

Mapleton City Planning Commission Staff Report

Meeting Date: October 23, 2014

Applicant: Dave Jr. and Ingrid Nemelka
Location: 903 S Nemelka Lane
Prepared by: Sean Conroy, Community Development Director
Public Hearing Item: Yes
Zone: A-2

REQUEST

Consideration of a request for a Conditional Use Permit to operate an existing single-family residence as a short-term vacation rental located in the Agricultural-Residential A-2 zone.

BACKGROUND AND PROJECT DESCRIPTION

The subject property is approximately 11 acres in size and is developed with a 17,000 square foot residence. The residence includes 9 bedrooms, an indoor pool, indoor basketball/racquetball court, an outdoor tennis court and other amenities. The home sits back approximately 425 feet from the street and has a large paved driveway.

On September 16, 2014 the City Council adopted an ordinance that allows for short-term rentals (less than 30 days) on properties in the A-2 zone with specific conditions. The applicant is requesting approval to use the property for short-term rentals.

EVALUATION

Planning Commission Review: Mapleton City Code (MCC) 18.28.040 identifies short-term rental property as a condition use in the A-2 zone. The review of a conditional use permit is considered an administrative action by the Planning Commission. The Commission's discretion is limited to determining whether an application complies with the adopted criteria of the ordinance and in determining whether additional conditions are needed to address specific project related impacts not contemplated in the ordinance. Conditional use permits cannot be denied based simply on public clamor or because the Commission is not supportive of allowing a particular use.

MCC Chapter 18.28.040 outlines several requirements that apply to short term rentals. These requirements are outlined below followed by a brief response from staff.

- A. *The rental shall be located on a legal lot of record of five (5) acres in size or larger;*

Response: The project site exceeds the minimum lot size of five acres.

- B. *The property is developed or will be developed with a single-family residence that has received proper building permit approvals.*

Response: The existing residence was legally built in 1985 under building permit #777.

- C. *Off street parking shall be provided to include two (2) parking spaces for the residence and one (1) additional space for each guest room. A site plan shall be submitted with the proposed parking plan.*

Response: With 9 guest rooms, the total required on-site parking is 11 spaces. The applicant has provided the attached site plan indicating that there is sufficient area to provide the required parking.

D. *A business license shall be required.*

Response: If the Commission approves the Conditional Use Permit, the applicant would then be required to apply for a business license.

E. *A building and fire inspection shall be required prior to issuance of a business license. Additional safety requirements may be imposed above those typically required for a single-family dwelling. A checklist of inspection items shall be provided to the applicant prior to the inspection.*

Response: Staff has provided the attached inspection checklist to the applicant. Prior to the issuance of the business license, a building and fire inspection will be required.

F. *All short-term residential rental properties shall be subject to the municipality transient room tax as allowed under Utah Code.*

Response: The applicant is required to file with the Utah State Tax Commission and pay all required taxes.

G. *Failure to comply with the standards of this section and/or conducting the short-term rental property in a manner constituting or conducive to a breach of the public peace or a menace to the public health, safety, morals or welfare may result in a revocation of the conditional use permit by the planning commission.*

Response: Staff will monitor the operation of the property. If issues arise, staff will schedule the applicant for an enforcement hearing with the Commission.

H. *The property shall be rented as a single unit. Individual rooms may not be rented separately.*

Response: The applicant has indicated that it is their intent to rent the property as a single unit.

I. *All rental contracts shall require a minimum of stay of two (2) consecutive nights.*

Response: If the property is actively rented for stays of less than two consecutive nights, staff will schedule the applicant for an enforcement hearing as described in section “G” above.

J. *All short term residential rental properties shall designate a local property manager. The local property manager shall be available twenty four (24) hours per day to respond to tenant and neighborhood questions or concerns. Each short term residential rental property shall have a clearly visible sign within the unit containing the name and phone number of the local property manager.*

Response: The applicant has a local property manager that will be available to address complaints and other issues.

- K. *No on-site camping shall be permitted (i.e. tents, RV's, campers, etc.). All tenants shall utilize the indoor sleeping accommodations provided with the rental.*

Response: This condition will help limit the allowed occupancy by precluding the use of the outdoor areas for camping, which will also help avoid unnecessary noise impacts on neighboring properties.

- L. *The owner and property manager shall be jointly and severally liable for any violations of this article. Any rental dwelling unit which is found in violation of this article or any other requirement of this code may be subject to revocation of the short term residential rental property's business license and the conditional use permit.*

Response: This requirement is meant to ensure that the property manager and the property owner are accountable and actively ensuring that the regulations of the ordinance are being followed.

- M. *The applicant shall agree, at its sole expense, to defend, indemnify, and hold harmless the City, its public officials, officers, employees, and assigns, from any liability; and shall reimburse the City for any expense incurred, resulting from, or in connection with any appeal, claim, suit or other legal proceeding related to the short-term residential rental property approval.*

Response: This requirement protects the City against any claims that may result from the approval of a short-term rental license.

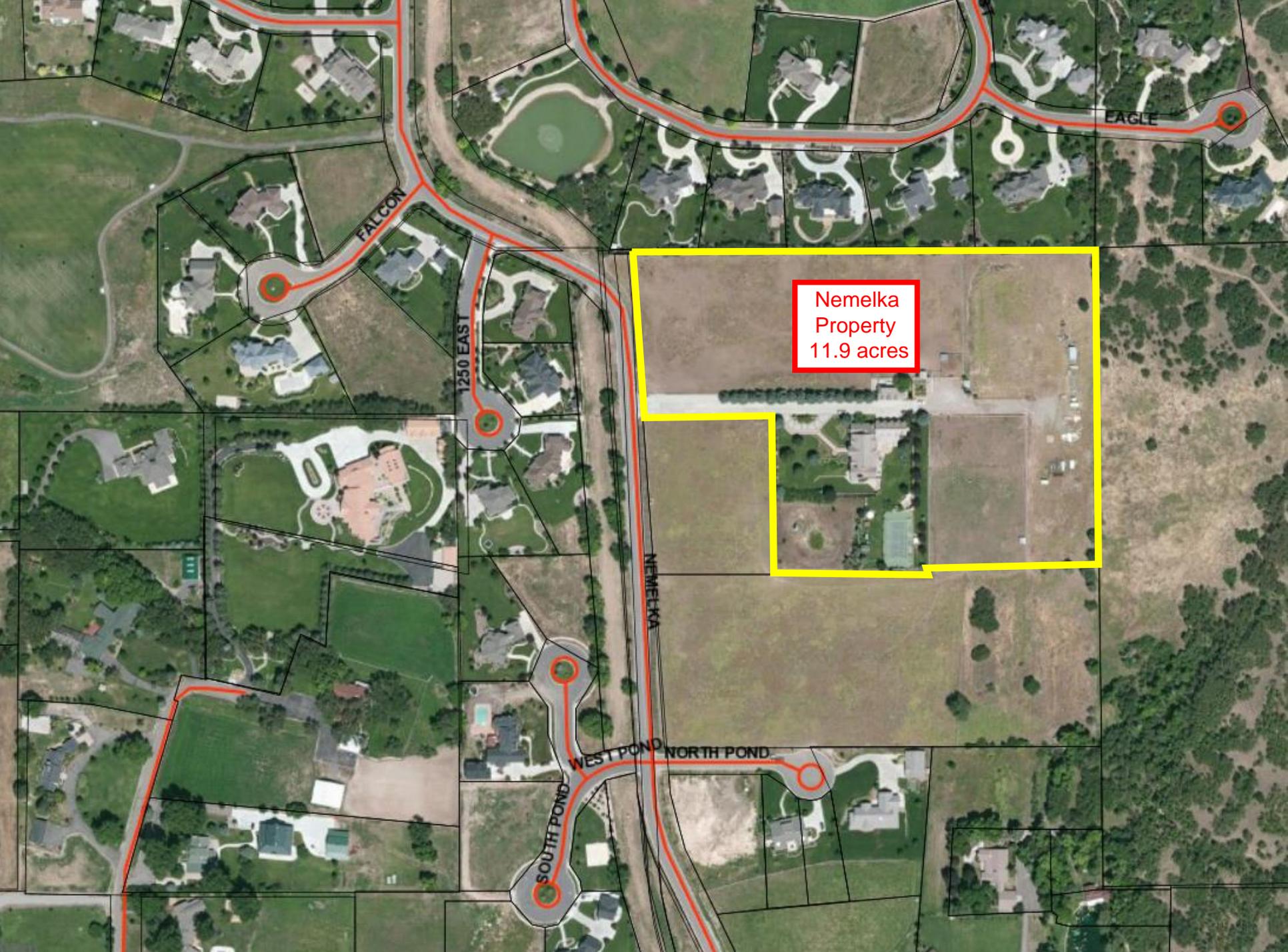
STAFF RECOMMENDATION

Approve the conditional use permit with the attached conditions.

ATTACHMENTS

1. Standard Conditions.
2. Application Materials.
3. Sample Project Inspection Checklist.

Standard Short-Term Rental Conditions		
No.	Finding	
1.	The rental shall be located on a legal lot of record of five (5) acres in size or larger	✓
2.	The property is developed or will be developed with a single-family residence that has received proper building permit approvals	✓
3.	A minimum of 11 on-site parking spaces shall be provided on site.	✓
4.	A business license shall be obtained prior to operation.	✓
5.	A building and fire inspection shall be required prior to issuance of a business license.	✓
6.	The applicant shall register with the State Tax Commission and pay the Municipality Transient Room Tax.	✓
7.	Failure to comply with the standards of this section and/or conducting the short-term rental property in a manner constituting or conducive to a breach of the public peace or a menace to the public health, safety, morals or welfare may result in a revocation of the conditional use permit by the planning commission.	✓
8.	The property shall be rented as a single unit. Individual rooms may not be rented separately.	✓
9.	All rental contracts shall require a minimum of stay of two (2) consecutive nights.	✓
10.	All short term residential rental properties shall designate a local property manager. The local property manager shall be available twenty four (24) hours per day to respond to tenant and neighborhood questions or concerns. Each short term residential rental property shall have a clearly visible sign within the unit containing the name and phone number of the local property manager.	✓
11.	No on-site camping shall be permitted (i.e. tents, RV's, campers, etc.). All tenants shall utilize the indoor sleeping accommodations provided with the rental.	✓
12.	The owner and property manager shall be jointly and severally liable for any violations of this article. Any rental dwelling unit which is found in violation of this article or any other requirement of this code may be subject to revocation of the short term residential rental property's business license and the conditional use permit.	✓
13.	The applicant shall agree, at its sole expense, to defend, indemnify, and hold harmless the City, its public officials, officers, employees, and assigns, from any liability; and shall reimburse the City for any expense incurred, resulting from, or in connection with any appeal, claim, suit or other legal proceeding related to the short-term residential rental property approval.	✓



Nemelka
Property
11.9 acres





Date: October 17, 2014

To: Mapleton Planning Commission

From: David and Ingrid Nemelka

Re: Nemelka Home at 903 South Nemelka Lane, Mapleton, Utah Application for minimum 2 Night Rental Permit.

Purpose: David and Ingrid Nemelka are applying for a permit to rent their home at 903 South Nemelka Lane in Mapleton Utah for minimum 2 night rental.

Description of the Home:

House and Property: The house is over 17,000 square feet. The location is off the public road by several hundred feet and is private and secluded.

Parking: The parking area for the home consists of over 4.5 acres of private land. No public areas will be used for parking.

Inside Amenities: 9 bedrooms. Large Kitchen with seating in the kitchen and family room for family gatherings. Game/Theatre room with ping pong, pool table and large screen TV. Inside Swimming Pool. Inside Racquetball Court. Inside partial Basketball Court.

Outdoor Amenities: Tennis Court, Basketball Court, Volley Ball, almost 1 acre back yard, sand box, Play house for kids, Two Barbecue Grills. Walking access to Forest Service Trails. Winter time sledding.

Not Allowed on the Property: Loud Noises after 10 pm and before 7 am. Guests are instructed verbally and in writing that they are subject to eviction if they violate the noise provision. No four wheelers, motorcycles, or other off road vehicles are allowed on property. Snow mobiles are also not allowed.

Property Manager: Shaun Carter our full time property manager lives in carriage house on property. He is available 24/7 to take care of any issues that arise. We provide all guests Shaun Carter's phone number and David Nemelka's number to address issues. Neighbors also have Shaun and David's phone numbers to call if there are any issues.



No.	Date	By	Notes

Designed _____
 Drawn _____
 Checked _____
 Date _____

Title: **NEMELKA PROPERTY MAPLETON**
 Client: **DAVID NEMELKA**
 Drawing Name: **PARKING PLAN**

PROJECT NO.
 2012-083
 SHEET NO.

Short-term Rental Inspection Checklist

1. Smoke alarms (less than 10 yrs. old) are required in each bedroom, each adjacent hallway to a bedroom and one on each floor, including the basement.
2. Carbon Monoxide detectors are required on each floor.
3. GFCI breakers are required in bathrooms, non-dedicated garage plugs and kitchen countertops (including islands or wet bars).
4. Water heaters
 - a. Strapped with approved straps (one strap on the top third and one on the bottom third of the tank)
 - b. Water heater expansion tank must also be strapped
 - c. Must be de-rated and have a sticker to reflect
 - d. Proper venting and gas connections
5. Furnace
 - a. Must have required clearances and access
 - b. Correct venting and gas/electrical connections
 - c. Combustion air
6. Handrails are required on any stairs over 3 risers.
7. Hot tubs
 - a. Disconnect must be a minimum of 5' but no more than 50' away (5 to 50 rule)
 - b. Guardrails must be provided on a raised deck
 - c. Glass within 5' must be tempered
8. Windows must be tempered in hazardous locations
9. Fire extinguishers shall be provided on each floor and at special locations as directed by the Fire Inspector (type 2A, 10 lbs min.)
10. Emergency egress windows in bedrooms
11. Safety ladders available in each second-story bedroom.
12. Buildings with fire sprinklers require annual inspections.
13. Adequate sanitary facilities.
14. Gas fired appliances are not allowed in sleeping areas.