

Department of Community Planning and Economic Development - Planning Division
Change of a Nonconforming Use
BZZ-5854

Date: December 3, 2012

Applicant: Yang Xiong

Address of Property: 1501 Lowry Avenue N

Contact Person and Phone: Yang Xiong (763) 228-6946

Planning Staff and Phone: Kimberly Holien (612) 673-2402

Date Application Deemed Complete: November 8, 2012

End of 60 Day Decision Period: January 7, 2013

Ward: 5 Neighborhood Organization: Jordan Area Community Council

Existing Zoning: R4 Multiple-family District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 8

Legal Description: Not applicable for this application

Proposed Use: Drug store

Concurrent Review:

- **Change of nonconforming use:** Change of nonconforming use from a grocery store to a drug store in the R4 Multiple-family District.

Applicable Code Provisions: Chapter 531, Nonconforming Uses and Structures.

Background: Yang Xiong has submitted an application for a change of non-conforming use for the property at 1501 Lowry Avenue N. The structure was originally built as a commercial building in 1926 and contains three tenant spaces. The tenant space subject to this request was most recently occupied by a grocery store. The grocery store will remain within the building but will be reduced in size to allow for the drug store (pharmacy) to be established. The subject tenant space is 900 square feet in area and is located in the center of the building. The grocery store, Get Happy Oriental Food, will remain in the west side of the building. A third tenant space is located on the east side of the building and contains an office use for a home health care business. The request at this time is for a change of non-conforming use from a grocery store to a drug store (pharmacy).

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The proposed use will be an independent community pharmacy that will consist of dispensing prescription and over-the-counter medications according to the requirements set forth by the Minnesota Board of Pharmacy and the Drug Enforcement Administration Office of Diversion Control (DEA). The applicant is a registered pharmacist in the State of Minnesota. The applicant is also proposing to provide patient-centered medication management and therapy and offer immunizations to eligible patients. The use will not include any accessory sales of food, groceries or other goods.

The subject building was constructed in 1926. In the 1963 Zoning Ordinance the property was zoned B2S-1, which allowed a wide array of commercial uses. In the 1999 Zoning Ordinance the property was zoned C2, Neighborhood Corridor Commercial district. On October 7, 2011 the site was rezoned from C2 to R4, Multiple-family residential as part of the Lowry Avenue Rezoning Study. At that time, all of the commercial uses in the building became non-conforming. The existing uses were located in the building at that time.

As of the writing of this report, staff has not received any correspondence from the neighborhood group. Any comments received from the neighborhood will be forwarded to the Planning Commission.

Findings as Required by The Minneapolis Zoning Code: change of nonconforming use from a grocery store to retail

The Community Planning and Economic Development Planning Division has analyzed the application and makes the following findings:

The Planning Commission may approve a proposed change in use if the use meets the following standards as specified in section 531.80 of the Zoning Code:

(1) The proposed use is compatible with adjacent property and the neighborhood.

The site is bordered by residential uses to the south, north and west. The property to the east across Lowry Avenue N is a vacant commercial building. The subject building has contained commercial uses since its construction in 1926. The proposed drug store will be located entirely within the building, in the center tenant space, and is of a size that will limit any impact on the surrounding area. A drug store is considered a neighborhood serving retail sales and service use and the statement submitted by the applicant asserts that he intends to establish a neighborhood-serving, community pharmacy. In that regard the proposed use is compatible with adjacent property in the neighborhood.

(2) The proposed use is less intense than the existing, nonconforming use.

(a) Hours of operation: According to the applicant, the hours of operation for the previous grocery store use were 9:00 a.m. to 8:00 p.m. seven days a week. The hours of operation for the proposed drug store use are 9:30 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 6:00 p.m. on Saturdays. The use will be closed on Sundays and major holidays. The proposed hours of operation are less intense than the hours of the grocery store tenant. Hours of operation are now under the purview of Business Licensing but are still regulated by zoning district. The permitted hours of operation in the R4 district are 7:00 a.m. to 10:00 p.m. Sunday

through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday. The hours proposed are within the parameters allowed for the R4 district.

(b) Signage: The grocery store has a wall sign above the main entrance on the west side of the building. Because this tenant is staying, the sign will remain. No specific signage is proposed for the drug store use at this time. The applicant has indicated that the sign will be a maximum of 16 square feet in area. Chapter 543 of the Zoning Ordinance states the following regarding new signs for non-conforming uses:

Newly established signs located on nonconforming uses shall be limited to one non-illuminated, flat wall identification sign, not to exceed sixteen (16) square feet in area and fourteen (14) feet in height. In addition, on a corner lot, two (2) such signs per building, except as otherwise allowed in the manner provided for in Chapter 531, Nonconforming Uses and Structures, governing expansion or alteration of legal nonconforming uses and structures.

Any future signage for the proposed drug store would have to comply with these regulations and would require a separate sign permit.

(c) Traffic generation and safety: The proposed drug store is expected to have similar traffic impacts to those of the previous grocery store use. Due to the limited size of the tenant space, the amount of traffic generated should be minimal. The applicant has indicated that delivery will be available for local customers, which will further limit the amount of vehicle traffic to and from the site. The site has a large surface parking lot consisting of 23 stalls and there is a transit stop located directly in front of the site, at the intersection of Humboldt Avenue N and Lowry Avenue N. Midday bus service is available along Lowry Avenue. In that regard, the amount of traffic generated is not expected to have a negative impact on surrounding properties and staff has no concerns about safety.

(d) Off-street parking and loading: The subject tenant space is 900 square feet in area. Uses with less than 1,000 square feet of gross floor area are not subject to a minimum parking requirement. The grocery store use will remain in the building in a smaller tenant space. The grocery store will be approximately 3,300 square feet in area. The minimum vehicle parking requirement for this use is one space for each 500 square feet of gross floor area in excess of 4,000 square feet with a minimum of four. In this case the minimum of four spaces applies. The third tenant space is 965 square feet in area and also exempt from the minimum parking requirements. Therefore, the total parking requirement for the building is four spaces and 23 spaces are provided.

Due to the limited size, the proposed drug store is exempt from the minimum bicycle parking requirements. The office use is also exempt from the minimum bicycle parking requirements and the grocery store use has legal non-conforming rights for the minimum requirement of three spaces because it was established prior to the adoption of the bicycle parking requirements.

(e) Nature of business operations: The previous use was a grocery store, which is classified as a Retail Sales and Service Use in Table 548-1 of the zoning code. The proposed drug store is considered general retail sales and service, which is also a Retail Sales and Service Use in Table 548-1. The proposed use will be an independent community pharmacy that will consist of dispensing prescription and over-the-counter medications. The applicant is also proposing to provide patient-centered medication management and offer immunizations to eligible patients. The proposed use is not expected to be more intense than the previous grocery store use.

(f) Number of employees: According to the applicant, the previous grocery store use is owner-operated and has two employees. The proposed drug store would also have two employees; a pharmacist and one board-certified pharmacy technician. This number of employees is not expected to have any significant impact on the surrounding area and will not increase the intensity of the building.

(g) Building Bulk: The existing building is 4,470 square feet in area. No exterior modifications or additions are proposed for the building and thus the bulk would remain the same.

(h) Aesthetic impacts on surrounding property: Converting the center tenant space from a grocery store to a drug store is not expected to have any aesthetic impacts on surrounding property. As stated above, no exterior modifications are proposed to the building at this time. However, aesthetic improvements have recently been made on site. Landscaping has recently been installed on the property, including a 10-foot landscaped yard between the parking area and Humboldt Avenue N and a 7-foot landscaped yard between the parking area and Lowry Avenue N. Additional landscaping is also located between the parking area and the residential property to the south. Boulevard trees were recently planted adjacent to Lowry Avenue N.

(i) Noise, odor, heat, glare and vibration: The proposed use, as with the previous use, is not expected to generate noise, odor, heat, glare or vibration.

Based on the above analysis, the proposed drug store use should not be more intense than the previous grocery store use.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the change of nonconforming use from a grocery store to a drug store in the R4, Multiple-family Residential District for the property at 1501 Lowry Avenue N.

Attachments:

1. Zoning map

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2. Statement from applicant
3. Letters to Ward 5 City Council Office and Jordan Area Community Council
4. Site plan and floor plans
5. Photos