



Case number:	6333B-09
Address:	10640 Lyndale Avenue South
Application type:	Conditional use permit for a place of assembly in an office/warehouse building
Applicant:	Core Realty Holdings Management, Inc.

This file will contain the following items as they become available:

1. Agenda information
2. Staff report
3. Location map

Additional information

To receive copies of submitted development applications, supplemental documents, and (in some cases) building and site plans please contact the Planning Division at 952-563-8920 or planning@ci.bloomington.mn.us.

Your comments are important!

If you wish to communicate to the Planning Commission about this agenda item, please include:

- Your name
- E-mail address
- Full mailing address (number, street name, city, state, ZIP)
- Daytime telephone number
- Case file number
- Date of hearing

You may not receive a detailed response to your e-mail, but your comments, if received in time, will be presented to the Planning Commission.

If you wish to send comments via e-mail, write to planning@ci.bloomington.mn.us.

Anonymous e-mails will not be forwarded.

Request for Council Action

Originator Community Development	Item Conditional Use Permit			#
Agenda Section HEARING/PUBLIC INPUT	By GPD	Approved	Date December 17, 2009	
Development Business				

Item 3

Case 6333B-09

GENERAL INFORMATION

Applicant: CORE Realty Holdings Mgmt., Inc. F/B/O CORE Minneapolis
Industrial Tenants-In-Common (Owner)
Uptown Fellowship (User)

Location: 10640 Lyndale Avenue

Request: Conditional use permit for a place of assembly in an office/warehouse building

Existing Land Use and Zoning: Office/warehouse; zoned FD-1

Surrounding Land Use and Zoning: North and South – Office/warehouse; zoned FD-1 and FD-1(BP-2)
East - Multiple-family residential; zoned R-1(PD) and R-1(BP-2)(PD)
West – Interstate Highway 35W and single-family residential; zoned FD-1 and R-1

Comprehensive Plan: The Comprehensive Land Use Plan recommends Office land use for the property.

PROPOSAL

On September 14, 2009, the City Council approved a Temporary Conditional Use Permit with conditions (Case 6363A-09) for a church in an office/warehouse that was to be valid only through January 31, 2010. As part of the process of transitioning Temporary Conditional Uses to Interim Uses, an ordinance amending Section 19.33(d) and (e) of the City Code and establishing churches as Interim Uses in the Freeway Development FD-1 and FD-2 Zoning Districts was scheduled for hearing before the Planning Commission on October 8, 2009 and was projected to be before the City Council on November 2, 2009. Therefore, the expedited application went directly to the City Council and was approved for a period of time sufficient to allow the property owner and church to complete a lease and to develop building plans for necessary interior changes by the first of the year.

Council Action

Motion by _____ Second by _____ to _____

QUALITY SERVICES - AFFORDABLE PRICE

The owner and the church would then prepare and submit an application for an Interim Use Permit consistent with the proposed change in use status.

During the that ordinance review process, it was determined to include any change in status of *churches* in I-1, I-2, FD-1 and FD-2 Zoning Districts in a separate RLUIPA ordinance that was following on a slightly later time line. Among other actions, the proposed ordinance redefined *Places of Assembly* to include *religious institutions* that could also be referred to as *place(s) of assembly for worship* and removed the term *churches* from the Code, including as temporary Conditional Uses in the I-1, I-2, FD-1 and FD-2 Zoning Districts. The ordinance established *Places of Assembly* (the replacement generic grouping that now includes *places of worship*) as Conditional Uses in those same zoning districts. The subject application was then filed and provisionally accepted and scheduled prior to the ordinance adoption in anticipation of the changes in terminology and status to a Conditional Use. The RLUIPA ordinance was adopted with those amendments by the City Council on November 16, 2009.

A church, or what is now defined as a *Place of Assembly* for Code purposes and treatment, has been located on the subject property under temporary conditional use permits from 1985 to 1997 and again from 2003 to 2009. The most recent temporary conditional use permit expired on May 15, 2009, but was preceded by the vacation of the premises by the tenant church. The church tenant has not yet assumed occupancy of the approved nor had any lease been signed as of the application date due to projected refitting costs, as longer approval term was desired before commitment by the owner and tenant.

Due to accessibility issues, the church will be leasing the 9,472 square feet of space in the 34,329 square-foot building that is immediately adjacent to the 8,200 square-foot space that has been previously occupied by churches 18 out of the last 24 years. The approved space is located in the west half of the rectangular building, extends the full depth of the building, has its primary entrance on the south side, and a new accessible secondary exit into the docking area on the north side. A little over 5,700 square feet of the floor area would be used as a sanctuary with the approximately 3,700 square feet containing a lobby, offices, restrooms, and flexible space.

The church congregation currently numbers about 60 persons and has a goal of expanding by 15-20 new members per year over the next few years with the proposed facilities accommodating in the neighborhood of 300 members. Starting services will be held on Sunday mornings from 10:00 a.m. to 12:00 noon. Existing program continuation would include small group meetings on Tuesday evenings from 7:00-9:30 p.m., Wednesday prayer meetings from 7:00-9:30 p.m., and several Sunday School classes during the morning services. Over time, as the membership increases, the church would anticipate having two Sunday morning services, additional Sunday School classes between services, adult training and classes on Sunday evenings, and possibly other non-weekday activities. At present, the church anticipates having a coffee bar and snacks before and after services and occasional potluck events. No weekday activities before 5:00 p.m. are proposed. Employees would eventually consist of a full-time pastor, a part time administrator, a part time worship leader, and an associate pastor. More than 100 on-site parking spaces are available for non-business hour use by the church. No site changes are proposed.

The owner has contacted Environmental Health, the Fire Marshal, Building and Inspection and Utility Division staff with regard to inspections of the space, information on food service, and possible Sewer Availability Charges.

REQUIRED FINDINGS

Section 21.501.04(e)(1),(2),(3),(4) and (5)

HISTORY

City Council Action:	11/25/85 – Approved a three-year temporary conditional use permit for a church in an office/warehouse building with conditions (Case 6333A-85).
City Council Action:	02/27/89 – Approved a three-year temporary conditional use permit for a church in an office/warehouse building with conditions (Case 6333A-88).
City Council Action:	02/25/91 – Approved a three-year temporary conditional use permit for a church in an office/warehouse building with conditions (Case 6333A-91).
City Council Action:	03/21/94 – Approved a three-year temporary conditional use permit for a church in an office/warehouse building with conditions (Case 6333A-94).
City Council Action:	05/05/03 – Approved a renewal for a three-year temporary conditional use permit for a church in an office/warehouse with conditions (Case 6333A-03).
City Council Action:	05/15/06 – Approved a renewal for a three-year temporary conditional use permit for a church in an office/warehouse with conditions (Case 6333A-06).
City Council Action:	09/14/09 – Approved a temporary conditional use permit for a church in an office/warehouse until January 31, 2010 with conditions (Case 6363A-09)

CHRONOLOGY

Planning Commission Agenda:	12/17/09 – Public hearing scheduled.
-----------------------------	--------------------------------------

DEADLINE FOR AGENCY ACTION

Application Date:	11/12/09
60 Days:	01/10/10
Extension Letter Mailed:	No
120 Days:	03/11/10

Plot time: 11/12/2009 17:20:57

Section 21.501.04(e)

... The following findings must be made prior to the approval of a conditional use permit:

- (1) The proposed use is not in conflict with the Comprehensive Plan;
- (2) The proposed use is not in conflict with any adopted District Plan for the area;
- (3) The proposed use is not in conflict with City Code provisions;
- (4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and
- (5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

Item 3

GENERAL INFORMATION

Applicant: CORE Realty Holdings Mgmt., Inc. F/B/O CORE Minneapolis Industrial Tenants-In-Common (Owner)
Uptown Fellowship (User)

Location: 10640 Lyndale Avenue

Request: Conditional use permit for a place of assembly in an office/warehouse building

PROPOSAL

On September 14, 2009, the City Council approved a Temporary Conditional Use Permit with conditions (Case 6363A-09) for a church in an office/warehouse that was to be valid only through January 31, 2010. As part of the process of transitioning Temporary Conditional Uses to Interim Uses, an ordinance amending Section 19.33(d) and (e) of the City Code and establishing churches as Interim Uses in the Freeway Development FD-1 and FD-2 Zoning Districts was scheduled for hearing before the Planning Commission on October 8, 2009 and was projected to be before the City Council on November 2, 2009. Therefore, the expedited application went directly to the City Council and was approved for a period of time sufficient to allow the property owner and church to complete a lease and to develop building plans for necessary interior changes by the first of the year. The owner and the church would then prepare and submit an application for an Interim Use Permit consistent with the proposed change in use status.

During the that ordinance review process, it was determined to include any change in status of *churches* in I-1, I-2, FD-1 and FD-2 Zoning Districts in a separate RLUIPA ordinance that was following on a slightly later time line. Among other actions, the proposed ordinance redefined *Places of Assembly* to include *religious institutions* that could also be referred to as *place(s) of assembly for worship* and removed the term *churches* from the Code, including as temporary Conditional Uses in the I-1, I-2, FD-1 and FD-2 Zoning Districts. The ordinance established *Places of Assembly* (the replacement generic grouping that now includes *places of worship*) as Conditional Uses in those same zoning districts. The subject application was then filed and provisionally accepted and scheduled prior to the ordinance adoption in anticipation of the changes in terminology and status to a Conditional Use. The RLUIPA ordinance was adopted with those amendments by the City Council on November 16, 2009.

A church, or what is now defined as a *Place of Assembly* for Code purposes and treatment, has been located on the subject property under temporary conditional use permits from 1985 to 1997 and again from 2003 to 2009. The most recent temporary conditional use permit expired on May 15, 2009, but was preceded by the vacation of the premises by the tenant church. The church tenant has not yet assumed occupancy of the approved nor had any lease been signed as of the application date due to projected refitting costs, as longer approval term was desired before commitment by the owner and tenant.

Due to accessibility issues, the church will be leasing the 9,472 square feet of space in the 34,329 square-foot building that is immediately adjacent to the 8,200 square-foot space that has been previously occupied by churches 18 out of the last 24 years. The approved space is located in the west half of the rectangular building, extends the full depth of the building, has its primary entrance on the south side,

and a new accessible secondary exit into the docking area on the north side. A little over 5,700 square feet of the floor area would be used as a sanctuary with the approximately 3,700 square feet containing a lobby, offices, restrooms, and flexible space.

The church congregation currently numbers about 60 persons and has a goal of expanding by 15-20 new members per year over the next few years with the proposed facilities accommodating in the neighborhood of 300 members. Starting services will be held on Sunday mornings from 10:00 a.m. to 12:00 noon. Existing program continuation would include small group meetings on Tuesday evenings from 7:00-9:30 p.m., Wednesday prayer meetings from 7:00-9:30 p.m., and several Sunday School classes during the morning services. Over time, as the membership increases, the church would anticipate having two Sunday morning services, additional Sunday School classes between services, adult training and classes on Sunday evenings, and possibly other non-weekday activities. At present, the church anticipates having a coffee bar and snacks before and after services and occasional potluck events. No weekday activities before 5:00 p.m. are proposed. Employees would eventually consist of a full-time pastor, a part time administrator, a part time worship leader, and an associate pastor. More than 100 on-site parking spaces are available for non-business hour use by the church. No site changes are proposed.

The owner has contacted Environmental Health, the Fire Marshal, Building and Inspection and Utility Division staff with regard to inspections of the space, information on food service, and possible Sewer Availability Charges.

ANALYSIS

Obviously, the most significant difference between this and all previous applications is that it is for a full Conditional Use Permit denoting a potential permanent use of the property or leased space and not a Temporary Conditional Use Permit that was only for a specified period of time and allowed review through the renewal process.

While the leased space for the tenant church is slightly larger than the 8,200 square feet occupied by the previous churches, the proposed scale of use and level of activity in the beginning and projected over time is very similar to that of those tenants. The space shift is necessary in order to provide an accessible exit from the rear of the space. As noted, the property owner and church are in contact with other City staff to ensure conformance with both City and Building Code regulations.

Even though the neighboring and similar space was occupied by different churches over the 18 of the past 24 years, the history has shown that those past tenants were able to operate in a compatible manner with the other building tenants and site and use constraints on a continuous basis. With the churches having either refrained from or offering only very limited weekday business hour activities other than office availability, the on-site parking has been available to and proven to be sufficient for all tenants. The proposed user is planning to operate in a similar manner in that all church-related activities, other than office use, would be in the evenings or on weekends. Should the church membership grow as planned over time, then the program offering may need to change to meet the needs of the membership and possibly involve an increase in weekday daytime activity. Staff would address this possibility by recommending a condition that any such increase in activity or programs be first reviewed with and approved by the Planning Manager to ensure continued compatibility with the primary function of the property and its capabilities. The applicant has been advised that building lighting in the area of the

entrance to the leased space should be reviewed and will probably need to be improved due to the potential increased nighttime activity that will take place.

With operation at the described levels of activity and a maintained awareness of the constraints and limitations of the property, there are no indications that the church should not and can not operate as a compatible permanent use on the property.

Traffic

There will be no significant impacts to the adjacent traffic patterns due to this proposal

FINDINGS

Section 21.501.04(e)(1),(2),(3),(4) and (5) -- The following findings must be made prior to the approval of a conditional use permit:

(1) The proposed use is not in conflict with the Comprehensive Plan;

- * The proposed use is consistent with the allowances of the Zoning Code and the Zoning of the property is consistent with the Comprehensive Plan. The use of the a portion of the building and property as a place of assembly for worship is on the basis of a lease, is not the primary use of the property, and will not prevent or delay continuing occupancy of the property or even the subject space by traditional industrial uses.

(2) The proposed use is not in conflict with any adopted District Plan for the area;

- * The subject property is not located within or subject to any adopted District Plan.

(3) The proposed use is not in conflict with City Code provisions;

- * The proposed use and property are not in conflict from a use or development standpoint with any City Code provisions.

(4) The proposed use will not create an excessive burden on parks, schools streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and

- * The proposed use is not of a scale or level of intensity that would create an excessive burden on parks, schools, streets and other public facilities and utilities that serve either the subject property and development or neighboring properties and developments. The proposed place of assembly for worship is consistent and compatible with the capabilities and capacities of the subject site and supporting public facilities.

(5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

- * The use of a comparable portion of the building as a place of assembly for worship for 18 of the past 24 years in two continuous periods has been shown not to be injurious to either the surrounding neighborhood or to otherwise harm the public health, safety and welfare. There are not any demonstrable facts to indicate that the subject proposal would not also be just as compatible.

RECOMMENDATION

In Case 6333B-09, staff recommends approval of a Conditional Use Permit for a place of assembly in an office warehouse building at 10640 Lyndale Avenue subject to the following conditions:

- 1) The Conditional Use Permit is valid only for the 9,472 square feet of space as shown on the plans approved in Case 6333B-09;
- 2) The space for the place of assembly shall be inspected by the Fire Marshal and Building and Inspection prior to the issuance of any building or remodeling permits;
- 3) Any kitchen use or food service be approved by the Environmental Health Services Division, City of Bloomington;
- 4) Any change to or expansion of the weekday church programming shall first be reviewed and approved by the Planning Manager;
- 5) Sewer Availability Charge (SAC) be determined and satisfied prior to the issuance of any building or remodeling permits;
- 6) Any minor revisions to the exterior entry(s) to the place of assembly space be reviewed and approved by the Planning Manager prior to the issuance of any permits;
- 7) Any required alterations to utilities shall be at the owner's expense;
- 8) All pickup and drop-off occur on site and off of public streets; and
- 9) All trash and recyclable materials from the place of assembly be collected and stored inside the building until scheduled pick-up;

and subject to the following Code requirements:

- 1) All rooftop equipment for the place of assembly be fully screened (Sec. 19.52.01);
- 2) Place of assembly building entrance security lighting shall satisfy the requirements of Section 21.301.07 of the City Code;
- 3) Any food service plans and equipment be reviewed and approved by the Environmental Services Division (City Code Sec. 14.360); and
- 4) Signage be in conformance with the requirements of Chapter 19, Article X of the City Code.

F:\Planning\PC\Reports\Reports 2009\S06333B-09.doc

Item 4

GENERAL INFORMATION

Location: 86th Street Multi Modal Study (Xerxes Avenue to East Old Shakopee Road)

Request: None, information update

BACKGORUND

Recently the City of Bloomington was awarded federal grant money as part of the Efficiency and Energy Conservation Block Grant (EECBG). One of the projects selected for completion with this grant money was the 86th Street Multi Modal Traffic Study.

This study will develop a preliminary design for balancing vehicles, pedestrian and bicycle needs for the 86th Street corridor from Xerxes Avenue to East Old Shakopee Road. This corridor was identified in the Alternative Transportation Plan (ATP), dated July 7, 2008, as a primary east-west corridor in the City for bike and pedestrian activity. The corridor will provide a connection to trails and destinations such as city parks, regional park connections, schools, commercial and employment areas including the Mall of America, and bus routes.

The project was awarded to SRF Consulting on October 26, 2009 and the kick-off meeting was held on October 30, 2009. I have attached excerpts from the proposal to provide additional information about the process for the study.

The study will make use of a Stakeholders Group to meet regularly and provide feedback from numerous perspectives about the project and the proposed options. Included is information about the role of the Stakeholders Group as well as a list of the group members. The first public open house will be held on December 14, 2009 from 4:30 to 7:00 pm at the Bloomington Public Works building at 1700 West 98th Street, enter at the west door and park in the west lot. This open house will consider the section between Xerxes Ave and 35W.

planning\pc\reports\s121709multimodalstudy