

## Department of Planning and Zoning

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**TO:** Development Review Board  
**FROM:** Scott Gustin *SD*  
**DATE:** July 19, 2016  
**RE:** 16-1318CU; 120-132 North Willard Street

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**Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.**

Zone: RL Ward: 1E

Owner/Applicant: Tioli Properties, LLC

**Request:** Allow 5 unrelated adults within a dwelling unit

**Applicable Regulations:**

Article 3 (Applications and Reviews), Article 4 (Maps & Districts)

**Background Information:**

The applicant is seeking approval to allow occupancy of a detached single dwelling unit with 5 unrelated adults. Such request is subject to conditional use review. No construction is included in this proposal. Site and building conditions are to remain unchanged. Note that the subject property contains a 4-plex in addition to the detached single dwelling unit for a total of 5 units onsite. This application comes as a result of a Code Enforcement investigation relative to occupancy of the subject dwelling by more than 4 unrelated adults.

Previous zoning actions for this property are noted below.

- 3/26/03, Approval of building renovations, site modifications, and demo of outbuildings
- 8/1/01, Approval for installation of 2<sup>nd</sup> driveway (from Henry Street)

**Recommendation:** Conditional use denial as per, and subject to, the following findings:

**I. Findings**

**Article 3: Applications and Reviews**

**Part 5, Conditional Use & Major Impact Review:**

**Section 3.5.6 (a) Conditional Use Review Standards**

*Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:*

1. *Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;*

Occupancy of the subject dwelling unit by a 5<sup>th</sup> unrelated adult will entail little additional demands on municipal services or utilities. **(Affirmative finding)**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan;*

The subject property is located within the RL zone, across the street from the higher density RM zone. The property is anomalous in that it contains two primary structures: a single detached dwelling and a 4-plex. Other nearby properties reflect a variety of 1, 2, and 3-dwelling unit structures. The RL zone is intended primarily for low density residential development in the form of detached single family homes and duplexes. No change in use is included in this proposal. To the extent that the single detached dwelling would remain as such, it can be found in character with the area. **(Affirmative finding)**

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

The requested occupancy of 5 unrelated adults will not have nuisance impacts from odor, dust, heat, and vibrations greater than that generated by other residential neighborhoods in the area. Noise is one effect that may reasonably be expected. The one example of approved occupancy by more than 4 unrelated adults (26 Summit St) included a written property management plan that outlined standards for, and responses to, adverse effects such as noise. Nothing in the subject application outlines how adverse impacts would be addressed. **(No finding possible)**

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies;*

No traffic information has been provided nor is required for a proposal of this small scale. Traffic impacts associated with one additional adult are expected to be minimal. **(Affirmative finding)**

*and,*

5. *The utilization of renewable energy resources;*

Nothing in the application addresses utilization of renewable energy resources. The requested occupancy will have no effect on the future utilization of renewable energy resources on the subject property. **(Affirmative finding)**

*and,*

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances;*

The property is, and will continue to be, subject to the city's building and minimum housing codes. **(Affirmative finding if conditioned)**

(b) Major Impact Review Standards

Not applicable.

(c) Conditions of Approval:

*In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:*

*1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

The applicant should be prepared to develop a property management plan that articulates standards for, and responses to, adverse effects such as noise on the surrounding neighborhood. As noted above, no such information has been provided. **(No finding possible)**

*2. Time limits for construction.*

Not applicable.

*3. Hours of operation and/or construction to reduce the impacts on surrounding properties.*

See criterion 2 above.

*4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,*

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

*5. Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*

Conditions of approval will apply if the application is approved.

**Article 4: Maps & Districts**

**Sec. 4.4.5, Residential Districts:**

**(a) Purpose**

**(1) Residential Low Density (RL)**

The subject property is located in the RL zone. This zone is primarily intended for low density residential development in the form of single family homes and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhood's development history. Insofar as the subject single detached dwelling unit will remain as such, it is consistent with the intent of the RL zone. **(Affirmative finding)**

**(b) Dimensional Standards & Density**

Not applicable.

**(c) Permitted & Conditional Uses**

The single detached dwelling unit is a permitted use in the RL zone. Proposed occupancy in excess of 4 unrelated adults; however, requires conditional use review. **(Affirmative finding)**

**(d) District Specific Regulations**

**1. Setbacks**

No setback encroachments are sought. **(Not applicable)**

## **2. Height**

Not applicable in RL. **(Not applicable)**

## **3. Lot Coverage**

No lot coverage exceptions are sought. **(Not applicable)**

## **4. Accessory Residential Structures and Uses**

No accessory structures or uses are included in this proposal. **(Not applicable)**

## **5. Residential Density**

A dwelling unit may be occupied by more than 4 unrelated adults if it contains at least 2,500 sf (excluding the basement and attic) and, if in the RL zone, the dwelling unit also contains at least an additional 250 sf and 1 additional parking space per adult occupant in excess of 4.

The subject dwelling unit contains 2,608 sf living space. This figure includes 578 sf on the 3<sup>rd</sup> floor. The applicant asserts that this 3<sup>rd</sup> floor space is not an attic, as the ceiling is flat under the pitched roof. Photos have been provided. The Comprehensive Development Ordinance does not define the term “attic.” A Visual Dictionary of Architecture (Francis D.K. Ching, 1995) defines “attic” as “a room or space directly under the roof of a building, esp. a house.” In this case, the 3<sup>rd</sup> floor space within the turret has a flat ceiling at 7’ 10”; however, other 3<sup>rd</sup> floor space has a partial flat ceiling at 6’ 5” with heavily slanted sides. Note that the 2003 zoning permit for building renovations included finishing this 3<sup>rd</sup> floor space – it notes the renovations under “Attic Plan.”

As noted previously, the subject property contains a detached dwelling unit and a 4-plex. Total parking onsite is 6 spaces. The minimum parking requirement per Table 8.1.8-1, *Minimum Off-Street Parking Requirements*, is 2 spaces per unit (10 total) in this Neighborhood Parking District. Parking is nonconforming. There is inadequate parking for the present uses onsite, never mind additional occupancy.

All facilities within the dwelling unit, including bathroom and kitchen facilities, must be accessible to the occupants without passing through any bedroom. Each room to be occupied as a bedroom must contain at least 120 sf. The application asserts compliance with this provision, but no floor plans have been provided to depict current interior conditions. The 2003 floor plans depict an acceptable arrangement, but include only 4 bedrooms. **(Adverse finding)**

## **6. Uses**

**(Not applicable)**

## **7. Residential Development Bonuses**

No development bonuses are being sought. **(Not applicable)**

## **II. Reasons for Denial**

Per the adverse findings and above.