



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



May 28, 2015

Mr. Matthew LeGrant
Zoning Administrator
Department of Consumer and Regulatory Affairs
1100 Fourth Street, SW, Room 3102
Washington, DC 20024

Re: Car-Sharing Spaces on Square 1035, Lot 810

Dear Mr. LeGrant,

At a regularly scheduled and properly noticed meeting¹ on May 14, 2015, our Commission voted 8-0 (with 5 Commissioners required for a quorum) to request the rationale for your approval of the by-right use of a portion of the above-referenced lot for four (4) car-sharing spaces.

The majority of Lot 810 is occupied by a structure consisting of seven adjoining parking garages. Behind the garage structure, the remainder of the lot has been paved and now hosts four (4) car-sharing spaces used by a commercial car-sharing service. In 2014, the property owner applied for a building permit (Permit No. B1406901), to undertake work including replacing the concrete pavers on the open portion of Lot 810. At that time, Rohan Reid from your office informed a nearby resident, Mr. Michael Cushman, that “[a] parking lot use in the R-4 zone would require relief from the Board of Zoning Adjustment,” and that “[i]f at any time you become aware that the open space is being used as a parking lot, please feel free to contact me so that our office can begin enforcement procedures.” (June 16, 2014 email from Rohan Reid to Michael Cushman.) However, the ANC understands from the property owner that he disclosed the proposed car-sharing use to your office and that he was informed that zoning relief would not be necessary. On March 10, 2015, DCRA issued a certificate of occupancy for Lot 810 that describes the occupancy of the lot as “Private Parking Garages – 7; and Open Parking Spaces – 4; Total of 11 Parking Spaces [Not a Public Parking Lot].” The certificate also lists the “Approved Zoning Code Use” as “Private garage as principal use.” Following further inquiries by Mr. Cushman, Mr. Reid again wrote to Mr. Cushman to inform him that “because the use is not for a commercial parking lot, which would require BZA relief, and is instead for private parking,” the certificate of occupancy application was correctly approved. (April 28, 2015 email from Rohan Reid to Michael Cushman.)

The ANC now seeks clarification regarding the various zoning code provisions that appear potentially to bear on the use of a portion of Lot 810 to host the four car-sharing spaces. Specifically:

- Pursuant to § 333.1, a “parking lot . . . on an alley lot . . . shall be permitted as a special exception in an R-4 District if approved by the Board of Zoning Adjustment under § 3104,

¹ ANC 6A meetings are advertised electronically on the anc6a-announce@yahoogroups.com, anc-6a@yahoogroups.com, and newhilleast@yahoogroups.com, at www.anc6a.org, and through print advertisements in the Hill Rag.

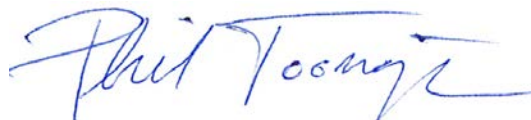
subject to the provisions of this section.” At § 199, the code defines “lot, parking” as a “tract of land used for the temporary parking of motor vehicles when the use is not accessory to any other use.” Does the use of a portion of Lot 810 to host four car-sharing vehicles constitute a “parking lot” within the meaning of the code? If not, is the rationale because the use is “accessory to” the use of the remainder of the lot as a parking garage? If so, on what basis can additional parking for car-sharing vehicles be “accessory to” a primary use of the lot for parking?

- Mr. Reid’s email of April 28, 2015 to Mr. Cushman states that, for purposes of determining whether zoning relief is necessary, a commercial parking lot is treated differently from a lot used for private parking. What is the basis for this distinction? The definition of “lot, parking” at § 199 does not refer to commercial use, nor does § 333.1 specify that a special exception is needed only when a parking lot is to be used for commercial purposes. Is there some other provision of the Code that bears on this question? In addition, why would a contracted-for use of a lot by a car-sharing company be considered a private use and not a commercial one?
- Pursuant to § 301.1, a permitted “accessory use” in the R-2 District is “Car-sharing spaces; provided that any car-sharing space beyond the first two (2) spaces shall be located within or under a principal structure and may not be a required parking space for any use on site.” Is it correct that this accessory use is incorporated by reference into the permissible accessory uses in the R-4 District. If so, are two of the car-sharing spaces on the site required to be located within or under a principal structure? In what ways can that requirement be met, given that the principal structure on the lot would appear to be the existing garage?

Thank you for your attention to this matter. We believe that your interpretation of the zoning regulations with respect to these issues has significant consequences not only for the alley lot in question, but also in potential future cases, particularly given that there are numerous car-sharing spaces located throughout the ANC. Accordingly, your answers to the above questions, as well as your rationale for permitting the car-sharing use by right in this case, are very much appreciated.

Please be advised that Andrew Hysell and I are authorized to act on behalf of ANC 6A for the purposes of this case. I can be contacted at philanc6a@gmail.com and Mr. Hysell can be contacted at hysell6a06@gmail.com. We look forward to hearing from you at your earliest convenience.

On Behalf of the Commission,



Phil Toomajian
Chair, Advisory Neighborhood Commission 6A