Community Planning and Economic Development - Planning Division Report
Nonconforming Use Certificate and Change of Nonconforming Use
BZZ-4618

Date: November 30, 2009

Applicant: Uptown Wellness Center, LLC, 100 W. Franklin Avenue, Minneapolis, MN 55404, (612) 871-4545

Address of Property: 723 26th Street West

Contact Person and Phone: Space Unlimited, Attn: Elin Michel-Midelfort, 100 W. Franklin Avenue, Minneapolis, MN 55404, (612) 290-3331

Planning Staff and Phone: Becca Farrar, (612)673-3594

Date Application Deemed Complete: November 2, 2009

End of 60-Day Decision Period: December 31, 2009

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

Ward: 10 **Neighborhood Organization:** Lowry Hill East Neighborhood Association (LHENA)

Existing Zoning: R5 (Multiple-family) district

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 24

Lot Area: 4,702 square feet or .10 acres

Legal Description: Not applicable for this application

Proposed Use: Establish nonconforming rights and subsequently allow for a change of the nonconforming use.

Concurrent Review:

- Certificate of nonconforming use.
- Change of a nonconforming use to allow a major sports and health facility and a retail use within an existing building located in the R5 (Multiple-family) district. The property had previously been occupied by a major automobile repair facility.

Applicable Zoning Code Provision: Chapter 531 Nonconforming Uses and Structures; Section 531.30 and 531.80.

Background: The applicant is requesting a certificate of nonconforming use to establish legal nonconforming rights for a major automobile repair facility in the R5 District for property located at 723 26th Street West. The applicant is also requesting a change of nonconforming use to allow a major sports and health facility to locate within the existing building as well as a retail use.

According to very limited City records available for the subject site, the building located on the premises was constructed in 1937. The applicant has provided a written statement from the former owner of the property that Hydraulic Jack & Equipment Service Company, a major automobile repair facility operated on the premises from 1947 until March of 2009. Further evidence was provided by the applicant from the 1960 Polk's Minneapolis City Directory indicating that Hydraulic Jack & Equipment Service Company existed on the site. There are no City records that indicate that the business ever acquired a license from the City, however, there are records that the property was regularly inspected by the fire department. At some point the address on the property was changed from 2601 Aldrich Avenue South to 723 26th Street West.

The businesses that the applicant intends to locate within the building include a personal trainer, which is classified as a major sports and health facility according to the Zoning Code as well as a vintage bridal dress shop, which is classified as a retail use according to the Zoning Code. The land use applications will trigger the need for the owner of the property to bring the parking lot into compliance with the design and maintenance provisions outlined in Section 531.110, Section 541.360 and Chapter 530 of the Zoning Code. Staff acknowledges that many of the design and maintenance requirements may not be practically feasible due to the existing site constraints.

Planning Staff has not received official correspondence from the Lowry Hill East Neighborhood Association (LHENA) or any neighborhood letters prior to the printing of this report. Any correspondence received will be forwarded on to the Planning Commission for further consideration.

Findings As Required By The Minneapolis Zoning Code - for a Certificate of Nonconforming Use:

1. A building permit was issued for the construction of a structure in 1937.
2. 1960 Polk's Minneapolis City Directory indicates that Hydraulic Jack & Equipment Service Company existed on the site (at the time addressed as 2601 Aldrich Avenue South).
3. At some point, the property address was changed from 2601 Aldrich Avenue South to 723 26th Street West.
4. The site was zoned R5 under the 1963 code.
5. According to City records, the property was regularly inspected by the fire department.
6. According to City records, Hydraulic Jack & Equipment Service Company never attained a business license.
7. A statement provided by the former owner of the property states that Hydraulic Jack & Equipment Service Company occupied the subject site from 1947 until March of 2009.

Even though the City records on this property are limited, Staff believes that the information provided by the applicant entitles the site to a certificate of nonconforming use as it has been established that the property has nonconforming rights as a major automobile repair facility.

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

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 property is located at the corner of 26th Street West and Aldrich Avenue South within an area of mixed commercial and residential zoning designations and uses. The subject site is situated a block west of Lyndale Avenue South which is a designated Community Corridor. The properties located across Aldrich Avenue South to the west are predominantly zoned R2B and consist of single and two-family residential structures. The properties located to the north and south on the east side of Aldrich Avenue South have mixed zoning classifications and uses. The uses and zoning classifications located along Lyndale Avenue South in this vicinity are primarily commercial or higher density residential. The structure located on the premises was constructed in 1937 and has been occupied by a major automobile repair facility since 1947. A major sports and health facility and a retail use would likely be compatible with the adjacent uses located within the immediate vicinity and would be expected to be less intense than the former commercial business that previously occupied the site.

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

(a) Hours of operation: According to the applicant, the uses would operate Monday through Friday from 9:00 a.m. to 6:00 p.m. and will not have office hours on the weekends or after-hours appointments. These hours would be expected to be less intense than the former use of the site as a major automobile repair facility (although no details on the former businesses hours of operation are available).

(b) Signage: There is an existing pole sign located on the premises. The applicant proposes to reface the existing sign in order to accommodate signage for each of the businesses. No details are provided for the proposed signage. Any modifications to the existing pole sign shall be in compliance with Section 543.150(b) of the Zoning Code. Additional wall signage would be subject to the requirements outlined in Section 543.250 of the Zoning Code. Further any proposed signage will require a separate permit from the Zoning office.

(c) Traffic generation: The proposal to locate a retail use and a major sports and health facility within the existing building would not be expected to result in an increase in traffic generation. There is some off-street parking located on the premises; however, some of the parking spaces likely do not conform to the Chapter 541 parking requirements. The owner of the property will be required to submit a site plan in compliance with the design and maintenance provisions outlined in Section 531.110, Section 541.360 and Chapter 530 of the Zoning Code. The proposed uses have grandfathered parking rights.

(d) Off-street parking and loading: There is some off-street parking located on the premises; however, some of the parking spaces likely do not conform to the Chapter 541

parking requirements. The owner of the property will be required to submit a site plan in compliance with the design and maintenance provisions outlined in Section 531.110, Section 541.360 and Chapter 530 of the Zoning Code. The proposed uses have grandfathered parking rights.

(e) Nature of business operations: The applicant would be providing personal training services as well as a retail use at the site should the change in non-conforming use be approved.

(f) Number of employees: There will be a total of two employees; one at each business.

(g) Building Bulk: Alterations to the existing structure have already been made to accommodate the two tenant spaces as new doors, windows and paint have been applied to the existing structure. Additional interior renovations would be necessary in order to adapt it for each use. The building covers approximately 58% of the site.

(h) Aesthetic impacts on surrounding property: The building covers approximately 58% of the entire site. It appears that the applicants intend to install some landscaping although a landscape plan is not included with the submittal materials. 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, it is likely that more substantive vegetation will be required as will additional site improvements. Planning Staff shall review a site plan submitted in accordance with those regulations in order to improve the overall aesthetic appearance of the site.

(i) Noise, odor, heat, glare and vibration: The proposed use likely had impacts as it relates to noise and odor. The proposed uses would not be expected to have any significant impacts as it relates to noise, odor, heat, glare or vibration.

Planning Staff would not expect the proposed uses to be more intense that the existing use at the site. Therefore Planning Staff would support the change of a non-conforming use in this circumstance to allow a major sports and health facility as well as a retail use in lieu of the former use as a major automobile repair facility.

Recommendation of the Department of Community Planning and Economic Development Planning Division for a certificate of 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 nonconforming use certificate to establish legal nonconforming rights for a major automobile repair facility in the R5 District for property located at 723 26th Street West.

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

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the application for a change in nonconforming use to allow a major sports and health facility and a retail use in place of the major automobile repair facility that previously occupied the property located at 723 26th Street West subject to the following conditions:

1. Submission of a site plan by the property owner for the property as required by 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.
2. All site improvements shall be completed by November 30, 2010, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Attachments:

1) Statement of proposed use & findings
2) Correspondence
3) Zoning map
4) Plans – site, floor plans, sign, elevation, etc.
5) Photos
6) Oblique aerial photo