Legislation Details (With Text)

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Title:	Memorializing a City Council decision regarding an appeal of a Planning Commission decision to revoke a conditional use permit for a bed and breakfast residence at 241 George Street West.		
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9/6/2018	1	Mayor's Office	Signed	
9/6/2018	1	Mayor's Office	Signed	
9/5/2018	1	City Council	Adopted	Pass

Memorializing a City Council decision regarding an appeal of a Planning Commission decision to revoke a conditional use permit for a bed and breakfast residence at 241 George Street West.

WHEREAS, on October 3, 2014, the Saint Paul Planning Commission (the “Commission”), in Commission Resolution No. 14-66, granted a conditional use permit (“CUP”)1 for a bed and breakfast (“B&B”) residence with four guest rooms on property commonly known as 241 George Street West and legally described as 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 at 241 George Street West [Parcel Identification Number 07.28.22.13.0175]; and

WHEREAS, on March 2016, after receiving a complaint that the said B&B was being advertised and used as a reception house for weddings receptions, as a retreat center for corporate retreats, and for a variety of other gatherings in violation of zoning regulations for RT1 districts, the City’s Department of Safety and Inspections (“DSI”) sent an enforcement notice to the B&B’s operator advising that the B&B’s facilities must, under Saint Paul Legislative Code § 65.641(e), be used exclusively by the B&B’s residents and registered guests; and

WHEREAS, in November 2016, following unsuccessful attempts to have the B&B’s permit holder gain compliance with the conditions of the 2014 CUP, the Zoning Administrator, pursuant to Leg. Code § 61.108, notified the Commission of the CUP violations and the Commission thereafter referred the matter to its Zoning Committee (“Committee”) for the purposes of considering whether to revoke the B&B’s 2014 CUP; and

WHEREAS, on February 16, 2017, the Committee held a public hearing to consider whether to revoke the B&B’s CUP and, following the close of the public hearing, the Committee instead moved to recommend modifying the B&B’s 2014 CUP conditions by increasing the guest rooms from four to six, prohibiting the use of the B&B for commercial or social events, and imposing a new condition which provided that “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"; and

WHEREAS, on March 24, 2017, the Commission voted to adopt the Committee's recommendations to modify the CUP and, accordingly, the said CUP was modified as set forth in Planning Commission Resolution No. 17-11 which is incorporated herein by reference and the CUP, so modified, was issued and delivered to the owner/operator of the said B&B as CUP No. 17-000-688 effective as March 24, 2017; and

WHEREAS, in February 2018, the Zoning Administrator, pursuant to Leg. Code § 61.108, again notified the Commission of the B&B's noncompliance with the B&B's CUP conditions as amended in 2017 after a commercial event was advertised and held at the B&B whereupon the Commission referred the matter to its Zoning Committee for the purposes of considering whether to revoke the B&B's CUP; and

WHEREAS, March 29, 2018, the Zoning Committee held a public hearing at which all interested persons were afforded an opportunity to be heard regarding the matter and, following the close of the public hearing and a discussion of the matter, the Committee moved to continue making a decision on a revocation recommendation to April 26, 2018 in order to obtain additional information from staff; and

WHEREAS, on April 26, 2018 the Zoning Committee again took up the matter and received information from staff regarding some options for handling the recommended revocation of the B&B's CUP and, upon discussing the matter further the Committee, there was a motion to recommend not revoking the CUP which failed on a 3-4 vote with one commissioner abstaining, whereupon there was a subsequent motion to recommend revoking the CUP based upon the testimony and the recommendation which passed on a 4-3 vote with one commissioner abstaining; and

WHEREAS, on May 4, 2018, the Planning Commission took up the Zoning Committee's recommendation to revoke the B&B's CUP due to noncompliance with conditions of the CUP which, on a 10-1 vote, the Commission adopted based upon the following reasons as set forth in Planning Commission Resolution No. 18-27 which is incorporated herein by reference:

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.

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.

AND, WHEREAS, based upon the Planning Commission's decision in its Resolution No. No.18-27, the CUP for a B&B residence at 241, permitted under CUP No. 17-000-688 was revoked; and

WHEREAS, on May 14, 2018 and pursuant to Leg. Code § 61.701(c), an appeal on behalf of Scott Kramer, the owner/operator of the said B&B ("Appellant"), from the Planning Commission's May 4, 2018 decision to revoke CUP No. 17-000-688 was duly filed under PED Zoning File No. 18-063577 in which a public hearing before the City Council was requested to reconsider the Commission's May 4, 2018 decision to revoke the CUP; and

WHEREAS, on June 20, 2018, the Saint Paul City Council duly conducted a public hearing on Scott Kramer's appeal where all persons interested in the matter were afforded an opportunity to be heard, and, upon the close of the testimony, the City Council laid the matter over to June 27, 2018 to consider all the records and testimony taken in the matter; and

WHEREAS, on June 27, 2018, the City Council, took up the matter having heard the statements made and having considered all the reports, minutes, and testimony in the matter including Planning Commission

Resolution No.18-27, does hereby;

RESOLVE, that the Planning Commission's May 4, 2018 decision to revoke the conditional use permit for a bed and breakfast residence at 241 George Street is too severe. While the Commission's facts and findings support a finding that the appellant violated the CUP conditions regarding parties, revoking the B&B's CUP is a too severe under the circumstances. For that reason, the Council hereby grants Appellant's appeal from the Commission's decision to revoke the CUP;

AND, BE IT FURTHER RESOLVED, based upon the preceding finding, that CUP No. 17-000-688, with all of its standards and conditions, is hereby reinstated subject to the following amendment to condition No. 4 which is made pursuant to the Council's authority under Leg. Code § 61.704 with the amending language indicated by underlined text to read as follows:

"4. The bed and breakfast portion of this residence shall not be used as a small conference center, private retreat center, or reception house for weddings, reunions, or any public or private parties including those of the owner. 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."

AND, BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this Resolution to the Appellant Scott Kramer, the Planning Commission, and the Zoning Administrator.

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