



## **Request for City Council Committee Action from the Department of Community Planning & Economic Development—Planning Division**

**Date:** June 21, 2007

**To:** Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

**Referral to:** Zoning & Planning Committee

**Subject:** Appeal of the decision of the City Planning Commission denying an application for a change of nonconforming use from a cleaning service and contractor's office, with accessory uses including minor automobile repair and car wash, to a minor automobile repair use in the OR1 Neighborhood Office Residence District located at 2609 Aldrich Ave S.

**Recommendation:** The following action was taken by the Planning Commission on May 21, 2007 (BZZ-3542):

**A. Nonconforming Use Change:** Application by Kristi Oman, on behalf of Art Spot, LLC, for a change of nonconforming use from a cleaning service and contractor's office, with accessory uses including minor automobile repair and car wash, to a minor automobile repair use and a bicycle sales and repair use in the OR1 Neighborhood Office Residence District located at 2609 Aldrich Ave S.

**Action:** The City Planning Commission adopted the findings and **denied** the change of nonconforming use from a cleaning service and contractor's office, with accessory uses including minor automobile repair and car wash, to a minor automobile repair use in the OR1 Neighborhood Office Residence District and **approved** the change of nonconforming use from a cleaning service and contractor's office, with accessory uses including minor automobile repair and car wash, to a bicycle sales and repair use in the OR1 Neighborhood Office Residence District, subject to the following conditions:

1. The existing sign be removed and any new signage must obtain approval from CPED-Planning.

2. Screening shall be maintained along the south property line and screening three feet in height shall be provided between the parking lot and the public sidewalk along Aldrich Ave. S. Such screening shall consist of a decorative fence, masonry wall, and/or a hedge.

**Ward:** 10

Prepared by: Shanna Sether, City Planner (612-673-2307)  
Approved by: Jason Wittenberg, Development Services Supervisor  
Presenters in Committee: Shanna Sether, City Planner

**Community Impact**

- Neighborhood Notification: Lowry Hill East Neighborhood Association was notified of the applications.
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On June 7, 2007, staff sent a letter to the applicant extending the 60 day decision period to no later than August 23, 2007.

**Supporting Information**

Kristi Oman, on behalf of Art Spot, LLC, has filed an appeal of the decision of the City Planning Commission denying the application for a change of nonconforming use to allow for a minor auto repair in the OR1 Neighborhood Office Residence District located at 2609 Aldrich Ave S. The original application filed included two proposed uses, a bicycle sales and repair use, Re-Cycle and a minor automobile repair use, Butch's Custom. At its meeting on May 21, 2007, the City Planning Commission voted 7-0 to approve the application for a bicycle sales and repair use and 6-1 to deny the application that would allow for the minor auto repair. The appeal (attached) was filed on May 24, 2007. The City Planning Commission minutes and Planning Division staff report are attached.

The appellants have stated that the decision is being appealed for the following reasons. First, that staff was incorrect in the determination that the previous use of minor automobile repair was accessory; the applicant contends that it was a principal use because it occupied 7500 sqft. of the space and the proposed area for the new minor automobile repair will occupy 3000 sqft. Also, Butch's Custom, the proposed minor automobile repair use, expects one customer per day in need of automotive services, not 25 customers as written in the report. Additionally, the parking requirement of 7 off-street spaces, as quoted in the staff report, is incorrect; only 5 parking stalls are required by the code.

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Excerpt from the  
CITY PLANNING COMMISSION  
MINUTES

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Minneapolis Community Planning & Economic Development (CPED) Planning  
Division

250 South Fourth Street, Room 300

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MEMORANDUM

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DATE: June 6, 2007

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TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community  
Planning & Economic Development - Planning Division

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FROM: Jason Wittenberg, Supervisor, Community Planning & Economic  
Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic  
Development Planning Division

SUBJECT: Planning Commission decisions of May 21, 2007

The following actions were taken by the Planning Commission on May 21, 2007. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners Present: President Motzenbecker, El-Hindi, Huynh, Mains, Norkus-Crampton, Tucker and Williams – 7

Not Present: LaShomb, Nordyke and Schiff

5. Kristi Oman (BZZ-3542, Ward: 10), 2609 Aldrich Ave S (Shanna Sether).

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Staff Sether presented the staff report.

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President Motzenbecker opened the public hearing.

Kristi Oman (2609 Aldrich Ave) [not on sign-in sheet]: I talked to Mike Anderson, the owner of Butch's Custom, this morning and there was some miscommunication about the 25 customers per day. He said that the he could handle is one customer per day and that they don't even have the capability and that might have been my fault in transferring that information to Shanna. The other thing is that I think that that city initially thought that Butch's Custom was going to take up that whole warehouse area when in fact they're only taking up 3000 square feet of the 7500 square feet of warehouse. I think that also makes a big difference. Lastly, I'd be willing, as the landlord, to do whatever noise control I need to do acoustically to the building to help with the sound.

President Motzenbecker: Do we know why there was such a discrepancy in that? That's quite a shift of what the original statement was.

Kristi Oman: I talked to Mike Anderson. He said the most he could handle and the most that he would be lucky enough to ever get would be one new bike to repair every day. When I initially asked him he... I moved him into this space in January because I thought it was grandfathered in because we had always had it. There has been a car wash there, we had a big car hoist; it's a warehouse garage. Based on the number of people that walk by his door is about 25 people, but as far as the repair of the bikes, he can't even handle more than one customer per day on a new...it was just a total miscommunication and is probably my fault and I apologize for that. Part of the reason we bought this place in 2001... a lot of people know of it because it gets tagged a lot with graffiti and by far out of all of our buildings it's by far the ugliest because of that reason. With the OR zoning it makes it virtually impossible for us to lease this out because you have an old warehouse that's zoned to be an office and it's not an office, it's a warehouse. Upon completion of this we would love to fix up the building. We've already started to do that. We're going to be at another standstill if we have to just service our own vehicles in there.

Commissioner Norkus-Crampton: Why do we need three motorcycle lifts for this proposal?

Kristi Oman: Well, one new customer per day. I don't know, you can ask Mike this, but if he gets a customer per day I don't know if he can fix the existing bike from the day before immediately. They wouldn't even be able to accommodate 25 motorcycles.

President Motzenbecker: Is Mr. Anderson here? Why don't we here from you a little bit about these discrepancies?

Michael Anderson [not on sign-in sheet]: Thank you for taking the time to hear this matter. When I was asked what kind of traffic we expected, I was looking at overall customers from a retail perspective, from the number of people that might walk in the door. I sell a line of clothing and a number of motorcycle parts and accessories and that sort of thing so I was looking at the overall number of customers I would hope to have. I based that loosely on the number of customers at Bob's Java Hut one block away. I was hoping a lot of people would buy t-shirts, frankly. That's where I came up with that number. I looked at the traffic at Bob's, cut it in half and that's where I got that gross number of 25. We have three motorcycle lifts. If it's an oil change it goes quickly. If it's an engine rebuilt it doesn't. We'd have lifts tied up for longer periods. There's no way I could accommodate 25 motorcycles a day. I think that's where it was just what people are looking for when they walk through the door. The question that I answered was not specific enough from a vehicle standpoint. I hope that sheds a little light on where I came up with that number.

President Motzenbecker: We don't have any further questions unless you have any further testimony at all.

Michael Anderson: Just on my behalf and for Kristi, I think the reason that I was so interested in the space was motorcycle service is something because of the large quantity of motorcycles in the neighborhood, something that the community I believe needs, and the number of motorcycle shops that can service those people is diminishing because people are moving out of the area. I thought it would be a good fit.

Steven Daffinrud (2640 Aldrich Ave S) [not on sign-in sheet]: I have spoken with many of the neighbors on the Aldrich block and while the building in question, as Kristi said, is kind of an eyesore. It's a difficult building to work with. Our main concern is, and I speak lightly for everybody else since they have deeper concerns than this, is the noise pollution on the exterior not interior. Where are they going to be running the bikes? Is there going to be a loop? What's going to be the issue there? What's our recourse if we have choppers running up and down our street all day? That's our concern as neighbors in the residential area. Is there going to be anything governing that noise pollution? While we see a need for that building to be filled and utilized to benefit the neighborhood, that's our main concern with this.

Kristi Oman: Can I speak again? Initially when we were going to rezone the property I went to the residential neighbors within 100 feet. I did not have one neighbor that objected or would not sign the petition. I think it's fair that Mr. Daffinrud also mention that I'm in a district lawsuit with him over another building where he vacated my building and he owes me rent.

President Motzenbecker: That's not relevant.

President Motzenbecker closed the public hearing.

Commissioner Tucker: Is there anybody here from the neighborhood? We do have the letter. Maybe staff can help with this, were there any complaints about noise for this site for the motorcycle shop?

Shanna Sether: I did receive one phone call, but then I was told by the person on the phone that they would be present at the public hearing. It was Steven that I spoke to on the phone. That was the only one.

Commissioner Huynh: What is our protocol when the notices...I'm not sure if the public notice indicated 25 motorcycle uses a day or...how has that changed in the terms of the information that we have for the commission to vote on tonight?

Staff Sether: The public notice only stated that it was as a change of nonconforming use from the cleaning service and the contractor's office with accessory minor auto repair and car wash to the proposed minor auto repair and the bicycle repair and sales. The 25 number was only something quoted in the staff report which we can just identify as an error at this point.

Commissioner Norkus-Crampton: I'd like to move the staff recommendation. I think that when I'm looking at the signatures I see a lot of names here. I see three signatures of the surrounding community so I'm not sure, it doesn't look like there's a huge ground swell of support of the immediate neighbors. I guess my concern with this is noise. We also have Bob's Java Hut a block away. That is actually on Lyndale. It's on a corridor where there's already a lot of traffic. This is facing a lot of residential properties and it's actually off the corridor. I can see it'd be a nice little roundabout to go around the block taking motorcycles either to pick up parts or supplies. I doubt very seriously they're going to be walking from Bob's Java Hut down around the corner. I think that this is really an incompatible use with the extent of the surrounding residential. That's my motion (Commissioner Tucker seconded).

Commissioner El-Hindi: I guess I'd like to hear a little more about... this is to Ms. Oman, you had mentioned that this is a warehouse and not an office building. Could you speak a little bit about what makes it not be able to convert into an office space currently?

Kristi Oman: It's a raw warehouse and even the ceiling is exposed. It's just a big open space. You have the auto repair right next door which is the hydraulic lift shop which is also an automotive use. It's just as exposed as you can get. There's a car washing station, there's no way...

Commissioner El-Hindi: I'm aware of the building from the exterior. I've never been inside the building. I guess I'm trying to understand, structurally, if there is something about the building currently that makes it not function as an office building other than really just renovating it into an office building.

Kristi Oman: Yeah, I mean, you can renovate any type of space into an office space. It just takes money. This is what it looks like currently. I guess I should have brought all the neighbors, but the take that I get from the neighborhood and that's why the neighborhood...it passed unanimously, was that they want something to happen to this building. He's already in there. You have the CC Club next door, you have the hydraulic lift there, you have a commercial space right across the street, it comes up to one residential house and I know that you don't have all the signatures but once we stopped the process I

quit getting signatures and a lot of what I have, but I did not have one residential tenant within that 100 feet that said no.

Commissioner Mains: I have a question for staff. With the clarification that the 25 customers were retail customers and there would be approximately one new repair customer per day, we have two different kinds of customers here and that sort of makes sense, what does that do to your finding C and your findings that were looking at the major increase in use?

Shanna Sether: I'll be deferring that to Jason Wittenberg.

Staff Wittenberg: Given that that particular finding was in relation to traffic generation, from what the applicant has told us tonight I don't know that the staff analysis would really change there because in terms of traffic generation it really doesn't matter if those 25...

Commissioner Mains: It's still the same number. You're right. Thank you.

President Motzenbecker: Any further items? I guess it's up for a vote. All those in favor of the motion as stated which is staff recommendation? Opposed?

The motion carried 5-1.

Community Planning and Economic Development - Planning Division Report

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Change of a Nonconforming Use

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BZZ-3542

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Date: May 21, 2007

Applicant: Art Spot, LLC

Address of Property: 2609 Aldrich Avenue South

Contact Person and Phone: Kristi Oman, 612-270-8252

Planning Staff and Phone: Shanna Sether, 612-673-2307

Date Application Deemed Complete: April 25, 2007

End of 60 Day Decision Period: June 24, 2007

Ward: 10 Neighborhood Organization: Lowry Hill East Neighborhood Association

Existing Zoning: OR1 Office Residence District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 24

Proposed Request: Change of nonconforming use to allow for a motorcycle repair shop and bicycle sales and repair business.

Concurrent Review:

**Change of nonconforming use:** from a cleaning service and contractor's office, with accessory uses including minor automobile repair and car wash, to a minor automobile repair use and a bicycle sales and repair use in the OR1 Neighborhood Office Residence District.

**Applicable Code Provisions:** Chapter 531 Nonconforming Uses and Structures; Section 531.80.

**Background:** The applicant is requesting a change of a nonconforming use to allow for a motorcycle repair shop and bicycle sales and repair use in the OR1 District for property located at 2609 Aldrich Avenue South. The previous legal nonconforming uses included a cleaning service and a contractor's office, with accessory uses including minor automobile repair/fleet maintenance and a car wash. The use of the building since before 1963 has been the contractor's office with aforementioned accessory uses to maintain their maintenance vehicles used of property maintenance. The property's first zoning classification was Commercial in the 1924 Zoning Ordinance. In 1963, the property was downzoned to R6 Multiple Family District. The property was rezoned from R6 to B3S-2 in 1964. Through a rezoning study, the property was again downzoned to R5 Multiple Family District. The property was successfully rezoned again to B2S-1 Neighborhood Service District in 1976, to allow an addition to an existing cleaning service.

According to 540.1060 in the Zoning Ordinance (1963), contractor or construction offices and display rooms only – such as building cement, electrical, heating, ventilating and air conditioning, masonry, painting, plumbing refrigeration and roofing were permitted uses. However, according to 540.370, no motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in a business district, except emergency repair service necessary to start vehicles. The Zoning Administrator made the determination that the use of the contractor's office, with minor auto repair and car wash, was substantially similar a taxi cab service company that does maintenance work on their vehicles and stated that this combination of uses was prohibited and therefore nonconforming. According to the Licensing Department, the Minneapolis Code of Ordinances exempts these types of uses with accessory fleet maintenance from having a motor vehicle repair license.

The subject property was rezoned to OR1 Office Residence District in 1999. There are existing offices located in the principal structure along Aldrich Avenue South, which are permitted in the OR1 District; no changes of these uses are proposed. The proposed minor automobile repair and bicycle sales and repair uses are proposed in the second principal structure on the property, which lies adjacent to the alley with frontage along 26<sup>th</sup> Street West. Both minor automobile repair and bicycle sales and repair are prohibited uses in the OR1 District. It appears as though the bicycle sales and repair shop is already in operation, based on site visits. Therefore, the applicant is applying to for a change of nonconforming use.

As of the writing of this report, staff has received comments from the Lowry Hill East Neighborhood Association Zoning and Planning Committee, which recommended that the LHENA Board support the change of nonconforming use. Staff anticipates an

additional letter from the LHENA Board, which will be meeting after the deadline of this report and included for review prior to the City Planning Commission public hearing.

**Findings As Required By The Minneapolis Zoning Code:**

**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 and across Aldrich Avenue South, but there is a nightclub and restaurant across the alley, which are along Lyndale Avenue South, an existing Commercial Corridor, to the east, and a major automobile repair shop on the corner of 26<sup>th</sup> Street West and Aldrich Avenue South. While an automobile repair use might not be compatible adjacent to residential uses the use will be within an entirely enclosed building.

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

**(a) Hours of operation:** According to the applicant, there were no hours open to the public under the previous uses for a cleaning service or contractor's office. The proposed hours of operation for the motorcycle repair shop are Monday through Friday from 10:00 a.m. to 7:00 p.m. and Saturday from 10:00 a.m. to 4:00 p.m. The proposed hours of operation for the bicycle sales and repair are by appointment only. This use shall comply with the following regulations governing maximum hours open to the public, except where the city planning commission further restricts such hours, to Sunday through Thursday, from 7:00 am to 10:00 pm and Friday through Saturday, from 7:00 am to 11:00 pm.

**(b) Signage:** According to the applicant, the only signage on the property was on the existing office building along Aldrich Avenue South, which is not proposed to change. Butch's Custom, the minor automobile use, is proposing to install a 3 ft. by 6 ft., non-illuminated wall sign along 26<sup>th</sup> Street West. Re-Cycle, the bicycle repair and retail shop, has already installed a non-illuminated wall sign that is approximately 2 ft. by 8 ft.; this permit was installed without first obtaining a sign

permit. The maximum area for signage in the OR1 District for office uses is 8 sqft; therefore, both of the signs are too large. If the change is approved, the sign should be limited to the allowable signage of the OR1 District.

**(c) Traffic generation and safety:** Neither the contractor's office or the cleaning service were uses open to the public, however, according to the applicant, the repair facility of the contractor's office would have repaired an average of 12 cars at all times and stored and maintained 1 bobcat, 1 tractor and a few snow plows that were used as their maintenance vehicles. Butch's Custom anticipates approximately 25 customers per day. There are 3 motorcycle lifts proposed, which equal the same size as 1 car lift. Re-Cycle is an internet based company that has customers by appointment only.

**(d) Off-street parking and loading:** The parking requirement for the previous use was approximately 13 spaces. The proposed motorcycle repair shop would require 7 off-street parking spaces and the bicycle repair and retail shop would require 4 spaces; an overall reduction of 2 spaces. The applicant has stated that the site has 7 off-street parking spaces that would be shared between all of the uses on the property. Motorcycles and bicycles would be taken inside for servicing.

**(e) Nature of business operations:** The previous uses included a contractor's office with fleet maintenance and car wash and a cleaning service. Since then, the automobile lift has been removed, and replaced with 3 smaller, motorcycle lifts that are the same area as one automobile lift. Butch's Custom works on tires, rims, wheel, brakes, and some retail associated with the use, which falls under the definition of minor auto repair. Re-Cycle repairs and sells recycled and reused bicycles, which falls under the definition of bicycle sales and repair.

**(f) Number of employees:** According to the applicant, the previous uses had 2 full-time employees at all times, with additional employees when needed. Butch's Custom will have three employees and Re-Cycle will have one employee.

**(g) Building Bulk:** The two buildings on the property cover most of the site with the exception of a small parking area adjacent to Aldrich Avenue South. No change is proposed.

1. **(h) Aesthetic impacts on surrounding property:** The two buildings on the property cover most of the site with the exception of a small parking area adjacent to Aldrich Avenue South. The property owner recently received building permits to remove the overhead door along 26<sup>th</sup> Street West and replace it with a new storefront entrance, improve the existing roof of the structure and install skylights and there are plans to punch out and install

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windows along the alley, and install new exterior lighting. There is an existing 6-foot high fence located along the south property line, adjacent to a duplex, which is in excess of the maximum 3 feet in the required front yard.

(i) **Noise, odor, heat, glare and vibration:** Both the previous use of fleet maintenance and the proposed motorcycle repair shop utilize tools necessary for minor automobile repair such as air compressors, shop lights, and tire machines. The shop doors are closed when motorcycles and bicycles are in the shops. The applicant has stated that the noise, odor, heat, glare and vibration levels should remain the same.

Based on the above analysis, the proposed use of minor automobile repair would be more intense and would have greater off-site impacts than the previous use at the site.

With the attached conditions of approval the proposed use of bicycle sales and repair should not be more intense than the previous uses at the site.

**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 **deny** the change of nonconforming use from a cleaning service and contractor's office, with accessory uses including minor automobile repair and car wash, to a minor automobile repair use in the OR1 Neighborhood Office Residence District and **approve** the change of nonconforming use from a cleaning service and contractor's office, with accessory uses including minor automobile repair and car wash, to a bicycle sales and repair use in the OR1 Neighborhood Office Residence District, subject to the following condition:

2. The existing sign be removed and any new signage must obtain approval from CPED-Planning.
3. Screening shall be maintained along the south property line and screening three feet in height shall be provided between the parking lot and the public sidewalk along Aldrich Ave. S. Such screening shall consist of a decorative fence, masonry wall, and/or a hedge.

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