
CITY OF LITTLE FALLS

BOARD OF ADJUSTMENT/ PLANNING COMMISSION

November 14, 2016



AGENDA
PLANNING COMMISSION
 Conference Room, City Hall
 November 14, 2016, 6:30 p.m.

P	A	Member	P	A	Member
		Kleinschmidt, James			Schulte, Ray
		Esse, Robert			(Vacant Seat)
		Gosiak, Frank			Oleson, Ben (Zoning Administrator)
		Hanfler, Jeremy			Kimman, Greg (City Engineer)
		Schilling, Kara			

CALL TO ORDER: Planning Commission Chairperson

ADOPT THE AGENDA: November 14, 2016

APPROVAL OF MINUTES: October 10, 2016

PUBLIC HEARINGS:

- 1) Variance to construct a detached garage with a height of approximately 22 feet (max. 18 feet allowed) in an R-2.M Mississippi Headwaters Corridor One- and Two-Family Residential Zoning District. Applicant: Michael Roach. Legal Description: Lots 22 and 23 of Riverwood. Property Address: 1903 Riverview Drive. Parcel number(s): 48.2419.000.
- 2) Amendment to City Code, Sections 11.03 (General Provisions) and Section 11.04 (Administration and Enforcement). The purpose of the hearing is to make a comprehensive review of the entirety of each section for potential amendments, including but not limited to, amendments to lower the maximum allowed impervious coverage on residential zoned property, to eliminate a requirement to match average impervious coverage of nearby lots when building structures on a nonconforming lot, to eliminate a requirement that certain legal nonconforming uses and structures be ceased within a 36-month time period, to amend size limits related to detached accessory buildings, to amend how structures, fences, trees, shrubs or other obstructions are regulated at street intersections, to increase the allowable height of fences in a front yard from 4 feet to 6 feet and to clarify that fences 30 inches or less in height do not require a permit, to clarify when a building not subject to the Building Code is required to obtain a land use permit and what setback or other zoning requirements apply, and to specify criteria for the review of conditional use permit applications. Other amendments may also be discussed as determined by public input or Planning Commission discussion. Applicant: City of Little Falls Planning Commission.

OLD BUSINESS:

NEW BUSINESS:

- 1) Comprehensive Plan Update

NEXT REGULAR MEETING: Monday, December 12, 2016

ADJOURNMENT:

MINUTES
PLANNING COMMISSION
 Conference Room, City Hall
 October 10, 2016, 6:30 p.m.

P	A	Member	P	A	Member
X		Kleinschmidt, James	X		Schulte, Ray
X		Esse, Robert			(Vacant Seat)
X		Gosiak, Frank			Oleson, Ben (Zoning Administrator)
X		Hanfler, Jeremy			Kimman, Greg (City Engineer)
X		Schilling, Kara			

CALL TO ORDER: The meeting was called to order by Gosiak at 6:30 pm

ADOPT THE AGENDA: Motion was made by Hanfler and seconded by Schulte to adopt the agenda as presented. Motion carried.

APPROVAL OF MINUTES: Motion was made by Schulte and seconded by Kleinschmidt to adopt the agenda as presented. Motion carried.

PUBLIC HEARINGS:

- 1) Amendment to City Code, Section 11.03.Q (Fences). The purpose of the amendments are to increase the allowable height of fences in a front yard from 4 feet to 6 feet and to clarify that fences 30 inches or less in height do not require a permit. Applicant: City of Little Falls Planning Commission.

Public hearing was opened at 6:31 pm. Oleson explained the proposed ordinance amendments. After further discussion by the Commission, the hearing was closed at 6:45 pm. Hanfler made a motion to approve the proposed ordinance amendments to Section 11.03.Q as presented in the staff report, seconded by Kleinschmidt. Motion passed 5-1 (Esse opposed).

- 2) Amendments to City Code, Section 11.04 (Administration and Enforcement). The purpose of the amendment is to create a new section I (Land Use Permits) that will clarify when a building not subject to the Building Code or requirement for a building permit is required to obtain a land use permit from the City and what setback or other zoning requirements apply.

Oleson explained the proposed amendmetns to clarify when small accessory buildings are not required to meet setbacks. After discussion, Esse made a motion to approve amendments for minimum 10 ft setbacks from a rear property line along an alley for all size accessory structures and 2 ft setbacks for detached accessory structures 48 sq ft or less in size. Above 48 sq ft, the existing 5 ft setback would remain, seconded by Kleinschmidt. Motion passed unanimously.

OLD BUSINESS:

- 1) Amendment to City Code relating to accessory structure size limits (sent back by City Council). Oleson explained the concerns of the City Council. After further discussion, Hanfler made a motion to amend the size limits so that the accessory building square footage limit for each lot size category would be 1400 sq ft, 1600 sq ft, 1800 sq ft and 2000 sq ft instead of the previously recommended 1400, 1800, 2400 and 3000 sq ft categories, seconded by Esse. Motion passed unanimously.

NEW BUSINESS:

- 1) Comprehensive Plan Update – Oleson explained the upcoming meetings to gather additional input from local organizations and professionals.

NEXT REGULAR MEETING: Monday, November 14, 2016

ADJOURNMENT: Motion was made by Schulte and seconded by Schilling to adjourn at 7:41 pm.
Motion Carried

STAFF REPORT

Application: Variance to construct a detached garage with a height of approximately 22 feet (max. 18 feet allowed) in an R-2.M Mississippi Headwaters Corridor One- and Two-Family Residential Zoning District

Applicant: Michael Roach

Background Information:

-) **Proposal:** The applicant is proposing to construct a 25' x 39' detached garage on the property that would meet the required property line and river setbacks, but would be approximately 22 feet in height (maximum allowed by ordinance is 18 feet). The sidewalls of the structure would be about 8'4" and the roof pitch would be 10/12 with an upper level for storage.
-) **Location:**
 - o Legal Description: Lots 22 and 23 of Riverwood
 - o Property Address: 1903 Riverview Drive
 - o Parcel number(s): 48.2419.000
-) **Property Owner:** Michael Roach

Applicable Statutes/Ordinances:

Minnesota Statutes

462.357 (2011) OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 6. Appeals and adjustments.

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to

circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section [216C.06, subdivision 14](#), when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Little Falls City Code

11.04: ADMINISTRATION AND ENFORCEMENT

C. Variances:

1. The timelines for variance requests shall be governed by Minnesota Statute 15.99, as amended from time to time.
2. The processing of variances shall be governed by Minnesota Statute 462.357, as amended from time to time.
3. No variance permitting the erection or alteration of a building shall be valid for a period longer than six [6] months, unless a building permit is issued and the construction actually begun within that period, and is thereafter diligently pursued to completion.
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 by following the requirements and procedures in Section 11.04.H of the City Code.

11.03: GENERAL PROVISIONS:

D. Accessory Buildings:

2. No accessory building shall exceed the height of the principal building. However, in no case shall such accessory building exceed eighteen feet (18') in height in any residential (R) district.
3. In all residential (R) districts no accessory building or buildings shall exceed one thousand four hundred (1,400) square feet of combined floor area, except by conditional use permit.

8. In all residential (R) districts accessory structures or buildings of a factory painted or vinyl coated corrugated metal siding and/or roofing are permitted, but shall include boxed eaves.

11.02: DEFINITIONS:

BUILDING HEIGHT: The vertical distance from: a) the average elevation of the adjoining ground level; or b) the established grade adjacent to the building, whichever is lower, to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the highest gable on a pitched or hip roof.

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

1) Current Zoning:

- Subject Property: R-2.M Mississippi Headwaters Corridor One- and Two-Family Residential Zoning District
- Surrounding Properties: R-2.M Mississippi Headwaters Corridor One- and Two-Family Residential Zoning District along the river and R-2 One- and Two-Family Residential District on the opposite side of Riverview Drive.

2) Current Land Use:

- Subject Property: Single-family dwelling
- Surrounding Properties: Single-family dwellings

3) Lot size: 240' (river frontage) x approx. 210-215 (including both parcels owned). Approx. 51,600 sq ft.

4) Sewer/Water: The property is served with City sewer/water.

5) Natural Features:

Floodplain: The location of the proposed garage does not appear to be within an identified floodplain (the lower part of the lot along the river does appear to be in floodplain). The garage would appear to be at least 8-10 feet above the base flood elevation.

Bluff/Steep Slopes: The property does not contain any bluffs or steep slopes in the location of the proposed garage.

Wetlands: There do not appear to be any wetlands on the property that would impact the proposed garage.

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 maximum allowed 18 ft height for a detached accessory building is to preserve the residential character of a neighborhood and prevent a detached accessory building from “dwarfing” the primary dwelling on a lot or structures located on nearby lots and to prevent excessive blocking of views of the Mississippi River.

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

The Comprehensive Plan does not directly address applications such as these.

8) Is the proposed use of the property reasonable?

The requested variance is reasonable in that it is not unusual for a detached accessory building to have a second level for storage and the proposed height would not appear to be out of character or taller than the height of the dwelling on the property. However, a lower roof pitch would still allow for upper level storage and either meet or more closely meet the maximum height of 18 feet.

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

The need for the variance would appear to primarily be related to the desires of the landowner, rather than anything unique about the property itself. It could be discussed whether the existing height and roof pitch of the existing dwelling constitutes a unique factor for the property that justifies the higher height for the detached garage.

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

The use of the property would remain very similar in character to what already exists. The garage site is well screened by mature trees and would not be very visible from the adjacent properties or public street.

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

Economic considerations do not appear to play a significant factor in the requested variance.

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

To avoid the need for a variance, it appears the applicant could lower the roof pitch of the second level so as to meet the maximum 18 ft height requirement to the highest gable (i.e. to an 8/12 roof pitch).

Board of Adjustment Direction: The Board of Adjustment may recommend to the Council approval of the variance request, denial of the request, or tabling of the request if the Board should need additional information from the applicant. If the Board should approve or deny the request, the Board should state the findings which support either of these actions.

Staff Comments: As the Planning Commission/Board of Adjustment considers this application, Staff would make the following comments:

1. The Board of Adjustment may wish to explore whether a reduction in the roof pitch so as to avoid or minimize the need for a variance would be feasible.
2. Staff has not received any comments from the public regarding this application at the writing of this report. Any received before the meeting will be presented to the Planning Commission/Board of Adjustment at the hearing.



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

Fee Paid

Date Filed 10.25.16

Receipt Number 83040

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 1903 Riverview dr. Little Falls, MN

Legal Description of Property 482421000 / 482419000

Parcel Identification Number 482421000 / 482419000

Owner - Name Michael E Roach Phone 260-4943

Address 1903 Riverview dr Little Falls, MN

City _____ State _____ Zip 56345

Applicant (if other than owner) -

Name _____ Phone _____

Address _____

City _____ State _____ Zip _____

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

Description of Request Variance to total height of detached bldg.

Reason for Request Match existing structures

Present Zoning Classification R2M

Existing Use of Property Residential

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

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 [Signature]

Date 10.25.16

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

Signature of owner/s [Signature]

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: WORKSHOP / GARAGE

Landscaping: Same / lawn

Parking/Signs: N/A

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? _____

It will match the existing property on site
It will be hidden behind a 10' band of trees
that surround the property.

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

located. It should add to or at a minimum keep the
character of the existing neighborhood.

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? None

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")

Maximum height restriction of detached bldg

Use other side of page if necessary.

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

$24 \times 48 = 1152 \text{ ft}^2$

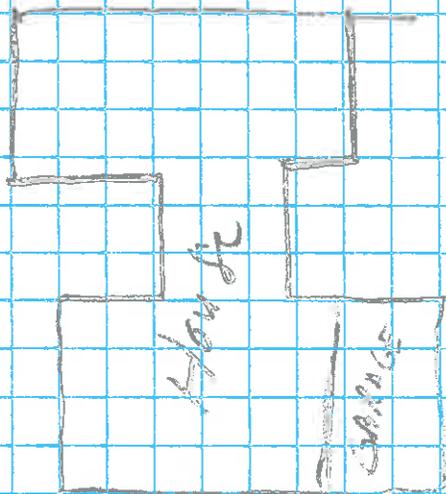
$\approx 10/50$

$\approx 1379 \text{ acres}$

258'

83'

163'



Setback's
30' front
5' side
100' rear

244'

Division line

147' from water

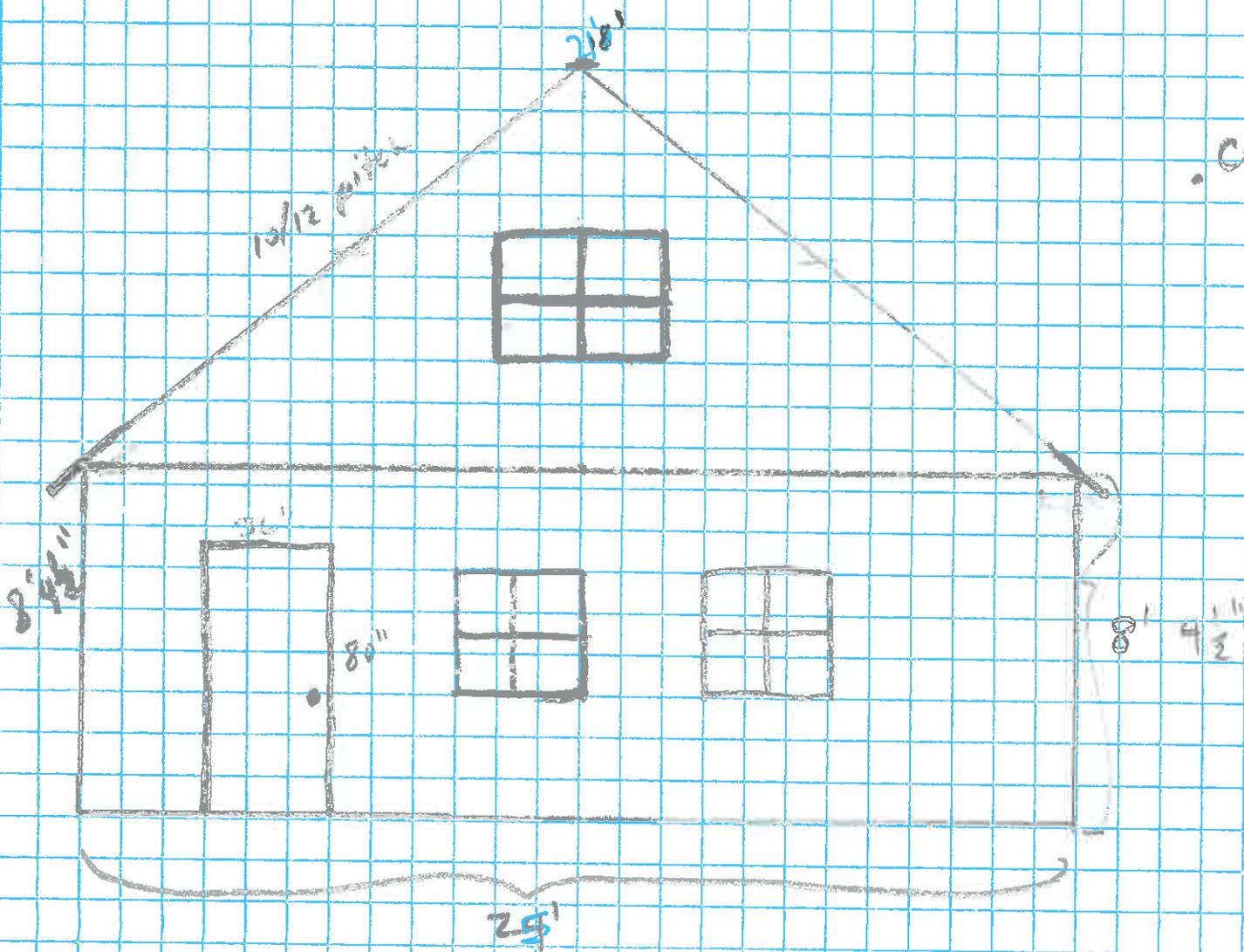
235'



West Side View

12/30

• Could Apply for height variance



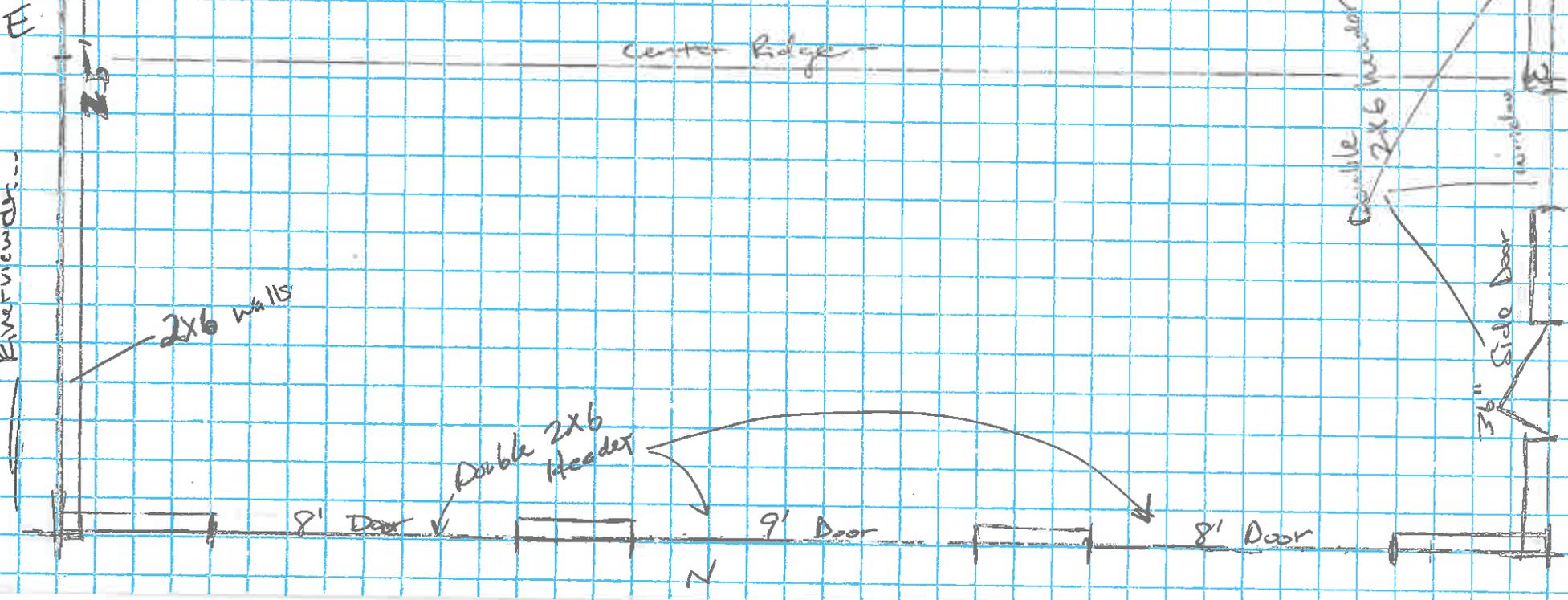


Parcel # 482421000
 482419000

Truss layout 24" on center

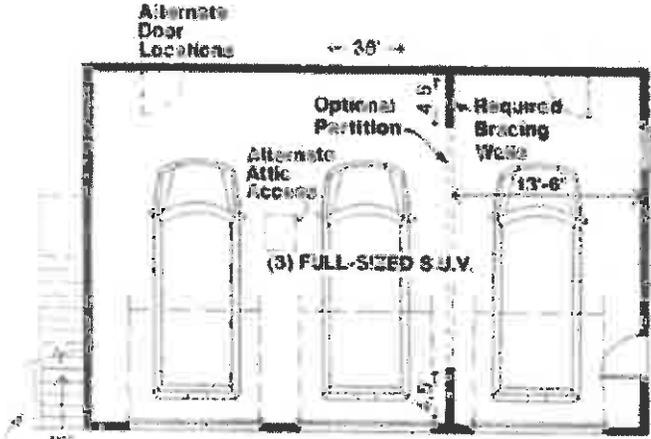
1903

- 975 Ft²
- Foundation - 12"
- Slab 3 1/2"
- Siding/roof - to match house in color - steel siding w/ brick skirt

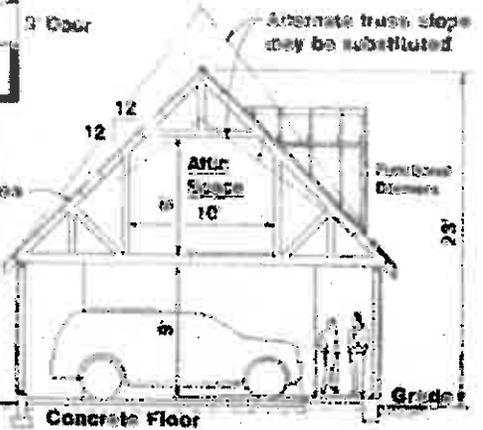




Williamsburg-Style



FLOOR PLAN



CROSS-SECTION

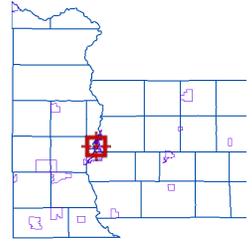
Generously sized 3-bay garage is spacious enough for 3 full-sized S.U.V. vehicles, with extra shop/storage areas and has a large attic space with optional exterior stair access. Design and detailing inspired by the original 18th century colonial buildings in Williamsburg Virginia, but built to modern codes and standards.



WIDTH: 30'	PLAN No. 975-3
DEPTH: 25'	
RIDGE HEIGHT: 23'	
FLOOR AREA: 975 sq ft	



Overview



Legend

- Corporate Limits
- Political Township
- Subdivisions
- Parcels
- Road Centerlines
- Elevation Contour:
- Streams**
- <all other values>
- Protected Stream
- Protected Stream/County Ditch
- Original Path
- County Ditch
- Protected Ditch
- Protected Ditch/County Ditch

Disclaimer: The maps and data available for access at this website are provided "as is" without warranty or any representation of accuracy, timeliness, or completeness. There are no warranties, expressed or implied, as to the appropriate use of the maps and data or the fitness for a particular purpose. The maps and associated data at this website do not represent a survey. No liability is assumed for the accuracy of the data delineated on any map, either expressed or implied.

This imagery is displayed at a scale of 1 inch=9 inch pixel resolution, (9 inches on the ground is 1 pixel on your screen). In the areas of Pierz and the NW/NE lakes, the image is 1 inch=4 inch pixel resolution and is the highest quality imagery on this site. These images were flown by Pictometry in the spring of 2013.

Date created: 11/9/2016
 Last Data Uploaded: 11/9/2016 3:47:20 AM

STAFF REPORT

Public Hearing: Amendment to City Code, Sections 11.03 (General Provisions) and Section 11.04 (Administration and Enforcement). The purpose of the hearing is to make a comprehensive review of the entirety of each section for potential amendments, including but not limited to, amendments to lower the maximum allowed impervious coverage on residential zoned property, to eliminate a requirement to match average impervious coverage of nearby lots when building structures on a nonconforming lot, to eliminate a requirement that certain legal nonconforming uses and structures be ceased within a 36-month time period, to amend size limits related to detached accessory buildings, to amend how structures, fences, trees, shrubs or other obstructions are regulated at street intersections, to increase the allowable height of fences in a front yard from 4 feet to 6 feet and to clarify that fences 30 inches or less in height do not require a permit, to clarify when a building not subject to the Building Code is required to obtain a land use permit and what setback or other zoning requirements apply, and to specify criteria for the review of conditional use permit applications. Other amendments may also be discussed as determined by public input or Planning Commission discussion.

Applicant: City of Little Falls Planning Commission

Background Information: Beginning in August 2016, the Planning Commission held a series of public hearings over several meetings to discuss and take public comment on several ordinance amendments. The result of those series of meetings was a recommendation to the City Council for its September meeting to adopt a number of ordinance amendments relating to fence, accessory building and nonconforming building/lot regulations. After two readings of the proposed ordinance amendments, and due primarily to concerns regarding the regulation of detached accessory building size, the motion to adopt the ordinance amendments failed. As such, new public hearings need to be held to re-introduce the non-controversial elements of the previously failed ordinance amendments (and changes to the accessory building regulations that had been previously discussed).

City Staff has decided that it may be preferable, given that they were planning to review many sections of the ordinance for updating and elimination of confusing/conflicting portions, to hold public hearings on the entirety of specific sections of the zoning ordinances, develop a comprehensive list of recommended changes, and then present those changes to the City Council once they are all completed. As such, tonight's public hearing represents the first of what we expect to be several throughout the winter months with the goal of recommending a comprehensive update to the City zoning ordinances sometime in 2017.

For these first two sections (11.03 and 11.04), the proposed amendments can be summarized as follows (although the intent is that we are reviewing the entirety of these two sections and that other changes may be suggested and discussed):

1. Nonconforming uses and structures:

- a. Eliminate a requirement that certain legal nonconforming uses and structures be ceased within a 36-month time period. This kind of a requirement is known as “amortization” and was a practice that largely became prohibited by state law in 1999 (the City has not been enforcing this provision since the change to state law, to the best of Staff’s knowledge).
 - b. Eliminate procedures and regulations that allow for certain additions to structures on nonconforming lots with a conditional use permit and replace with a requirement that any alterations or additions that are not specifically allowed by MN Statutes 462.357, Subd. 1e (which allows for replacement, but not expansion) will require a variance.
2. Accessory buildings on residential lots:
- a. Replace the existing requirement that all detached accessory buildings combined on a lot be limited to a combined total floor area of 1,400 sq ft with a sliding scale based on lot size that allows for a maximum of 2,000 sq ft on lots larger than 1 acre in size.
 - b. Clarify that the above measurement is based on the outside dimensions of a building.
3. Small detached accessory buildings:
- a. Modify a requirement that all detached accessory structures with factory painted or vinyl coated corrugated metal siding and/or roofing including boxed eaves so that it only applies to those buildings larger than 200 sq ft in total floor area.
4. Setback requirements:
- a. Expand the list of items that are not required to meet property line setback requirements to include items such as flag poles, sidewalks, wheelchair ramps, mailboxes, awnings and certain trees, shrubs or plants.
 - b. Reduce the street or avenue setback for terraces, steps, decks and other similar structures from 15 feet to 10 feet.
 - c. Reduce the required side yard setback for detached accessory structures 48 sq ft or less in size from 5 feet to 2 feet.
5. Fence regulations:
- a. For fences located in front yards at street intersections, the retain the current requirement that fences not obstruct views 25 ft back from the intersecting lot lines at the street corner for uncontrolled intersections:
 - b. For controlled intersections (2 or more stop signs/lights), reduce the distance noted above to 10 feet from the intersecting lot lines
 - c. For fences in front yards, increasing the maximum allowed height from 4 ft to 6 ft (unless located within the “sight triangle” as noted in 3a. and 3b. above.

- d. To add a clarification that fences 30 inches in height or less do not require a permit.
6. New structures on nonconforming lots:
- a. Add a requirement that any such construction meet the impervious coverage limits elsewhere in the Code;
 - b. Eliminate a requirement that any such construction have impervious coverage equal to or less than the average impervious coverage of lots within 100 feet.
 - c. Add a requirement that impervious coverage be limited in residential zoning districts to 33 percent for small lots and a declining percentage as lot size increases (down from the current 75% limit).
7. Conditional use permit criteria:
- a. The addition of a specific list of criteria to be considered by the City in reviewing and acting on requests for conditional use permits.
 - b. The addition of a list of special conditions that could be required when a conditional use permit is approved.
8. Other amendments:
- a. Other amendments to eliminate conflicting, confusing or unnecessary elements of the existing ordinances.
 - b. Other amendments as may be discussed at the meeting or suggested by the public.

Planning Commission Action: The Commission can recommend approval of the proposed amendments to the City Council or table the item for more revisions and review.

Staff Comments: If the Commission wishes to pass the above proposed changes, it can recommend doing so tonight or it may wish to simply table the items until the rest of the sections of the ordinance have been reviewed and then make one final recommendation at the end of the process.

USE: The purpose of activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity or defined by the performance standards of this chapter.

VEGETATIVE BUFFER: A strip of well rooted, natural, chemically untreated vegetation, the width of which is set forth in this chapter, consisting of a mixture of grasses, shrubs and trees, immediately adjacent to the ordinary high water level.

VETERINARY: Those uses concerned with the diagnosis, treatment and care of animals, including animal or pet hospitals.

WAREHOUSING: The storage of materials or equipment within an enclosed building as a principal use.

WETLANDS: Lands in transition between terrestrial and aquatic systems where the water table is at or near the surface or the land is covered by shallow water. "Wetlands" are characterized by hydric soils, saturated or inundated with surface water, have a frequency or duration of hydrophytic vegetation, or support a prevalence of such vegetation under normal circumstances. Wetlands may be counted toward green space in a planned unit development.

WHOLESALE: The selling of goods, equipment and materials by bulk to another business that in turn sells to the final customer.

YARD: A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest ground level to the sky, except as expressly permitted in this chapter. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

ZONING DISTRICT: An area or areas within the limits of the zoning jurisdiction for which the regulations and requirements governing use are uniform. (Ord. 801, eff. 6-3-1974; amd. Ord. 34, 2nd Series, eff. 3-15-1979; Ord. 132, 2nd Series, eff. 10-29-1984; Ord. 48, 3rd Series, eff. 4-18-1988; Ord. 58, 3rd Series, eff. 12-12-1988; Ord. 61, 3rd Series, eff. 12-5-1988; Ord. 52, 4th Series, eff. 2-13-1995; Ord. 125, 4th Series, eff. 9-14-1998; Ord. 126, 4th Series, eff. 5-17-1999; Ord. 141, 4th Series, eff. 7-12-1999; Ord. 22, 5th Series, eff. 11-6-2000; Ord. 38, 5th Series, eff. 12-3-2001; Ord. 123, 5th Series, eff. 7-10-2006; Ord. 22, 6th Series, eff. 4-5-2010; Ord. 49, 6th Series, eff. 9-16-2013; Ord. 56, 6th Series, eff. 5-5-2014; Ord. 69, 6th Series, eff. 1-5-2015)

11.03: GENERAL PROVISIONS:

A. Application: In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare. Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of

any kind, the regulations which are more restrictive, or which impose higher standards or requirements, shall prevail. No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose, nor in any manner, which is not in conformity with the provisions of this chapter.

B. Nonconforming Uses And Structures:

1. Any structure or use lawfully existing upon the effective date hereof may be continued at the size and in a manner of operation existing upon such date, except as hereinafter specified.
2. Nothing in this chapter shall prevent the placing of a structure in safe condition when such structure is declared unsafe by the building inspector. (Ord. 801, eff. 6-3-1974)
3. When any unlawful nonconforming structure, or use of any structure or land, in any district, is discontinued for a period of more than one year, or is changed to a conforming use, any future use of said structure or land shall be in conformity with the provisions of this chapter.
4. When any nonconforming structure is destroyed by fire or other peril, such as collapse, explosion, public enemy, act of war or act of God to the extent of greater than fifty percent (50%) of its market value, is in need of replacement or substantial remodeling, and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged, in this case, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. (Ord. 124, 5th Series, eff. 7-17-2006)

~~5. Any lawful nonconforming use of land not involving a structure and any lawful nonconforming use involving a structure with an assessor's market valuation upon the effective date hereof of one thousand dollars (\$1,000.00), or less, may be continued for a period of thirty six (36) months after the effective date hereof, whereupon such nonconforming use shall cease. All nonconforming signs that are in existence upon the effective date hereof may remain as a nonconforming use. After this date, no existing sign shall be relocated, reconstructed or altered, except in accordance with the provisions of this chapter and sign regulations in the construction chapter of this code.~~

~~6~~5. Any structure which will, under this chapter, become nonconforming but for which a building permit has been lawfully granted prior to the effective date hereof, or of amendments thereto, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date hereof, or amendment thereof, and continues to completion within one year. Such structure shall thereafter be a legally existing nonconforming structure. (Ord. 801, eff. 6-3-1974)

~~7~~6. A lawful nonconforming use of a structure or parcel of land may be changed to a similar nonconforming use or to a less intense nonconforming use. (Ord. 124, 5th Series, eff. 7-17-2006)

~~8~~7. Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. (Ord. 801, eff. 6-3-1974)

~~9~~8. ~~As of the date of adoption hereof, onetime~~Any alterations and additions ~~may be~~ made to a nonconforming structure or to a building located on a nonconforming lot that contains lawful residential

~~units which are not specifically allowed by MN Statutes 462.357, Subd. 1e when it will improve the livability thereof. A conditional use permit may be issued, provided the alterations/additions meet all of the following items, and the property owner applies for and is granted a conditional use permit: shall require a variance.~~

~~a. No other owner has previously used the onetime addition. Nonconforming structures are only allowed one occasion to expand during the lifetime of the structure and not one occasion per owner.~~

~~b. Any alteration or addition must meet the setback requirements of the zoning district that the nonconforming lot is located in.~~

~~c. The nonimpervious surface percentage must be equal to or greater than the abutting property's nonimpervious surface percentage average after the completion of the addition. Abutting properties are those properties that are zoned as residential and are within a one hundred foot (100') radius of the property in question.~~

~~d. The size of the addition is less than fifty percent (50%) of the principal structure, as measured in square feet of the outside dimensions of the principal structure.~~

~~e. Any alteration or addition cannot create new nonconformities or increase the parking requirements.~~

~~10. In addition to the onetime addition or alteration of the principal structure, an accessory structure may be added. A conditional use permit may be issued, provided the accessory structure meets the following items and the property owner(s) applies for and is granted a conditional use permit:~~

~~a. Any accessory structure must meet the setback requirements of the zoning district that the nonconforming lot is in.~~

~~b. The nonimpervious surface percentage must be equal to or greater than the abutting properties' nonimpervious surface percentage average, after the completion of the accessory structure. Abutting properties are those properties that are zoned as residential and are within a one hundred foot (100') radius of the property in question.~~

~~c. The type of accessory structure must match the style, type and appearance of the principal structure located on the lot.~~

~~d. The enlargement or replacement does not create new nonconformities or increase in parking requirements. (Ord. 151, 5th Series, eff. 12-3-2007)~~

C. Lot Provisions:

1. A lot of record existing upon the effective date hereof in any R residential district, which does not meet the requirements of this chapter as to area or width, may be utilized for single-family detached dwelling purposes, provided the measurements of such area and width are within seventy percent (70%) of the requirements of this chapter, but said lot of record shall not be more intensively developed unless combined with one or more abutting lots or portions thereof so as to create a lot meeting the requirements of this chapter. (Ord. 801, eff. 6-3-1974)

2. Except in the case of planned unit developments as provided for herein, or in zoning district B-3 noncentral business district by conditional use permit, not more than one principal building shall be located on a zoning lot. (Ord. 117, 5th Series, eff. 2-13-2006)

D. Accessory Buildings:

1. No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

2. No accessory building shall exceed the height of the principal building. However, in no case shall such accessory building exceed eighteen feet (18') in height in any residential (R) district.

3. In all residential (R) districts ~~no accessory building or buildings shall exceed one thousand four hundred (1,400) square feet~~ the maximum of combined floor area size of detached accessory structures (individually or combined), as measured by the footprint of the structure, shall be no greater than as listed in the following table: except by conditional use permit:-

Lot Size:	Maximum combined floor area footprint:
0-12,000 square feet	1,400 sq ft
12,001 – 21,780 square feet (1/2 acre)	1,800 sq ft <u>1,600 sq ft</u>
21,781 – 43,560 square feet (1 acre)	2,400 sq ft <u>1,800 sq ft</u>
Greater than 43,560 square feet (1 acre)	3,000 sq ft <u>2,000 sq ft</u>

4. No detached garages or other accessory buildings shall be located other than within the principal or accessory setback within any residential (R) district.

5. All accessory buildings on through lots located in all residential (R) districts shall require a conditional use permit.

6. No cellar, basement, tent, recreational vehicle, mobile home or accessory building shall at any time be used as an occupied dwelling, except mobile homes located in an approved mobile home park or as otherwise allowed by the City Code.

7. Accessory buildings in the limited business district B-1, general business district B-2, noncentral business district B-3, industrial district I-1 (light) and industrial district I-2 (heavy), may be located any place to the rear of the principal building, subject to the building code and the fire zone regulations. Accessory buildings in the noncentral business district B-3 may be located beside or in front of the principal building by conditional use permit.

8. In all residential (R) districts accessory structures or buildings of a factory painted or vinyl coated corrugated metal siding and/or roofing are permitted, but shall include boxed eaves if they are greater than 200 square feet in total floor area.

E. Required Yards And Open Space:

1. No yard or other open space shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this chapter, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.

2. No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open space or minimum lot area requirement for any other building.

3. The following shall not be considered to be encroachments on yard requirements required elsewhere in this chapter:

a. Chimneys, flag poles, sidewalks, wheelchair ramps, trees, shrubs, plants, mailboxes, awnings, open canopies, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters and the like, provided they do not extend more than two and one-half feet (2¹/₂'), and off street parking, except as hereinafter regulated.

b. Yard lights and nameplate signs for one- and two-family dwellings, lights for illuminating parking areas, loading areas or yards for safety and security purposes, provided the direct source of light is not visible from the public right of way or adjacent residential property, may be located to within five feet (5') of the front lot line. (Ord. 56, 6th Series, eff. 5-5-2014)

c. Terraces, steps, uncovered porches, decks, stoops or similar structures, which do not extend above the height of the ground floor level of the principal building and maintain a two foot (2') minimum side yard and ~~fifteen foot (15')~~ ten foot (10') street or avenue setback.

d. In side or rear yards only, bays not to exceed a depth of two feet (2') nor contain an area of more than twenty (20) square feet, fire escapes not to exceed a width of three feet (3') and open off street parking. (Ord. 67, 6th Series, eff. 11-17-2014)

e. In Rrear yard only, balconies, accessory structures, except that no structure shall be closer than ten feet (10') from the rear lot line, breezeways, detached outdoor picnic shelters and recreational equipment, except as regulated hereinafter.

f. In side yards only, accessory structures, except that no accessory structure larger than 48 square feet shall be closer than five feet (5') from any interior side lot line and on a corner lot in all residential (R) districts, shall not be closer than fifteen feet (15') from a side lot line adjacent to a street or avenue. Accessory structures 48 square feet or smaller shall be no closer than two feet (2') from any interior or corner side lot line.

4. On a corner lot, nothing shall be placed or allowed to grow in such a manner as ~~materially~~ to materially impede vision between a height of two and one-half feet (2¹/₂') and ten feet (10') above the centerline grades of the intersecting streets. For uncontrolled intersections, the regulated area shall extend to the triangle created by connecting the end points of the lines within twenty five feet (25') of the street intersecting right of way lines and for controlled intersections within ten feet (10') of the street intersecting right of way lines.

5. In no event shall off street parking spaces, driveways, structures of any type, buildings or other impervious features in any residential district where the use of the lot is for between one and four (1-4) residential units cover more than ~~seventy five percent (75%)~~ thirty-three percent (33%) of up to the first 12,000 sq ft of lot area and an additional ten percent (10%) of any square footage above 12,000 sq

~~ft. resulting in less than twenty five percent (25%) landscaped area in residential districts. For all other uses, impervious coverage shall be limited to seventy five percent (75%) provided that all requirements of Section 11.20 of the City Code are met.~~

~~6. In rear yards, recreational and laundry drying equipment, picnic tables, open arbors and trellises, balconies, breezeways, porches, detached outdoor living rooms and outdoor eating facilities provided these are not less than two feet (2') from any lot line.~~

7. Height limitations shall not apply to barns, silos and other structures on farms, to church spires, belfries, cupolas and domes, monuments, chimneys and smokestacks, flagpoles, public facilities and public utility facilities, transmission towers of commercial and private radio broadcasting stations, television antennas, and parapet walls extending not more than four feet (4') above the limiting height of the building, except as hereinafter provided. (Ord. 56, 6th Series, eff. 5-5-2014)

F. Annexed Territory: No annexation petition shall be ~~considered~~ approved unless and until a hearing has been petitioned for placing the annexed territory in a zoning district or districts. In the event of an involuntary annexation, the council or the planning commission shall commence proceedings for placing the annexed territory in a zoning district or districts before the annexation becomes final, and call for a hearing thereon. In the event of an orderly annexation agreement, the council may zone the entire designated area subject to the orderly annexation after execution of said agreement and a zoning public hearing is held on the same. No building permits shall be issued in annexed territory until such hearing has been held and the territory assigned in a zoning district or districts. (Ord. 75, 5th Series, eff. 7-21-2003)

G. Farming Operations: All farm operations ~~currently~~ in existence on or before June 3, 1974 will be permitted to continue operation, subject to the following conditions:

1. Agriculture, excepting commercial animal farms, fur farms, kennels and poultry farms, but including truck gardening and other horticultural uses, is a permitted use in the district in which an existing operation is located; provided, that any new private stable or other new building in which farm animals are kept shall be a distance of sixty feet (60') or more from any other lot in an R district.

2. Limited sales of products produced may be conducted on the premises from a roadside stand, but such stand shall not exceed twelve feet (12') in height or five hundred (500) square feet in floor area, and no portion of any such stand shall be located or erected nearer than forty feet (40') from any street line.

3. The council may require any farm operation to secure a conditional use permit to continue said operation in the event the farming operations are so intensive as to constitute a feedlot or an industrial type use consisting of the compounding, processing and packaging of products for wholesale or retail trade; and further, that such operations may tend to become permanent industrial type operations that cannot be terminated as can a normal farming operation.

H. Land Reclamation: Under this chapter, land reclamation is the reclaiming of land by depositing of material so as to elevate the grade. Land reclamation shall be permitted only by conditional use permit in all districts. Any lot or parcel upon which four hundred (400) cubic yards or more of fill is to be deposited shall be land reclamation. The permit shall include as a condition thereof a finished grade plan which will not adversely affect the adjacent land, and as conditions thereof shall regulate the type of fill permitted, program for rodent control, plan for fire control and general maintenance of the site, controls of vehicular ingress and egress, and for control of materials disbursed by wind or hauling of materials to or from the site.

I. Mining: The extraction of sand, gravel or other material from the land in the amount of four hundred (400) cubic yards or more and removal thereof from the site without processing shall be mining. In all districts, the conduct of mining shall be permitted only upon issuance of a conditional use permit. Such permit shall include as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted and the route of trucks moving to and from the sites.

J. Soil Processing: The processing of sand, gravel or other material mined from the land shall be permitted only by conditional use permit. Such conditional permit shall include a site plan where the processing is to be done, showing the route of trucks moving to and from the site in removing processed material from the site, the condition in which the site shall be left upon completion, and such permit shall not be granted for a period of longer than twelve (12) months.

K. Vacated Streets: Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such processing.

L. Dwelling Units Prohibited: No cellar, garage, tent, trailer, basement with unfinished structure above, or accessory building, shall at any time be used as a dwelling unit, except trailers located in an approved mobile home park. The basement portion of a finished home or apartment building may be used for normal eating and sleeping purposes, provided it is properly dampproofed, has suitable fire protection and exits, and is otherwise approved by the building inspector.

A recreational vehicle shall not be considered a dwelling unit if it is located on a property that contains a primary dwelling (or where a dwelling is under active construction) for fourteen (14) days or less and is road ready and currently licensed. This time frame may be extended up to 180 days between April 1 and October 31 upon approval by the Zoning Administrator after a written request by the property owner has been made.

M. Relocated Structures: Before any house or other structure is moved onto a vacant lot, the zoning administrator shall report to the council whether the structure will be compatible with other

development in the area. If the council concurs with the decision of the zoning administrator that a structure would depreciate the area into which it is to be moved, it may withhold issuance of a permit for such relocation. The applicant shall submit photographs taken from two (2) or more angles of the structure to be moved and photos of the lot on which the structure is to be located, together with adjacent lots and structures. These requirements do not apply to construction sheds or other temporary structures to be located on a lot for eighteen (18) months or less. (Ord. 801, eff. 6-3-1974)

N. Planned Unit Developments: Planned developments shall include all developments having two (2) or more principal uses or structures on a single parcel of land and where minimum lot sizes otherwise required by this chapter do not apply. Planned unit developments may include townhouses, apartment projects involving more than one building, residential subdivision submitted under "density zoning" provisions, multi-use structures such as an apartment building with retail at ground floor level, all development located within ~~the any~~ planned unit development district (PUD district) and similar projects. Such developments may be excluded from certain requirements of this chapter, provided the development meets the requirements of subsection 11.07D of this chapter.

1. A complete detailed plan is submitted to the zoning administrator showing the location of all proposed structures, driveways, landscaping, parking, screening, sidewalks, access drives, land uses and such other information as may be requested. It is the intent of this subsection to provide a means to allow design flexibility by substantial variances from the provisions of this chapter, including uses, setbacks, height and similar regulations, but not including parking requirements, off street loading, necessary screening and the like. Variances may be granted for planned unit developments (PUDs) provided:

a. Certain regulations contained in this chapter do not realistically apply to the proposed development due to the unique nature of the proposed development.

b. The variances, if granted, would be fully consistent with the general intent and purpose of this chapter.

c. The planned unit development (PUD) would produce urban development and an urban environment of equal or superior quality to that which would result from strict adherence to the provisions of this chapter.

d. The variances will not constitute a threat to the property values, safety, health or general welfare of the owners or occupants of adjacent or nearby land nor be detrimental to the health, safety, morals or general welfare of the people. The proposed development is of such a unique nature as to require consideration under conditions of a planned unit development (PUD). It shall be determined that the variances are required for reasonable and practicable physical development according to a plan and are not required solely on the basis of financial consideration.

2. The council, upon review and recommendations of the planning commission, shall find that the proposed development is fully consistent with the purposes of this chapter and in conformity to the comprehensive plan.

3. A special conditional use permit is granted. (~~Ord. 116, 3rd Series, eff. 3-23-1992~~)

O. Townhouses: Townhouses are attached dwelling units each with a separate entrance to front and rear yards. Townhouses may be permitted in any R-3 district; provided, that each dwelling unit has at least three thousand six hundred (3,600) square feet of lot area; and provided, that the following minimum specifications are met:

1. Front yard setback of thirty feet (30');
2. Rear yard setback of thirty feet (30');
3. Interior side yard setback of zero feet (0');
4. Corner side yard setback of fifteen feet (15');
5. Exterior side yard setback of five feet (5');
6. Floor area per unit of eight hundred sixteen (816) square feet; and
7. Lot width of twenty four feet (24'). (Ord. 72, 2nd Series, eff. 1-24-1983)

P. Single-Family Homes: Single-family homes may be excluded from lot area and setback requirements, provided a special conditional use permit is issued under terms of the "planned development" provisions of this chapter. Density zoning shall be interpreted to mean the permission of lower density (lot area) standards under conditions whereby the number of dwelling units permitted is not greater than permitted by the application of the regular provision of the district, but with all land excluded from the lot area requirements added onto public open space (park, playground, school site, walkway or other approved open green space). (Ord. 801, eff. 6-3-1974)

Q. Fences: Fences shall be permitted in all yards, subject to the following:

1. Fences in residential districts must comply with the height and setback requirements as listed below:

FENCE HEIGHT IN RESIDENTIAL DISTRICTS

Location	Maximum Height (As Measured From 6" Above The Adjacent Ground Level)	Distance From Lot Line <u>(does not apply to a lot line which is also a public right-of-way)</u>
Front yard	6' 4' (perpendicular to street) 4' (parallel to street)	2', unless fence can be maintained entirely from 1 side, then 0'

Interior or street side yard	6'	2', unless fence can be maintained entirely from 1 side, then 0'
Rear yard (nonshoreland)	6', unless the rear yard is common with the front yard of an abutting lot, then 4'	2', unless fence can be maintained entirely from 1 side, then 0'. If the property abuts an alley, then 8'
Shoreland	6' (perpendicular to shore) 4' (parallel to shore) Not allowed (in floodplain)	No setback required to riverbank, except that fences shall not all be allowed within a floodplain, unless they are farm fences which do not obstruct debris or water
Buildable area	8'	Not applicable
Any property line adjoining a business or industrial zoned property	6', unless otherwise allowed by conditional use permit	2', unless fence can be maintained entirely from 1 side, then 0'

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

Location	Maximum Height (As Measured From 6" Above The Adjacent Ground Level)	Distance From Lot Line
Any lot line	6', unless otherwise allowed by conditional use	2', unless fence can be maintained entirely from 1 side, then 0'

3. Fences over thirty (30) inches in height shall require a permit approved by the zoning administrator regardless of where on a property they are located, except that temporary fencing not exceeding six feet (6') in height may be installed to secure the perimeter of a construction site, provided that any such fencing is removed upon completion of the construction project. Such fencing shall not be limited to the approved fencing materials noted below.

4. Approved fencing materials include stone, brick, finished wood, rigid plastic, chainlink, split rail fences 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 unless specifically allowed otherwise:

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.

Notwithstanding the above prohibitions, commercially available snow fencing may be allowed between November 1 and March 15 of each calendar year.

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 subsection E4 of this section.

6. No fence shall be erected where it will impede, in the opinion of the city engineer or their designee, the flow of water across or through a drainageway, drainage easement, wetland or a required stormwater management facility (i.e., water quality/detention pond, rain garden, etc.).

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

8. Prior to issuance of a fence permit, a certificate of survey may be required by the zoning administrator for all fences, except for hedges and plantings, or walls to be constructed on a property line or when the fence is not clearly entirely on the subject property. This requirement for a certificate of survey may be waived if: a) stakes from a previously completed survey are in place and marked and the property line can be reasonably determined from those stakes; or b) if a signed, written statement from the neighboring property owner is submitted indicating that they do not dispute the location of the fence.

9. That side of the fence considered to be the face, the side not attached to the primary structural supports, shall face the abutting property or street right of way.

10. Both sides of any fence or wall shall be maintained in a condition of reasonable repair and appearance by its owner and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private.

11. 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.

12. Fence height shall be determined by the body of the fence, starting no greater than six inches (6") above the natural grade. Fence posts may extend a maximum of twelve inches (12") above the body of the fence. (Ord. 67, 6th Series, eff. 11-17-2014)

R. Bulk Storage (Liquid): All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a special-conditional 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-conditional 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.

~~T. Apartments: In recommending the granting of special use permits for structures containing three (3) or more dwelling units, the council shall find that the proposed development plan is in substantial compliance with the apartment policy statements on file with the planning commission as approved. (Ord. 801, eff. 6-3-1974)~~

U. (Rep. by Ord. 47B, 2nd Series, eff. 4-7-1980)

V. Residential Structures: Unless located in a mobile home park, all residential dwelling structures used for living purposes shall be at least twenty four feet (24') in width and at least thirty feet (30') long, and placed on a permanent foundation. (Ord. 132, 2nd Series, eff. 10-29-1984)

W. Building Numbers: One principal building on each property shall display numbers on the street or avenue side of the building according to their address and shall be readable from the street or avenue by emergency vehicles. Numbers shall be a minimum of four inches (4") in height. (Ord. 22, 5th Series, eff. 11-6-2000)

11.04: ADMINISTRATION AND ENFORCEMENT:

A. Administrator: Zoning provisions of this chapter shall be administered and enforced by the zoning administrator, who shall be appointed by the council, and may have other municipal duties. His duties, among others, shall be to:

1. Determine that all building permits comply with the terms of this chapter.
2. Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter.
3. Maintain permanent and current records of this chapter, including, but not limited to, all maps, amendments and special conditional uses, variances, appeals and applications therefor.

4. Receive, file and forward all applications for appeals, variances, ~~special~~-conditional uses or other matters to the designated official bodies.
5. Serve as an ex officio nonvoting member of the planning commission.

B. Appeals:

1. The planning commission is constituted the board of zoning appeals and shall determine, in harmony with the general purpose of this chapter and the comprehensive guide plan, by resolution, all appeals from any order, requirement, permit or decision made by the zoning administrator under this chapter, and from any interpretation of the text of this chapter, or any determination by the zoning administrator as to the location of the boundary of a zoning district as shown on the zoning map.
2. At any time within ninety (90) days after the decision of the zoning administrator under the provisions of this chapter, except in connection with prosecutions for violations thereof, the applicant or other person or officers of the city affected thereby may appeal to the planning commission by filing a written notice stating the grounds appealed from and stating the specific grounds upon which the appeal is made.
3. The planning commission, as the board of appeals, may conduct such hearings as it may deem advisable and shall prescribe what notice, if any, shall be given of such hearing.
4. The council may review and revise any decision of the board of zoning appeals. In reviewing such decisions, the council shall set a date for hearing thereon, not earlier than seven (7) days after nor more than thirty (30) days after the decision is made by the board of zoning appeals.
5. Notice of the hearing before the council shall be mailed to all appellants. In all cases involving determination of district boundary lines, or interpretation of district boundary lines, or interpretation of the text of this chapter, ten (10) days' published notice of hearing in the official newspaper shall be given. (Ord. 801, eff. 6-3-1974)

C. Variances:

1. Times Lines For Requests: The time lines for variance requests shall be governed by Minnesota statutes [15.99](#), as amended.
2. Processing: The processing of variances shall be governed by Minnesota statutes [462.357](#), as amended.
3. Erection Or Alteration Of Building: The erection or alteration of a building pursuant to a granted variance shall be completed within six (6) months of the date the variance was granted, unless a building permit has been issued and the construction actually has begun within the six (6) month period, and is thereafter diligently pursued. Failure to comply will leave the variance subject to revocation as set forth herein.
4. Revocation: A variance may be revoked, suspended, or amended by following the requirements and procedures in subsection H of this section.

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.

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. Review Criteria: In reviewing an application for a conditional use permit

a. The following must be met:

- 1) The use or development is an appropriate conditional use in the land use zone.
- 2) The use or development, with conditions, conforms to the comprehensive land use plan.
- 3) The use with condition is compatible with the existing neighborhood.
- 4) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.

b. The following must be considered:

- 1) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair property values in the immediate vicinity.
- 2) The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- 3) Adequate utilities, access roads, drainage and other necessary facilities are in place or will be provided.
- 4) The conditional use will not incur public cost for public facilities and services that would be detrimental to the economic welfare of the community.
- 5) The conditional use will not create unusual traffic congestion on nearby public thoroughfares.
- 6) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
- 7) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance or danger and to control lights and signs in such a manner that no disturbance to neighboring properties will result.
- 8) The conditional use will not result in the unnecessary destruction, loss or damage of a natural, scenic or historical feature of major significance.

8) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

4. Additional Conditions: In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose, in addition to those standards and requirements expressly specified in this chapter, additional conditions which it considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

a. Increasing the required lot size or yard dimension;

b. Limiting the height, size or location of buildings;

c. Controlling the location and number of vehicle access points;

d. Increasing the street width;

e. Increasing the number of required off-street parking spaces;

f. Limiting the number, size, location or lighting of signs;

g. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;

h. Designating sites for open space or preservation of natural features; and

i. Imposition of operational controls, sureties, or deed restrictions.

35. Revocation: A conditional use permit may be revoked, suspended, or amended by following the requirements and procedures in subsection H of this section.

46. Use Of Permit: If the conditional use authorized by said conditional use permit has not been completed, or the use granted has been discontinued for a continuous one year period after grant of the permit, then the conditional use permit shall be subject to revocation, suspension, or amendment as set forth in subsection H of this section. (Ord. 59, 6th Series, eff. 7-21-2014)

E. Amendments:

1. Amended According To City Charter: 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.

3. Application: All applications for amendment which are initiated by the petition of the owners of property shall be filed in the office of the zoning administrator and shall be accompanied by six (6) copies of a set of plans and graphics containing the following information and folded, where necessary, to the size of eight and one-half inches by eleven inches (8¹/₂" x 11"):

- a. A generalized location map showing the location of the proposed site in relation to the city.
- b. A scaled plot plan, with north indicated, of the proposed site showing all site dimensions.
- c. All types of proposed uses.
- d. Location of all buildings and structures on and within three hundred feet (300') of the proposed site.
- e. Elevation drawings or illustrations indicating the architectural treatment of all proposed buildings and structures.
- f. Any plans for the modification of standards set by this chapter or any other provisions of this code.
- g. Location and size of all required parking spaces.
- h. Landscaping plan, including location, size and type of all proposed planting materials.
- i. General floor plans of all proposed buildings and structures.
- j. Indication of location, size and type of storage facilities for the storage of trash and waste materials.
- k. Design layout and size of all proposed signs.
- l. Drainage plan of the proposed site and location and size of existing and proposed utilities.

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)

F. Fees: The fees for each application shall be adopted by resolution of the council, which may be amended from time to time. Fees shall be payable at the time applications are filed with the zoning administrator and are not refundable unless application is withdrawn prior to referral to the planning commission. There shall be no fee in the case of application filed in the public interest by the council or by the planning commission. (Ord. 132, 2nd Series, eff. 10-29-1984)

G. Conditional Use Permits And Variances Recorded: A certified copy of every conditional use permit and variance granted shall be recorded with the county recorder.

H. Revocation, Suspension Or Amendment Of Previously Approved Variances And Conditional Use Permits:

1. Jurisdiction: Upon obtaining information that indicates a basis for revocation, suspension or amendment, the zoning administrator or his/her designee may initiate proceedings for revocation, suspension, or 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 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 amendment, at the request of the zoning administrator or the administrator's designee. The administrator or designee shall serve notice of the date of the hearing to the 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 holder shall be entitled to present such evidence as that party deems appropriate either personally or through an attorney. Should the holder fail to appear 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 amendment.

3. Findings At Hearing: Should the issuing authority find, by a preponderance of the evidence, that the holder 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 holder has failed to comply with the conditions set forth in the variance, conditional use permit or other permit, the issuing entity may then determine appropriate sanctions, if any, to impose. Sanctions may include, but not be limited to, revocation, suspension or amendment to the previously imposed conditions. A variance, conditional use permit or other permit may be suspended until such time as the holder comes into compliance with the terms of their original approval. The criteria for determining the appropriate 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. (Ord. 59, 6th Series, eff. 7-21-2014)

I. Setbacks Required: Regardless of whether a building permit is required under Chapter 5.02 or any other section of the City Code, and unless specifically stated otherwise, all buildings and other structures over 30 inches in height shall meet any and all setbacks required under Chapter 11.

11.05: ZONING DISTRICTS AND MAP:

A. Districts: For the purpose of this chapter, the city is hereby divided into the following use districts and groups of use districts:

1. Residential Districts:

R-1 One- and two-family residential district

R-1C Country homes, one- and two-family residential district

R-2 One- and two-family residential district

R-3 Multiple-family residential district

R-4 Mobile homes residential district (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

2. Business Districts:

B-1 Limited business district

B-2 General business district

B-3 Noncentral business district (Ord. 801, eff. 6-3-1974; amd. Ord. 57, 3rd Series, eff. 6-12-1989)

3. Industrial Districts:

I-1 Industrial district (light)

I-2 Industrial district (heavy) (Ord. 801, eff. 6-3-1974)

4. PUD District: Planned unit development district (PUD district). (Ord. 116, 3rd Series, eff. 3-23-1992)

5. R-1.M District: Mississippi headwaters corridor; one- and two-family residential district, R-1.M.

6. R-2.M District: Mississippi headwaters corridor; one- and two-family residential district, R-2.M.

7. R-3.M District: Mississippi headwaters corridor; multiple-family residential district, R-3.M.