

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Dearing Mansion Bed & Breakfast **FILE #** 18-035-742
 2. **APPLICANT:** Caswell Kramer Enterprises LLC **HEARING DATE:** March 29, 2018
 3. **TYPE OF APPLICATION:** Revocation of Conditional Use Permit Due to Noncompliance
 4. **LOCATION:** 241 George Street West (between Ohio Avenue and Waseca Street)
 5. **PIN & LEGAL DESCRIPTION:** 07.28.22.13.0175; the west 15 feet of the south 35 feet of Lot 2, the south 41.53 feet of Lot 3, all of Lot 6, and the west 15 feet of Lot 7, Dorhardt Rearrangement
 6. **PLANNING DISTRICT:** 3 **PRESENT ZONING:** RT1
 7. **ZONING CODE REFERENCE:** § 61.108; § 61.502
 8. **STAFF REPORT DATE:** March 22, 2018 **BY:** Kady Dadlez
 9. **DATE RECEIVED:** March 5, 2018 **60-DAY DEADLINE FOR ACTION:** Not Applicable
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- A. **PURPOSE:** Revocation of a conditional use permit (Zoning File #17-000-688) for a bed and breakfast residence due to noncompliance with conditions of the permit.
- B. **PARCEL SIZE:** Approximately 80 feet x 141 feet; total lot area of 14,810 square feet.
- C. **EXISTING LAND USE:** Bed and Breakfast residence in a single family dwelling.
- D. **SURROUNDING LAND USE:**
 - North: one and two-family dwellings in an RT1 zone.
 - East: institutional use/place of worship in an RT1 zone.
 - South: one and two-family dwellings in an RT1 zone.
 - West: one and two-family dwellings in an RT1 zone.
- E. **ZONING CODE CITATION:** § 61.108 authorizes the planning commission to revoke a conditional use permit upon determination that the conditions imposed are not being complied with. § 61.502 authorizes the planning commission to modify any or all special conditions after making specified findings.
- F. **PARKING:** Zoning Code § 63.207 requires that a bed and breakfast residence have a minimum of one (1) off-street parking space per dwelling unit and 0.5 spaces per guest room. This is a requirement of four (4) off-street parking spaces for the bed and breakfast residence with six (6) guest rooms approved under the conditional use permit that was modified in 2017.
- G. **HISTORY/DISCUSSION:** In October 2014 the planning commission granted a conditional use permit for a bed and breakfast residence with four (4) guest rooms. In November 2016 the planning commission was notified that conditions of the permit were not being complied with (using and advertising the property for receptions and gatherings and using and advertising the property for six guest rooms). The zoning committee held a public hearing in February 2017 to consider revocation or modification of the permit. In March 2017 the planning commission modified the conditional use permit to increase the number of guest rooms from four (4) to six (6) and simply to prohibit use of the bed and breakfast residence for any commercial or social events. The planning commission attached the following conditions to the modified permit:
 1. Occupancy shall be limited to no more than two (2) adult guests per guest room.
 2. § 65.641(e) and (g) of the Zoning Code are modified by this permit. All other standards and conditions in § 65.641(a) through (i) remain in force and must be met.
 3. Floor plans and a site plan showing the layout of the required off-street parking spaces must be submitted to and be approved by the Zoning Administrator, and the four (4) required off-street parking spaces must be provided on the site according to the approved site plan by June 1, 2017.

4. The bed and breakfast residence shall not be used as a small conference center, private retreat center, or reception house for weddings, reunions, or parties. Documentation by the Zoning Administrator of any such use or advertising for such use shall result in immediate referral to the Planning Commission for revocation of the conditional use permit.

H. **DISTRICT COUNCIL RECOMMENDATION:** The District 3 Council had not made a recommendation at the time of this staff report.

I. **FINDINGS:**

1. In October 2014 the planning commission granted a conditional use permit for a bed and breakfast residence with four (4) guest rooms. In March 2017 the planning commission modified the conditional use permit to increase the number of guest rooms from four (4) to six (6) and simply to prohibit use of the bed and breakfast residence for any commercial or social events. The planning commission attached four conditions to the modified permit. Condition #4 states, *The bed and breakfast residence shall not be used as a small conference center, private retreat center, or reception house for weddings, reunions, or parties. Documentation by the Zoning Administrator of any such use or advertising for such use shall result in immediate referral to the Planning Commission for revocation of the conditional use permit.*
2. Zoning Code § 61.108 states that the zoning administrator shall notify the planning commission when a development covered by a zoning approval is not in compliance with any of the conditions imposed on the approval. The commission may, at a public hearing, following notice to the owner of the property and adjacent property owners, upon determination that the conditions imposed by the approval are not being complied with, revoke the authorization for approval and require that the use be discontinued. The commission, in lieu of revoking the permission, may impose additional conditions, modify existing conditions, or delete conditions which are deemed by the commission or the board to be unnecessary, unreasonable or impossible of compliance.
3. The Department of Safety and Inspections received a complaint and documentation that there was a New Year's Eve party advertised as "Murder at Dearing Mansion: A New Year's Soiree." Based on this information the zoning administrator determined that the property owner was in clear violation of the fourth condition of the modified permit. The zoning administrator notified the planning commission of noncompliance of conditions of the permit in a letter dated February 20, 2018.
4. The property owner submitted a letter stating that this is a significant and unfortunate misunderstanding, adding that he collaborated with two friends and together they organized the event and advertised it to their private list of friends. The letter states that the house was not rented to a third party or private group to sponsor the party.
5. The advertisement for the New Year's Eve event does not list the property owner among the event's hosts. The advertisement identifies a fee to attend the event, allows a refund up to 7 days before the event, and states that the event was "sold out". The modified permit that was approved in 2017 prohibits use of the bed and breakfast residence for any commercial or social events. The advertisement for the event, including a fee to attend, indicates that this was a commercial event, something explicitly prohibited by the conditional use permit.

J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends that the conditional use permit for the bed and breakfast residence at 241 George Street West be revoked due to noncompliance with the permit and its conditions.



CITY OF SAINT PAUL

375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

February 20, 2018

Elizabeth Reveal, Planning Commission Chair
c/o Donna Drummond, Planning Administrator
25 West 4th Street, Suite 1400
Saint Paul, MN 55102

Re: 241 George Street West (Dearing Mansion) – Violation of Conditional Use Permit

Dear Chair Reveal:

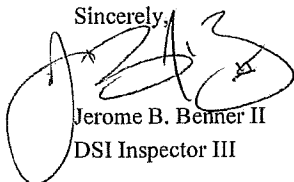
On March 24, 2017, the Planning Commission approved the modified conditions of a Conditional Use Permit (CUP) (14-326383) to allow the use of a bed and breakfast at the above referenced address to continue after being found in violation of the original conditions of the permit. The modified conditions are as follows:

1. Occupancy shall be limited to no more than two (2) adult guests per guestroom.
2. Section 65.641 (e) and (g) of the Zoning Code are modified by this permit. All other standards and conditions in Section 65.641 (a) through (i) remain in force and must be met.
3. A site plan showing the layout of the required off-street parking spaces must be submitted to and be approved by the Zoning Administrator, and the four (4) required off-street parking spaces must be provided on the site according to the approved site plan by June 1, 2017.
4. The property shall not be open to the public. Use of the property by anyone other than permanent residents or registered overnight guests is prohibited as is the use of the property for receptions, conferences, or any other group event. Documentation by the Zoning Administrator of any such use or advertising for such use shall result in the immediate referral to the Planning Commission for revocation of the conditional use permit.

The Department of Safety and Inspections recently received a complaint stating that there was a New Year's Eve party advertised as, "Murder at Dearing Mansion: A New Year's Soiree." Based on this information, the property owner is in clear violation of the fourth condition of their modified CUP. I have included the web advertisement with this letter for your reference.

If you have any further questions, please contact me at 651-266-9088 or Jerome.benner.ii@ci.stpaul.mn.us

Sincerely,



Jerome B. Benner II
DSI Inspector III

Attachments: March 24, 2017 Resolution
Web Advertisement

Cc: Kady Dadlez, Senior Planner
Donna Drummond, Planning Administrator
Allan Torstenson, Zoning Committee Staff
Dan Edgerton, Zoning Committee Chair
AA-ADA-EEO Employer

DEC 31

Murder at Dearing Mansion: A New Years Eve Soiree

by Dark Energy Minneapolis

\$35

[DETAILS](#)

MURDER AT DEARING MANSION A NEW YEARS EVE SOIREE

4 LEVELS OF FREAKY FUN

Murder Mystery Formal:
Dress as your favorite historical or fictional victim or villain!

Sold Out

DESCRIPTION

Let us weave you into our sparkling fantasy of the damned and their darling sacrifices to darkness! Cross oceans of time to join us in ringing in the New Year.

The theme is **MURDER MYSTERY FORMAL**: Dress as your favorite fictional or historical victim or villain.

The devil's in the details of this lavish 4-story layout:

- Basement dance party and sauna lounge
- Main level with live music in the piano parlor
- Upper level with theme rooms curated by Rachel Girard
- Top level dance party and smoking lounge

Entry price includes:

- Premium open bar with craft cocktails
- Gourmet meal served buffet style
- Desserts and hors d'oeuvres in the master dining area (all food served will be sustainable and vegan)

Death Jockeys:

Our special guest DJ for the night will be Chad Harstede, musician, author, adult film actor, and former local.

Angelica Otavia

Necromancer

Lee Reed

Alex Uncaher

Stainless Steel Providers

Grant Mayland

Sasha B. Ware

Phonic Narcotic

FuelProse

Featuring artwork by Caitlin Karozcak and Cathryn Anya

Hosted by Christian Balden & Lee Reed

The Dearing Mansion

9PM

21+

DATE AND TIME

Sun, Dec 31, 2017, 9:00 PM -
Mon, Jan 1, 2018, 6:00 AM
CST

[Add to Calendar](#)

LOCATION

Dearing Mansion
241 George St W
St Paul, MN 55107
[View Map](#)

REFUND POLICY

Refunds up to 7 days before event

CITY OF SAINT PAUL, MINNESOTA
(Administrative Review)

ZONING FILE NO: 17-000-688

APPLICANT: Dearing Mansion Bed & Breakfast

PURPOSE: Modification of the conditional use permit (Zoning File #14-326-683) for a bed and breakfast residence to increase the number of guestrooms from 4 to 6 and modification of the condition in Saint Paul legislative code § 65.641 (e) simply to prohibit use of the bed and breakfast residence for any commercial or social events.

LOCATION: 241 George St. W.

LEGAL DESCRIPTION: PIN 07.28.22.13.0175; W 15 feet of S 35 feet of Lot 2, S 41.53 feet of Lot 3, Lot 6, and W 15 feet of Lot 7, Dorhardt Rearrangement

ZONING COMMITTEE ACTION: Recommended approval with conditions

PLANNING COMMISSION ACTION: Approved with conditions on March 24, 2017

CONDITIONS OF THIS PERMIT:

1. Occupancy shall be limited to no more than two (2) adult guests per guest room.
2. § 65.641 (e) and (g) of the Zoning Code are modified by this permit. All other standards and conditions in §65.641 (a) through (l) remain in force and must be met.
3. Floor plans and a site plan showing the layout of the required off-street parking spaces must be submitted to and be approved by the Zoning Administrator, and the four (4) required off-street parking spaces must be provided on the site according to the approved site plan by June 1, 2017.
4. The bed and breakfast residence shall not be used as a small conference center, private retreat center, or reception house for weddings, reunions, or parties. Documentation by the Zoning Administrator of any such use or advertising for such use shall result in immediate referral to the Planning Commission for revocation of the conditional use permit.

APPROVED BY: Elizabeth Reveal, Commission Chairperson

I, the undersigned Secretary to the Zoning Committee of the Planning Commission for City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on minutes of the Saint Paul Planning Commission meeting held on March 24, 2017, and on record in the Saint Paul Planning Office, 25 West Fourth Street, Saint Paul, Minnesota.

This permit will expire two years from the date of approval if the use herein permitted is not established, subject to administrative extension not to exceed one year (Sec. 61.105).

The decision to grant this permit by the Planning Commission is an administrative action subject to appeal to the City Council. Anyone affected by this action may appeal this decision by filing the appropriate application and fee at the Zoning Office, 1400 City Hall Annex, 25 West Fourth Street. Any such appeal must be filed within 10 calendar days of the date of the Planning Commission's decision.

Violation of the conditions of this permit may result in its revocation.



Cherie Englund
Secretary to the Saint Paul
Zoning Committee

Copies to:
Owner
Requested By
Interested Party
File No.
District Council

Caswell Kramer Enterprises LLC
Department of Safety and Inspections
Scott Kramer / Dearing Mansion
17-000-688
3



I do acknowledge and take responsibility for the fact that the invitation for the party certainly does have the clear appearance of the house being renting to a third party - which would obviously be a violation of the conditional use permit - but that is not in fact what occurred.

I regret that this misunderstanding has occurred and that I find myself being accused of operating my business in bad faith. I have been a lifelong resident of St. Paul, and have operated my remodeling company, Kramer Restoration LLC for close to 38 years in excellent standing. Following the economic downturn in 2007 my former wife and I purchased and renovated 7 distressed single family homes on the West Side in my neighborhood.

[REDACTED]

[REDACTED]. I have met all the City of Saint Paul requirements, paid all the associated fees and have brought this Category 2 property up to full code compliance.

I have made every effort to run my businesses legally and in good faith. I obtained a Conditional Use Permit years before applications for short term rentals became required by the City of St. Paul. I have paid all associated city fees, State of Minnesota licensing fees, state lodging and sales taxes, and county property taxes. I feel that my historic house, it's meticulous renovation, and it's use and enjoyment by a very wide range of visitors from this area and from outstate and beyond has been a significant contribution to the community and to the City of Saint Paul. My support in the neighborhood [REDACTED] has been rock solid and continues to be that way. I believe the letters of support last year show evidence of that and if asked again I do not believe there would be any lessening of that support. On the Airbnb website I currently have 285 reviews that are available to read online that without exception are positive.

I sincerely regret that this issue is taking up the time and resources of Jerome Benner II with the St. Paul Department of Safety and Inspections, Kady Dadlez of the Department of Planning and Economic Development,

Donna Drummond, Planning Administrator, Allan Torstenson, Zoning Committee Staff member and the members of the St. Paul Planning and Zoning Committees.

I request that that this situation be resolved as soon as possible and that the recommendation be made to make no changes in the Dearing Mansion Conditional Use Permit.

Sincerely,

Scott Kramer

city of saint paul
planning commission resolution

file number 17-11

date March 24, 2017

WHEREAS, in File # 17-000-688, the Planning Commission has considered revocation or modification of a conditional use permit (Zoning File #14-326-683) for a bed & breakfast residence with 4 guest rooms due to noncompliance with conditions for this use under the provisions of § 61.108; § 61.501; § 61.502; § 65.641 of the Saint Paul Legislative Code, on property located at 241 George Street West, Parcel Identification Number (PIN) 07.28.22.13.0175; W 15 feet of S 35 feet of Lot 2, S 41.53 feet of Lot 3, Lot 6, and W 15 feet of Lot 7, Dorhardt Rearrangement; and

WHEREAS, the Zoning Committee of the Planning Commission, on February 16, 2017, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. On October 3, 2014, under provisions § 61.501 and § 65.641 of the Zoning Code, the Planning Commission approved Planning Commission Resolution # 14-66 granting a conditional use permit for the Dearing Mansion Bed and Breakfast residence with four (4) guest rooms at 241 George Street West.
2. After receiving a complaint, on March 16, 2016 the Zoning Administrator sent an enforcement notice to the permit holder, Scott Kramer, regarding the following violations of the Zoning Code and conditions of the conditional use permit:
 - The house was being advertised and used as a reception house for wedding receptions, as a retreat center for corporate retreats, and for a variety of other gatherings, uses not permitted in the RT1 two-family residential zoning district, and also in violation of the condition in Zoning Code § 65.641(e) that dining and other *bed and breakfast residence* facilities shall be used exclusively by the residents and registered guests.
 - The house was being advertised and used as a *bed and breakfast residence* with six (6) guest rooms, in violation of the condition in Zoning Code § 65.641(g) that a *bed and breakfast residence* in a one-family dwelling shall have a maximum of four (4) guest rooms, and in violation of the permit granted by the Planning Commission.
 - Final plans for the *bed and breakfast residence*, including floor plans and a site plan showing the layout of required off-street parking had not yet been approved by the Zoning Administrator, in violation of a condition of the permit granted by the Planning Commission.The permit holder was given until March 31, 2016 to comply by renting a maximum of four (4) guest rooms, eliminating any use of the property for events open to the public, and submitting floor plans along with a site plan that indicates the layout of off-street parking. The permit holder was notified that failure to comply with the inspector's order would result in permit revocation proceedings.

moved by McMahon

seconded by _____

in favor Unanimous

against _____

On March 29, 2016 the permit holder emailed the inspector stating that the whole house listing was removed from the Airbnb website, that he would revise the Dearing Mansion website to eliminate language that mentioned availability of six (6) guest rooms, and that he would cease using the bed and breakfast residence for events.

In October 2016 DSI received another complaint regarding use of the property for a wedding reception, causing noise, and traffic issues for a neighboring property owner. The inspector also discovered the advertisements on the aforementioned webpages had been reestablished to indicate six (6) guest rooms available in the bed and breakfast and also showcasing the Dearing Mansion as an event space.

3. On December 22, 2016, under the requirements of Zoning Code § 61.108, *Conditions violated, permit revocation*, the Zoning Administrator notified the Planning Commission of noncompliance with the conditions of the conditional use permit at 241 George Street West. On December 30, 2016 the Planning Commission voted to schedule a public hearing to consider the matter.
Zoning Code § 61.108, *Conditions violated, permit revocation* states, "The zoning administrator shall notify the planning commission ... when a development covered by a ... permit ... or other zoning approval is not in compliance with any of the conditions imposed upon such use approval. The commission ... may, at a public hearing, following notice to the owner of subject property and other adjacent property owners as specified in section 61.303(c), and upon determination that the conditions imposed by such approval are not being complied with, revoke the authorization for such approval and require that such use be discontinued. The commission ..., in lieu of revoking the permission, may impose additional conditions, modify existing conditions, or delete conditions which are deemed by the commission ... to be unnecessary, unreasonable or impossible of compliance."
4. A review of the Dearing Mansion website on February 8, 2017 shows the property advertised as *the ideal location for corporate trainings, retreats, groups, reunions, intimate weddings, receptions or a romantic getaway...and that events of up to 100 people are welcomed*. Four (4) guest rooms are advertised for rent. A review of the Airbnb website on February 8, 2017 identified the whole house for rent, including six (6) bedrooms.
5. Use of the house for receptions, retreats, conferences, or any other group events is not permitted in the RT1 two-family residential zoning district, and is also a violation of the condition in Zoning Code § 65.641(e) that dining and other *bed and breakfast residence* facilities shall be used exclusively by the residents and registered guests. Zoning Code § 66.313, *Intent. RT1 two-family residential district*, specifically states, "Because of its residential nature, this district is not intended for more intensive uses such as small conference centers, private retreat centers and reception houses."
6. The conditional use permit for the Dearing Mansion Bed and Breakfast residence granted by the Planning Commission in 2014 is for a maximum of four (4) guest rooms, the maximum number of guest rooms allowed under the condition in Zoning Code §65.641(g) that a *bed and breakfast residence* in a one-family dwelling shall have a maximum of four (4) guest rooms, as requested in the conditional use permit application.
7. Zoning Code § 61.502, *Modify special conditions*, provides that "the planning commission, after public hearing, may modify any or all special conditions, when strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property."

The condition in § 65.641(g) that a *bed and breakfast residence* shall have a maximum of four (4) guest rooms is subject to modification under this provision. The property owner is now requesting a modification of this condition to allow a maximum of six (6) guest rooms, which he states is the minimum needed to operate the bed and breakfast residence and cover the costs of extensive restoration and maintenance of the historic Dearing Mansion. The owner states that limiting the *bed and breakfast residence* to four (4) guest rooms would result in it having to be closed and sold, an undue hardship.

8. § 65.641(g) requires a minimum lot area of 8,000 square feet for a *bed and breakfast residence* with four (4) guest rooms. Given the large size (4,600 square feet) of the Dearing Mansion and the large lot size (14,810 square feet), it may be unnecessary and unreasonable to limit the *bed and breakfast residence* to four (4) guest rooms in this case. Allowing a maximum of six (6) guest rooms may be consistent with the intent and purpose of this special condition to limit potential negative impact on surrounding residential uses and provide for reasonable enjoyment of adjacent property
9. Zoning Code § 63.207 requires that a *bed and breakfast residence* shall have a minimum of one (1) off-street parking space per dwelling unit and 0.5 space per guest room. This is a requirement of four (4) off-street parking spaces for the *bed and breakfast residence* with six (6) guest rooms. The property owner states that there is adequate space to meet this requirement using the long, wide driveway on the east side of the site. A site plan showing this should be provided to and approved by the Zoning Administrator. On-street parking is not permitted on the north side of George Street in front of the property.
10. The City is working on Zoning Code amendments to regulate short term rental uses such as Airbnb and VRBO. Draft language for this would generally limit occupancy of a short term rental dwelling unit to the definition of a *family* in Zoning Code § 60.207, consistent with the current Zoning Code occupancy limit for a *dwelling unit* city-wide. The provision in Zoning Code § 65.641(g) for a *bed and breakfast residence* to have up to four (4) guest rooms, subject to a conditional use permit, is one of the few existing exceptions to this. The draft new Zoning Code language for short term rental uses would also provide for occupancy that exceeds the definition of *family* for large one- and two-family dwellings on large lots if a conditional use permit is obtained. The criteria for determining total occupancy in these situations would include the dwelling size, lot size, provision of off-street parking, and a fire certificate of occupancy inspection for non-owner occupied dwelling units. The draft short term rental ordinance will likely be considered by the City Council in summer 2017.
Current draft ordinance language states, “*use of a short term rental dwelling unit for any commercial or social events is prohibited*”. The intent is allow hosts to have visitors but to prohibit use of short term rental dwelling units for gatherings such as receptions, retreats, conferences, or any other group events. The draft ordinance language calls for amending the language in §65.641(e) which states, “dining and other *bed and breakfast residence* facilities shall be used exclusively by the residents and registered guests” to read “*use of a bed and breakfast residence for any commercial or social events is prohibited.*” The intent is to make the language for short term rental dwelling units and bed and breakfast residences consistent, to allow guests to have visitors, and to prohibit bed and breakfast residences from being used for conference centers, private retreat centers, or reception houses.
11. At the public hearing on February 16, 2017 the following questions were raised about bed and breakfast residences: 1) is there a difference between the owner's and registered guests' use of the property; 2) should registered guests be allowed to use a bed and breakfast residence as they would their own residence and hold events; 3) if registered guests are allowed to invite guests and hold events should there be a limit on the number of guests, the location of events (indoors or outdoors), and the number of events held per year.

Responses to the questions are: 1) a bed and breakfast residence owner is allowed to use his or her property as any residential property owner in the City is allowed to use his or her property; 2) registered guests' use of a bed and breakfast residence is limited by the standards and conditions in

§ 65.641 and the conditional use permit; 3) registered guests are not allowed to invite guests or hold events based on condition §65.641(e) which states, "dining and other *bed and breakfast residence* facilities shall be used exclusively by the residents and registered guests."

12. Zoning Code § 61.502 allows the planning commission to modify conditions as discussed in finding #7. The condition in § 65.641(e), dining and other *bed and breakfast residence* facilities shall be used exclusively by the residents and registered guests, is subject to modification under this provision. During the public hearing on February 16, 2017 the property owner requested § 65.641(e) be modified to allow registered guests and their visitors use of the bed and breakfast residence. Strict application of this condition may unreasonably limit otherwise lawful use of the property because it does not allow bed and breakfast guests to have any visitors for any reason. According to testimony from the property owner at the public hearing on February 16, 2017 it is customary for bed and breakfast guests to have visitors for coffee or even a meal. Input received during the short term rental study affirms this practice. Allowing this would not impair the intent and purpose of condition (e), and is consistent with the § 66.313 prohibition of conference centers, private retreat centers, and reception houses in the RT1 two-family residential district.

The owner stated that it would not be a hardship if outdoor events were not allowed, but that it would be a hardship if indoor events of about 30 people were not allowed. However, modification of condition (e) to allow such events would impair the intent and purpose of the condition and would be inconsistent with the specific prohibition of such commercial and social events in the RT1 zoning district as discussed in finding #5.

As noted in finding #10 the short term rental zoning study recommends amending § 65.641(e) to read, *use of a bed and breakfast residence for any commercial or social events is prohibited*. The intent is to allow guests to have visitors for coffee or a meal, for example, but to prohibit use of bed and breakfast residences for gatherings such as receptions, retreats, conferences, or any other group events. Prohibited commercial and social events include weddings, retreats, conferences, reunions, and parties. It is anticipated that the proposed amendment will be adopted later in 2017. It is therefore appropriate to apply the proposed language to this zoning case and modify §65.641(e) to simply prohibit use of the bed and breakfast residence for any commercial or social events.

Modification of this condition does not impair the intent and purpose of the special condition and is consistent with health, morals, and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the Dearing Mansion Bed and Breakfast conditional use permit (Zoning File #14-326-683) at 241 George Street West is hereby modified to increase the number of guestrooms from four (4) to six (6) and to prohibit use of the bed and breakfast residence for any commercial or social events, subject to the following conditions.

1. Occupancy shall be limited to no more than two (2) adult guests per guest room.
2. § 65.641 (e) and (g) of the Zoning Code are modified by this permit. All other standards and conditions in § 65.641 (a) through (i) remain in force and must be met.
3. Floor plans and a site plan showing the layout of the required off-street parking spaces must be submitted to and be approved by the Zoning Administrator, and the four (4) required off-street parking spaces must be provided on the site according to the approved site plan by June 1, 2017.
4. The bed and breakfast residence shall not be used as a small conference center, private retreat center, or reception house for weddings, reunions, or parties. Documentation by the Zoning Administrator of any such use or advertising for such use shall result in immediate referral to the Planning Commission for revocation of the conditional use permit.

MINUTES OF THE ZONING COMMITTEE
Thursday, December 22, 2016 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Edgerton, Makarios, Nelson, Reveal, Wencl, Wickiser, and McMahon
EXCUSED: Merrigan
STAFF: Jerome Benner, Bill Dermody, Cherie Englund, and Wendy Lane

The meeting was chaired by Commissioner Nelson.

Dearing Mansion Bed & Breakfast – Set a public hearing to consider revocation or modification of a conditional use permit (Zoning file #14-326-683) for a bed & breakfast residence with 4 guest rooms due to noncompliance with conditions for this use at 241 W. George St., between Charlton and Waseca.

Jerome Benner made a presentation pursuant to Section 61.108 which states the Zoning Administrator shall notify the Planning Commission when a development covered by a site plan, permit, determination of similar use or other zoning approval is not in compliance with the conditions imposed upon such approval. On October 3, 2014 Scott Kramer, the property owner of the Dearing Mansion, was granted a conditional use permit to operate a bed and breakfast with four guest rooms. Neighbors complained when they noticed that the Dearing Mansion was also being used for wedding receptions and special events, which is not permitted in the RT1 zoning district.

DSI staff sent an enforcement notice to Mr. Kramer on March 16, 2016, requesting Mr. Kramer to rent no more than 4 guest rooms and limit any use of the property for the purpose of events open to the public. Mr. Kramer followed up by email on March 29, 2016, apologizing for the inconvenience to his neighbors and said he would remove any advertisements on his website for the Dearing Mansion stating that he has 6 guest rooms for rent, along with the whole house. Mr. Kramer also had a post on Airbnb which is a common house-sharing website that was removed. However, in October 2016, DSI received another complaint that Mr. Kramer was hosting parties at the Dearing Mansion.

In a brief search of the web for 241 W. George St., Mr. Benner found several websites such as VRBO for this residence advertising corporate retreats, intimate celebrations, and beautiful backdrops for events, as well as 6 guest rooms and rental of the whole house. Based on the supporting evidence and complaints Mr. Benner is recommending to the Planning Commission to revisit Mr. Kramer's conditional use permit.

Mr. Benner noted that DSI and PED are doing a study on short-term rentals, such as Airbnb. He added while this may not have an impact on Mr. Kramer's conditional use permit; it is important to note that the City is taking another look at this type of use.

Commissioner Edgerton asked Mr. Benner to clarify that the conditional use permit only allows 4 guest rooms and does not allow corporate retreats or wedding events. Mr. Benner said that is correct.

Commissioner Wencil asked Mr. Benner if he has had any communication with Mr. Kramer. If so, what is Mr. Kramer's understanding of the conditional use permit? Mr. Benner said he has spoken with Mr. Kramer and he believes it is his right to rent guest rooms for his bed and breakfast and to rent his entire house through the VRBO website, because he believes it is a separate entity from his bed and breakfast.

Chair Nelson said that current requirements with regard to the short-term rental would not allow anyone in the city to have a short-term rental. Mr. Benner said that is correct.

Commissioner Reveal asked if it would be allowable to rent her house to a group for a week. Wendy Lane, Zoning Administrator at the Department of Safety and Inspections said that would not be allowable. She added there are no provisions in our current code for VRBO or Airbnb types of short-term rentals. She said the short-term rental study is looking at what future problems may be.

Commissioner McMahon said she was at the Neighborhood Committee Planning meeting and understood that short-term rentals are similar in that they are currently not allowed as a legal use and that they are being enforced on a complaint basis.

Commissioner Reveal said that she would like clarification about events and parties.

Commissioner Wickiser asked if every VRBO in the City of St. Paul should have a conditional use permit. Mr. Benner said no, but would be a better question to ask of Mr. Warner whom was not in attendance.

Commissioner Wickiser asked how it was determined that the number of guestrooms for a bed and breakfast be limited to 4. Chair Nelson said that number is determined by the ordinance for the required maximum guest rooms for a bed and breakfast in the City of St. Paul.

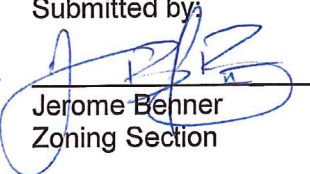
Ms. Lane noted that Mr. Benner said the Planning Commission has the option to impose additional conditions, modify existing conditions, or delete conditions depending upon what your findings are at the public hearing.

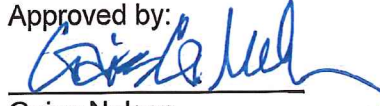
Commissioner Makarios moved to recommend setting a public hearing for February 16, 2017, to revisit the conditional use permit. Commissioner Wencil seconded the motion. The motion passed by a vote of 7-0-0.

Adopted Yeas - 7 Nays - 0 Abstained - 0

Drafted by:

Cherie Englund
Recording Secretary

Submitted by:

Jerome Benner
Zoning Section

Approved by:

Gaius Nelson
Chair

MINUTES OF THE ZONING COMMITTEE
Thursday, February 16, 2017 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: DeJoy, Gelgelu, Lindeke, Makarios, McMahon, and Reveal
EXCUSED: Edgerton
STAFF: Kady Dadlez, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Makarios.

Dearing Mansion Bed & Breakfast - 17-000-688 - Revocation or modification of a conditional use permit (Zoning File #14-326-683) for a bed & breakfast residence with 4 guest rooms due to noncompliance with conditions for this use, 241 George St. W., between Charlton and Waseca.

Kady Dadlez presented the staff report and recommendation for modification of the conditional use permit to allow six guestrooms with conditions. She noted that District 3 had not taken a position. One letter in opposition and ten letters in support were received.

In response to Commissioner McMahon's question, Ms. Dadlez said language in condition #2 gives the Zoning Administrator authority to revoke the conditional use permit if the condition is not met without the need to come back to the Planning Commission. Chair Makarios asked if this language is typical. Mr. Torstenson said similar language has been used in past cases and Mr. Warner said the Board of Zoning Appeals has used similar language for variances.

Responding to Chair Makarios and Commissioner Reveal, Ms. Dadlez said the language in condition #2 prohibits use of the property by anyone other than permanent residents and registered overnight guests as required by Zoning Code § 65.641(e), and that registered overnight guests would not be allowed to use the house for group events involving additional people that are not registered overnight guests.

Ms. Dadlez responded to Commissioner Lindeke that the house is about 4,600 sq. ft.

The applicant, Scott Kramer, 241 George St. W., said in the beginning he was renting just four guestrooms through Airbnb, but to make it work financially he soon also used VRBO to rent the entire house, which is 6 bedrooms. Some of his renters have family and friends who come to the bed and breakfast to visit. He requested that the condition restricting use of the property to registered guests be modified to allow a specific number of visitors, saying that he has only had one complaint for noise in three years.

In response to Commissioner Lindeke, Mr. Kramer said the driveway is about 16' wide and allows for two cars to be parked parallel to each other.

Commissioner Reveal asked Mr. Kramer if he is living in the house. Mr. Kramer said this property is his primary residence. He lives there 90% of the time and stays elsewhere when he has a whole house rental.

Christopher Marascuilo, 245 George St. W., spoke in favor of the CUP modification. He supports the bed and breakfast and enjoys meeting people from out of state and the country. He said Mr. Kramer's house is a historic gem of the West Side that should be shared with the community. He said he has not noticed any parking issues or increased traffic, that Mr. Kramer has been respectful and notifies him of any future gatherings, and it would be unfortunate if the conditional use permit were to be revoked.

Dale Eberly, 244 George St. W., spoke in favor of the CUP modification. He said that in the three years that Mr. Kramer has operated this bed and breakfast he has had no issues with noise, parking, or traffic. He said Mr. Kramer has been a gracious neighbor and spoke with each of the neighbors for the original petition of the conditional use permit. As an advocate for small business, he asked the committee to consider the staff recommendation to allow six guestrooms and whole house rental. He also encouraged reasonably allowing guests to have visitors for small gatherings, stating that if he were to rent a house he would intend to use that house as he would his own, which would include having small gatherings such as a barbeque. He added that the use of this property has not had a detrimental impact on the neighborhood.

Helen Sullinger, 297 E. Sidney St., spoke in favor of the CUP modification. She said she is not a direct neighbor and does not know the owner, but received the public hearing notice. In her walks through the neighborhood she has noticed improvement in the appearance of the property over the last couple of years. She appreciates all of the work done on the house, which is a fine structure. She said that this is the kind of business the City should want to have in a residential neighborhood, given its historical and structural value. Ms. Sullinger supported rental of six guestrooms and an allowance for guests of the house to have visitors for small gatherings.

James Katz, 235 W. Robie St., spoke in opposition to the CUP modification and in favor of revocation. He said he lives at the bottom of the hill behind the bed and breakfast and came to ask for revocation of the conditional use permit. He said the owner has hosted several large wedding receptions and he can hear the noise from this property. He asked that if six guest rooms are allowed, installation of a sound barrier should be required. He said that Mr. Kramer is a businessman, renovator, and landlord who chose to ignore the original conditional use permit conditions and wants to run the house as a hotel.

Scott Kramer responded that he would comply with noise restrictions and would like to allow his guests to use his home as they would their own home for dinners and small events.

Commissioner Reveal asked Mr. Kramer about limiting number of visitors for his guests for indoor gatherings only, and installing a noise barrier if a condition is not added for the gatherings to be indoors only.

Mr. Kramer said he would be willing to accept that. Mr. Kramer said he would like to have at least two outdoor events per year and would add a noise barrier.

Commissioner DeJoy said the question is what constitutes a bed and breakfast use and not event space. She said it sounds like events may be part of his business plan, noting that about a month ago one of his websites advertised event space.

Mr. Kramer said that he shut down his website until this is sorted out, and that the previous day he had pulled language from Airbnb and VRBO regarding event space. He said he does not depend on events and that 90% of his business comes from small groups wanting to rent guest rooms for a few days. He said he has had 3 or 4 big outdoor events in the last two years and is willing to reduce this number. He said it would not be a hardship for him if outdoor events are not allowed, but that it would be a hardship if indoor events of about 30 people are not allowed.

Commissioner Lindeke asked Mr. Kramer to explain the topography of his lot and lots to the north, and the relationship between his back porch and adjacent properties to the north.

Mr. Kramer said the grade of his backyard is in line with the roof of the house on the south side of Robie St., with a steep decline of 5 to 10 feet. His 20 foot x 20 foot open air back porch has a metal roof, brick siding, a historic banister, chairs, and an impressive view.

The public hearing was closed.

Commissioner McMahon noted two parts to condition #2 of the staff recommendation: first, prohibiting use of the property by anyone other than permanent residents or registered overnight guests; and prohibiting use of the property for receptions, retreats, conferences or any other group event. Whether you can have someone over as the owner or permanent resident is one issue, whether six guest rooms (entire house) can be rented is another issue. These issues are separate from whether guests can have events or gatherings and whether events or gatherings can be held indoors or outdoors. Because of the topography, she cannot see how there can be outdoor events without the sound traveling downhill. Regarding indoor events, she noted that inviting unregistered guests into your hotel room is prohibited.

Commissioner Reveal moved to lay the matter over and asked that staff to work with the owner and community council on conditions to address the following: (1) delineation of the rights of the property owner when he is in residence from how registered guests can use the house; (2) whether any event of any size can be considered and if so, what size; and (3) reasonable modifications at the back of the property that might help mitigate noise if outdoor events are allowed. She added that she supports automatic revocation of the conditional use permit if the property is advertised as an event space.

Commissioner McMahon seconded the motion.

Commissioner DeJoy said she supports the lay over. She added that the timing on this case is coincidental to the work PED and the Department of Safety and Inspections are doing to develop a Zoning Code amendment to regulate short-term rentals.

Commissioner Lindeke asked about the definition of an event and if a family reunion is an event. Mr. Warner said there are permitted uses that are defined within the Zoning Code, and there are limitations for what is permitted in residential zoning districts. Mr. Torstenson noted finding #5 in the staff report that Zoning Code § 66.213 specifically prohibits "uses such as small conference centers, private retreat centers and reception houses" in the RT1, two-family residential district, intent language that was added in the 1980s to make this clear after houses on Summit Avenue were used to host events. "*Reception hall/rental hall*" is first allowed as a conditional use in the

T2 zoning district, but there is no definition. He added that Zoning Code §65.641(e), which is a standard for bed and breakfast residences, states that "dining and other facilities shall not be open to the public, but shall be used exclusively by the residents and registered guests."

Commissioner Reveal said she would like a distinction for condition 2 in the staff report as to what a person can do in their own home and what the owner and/or renters who have rented the entire property can do on the property.

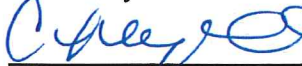
Mr. Torstenson noted Commissioner DeJoy's comment about work being done by DSI and PED to develop standards for short-term rentals. The difference between short-term and long-term rental is a good question.

Commissioner Reveal asked if a condition could be added to limit the number of visitors a registered guest could have and specify indoor gathering areas only if there is no way to minimize noise affecting neighbors.


The motion to lay the matter over passed by a vote of 6-0-0.

Adopted Yeas - 6 Nays - 0 Abstained - 0


Drafted by:


Cherie Englund
Recording Secretary

Submitted by:


Kady Dadlez
Zoning Section

Approved by:


Kyle Makarios
Chair

MINUTES OF THE ZONING COMMITTEE
Thursday, March 16, 2017 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Edgerton, Gelgelu, McMahon, and Reveal
EXCUSED: DeJoy, Lindeke, and Makarios
STAFF: Kady Dadlez, Cherie Englund, Allan Torstenson, and Therese Skarda

The meeting was chaired by Commissioner McMahon.

Dearing Mansion Bed & Breakfast - 17-000-688 - Revocation or modification of a conditional use permit (Zoning File #14-326-683) for a bed & breakfast residence with 4 guest rooms due to noncompliance with conditions for this use , 241 George St. W., between Charlton and Waseca.

Kady Dadlez presented the revised staff report with a recommendation for modification of the conditional use permit to allow six guestrooms and modification of the condition in § 65.641 (e), which would allow guests to have visitors but prohibit commercial and social events. Ms. Dadlez noted the changes to findings 10, 11, and 12 and that the public hearing was held and closed on February 16, 2017. She added that after discussion the case was laid over to clarify the rights of the owner and registered guests, as to whether events should be allowed and if so, of what size and possible noise mitigation if outdoor events were allowed.

In response to questions by Commissioner Reveal, Ms. Dadlez said that she could not speak for the property owner as to whether the conditions were acceptable, but that the revised staff report was submitted to the property owner and that she had spoken to him by phone.

In response to Commissioner Gelgelu, Ms. Dadlez said that staff recommends that a reasonable number of guests per guestroom is two, presuming a guestroom has one bed that can accommodate two people.

In response to Commissioner Reveal, Ms. Dadlez said that children would be in addition to adult guests. Commissioner Reveal asked if the recommendation limiting the number of people to two per guestroom is applicable to all bed and breakfasts. Ms. Dadlez replied no.

The property owner, Scott Kramer, 241 George St. W., noted that he sent a letter saying that he understands that larger outdoor gatherings will no longer be allowed and this does not create a hardship, but would like the ability to allow guests to have indoor events of up to 40 people. He added that he is pleased that the recommendation is to increase the number of guest rooms from four to six.

Commission Edgerton asked about condition #4 and what constitutes a party. He said that the bed and breakfast should not be allowable to charge guests more if they have a gathering at the house.

Ms. Dadlez said the intent is to prevent large gatherings for commercial or social events.

Mr. Torstenson said renting the house for an event rather than renting a room to overnight guests is considered a commercial use and not permitted in a residential zoning district. Putting a number limit on occupancy for short-term rentals has been discussed with staff at the Department of Safety and Inspections, but commercial use is the key. He said that renting a home as lodging for a bed and breakfast is a narrow, specific commercial use that is allowed in a residential zoning district, and the Zoning Administrator can reasonably determine if something goes beyond that. Whether it is rented for a social event rather than just for lodging is one good criterion.

Commissioner Reveal said she is comfortable with the distinction between commercial use, rather than putting a limit on the number of people allowed for a gathering. She also likes the language in condition #4 about referral back to the Planning Commission for revocation, if there is a violation of the condition.

Commissioner Edgerton asked Mr. Kramer if he understood the condition, and that it does not allow for additional charges over the base room rental charge, to which Mr. Kramer said he understood.

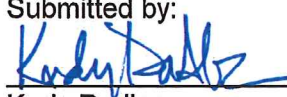
Commissioner Reveal moved to modify the conditional use permit to increase the number of guest rooms from four (4) to six (6) and to prohibit use of the bed and breakfast residence for any commercial or social events, with the four conditions as stated in the staff report. Commissioner Gelgelu seconded the motion.

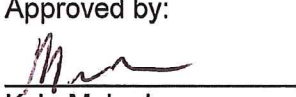
The motion passed by a vote of 4-0-0.

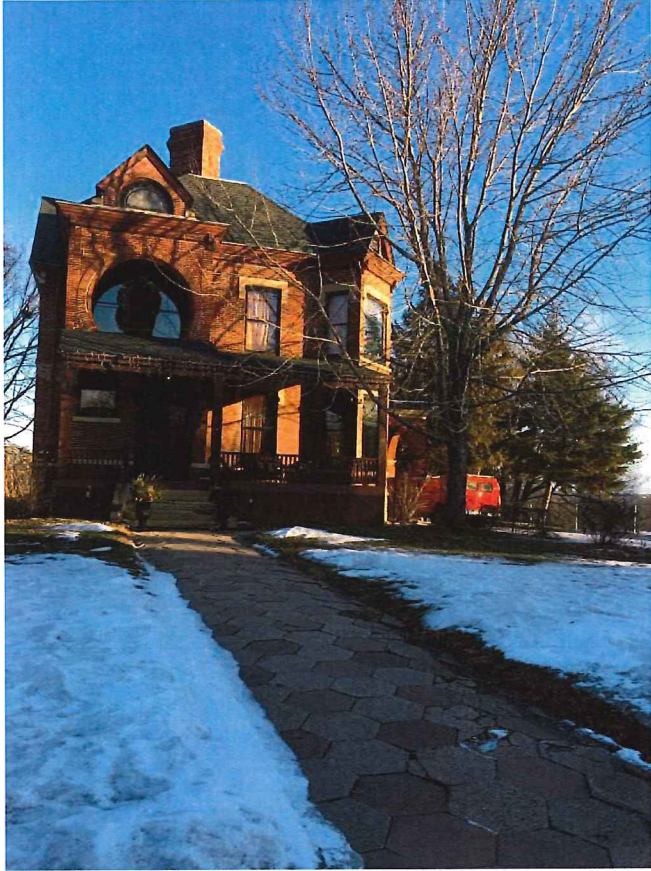
Adopted Yeas - 4 Nays - 0 Abstained - 0

Drafted by:

Cherie Englund
Recording Secretary

Submitted by:

Kady Dadlez
Zoning Section

Approved by:

Kyle Makarios
Chair



241 George Street West and driveway





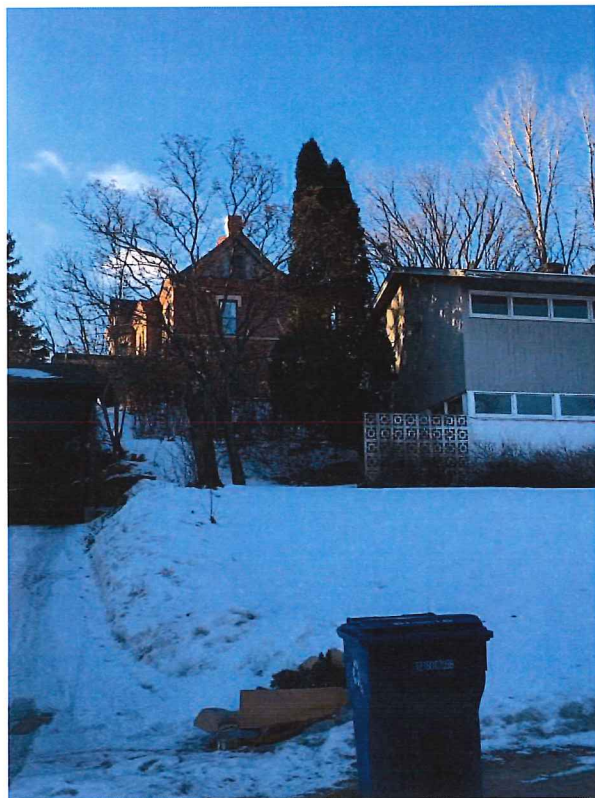
Church and parking lot to the east



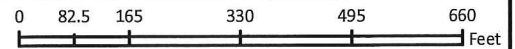
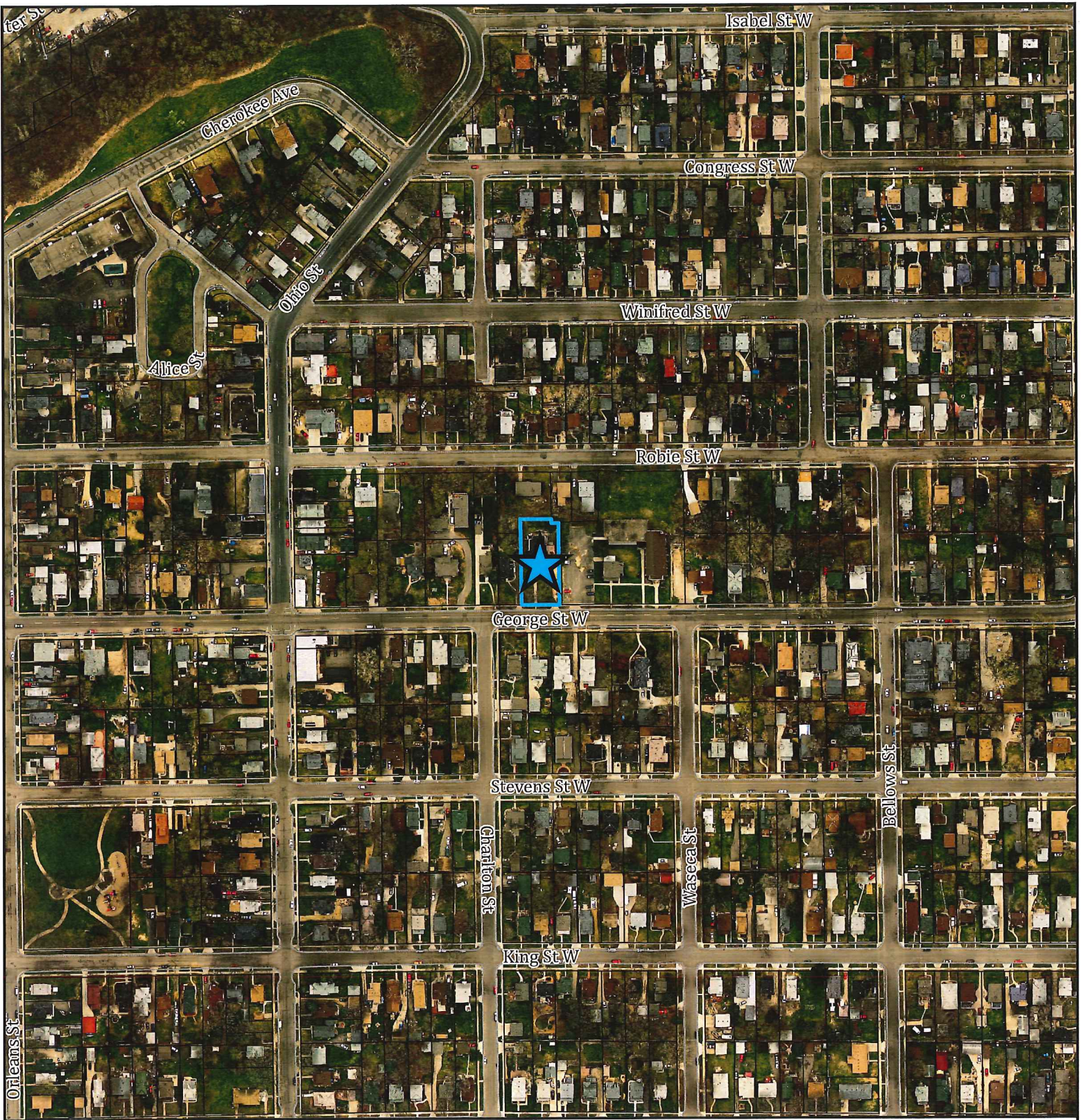
Residential uses to the west



Residential uses to the south



Residential uses to the north



FILE NAME: 241 George

Aerial

APPLICATION TYPE: Revocation

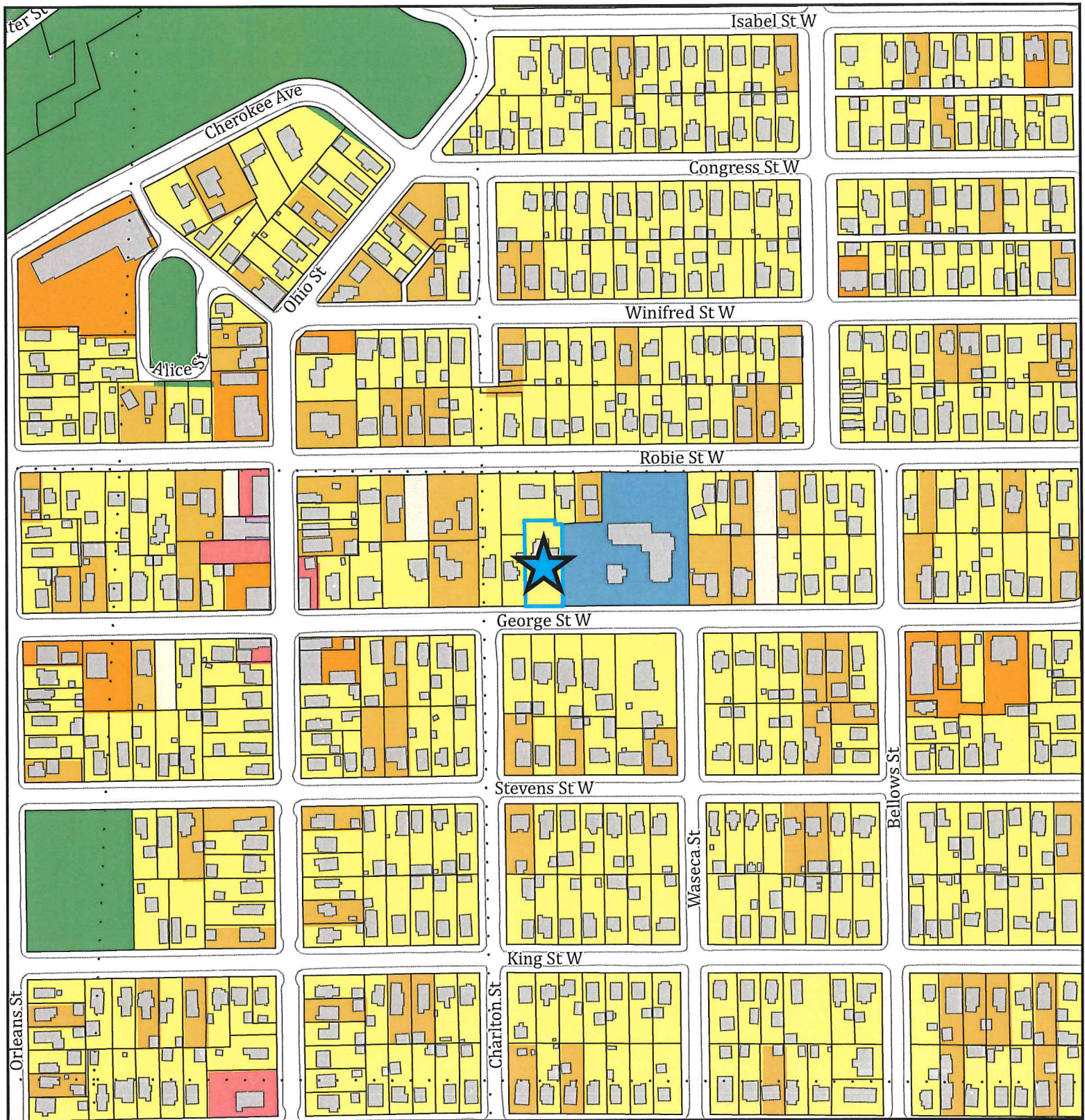
 Subject Parcels

FILE #: 18-000-000 DATE: 3/8/2018

PLANNING DISTRICT: 3

ZONING PANEL: 3





FILE NAME: 241 George

APPLICATION TYPE: Revocation

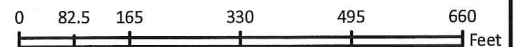
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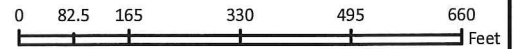
PLANNING DISTRICT: 3

ZONING PANEL: 3

Land Use

- Single Family Detached
- Single Family Attached
- Multifamily
- Retail and Other Commercial
- Industrial and Utility
- Institutional
- Park, Recreational or Preserve
- Undeveloped
- Subject Parcels
- Section Lines





FILE NAME: 241 George

Zoning

APPLICATION TYPE: Revocation

 Subject Parcels

FILE #: 18-000-000 DATE: 3/8/2018

• • Section Lines

PLANNING DISTRICT: 3

ZONING PANEL: 3

