

Department of Community Planning and Economic Development – Planning Division
Expansion/Alteration of a Nonconforming Use
BZZ-4337

Date: April 6th, 2009

Applicant: Ya Vang

Addresses of Property: 1821 West Broadway

Project Name: Long Moune Auto Sales

Contact Person and Phone: Ya Vang, (612) 325-8008

Planning Staff and Phone: Jessica Thesing, (612) 673-5887

Date Application Deemed Complete: March 6, 2009

End of 60-Day Decision Period: May 5, 2009

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

Ward: 5 **Neighborhood Organization:** Willard-Hay Neighborhood Association
Adjacent to: Jordan Neighborhood; Jordan Area Community Council

Existing Zoning: C1-Neighborhood Commercial District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 7

Legal Description: Not applicable for this application

Existing and Proposed Use: Auto Sales

Application:

- **Expansion/Alteration of a nonconforming use**

Applicable zoning code provisions: Chapter 531, Nonconforming Uses and Structures

Background: On March 17, 2003 the City Planning Commission reviewed and approved the following applications for Long Moune Auto Sales at 1821 West Broadway under file BZZ 1065:

- Nonconforming Use Certificate
- Change of Nonconforming Use
- Site Plan Review

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The property located at 1821 West Broadway was within the West Broadway Rezoning Study Area in 2002 and the applicant was denied a waiver to the moratorium in order to move forward with the above project applications. The moratorium expired in November of 2002 and the applicant then submitted the above application materials in February of 2003.

The subject property was zoned C1 in 2003, as it is currently zoned. Used car sales are first allowed as a conditional use in the C4, General Commercial District however it was not advised at the time for the applicant to move forward to rezone the property. Permit records indicate that the subject property was used for a used car sales facility as early as 1961 and then as early as 1971 the site was used for truck and trailer service. Trailer sales and rental uses were permitted uses in the former B3C-2 District which was the prior zoning for the subject parcel (Section 540.1520 (38) of the 1963 Code). In March of 2003, the applicant was approved to change the use to a used automobile sales facility and completed the necessary site plan improvements as required since that date.

The site has now been operating as a used automobile facility since the approvals in 2003 however the applicant now wishes to utilize his business by using the existing service bay for minor automobile repair as well. Although the zoning code allows some automobile repair as accessory to automobile sales, the use must be located in a district in which the automobile repair is allowed as a principal use. Since neither automobile repair nor automobile sales is allowed in the C1 district and the existing used automobile sales facility is allowed as a legal nonconforming use only, the applicant is required to apply for an expansion/alteration of a legal nonconforming use in order to utilize the facility for minor automobile repair to be open to the general public.

The applicant indicates that the business currently specializes in vehicles that are from the year 2000 or newer and sells on average 15 to 20 cars per month however due to the economy; the volume has recently decreased to approximately 5 to 10 cars per month. Due to the economy, the applicant states that there has been a high demand for repair since people are more interested in repairing vehicles than investing in a new car.

The applicant states that the facility doesn't deal with prior salvage vehicles, nor do they store junk vehicles in the parking lot or anywhere on the site. Image is also important; the applicant emphasizes the importance of the surrounding community and that one primary goal of the operation is to keep the business environment clean with no odor, noise, or parking congestion.

Notification and Correspondence: City staff sent notices for this project on March 13th, 2009. The applicant also sent an email to Council Member Samuels on February 23rd, the Northside Residents Redevelopment Council and the Jordan Area Community Council on March 4th, and the West Broadway Coalition also dated February 23rd. Sarita Turner from the West Broadway Business and Area Coalition sent a letter to City Staff dated March 19th, 2009 indicating full support on behalf of the organization. This letter is attached to this report and any further correspondence will be included for the public record.

EXPANSION/ALTERATION OF A LEGAL NONCONFORMING USE –To utilize an existing service bay within an existing auto sales facility for minor automobile repair located at 1821 West Broadway.

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 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.

Back in 2003 when the West Broadway rezoning study was conducted, the applicant was not advised to rezone the property to the necessary C4 district where used auto sales is first allowed as a conditional use. Instead, the applicant was advised to legalize the existing nonconforming truck rental facility and then legally change that use to used automobile sales in addition to site plan review. The applicant was successful and those applications were approved; the applicant also implemented all the necessary and recommended site plan requirements.

This area is now once again part of a rezoning study and the preliminary recommendation is that this parcel be downzoned from C1 to high density residential. Due to this recommendation, it is unlikely that the applicant would be successful at rezoning this parcel to a more intense commercial zoning district and minor automobile repair businesses are first allowed as a conditional use within the C2 district.

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

According to the submitted business plan, the applicant wishes to downsize the automobile sales portion of the business and add the minor automobile repair component in order to maintain balance in an unstable market. The alteration and intensification of Long Mouné Auto Sales is to utilize the existing service bay to obtain outside repair business in addition to maintaining the existing sales fleet. No building additions are proposed. In addition, the applicant states that there is a gas station and repair shop approximately one block east, a car dealership one block west, and a gas station across the street from the subject property. There are also two other car dealerships located approximately within half a mile west of the subject property. In reality, because the applicant is actually downsizing one portion of the business in order to add a new component, it is unlikely that that this intensification will alter its current compatibility with the area.

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 applicant has a 2003 approved site plan on file that has been properly implemented. The site has two outdoor sales areas that total approximately 1,228 square feet in addition to 10 marked parking spaces that front West Broadway. The building is approximately 1,707 square feet (GFA) with approximately 764 square feet (GFA) of office/customer area and the remainder of the building is made up of one service bay of approximately 943 square feet (GFA). The parking area according to the Minneapolis Zoning Code is 7 and the site meets that requirement. The applicant plans to use the existing sales areas to keep approximately 10 for sale cars on site and the remainder of the designated sales areas and parking area will be used for customers and approximately 5 cars in for service. In addition, the applicant expects only 2-3 customers per day and all transactions and services will be done within the building. The applicant indicates that the building is made of thick cement blocks and is highly insulated so there shouldn't be any adverse off-site impacts from noise; in addition, the site will be continually maintained as has been demonstrated since 2003 and will not create excess dust or odors. For the stated reasons, staff believes that the addition of the minor auto repair will likely have little to no off-site impacts.

The applicant however will be required to meet the minimum development standards as set forth in section 536.20 of the Minneapolis Zoning Code regarding minor automobile repair and automobile sales. The only exception of course is that the sale of vehicles shall not be prohibited. The used automobile sales component of this facility is a lawfully established legal nonconforming use and the applicant is merely expanding the business to include minor automobile repair as a component. Since both uses are not allowed within the district as either permitted or conditional uses, they technically are not subject to the development standards as required by Chapter 548 of the Minneapolis Zoning Code however staff is recommending that the specified development standards be met as a condition of approval for the expansion/alteration of a nonconforming use application.

536.20. Specific development standards. The uses listed below are subject to the following specific development standards, in addition to all other applicable regulations:

Automobile repair, minor.

- (1) All vehicles waiting for repair or pick-up shall be stored on the site in an enclosed building or in parking spaces in compliance with Chapter 541, Off-Street Parking and Loading.
- (2) Except in the I3 District, all repairs shall be performed within a completely enclosed building.
- (3) All vehicles parked or stored on-site shall display a current license plate with current license tab. Outdoor storage of automotive parts or storage of junk vehicles is prohibited.
- (4) The sale of vehicles shall be prohibited.
- (5) In the C1, C2 and C3S Districts, all service vehicles associated with the establishment shall be parked or stored in an enclosed structure after business hours.

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(6) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor tight fittings to preclude the escape of gas vapors from the fill pipes.

(7) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

(8) Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

Automobile sales.

(1) Fuel pumps for the purpose of the retail sale and dispensing of fuel to the general public shall be prohibited. If the use includes dispensing of fuel for the automobiles maintained on-site, the use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor tight fittings to preclude the escape of gas vapors from the fill pipes.

(2) The rental of passenger automobiles shall be prohibited, except as an accessory use.

In addition, staff asked the applicant to address the following findings for a change of nonconforming use and compared them with changes incorporated in 2003:

	2003	Present
Hours of Operation	9 a.m. - 6 p.m. Monday through Saturday	9 a.m. - 6 p.m. Monday through Saturday
Signage	Signage to be removed; applicant proposed one small pedestal sign on property	Property has two signs, one free standing and one building sign-possible sign copy changes
Traffic Congestion	Expected to generate less traffic than prior truck rental use	Car sales to decrease-minor traffic generation for minor automobile repair
Off-Street Parking and Loading	Site to be brought into compliance with zoning code requirements	Parking requirement not changing
Nature of Business Operation	Will have less impact than previous use	Car sales to decrease-addition of minor automobile repair to use one service bay-Likely little to no impact
Number of Employees	Unknown	4 existing-adding 4=8 Total
Building Bulk	Shed to be removed, bulk to be reduced	Building impact will not change
Aesthetic impacts on surrounding property	Site to be rehabilitated to comply with site plan review requirements	Site plan implementation complete

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 applicant has spent over \$300,000 in remodeling the building and implementing the site plan improvements as required in 2003. He indicates that the investment has brought the neighborhood a cleaner and safer environment and has also created jobs in the area. The current car sales business employs 4 people and the applicant plans to hire 4 additional people to help with the minor automobile repair portion of the business.

Staff believes that the above mentioned improvements are visually noticeable from the street and considered to be a great improvement from the previous vacant use in 2003. The decorative wrought iron fencing and landscaping act to both secure the site and create visual appeal from both street frontages. Therefore, staff believes that the expansion/alteration has and will continue to improve the appearance and stability of the neighborhood.

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 site is not used for a residential use and the applicant is not proposing to do so.

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

The site is not located in a Floodway District.

RECOMMENDATIONS:

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the alteration/expansion of a nonconforming use to utilize an existing service bay within an existing auto sales facility for minor automobile repair located at 1821 West Broadway subject to the following condition:

1. The use must comply with the specific development standards as set forth in section 536.20 of the Minneapolis Zoning Code related to Minor Automobile Repair and Automobile Sales except that automobile sales shall not be prohibited.

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Attachments:

1. Statement of proposed use/project description
2. Business Plan
3. Expansion/Alteration of nonconforming use findings
4. Change of nonconforming use findings
5. February 23, 2009, letter to Don Samuels
6. February 23, 2009, letter to Northside Residents Redevelopment Council
7. March 4, 2009, letter to Jordan Area Community Council
8. February 23, 2009, letter to West Broadway Business and Area Coalition
9. March 19, 2009, recommendation letter from West Broadway Business and Area Coalition
10. Letters from neighbors and other correspondence
11. Zoning map
12. Property Information
13. Building Permit Records
14. Site plan and Floor plans
15. Photos of the site