



Established in 1849  
"Where Minnesota History Begins"

## MEMO

**Date:** December 9, 2014

**Re:** Planning Commission/Board of Adjustment Report

Dear Mayor and City Council,

The Planning Commission/ Board of Adjustment held its regular meeting on December 8, 2014. There were three public hearing and action on one previously tabled item, for which the Commission is giving you their recommendations.

### PUBLIC HEARING #1

**Application:** Preliminary plat that would subdivide two existing lots into a total of four to allow for construction of two 2-unit twin homes

**Applicant:** Edward J Gottwalt Revocable Trust

---

#### Background Information:

- **Proposal:** The applicants own two single-family lots within the Hidden Oaks subdivision on the eastern edge of the City. They would like to split each of these lots into two and construct a twinhome on each that would straddle the shared property lines (two twinhomes - four units total).

The Hidden Oaks development was originally platted as a planned unit development (PUD) in 2004. A number of the lots were approved for twinhomes such as is being proposed here immediately adjacent to the lots which are the subject of this proposal.

The lots are already served with sewer and water, with stubs already in for up to four units. Roads and utilities are also already installed.

One of the elements of the approved Master Plan for the Hidden Oaks development was that there was to be a minimum 16.5 ft "buffer" in place around the wetlands that abut the lots where the current subdivision is proposed. The 16.5 ft buffer is also required in Section 11.20 of the City Code regarding stormwater management. The exact requirements for this buffer will need some discussion as it seems to imply, but doesn't directly state, that structures would not be allowed in these areas. The applicant's preliminary drawings for the twinhomes shows a covered porch located within this 16.5 ft area on two of the dwelling units.

The City has not yet received a formal preliminary plat drawing from the applicants and several other requirements for plats in the City Code still need to be addressed (i.e. review by the City's Park, Recreation and Tree Board re: park dedication requirements. As such, Staff is recommending that this item be tabled until those elements can be provided/completed. Still, there are several issues in particular that should be discussed so that the applicant's have more guidance as they prepare the preliminary plat documents.

- **Location:**
  - Applicant: Edward J Gottwalt Revocable Trust
  - Legal Description: Lots 22 and 23, Block Three, Hidden Oaks Townhomes CIC #9
  - Parcel number(s): 482993000 and 482992000

---

**Public Input:**

1. One verbal comment was received regarding drainage concerns in the area.
2. One written comment was received from the Morrison County SWCD regarding the required wetland buffer.

---

**Planning Commission/Board of Adjustment Action:** The Planning Commission/Board of Adjustment has tabled the request so that additional information can be provided, including a preliminary plat drawing that shows all structure, patios, buildings, etc... located at least 16.5 feet from the wetland boundaries as they existed at the time of the 2004 final plat of this area, a stormwater management plan, input from the Parks, Recreation and Tree Board regarding park dedication and other requirements of the City Code.

---

**City Council Direction:** No action is required at this time as the application as tabled by the Planning Commission/Board of Adjustment.

**PUBLIC HEARING #2**

**Application:** Revocation, Suspension or Amendment of a Conditional Use Permit previously granted (November 2013) to allow for additional food service at a Bed & Breakfast known as the Waller House Inn.

**Applicant:** Scott and Racquel Lundberg

---

**Background Information:**

- **Proposal:** The applicants were given approval for a bed and breakfast with additional food service in November 2013. The conditions of that approval included:
  - 1) an off-street parking plan be approved by staff; and
  - 2) an inspection be completed and approved by the City Building Official.

Based on the parking requirements in Section 11.07 of the City Code, Staff determined that a total of 9 off-street parking spaces were required (one for each of the four rental rooms, two

for the owners of the property and one space for each 3 seats in a café = 4+2+3 = 9 spaces). The owners had one year by City Code to comply with this requirement.

After a meeting between City Staff and the landowners on site this past summer, the owners have decided that they cannot afford to install the required number of parking spaces, which would require some additional portions of their land to be cleared and made suitable for parking. With their current space, they could provide only 6 spaces at most.

□ **Location:**

- Address: 301 3<sup>rd</sup> Street SE, Little Falls
- Legal Description: Lot 1 and the north half of Lot 2, Block 45, Original Plat of Little Falls
- Parcel number(s): 480425000 and 480426000

□ **Public Input:**

3. One verbal comment was received expressing support for less restrictive ordinances in regards to parking for home occupations and businesses such as this, but concern that changing ordinances would be difficult given that others have acted on the current ordinances and made significant changes at high cost to comply.

---

**Planning Commission/Board of Adjustment Action:** The Planning Commission/Board of Adjustment has made a recommendation to allow the applicants an additional twelve (12) months to comply with the requirements of the City in regards to parking. As part of that recommendation, they are asking for input from the City Attorney and/or League of Minnesota Cities as to whether the City Code allows or does not allow for “dual use” of each parking space. The applicant’s feeling, expressed and discussed by the Commission, was that because her check-in time for B&B guests is 4pm and the City Code requires that the “additional food service” events must be finished by 4pm, the B&B guests and the “tea party” guests could be using the same off-street parking spaces without concern for overlap. The applicant’s noted that they do not hold “tea parties” when they were full with guests because they didn’t have sufficient staffing to accommodate both at the same time. They use the tea parties only as “fill-in” for times when they do not have a full house of B&B guests. The Commission was sympathetic to this argument, but also concerned that they not grant approval for this “dual use” of parking spaces without a review by legal counsel of the current ordinance language and a determination of whether that could be allowed via current language or whether it would require a variance. The intent would be to seek that information while allowing the applicant to temporarily continue the business in good faith and then making a final determination after the twelve month period.

The relevant language from the current city code that relates to “dual use” or parking spaces is as follows:

11.07: SPECIAL PROVISIONS:

A. Off Street Parking And Loading Spaces:

2. Requirements: The location, design and use of off street parking, driveways and loading spaces shall be in compliance with the following requirements:

c. Calculating Space:

(4) Buildings With Two Or More Uses: Except as provided for under "joint parking facilities", should a building contain two (2) or more types of use, each use shall be calculated separately for determining the total off street parking spaces required. Warehouse areas associated with retail uses shall have parking requirements calculated separately from the retail requirements.

---

**Findings of Fact:**

1) **Current Zoning:**

- o Subject Property: R-1 (One- and Two-Family Residential)
- o Surrounding Properties: R-1 (One- and Two-Family Residential)

2) **Current Land Use:**

- o Subject Property: Residential/Bed and Breakfast with additional food service
- o Surrounding Properties: Residential

3) **Lot size:** 120 ft by 150 ft (two lots)

4) **Sewer/Water:** Each of the lots to be subdivided currently contains two stubs for sewer/water.

5) **Off Street Parking:** The property currently has enough space for 6 off-street parking spaces. The requirement of the City Code would be 9 spaces (if "dual use" of the parking spaces is not allowed).

---

**City Council Direction:** The City Council may approve the request, deny the request, or table the request if the Council should need additional information from the applicant. If the application is tabled, the Council should provide specific direction as to what additional information is needed.

**PUBLIC HEARING #3**

**Application:** Stormwater Management Ordinance Update

**Applicant:** City of Little Falls

---

**Background Information:**

- Proposal:** The City Engineer has proposed amendments to Section 11.20 of the City Code, addressing Stormwater Management.

The proposed changes are enclosed for your review. asked that the attached draft updates of the stormwater management ordinance be placed on the agenda for an initial discussion. The intent at this point is to bring proposed amendments to a public hearing in December.

**Public Input:**

1. One verbal comment was received with questions about how the proposed ordinance relates to existing areas of the City that discharge water into the Mississippi River and state requirements.

---

**Planning Commission/Board of Adjustment Action:** The Planning Commission/Board of Adjustment has recommended approval of the ordinance amendments, with the additional changes presented by the City Engineer at the public hearing (changes which related to ensuring compliance with state laws). The proposed language, as recommended by the Commission, are part of the separate resolution distributed to the Council relating to this matter.

---

**City Council Direction:** The City Council may approve the request, deny the request, or table the request if the Council should need additional information. If the application is tabled, the Council should provide specific direction as to what additional information is needed.

**PUBLIC HEARING #4**

**Application:** Variance request to place up to two off-premise signs in a B-3 Noncentral Business District.

**Applicant:** Riitters Thompson & Olson, PA/Seven Gables Properties LLC

---

**Background Information:**

- Proposal:** Riitters Thompson & Olson, PA has a property whose only public road frontage is US Highway 10 (to which it has no direct access). They currently access their property from Haven Road (County Road 76) via an easement through the property owned by Seven Gables Properties LLC (Little Falls Radio). Riitters Thompson & Olson had received approval from Seven Gables Properties to place up to two signs advertising Riitters Thompson & Olson on the Seven Gables property – one near the entrance from Haven Road and one at the rear of the property adjacent to their own property line that would help direct motorists to the correct building. Both of these signs would be considered “off-premise” signs in that they are located on a different property than the business they are advertising.

The Planning Commission/Board of Adjustment tabled this portion of the application at their November meeting pending additional information. They have since received that information and are now recommending denial of the requested variance to allow for off-premise signs.

**Location:**

- o Applicant: Riitters Thompson & Olson, PA/Seven Gables Properties LLC
- o Property Address: 16403/16405 Haven Road
- o Brief Legal Description: Part of the South Half of the Southwest Quarter, Section 26, Township 41, Range 32.
- o Parcel number(s): 486871000 and 486872000

□ **Public Input:**

1. None at the December 8 meeting.

---

**Planning Commission/Board of Adjustment Action:** The Planning Commission/Board of Adjustment has made a recommendation to deny the requested variance based on the findings of fact listed below.

---

**Findings of Fact:**

**1) Current Zoning:**

- Subject Property: B-3 Noncentral Business District
- Surrounding Properties: B-3 Noncentral Business District for all immediately adjacent properties. Properties located across Haven Road to the east are zoned I-2 Industrial District (Heavy). The nearest residentially-zoned property is about 700 feet to the west across Riverwood Drive.

**2) Current Land Use:**

- Subject Property: Commercial (office)
- Surrounding Properties: An office building to the east, a bowling alley to the west, a vacant commercial lot to the north and Highway 10 to the south.

**3) Lot size:** Approx. 145' x 180' (0.62 acres)

**4) Sewer/Water:** The property is served with stubs for City sewer/water but neither property is currently connected. There is a private well and septic system on the property that is shared by both buildings (the sewer was found compliant in 2013 when the property was transferred).

**5) Natural Features:**

Floodplain: The property is not within an identified floodplain.

Bluff/Steep Slopes: The property is relatively flat and does not contain any bluffs or steep slopes.

Wetlands: There do not appear to be any wetlands on the property.

**6) Will the granting of the variance be in harmony with the general purposes and intent of the Zoning and/or Subdivision Ordinance?**

The City's subdivision ordinance does not apply to this application.

The general purposes and intent of the Zoning Ordinance, as expressed in the listing of permitted accessory uses in the B-3 district and in the purpose statement of the sign ordinance, is to allow signs for commercial businesses. However, the sign ordinance clearly notes that off premise signs are not allowed anywhere in the City with only an exception for real estate and construction-related signs. As such, the granting of a

variance for this use could be seen as a “use variance” which is not allowed by MN Statutes 462.357, Subd. 6 (2).

**7) Will the granting of the variance be consistent with the City of Little Falls’ Comprehensive Plan?**

The Comprehensive Plan does not directly address signage.

**8) Is the proposed use of the property reasonable?**

The requested variance would allow for the construction of signs which are intended to advertise a business very near to the property on which they would be located. It is generally reasonable for a business to want to advertise itself near the road from which it is accessed and the second requested off-premise is reasonable in that it is seeking to direct traffic coming off of Haven Road to the correct building.

**9) Is the plight of the landowner due to circumstances unique to the property not created by the landowner?**

The lot on which the Riitters Thompson & Olson building sits appears to have been created in or before 2000 – prior to the annexation of the property into the City of Little Falls. At the time it was created, it became essentially land-locked in that it does not have direct access to a public road (it abuts Highway 10, but is not accessible from Highway 10). If the lot had been created to have frontage on Haven Road, it might have been able to place the proposed signs on its own property and thus they would not have been considered off-premise signs. The layout of the driveway and buildings on these lots – all constructed prior to ownership by Riitters Thompson & Olson – have contributed to the need for all requested variances.

**10) Will the variance, if granted, alter the essential character of the locality?**

The use of the property would remain commercial in character and would not change anything in that regard. However, the presence of an off-premise sign could be seen as out of character with the remainder of the City in that off-premise signs are not allowed anywhere else.

**11) Are economic considerations the only reason the applicant cannot meet the strict requirements of the ordinance?**

See #9 above for non-economic considerations.

**12) Could the practical difficulty be alleviated by a feasible method other than a variance (taking into account economic considerations)?**

It is possible to place one or more signs on the Riitters Thompson & Olson property and avoid the need for off-premise signs. Current sign regulations would allow for the construction of up to a 300 sq ft, 30 ft tall sign on their own property which could be visible to motorists traveling south on Haven Road, but not likely north due to the obstruction of Highway 10. A shorter sign could be placed just a few feet further back than currently proposed so that it was not an off-premise sign, even though this would require eliminating an existing parking spot. The property has already been permitted for a sign that is attached to the building and could have additional signs permitted within its square footage limit (about 600 sq ft allowed in total on the property).

---

**City Council Direction:** The City Council may approve the request, deny the request, or table the request if the Council should need additional information from the applicant. If the application is tabled, the Council should provide specific direction as to what additional information is needed.

If you have any questions, please feel free to contact me. I can be reached by phone at (888) 439-9793 or by email at [oleson@hometownplanning.com](mailto:oleson@hometownplanning.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'Ben Oleson', with a stylized flourish at the end.

Ben Oleson, AICP  
Hometown Planning  
City of Little Falls Zoning Administrator