

**Department of Community Planning and Economic Development**  
Change of a Nonconforming Use  
BZZ-5993

**Date:** April 22, 2013

**Applicant:** Tricia Khutoretsky, of Public Functionary

**Address of Property:** 1400 12<sup>th</sup> Avenue NE

**Contact Person and Phone:** Tricia Khutoretsky, (612) 978-5566

**CPED Staff and Phone:** Aly Pennucci, (612) 673-5342

**Date Application Deemed Complete:** March 24, 2013

**End of 60 Day Decision Period:** May 23, 2013

**Ward:** 1      **Neighborhood Organization:** Northeast Park Neighborhood Association

**Existing Zoning:** R2B Two-family Residence District

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

**Zoning Plate Number:** 10

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

**Proposed Use:** Art Gallery

**Concurrent Review:**

- **Change of nonconforming use:** Change of nonconforming use from an art studio to an art gallery in the R2B Two-family Residence District.

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

**Background:** Tricia Khutoretsky, of Public Functionary, has submitted an application for a change of non-conforming use for the property at 1400 12<sup>th</sup> Avenue NE. The proposed use is a non-profit art gallery that that will provide a community space to exhibit contemporary art, art studio space (a print lab) and accessory office space. The space will showcase three to four national artists and two to three local artists each year with opening receptions associated with the exhibits.

The existing structure was originally built as an industrial building (tool and die shop) in 1959. The property was zoned heavy industrial until 1963 when it was rezoned to residential with the adoption of the 1963 zoning code. At that time the property became a legal nonconforming use. A change of nonconforming use to convert the building to an art studio was approved in 1998.

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 an art studio to an art gallery.

**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 north, east and west. The property to the south and southwest is owned by the railroad. The subject building has contained industrial or commercial uses since its construction in 1959. The proposed art gallery, with associated art studio and office space, will be located entirely within the existing building, and will occupy the entire building. Forty-two percent of the building will be used as gallery space, approximately 39 percent of the building will continue to be used as art studio space and (print lab), and 19 percent of the building will be used as the gallery staff's office space and storage. The proposed use is of a size that will limit any impact on the surrounding area. An art gallery is considered a neighborhood serving retail sales and service use and the statement submitted by the applicant asserts that they intend to establish a neighborhood-serving, community art gallery. 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:** The proposed art studio will have eight employees and regular hours for the building will be 10:00 a.m. to 6 p.m. The gallery will have regular open hours on Thursday and Saturday afternoons from 1:00 PM to 4:00 PM and Friday evenings from 6:00 PM to 10:00 PM when they have an exhibit running; exhibits will run for approximately four weeks at a time. The proposed hours of operation are similar to the art studio hours that typically operated during business hours but varied depending on the user. 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 R2B 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 R2B district.

**(b) Signage:** The art studio did not have any external signage. No signage is proposed for the art gallery. Chapter 543 of the Zoning Ordinance states the following regarding new signs for non-conforming uses:

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*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 art gallery will have to comply with these regulations and will require a separate sign permit.

- (c) **Traffic generation and safety:** The proposed art gallery is expected to have similar traffic impacts during normal business operations to those of the previous art studio use. During open gallery hours and opening receptions for new exhibits there will be more visitors coming and going from the site. The site does not contain any off-street parking. The applicant has noted that due in part to the railroad to the south, the street parking immediately adjacent to the building is typically available. During larger events they will provide valet parking for their guests to minimize impacts on surrounding property owners. In addition, they will add bicycle racks and are in discussion with Nice Ride to install a pick-up/drop-off site. The applicants will also take the additional step of notifying surrounding property owners when they have scheduled events to ensure they are aware and know who to contact in the event of any conflicts. Given these additional steps during occasional events, 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 approximately 6000 square feet in area. The minimum parking requirement for art galleries and art studios is one (1) space per 500 sq. ft. of gross floor area in excess of 4,000 square feet, resulting in a minimum parking requirement of four (4) off-street parking spaces for the proposed gallery. There is no off-street parking provided on-site and the site has grandfather rights to four (4) off-street parking spaces. The applicants considered converting the small green space to the south to off-street parking, however, due to setback and landscaping requirements and dimensional standards for parking spaces and drive aisles, the lot could have accommodate only two to three off-street parking spaces. Instead, as mentioned above, the applicants will provide bicycle parking, will utilize valet services for occasional larger gallery events and will encourage staff and guests to arrive by alternative modes of transportation.

Both art studios and art galleries are exempt from minimum bicycle parking and loading requirements. Due to the proposed gallery events staff recommends that a minimum of four (4) bicycle parking spaces are provided. The applicants have noted that they intend to provide bicycle parking on-site. There is an existing loading area to the rear that can be used if needed.

- (e) **Nature of business operations:** The previous use was an art studio, which is classified as a commercial retail sales and services use in Table 548-1 of the zoning code. The

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proposed art gallery is also considered a general retail sales and services use in Table 548-1. The proposed use is a non-profit art gallery that will provide a community space to exhibit contemporary art, will provide art studio space (print lab) and accessory office space. The space will showcase three to four national artists and two to three local artists each year with opening receptions associated with the exhibits.

- (f) **Number of employees:** According to the previously approved change of nonconforming use to allow an art studio, the previous art studio use was owner-operated and had two to 10 employees. The proposed art gallery will have eight regular employees. 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 approximately 6000 square feet in area. No exterior additions are proposed for the building and thus the bulk would remain the same.
- (h) **Aesthetic impacts on surrounding property:** Converting the building from an art studio to an art gallery is not expected to have any aesthetic impacts on surrounding property. As stated above, no additions are proposed to the building at this time. However, aesthetic improvements will be made to the site. The applicants intend to add bicycle parking and upgrade the landscaping to provide a community green space and public garden.
- (i) **Noise, odor, heat, glare and vibration:** The proposed use, as with the previous use, is not expected to generate excessive noise, odor, heat, glare or vibration.

Based on the above analysis, the proposed art gallery use should not be more intense than the previous are studio use.

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

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the change of nonconforming use from an art studio to an art gallery in the R2B, Two-family Residence District for the property at 1400 12<sup>th</sup> Avenue NE, subject to the following condition:

- 1) A minimum of four (4) bicycle parking spaces shall be provided to the south of the building, outside of all required yards.

**Attachments:**

- 1. Statement from applicant
- 2. Correspondence
- 3. Zoning map
- 4. Site plan and floor plans
- 5. Photos