

ZONING COMMITTEE STAFF REPORT

FILE NAME: Castillo Auto Repair

FILE # 20-069-027

APPLICANT: Castillo Auto Repair

HEARING DATE: September 24, 2020

TYPE OF APPLICATION: Nonconforming Use Permit - Change

LOCATION: 744 3rd St E, SW corner at Maple Avenue

PIN & LEGAL DESCRIPTION: 322922140214, LYMAN DAYTON ADDITION NWLY 76 FT OF LOTS 25 AND LOT 26 BLK 37

PLANNING DISTRICT: 4

PRESENT ZONING: B2

ZONING CODE REFERENCE: §62.109(c)

STAFF REPORT DATE: ~~September 16, 2020~~ September 24, 2020

BY: Bill Dermody

DATE RECEIVED: August 26, 2020

60-DAY DEADLINE FOR ACTION: October 19, 2020

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- A. **PURPOSE:** Change of nonconforming use from auto body shop to general auto repair / tire repair
- B. **PARCEL SIZE:** 5776 sq. ft. (76' x 76')
- C. **EXISTING LAND USE:** Auto body repair
- D. **SURROUNDING LAND USE:**
- North: Multi-family residential (northwest corner, T2); office ground floor, residential above (northeast corner, B2)
 - East: Multi-family residential (southeast corner, T2); single-family residential (RT1)
 - South: Duplex and single-family residential (RT1)
 - West: Duplex and single-family residential (RT1)
- E. **ZONING CODE CITATION:** §62.109(c) authorizes the planning commission to allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location upon making certain findings (see Section I below).
- F. **PARKING:** Zoning Code § 63.207 requires a minimum of 1 parking space per 400 square feet plus 1 space per auto service stall for the proposed use, which was the same requirement for the previous auto body repair use. 6 parking spaces are proposed – same as previously approved for the auto body use.
- G. **HISTORY/DISCUSSION:** The building was constructed in 1931 when it received zoning approval for a fuel station. The site was rezoned from Commercial to B3 in 1975. Since approximately 1978 it has been used as an auto body shop, with a brief period of vacancy that required a reestablishment of nonconforming use to be approved in 2012. In 1986, a nonconforming use permit was approved to allow expansion of a rear yard storage accessory use (ZF# 9921). In 1990, all four corners of the Maple/3rd intersection were rezoned B2. The intersection's northwest and southeast corners were subsequently rezoned to T2 in 2004 and 2012.
- H. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, the District 4 Council has not provided a recommendation. They intend to review the application on September 21.
- I. **FINDINGS:**
1. The application is to change the nonconforming use from auto body shop to auto repair and tire repair.
 2. Section 62.109(c) states: *The planning commission may allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location if the commission makes the following findings:*
 - a. *The proposed use is equally appropriate or more appropriate to the neighborhood than the*

existing nonconforming use. This finding is met. Auto repair is first allowed in the B3 zoning district, which is more restrictive in the first district where auto body repair is allowed: T4.

- b. *The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.* This finding is met. The use is anticipated to have similar traffic generation as the previous use. The code-required parking for both uses is the same.
- c. *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding can be met. Auto repair and tire repair are similar in impact to the surrounding area as auto body repair, except that they do not involve painting and potentially noxious fumes. Therefore, the use is generally an improvement to public health, safety, and general welfare. However, tire storage must be maintained so as not to be detrimental to the neighborhood's existing character. The application proposes tire storage (for disposal) in area "A" on the site plan – a fenced area southeast of the building. It also proposes a for-sale tire display rack to be wheeled out daily to area "B" along 3rd Street in a paved area not used for parking or maneuvering, and to be wheeled indoors each night. The tire storage in area "A" presents a fire hazard in close proximity to the neighboring residence, and so should be eliminated in order to avoid endangering public safety.
- d. *The use is consistent with the comprehensive plan.* This finding is met. The 2030 Comprehensive Plan designates 3rd Street as a Residential Corridor in Figure LU-B. The use is becoming more compatible with that designation. Also, the District 4 Area Plan Summary (2009) includes strategy C3: "Promote the reuse, instead of demolition, of existing commercial buildings."

J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the change of nonconforming use from auto body shop to general auto repair / tire repair subject to the following additional conditions:

1. Substantial conformance with materials submitted for this application, including site/floor plan.
2. No outdoor storage of tires or other materials, ~~except in Area "A" on the site plan there may be storage behind the fence and below the fence height, and in Area "B" on the site plan there may be a for-sale tire display during open business hours that is stored inside nightly.~~