
CITY OF LITTLE FALLS

BOARD OF ADJUSTMENT/ PLANNING COMMISSION

September 8, 2014



AGENDA
PLANNING COMMISSION
 Conference Room, City Hall
 September 8, 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 (Zoning Official)
					Kimman, Greg (City Engineer)

CALL TO ORDER: Planning Commission Chairperson

ADOPT THE AGENDA: September 8, 2014

APPROVAL OF MINUTES: August 11, 2014

PUBLIC HEARINGS:

- 1) Request to consider the vacation of a utility easement
 - a. Applicant: City of Little Falls
 - b. Brief Legal Description: That part of the easement described in Document No. 370415 on record in the Morrison County Recorder's Office which lies within Lot 1, Block 1, G G & O Addition, according to the recorded plat thereof, on file in said Morrison County Recorder's Office
- 2) Request to rezone property at from Heavy Industrial (I-2) to General Business (B-2).
 - a. Applicant: Brian Anderson (Anderson Custom Processing, Inc.),
 - b. Property address: 200 Lindbergh Drive South
 - c. Brief Legal Description: Lot 008 Block 065 of THAYER'S ADDN Plat No. 49001
 - d. Parcel number(s): 490295000

OLD BUSINESS:

- 1) City of Little Falls, Ordinance amendment to Chapter 11, entitled "Land Use Regulations (Zoning)", Sections 11.02 (Definitions), 11.03.E (Required Yards and Open Space) and 11.03.Q (Fences). The proposed amendment will amend and add to existing language in the above-mentioned sections in order to clarify regulations and permitting procedures related to fences and hedges in both residential and non-residential zoning districts.

NEW BUSINESS:

NEXT MEETING: Monday, September 8, 2014

ADJOURNMENT:

STAFF REPORT

Application: Request to consider the vacation of a utility easement

Applicant: City of Little Falls

Background Information:

- **Proposal:** The city has had a utility easement in the past that ran east and west just to the north of the Country Inn and Suites building located at 209 16th Street NE. With the recent expansion of that hotel facility, there is a need to move this easement to so as to not be under a building. The proposal is to vacate part of the old utility easement and direct it instead around the north end of the expanded hotel.

When a public easement is vacated, it must have a public hearing. That is the purpose of this application. The Commission will need to take any public comment and then decide what recommendation it would make to the City Council, who would then make the final decision.

A copy of the area showing the old easement and the new proposed easement is attached. This hearing relates only to the vacating of the old easement. Establishing a new easement does not require a public hearing.

Planning Commission Action: The Planning Commission may recommend approval of the proposed utility easement, 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.

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

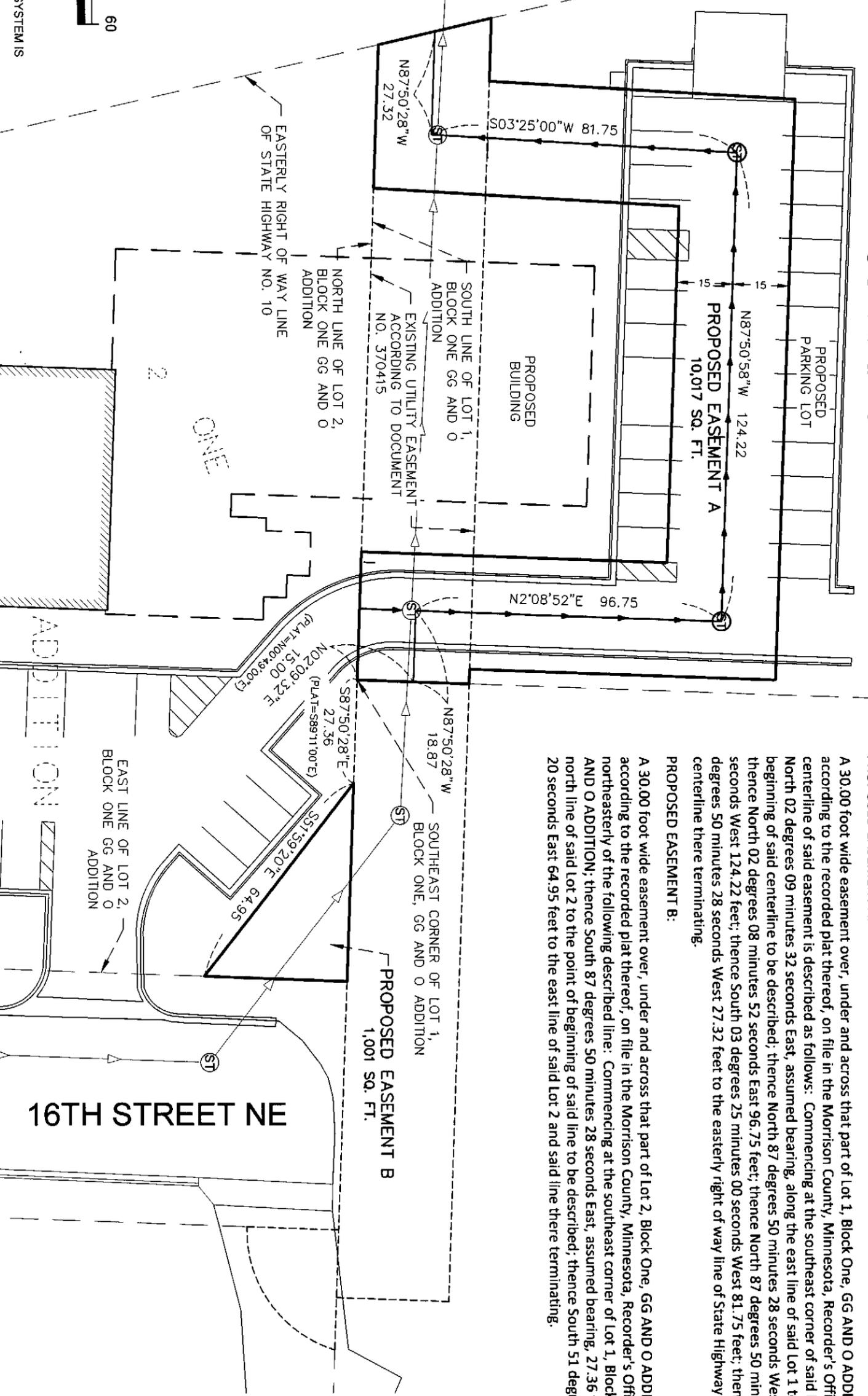
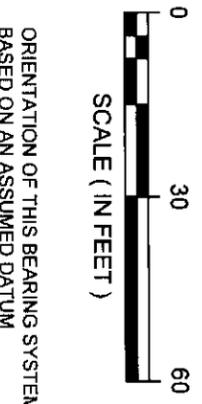
1. The City Engineer will be in attendance at the public hearing and can answer any questions the public or Commission may have.

SKETCH AND DESCRIPTION

PART OF LOT 1, BLOCK ONE, GG AND O ADDITION, IN THE
SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF
SECTION 9, TOWNSHIP 40, RANGE 32, MORRISON COUNTY, MINNESOTA

BLOCK
1
GG AND O

STATE HIGHWAY NO. 10



PROPOSED EASEMENT DESCRIPTIONS:

PROPOSED EASEMENT A:

A 30.00 foot wide easement over, under and across that part of Lot 1, Block One, GG AND O ADDITION, according to the recorded plat thereof, on file in the Morrison County, Minnesota, Recorder's Office, the centerline of said easement is described as follows: Commencing at the southeast corner of said Lot 1, thence North 02 degrees 09 minutes 32 seconds East, assumed bearing, along the east line of said Lot 1 to the point of beginning of said centerline to be described; thence North 87 degrees 50 minutes 28 seconds West 18.87 feet; thence North 02 degrees 08 minutes 52 seconds East 96.75 feet; thence North 87 degrees 28 seconds West 124.22 feet; thence South 03 degrees 25 minutes 00 seconds West 81.75 feet; thence North 87 degrees 50 minutes 28 seconds West 27.32 feet to the easterly right of way line of State Highway No. 10 and said centerline there terminating.

PROPOSED EASEMENT B:

A 30.00 foot wide easement over, under and across that part of Lot 2, Block One, GG AND O ADDITION, according to the recorded plat thereof, on file in the Morrison County, Minnesota, Recorder's Office, lying northeasterly of the following described line: Commencing at the southeast corner of Lot 1, Block One, said GG AND O ADDITION; thence South 87 degrees 50 minutes 28 seconds East, assumed bearing, 27.36 feet along the north line of said Lot 2 to the point of beginning of said line to be described; thence South 51 degrees 59 minutes 20 seconds East 64.95 feet to the east line of said Lot 2 and said line there terminating.

DATE	5-30-14
SCALE	AS SHOWN
DRAWN BY	ROS
CHECKED BY	CMC
FILE NUMBER	027090524.001

DATE	
AMENDMENTS	

PREPARED FOR: CHAD M. COONER
DATE: 05-30-2014 LIC. NO. 41643

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

WIDSETH SMITH NOLTING

Engineering
Architecture
Surveying
Environmental

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WidsethSmithNolting.com

EASEMENT

In consideration of Two Thousand ^{Five} ~~Five~~ Hundred Dollars (\$2,500.00) and other valuable considerations, including a promise to plant ~~5~~ trees in the easement area on Grantor's property, Grantors, Ganglehoff Properties, Inc., a Minnesota Corporation, G & O Enterprises, LLC, and GG & O Enterprises, LLC hereby convey unto the City of Little Falls, a municipal corporation, an easement for the construction, operation and maintenance of permanent underground public utilities on the following described premises:

A Tract of Land measuring Thirty (30) feet north to south, described as follows: Beginning at the Northeasterly corner of Lot One (1), Block Two (2) Wielinski Second Addition, accoring to the plat thereof on file and of record in the office of the Morrison County Recorder, and assuming that the northerly line of said Wielinski Second Addition bears North 89 degrees 07 minutes 52 seconds East from said northeasterly corner; thence North 00 degrees 52 minutes 08 seconds West 604.00 feet along the easterly line of the tract deeded to Scherling by the deed recorded as document number 357340 in said Recorder's Office, the point of beginning of the tract described; thence continue north 30.00 feet; thence westerly and parallel to the northerly line of Wielinski Second Addition to the easterly right of way line of Trunk Highway Number 10; thence southerly along the easterly right of way line of Trunk Highway Number 10 to its intersection with a line which is parallel to the northerly line of Wielinski Second Addition and which intersects the point of beginning; thence Easterly and parallel to the northerly line of Wielinski Second Addition to the point of beginning;

Provided, however, that Grantee shall restore the surface to its previous condition following any maintenance or installation of utilities.

Dated: Jan 16, 1997.

GANGLEHOFF PROPERTIES, INC.

By [Signature]
Its President

By _____
Its _____

OFFICE OF COUNTY RECORDER
MORRISON COUNTY, MINNESOTA

I HEREBY CERTIFY THAT

THIS INSTRUMENT #

0370415

WAS FILED/RECORDED IN THIS OFFICE FOR RECORD

ON THE 28 DAY OF January, A.D. 19 97

AT 3 O'CLOCK P.M.

ELDA MAE (BUNNY) JOHNSTON, COUNTY RECORDER

BY [Signature] DEPUTY

FEE 15.00 S.C. 4.00 CHECK CASH P.P. 3

WELL CERT _____ SEPTIC CERT _____

REC'D City of Little Falls

RETURN _____

0370415

STATE OF MINNESOTA

SS

COUNTY OF Morrison

The foregoing instrument was acknowledged before me this 16th day of January, 1997 by Gary Gangelhoff and _____, the President and _____ of G & O Enterprises, LLC.



Lori Kasella
Notary Public

STATE OF MINNESOTA

SS

COUNTY OF Morrison

The foregoing instrument was acknowledged before me this 16th day of January, 1997 by Gary Gangelhoff and _____, the President and _____ of GG & O Enterprises, LLC.



Lori Kasella
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Peter Vogel
210 Second Street Northeast
Little Falls, Minnesota 56345

STAFF REPORT

Application: Request to rezone property at from Heavy Industrial (I-2) to General Business (B-2).

Applicant: Brian Anderson (Anderson Custom Processing, Inc.),

Background Information:

- **Proposal:** Anderson Custom Processing has recently purchased the property at 200 Lindbergh Drive SW and is seeking to construct an office building at that location. While an office building would be an allowed use as that property is currently zoned (Heavy Industrial - I2), the required property line setbacks of 40 ft from the front and side corner lot line would take up the entire lot and leave no room for building. As such, the applicants are requesting that the property be rezoned from I-2 to General Business - B2). This will reduce the required setbacks to zero (0) feet for both the front and side lot lines (except that on corner lots, nothing may be placed in the triangle formed by extending 25 feet back from the intersection of the street to preserve traffic sight lines). Offices are a permitted use within the B-2 zoning district.

The City's 2007 Comprehensive Plan identifies the subject property, and properties immediately to the west and north, for future "Business Park" use, which are associated with the I-1 and I-2 zoning districts. The area immediately to the north is identified for "Downtown Business" and is currently zoned B-2 (same as is being proposed for the subject property). The area to the east is identified for "Mixed Use" (commercial and residential).

- **Location:**
 - Property address: 200 Lindbergh Drive South
 - Brief Legal Description: Lot 008 Block 065 of THAYER'S ADDN Plat No. 49001
 - Parcel number(s): 490295000
 - **Property Owner:** Anderson Custom Processing, Inc.
-

Applicable Statutes/Ordinances/Court Decisions:

Little Falls City Code

11.04: ADMINISTRATION AND ENFORCEMENT

E. Amendments:

1. This chapter may be amended according to the provisions of the city charter.
2. Initiation: Proceedings for amendment of this chapter shall be initiated by: a) a petition of the owner or owners of the actual property, the zoning of which is proposed to be changed; b) a recommendation of the planning commission; or c) by action of the council.

4. Action By Planning Commission: Within sixty (60) days after the date or receipt of the petition by the zoning administrator, the planning commission shall make a written report to the council stating its findings and recommendations, unless the applicant, in writing, requests an extension of time.

5. Action By Council: On receipt of the written report from the planning commission, the council shall hold a hearing within thirty (30) days after the receipt of the report and recommendations from the planning commission. If the planning commission fails to make a report within sixty (60) days after receipt of the application, then the council shall hold a public hearing within thirty (30) days after the expiration of said sixty (60) day period, unless the applicant, in writing, requests an extension of time. Failure to receive a report from the planning commission as herein provided shall not invalidate the proceedings or actions of the council. The council shall give not less than ten (10) days nor more than thirty (30) days' notice of time and place of such hearing published in the designated legal newspaper, and such notice shall contain a description of the land and the proposed change in zoning. At least ten (10) days before the hearing, the council shall order the zoning administrator to mail an identical notice to the owner and to each of the property owners within three hundred feet (300') of the outside boundaries of the land proposed to be rezoned. Failure to mail the notice or failure of the property owners to receive the notice shall not invalidate the proceedings. At the time of hearing, the council may take final action upon the application or it may continue the hearing from time to time for further investigation and hearing. The council may also request further information and report from the planning commission.

6. Referral To Planning Commission: The council shall not rezone any land or area in any zoning district or make any other proposed amendment to this chapter without having first referred it to the planning commission for their consideration and recommendation.

7. Effect Of Denial: Rezoning applications may be denied by motion of the council and such motion shall constitute a finding and determination that the proposed rezoning is not in the best interest for the physical development of the city. No application which has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of said order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the planning commission. (Ord. 801, eff. 6-3-1974)

11.05: ZONING DISTRICTS AND MAP

M. I-2 Industrial District (Heavy):

1. Permitted Uses:

a. Any use permitted in the I-1 district regulated herein.

4. Lot Area, Height, Lot Width And Yard Requirements:

a. The following minimum requirements shall be observed subject to additional requirements, exceptions and modifications contained in this chapter:

Lot Size	Lot Width	Front Yard	Rear Yard	Rear Yard Adjacent To R	Side Yard		Adjacent To R
					Interior	Corner	
1 acre	150 feet	40 feet	30 feet	70 feet	10 percent of lot width	40 feet	70 feet

b. There shall be no height restriction on buildings in the I-2 district. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

L. I-1 Industrial District (Light):

1. Permitted Uses:

a. Conducting a process, fabrication, wholesale operation, manufacturing or providing a service, including any of the following or similar uses meeting the performance standards applicable to the I-1 district; provided, that all development uses in the I-1 district are conducted wholly within a building. Any uses permitted in the B-3 district.

K. B-3 Noncentral Business District:

1. Permitted Uses:

a. Any permitted use in the B-2 district, except as limited herein.

J. B-2 General Business District:

1. Permitted Uses:

a. Any permitted or conditional use in the B-1 district, except as limited in this section.

4. Lot Area, Height, Lot Width And Yard Requirements:

a. No front or side yard setback or height restrictions shall be required.

b. All development uses in the B-2 district shall be architecturally designed so as to be as compatible as possible with the general architectural intent of the area in which it is located.

I. B-1 Limited Business District:

1. Permitted Uses:

c. Professional offices, including, but not limited to, doctors, dentists, lawyers, architects, engineers and accountants.

d. Offices of a general nature where the employment within the building does not exceed fifty (50) persons and the operations do not include retail sales or warehousing from the site.

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

Proposed Zoning:

- General Business (B-2)

Current Zoning:

- Subject Property: Heavy Industrial (I-2)
- Surrounding Properties: Heavy Industrial (I-2) on the east, west and south. General Business (B-2) on the north.

Current Land Use:

- Subject Property: Residential
- Surrounding Properties:
 - West: Residential
 - East: Industrial (Anderson Custom Processing)
 - South: Vacant
 - North: Commercial (Westside Liquor)

Lot size: 40' x 130'

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 are wetlands on the property.

Planning Commission Action: The Planning Commission may recommend approval of the rezoning 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 Comprehensive Plan is developed with the intent of guiding the City as future rezoning requests and proposals for development occur.
2. The Comprehensive Plan identifies this area for future “Business Park” uses, which it associates with I-1 (Light Industrial) and I-2 (Heavy Industrial) zoning. “Business Park” is described as: “This designation is for certain business and industrial uses preferably in a park-like setting.”
3. Under current regulations, the office building desired by the applicant could be built without rezoning, except that it would require a variance from the required 40 ft front lot line setback (the lot is only 40 ft wide, so this setback would eliminate all possible building areas). If a rezoning were not approved, the applicants would need a variance to construct any building.
4. The City Code does have requirements for stormwater management and these would need to be met prior to issuance of any permits to construct the proposed office building.
5. If the property is rezoned from I-2 to B-2, the relevant setbacks would be as follows:
 - a. Rear Yard: not specified
 - b. Front Yard: 0 feet
 - c. Side Yard Corner: 0 feet
6. If the property remains zoned I-2, the relevant setbacks would be as follows:
 - a. Rear Yard: 30 feet
 - b. Front Yard: 40 feet
 - c. Side Yard Corner: 40 feet
 - d. Side Yard Interior: 10% of lot width (4 ft as applied to this lot)
7. The Comprehensive Plan envisions the area along Lindbergh Drive South as a transition area and states as a policy/plan to
8. Relevant statements from the Comprehensive Plan include:
 - a. Commerce section
 - i. “Some areas on Lindbergh Drive S might be better used as an extension of downtown or as a river district.”
 - ii. “Protect the integrity of current viable uses and plan for orderly and successful transition of the following areas into higher and better use more consistent with adjacent uses and the long term economics of the area.” (mentioning Lindbergh Drive South specifically)

iii. "Plan for orderly and successful transition of the following areas into higher and better use more consistent with adjacent uses and the long term economics of the area" (mentioning Lindbergh Drive South specifically)

b. Vision Plan section

i. "Change some of the vacant/under utilized property on Lindbergh South from I-2 to Mixed Use or a similar zoning." Based on the map within the Plan, this appears to be referring primarily to the area east of Lindbergh Drive South.

9. The signage restrictions for nonresidential uses in the B-2 zoning district are as follows:

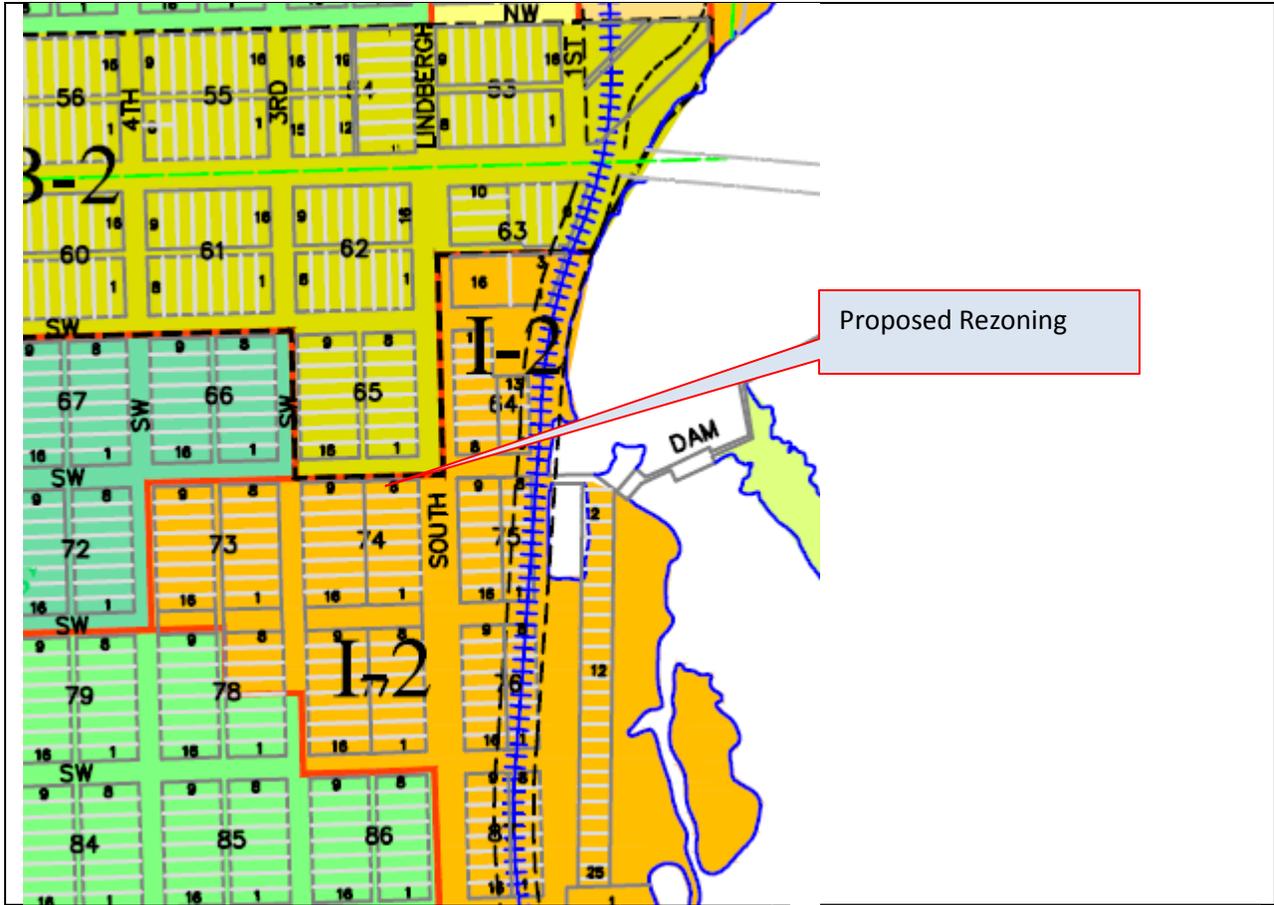
c. Business Districts: Within business zoning districts, signs are allowed by permit as follows (nonresidential property located in a flood fringe district (FF) shall follow the sign regulations for its underlying zoning district classification):

Business Zoning Districts	Maximum Sign Area Of Single Sign	Maximum Sign Height	Total Area Of All Signs
General business district B-2	100 sq. ft. per surface	20'	2 sq. ft. per front foot of lot abutting a public right of way 50' or more in width

10. The signage restrictions for nonresidential uses in the I-2 zoning district are as follows:

d. Industrial District: Within industrial zoning districts, signs are allowed by permit as follows (nonresidential property located in a flood fringe district (FF) shall follow the sign regulations for its underlying zoning district classification):

Industrial Zoning Districts	Maximum Sign Area Of Single Sign	Maximum Sign Height	Total Area Of All Signs (Accum.)
Industrial heavy I-2	300 sq. ft. per surface	30'	4 sq. ft. per front foot of building plus 1 sq. ft. per front foot of property not occupied by the building



Anderson Custom Processing , Inc.
 Rezoning Request
 200 Lindbergh Dr. SW.
 September 8, 2014





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

Fee Paid 275

Date Filed 8-20-14

Receipt Number _____

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 No _____

Street Address of Property 200 Lindbergh Dr. SW Little Falls MN

Legal Description of Property Lot 8 Block 65 Thayers Addition
56345

Parcel Identification Number _____

Owner - Name Anderson Custom Processing Phone 507-276-4894
Address 121 Lindbergh Dr.
City Little Falls State MN Zip 56345

Applicant (if other than owner) -

Name Brian Anderson Phone _____
Address 121 Lindbergh Dr.
City Little Falls State MN Zip 56345

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

Description of Request B 2

Reason for Request Office Building

Present Zoning Classification I-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 Brian Anderson

Date 8-20-2014

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

Signature of owner/s Anderson Custom Processing / By Brian Anderson

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

The following questions must be answered.

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

Building: office

Landscaping: _____

Parking/Signs: _____

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? _____

NA

3. Describe the impact on the character of the neighborhood in which the property is located. _____

It will be a very good looking professional building

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? _____

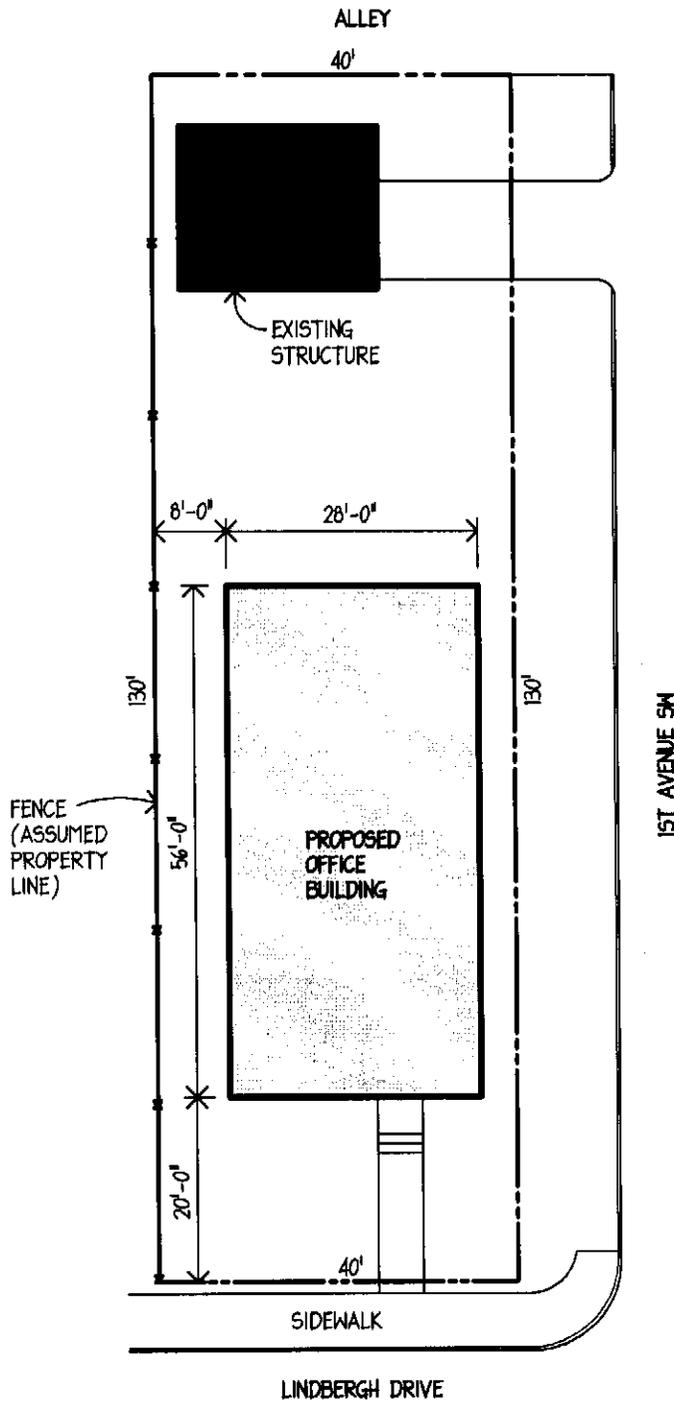
Yes

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")

NA

Use other side of page if necessary.

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



LEGAL DESCRIPTION:
 LOT 8 BLOCK 65 THAYERS
 ADDITION TO THE CITY OF
 LITTLE FALLS, MINNESOTA

SITE PLAN



1" = 20'

Kevin J. Anderson
Architect

320-632-9582
 70 First Avenue NE
 Little Falls, Minnesota 56345

Preliminary

1 of 1

Anderson Custom Processing

Little Falls, Minnesota

August 19, 2014

INSTRUCTIONS TO THE APPLICANT

Completed applications, with *all* submittal requirements, must be submitted to the Planning & Zoning Department no fewer than 25 days prior to the meeting date. The City may omit or remove unrelated information requirements depending on the type of application request. In order for your application to be accepted as complete, and to have a public hearing scheduled, a copy of plans and graphics must be submitted on 11 inch by 17 inch paper or less and the following information provided:

_____ 1. This application must be completed, including responses to all parts of this application.

Be sure the applicant and/or property owner signs the application

_____ 2. The required fee must be paid. See fee schedule for details.

_____ 3. A map showing the location of the proposed site, scale to be not less than 1" = 300'.

_____ 4. A scaled plot plan with north indicated, showing parcel lot lines, location and set backs of all existing and proposed structures, water features, and contour lines.

_____ 5. The plot plan should also show the existing structure dimensions and their square footage. Include all buildings and structures within three hundred feet of the proposed site.

_____ 6. Elevation plans for all existing and proposed structures.

_____ 7. Location and size of all required parking. Include existing and proposed curb cuts, driveways, across roads, turn-arounds, parking including RV, boat and additional vehicle storage, off-street loading, and sidewalks.

_____ 8. Proposed landscaping and screening plans: garbage dumpsters, areas preserved in natural state including buffer areas, areas to be developed into lawn (grass), areas to be covered by woodchips or mulch, garden areas, shrubbery, types, size, age, and number of proposed trees and their location, exterior lighting to be proposed including location and type, any other items deemed appropriate.

_____ 9. Square footage of all impervious coverage. Impervious coverage includes the horizontal area of all buildings, decks, roof overhangs, patios, walks, driveways, and any other parking areas and drives constructed of any material.

_____ 10. Proposed storm water drainage plan.

_____ 11. Proposed and existing sanitary sewer and water supply plans.

_____ 12. Approximate location of any proposed signs (if applicable).

_____ 13. All types of proposed uses and outside storage proposal.

STAFF REPORT

Application: Ordinance amendment to Chapter 11, entitled "Land Use Regulations (Zoning)", Sections 11.02 (Definitions), 11.03.E (Required Yards and Open Space) and 11.03.Q (Fences). The proposed amendment will amend and add to existing language in the above-mentioned sections in order to clarify regulations and permitting procedures related to fences and hedges in both residential and non-residential zoning districts.

Applicant: City of Little Falls

Background Information:

- **Proposal:** The existing language regarding the regulation of fences within the City of Little Falls is somewhat confusing and possibly contradictory in terms of how fences are permitted and regulated. The proposed ordinance amendments are intended to clarify these regulations so that they can be applied uniformly without need for significant interpretation.

A copy of the proposed language amendments to Sections 11.02 (Definitions), 11.03.E (Required Yards and Open Space) and 11.03.Q (Fences) are attached.

This item was continued at the July 14 meeting to allow for additional public comment and review time by the Planning Commission. One change was made to the proposed language as a result of the July 14 discussion - to remove any regulations affecting hedges (except for restrictions relating to maintenance of clear site lines at road intersections).

At the August 11 meeting, additional comments from the public were taken and the Commission had more discussions about areas where changes were needed. The public hearing was closed at that meeting, but Staff was directed to make some additional changes to the language and have it reviewed by the City Attorney.

The latest version of the proposed amendments are attached, with areas highlighted that were changed since the August 11 meeting or which have been items of particular interest during the discussions thus far.

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.

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

1. The proposed ordinance would limit the height of fences and require certain setbacks from property lines.
2. While the general limitations on height will not change significantly from the current ordinance, it should be discussed where the various height limitations apply on a lot and whether they are what the Commission wants. The previous

ordinance was unclear as to exactly where the various height limits applied – particularly when dealing with corner lots. Specifically:

- a. The current ordinance limits fences running “across” a front yard to be no more than 30 inches in height. Should this apply to both lot lines abutting a street on a corner lot? Or just one?
 - b. Should the front lot line be what determines where a maximum 30 inch fence should be located? Or should it be on the lot line that is the same as the front of the home – regardless of how the house sits on the lot? The front lot line is defined as the one with the shortest dimension abutting a street – which may not match up with the front of the house.
 - c. The proposed ordinance limits height based on the required front and side and rear yard setbacks – not in relation to the house or building as it is regulated now. This is to avoid confusion and inconsistency in fence heights due to the differences in how people situate their homes on the lot. The Commission may wish to discuss the pros and cons of each approach.
3. The proposed language lists out “approved” fencing materials and “prohibited” fencing materials. The Commission may wish to examine this closely and determine if the listings are adequate. Materials not on either of these lists would require review by the Planning Commission and a conditional use permit.
 4. The ordinance would allow for up to 12 ft high fences around sport courts (tennis, basketball, etc...). Such fences would need to maintain a certain level of transparency so that they did not completely block views.
 5. The current ordinance does not appear to regulate hedges. The consensus of the Commission after the July 14 discussion was to maintain this and continue to treat hedges as unregulated except in areas defined by the ordinance where they would block site lines at road intersections.
 6. A key question in the permitting of fences is always the process by which lot lines are located. The current ordinance/past practice requires either written approval by the neighboring owner or the applicant to provide a survey to the City showing that the fence will be on their property. However, these requirements only apply if the fence is to be located right on the property line and has not typically been required when an applicant indicates they will be a few feet off the line.

After the August 11 discussion, the Commission expressed its desire to have the City step back from requiring property surveys or approval from the neighbor. Instead, the consensus was to notify the neighbor in writing of a pending application for a fence on an abutting property and give them some time to be aware of it and express any concerns. However, the feeling was that the City was not going to force a property owner to provide a survey and any property line disputes would need to be handled between the property owners. Staff added some language in the attached to state that if an objecting neighbor provided some evidence that the proposed fence would be on their property, the City

- could withhold the permit. Otherwise, provided all other requirements were met, the City would issue the permit.
7. The proposed setback requirements in the proposed amendment would require a 2 foot setback from the property line to allow for room to maintain that side of the fence (i.e. re-staining/painting the fence, maintaining fence boards as necessary, mowing of grass, etc...) without trespassing on the neighbors property. This setback would not be required if the fence were considered maintenance-free (not specifically defined, but intended to mean fences that can be maintained entirely from one side of the fence).
 - a. There could be an argument that the only fences that can be maintained from one side are split-rail fences or other similar fences that do not require going on to the neighbor's side to unscrew/unbolt fence boards. The Commission may wish to discuss this to determine if they feel a definition is required or what their thoughts are on what would be considered maintenance-free.
 8. Additional language was added to clarify how fences would be regulated when they are on property which has river frontage. There are some DNR floodplain regulations that come into play with these and the current ordinance was silent on how such fences should be handled.
 9. Language was added also to clarify whether permits that are not intended as boundary fences would need permits. Current practice has been to require permits for all fences and this is what the added language would clarify.
 10. There were a number of comments at the August 11 meeting regarding clarifying the definition of the "face" of a fence and the Commission agreed that it should be clarified. Staff has added language and also included language indicating that if the neighbor signs off on the face being located away from them, that would be acceptable.

Q. Fences: Fences shall be permitted in all yards, subject to the following: (~~Ord. 801, eff. 6-3-1974~~)

1. ~~Solid walls in excess of four feet (4') in height shall be prohibited.~~ Fences in residential districts must comply with the height and setback requirements as listed below:

Fence Height in Residential Districts		
<u>Location</u>	<u>Maximum Height (as measured from 6 inches above the adjacent ground level)</u>	<u>Distance from Lot Line</u>
<u>Front Yard</u>	4 feet (perpendicular to street) 4 feet (parallel to street)	2 feet, unless fence can be maintained entirely from one side, then 0 feet.
<u>Interior or Street Side Yard</u>	6 feet	2 feet, unless fence can be maintained entirely from one side, then 0 feet.
<u>Rear Yard (non-shoreland)</u>	6 feet, unless the rear yard is common with the front yard of an abutting lot, then 4 feet.	2 feet, unless the property abuts an alley, then 8 feet.
<u>Shoreland</u>	6 feet (perpendicular to shore) 4 feet (parallel to shore) Not allowed (in floodplain)	Same setback from shoreline as is required for structures, or the same setback as an existing dwelling on the property (including attached decks or porches, but not patios), whichever is closer to the shoreline. Fences are not allowed within a floodplain, except farm fences which do not obstruct debris or water and are intended to keep in farm animals.
<u>Buildable Area</u>	8 feet	Not applicable
<u>Any Property Line adjoining a Business or Industrial-Zoned Property</u>	6 feet, unless otherwise allowed by conditional use permit.	2 feet, unless fence can be maintained entirely from one side, then 0 feet.

2. Fences in business and industrial districts must comply with the height and setback requirements as listed below:

Fence Height in Business and Industrial Districts		
<u>Location</u>	<u>Maximum Height (as</u>	<u>Distance from Lot Line</u>

	<u>measured from adjacent ground level)</u>	
<u>Any lot line</u>	<u>6 feet, unless otherwise allowed by conditional use permit.</u>	<u>2 feet, unless fence can be maintained entirely from one side, then 0 feet.</u>

2. Fences in residential districts may be located on any lot line to a height of four feet (4'), except that a fence up to six feet (6') in height may be erected on the lot line from the nearest front corner of the principal building.

3. Should the rear lot line of a lot be common with the side lot line of an abutting lot, that portion of the rear lot line equal to the required front yard of the abutting lot shall not be fenced to a height of more than four feet (4').

4. Fences located within the buildable area, or eight feet (8') or more from the rear lot line, may be up to eight feet (8') in height, and all fences located on property abutting an alley must maintain an eight foot (8') setback from property line. (Ord. 22, 5th Series, eff. 11-6-2000)

5. Fences in business and industrial districts may be erected on the lot line to a height of six feet (6'); to a height of eight feet (8') with a security arm for barbed wire subject to a conditional use permit. (Ord. 801, eff. 6-3-1974)

6. Fences in excess of thirty inches (30") in height extending across front yards or side yards facing a street or avenue shall require a special use permit. (Ord. 70, 2nd Series, eff. 2-29-1982)

7. Fences within required yards shall not exceed five feet (5') in height, except by special use permit, except as otherwise permitted herein.

8. Fences may be placed along property lines, provided no damage of any kind results to abutting property.

3. Fences shall require a permit approved by the Zoning Administrator regardless of where on a property they are located.

4. Approved fencing materials include stone, brick, finished wood, rigid plastic, chain link or other materials commonly used for fencing. Other materials may only be approved by conditional use permit, except that the following types of fences are prohibited: barbed wire, electrical fencing, razor wire, creosote lumber, chicken wire (unless used for the enclosure of gardens), concrete block or poured concrete, plastic webbing, plywood or pressed wood.

5. No fence may be erected on either street side of a corner lot that will obstruct or impede the clear view of an intersection by approaching traffic, subject to the provisions of 11.03.E.4.

6. No fence shall be erected where it will impede a drainageway or drainage easement.

7. Notwithstanding height limitations elsewhere in this ordinance, fences enclosing or adjacent to sport courts or fields, in any zoning district, may be up to twelve (12) feet in height with a minimum ten (10) foot setback from any property line. Such fences shall not exceed twenty-five percent (25%) opacity.

98. The property owner shall be responsible for determining the location of property lines. Prior to issuance of a building permit for any fence, ~~abutting property owners~~ the Zoning Administrator shall ~~be notified~~ notify abutting landowner(s) by US Mail at least ten (10) days prior to issuance of a permit unless a letter of approval of the proposed fence is received from the abutting property owner. Unless significant evidence indicating that a fence will not meet the required setbacks is provided within the ten (10) day notification period, and all other City requirements have been met, the City shall issue the fence permit to the applicant.

109. That side of the fence considered to be the face (facing as applied to fence posts and primary structural supports) shall face the abutting property unless written approval from the abutting landowner(s) is otherwise submitted to the City.

11. Fences exceeding height limits may be erected, provided they do not encroach upon front or side yard requirements or within ten feet (10') of a rear lot line. (Ord. 801, eff. 6-3-1974)

1210. No barbed wire shall be used for fencing, except that it may be used on security fences on Business or Industrial-zoned properties which are at least six feet (6') high, exclusive of the barbed wire, or in the maintenance of existing barbed wire fences presently used in farming operations. All other barbed wire fences shall be removed before April 1, 1982. (Ord. 68, 2nd Series, eff. 11-30-1981)

R. Bulk Storage (Liquid): All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a special use permit in order that the council may have assurance that fire, explosion or water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare. All existing aboveground liquid storage tanks having a capacity in excess of two hundred (200) gallons shall secure a special use permit within twelve (12) months following enactment of this chapter; the governing body may require the development of diking around said tanks, suitably sealed, to hold a leakage capacity equal to one hundred fifteen percent (115%) of the tank capacity. Any existing storage tank that, in the opinion of the council, constitutes a hazard to the public safety, shall discontinue operations within five (5) years following enactment of this chapter.

S. Zoning And Comprehensive Plan: Any change in zoning granted by the council shall automatically amend the comprehensive plan in accordance with said zoning change.