

Department of Community Planning and Economic Development
Change of a Nonconforming Use and Expansion of a Nonconforming Use
BZZ-6258

Date: October 28, 2013

Applicant: Allegro Properties, Attn: Jamie Graham, 2937 Lyndale Avenue South, Suite 202, Minneapolis, MN 55408

Address of Property: 3225 Lyndale Avenue South

Project Name: Fiant Dental

Contact Person and Phone: Master Properties Minnesota, LLC, Attn: Elizabeth Liebhard, 1221 Nicollet Mall, Suite 310, Minneapolis, MN 55403, (612) 623-1633

CPED Staff and Phone: Becca Farrar-Hughes, Senior City Planner, (612) 673-3594

Date Application Deemed Complete: September 17, 2013

End of 60 Day Decision Period: November 16, 2013

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

Ward: 10 **Neighborhood Organization:** Lyndale Neighborhood Association & Calhoun Residents Action Group

Existing Zoning: R4 (Multiple-family) District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 24

Lot area: 10,254 square feet or approximately .24 acres

Legal Description: Not applicable for this application

Proposed Use: A new dental clinic.

Concurrent Review:

- Change of a non-conforming use to allow a dental clinic in place of the former offices within the existing building. The property is zoned R4 (Multiple-family) District.
- Expansion of a non-conforming use to allow a new 90 square foot entrance vestibule on the west elevation of the building facing Lyndale Avenue South.

Applicable Zoning Code Provisions: Chapter 531, Section 531.80 and Section 531.50(b).

Background: The applicant is proposing to change the use of an existing single-story 3,822 square foot legal non-conforming building that was a multi-tenant office building into a dental clinic and add an approximate 90

square foot entrance vestibule on the west elevation of the building facing Lyndale Avenue South. As proposed, the interior of the building would be completely demolished in order to accommodate eight dental operatories, administrative offices, a waiting area, restrooms, an x-ray room, sterilization and lab rooms as well as a staff lounge and storage area. The current zoning of the property is R4 (Multiple-family) District, which does not allow dental clinics. The current use of the structure as a multi-tenant office building is non-conforming and altering the use to allow for a dental clinic requires a change of non-conforming use. Further, expanding the building footprint to accommodate an entrance vestibule is an expansion of a nonconforming use under Section 531.50(b) of the zoning code and therefore requires authorization from the City Planning Commission.

The building was originally constructed as a doctor's office in 1956 with an addition constructed to the original building in 1964. The existing footprint of the building would expand by approximately 90 square feet and the existing roof height would be elevated approximately 4 feet in some locations in order to add skylights. New clerestory windows would also be added to the north and west elevations of the existing building and the existing window openings would be increased vertically as well. The expanded entrance vestibule would be modified to allow for ADA compliance. Other than the addition of an accessible parking space, no changes are proposed to the existing surface parking lot located on the north side of the building. The size of the accessible space will need to be adjusted to comply with the appropriate ADA requirements. The applicant is aware that consultation with Plan Review is necessary, and that all required permits shall be attained in order to legalize the proposed change and expansion in use.

The application was continued at the City Planning Commission meeting on October 15, 2013, as the applicant made a decision late in the process to expand the existing building by adding an entrance vestibule on the west elevation of the building facing Lyndale Avenue South. Originally, only a change of non-conforming use application was noticed. The building addition requires an expansion of a non-conforming use; therefore, the project was re-noticed to include the additional land use application.

Staff has not received any official correspondence from the Lyndale Neighborhood Association, the Calhoun Residents Action Group or any neighborhood letters prior to the printing of this report. Correspondence received prior to the meeting shall be forwarded on to the Planning Commission for consideration.

Findings As Required By The Minneapolis Zoning Code – for a Change of Nonconforming Use:

The Department of Community Planning and Economic Development 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 property is located mid-block on a predominantly residential block along Lyndale Avenue South. Commercial uses are located on three of the four corners of the block with a combination of multi-family and single-family residential uses located in between. The subject site is situated on Lyndale Avenue South which is a designated Community Corridor. The properties to the north, south and east of the subject site are all zoned R4. Across Lyndale Avenue to the west the properties are zoned OR1. As previously noted, the structure located on the premises was constructed in 1956 as a clinic and has been used for an indeterminate amount of time as a multi-tenant office use. Allowing a change in use to permit a singular clinic use as opposed to a multi-tenant office use would be compatible with the adjacent uses located within the immediate vicinity and would be expected to have similar albeit less intense impacts than the former uses that have occupied the site.

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

(a) **Hours of operation:** According to the applicant, the clinic would operate Monday through Friday from 7:00 a.m. to 7:00 p.m., Saturday from 8:00 a.m. to 2:00 p.m. and there would not be any office hours on Sunday or after-hours appointments. These hours would be expected to be less than the former use of the site as a multi-tenant office building (although no details on the former businesses hours of operation are available).

(b) **Signage:** Currently there are two wall-mounted vinyl and plywood signs on the building. One is approximately 8 feet by 2 feet, 1 inch and the other is 5 feet by 1 foot. The applicant is proposing to remove all existing signs and install a singular wall mounted sign approximately 8 feet, 3 inches by 2 feet, 6 inches that are individual pin mounted brushed stainless steel letters. The proposed signage is slightly larger than what is allowed according to the requirements outlined in Section 543.250 of the Zoning Code. Section 543.250 states, "Newly established signs accessory to nonconforming nonresidential uses in the Residence and OR1 Districts shall be limited to one (1) non-illuminated, flat wall identification sign, not to exceed sixteen (16) square feet in area and fourteen (14) feet in height." The size of the sign will need to be reduced. Further, the proposed signage requires a separate permit from the Zoning office.

(c) **Traffic generation:** The proposal to locate a dental clinic within the existing building would not be expected to result in an increase in traffic generation. The building would be accessible by vehicles traveling northbound on Lyndale Avenue. A total of 35 patients would be expected to visit the facility on a typical day and six employees would be at the office per day. There are a total of 9 off-street parking spaces located on the premises. Based on the size of the proposed clinic at 3912 square feet (3,822 square feet plus 90 square feet), Chapter 541 would require a total of 8 off-street parking spaces (1 per 500 square feet of gross floor area). The site plan must be modified as applicable to comply with the design and maintenance provisions outlined in Section 531.110, Section 541.360 and Chapter 530 of the Zoning Code.

(d) **Off-street parking and loading:** As proposed there would be a total of 9 off-street parking spaces located on the premises. Based on the size of the proposed clinic at 3912 square feet (3,822 square feet plus 90 square feet), Chapter 541 would require a total of 8 off-street parking spaces (1 per 500 square feet of gross floor area). The sizing of the accessible space will need to be adjusted to comply with the appropriate requirements. The site plan must be modified as applicable to comply with the design and maintenance provisions outlined in Section 531.110, Section 541.360 and Chapter 530 of the Zoning Code. Further, given the condition of the parking lot, the parking lot shall be resurfaced and restriped as the parking lot is required to be maintained in good condition.

(e) **Nature of business operations:** The applicant proposes to relocate a family dental office currently located at 2937 Lyndale Avenue South to the site which would allow for an expansion of the current dental practice.

(f) **Number of employees:** There will be a total of 6 employees working at the clinic on a daily basis. No information was provided regarding the number of employees that worked in the multi-tenant office building.

(g) **Building Bulk:** The existing footprint of the building would be modified as approximately 90 square feet would be added in order to accommodate an accessible entrance vestibule with the change in use. Further, the existing roof height would be elevated approximately 4 feet in some locations in

order to add skylights. This would increase the overall height of the structure to approximately 16 feet which complies with the underlying R4 District allowance. New clerestory windows would also be added to the north and west elevations of the existing building and the existing window openings would be increased vertically as well. The applicant is also proposing to paint the exterior of the building. The applicant is aware that consultation with Plan Review is necessary, and that all required permits shall be attained in order to legalize the proposed change in use.

(h) Aesthetic impacts on surrounding property: The building covers approximately 38% of the entire site. It appears that the applicant intends to install some landscaping on the property, predominantly within the existing front yard along Lyndale Avenue, although none of it appears to be located in the surface parking lot area. Due to the fact that the site is subject to the design and maintenance provisions outlined in Section 531.110, Section 541.360 and Chapter 530, Staff will require more substantive vegetation including shrubs and trees, and that the striped parking areas identified on the site plan be landscaped in conjunction with modifying the size of the accessible space to comply with the applicable ADA requirements. A landscape buffer along Lyndale Avenue South in conjunction with shifting and appropriately sizing the ADA space would likely be required. In addition, Staff may require that screening be installed along the north property line adjacent to the existing residential use and that the drive-aisle could be reduced to the minimum of 12 feet to accommodate the screening. CPED Staff shall review a site plan submitted in accordance with those aforementioned regulations in order to improve the overall aesthetic appearance of the site.

(i) Noise, odor, heat, glare and vibration: The proposed use would not be expected to have any significant impacts as it relates to noise, odor, heat, glare or vibration. New wall-mounted exterior lighting is proposed. All lighting will need to be downcast and shielded to avoid undue glare. All lighting shall comply with Chapter 535. Staff shall review the details of the fixtures in the final review prior to permit issuance.

Staff would not expect the proposed use of the property as a dental clinic to be more intense than the multi-tenant office uses that have been existing within the building on the property. CPED Staff would support the change of a non-conforming use in this circumstance to allow a dental clinic in lieu of the former use as a multi-tenant office building.

Findings as Required by the Minneapolis Zoning Code – for an Expansion of a Nonconforming Use:

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

The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):

- (1) A rezoning of the property would be inappropriate.**

The subject site is situated on Lyndale Avenue South which is a designated Community Corridor. The properties to the north, south and east of the subject site are all zoned R4. Across Lyndale Avenue to the west the properties are zoned OR1. The property is located mid-block on a predominantly residential block along Lyndale Avenue South. Commercial uses are located on three of the four corners of the block with a combination of multi-family and single-family residential uses located in between. Dental clinics are first allowed as permitted uses in the OR2 and OR3 districts as well as in

all commercial districts. The current zoning designation of R4 is appropriate given the context and surrounding zoning classifications.

- (2) **The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.**

The expansion is compatible with adjacent properties and the neighborhood. The proposed external expansion would result in an addition that totals approximately 90 square feet. The plans submitted with the application materials indicate that the expansion will meet all required setbacks.

- (3) **The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

The expansion of the non-conforming use would not result in significant increases of adverse off-site impacts. There is currently adequate off-street parking provided on the property. No additional traffic, noise, dust, odors or parking congestion would be expected with the proposed modifications.

- (4) **The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

The changes to the use would be both internal and external to the structure. Allowing the applicant to construct a small accessible vestibule that is in compliance with all required yards would likely improve the stability of the neighborhood as the appearance of the structure would be improved. No adverse impacts are anticipated as a result of the proposal.

- (5) **In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.**

The proposed addition would not result in the creation of any dwelling units. The building would be utilized entirely as a dental clinic.

- (6) **The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The property is not located in the Floodway District.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development for the change of nonconforming use:

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the application for a change of nonconforming use to allow for a dental clinic in place of the former offices within the existing building located on the property at 3225 Lyndale Avenue subject to the following conditions:

Department of Community Planning and Economic Development
BZZ-6258

1. All site improvements shall be completed by October 15, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
2. All necessary building permits shall be attained.
3. The proposed signage shall be modified to meet the requirements outlined in Section 543.250 of the Zoning Code. A separate permit shall be attained from the Zoning Office.
4. All lighting shall be downcast, shielded and comply with Chapter 535. Staff shall review the details of the fixtures in the final review prior to permit issuance.
5. The site plan shall be modified as applicable to comply with Sections 531.110 and 541.360 of the Zoning Code, showing compliance with Chapter 530 requirements related to landscaping and screening of parking and loading areas. The ADA parking space shall be modified to comply with the applicable size requirements.
6. The parking lot shall be resurfaced and restriped.

Recommendation of the Department of Community Planning and Economic Development for the expansion of a nonconforming use:

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the application for an expansion of a nonconforming use to allow for the construction of an approximate 90 square foot entrance vestibule on the west elevation of the existing building facing Lyndale Avenue South located on the property at 3225 Lyndale Avenue subject to the following conditions:

1. All site improvements shall be completed by October 15, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
2. All necessary building permits shall be attained.

Attachments:

- 1) Statement of use/description of project
- 2) Correspondence
- 3) Zoning map
- 4) Plans
- 5) Photos