



STAFF REPORT

DATE: 8/13/2020

REGULAR

ITEM #:

TO: Planning Commission
FROM: Ken Roberts, Planning Director
AGENDA ITEM: **Resolution 2019-059/Conditional Use Permit – Carmelite Hermitage of the Blessed Virgin Mary – Extension of Conditions of Approval**
LOCATION: 8249 Demontreville Trail
REVIEWED BY: Sarah Sonsalla, City Attorney

BACKGROUND:

On August 20, 2019, the City Council adopted Resolution 2019-59, which granted a Conditional Use Permit to the Carmelite Hermitage of the Blessed Virgin Mary for the property located 8249 Demontreville Trail. The Resolution contained the following conditions of approval:

- 6) The applicant or owner received a building permit from the City for chapel within 12 months of City Council approval of the conditional use permit.
- 7) If the applicant or owner has not taken action toward starting the chapel or if substantial construction of the chapel has not taken place within 12 months of the City's approval of conditional use permit, the CUP approval shall become void. The applicant or owner may request City council approval of a time extension to start or implement the conditional use permit.

Since the grant of the CUP, the neighboring property owner, the Jesuit Retreat House commenced two lawsuits: 1) *Jesuit Retreat House v. City of Lake Elmo*, A20-0847; and 2) *Jesuit Retreat House v. Discalced Carmelite Nuns of St. Paul and Carmel of the Blessed Virgin Mary*, 82-CV-19-4008. Both lawsuits are still pending.

Due to the lawsuits, the Carmelites have not begun construction of the chapel. They have applied to the City for a building permit and are expected to receive that permit before August 20, 2020.

By letter dated July 30, 2020, Rev. John M. Burns, on behalf of the Carmelites, and in accordance with Condition 7 of the CUP, wrote the City requesting an extension of time to start or implement the conditional use permit.

ISSUE(S) BEFORE THE PLANNING COMMISSION:

The Planning Commission is being asked to consider an extension of time to start or implement the conditional use permit in accordance with Condition of Approval Number 7.

PROPOSAL DETAILS/ANALYSIS:

- Applicants:* Carmelite Hermitage of the Blessed Virgin Mary, 8249 Demontreville Trail, Lake Elmo, MN 55042
- Property Owners:* Discalced Carmelite Nuns of St. Paul, 8251 Demontreville Trail, Lake Elmo, MN 55042
- Location:* ALL OF GOVERNMENT LOT 4, IN SECTION 9, TOWNSHIP 29 NORTH, RANGE 21 WEST, ACCORDING TO THE GOVERNMENT SURVEY CONTAINING 59.4 ACRES OF LAND. ALSO, THE SOUTH 30.6 ACRES OF GOVERNMENT LOT 4 IN SECTION 4, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 4, ALL IN TOWNSHIP 029 RANGE 021, ACCORDING THE GOVERNMENT SURVEY, BEING THE SOUTH 688 FEET THEREOF. PID# 09.029.21.12.0002
- Request:* Extension of time to start or implement the conditional use permit in accordance with Condition of Approval Number 7
- Existing Land Use:* Hermitage – A retreat for monks with a community building and garage, cloistered living area with courtyards
- Existing Zoning:* PF – Public and Quasi-Public Open Space
- Surrounding Land Use / Zoning:* North – Properties owned by Discalced Carmelite Nuns (8251 Demontreville Trail) and Jesuit Retreat House (8243 Demontreville Trail);
South – Single-family homes (Rural Residential);
East – Single-family homes (Rural Residential);
West – Lake Demontreville
- Comprehensive Plan Guidance:* 2030 – Public/Park
2040 – Institutional. As noted the in the 2040 Comprehensive Plan, this land use category identifies land that is used for schools, religious institutions, City Hall, municipal buildings, libraries and other institutional uses.
- History:* In December 1991, the City approved a variance (regarding code requirement for having frontage on a public road) and a master plan for the Carmelite Hermitage of the Blessed Virgin Mary. This master plan included a phasing plan showing four parts or phases and included a court, guest house /library, chapel, cloister, hermitage, community building and workshop. The variance noted that the applicant has a private recorded easement that allows access to the north from their site to Demontreville Trail North (across the adjoining properties).

In October 2007, the City approved an amendment to the approved master plan to allow an additional accessory building (1,512 square feet) on their site.

In August 2020, the City approved a variance to the requirement that a house of worship have direct access to a collector or arterial street (Resolution 2019-058) and approved a conditional use permit for a chapel (Resolution 2019-059)

Deadline(s) for Action: Application/Request Complete – 7-30-2020
60 Day Deadline – 9-28-2020

Applicable Regulations: City Code § 154.106(K) provides:
Expiration. If substantial construction has not taken place within 12 months of the date on which the conditional use permit was granted, the permit is void except that, on application, the Council, after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of this chapter, but the six-month period shall not be deemed to commence until the effective date of this chapter.

FISCAL IMPACT:

None

OPTIONS:

The Planning Commission may recommend the following:

- Denial of the requested extension.
- Approval of a one-year extension as requested by the Carmelites.
- Approval an extension for one year after resolution of both lawsuits.

RECOMMENDATION:

Staff is recommending approval of extension of the CUP as contemplated by Condition No. 7 and City Code § 154.106(K). Specifically, staff recommends City approval of a time extension that provides the Carmelites one year after the resolution of both lawsuits to build their chapel.

“Move to recommend approval of the extension of the CUP, Resolution 2019-059, to provide an extension of Condition No. 7 and allow the Permit Holder to have one year after the date of the lawsuit to resolve last (either Jesuit Retreat House v. City of Lake Elmo, A20-0847 or Jesuit Retreat House v. Discalced Carmelite Nuns of St. Paul and Carmel of the Blessed Virgin Mary, 82-CV-19-4008) to start the chapel or, if substantial construction of the chapel has not taken place, to substantially construct the chapel.”

ATTACHMENTS:

- City Council Resolution 2019-059
- Letter from Rev. John M. Burns, dated July 30, 2020
- Zoning and Location Maps, Certificate of Survey and Project Plans (13 pages)