

**Department of Community Planning and Economic Development - Planning Division**  
Expansion of Non-conforming use, Conditional Use Permit  
BZZ-5206

**Date:** July 18, 2011

**Applicant:** Clay Lambert

**Address of Property:** 2700 University Avenue SE

**Project Name:** Metro Petro

**Contact Person and Phone:** Clay Lambert (612) 298-8983

**Planning Staff and Phone:** Kimberly Holien (612) 673-2402

**Date Application Deemed Complete:** June 23, 2011

**End of 60 Day Decision Period:** August 12, 2011

**Ward: 2 Neighborhood Organization:** Prospect Park/East River Road

**Existing Zoning:** C1 Neighborhood Commercial District, PO Pedestrian Oriented Overlay District

**Zoning Plate Number:** 22

**Legal Descriptions:** Not applicable

**Existing Use:** Automobile convenience facility

**Concurrent Review:**

**Expansion of a non-conforming use:** to allow two additional fuel dispensers, each with dispensing capabilities on two sides.

**Applicable zoning code provisions:** Chapter 525, Article VII Conditional Use Permits; Chapter 531, Non-conforming uses and structures; Chapter 548 Commercial Districts

**Background:** Clay Lambert has submitted an application for an expansion of non-conforming use to allow two additional fuel dispensers at an existing, non-conforming automobile convenience facility with a car wash. Each dispenser would have dispensing capabilities with nozzles on two sides. The applicant is also proposing to add an additional underground fuel tank as part of the project and repair the concrete parking surface. Automobile convenience facilities are not allowed in the C1 district or in the Pedestrian Oriented overlay district. The existing car wash is also prohibited in the C1 district. Both of these uses are legally non-conforming as they were established prior to the property being rezoned.

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A number of land use applications were approved by the Zoning and Planning Committee of the City Council on February 15, 2007 to allow the existing use to be constructed. A conditional use permit was approved on January 10, 2011 to allow extended hours of operation on the site. The site is generally in compliance with the previously approved site plan from 2007. The concrete parking surface around the fuel pumps is chipping and is being replaced as part of this project.

Automobile convenience facilities are subject to specific development standards, as outlined below:

- (1) The sale or repair of vehicles shall be prohibited.
- (2) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.
- (3) Service area canopy light fixtures shall be completely recessed within the canopy so that the lenses shall not extend beyond the surface of the canopy.
- (4) The total light output used for illuminating service area canopies shall not exceed forty (40) initial bare-lamp lumens per square foot of canopy.
- (5) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.
- (6) Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

Staff has not received any correspondence from the Prospect Park and East River Road Improvement Associated as of the writing of this report. Any correspondence, if received, will be forwarded to the Commission.

**EXPANSION OF NON-CONFORMING USE: (To allow two additional fuel dispensers, each with dispensing capabilities on two sides.)**

### **Findings as Required by the Minneapolis Zoning Code for the Expansion of a Legal Nonconforming Use:**

#### **1. A rezoning of the property would be inappropriate.**

The future land use of the site is designated as mixed use by *The Minneapolis Plan for Sustainable Growth*. University Avenue is a commercial corridor in this location and the site is across the street from the boundary of an Activity Center. The property was placed in the current zoning districts on January 1, 2008. There has not been a change to the trend of development in area since that time. The Central Corridor line will be constructed north of the site, within the Transitway, and the site is approximately two blocks west of a future transit station, as shown on the future land use map. Transit Stations Areas include parcels within a one-half mile radius of transit stations. The Comprehensive Plan calls for pedestrian-oriented services and retail uses as part of higher density development near transit stations. Furthermore, the Comprehensive Plan discourages uses that diminish the transit and pedestrian character of areas around transit stations, such as automobile services, surface parking lots, and drive-through facilities. Rezoning the site to remove the Pedestrian Oriented Overlay district would not be appropriate and would not be consistent with *The Minneapolis Plan for Sustainable Growth*.

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**2. The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.**

The surrounding area contains a mix of uses and zoning districts. The parcel to the north is zoned OR2 and contains a large office building. The parcel to the west, across 27<sup>th</sup> Avenue, is zoned C2 and contains a restaurant use. The parcel at the opposite corner of the intersection is zoned I1 and contains an industrial use. The parcel to the west is zoned OR2 and also contains an industrial use. There are residential uses to the south. These residential parcels are zoned R4.

Automobile related uses are not typically compatible with residential uses because they produce more traffic, noise, and odors than other nonresidential uses. The use is primarily automobile-oriented. The gas pumps and parking area, however, are located on the north side of the building, away from the residential uses. The two additional dispensers will be located on the south side of two existing pump islands and will be buffered from the residential uses with the existing building. Given the mix of uses in the surrounding area and the layout of the site, the additional dispensers would not be incompatible with the neighborhood.

**3. The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

Allowing two additional fuel dispensers on site is not expected to contribute to congestion in the adjacent public streets. The site has adequate off-street parking and adequate drive aisle widths adjacent to the pump islands. A variance was approved in 2007 to reduce the stacking requirements for the pump islands and car wash but since then the zoning code has been modified to eliminate this requirement. The parking requirement for the automobile convenience facility is 9 spaces and the car wash requires 2 spaces, for a total of 11 parking stalls. There are 15 parking stalls provided on-site. The additional dispensers will accommodate up to four more vehicles on the site at any given time and should allow for patrons to circulate through the site more quickly. The additional dispensers are not expected to generate odors or dust. The use is primarily automobile-oriented. Noise impacts associated with vehicles can include doors closing, engine and stereo noise and general traffic noise. The location of the pumps will limit any potential impact the additional dispensers may have on the residential uses to the south.

**4. The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

The applicant has recently redeveloped the site and made a number of improvements to the property that has improved its appearance. However, adding two dispensers would have little impact on the appearance of the neighborhood nor would it likely have an affect on the stability of the neighborhood. As stated above, the location of the two additional dispensers should reduce any potential impact on the neighboring residential properties. The site is generally in conformance with the approved site and landscaping plans. The concrete that was installed around the fuel pumps following the 2007 approvals is chipping. The concrete parking surface around the fuel pumps is being replaced as part of this project, which will improve the property.

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5. **In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.**

No dwelling units are proposed or existing.

6. **The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The property is not located in the Floodway District.

### **RECOMMENDATIONS:**

#### **Recommendation of the Community Planning and Economic Development Department - Planning Division for the Expansion of Nonconforming Use:**

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the expansion of non-conforming use to allow two additional fuel dispensers, each with dispensing capabilities on two sides, for the property of 2700 University Avenue SE, subject to the following conditions:

- 1) The concrete parking surface around the fuel pumps shall be repaired or replaced in accordance with Section 541.300 of the zoning code.

### **Attachments:**

1. Statement of proposed use and findings from applicant.
2. Correspondence.
3. Zoning map.
4. Site plans and floor plans.
5. Photos.