
CITY OF LITTLE FALLS

BOARD OF ADJUSTMENT/ PLANNING COMMISSION

June 9, 2014



AGENDA
PLANNING COMMISSION
 Conference Room, City Hall
 June 9, 2014, 6:30 p.m.

P	A	Member	P	A	Member
		Bieganek, Justin			Schilling, Kara
		Dahlberg, Doug			Schulte, Ray
		Gosiak, Frank			Silbernick, Keith
		Hanfler, Jeremy			Oleson, Ben (Staff)

CALL TO ORDER: Planning Commission Chairperson

ADOPT THE AGENDA: June 9, 2014

APPROVAL OF MINUTES: May 12, 2014

PUBLIC HEARINGS:

- 1) Mary Ann Susalski (Gottwalt Properties, Inc.), 1006 5th Ave SE, Conditional use permit request to operate a home occupation not meeting the requirements for a permitted home occupation in a One and Two Family Residential District (R-2).
- 2) City of Little Falls, Ordinance amendment to add to existing language to section 11.04 of the City Code and add a new section 11.04.G entitled "Revocation, Suspension or Refusal to Renew Procedures". The proposed amendment will clarify the procedures by which a previously granted variance, conditional use or other permit may be revoked, suspended or not be renewed and clarify that both variance and conditional use permit decisions are to be recorded at the Morrison County Recorder's office.

OLD BUSINESS:

NEW BUSINESS:

NEXT MEETING: Monday, July 14, 2014

ADJOURNMENT:

City of Little Falls
PLANNING COMMISSION MINUTES
 Conference Room, City Hall
 May 12, 2014, 6:30 p.m.

P	A	Member	P	A	Member
x		Bieganek, Justin	x		Schilling, Kara
x		Dahlberg, Doug	x		Schulte, Ray
x		Gosiak, Frank	x		Silbernack, Keith
x		Hanfler, Jeremy	x		Lochner, Jerry (Staff)
			x		Oleson, Ben (Staff)

CALL TO ORDER: The Planning Commission Meeting was called to order by Frank Gosiak, Planning Commission Chairperson, at 6:30 p.m.

ADOPT THE AGENDA: A motion was made by Schulte, seconded by Hanfler to adopt the amended agenda as presented. Motion carried.

APPROVAL OF MINUTES: A motion was made by Silbernack, seconded by Dahlberg to adopt the minutes as presented. Motion carried.

PUBLIC HEARINGS:

- 1) **St. Francis Health Services of Morris, Inc. 1200 1st Avenue NE, variance request to allow the construction of a new building to replace the existing building within the required rear yard setback. Rezoning request from R-3 Multiple-Family Residential District to B-3 Non-central Business District.** Oleson presented a summary of the variance request. Public hearing opened at 6:32 pm. John Lowry, Lowry Engineering, 3330 Fiechtner Drive, Fargo, ND 58103 provided information in regards to the facility plan and how the new facility would be implemented within the existing plat. Robin Hensel, 807 1st St SE asked if there would be adequate public parking. Public hearing closed at 6:42 pm. A motion was made by Silbernack, seconded by Bieganek to re-zone the northern plat to B-3 Non-central Business District from a R-3 Multiple-Family Residential District. Motion carried. A motion was made by Schulte, seconded by Silbernack to approve the variance request as presented regardless of whether the zoning request was approved by the City Council. Motion carried.

OLD BUSINESS: None

NEW BUSINESS: Retka Properties – Service Master Complaints – Oleson presented a summary of the history of the property in regards to its' conditional use permit along with a complaint history. His recommendation after consulting with city staff was to gather facts in regards to the property and if need be to conduct a public hearing. The Planning Commission recommended a public hearing unless the issue can be resolved by the conflicting parties.

NEXT MEETING: Next regular meeting is 6:30 p.m. on Monday, June 9th, 2014.

ADJOURNMENT: A motion was made by Silbernack, seconded by Hanfler to adjourn at 7:02 p.m. Motion carried.

Minutes submitted by Doug Dahlberg, Secretary.

Minutes approved on

DRAFT

STAFF REPORT

Application: Conditional use permit request to operate a home occupation not meeting the requirements for a permitted home occupation in a One and Two Family Residential District (R-2).

Applicant: Mary Ann Susalski

Background Information:

- Proposal:** The applicant is proposing to operate a “nutrition club” business out of the house that is on this property. The house is not currently lived in and would be used exclusively and entirely for the nutrition club and related small events involving club members.

The applicant states on their application “I am an independent Herbalife consultant. My clients come one on one by appointments and invitations only. I serve them a protein smoothie and do a wellness evaluation. We do not advertise. We never have a large group at one time. This is not a retail store. There is only a sign in the window. Energy Plus Nutrition. There is no outside sign. The home will look the same as no changes will take place to the outside. The entire house will be used for the club.”

The applicant later states “Only a few cars at one time. My driveway can hold 6 cars at one time. If necessary it could be wider.”

- Location:**
 - Property address: 1006 5th Ave SE
 - Condensed Legal Description: PT OF NE1/4 OF NE1/4 DESC AS: BEG AT NW COR OF DOC 431347, W ALG N LN (BEING S LN OF 5TH AVE SE) 120 FT, S PARL WITH E LN OF NE1/4 OF NE1/4 297 FT, E PARL WITH N LN 120 FT TO SW COR OF DOC 431347, N ALG W LN 297 FT TO BEG 49.1161.000
 - Parcel number(s): 48.6326.000
 - Property Owner:** Gottwalt Properties, Inc. (Fee Owner: Mary Ann Susalski)
-

Applicable Statutes/Ordinances/Court Decisions:

Little Falls City Code

11.04: ADMINISTRATION AND ENFORCEMENT

D. Conditional Uses:

1. Purpose: In order to give the district use regulations of this chapter the flexibility necessary to achieve the objectives of the comprehensive guide plan, in certain districts conditional uses are permitted, subject to the granting of a use permit. Conditional uses include those uses generally not suitable in a particular zoning district, but which may, under some circumstances, be suitable. When such

circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and a periodic review of the permit may be required. The permit shall be issued for a particular use and not for a particular person or firm. The cancellation of a permit shall be considered equivalent to a rezoning, and the same requirements and procedures shall apply.

2. Application, Referral To Planning Commission, Planning Commission Recommendation And Council Action: Except as otherwise noted in this subsection, the application and presentation requirements for conditional permits shall be the same as those for variances as provided in subsection C of this section.
3. Revocation: A violation of any condition set forth in a conditional use permit shall be a violation of this chapter and automatically terminate the conditional use permit.
4. Use Of Permit: Upon the issuance of a conditional use permit by the council, said permit shall be in force on a temporary basis for a period not to exceed one year from the date of issuance. If, during said one year period, the conditional use authorized by said conditional use permit has not been completed, said conditional use permit shall lapse and become void unless, during said one year period, the city council extends the period of time to complete said authorized use.
5. Lapse Of Conditional Use Permit: A conditional use permit shall lapse and become void if the conditional use for which the conditional use permit has been granted is discontinued for a period of one year, or if the use for which a conditional use permit was granted is changed for a period of one year to a use for which no conditional use permit is required.
6. Cancellation: A conditional use permit may be cancelled by following the requirements and procedures for an amendment to the zoning ordinance. (Ord. 18, 3rd Series, eff. 9-29-1986)

11.05: ZONING DISTRICTS AND MAP

F. R-2 One- And Two-Family Residential District:

1. Permitted Uses:
 - a. Any use permitted in the R-1 district. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)
2. Conditional Uses:
 - a. Any use permitted as conditional in the R-1 district.
3. Lot Area, Floor Area, Height, Lot Width And Yard Requirements: All uses in the R-2 district shall comply with the requirements of the R-1 district of this section, except as hereinafter modified:

Lot Size	Lot Width	Front Yard	Rear Yard	Side Yard	
				Interior	Corner
One- and two-family 9,000 square feet	60 feet	30 feet	30 feet	5 feet	15 feet

(Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

D. R-1 One- And Two-Family Residential District:

1. Permitted Uses Within Any R-1 One- And Two-Family Residential District: No structure or land shall be used, except for one or more of the following uses:

h. A home occupation upon issuance of a home occupation permit. All home occupation permits must meet the following criteria:

- (1) The home occupation shall be engaged in only by persons residing within the dwelling or building within which the home occupation is conducted;
- (2) The home occupation shall be conducted within the principal residence, within a designated area, not comprising more than ten percent (10%), or one room, of the total floor area of the residence;
- (3) There shall be no evidence of the home occupation, other than signs permitted within residential or historic districts, visible outside the structures;
- (4) The home occupation shall not include over the counter, retail sales of merchandise produced off the property;
- (5) No more than three (3) parking spaces shall be used by the persons conducting the home occupation and customers at any one time;
- (6) The home occupation shall not generate additional motor vehicle or pedestrian traffic beyond normal residential use;
- (7) No equipment or process shall be used in the home occupation which generates noise, vibration, glare, dust, fumes, odors, or creates visual or electrical interference with radio or television reception outside the home;
- (8) No materials, supplies or stock in trade will be stored outside of the area designated for the home occupation;
- (9) The occupation shall not involve materials or mechanical equipment which are not part of normal residential use;

- (10) The home occupation shall not involve commercial delivery service other than parcel service and U.S. mail;
- (11) The home occupation shall not involve the use of explosives or highly combustible materials or the storage of hazardous materials;
- (12) Home occupation permits are not transferable;
- (13) No home occupation shall be operated from an accessory structure or garage, except by conditional use;
- (14) Home occupation permits are subject to review for compliance with this chapter. Should a violation occur, the permit is subject to revocation. (Ord. 801, eff. 6-3-1974; amd. Ord. 58, 3rd Series, eff. 12-12-1988; Ord. 125, 4th Series, eff. 9-14-1998)

2. Conditional Uses In Any R-1 One- And Two-Family Residential District: No structure or land shall be used for the following uses, except by conditional use permit:

d. Home occupations by conditional use permit;

- (1) A home occupation which does not meet the criteria in subsection D1h of this section may be conducted following the issuance of a conditional use permit for a home occupation.
- (2) In reviewing an application for a conditional use permit for a home occupation, the city shall consider the impact of the proposed home occupation on the character of the neighborhood, and shall impose such conditions as shall limit or eliminate such impact. In reviewing the impact of the proposed home occupation, the city shall consider such issues as the amount of space devoted to the occupation, the number of individuals participating in the occupation, the noise, glare and/or odor produced by the occupation, the street and/or pedestrian traffic generated by the occupation, and any other factors which impact on the residential character of the neighborhood. In the event that the city determines that the adverse impact cannot be limited or eliminated, the city shall deny the conditional use permit.
- (3) Conditional use permits for home occupations are not transferable and are subject to revocation in the event that the permit holder conducts the home occupation contrary to the conditions placed on it in the conditional use permit.

5.30: SIGN REGULATIONS:

B. Administration:

2. Permit Exemptions: The following signs shall not require a permit under this section. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this section or any other law or ordinance regulating the same.

a. Up to two (2) signs on a residential zoned or used property whose total accumulative area is eight (8) square feet or less in size and a maximum height of four feet (4').

h. Interior signs.

E. Specific Regulations By Zoning District:

1. Signs Allowed By Permit:

a. Residential Districts: Within residential zoning districts, where there is multi-family housing of three (3) units or more, signs are allowed by permit as follows (residential property located in a flood fringe district (FF) shall follow the sign regulations for its underlying zoning district classification):

Residential Zoning Districts	Maximum Sign Area Of Single Sign	Maximum Number Of Signs	Total Area Of All Signs	Maximum Height
R-3, R-3.M, R-4 (.80' frontage)	8 sq. ft.	2	8 sq. ft.	6'
R-3, R-3.M, R-4 (>80' - 150' frontage)	16 sq. ft.	2	16 sq. ft.	6'
R-3, R-3.M, R-4 (>150' frontage)	32 sq. ft.	3	32 sq. ft.	10'

The following types of signs are not permitted in residential zoning districts:

A-frame signs.

Awning signs.

Backlit awning signs.

Balloon signs.

Canopy signs.

Electronic message display signs.

Flashing signs.

Illuminated signs.

Marquee signs.

Murals.

Portable signs.

Shimmering signs.

b. Permitted Nonresidential Uses In Residential Districts: Nonresidential uses in residential districts allowed by conditional use permit may be approved for a ground or monument sign on the premises in certain residential zoned districts. Such signage is allowed as follows:

Nonresidential Uses In Residential Zoning Districts	Maximum Sign Area Of Single Sign	Maximum Height	Display Surface Of All Signs (Accum.)
R-1, R-1C, R-1.M (.150' frontage)	32 sq. ft. per surface	8'	32 sq. ft.
R-2, R-2.M (.150' frontage)	32 sq. ft. per surface	8'	32 sq. ft.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:

- **Current Zoning:**
 - Subject Property: One- and Two-Family Residential District (R-2)
 - Surrounding Properties: Noncentral Business District (B-3) on the north (school district property) and One- and Two-Family Residential District (R-2) on all other sides.
- **Current Land Use:**
 - Subject Property: Residential dwelling
 - Surrounding Properties:
 - West: Residential dwelling
 - East: Residential dwelling
 - South: Vacant land
 - North: Schools
- **Lot size:** Approx. 0.80 acres
- **Sewer/Water:** The property is connected to City sewer/water.
- **Natural Features:**
 - Floodplain: The property is not within an identified floodplain.
 - Bluff/Steep Slopes: There are no steep slopes on the property.
 - Wetlands: There do not appear to be any wetlands on the property. The Morrison County SWCD has received notification of this meeting.

- **Home Occupation-Specific Criteria:** "...the city shall consider the impact of the proposed home occupation on the character of the neighborhood, and shall impose such conditions as shall limit or eliminate such impact...In the event that the city determines that the adverse impact cannot be limited or eliminated, the city shall deny the conditional use permit."
 - **Amount of Space devoted to the occupation:** The entire home would be dedicated to the proposed home occupation/business.
 - **Noise, Glare and/or Odor:** All activities are anticipated to be held inside the home. No exterior lighting is proposed except that would be typical for a residential dwelling. Odors are not expected to be problematic.
 - **Street and/or pedestrian traffic generated by the occupation:** The applicant states that most traffic will be one-on-one with clients, generating 1-2 cars at a time. In some cases, small group events would be held that may generate 6-8 vehicles.
 - **Any other factors which impact on the residential character of the neighborhood:** The applicant states that they would only be placing one small sign in the window of the home. Such signs, if they are on the inside of the window, are not regulated by the City. By ordinance, if this use is approved, it would be allowed 32 sq ft of signage with a max. height of 8 feet. If the City wishes to limit this to a lesser amount so as to preserve the residential character of the neighborhood, it would need to do so as a condition of any approval.

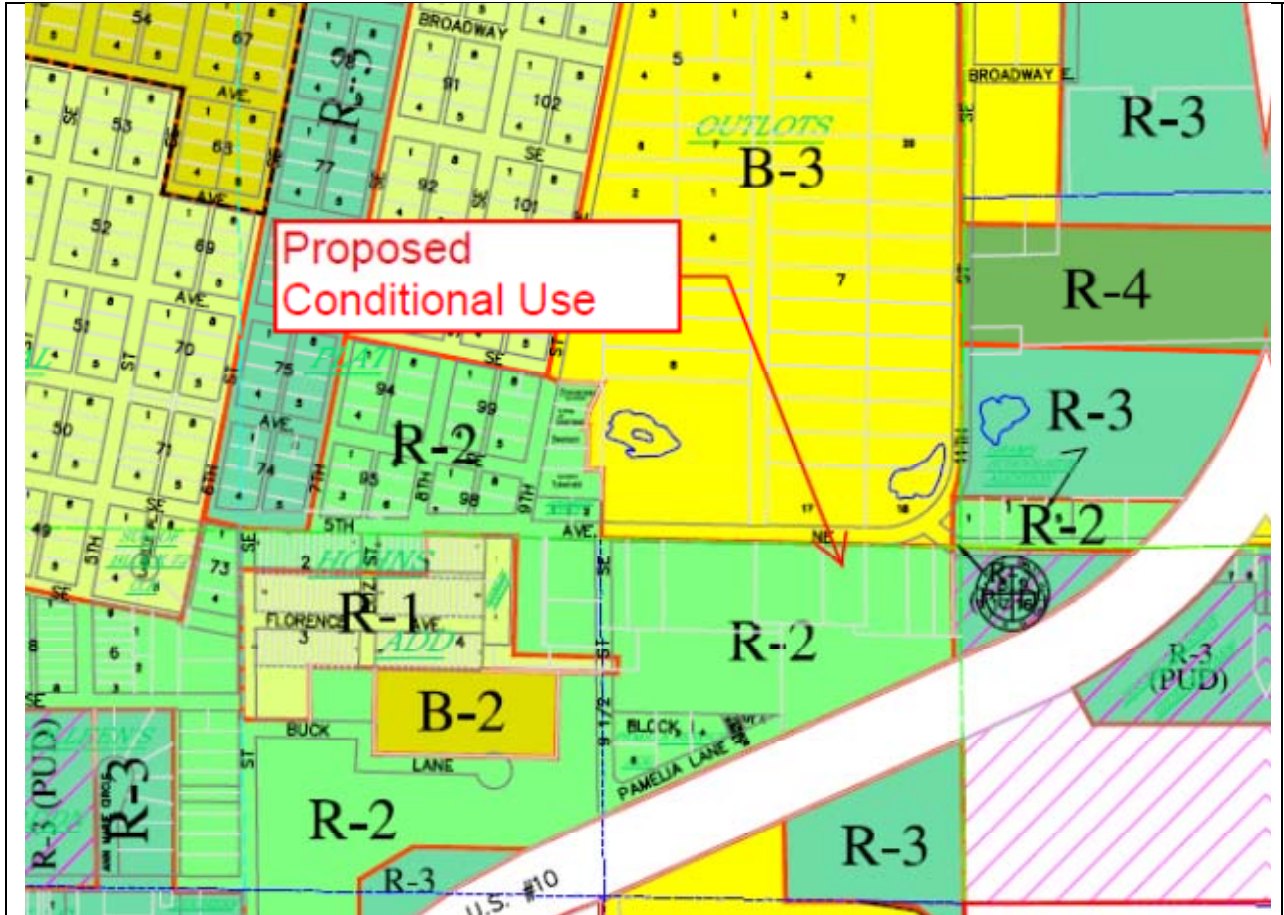
Planning Commission Action: The Planning Commission may approve the conditional use request, deny the request, or table the request if the Commission should need additional information from the applicant. If the Commission should approve or deny the request, it should state the findings which support either of these actions. If the application is tabled, the Commission should provide specific direction as to what additional information is needed.

Staff Comments: As the Planning Commission considers this application, Staff would make the following comments:

1. The primary intent of the ordinance, in Staff's opinion, is to allow home occupations where they do not harm the character of the neighborhood. Typically, home occupations are something that would only be allowed in a relatively small portion of the dwelling. In this case, they are planning to make use of the entire home for the business.
2. Impact on the character of the neighborhood can also arise from factors such as the amount of traffic coming in and out on a daily basis, noise, odor and other factors that may be seen as a nuisance by neighboring property owners.
3. The primary impact on the character of the neighborhood would appear to be from the traffic generated by the business. While difficult to control the amount of traffic, the Commission could consider limitations relating to the maximum

number of people allowed on-site at any one time or how often small group events may be held. Limitations on the hours of operation can also be considered.

4. If the Commission feels there is no reasonable way in which to avoid negative impacts on the character of the neighborhood, it could deny the application and state its reasons.



Mary Ann Susalski
 Conditional Use Request
 1006 5th Ave SE
 June 9, 2014





Phone: 320-616-5500
Fax: 320-616-5505

Fee Paid 325⁰⁰

Date Filed _____

Receipt Number 77223

Application For: REZONING, VARIANCE AND CONDITIONAL USE

Have you reviewed Chapter 11, Section 11.04 of the City Code dealing with zoning laws of the City of Little Falls? (available online: www.cityoflittlefalls.com)

Yes X No _____

Street Address of Property 1006 5th Ave SE. LITTLE FALLS, MN

Legal Description of Property _____

Description: Section 17 Township 040 Range 032 PT OF NE1/4 OF NE1/4
DESC AS: BEG AT NW COR OF DOC 431347, W ALG N LN (BEING S LN OF 5TH
AVE SE) 120 FT, S PARL WITH E LN OF NE1/4 OF NE1/4 297 FT, E PARL WITH
N LN 120 FT TO SW COR OF DOC 431347, N ALG W LN 297 FT TO BEG
49.1161.000

Parcel Identification Number 48.6326.000

Owner - Name MARY ANN SUSALSKI Phone 320-630-1636
Address 1006 5th Ave SE
City LITTLE FALLS State MN Zip 56345

Applicant (if other than owner) -

Name _____ Phone _____
Address _____
City _____ State _____ Zip _____

Type of Request - Rezoning _____ Variance _____ Conditional Use X Other _____

Description of Request TO USE my Home AT 1006 SCA ST SE
AS A NUTRITION CLUB. I AM A INDEPENDANT HERBALIFE
CONSULTANT. MY CLIENTS come one on one By Appointments
AND INVITATIONS ONLY. I SERVE THEM A PROTIEIN SMOOTHIE +
DO A WELLNESS EVALUATION. - (CONTINUED ON NEXT PAGE)

Reason for Request _____
TO HAVE A PROFESSIONAL PLACE TO
CONDUCT my HERBALIFE BUSINESS.

Present Zoning Classification R-2

Existing Use of Property Residential

Existing Use and Zoning of the Surrounding Area (two blocks) _____

Has a request for a variance, special use permit, or rezoning on the subject site - or any part thereof - been previously sought?

Yes _____ No When _____

Signature of Applicant/s Mary Ann Susashii

Date 5-21-14

I am the legal fee owner of the property described on this application and I consent to this application

Signature of owner/s Mary Ann Susashii

Approved _____ Denied _____ by the Planning Commission on _____
Date

Approved _____ Denied _____ by the City Council on _____
Date

Mailing Address: City of Little Falls, P.O. Box 244, Little Falls, MN 56345

① Descriptive of Request - We DO NOT ADVERTISE. We NEVER HAVE A LARGE ~~GROUP~~ GROUP AT ONE TIME. THIS IS NOT A RETAIL STORE. THERE IS ONLY A SIGN IN THE WINDOW. ENERGY PLUS NUTRITION. THERE IS NO OUTSIDE SIGN. THE HOME WILL LOOK THE SAME AS NO CHANGES WILL TAKE PLACE TO THE OUTSIDE. THE ENTIRE HOUSE WILL BE USED FOR THE CLUB.

The following questions must be answered.

1. What changes are you proposing to make to this property?

Building: OUTSIDE - NONE WILL STAY THE SAME -

Landscaping: NONE

Parking/Signs: NO SIGNS OUTSIDE - ONLY A WINDOW SIGN INSIDE

2. Describe the character of the area and the existing patterns and use of development in the area. How is the proposal consistent with those patterns and uses? THE OUTSIDE

OF THE PROPERTY WILL NOT CHANGE. IT WILL
REMAIN THE SAME

3. Describe the impact on the character of the neighborhood in which the property is located. I SEE NO IMPACT.

4. Describe the impact to the traffic on roads and highways in the vicinity, and the expected traffic generated by the proposed use. Is there adequate off-street parking available to accommodate the proposal? MY BUSINESS IS ONE ON ONE BY

APPOINTMENT AND INVITATION. ONLY A FEW CARS AT
ONE TIME. MY DRIVEWAY CAN HOLD 6 CARS AT ONE TIME.
IF NECESSARY IT COULD BE WIDEN.

5. What part of the City Zoning Ordinance creates an undue hardship to the property in question? What is the undue hardship that prevents the land to be used in a reasonable way? (Read Zoning Ordinance Chapter 11, Sect. 11.04 Sub. 3 (C.-I.) to define "undue hardship")

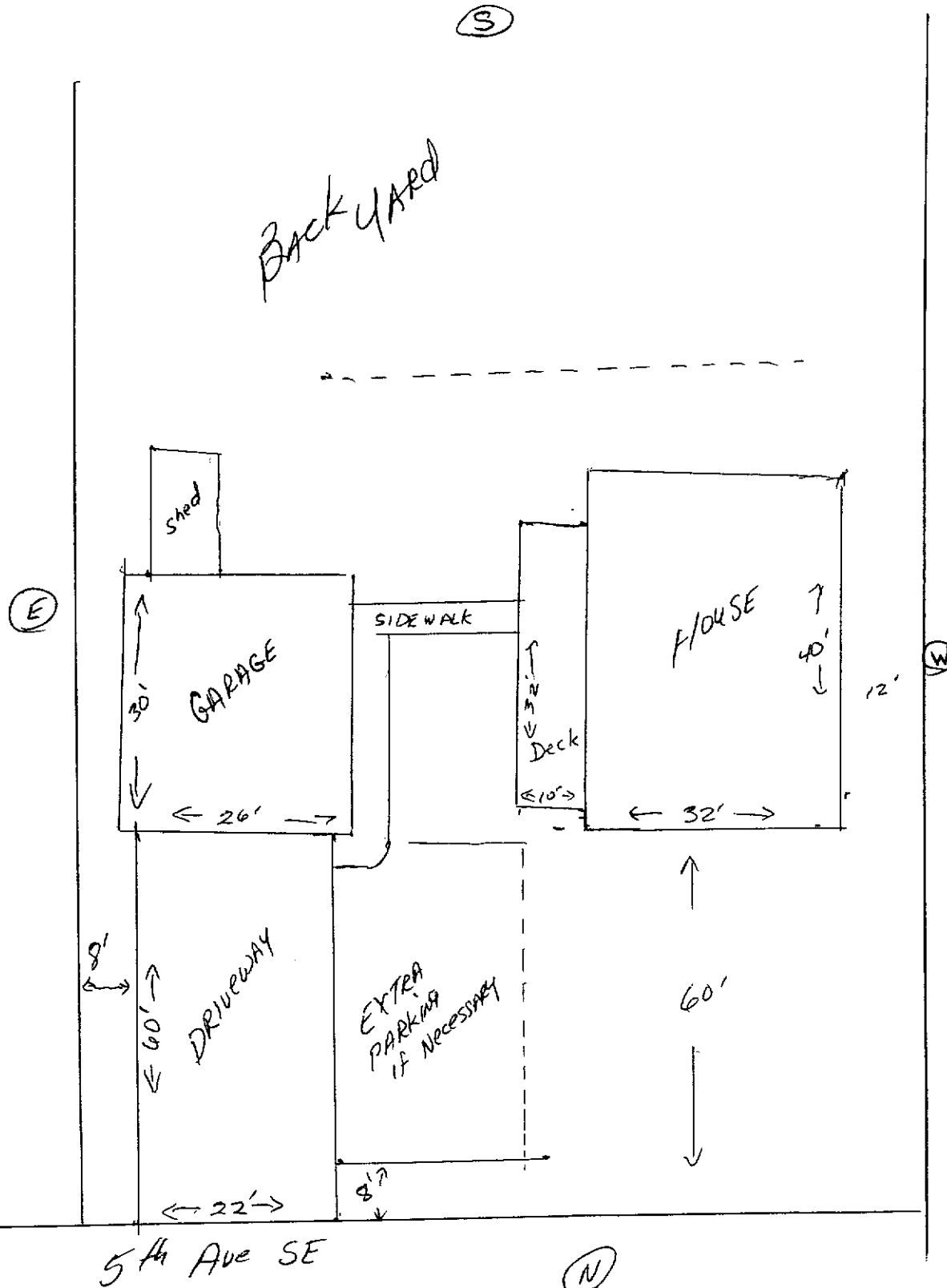
NONE - THAT I AM AWARE OF.

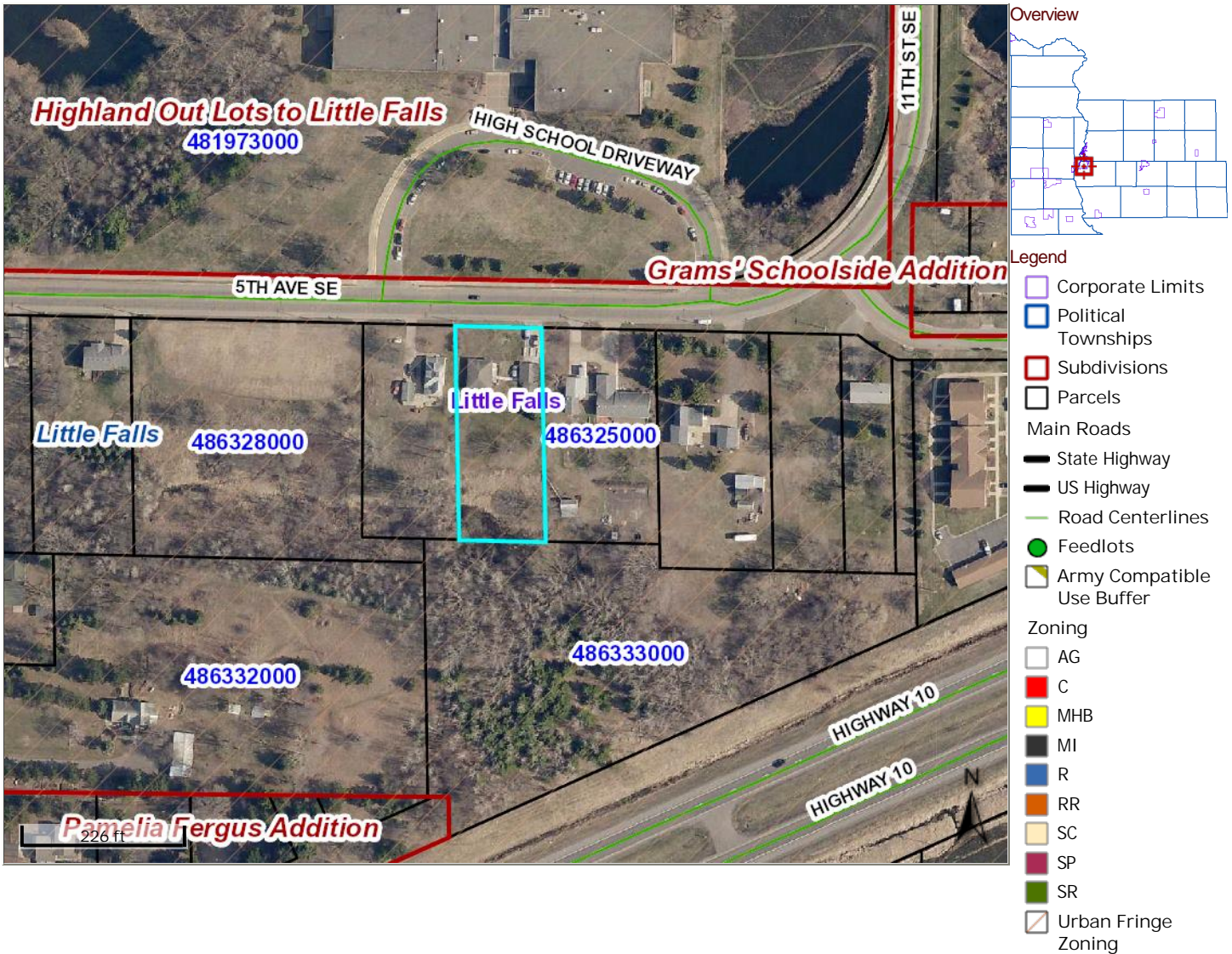
Use other side of page if necessary.

Mailing Address: City of Little Falls, P.O. Box 244, Little Falls, MN 56345

MARY ANN SUSALSKI
1006 5th Ave SE
Little Falls MN.

ALL MEASUREMENTS
ARE APPROXIMATE
WITHIN INCHES





Parcel ID	486326000	Alternate ID	n/a	Owner Address	GOTTWALT PROPERTIES INC
Sec/Twp/Rng	17-40-32	Class	n/a		15398 275TH AVE
Property Address	1006 5TH AVE SE LITTLE FALLS	Acreage	0.80		PIERZ MN 56364
District	LITTLE FALLS EAST-#482-HRA				
Brief Tax Description	PT OF NE1/4 OF NE1/4 DESC AS: BEG AT NW COR OF DOC 431347, W ALG N LN (BEING S LN OF 5TH AVE SE) 120 FT, S PARL WITH E LN OF NE1/4 OF NE1/4 297 FT, E PARL WITH N LN 120 FT TO SW COR OF DOC 431347, N ALG W LN 297 FT TO BEG 49.1161.000				
	(Note: Not to be used on legal documents)				

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STAFF REPORT

Application: Ordinance amendment to add to existing language to section 11.04 of the City Code and add a new section 11.04.G entitled “Revocation, Suspension or Refusal to Renew Procedures”. The proposed amendment will clarify the procedures by which a previously granted variance, conditional use or other permit may be revoked, suspended or not be renewed and clarify that both variance and conditional use permit decisions are to be recorded at the Morrison County Recorder’s office.

Applicant: City of Little Falls

Background Information:

- **Proposal:** Section 11.04.D of the current City Code states that a “violation of any condition set forth in a conditional use permit shall be a violation of this chapter and *automatically* terminate the conditional use permit” (emphasis added). Upon review of this particular requirement, the City Attorney and City Staff were concerned that such an *automatic* revocation of a conditional use permit would fail to provide due process to the permit holder. In other words, the automatic revocation of a conditional use permit would not provide the permit holder an opportunity to respond to their alleged violation nor an opportunity for any members of the public to provide their input into the decision nor the Planning Commission or City Council an opportunity to review the situation. Presumably, it could be only up to the Zoning Administrator as to whether a violation had occurred.

The proposed language would address this by providing a clear process to address a potential revocation of a conditional use permit *or* a variance. This process would involve scheduling a public hearing if the Zoning Administrator obtained information indicating a basis for revocation, suspension or amendment of the conditional use permit.

The proposed changes also clarify that variances *and* conditional use permits are to be recorded at the County Recorder’s office (the current language only specifies variances).

A copy of the proposed language amendments to Section 11.04 are attached.

Planning Commission Action: The Planning Commission may recommend approval of the proposed ordinance amendment, denial of the request, or table the request if the Commission should need additional information. If the application is tabled, the Commission should provide specific direction as to what additional information is needed.

PROPOSED AMENDMENTS TO SECTION 11 – LITTLE FALLS ZONING
ORDINANCE
JUNE 9, 2014 PUBLIC HEARING

C. Variances:

1. The timelines for variance requests shall be governed by Minnesota Statute 15.99, as amended.

2. The processing of variances shall be governed by Minnesota Statute 462.357, as amended.

3. ~~No~~ ~~A~~ ~~variance~~ ~~permitting~~ ~~the~~ ~~erection~~ ~~or~~ ~~alteration~~ ~~of~~ ~~a~~ ~~building~~ ~~taking~~ ~~place~~ ~~pursuant~~ ~~to~~ ~~a~~ ~~granted~~ ~~variance~~ shall be ~~valid~~ ~~for~~ ~~a~~ ~~period~~ ~~longer~~ ~~than~~ ~~six~~ ~~months~~ ~~completed~~ ~~within~~ ~~6~~ ~~months~~ ~~of~~ ~~the~~ ~~date~~ ~~the~~ ~~variance~~ ~~was~~ ~~granted~~, unless a building permit is has been issued and the construction actually begun within ~~that~~ the six month period, and is thereafter diligently pursued ~~to completion~~. Failure to comply will leave the variance subject to revocation as set forth herein.

4. ~~A~~ ~~variance~~ ~~shall~~ ~~lapse~~ ~~and~~ ~~become~~ ~~void~~ ~~if~~ ~~the~~ ~~variance~~ ~~for~~ ~~which~~ ~~a~~ ~~permit~~ ~~has~~ ~~been~~ ~~granted~~ ~~is~~ ~~discontinued~~ ~~for~~ ~~a~~ ~~period~~ ~~of~~ ~~one~~ ~~year~~, or if a variance is no longer required by the provisions of this chapter.

4. Revocation: A variance may be revoked, suspended, or amended by following the requirements and procedures in Section 11.04.H ~~of the City Code~~ herein.

D. Conditional Uses:

1. Purpose: In order to give the district use regulations of this chapter the flexibility necessary to achieve the objectives of the comprehensive guide plan, in certain districts conditional uses are permitted, subject to the granting of a use permit. Conditional uses include those uses generally not suitable in a particular zoning district, but which may, under some circumstances, be suitable. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and a periodic review of the permit may be required. ~~The permit shall be issued for a particular use and not for a particular person or firm. The cancellation of a permit shall be considered equivalent to a rezoning, and the same requirements and procedures shall apply.~~

2. Application, Referral To Planning Commission, Planning Commission Recommendation And Council Action: Except as otherwise noted in this subsection, the application and presentation requirements for conditional permits shall be the same as those for variances as provided in subsection C of this section.

3. Revocation: A conditional use permit may be revoked, suspended, or amended by following the requirements and procedures in Section 11.04.H ~~of the City Code~~ herein.

4. Use Of Permit: ~~Upon the issuance of a conditional use permit by the council, said permit shall be in force on a temporary basis for a period not to exceed one year from the date of issuance. If, during said one year period, the conditional use authorized by said conditional use permit has not been completed, said~~ or the use granted has been discontinued for a continuous one year period after grant of the permit, then the conditional use permit shall lapse and become void unless, during said one year period, the city council extends the period of time ~~be subject to complete said authorized use.~~ revocation, suspension, or amendment as set forth in Section 11.04 H herein.

5. Lapse Of Conditional Use Permit: ~~A conditional use permit shall lapse and become void if the conditional use for which the conditional use permit has been granted is discontinued for a period of one year, or if the use for which a conditional use permit was granted is changed for a period of one year to a use for which no conditional use permit is required.~~

6. Cancellation: ~~A conditional use permit may be cancelled by following the requirements and procedures for an amendment to the zoning ordinance. (Ord. 18, 3rd Series, eff. 9-29-1986)~~

G. Conditional Use Permits and Variances Recorded: A certified copy of every conditional use permit and variance granted shall be ~~filed~~ recorded with the county recorder. (Ord. 132, 2nd Series, eff. 10-29-1984)

H: Revocation, Suspension or Refusal to Renew Procedures ~~Amendment~~ of Previously Approved Variances and Conditional Use Permits

1. Jurisdiction: Upon obtaining information that ~~will indicate~~ indicates a basis for revocation, suspension or ~~refusal to renew~~ amendment, the Zoning Administrator or ~~their~~ his/her designee ~~shall~~ may initiate proceedings for revocation, suspension, or ~~refusal to renew.~~ amendment if a warning or other corrective action is deemed to be inappropriate or ineffective. If so, the matter shall be heard by the authority that originally granted the applicable variance or permit. A decision on whether to revoke, suspend or ~~refuse to renew~~ amend a permit that was originally issued by the Zoning Administrator shall be made by the Zoning Administrator. All other revocations, suspensions or amendments shall be submitted for hearing as indicated herein.

2. Hearing: The issuing authority shall establish a time, date and location for a hearing for revocation, suspension, or ~~refusal to renew~~ amendment, at the request of the Zoning Administrator or the Administrator' designee. The Administrator or designee shall ~~mail~~ serve notice of the date of the hearing to the ~~affected part(ies)~~ permit or variance holder no less than ten (10) days prior to the date of the hearing. using the same process as is required for civil actions at law . Other interested parties may be notified by first class mail or other appropriate means. At the hearing, the issuing entity will take such evidence as it deems appropriate. In all cases, the ~~affected party~~ holder shall be entitled to

present such evidence as ~~they deem~~ that party deems appropriate either personally, or through an attorney. Should the ~~affected partyholder~~ fail to appear ~~either~~ in person, or through counsel, the issuing entity shall still have the authority to take evidence and make a decision upon the request for revocation, suspension or ~~refusal to~~ renew/amendment.

3. Findings at hearing: Should the issuing authority find, by a preponderance of the evidence, that the ~~affected partyholder~~ has failed to comply with the conditions set forth on the variance or permit, the issuing party shall make that finding and state the reasons for its determination.

4. Remedies: Upon finding that the ~~affected partyholder~~ has failed to comply with the conditions set forth in the variance, conditional use permit or other permit, the issuing entity ~~will~~ may then ~~ascertain the~~ determine appropriate ~~sanctions~~ sanctions, if any, to impose. ~~Sanctions may include, but not be limited to, revocation, suspension for a stated period of time, or the refusal to renew. Suspensions may also be conditional upon the conduct of the affected party, or amendment to the previously imposed conditions.~~ A variance, conditional use permit or other permit may be suspended until such time as the ~~affected partyholder~~ comes into compliance with the terms of their original approval. The criteria for determining the appropriate ~~sanctions~~ sanctions shall include, but are not limited to, the length of time of the violation, the severity of the violation, and risk to the health, welfare, and safety of the neighboring residents and/or community as a whole.