

Department of Community Planning and Economic Development
Change of a Nonconforming Use
BZZ-6037

Date: June 10, 2013

Applicant: Charles Fagerhaugh

Address of Property: 3800 46th Street East

Contact Person and Phone: Charles Fagerhaugh, (763) 544-5167

CPED Staff and Phone: Aaron Hanauer, (612) 673-2494

Date Application Deemed Complete: May 3, 2013

End of 60 Day Decision Period: July 2, 2013

Ward: 12 **Neighborhood Organization:** Longfellow Community Council

Existing Zoning: OR2/High Density Office Residence District, AP/Airport Overlay District, and PO/Pedestrian Oriented Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 34

Legal Description: Not applicable for this application

Proposed Use: Warehouse

Concurrent Review:

- **Change of nonconforming use:** Change of nonconforming use from automobile repair facility to a warehouse for tires and rims in the R2B Two-family Residence District.

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

Background: Charles Fagerhaugh, the property owner, has submitted an application for a change of non-conforming use for the property at 3800 46th Street East. The proposed use is a warehouse facility that will store tires and rims for the Tires for Less Enterprise. Tires for Less has facilities in Minneapolis (3011 3rd Avenue South), Fridley, Bloomington, Saint Paul, and Mounds View.

The subject property is a 22,300 square foot triangularly shaped lot. The building on the site is 9,739 square feet. City records indicate that the original portion of the building was built in 1946. There were six additions built between 1947 and 1971 (1947, 1953, 1955, 1962, 1966, and 1971). The structure was originally built as a metal plating shop. The most recent use was an automobile repair facility that

Department of Community Planning and Economic Development
BZZ-6037

specialized in bumper repairs. The applicant states that the previous tenant, Keystone Automotive Industries/North Star Bumper patched, sanded, cleaned, and repainted the bumpers on site and that they stored in excess of 4,000 bumpers outside of the building. Aerial views confirm that there was outdoor storage of bumpers to the north of the building.

The subject property was zoned I1/Light Industrial between 1963 until 1999. In 1999, as part of the 46th Street Station Area Rezoning Study, the subject property was rezoned to OR2/High Density Office Residence District. At that time the previous bumper repair facility became a legal nonconforming use.

As of the writing of this report, staff has not received any correspondence from the neighborhood group or neighboring residents/property owners. 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 automobile repair facility to a warehouse.

The 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 site is adjacent to a mix of uses. A contemporary mixed use building with commercial on the first floor and apartments on the upper floors is located to the east of the subject property. To the northeast and north of the subject property, are low-density residential structures. A Walgreens pharmacy is located to the west. The Walgreens Pharmacy and the subject property are separated by Soo Line Railroad tracks and overhead power lines. To the south of 3800 46th Street East are a Holiday gas station and the Creative Kidstuff corporate office and warehouse.

The neighborhood is in a transition from industrial uses to multifamily residential uses on or nearby Hiawatha Avenue. As conditioned, the proposed warehouse would be compatible with the adjacent property and the neighborhood. Among the conditions that CPED is recommending is that landscaping is added, outdoor storage of products and refuse is prohibited, and that fence slats shall be removed.

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

- (a) Hours of operation:** The proposed warehouse will be less intense than the former nonconforming use in terms of hours of operation. The Keystone Automotive Industries use was open 6:00am until 5:30pm, Monday through Friday (a total of 57.5 hours). The proposed warehouse would be open 9:00am until 5:00pm, and 9:00am until 6:30pm (a total of 55.5 hours). The proposed business would be closed on Sundays. It should also be noted that as of 2011, hours of operation are now under the purview of business licensing and the applicant will have to ensure that the hours of operation meet business licensing requirements.

- (b) **Signage:** The amount of signage the former automobile repair facility had is unknown. The applicant states that they will comply with the City of Minneapolis zoning code requirements for signage. Chapter 543 of the Zoning Ordinance states that newly established signs accessory to nonconforming uses in the OR2 zoning district shall be subject to the regulations of the district in which it is located. Therefore, the subject property is allowed one and one-half square feet of signage for each one foot of primary building wall since it currently does not have a freestanding sign. The subject building has 27.9 linear foot of street frontage along 46th Street. Therefore, they are allowed to have 42 square feet of signage. Any future signage will require a separate sign permit.
- (c) **Traffic generation and safety:** The proposed warehouse is expected to have less traffic generation than the previous use. The applicant states that the former use had up to 25 employees parking on the site with up to a dozen deliveries and pickups a day. The proposed business will have a maximum of two employees and one or two truck deliveries per week.

Given the change of use from a bumper repair facility to a warehouse, the applicant will be required to obtain permits and city approvals for a change of occupancy. This review will help ensure the safety of the neighboring residential and commercial properties next to a tire storage facility.

- (d) **Off-street parking and loading:** The proposed warehouse is expected to have less off-street parking and loading demand than the previous use. The applicant has stated that they only anticipate having one to two employees on the site at one time and one or two truck deliveries per week. The bumper repair facility had more employees (up to 25) and deliveries (up to a dozen a week).

The existing parcel contains nine parking spaces at the front of the property along 46th Street East; however, these parking spaces never received city approval and do not meet city code requirements for landscaping, screening, and maneuvering in an off-street parking area. CPED is recommending that the parking spaces at the south end of the lot, which do not meet zoning code requirements, be removed.

Per Table 541 of the zoning code, a warehouse is required to provide one space per 500 square feet of gross floor area of office, sales, or display area in excess of 4,000 square feet (with a minimum of four spaces) and one space per 3,000 square feet of gross floor area of warehousing up to 30,000 square feet. The office of the warehouse is approximately 1,000 feet, and the warehouse portion of the building is approximately 8,739 square feet. Therefore, the warehouse use is required to provide seven parking spaces. However, since the subject property is located in a pedestrian oriented overlay district (46th Street LRT Station Area), the proposed use is allowed to reduce their parking requirement by 25 percent (two spaces), which brings their parking requirement to five spaces. CPED is recommending that the applicant provide five parking spaces on the property that meet all size and spacing requirements as stated in Chapter 541 of the zoning code, as well as all other city requirements. To the north of the building there is

Department of Community Planning and Economic Development
BZZ-6037

an approximately 5,800 square foot area where the applicant will have space to provide off street parking spaces that meet City of Minneapolis zoning code requirements. CPED has informed the applicant that modifications to the site will likely require preliminary development review (PDR).

- (e) **Nature of business operations:** The proposed use would be less intense than the previous use in terms of business operation. The previous use was a bumper repair facility which the zoning code defines as a major automobile repair facility. The bumper repair facility patched, sanded, cleaned, repainted and stored the bumpers on site. The proposed use is to store wheels and rims. To reduce the impact of the new warehouse on the neighboring residential structures, CPED is recommending that the storage of tires, rims, and refuse outside of the building shall be prohibited.
- (f) **Number of employees:** The proposed use would be less intense than the previous use in terms of number of employees. The previous use had up to 25 employees. The applicant states that the proposed business will have one or two employees.
- (g) **Building Bulk:** The building bulk will remain the same. The existing building has 9,739 square feet in gross floor area. No exterior additions are proposed to the building.
- (h) **Aesthetic impacts on surrounding property:** The subject property does not have an approved site plan on file. The former bumper repair facility had an approximately 5,800 square foot outdoor area that stored bumpers. The outdoor area was screened by a chain link fence with slats. The site currently has no or minimal landscaping. CPED is recommending the following as conditions of approval to improve site conditions:
 - The storage of tires, rims, or refuse outdoors shall be prohibited.
 - At least 1,256 square feet (10 percent of the net lot area) of the subject property shall be landscaped and at least three deciduous canopy trees and 13 shrubs shall be provided as required by section 530.160 of the zoning code. The applicant is encouraged to plant native grasses and perennials in addition to the required trees and shrubs.
 - Fence slats shall be removed to comply with section 535.430.As conditioned, the aesthetic impact on the surrounding property will be an improvement over existing conditions.
- (i) **Noise, odor, heat, glare and vibration:** The proposed warehouse use is not expected to generate excessive noise, odor, heat, glare or vibration.

Based on the above analysis and recommended conditions of approval, the proposed warehouse should not be more intense than the previous major automobile repair facility.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the site plan review:

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 a

Department of Community Planning and Economic Development
BZZ-6037

major automobile repair facility to a warehouse in the OR2/High Density Office Residence District for the property at 3800 46th Street East, subject to the following condition:

1. CPED Planning staff review and approval of the final site, floor plans and elevations.
2. Necessary permits and approvals shall be obtained for the change of occupancy.
3. Storage of tires, rims, and refuse outside is prohibited.
4. All site improvements shall be completed by June 10, 2015, unless extended by the zoning administrator, or the change of nonconforming use may be revoked for non-compliance.
5. At least 1,256 square feet (10 percent of the net lot area) of the subject property shall be landscaped and at least three deciduous canopy trees and 13 shrubs shall be provided as required by section 530.160 of the zoning code. The applicant is encouraged to plant native grasses and perennials in addition to the required trees and shrubs.
6. The parking spaces at the south end of the lot that do not meet zoning code requirements shall be removed. Five parking spaces shall be provided that meet all size and spacing requirements outlined in chapter 541 of the zoning code.
7. Fence slats shall be removed.

Attachments:

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