

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin *SG*
DATE: July 19, 2016
RE: 16-0859CU; 616 South Willard Street

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: 6S

Owner/Applicant: RJL South Willard LLC / Majestic Car Rental Group

Request: Amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church.

Applicable Regulations:

Article 3 (Applications and Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), and Article 8 (Parking)

Background Information:

The applicant is seeking approval to amend the conditions of zoning permit 07-524CA/CU issued in May, 2007 to establish the current vehicle rental business. Specifically, the applicant is looking to lessen the restrictions relative to vehicle numbers and associated parking. The applicant wishes to have additional vehicles and to park them offsite. The business has grown since its approval and can no longer contain all of its vehicles onsite. Additional vehicles are routinely parked at the nearby Greek Orthodox Church at 600 South Willard Street.

Zoning permit 07-524CA/CU was issued under the 1994 zoning ordinance (as amended). That ordinance contained provision that allowed one nonconforming use to change to another nonconforming use subject to conditional use review. The vehicle rental facility was approved under this provision and is a nonconforming use. The present comprehensive development ordinance contains no such provision.

This application has been spurred by a neighbor's complaint to the Code Enforcement Office relative to using the church's parking lot for rental vehicles.

The Development Review Board initially considered this application March 15, 2016. The board denied the application because it found that the proposal amounted to an expansion of a nonconforming use. During deliberations, the board also noted the lack of information relative to parking requirements versus availability at the 600 South Willard Street church property and how the shared parking arrangement might work.

Within the 30-day appeal period, the applicant requested that the DRB re-open the public hearing so that information relative to the shared parking arrangement could be provided for the board's consideration. On April 5, 2016, the DRB voted to re-open the public hearing to further consider the application. The re-opened public hearing was scheduled for May 15, 2016. At that meeting; however, the applicant requested a 30-day deferral. The board allowed the deferral; however, the next available meeting was July 19, 2016.

At this point, the applicant has provided a parking management plan that outlines how the shared parking arrangement works.

Previous zoning actions for this property are noted below.

- 9/18/07, Approval to replace windows
- 5/29/07, Approval to convert gas/service station to vehicle rental facility
- 3/30/07, Approval for new signs
- 5/3/86, Approval to install new and replacement exterior lighting fixtures
- 12/4/85, Approval and subsequent denial of variance to construct canopy over pumps
- 8/25/84, Approval to replace existing Octane sign with Mobil sign (freestanding)
- 10/5/65, Approval to demolish nonconforming service station and replace with a new one with variance for side and front setback requirements

Recommendation: 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;*

This application has no bearing on existing or planned public 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 contained within the Residential Low (RL) Density zone. The RL zone is intended primarily for low density residential development in the form of detached single family homes and duplexes. The existing vehicle rental business is inconsistent with the intent of this district. Insofar as it was approved, it may continue indefinitely so long as it does not expand.

(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 existing vehicle rental business does not generate exceptional noise, odor, dust, heat, or vibrations. Additional vehicles parked at 600 South Willard Street are unlikely to generate such impacts. **(Affirmative finding)**

- 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. It bears noting that the original permit application included traffic information based on 10 rental cars per day, plus 6 employees. Those impacts were found to be acceptable. Presently, the amendment seeks approval of approximately 50 vehicles. This increase is substantial and has not been subject to any traffic impact analysis. Newly submitted information related to the re-opened public hearing does not address traffic counts. **(No finding possible)**

and,

- 5. The utilization of renewable energy resources;*

The proposed amendment will have no impact on the utilization of renewable resources onsite. **(Affirmative finding)**

and,

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

Compliance with applicable standards or factors set forth in city or state bylaws and ordinances is unknown. It is the applicant's responsibility to ensure compliance with all applicable city and state bylaws and ordinances. **(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.*

No physical changes are included in this amendment application. Mitigation measures relative to screening and landscaping are not warranted. **(Affirmative finding)**

- 2. Time limits for construction.*
(Not applicable)

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

The business's present hours of operation are within those specified in the original approval (7:00 AM – 7:00 PM, 7 days/week). The amendment notes present hours of 7:00 AM – 6:00 PM M-F; 7:00 AM – 3:00 PM Saturday, and 8:00 AM – noon on Sunday. **(Affirmative finding)**

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

No enlargement of this nonconforming use can be permitted. Other alterations would 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.

If approved, conditions will apply.

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

See Sec. 3.5.6 (a) 2.

(b) Dimensional Standards & Density

(Not applicable)

(c) Permitted & Conditional Uses

As noted elsewhere in these findings, the vehicle rental business is nonconforming within the residential low density zone. Insofar as it has a zoning permit, it may continue indefinitely in its approved configuration.

Parking rental vehicles at 600 South Willard Street introduces a new use to the church property – that of a private parking lot. Such arrangement amounts to a parking lot use (see Appeal of Wesco, Inc., 211-219 Main St). In this low density residential zone, parking lots are prohibited. **(Adverse 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

(Not applicable)

6. Uses

(Not applicable)

7. Residential Development Bonuses

No development bonuses are being sought. (Not applicable)

Article 5: Citywide General Regulations

Part 3: Non-Conformities

Sec. 5.3.4, Nonconforming Uses

(a) Changes and Modifications:

(1) Nonconforming Non-Residential Use:

This criterion states: "A nonconforming non-residential use shall not be expanded or altered in any way, other than to full conformity under this Ordinance..." The existing vehicle rental business is a nonconforming non-residential use. It is expressly limited to 11 rental vehicles as conditioned in zoning permit 07-524CA/CU. There is an argument that the additional rental vehicles parked at the nearby church amount to an expansion of this nonconformity. This argument misses the fact that a zoning permit is tied to a particular property. The zoning permit issued for the vehicle rental business limits this use on this particular property. The application correctly asserts that the zoning permit does not control the number of vehicles actually owned by the business. Parking rental vehicles offsite at the 600 South Willard Street church property introduces a new use on a separate property (see Article 8 below). **(Affirmative finding)**

A. Exception for residential conversion.

The application is not for a residential conversion of the existing commercial use. **(Not applicable)**

B. Existing neighborhood commercial uses.

The vehicle rental business is not a neighborhood commercial use as defined in Article 13 of the CDO. **(Not applicable)**

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

Per the DRB's 2007 approval of the vehicle rental facility, its onsite parking requirement is 11 spaces. Those spaces are present onsite.

The most recent site plan approval for the church at 600 South Willard Street dates to 1985 and reflects 30 parking spaces. Under present standards, the church requires 20 parking spaces (1 space per 4 seats with an 80 seat capacity). There is a 10-space excess. **(Affirmative finding)**

Sec. 8.1.12, Limitations, Location, Use of Facilities

(a) Off-Site parking facilities

This section enables the off-site location of required parking. Required parking is that required per Sec. 8.1.8, *Minimum Off-Street Parking Requirements* and the associated Table 8.1.8-1, *Minimum Off-Street Parking Requirements*. In this case, required parking for the vehicle rental facility is 11 spaces. Those spaces are provided onsite. The additional vehicles parked at the church property are above and beyond the required parking.

There is a pending zoning amendment that affords greater flexibility for shared parking arrangements. The amendment is pending with the Planning Commission and is not yet effective. **(Adverse finding)**

Sec. 8.1.15, Waivers from Parking Requirements / Parking Management Plans

The applicant has submitted a parking management plan for shared parking with the church. To be clear, use of more than 10 parking spaces at the church property by the vehicle rental business requires a parking waiver for the church (per Sec. 8.1.8, the church requires at least 20 parking spaces and has 30; there is a 10-space surplus). No number of shared spaces is given. The parking management plan states that the number fluctuates daily but that the number of vehicles never exceeds the “allotted” parking at the church. The “allotted” number is unclear. While the parking management plan outlines a fairly simple shared parking arrangement, it does not actually state how many spaces are shared. This basic information is key and determines whether a parking waiver is actually needed.

If a parking waiver is indeed needed, an accompanying zoning permit for the church property is required. The applicant is aware of this requirement; however, at the time of this writing, no such application has been filed. **(No finding possible)**

II. Reasons for Denial

Per the adverse findings above.