

**Department of Community Planning and Economic Development**  
Conditional Use Permit  
BZZ-5905

**Date:** February 19, 2013

**Applicant:** Ikram Mohamed

**Address of Property:** 3751 17<sup>th</sup> Avenue South and 3801 17<sup>th</sup> Avenue South

**Project Name:** Loving and Caring Child Care

**Contact Person and Phone:** Ikram Mohamed, (612) 703-4970

**CPED Staff and Phone:** Aaron Hanauer, (612) 673-2494

**Date Application Deemed Complete:** January 17, 2013

**End of 60-Day Decision Period:** March 18, 2013

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

**Ward:** 8 & 9 **Neighborhood Organization:** Powderhorn Park Neighborhood Association and Bancroft Neighborhood Association

**Existing Zoning:** R2B/Two-Family District and R4/Multiple-Family District

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

**Zoning Plate Number:** 26 and 32

**Legal Description:** Lots 16, 17, 18 and all that part of Bidleman's Addition to Minneapolis and Monroe Brothers Subdivision of lots 1, 2, 3, 4, 19, 20, 21, and 22 of Herrick, Hamlin and Eaton's out-lots to Minneapolis.

**Proposed Use:** Child care center

**Concurrent Review:**

**Conditional use permit:** for a child care center in the R2B district.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits.

**Background:** The applicant is proposing to establish a child care center in classroom and office space at 3751 17<sup>th</sup> Avenue South. The subject property is zoned R2B. A child care center is a conditional use in the R2B Zoning District.

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The subject parcel (3751 17<sup>th</sup> Avenue South) is 18,595 square feet and located on the northeast corner of 38<sup>th</sup> Street East and 17<sup>th</sup> Avenue South. The parcel contains a church built in 1919 for the Saint Luke's Lutheran Congregation and a two-story, 10,734 square foot building that was built in multiple phases in the 1950s and 1960s. In 2001, the Saint Luke's Congregation merged with Todos Los Santos, another Evangelical Lutheran Church, and formed the El Milagro Lutheran Church. Since that time, the sanctuary continues to be used for religious service, and the two-story building has been used as classroom and office space for the congregations.

The proposed child care facility would be located in the 5,500 square foot lower level of the school and office building. The facility is anticipated to provide care for 70 children and be open 7:00am to 8:00pm Monday through Friday, Saturday from 9:00am to 6:00pm, and Sunday, noon to 6:00pm. The applicant states that they are not proposing to install outdoor equipment on the subject parcel, but to take the children to Sibley Park for play time, which is four blocks away.

El Milagro also owns the parking lot at 3801 17<sup>th</sup> Avenue South. The parking lot is 11,312 square feet and is in the R4 Zoning District. The parking lot was approved as a conditional use permit in 1982.

**CONDITIONAL USE PERMIT:** for a child care center in the R2B, Two family district.

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

The Community Planning and Economic Development Department (CPED) has analyzed the application and from the findings above concludes that:

- 1. The establishment, maintenance, or operation of the conditional use 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. No modifications are proposed to the exterior of the building. Outdoor noise levels should be minimal since the children will be inside of the building a majority of the time. For outdoor activities, the applicant intends to use Sibley Park which is four blocks away. The applicant is not proposing to install outdoor equipment at the subject property.

- 2. The conditional use 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.**

CPED staff finds that locating a child care center at the subject property 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. A child care center is an allowed conditional use in the R2B district and will contribute to the overall goal of providing a wide range of services to the area. In addition, the proposed project is an adaptive reuse of the building that does not require exterior building alterations. Furthermore, the applicant is not proposing any play equipment outside, which will help with noise levels.

**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 school with four classrooms.

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

The use is not expected to contribute to traffic congestion in the public streets. The subject property is located on the 38<sup>th</sup> Street Community Corridor. Community corridors are recognized as having traffic volumes greater than residential streets. The addition of a child care facility at the proposed location will not adversely impact the overall traffic levels of 38<sup>th</sup> Street East.

In addition, the church and child care facility have access to a parking lot across the street (3801 17<sup>th</sup> Avenue South) and will have different peak demands for parking. The highest parking demand for the child care facility will be during the week, while the highest traffic volume for the church will be during the weekend.

The applicant is able to meet their parking requirement through a combination of nonconforming rights and a bike parking incentive. The parking requirement for the place of assembly and proposed child care facility is 41 spaces (see Table 1). However, this can be reduced by three spaces if the applicant provides bike parking for eight bicycles (541.220). Therefore, the parking requirement for the proposed mix of uses is 38 spaces.

The subject property has rights to 39 off-street parking spaces. In 1982, the City Planning Commission approved the parking lot at 3801 17<sup>th</sup> Avenue South to accommodate 39 vehicles. It was designed with 26 tandem spaces facing the north property line and 13 spaces facing the south property line (C-755). For the conditional use permit application, the applicant has shown a parking lot design that accommodates 25 vehicles. The lot is proposed to contain two handicapped spaces and no tandem parking. The elimination of tandem parking spaces will help bring the parking lot closer to compliance with today's parking area design requirements.

Table 1: Proposed Use

Use	Calculation	Parking requirement
Place of assembly (4,434 square feet)	10% capacity	30 spaces
Child care center (5,367 square feet)	2 drop off spaces and 1 space per 500 sq. ft. of gross floor area	11 spaces
<b>Sub total</b>		<b>41 spaces</b>
Bicycle incentive for reducing place of assembly vehicular parking	8 bike parking spaces (25% of 30 off street parking spaces)	3 spaces
<b>Total parking requirement</b>		<b>38 spaces</b>

The child care facility is also required to provide two drop off spaces either off-street or on-street by permission of the city engineer. The subject property currently has two drop-off parking spaces on 17<sup>th</sup> Avenue dedicated for drop-off during church service. The applicant is working with the Minneapolis Public Works Department to expand the dedication of these parking spots to include the time that the child care facility is open.

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

The conditional use is consistent with the applicable policies of the comprehensive plan. The subject site is designated as Urban Neighborhood on the future land use map in *The Minneapolis Plan for Sustainable Growth*. The Urban Neighborhood designation is described as predominately but including neighborhood-serving commercial and institutional and semi-public uses (for example, schools, child care facilities, community centers, religious institutions, public safety facilities, etc.) scattered throughout.

According to the principles and policies 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 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.**

1.2.3 Lessen the negative impacts of non-residential uses on residential areas through controls on noise, odors, and hours open to the public.

**Land Use Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for 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.

**Urban Design Policy 10.18: Reduce the visual impact of automobile parking facilities.**

10.18.1 Require that parking lots meet or exceed the landscaping and screening requirements of the zoning code, especially along transit corridors, adjacent to residential areas, and areas of transition between land uses.

10.18.18 Encourage appropriate land uses to share parking lots to reduce the size and visual impact of parking facilities.

**6. The conditional use shall, 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 and conditions of approval, the site and use will be in compliance with the applicable regulations of the R2B district and the specific development standards outlined in section 536.20 of the Minneapolis zoning code.

As conditioned, the parking lot at 3801 17<sup>th</sup> Avenue South will be in compliance with their 1982 landscape and screening requirements, and the refuse and recycling containers will meet required screening requirements.

**Specific Development Standards (536.20):**

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 use is considered a non-residential building. Because it was constructed as part of a religious institution, place of assembly campus it is not considered a residential building. Further, the building has since been used for non-residential purposes.

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:* No play equipment is proposed.

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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.

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 property to the north of the site is a residential use. The property owner of the subject property maintains the front yard in a manner consistent with the character of the neighborhood.

**Landscaping and screening:** When the parking lot was built in 1982, it was constructed to comply with different ordinance regulations. It was built with five foot wide landscaped yards along the western (17<sup>th</sup> Avenue South) and southern property line (bordering the residential property at 3809 17<sup>th</sup> Avenue South). There were no landscaped yards required along the northern property line (38<sup>th</sup> Street East) or alley. The southern and western landscaped yards were approved with screening. Today, the screening along the south property line and the northern half of 17<sup>th</sup> Avenue South is in place.

The 1982 approvals also required wheel stops in place the length of the alley to prevent vehicles using the parking lot to access the alley. Most of the wheel stops remain in place, however, there are a couple wheel stops that have been removed and now allow vehicular access to the alley.

The parking lot is currently not striped. The applicant submitted a site plan showing the parking lot accommodating 25 vehicles. With the most recent application, the parking lot is proposed to contain two handicapped spaces and no tandem parking. The elimination of tandem parking spaces will help bring the parking lot closer to compliance with today's parking area design requirements.

In order to comply with the previously approved landscaping plan, CPED is recommending that the applicant do the following:

- Install screening that is three feet in height and not less than 60 percent opaque along the southern half of the 17<sup>th</sup> Avenue South landscaped yard;
- Install wheel stops along the alley as was approved in 1982;
- Stripe the parking lot to be in compliance with parking size requirements (541.330).
- Work with the Minneapolis Park and Recreational Board to install three additional trees within the 38<sup>th</sup> Street East right-of-way.

In addition, CPED is recommending that the applicant install screening that is three feet in height and not less than 60 percent opaque within the 38<sup>th</sup> Street East right-of-way, subject to obtaining an encroachment permit from Public Works.

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Requiring other modifications in order to comply with the current yard and curbing requirements would not be practically and economically feasible and would eliminate a significant amount of parking.

**Refuse storage:** Refuse and recycling containers are unscreened and currently located in the rear of the church. To meet the requirements of the zoning code (535.80) the refuse and recycling containers shall be enclosed on all four sides by screening compatible with the principal structure not less than two 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.

**Signs:** No signage is proposed at this time. The sign allotment for a child care center in residential districts is one wall identification sign not exceeding 16 square feet at a maximum height of 14 feet. In addition, one monument sign not exceeding 16 square feet in area and six feet in height is allowed.

**RECOMMENDATIONS:**

**Recommendation of the Community Planning and Economic Development Department - for the Conditional Use Permit:**

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the findings above and **approve** the conditional use permit for a child care center at 3751 17<sup>th</sup> Avenue South and 3801 17<sup>th</sup> Ave 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. Approval of the final site, landscaping and refuse storage enclosure plans by the Department of Community Planning and Economic Development.
3. All site improvements shall be completed by February 19, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. The applicant shall work with City of Minneapolis Public Works Department to review the two proposed drop-off spaces on 17<sup>th</sup> Avenue South. If on-street, drop-off spots are approved on 17<sup>th</sup> Avenue, current signs shall be changed to recognize these spaces dedicated for drop off during the time the childcare facility is open as well as during religious service.
5. The applicant shall install landscaping and screening consistent with Section 530.170 of the zoning code within the 17<sup>th</sup> Avenue South landscaped yard (south of the curb cut) and within the 38<sup>th</sup> Street East right-of-way.
6. The applicant shall install a minimum of eight (8) bicycle parking spaces. The bicycle parking shall

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be located to the side of the building outside of all required yards or in the right-of-way if approved by Public Works.

7. The applicant shall work with the Minneapolis Park and Recreational Board to install three additional trees within the 38<sup>th</sup> Street East right-of-way.
8. The parking lot at 3801 17<sup>th</sup> Avenue South shall be in compliance with parking space and aisle size requirements of section 541.330 of the zoning code.
9. Unless an alternative is proposed by the applicant and approved by staff, wheel stops shall be installed in the parking lot at 3801 17<sup>th</sup> Avenue South the length of the parking lot along the eastern property line (alley) as shown on the approved site plan.

**Attachments:**

1. Statement of proposed use and statement addressing findings
2. Council member and neighborhood notification
3. Zoning Map
4. Site plan and floor plans
5. Photos of property and existing structures.
6. 1982 approved site plan