

**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: Anton Jerve, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Makarios.

**Metro Metals Corp. - 17-001-300 - Modification of a condition of the existing conditional use permit to allow a maximum height of 15 feet for exterior storage, 2576 Doswell Ave., terminus of Doswell Avenue at City of Minneapolis border.**

Anton Jerve presented the staff report with a recommendation of approval with conditions for the conditional use permit. District 12 had not responded, and there were no letters in support, and 4 letters in opposition.

Chair Makarios asked if any terms of the previous conditional use permit had been violated, referring to the four letters of opposition. Mr. Jerve said he was not aware of any violations on the site. He added that in the past 10 years there were complaints about the operations on the site, but not land use. He said to his knowledge they have come into compliance with each complaint with the Department of Safety and Inspections (DSI) regarding the operations.

Chair Makarios asked if the landscape buffer exists as stated in condition 5. Mr. Jerve said that there is a 12' high fence around the site and that satisfies condition 5.

Chair Makarios also asked if they are complying with the 8' height for stacking cars. Mr. Jerve said they are not. Commissioner Reveal asked if they are stacking cars at a height of 15', more or less. Mr. Jerve said it fluctuates, but is approaching the height of the current 12' fence.

James Smith, 4747 Burr Oak St., Eagan, MN, council for Metro Metals Corp. said he had nothing to add to the staff report.

Commissioner Reveal asked if any of the complaints, such as in the letters of opposition have been litigated. Mr. Smith said to his knowledge the complaints had not been litigated. He added that the complaints listed in the letters were general and hard to determine if the problems occurred from Metro Metals Corp. employees or their customers and also if they occurred on or off of the site.

Chair Makarios asked for an overview of business operations. Mr. Smith said that the customers of Metro Metals are businesses and individuals who bring autos and/or other items to be salvaged, recycled, and then sent off to processing facilities. He added that automobiles come in via tow-truck and at that time a number of statutory requirements in regards to identification are requested. He said that the car is purchased, weighed, documents the sale, taken to storage area, checked for environmental issues, compacted, stacked, and transported in mass to a processing facility.

Commissioner Lindeke asked how the cars are transported. Mr. Smith said they are transported by flatbed trucks and wrapped, so debris doesn't fall off.

No one spoke in favor.

Max Salmen, 2475 Doswell Ave., property manager at the adjacent property spoke in opposition. He said that this company has not been litigated for zoning violations, but have been for accepting stolen cars. Mr. Salmen said the current zoning is for an 8' height and they are not in compliance with this. He added that as the stacked cars exceed the 8' height limit, this site becomes an eyesore for the surrounding businesses and from highway 280 and I94. He asked the Committee to speak to Mr. Dick Rohland with the City of St. Paul's Right of Way Division, as he has information about Metro Metals regarding abandoned vehicles which have been left on public property. He added that these cars were left by both patrons and staff of Metro Metals Corp. He said that Hunting Valley Road cannot support the traffic going into this facility and by approving this it would be allow the operation to double in size, put more stress on the tax payers, and neighbors with incurred costs of street maintenance, debris, riff-raff, break-ins and environmental issues with cutting free-on cords and letting it blow out into the air.

James Smith said there is a litany of issues which can be discussed and asked if there were questions to any of the issues that Mr. Salmen brought up. In response to questions by Chair Makarios, Mr. Smith said that this request would not enlarge the capacity or increase business and that there has always been a 12' high fence around this facility.

Commissioner Reveal said she thought the issue of the application was the height of the stacking above 8', not the current fence height of 12'. Mr. Smith said that is partially right, noting that the height of the fence can be as high as 15' and the application of the stacking and storage in relation to the fence height comes from existing zoning regulations. Commissioner Reveal said the current conditional use permit is for 8' high stacking which shall be screened by a fence of at least 8', noting that it adds more cars stacked between 8' and 15'. Mr. Smith said they are not seeking to change anything with the stacking and are committed to be in compliance with the current stacking requirements. Commissioner Lindeke noted that the original conditional use permit states that exterior storage shall not exceed the height of the 8' fence.

Chair Makarios asked Mr. Smith if his interpretation of this application is that the height of the obscuring fence should equal the maximum height allowed for stacking and Mr. Smith said yes.

The public hearing was closed.

Commissioner Reveal asked if the Department of Safety and Inspections advised Metro Metals Corp. to get the conditional use permit modified because they were seeing stacked heights up to 15'. Mr. Jerve thought that was correct, but was unsure where the 15' height came from and why the fence and stacking requirements were the same in the original permit.

Chair Makarios asked Mr. Jerve if condition 3 requires that the obscuring fence be as tall as the stacked vehicles or that the fence be at least 8' high with stacking at 15' high, noting that the

applicant seemed willing to insure that the obscuring fence was as tall as the stack. Mr. Jerve said that the intention was to not require the fence to be as tall as the stacking.

Commissioner Lindeke noted that standard referred to in finding 2(c) ties the fence height to the stacking height. Mr. Jerve said it does except for material set back 300' from the nearest residential zoning district as noted in finding 2(c).


Commissioner Reveal moved to approve the conditional use permit with the recommended conditions, and a modification of condition 3 that any exterior storage shall not exceed 12' and shall be screened by an obscuring fence of at least 8'. Commissioner Lindeke seconded the motion.

In response to a question from Commissioner Reveal, Mr. Warner said that it was not noted in the staff report that the existing fence is 12' high. The operation has come to the attention of DSI, but the height of the fence has not, and we can only assume that the permit was for a 12' high fence. He added that in the applicant's testimony, it was stated that Metro Metals Corp. intends to stack materials up to 15', which is higher than the fence. He added that a condition of the permit can limit the stacking height below 15'.

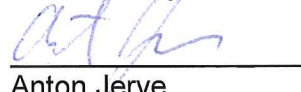
The motion passed by a vote of 5-0-1.

Adopted                      Yeas - 5              Nays - 0              Abstained – 1 (McMahon)

Drafted by:

  
Cherie Englund  
Recording Secretary

Submitted by:

  
Anton Jerve  
Zoning Section

Approved by:

  
Kyle Makarios  
Chair

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EXCUSED: Edgerton  
STAFF: Bill Dermody, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Makarios.

**Verizon Wireless - 17-006-697 - Conditional use permit for a replacement 33' 6" high light pole with cellular telephone antennas. Future additions could increase the height by 20' plus antennas, 1745 Grand Ave., NW corner at Wheeler.**

Bill Dermody presented the staff report with a recommendation of approval with conditions for the conditional use permit. He noted that District 14 had not responded, and there were no letters in support, or opposition.

Karyn O'Brien, 323 North Cedar St. Chaska, is the representative for Verizon. She said they have been working with the landlord on this project and have done some environmental due diligence on this property. She said the light pole that they will be replacing will mimic the same style and color. She added that in extending the light pole in the future, if any additional carriers or equipment were planned to go on this pole, it is a very small amount of space for cables to go inside of the pole. She said that their goal is to have the pole close to the street.

Commissioner Lindeke asked why the pole needs to be close to the street. Ms. O'Brien said that this is new technology and is a small cellular antenna about 2' in size. She said the intent is to relieve the capacity and provide additional coverage in areas where there is undulating topography or large amounts of traffic. She also said they are gearing up for large events that are coming to the Twin Cities to ensure that Verizon subscribers have phone service.

No one spoke in favor.

Steve Shubick, 28 S. Wheeler St., spoke in opposition. He asked for clarification that they are replacing a 12' or 15' high light pole with a 33'6" high light pole. He said that work was done on this pole last summer by Verizon or a contractor they hired and the pole box is already in place and would assume that a permit would have been needed for this. He said his concern relates to any work started without a permit and whether they are complying with all regulations.

Mr. Shubick said he has several concerns being the light elevation and wattage being higher than it currently is, maintenance of this pole and because of its close proximity to the sidewalk, falling objects damaging property or a person.

He said that all of the light fixtures between Grand Ave. and Summit, down Wheeler St. are decorative lights under 10' to 12' high, similar to the light fixtures on Summit Ave., and installed in 1984 to improve the property in the area.

In response to Commissioner Reveal Mr. Shubick said he would like the illumination height and wattage to be the same as it is now. He also added that the height of the pole will not blend in with the existing decorative light poles.

Gordon Ballman, 36 S. Wheeler St., spoke in opposition and said that he is disturbed that these are the first pictures that he has seen of this pole. He added that a contractor was working last summer laying the wires for this. He said that in his research he found that a company in St. Cloud was contracted to do this work for

Verizon. He asked for contact information for Verizon regarding this light pole and received an email about 1 month later from Verizon explaining that it would be a light pole and that they would send him a picture, of which he never received. He said he is worried about the character of the neighborhood with a new light pole that is twice the height of the existing pole, and the glare of lights shining in his windows.

Terry Gorman, 1745 Lincoln Ave., spoke in opposition and asked how many carriers he should expect to request this kind of equipment, and if there will be individual applications or a larger plan to avoid individual meetings for each cellular phone carrier.

Commissioner Reveal asked Ms. O'Brien about the height and wattage of the illumination. Ms. O'Brien said the height of the existing light will not change and will be replaced with an LED light.

Commissioner Reveal asked if Verizon has a master plan for more poles in the area neighborhoods. Ms. O'Brien said she handles the sites assigned to her, but is aware that there are other locations targeted for light poles around the City, as well as one more site along Grand Ave. She said that other carriers may install their own technology, which may use a different network and frequency, and may not have the same needs as Verizon for geographic locations.

The public hearing was closed.

Commissioner Lindeke said in the two pictures shown, they are bent straw lights, which are much taller than the traditional lights and asked what the height of those lights are. Mr. Dermody said that per the Public Works Department, bent straw lights are commonly 35' tall.

Commissioner Reveal asked if the other lighting along Wheeler is a tall pole with a lamp on top and that the picture is a different color. Mr. Dermody said the pictures appear to show 2 or 3 taller, bent straw lights and the interim lights are the decorative 10' lights.

Commissioner Lindeke said that his guess is that arterial streets like Grand Ave. have bent straw lights, but Wheeler would only have the shorter lights.

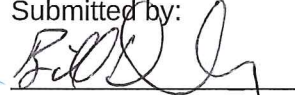
Mr. Dermody also clarified to Commissioner Lindeke that the light will be on private property.

Commissioner Reveal moved to approve the conditional use permit with conditions. Commissioner McMahon seconded the motion.

The motion passed by a vote of 6-0-0.

Adopted                      Yeas - 6              Nays - 0              Abstained - 0

Drafted by:  
  
Cherie Englund  
Recording Secretary

Submitted by:  
  
Bill Dermody  
Zoning Section

Approved by:  
  
Kyle Makarios  
Chair

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EXCUSED: Edgerton  
STAFF: Bill Dermody, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Makarios.

**Verizon Wireless - 17-006-742 - Conditional use permit for a new 31' high light pole with cellular telephone antennas. Future additions could increase the height by 20' plus antennas, 425 7th St. W., NE corner at Douglas.**

Bill Dermody presented the staff report with a recommendation of approval with conditions for the conditional use permit. He noted that District 9 had not responded, and there were no letters in support, or opposition.

Karyn O'Brien, 323 North Cedar St., Chaska, is the representative for Verizon. She said that the radius this area serves is approximately 500' to 1,000', so the intent is to have to pole located as close to the street as possible.

Commissioner McMahon asked how Verizon decides placement of these poles. Ms. O'Brien said that a Verizon Site Acquisition Agent is given a search area where Verizon needs to provide additional coverage and capacity. She said she looks for existing structures in the area or locations for new structures to be built. She said that they did look at the bent straw lights, but could not come to an agreement with the City on using them. She said they also have time constraints in getting these antennas up and running and working with a landlord can save time and improve the landlord's property.


No one spoke in favor or opposition and the public hearing was closed.

Commissioner McMahon moved to approve the conditional use permit with conditions. Commissioner Reveal seconded the motion.


The motion passed by a vote of 6-0-0.

Adopted                      Yeas - 6              Nays - 0              Abstained - 0

Drafted by:

  
Cherie Englund  
Recording Secretary

Submitted by:

  
Bill Dermody  
Zoning Section

Approved by:

  
Kyle Makarios  
Chair

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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