanger the public health, safety, comfort or general welfare.

**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 Planning Division does not believe that allowing a 2,880 square foot expansion to an existing child care center would be injurious to the use and enjoyment of surrounding property nor would it impede the normal development of the surrounding area. The

proposal will allow the business to expand and offer additional programs for the children that attend the facility.

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

The applicant will continue to work closely with the Public Works Department and with the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements. The project has not been through the required Preliminary Development Review (PDR) process prior to the printing of this report.

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

Staff believes that adequate measures have been provided to minimize traffic congestion in the public streets despite the fact that all of the available off-street parking will be lost due to the proposed building addition. There are currently 5 off-street parking spaces available on the site. Due to the nature of the business as a child care center, there is minimal need for off-street parking provided Public Works approves of a drop-off zone along Minnehaha Avenue. Chapter 541 of the Zoning Code requires 1 parking space per 2 employees plus 2 drop off spaces (either off-street or on-street by permission of the city engineer). The applicant has stated that there are currently 5 individuals employed at the facility and with the proposed expansion an additional individual would be hired for a total of 6 employees. Based on the Chapter 541 standards a total of 3 parking spaces and 2 drop-off spaces would be required. However, there are minimum parking requirements for non-residential uses over 100 square feet as stated in section 541.170(b). A minimum of 4 off-street parking spaces would be required for the use. Because the site is located in the 38<sup>th</sup> Street Transit Station Area PO, that requirement is further reduced by 25%. Therefore, a total of 3 parking spaces and 2 drop-off spaces would be required based on the proposal. Furthermore, there are bicycle parking requirements for non-residential uses located in the Transit Station Areas. A minimum of two (2) bicycle parking spaces would be required based on the proposal.

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

According to the *Minneapolis Plan*, the subject parcel is located along Minnehaha Avenue which is a designated Community Corridor and in close proximity to the intersection of 38<sup>th</sup> Street East and Minnehaha Avenue which is a Neighborhood Commercial Node. Additionally the site is within less than a quarter mile from the 38<sup>th</sup> street Light Rail Station and is located within a Transit Station Area (TSA). According to the Principles and Policies outlined in the *Minneapolis Plan*, the following apply to this proposal:

2.8 Minneapolis will develop the existing economic base by emphasizing business retention and expansion.

4.4 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.

Further, the project site is also within the parameters of the 38<sup>th</sup> Street Station Master Plan which was adopted by the City Council on October 20, 2006. Policy 4.1 states that the “renovation of existing commercial or mixed-use buildings and the preservation of facades is strongly encouraged.” The continued use of the building which was constructed in 1954, as a child care center will ensure compliance with this policy.

The proposal is in conformance with the above noted policies of the comprehensive plan and the 38<sup>th</sup> Street Station Master Plan.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located.**

With the approval of the conditional use permit, variances, site plan review and compliance with the specific development standards for a child care center, this development would meet the requirements of the OR1 and PO districts. The specific development standards for a child care center are as follows:

- (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.
- (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.
- (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.
- (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.
- (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.

**VARIANCE** – (1) Variance of the front yard setback requirement along the east property line adjacent to Minnehaha Avenue from the approximately 18 feet to 5 feet; (2) Variance of the off-street parking requirement.

**Findings as Required by the Minneapolis Zoning Code for the Variances:**

**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.**

**Variance of the front yard setback requirement along the east property line adjacent to Minnehaha Avenue:** The property could be put to a reasonable use under the conditions allowed; however, strict adherence to the regulations of the zoning code would cause undue hardship. Typically, a front yard setback of 15 feet is required in the OR1 district; however, the property is subject to a front yard increase due to the location of the residential structure to the south which is approximately 18 feet from the property line. The existing structure is located approximately 5 feet from the property line along Minnehaha Avenue and the building addition as proposed is designed to match that existing setback. The addition as proposed extends approximately 29 feet, 6 inches along the Minnehaha Avenue frontage. Requiring that the proposed addition comply with the required setback would result in an irregularly shaped structure that would not reinforce the street edge along Minnehaha Avenue.

**Variance of the off-street parking requirement:** The property could be put to a reasonable use under the conditions allowed; however, strict adherence to the regulations of the zoning code would cause undue hardship as there is no other portion of the site appropriate or available for the provision of parking should the proposed building addition be approved. In order to comply with the required number of parking spaces the size of the proposed addition would need to be reduced. Chapter 541 of the Zoning Code requires 1 parking space per 2 employees plus 2 drop off spaces (either off-street or on-street by permission of the city engineer). The applicant has stated that there are currently 5 individuals employed at the facility and with the proposed expansion an additional individual would be hired for a total of 6 employees. Based on the Chapter 541 standards a total of 3 parking spaces and 2 drop-off spaces would be required. However, there are minimum parking requirements for non-residential uses over 100 square feet as stated in section 541.170(b). A minimum of 4 off-street parking spaces would be required for the use. Because the site is located in the 38<sup>th</sup> Street Transit Station Area PO, that requirement is further reduced by 25%. Therefore, a total of 3 parking space and 2 drop-off spaces would be required based on the proposal. The applicant is proposing to vary the off-street parking requirement to zero with the provision of the 2 drop-off spaces located on Minnehaha Avenue. Requesting a variance of 3 off-street parking spaces and the fact that the site is in close proximity to the 38<sup>th</sup> Street Light Rail Station in addition to being well served by transit is a reasonable request based on Staff's evaluation. Additionally, should another business occupy the facility in the future, the play areas located at the rear of the site could be replaced with a parking area. Furthermore, there are bicycle parking requirements for non-residential uses

located in the Transit Station Areas. A minimum of two (2) bicycle parking spaces would be required based on the proposal.

**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.**

**Variance of the front yard setback requirement along the east property line adjacent to Minnehaha Avenue:** The circumstances could be considered unique to the parcel of land as the applicant is attempting to construct an addition on to an existing building that would align with the front of the existing building. The proposed location of the addition is the most appropriate based on the existing site constraints.

**Variance of the off-street parking requirement:** The circumstances could be considered unique to the parcel of land as the applicant is attempting to expand the existing business located on the site. Should the proposed building addition to approved, the site would be a fully developed site and there would be no other portion of the site appropriate or available for the provision of additional parking unless the existing play areas at the rear of the site were removed. Based on the availability of on-street parking within the vicinity as well as the minimal parking variance request and proximity to transit alternatives, Staff believes that the proposed variance request is an appropriate and reasonable request.

**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.**

**Variance of the front yard setback requirement along the east property line adjacent to Minnehaha Avenue:** Granting the variance to allow a reduction in the front yard setback requirement would likely be in keeping with the spirit and the intent of the ordinance. Further, granting the variance for the proposed development would likely not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The nearest single family dwelling is located on the other side of the existing building. Additionally, the proposed addition would align with the front of the existing building.

**Variance of the off-street parking requirement:** Granting the variance to allow a reduction in the on-site parking requirement would likely be in keeping with the spirit and the intent of the ordinance. Further, granting the variance for the proposed development would likely not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. It is Staff's position that granting a variance for 3 parking spaces (provided the proposed on-street drop-off zone is approved by Public Works) is a reasonable use of the subject site. However, Planning Staff is somewhat concerned about the lack of off-street parking for employees. The applicant has stated that the majority of employees live in close proximity to the facility and

typically walk or use alternative modes of transportation to the site.

**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.**

**Variance of the front yard setback requirement along the east property line adjacent to Minnehaha Avenue:** Staff believes that the granting of the front yard setback would likely have no impact on the congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

**Variance of the off-street parking requirement:** Staff believes that the granting of the on-site parking variance would likely have little additional impact on the congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

## **SITE PLAN REVIEW**

### **Required Findings for Site Plan Review**

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

## **Section A: Conformance with Chapter 530 of Zoning Code**

### **BUILDING PLACEMENT AND DESIGN:**

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.

- **In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.**
- **Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.**
- **Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.**
- **The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.**
- **The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.**
- **Entrances and windows:**
- **Residential uses:**
  - **Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:**
    - a. **Windows shall be vertical in proportion.**
    - b. **Windows shall be distributed in a more or less even manner.**
  - **Nonresidential uses:**

**Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:**

    - a. **Windows shall be vertical in proportion.**
    - b. **Windows shall be distributed in a more or less even manner.**
    - c. **The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.**
    - d. **First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.**
    - e. **First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.**
    - f. **Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.**

**Minimum window area shall be measured as indicated in section 531.20 of the zoning code.**

- **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

The proposal is to add an approximate 2,880 square foot addition to the existing north elevation of the Jardin Magico child care center located at 3836 Minnehaha Avenue. The structure as it currently exists has the principal entrance facing the public street. With the proposed new addition, the principal entrance would remain in the same location linked via a sidewalk directly to the public sidewalk along Minnehaha Avenue in order to maintain pedestrian access and circulation. The placement of the building addition would attempt to maximize natural surveillance. Both the proposed addition and existing building are subject to a greater yard requirement of 18 feet as a result of the residential property to the south of the site. As proposed the structure would be located approximately 5 feet from the front property line.

The proposed design of the addition to the front (east) elevation would incorporate windows at the first floor. At least 40% of the first floor façade that faces a public street or sidewalk shall be windows. The addition as proposed would not result in that portion of the east elevation meeting this requirement as approximately 15% are provided along Minnehaha Avenue. Alternative compliance would be necessary. Planning Staff has discussed with the applicant slightly modifying the proposed floor plan for the expansion so that the proposed bathroom is relocated; there would then be opportunities to provide additional windows as well as increase the size of the proposed window in the new addition that meet the 40% requirement and will recommend that the Planning Commission require compliance with this provision.

With the addition of windows into the east elevation along Minnehaha Avenue that brings the elevation into compliance with the 40% requirement, the windows will likely be distributed in a more or less even manner. The windows in the proposed addition are meant to match the existing windows that are somewhat vertical in proportion. There are no blank, uninterrupted walls greater than 25 feet in width that do not include windows, entries, recesses or projections, or other architectural elements. The existing elevations of the building are not being modified as a result of the proposal and will not be evaluated utilizing the blank wall criteria.

The exterior materials would be compatible on all sides of the building. The applicant is proposing that the exterior of the building addition match into the existing exterior of the structure and be composed of stucco on the north and east elevations with painted concrete block at the rear or west elevation.

The proposed building form and the pitch of the roof line is compatible with the buildings in the area. The proposed roof line would be flat, and a single-story building would be compatible with other structures in the vicinity.

No parking is being proposed on site for the development.

### **ACCESS AND CIRCULATION:**

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

The principal entrance to the structure would be located in the same place and would be unaltered as a result of the proposed building addition. Other points of ingress/egress to the building that are both existing and proposed would be located on the north, south and west elevations. The principal entrance would be linked via a sidewalk to the public sidewalk. As a result of the proposed addition there would be no parking facilities located on the site. There is a public alley on the north side of the site as well as on the west side of the site.

The site is not immediately adjacent to a transit stop however it is in relative close proximity to several bus lines as well as the 38<sup>th</sup> Street Light Rail Station.

The existing development has been designed to minimize conflicts with pedestrian traffic and surrounding residential uses. The proposed addition should not have any substantive impacts.

There would unlikely be significant traffic impacts on the adjacent residential properties as a result of the proposed 2,880 square foot addition. The surrounding property is a mix of residential and commercial type uses, and the proposed addition would not be expected to have significant impacts on the adjacent uses.

There is a public alley on the north and west sides of the site but there will be no access to an off-street parking area from the alley.

Overall the site has been somewhat designed to minimize the use of impervious surfaces through landscaping. There is existing landscaping and some mature vegetation located on the site. The play areas located to the rear of the site utilize permeable materials.

### **LANDSCAPING AND SCREENING:**

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
  - **Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).**

- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:**
  - **A decorative fence.**
  - **A masonry wall.**
  - **A hedge.**
- **Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.**
- **The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.**
- **In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.**
- **All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.**
- **Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.**

The proposal meets the 20% landscape requirement. The total site area is 12,000 square feet or .28 acres and the proposed building footprint in combination with the existing footprint on the site would be 6,743 square feet. A total of 1,052 square feet of landscaping would be necessary to meet the 20% requirement. In its current configuration there is approximately 1,900 square feet of landscaping or approximately 36% of the site not occupied by buildings. The zoning code requires that there be at least 3 trees and 11 shrubs. Currently on the site there are 4 trees and numerous shrubs. The applicant is proposing to provide no additional trees but 31 additional shrubs. The proposal is meeting the minimum landscape quantity requirements. Planning Staff will recommend as a condition of approval that a more detailed landscape plan be submitted as part of the final plans indicating specific plant species. Planning Staff would also recommend that a tree be planted adjacent to the north elevation to help buffer the new addition.

#### **ADDITIONAL STANDARDS:**

- **All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.**
- **To the extent practical, site plans shall minimize the blocking of views of important elements of the city.**

- **To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260 related to:**
  - **Natural surveillance and visibility**
  - **Lighting levels**
  - **Territorial reinforcement and space delineation**
  - **Natural access control**
- **To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

As a result of the proposed development, no parking would be provided on site. The water drainage on site has been designed so as not to drain onto any adjacent lots as it is and would continue to be directed into the landscaped beds on the property.

Staff would not expect the proposed addition to result in the blocking of views, shadowing of public space or adjacent properties. Additionally, Staff would not expect the proposed building to have significant impacts on light, wind and air in relation to the surrounding area.

The project has not been through the required Preliminary Development Review (PDR) process prior to the printing of this report; however, the project is scheduled for that meeting; therefore no recommendations from the City's CPTED officer are available at this time. Planning Staff recommended that additional window area be provided along Minnehaha Avenue which would increase natural surveillance on site. Additionally, Planning Staff would recommend that the fenced play area located at the rear of the site have some security lighting installed, despite the fact that the business operates during the day.

**Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council**

**ZONING CODE** - The proposed use is conditional in the OR1 District.

With the approval of the amended conditional use permit, variances and site plan review this development would meet the requirements of the OR1 zoning district.

**Parking and Loading:** Chapter 541 of the Zoning Code requires 1 parking space per 2 employees plus 2 drop off spaces (either off-street or on-street by permission of the city engineer). The applicant has stated that there are currently 5 individuals employed at the facility and with the proposed expansion an additional individual would be hired for a total of 6 employees. Based on the Chapter 541 standards a total of 3 parking spaces and

2 drop-off spaces would be required. However, there are minimum parking requirements for non-residential uses over 100 square feet as stated in section 541.170(b). A minimum of 4 off-street parking spaces would be required for the use. Because the site is located in the 38<sup>th</sup> Street Transit Station Area PO, that requirement is further reduced by 25%. Therefore, a total of 3 parking spaces and 2 drop-off spaces would be required based on the proposal. The applicant is proposing to vary the off-street parking requirement to zero and provide the 2 drop-off spaces on Minnehaha Avenue. Furthermore, there are bicycle parking requirements for non-residential uses located in the Transit Station Areas. A minimum of two (2) bicycle parking spaces would be required based on the proposal.

**Dumpster screening:** Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. The dumpster is located adjacent to the alley on the west side of the site and does not meet the screening requirements. Planning Staff will recommend that the dumpster be enclosed in compliance with this provision as a condition of approval.

**Signs:** Any new signage is required to meet the requirements of the code. A separate permit will need to be attained through the Zoning Office should additional signage be requested for the subject site.

**Lighting:** All lighting will need to be downcast and shielded to avoid undue glare. All lighting shall comply with Chapters 535 and 541.

**Maximum Floor Area:** The maximum F.A.R. for child care centers in the OR1 District is the gross floor area of the building which would be 6,744 square feet with the proposed addition divided by the area of the lot which is 12,000 square feet. The outcome is .56 which is less than the maximum of 1.0 that is permitted in the OR1 District.

**Minimum Lot Area:** The minimum lot area for a child care center in the OR1 district is 4,000 square feet. The subject parcel conforms with the minimum lot area requirement as it is 12,000 square feet in size.

**Dwelling Units per Acre:** Not applicable for the existing/proposed development.

**Height:** Maximum building height for principal structures located in the OR1 District is 2.5 stories or 35 feet, whichever is less. The maximum allowable floor height is 14 feet. The existing height of the clinic is approximately 14 feet. The proposed addition shall match into the existing structure and is proposed to be approximately 14 feet tall as well.

**Yard Requirements:** The required yards are as follows:

- *Front yard requirement: 18 feet due to the adjacent residential structure to the south (applicant is proposing to vary this requirement to 5 feet)*
- *Interior side yard (5+2x): 5 feet*
- *Rear yard: 5 feet*

**Building coverage:** The maximum building coverage in the OR1 District is 70 percent. Buildings would cover approximately 56 percent of the lot.

**Impervious surface area:** The maximum impervious surface coverage in the OR1 District is 85 percent. Impervious surfaces would cover approximately 65 percent of the site.

### **MINNEAPOLIS PLAN**

According to the *Minneapolis Plan*, the subject parcel is located along Minnehaha Avenue which is a designated Community Corridor and in close proximity to the intersection of 38<sup>th</sup> Street East and Minnehaha Avenue which is a Neighborhood Commercial Node. Additionally the site is within less than a quarter mile from the 38<sup>th</sup> street Light Rail Station and is located within a Transit Station Area (TSA). According to the Principles and Policies outlined in the *Minneapolis Plan*, the following apply to this proposal:

2.8 Minneapolis will develop the existing economic base by emphasizing business retention and expansion.

4.4 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.

Further, the project site is also within the parameters of the 38<sup>th</sup> Street Station Master Plan which was adopted by the City Council on October 20, 2006. Policy 4.1 states that the “renovation of existing commercial or mixed-use buildings and the preservation of facades is strongly encouraged.” The continued use of the building which was constructed in 1954, as a child care center will ensure compliance with this policy.

### **Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council**

No small area plans for this area of Minneapolis have been adopted by the City Council.

## **ALTERNATIVE COMPLIANCE**

**The Planning Commission may approve alternatives to any site plan review requirement upon finding any of the following:**

- **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, green roof, decorative pavers, ornamental metal fencing, architectural enhancements transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.**
- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

Alternative compliance is requested by the applicant to meet the following standards:

*40% window requirement:* The proposed design of the addition to the front (east) elevation would incorporate windows at the first floor. At least 40% of the first floor façade that faces a public street or sidewalk shall be windows. The addition as proposed would not result in that portion of the east elevation meeting this requirement as approximately 15% are provided along Minnehaha Avenue. Alternative compliance would be necessary. Planning Staff has discussed with the applicant slightly modifying the proposed floor plan for the expansion so that the proposed bathroom is relocated; there would then be opportunities to provide additional windows as well as increase the size of the proposed window in the new addition that meet the 40% requirement and will recommend that the Planning Commission require compliance with this provision.

## **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 application to amend a conditional use permit for an existing child care center on the property located at 3836 Minnehaha Avenue subject to the following condition:

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. The applicant shall pursue designation of two on-street loading spaces.

**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 application for a variance of the front yard setback requirement along the east property line adjacent to Minnehaha Avenue from approximately 18 feet to 5 feet for property located at 3836 Minnehaha Avenue.

**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 application for a variance of the on-site parking requirement from 3 to 0 for property located at 3836 Minnehaha Avenue subject to the following condition:

1. A minimum of two (2) bicycle parking spaces shall be installed on the premises as required by Section 551.175(6)(a) of the Zoning Code.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the site plan review:**

The Department of Community Planning and Economic Development– Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for property located at 3836 Minnehaha Avenue subject to the following conditions:

1. Planning Staff review and approval of the final site, elevation and landscaping plans.
2. All site improvements shall be completed by October 29, 2008, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
3. Modification of the new façade of the east building elevation adjacent to Minnehaha Avenue to meet the 40% window requirement.
4. All ground level windows must be transparent (non-reflective) as required by Section 530.120 of the Zoning Code.

5. A detailed landscape plan shall be submitted indicating specific plant species.
6. An additional tree shall be planted adjacent to the north elevation to help buffer the new addition.
7. Security lighting shall be installed at the rear of site.
8. The on-site dumpster shall be enclosed per the requirements in Section 535.80 of the Zoning Code.
9. Any changes to the site plan as a result of Preliminary Development Review may result in another public hearing by the City Planning Commission if the Zoning Administrator deems such changes significant under sections 525.360 and 530.100 of the Zoning Code.

**Attachments:**

1. Statement of use / description of the project
2. Findings – variances
3. Correspondence
4. Zoning map
5. Plans – Site, landscape, elevations, floor plans
6. Photos