

MINUTES OF THE ZONING COMMITTEE
Thursday, July 31, 2014 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Edgerton, Padilla, Reveal
EXCUSED: Makarios, Merrigan, Nelson, and Wencil
ABSENT: Wickiser
STAFF: Jake Reilly, Samantha Langer, and Zachary Desautels

The meeting was chaired by Commissioner Padilla.

More 4 A Buck - 14-308-882 - Change of nonconforming use permit for auto repair and outdoor auto sales, 1176 Dale St N, between Maryland and Geranium

Jake Reilly presented the revised staff report with a recommendation of approval with conditions for the change of nonconforming use permit. He stated District 6 recommended denial, and there were 0 letters in support, and 1 letter in opposition.

Commissioner Reveal asked if there was ever an attempt to revoke or amend the special conditional use permit (SCUP) issued in 1999. Mr. Reilly explained by bringing this before the Committee, this is their attempt to amend the CUP right now. There has been a long history of City staff trying to find the appropriate mechanism for addressing the conditions and the issues on this site.

Commissioner Padilla asked if by submitting a change of nonconforming permit, if this would actually create a resolution to the existing issues. She questioned if there was anything in the existing nonconforming use permit that staff could enforce.

Mr. Reilly explained that the primary issue is that violations are related to the status of the vehicles awaiting repair. There is a conflict in the interpretation of condition 3 in the SCUP from 1999, it states; all cars parked on the lot shall be fully assembled with no parts missing. Planning and Economic Development (PED) staff understands that to mean items such as wheels, doors, bumpers - items that make vehicles unable to drive.

Commissioner Padilla questioned if the conditions on this application are different from the original SCUP. Mr. Reilly explained that condition 2 is the same, condition 3 addresses what is considered a missing part, and condition 7 specifically recommends the type of fencing that should be installed. He confirmed that all of the original conditions from 1999 have also been included in this recommendation of approval.

Upon further questions from the Commissioners, Mr. Reilly stated that most the complaints that were filed with the Department of Safety and Inspections (DSI) that he could find were related to the vehicles awaiting repair. Mr. Reilly explained the difference between long-term storage and temporary storage. He also explained that the fencing is required along Dale Street, but not along the north and east of the property. If the applicant wants to add the fencing, this condition explains what is allowed.

The applicant, Don Buckrey, 7035 Dupre Road, Centerville, MN, stated he just received the revised staff report. The only issue that he has is with condition 3, stating the vehicles must be repaired or moved within 48 hours of receipt. Currently he only has one mechanic and their backlog is close to three weeks. He is requesting some leeway on that condition. He also has a glass company that rents space in the building from him and their cars that come in may sit for up to four days while waiting for insurance companies. Mr. Buckrey said that there is fencing around the entire property. At one point there is only a two-foot wooden fence that he would like to make safer. He has worked with DSI for the past couple of years trying to secure the area and make it nicer. He explained that people use the back for dumping and he would like to fence the area. There are issues with doing that and he would need to add a turnaround that given the limited amount of space will be difficult.

Kerry Antrim, Planning District 6, 171 Front Avenue, Saint Paul, spoke in opposition. Ms. Antrim explained that Mr. Buckrey has tried to work with the District Council for about two years to address some of the issues. There was an issue with a tree in the alley, and there was an argument with the City about who owns the tree. The District Council worked with City staff in 2012 regarding an alley vacation so that Mr. Buckrey could put up fencing. They asked that he do two things: fill out the alley vacation paperwork; and contact the city forester to find out who the tree belongs to, and at this point, he has done nothing to address this issue. Meanwhile in those two years, he has had 14 license violations that resulted in the third adverse action. The District Council considers this very detrimental to the neighborhood. She sympathizes with his position, but he purchased the property with a nonconforming use and he has purchased other parcels to try and expand his property. He is having difficulties trying to accommodate 35 cars, and by adding 10 cars it is a huge deviation from the original plan. The neighborhood is entitled to make sure that this corner is looking better. They would like a business owner that is going to evolve into being a great business owner and a great asset to the community. They have worked with him for two years and none of the issues have been addressed. All of the complaints DSI received came from direct neighborhood opposition. He should have to comply with what he agreed to in 1999. Ms. Antrim stated that the District Council and DSI have tried to work with him for the last two years, and have no faith that this new application will address any of the issues they have with his property.

The applicant responded to testimony. He stated he did not buy additional land and he is not adding additional parking. He believes there has been some confusion regarding the amount of spaces he will be using and what is allowed. Mr. Buckrey referred to a site plan from 1999 that stated he could have around 50+ cars located at the property. He said he is decreasing the original amount to 45 parking spaces.

Commissioner Padilla noted that the 1999 CUP states there should be 35 spaces for sale cars, 6 spaces for cars awaiting repair or pick-up and 8 spaces for customer and employee parking including one handicapped space. She noted that his request for 45 spaces is a slight reduction from the original CUP.

No one spoke in support. The public hearing is closed

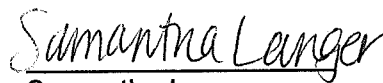
Commissioner Padilla stated her frustration with DSI receiving complaints that are enforceable under existing permits, but they aren't coming before the Zoning Committee for discussion or review. With this many infractions on a property it is wholly appropriate that they review compliance issues. Commissioner Reveal stated she is equally frustrated, and has an issue with adjusting a CUP that was passed 10 years ago, because there has been no enforcement by DSI staff.

After further discussion, Commissioner Elizabeth Reveal moved to lay over the change of nonconforming use permit to August 28, 2014, to obtain more information including a clear statement of violations and adverse actions, and if they were severe enough to revoke the CUP; clarity of the issues on repair vehicles, including if it is reasonable to extend vehicle storage for more than 48 hours; and what is considered a standard in the industry for holding vehicles for repair. Commissioner Dan Edgerton seconded the motion.

The motion passed by a vote of 3-0-0.

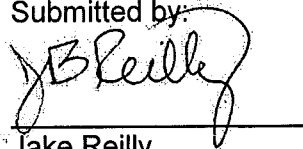
Adopted Yeas - 3 Nays - 0 Abstained - 0

Drafted by:



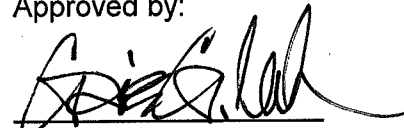
Samantha Langer
Recording Secretary

Submitted by:



Jake Reilly
Zoning Section

Approved by:



Gaius Nelson
Chair