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# CITY OF LITTLE FALLS

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## BOARD OF ADJUSTMENT/ PLANNING COMMISSION

September 12, 2016





**AGENDA**  
**PLANNING COMMISSION**  
 Conference Room, City Hall  
 September 12, 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:** September 12, 2016

**APPROVAL OF MINUTES:** August 8, 2016

**PUBLIC HEARINGS:**

- 1) Amendment to City Code, Sections 11.03.B (Nonconforming Uses and Structures), 11.03.D (Accessory Buildings) and 11.04 (Administration and Enforcement). The purpose of the amendments are 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 in residential districts, and to introduce new language authorizing the use of interim use permits. Applicant: City of Little Falls Planning Commission.

**OLD BUSINESS:**

**NEW BUSINESS:**

- 1) Comprehensive Plan Update
- 2) Reminder: Upcoming GTS Training Session: Beyond the Basics of Planning & Zoning – Little Falls (Initiative Foundation, September 22 (8:30-4:30))

**NEXT REGULAR MEETING:** Monday, October 10, 2016

**ADJOURNMENT:**



**MINUTES**  
**PLANNING COMMISSION**  
 Conference Room, City Hall  
 August 8, 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	X		Oleson, Ben (Zoning Administrator)
X		Hanfler, Jeremy	X		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 Hanfler and seconded by Kleinschmidt to adopt the July 2016 minutes as presented. Motion carried.

**PUBLIC HEARINGS:**

- 1) Conditional use permit to construct an 11,560 sq ft addition to the west side of an existing public school building (Lincoln Elementary) in an R-3 Multiple Family Zoning District. Applicant: Little Falls School District ISD 482. Legal Description: Lots 1-16 of Water Power Co #2 and Block 70 of Thayer's Addition. Property Address: 300 6<sup>th</sup> Street SW. Parcel number(s): 49.0665.000 and 49.0335.000.

Public hearing was opened at 6:31 pm. Oleson explained the application to add on to the existing school building and the need for a conditional use permit due to its being located in a residential zoning district. Mark Fillipi of Contegrity Group explained the application. Robin Hensel, 807 1<sup>st</sup> Street SE, asked whether the green space amendments later in the agenda were related to this application. Kimman stated it was not. Hensel asked if the stormwater pond would be fenced for safety purposes. Fillipi stated it would with a 4 ft fence.

After further discussion, the hearing was closed at 6:40 pm. Schulte made a motion to approve the conditional use permit, seconded by Hanfler. Motion passed unanimously.

- 2) Amendment to City Code, Sections 11.03.B (Nonconforming Uses and Structures), 11.03.D (Accessory Buildings) and 11.03.E (Required Yards and Open Space). The purpose of the amendments are 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 an overall limit on combined floor area for detached accessory buildings in residential zoning districts, and to amend how structures, fences, trees, shrubs or other obstructions are regulated at street intersections. Applicant: City of Little Falls Planning Commission.

Public hearing was opened at 6:45 pm. Kimman and Oleson explained the proposed amendments. A letter in opposition to changes allowing obstructions closer to intersections from Donald and Debra Ludemann, 708 2<sup>nd</sup> Street NE, was read into the record. Robin Hensel, 807 1<sup>st</sup> Street SE, expressed concerns relating to past permitting of fences and consistency. The hearing was closed at 7:19 pm. After much further discussion regarding the proposed amendments, Schulte made a motion to recommend approval of all proposed changes except those within Section 11.03.D.3, seconded by Kleinschmidt. Motion passed

unanimously. Staff was directed to draft a “sliding scale” for accessory building limitations for Section 11.03.D.3 and return for more discussion at the September 2016 meeting.

**OLD BUSINESS:**

**NEW BUSINESS:**

- 1) Upcoming GTS Training Session: Beyond the Basics of Planning & Zoning – Little Falls (Initiative Foundation, September 22 (8:30-4:30))

**NEXT REGULAR MEETING:** Monday, September 12, 2016

**ADJOURNMENT:** Motion was made by Hanfler and seconded by Schulte to adjourn at 8:16 pm.  
Motion Carried

## STAFF REPORT

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**Public Hearing:** Amendment to City Code, Sections 11.03.B (Nonconforming Uses and Structures), 11.03.D (Accessory Buildings) and 11.04 (Administration and Enforcement). The purpose of the amendments are 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 in residential districts, and to introduce new language authorizing the use of interim use permits.

**Applicant:** City of Little Falls Planning Commission

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**Background Information:** At the August 8, 2016 meeting of the Planning Commission, there was discussion regarding a number of possible ordinance amendments relating to accessory building regulations, regulation of new structures on certain nonconforming lots, impervious coverage regulations and fence regulations. Items related to accessory building limitations were tabled at that meeting so that City Staff could further develop proposed language. Several other proposed amendments are also enclosed. The proposed amendments, for discussion and possible recommendation to the City Council can be summarized as follows:

1. Limits on detached accessory building size/combined floor area:
  - a. Retain a limitation of 1,400 sq ft for the maximum floor area of any single detached accessory building in residential zoning districts.
  - b. Eliminate a limitation of 1,400 sq ft for the maximum combined floor area of all accessory buildings and replace it with a “sliding scale” of maximum allowed detached accessory building floor area based on lot varying lot sizes.
2. 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).
3. Interim uses:
  - a. Introduce new language into the City Code authorizing “interim uses” as a potential regulatory mechanism. Interim uses are similar to conditional uses, except that they specifically authorize the imposition of time limits for the allowed use. The proposed language would set up a procedure by which the City could regulate uses in this way. No uses are specifically to be listed at this time as allowable “interim uses.” Those would need to be addressed in a separate amendment to the City Code after further discussion.

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**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.

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**Staff Comments:** If the Commission wishes to pass the above proposed changes, it can recommend doing so tonight.

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.~~

65. 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)

76. 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)

87. 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)

98. As of the date of adoption hereof, onetime alterations and additions may be made to a building located on a nonconforming lot that contains lawful residential units when it will improve the livability

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 single accessory building ~~or buildings~~ shall exceed one thousand four hundred (1,400) square feet. The maximum of combined floor area for multiple detached accessory structures, as measured by the outside dimensions of the structure, shall be as follows except by conditional use permit:-

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

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-1](#) 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. Revocation: A conditional use permit may be revoked, suspended, or amended by following the requirements and procedures in subsection [H-1](#) of this section.

4. 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~~I of this section. (Ord. 59, 6th Series, eff. 7-21-2014)

#### E. Interim Uses:

##### 1. Purpose

a. The purpose of an interim use permit is to allow a temporary use that is not otherwise prohibited, but is acceptable for a limited period of time subject to conditions set forth in this section. An interim use is granted to a particular individual or other applicant and does not accrue to the subject property.

b. An interim use is intended to allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future, or will be replaced in the future by a permitted or conditional use allowed within the respective zoning district. Buildings and other improvements allowed by interim use shall be of a size and nature such that they can be easily removed from the property or will conform to zoning regulations for permitted or conditional uses should the interim use permit expire.

##### 2. Criteria for Granting Interim Use Permits

In granting an interim use permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety and general welfare of occupants or surrounding lands. The criteria used for reviewing conditional use permit shall also be used when considering interim use permits, along with the following additional considerations:

a. The use will conform to the applicable zoning regulations, including any dimensional restrictions the regulations may impose on buildings or uses; and

b. The use will terminate upon a date or event that can be identified with certainty and/or clarity; and

c. The use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and

d. The use will be subjected to, by agreement with the property owner, any conditions that the City Council deems appropriate in allowing the proposed interim use, including a condition that the owner will provide an appropriate surety to cover costs that would be necessary to eliminate the interim use from the property, including removal of buildings, equipment, restoration of the landscape to a suitable condition or other appropriate and necessary costs.

##### 3. Termination of an Interim Use Permit

An interim use permit shall terminate upon the occurrence of any of the following events, whichever comes first:

a. Five (5) years from the initial approval of an interim use, unless a shorter time period is specified in the initial approval. After the initial approval period and if a renewal is approved by the City Council, the interim use permit shall terminate upon the date or event stated in the permit approval; or

b. When the use has been discontinued for one year or more; or

c. When there is a change in ownership of the property of any kind, unless the City Council approves such change in ownership as not substantially changing who is operating and/or managing the use and property. Such requests must be presented to the Planning Commission for a recommendation to the City Council, but need not require a public hearing; or

d. Within 24 months of the date of an amendment to the Zoning Ordinance that no longer allows the use as an interim or permitted use.

#### 4. Renewal or Amendment of Interim Use Permit

a. Renewal: An application to extend an interim use permit may be renewed within 24 months prior to the date or event upon which it is to expire. The application shall be processed and administered as if it were a new application. Should such application to renew be denied, the applicant shall be allowed to continue the use until the expiration of the interim use permit provided all conditions of the original approval are being met. If the application to renew is approved, the City shall specify a new date or event on which the renewed permit will expire. There shall not be a limit on the number of times an interim use permit may be extended. Application fees for renewal of an interim use permit shall be as established in the City fee schedule.

b. Amendment: Any change in an approved interim use permit involving more than minor structural alterations, enlargement, intensification of use, or similar changes not specifically permitted by an interim use permit, as determined by the Zoning Administrator, shall require an amended interim use permit to be reviewed as if it were a new interim use permit.

#### 5. Procedure

a. An application for an interim use permit shall follow the same procedures applicable to a conditional use permit.

b. The City hereby reserves the right, upon approval of an interim use, to inspect the premises in which an interim use is being conducted to ensure compliance with the provisions of this section or any additional conditions imposed.

6. Revocation: An interim use permit may be revoked, suspended, or amended by following the requirements and procedures in subsection I of this section.

7. Use Of Permit: If the interim use authorized by said interim 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 interim use permit shall be subject to revocation, suspension, or amendment as set forth in subsection I of this section.

#### EF. Amendments:

1. Amended According To City Charter: This chapter may be amended according to the provisions of the city charter.