



CITY OF MARSHALL AGENDA ITEM REPORT

Meeting Date:	Tuesday, April 9, 2019
Category:	NEW BUSINESS
Type:	INFO/ACTION
Subject:	REQUEST FOR CONDITIONAL USE PERMIT for Carr Family LTD Partnership, at 405 Country Club Drive
Background Information:	<p>Carr Family LTD Partnership, owner of property at 405 Country Club Drive, has applied for a Conditional Use Permit to allow a dog treat preparation, packaging, and distribution facility to be placed in existing building formerly utilized by a grocery store.</p> <p>This building is located in a B-3 General Business District and was occupied by County Fair grocery store until 2014, after which it has been vacant. The current owner wants to sell this building to Chasing Our Tails, a dog treat company that is looking to move from its current location in New Hampshire to Minnesota. According to Stephen Trachtenberg, the owner of Chasing Our Tails, about 20% of the building area will be utilized for making dog treats and 65% of the building area will be used for packaging and warehousing of dog treats, with the remainder devoted to offices and accessory uses. Mr. Trachtenberg also stated that the traffic will be relatively light, with just several trucks coming and leaving every day.</p> <p>Dog treat processing and distribution is not specifically listed as a permitted use in a B-3 General Business District (or any other district), according to the Zoning Ordinance. However, “other business uses of the same general character as listed” in Permitted Uses subsection are allowed as conditional uses. The proposed use resembles closely enough “wholesale business and offices with no outside storage” category, which is a permitted use, to justify consideration for a Conditional Use Permit.</p> <p>The definition of wholesale is “the selling of goods in large quantities to be retailed by others.” Based on Mr. Trachtenberg’s description of the building use, over three quarters of the building area will be used for packaging, storage, shipping, receiving, and offices – all functions of a standard wholesale business; less than a quarter of the building will be used for processing of dog treats. Historically, staff has viewed limited area auxiliary uses of a building as an accessory to the main use of the property and did not stipulate that this accessory use must be listed separately among permitted uses, along with the main use. (An example of this approach, codified in the ordinance, would be a home occupation, which allows using up to 30% of the dwelling areas, without changing the residential character of the structure.) The requirement to maintain processing space below 25% of the building area is one of the proposed conditions attached to this conditional use permit.</p> <p>After establishing that the proposed use is indeed similar to a listed permitted use, the 18 criteria itemized in Section 86-49 should be evaluated in determining the appropriateness of granting a conditional use permit. And finally, the seven proposed conditions are supposed to prevent any possible negative effect on a neighborhood; in particular, Condition Four makes sure that no offensive odor will be noticed outside this property.</p> <p>The conditional use permit regulations are found in Section 86-46 https://library.municode.com/mn/marshall/codes/code_of_ordinances?nodeId=PTIICOOR_CH86ZO_ARTIIADEN_DIV2COUSPE_S86-46ISPU and the Standards for Hearing are found in Section 86-49. https://library.municode.com/mn/marshall/codes/code_of_ordinances?nodeId=PTIICOOR_CH86ZO_ARTIIADEN_DIV2COUSPE_S86-49STHE</p> <p>At the Planning Commission meeting on March 28, 2019, a motion was made by Knieff, second by Fox to recommend approval to the City Council of the request by Carr Family LTD Partnership, Marshall, MN for a Conditional Use Permit for a dog treat preparation, packaging and distribution facility in a B-3 General Business District as a business use similar to wholesale with the following conditions: 1) That the regulations, standards and requirements as set forth in the City Code and as pertains to the class of district in which such premises are located shall be conformed with. 2) That the City reserves the right to revoke the Conditional Use Permit in the event that any person has breached the conditions contained in this permit provided that the City serve the person with written notice specifying items of any default</p>

	and allow the applicant a reasonable time in which to repair such default. 3) That the property is maintained to conform to the Zoning Code and not cause or create negative impacts to adjacent existing or future properties. 4) That no offensive odor is detectable beyond property lines. 5) That dog treat preparation area does not exceed 25% of the building area. 6) That any building addition or new building intended for requested use shall require a new conditional use permit. 7) That no outside storage is permitted. Motion passed with 4 Yah and 2 Nay with Edblom and Steen voting no.
Fiscal Impact:	Costs are to be billed to applicant
Alternative/ Variations:	Deny or revise conditions
Recommendations:	<p>that the Council approve the request by Carr Family LTD Partnership, Marshall, MN for a Conditional Use Permit for a dog treat preparation, packaging and distribution facility in a B-3 General Business District as a business use similar to the permitted wholesale business with the following conditions:</p> <ol style="list-style-type: none"> 1. That the regulations, standards and requirements as set forth in the City Code and as pertains to the class of district in which such premises are located shall be conformed with. 2. That the City reserves the right to revoke the Conditional Use Permit in the event that any person has breached the conditions contained in this permit provided that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable time in which to repair such default. 3. That the property is maintained to conform to the Zoning Code and not cause or create negative impacts to adjacent existing or future properties. 4. That no offensive odor is detectable beyond property lines. 5. That dog treat preparation area does not exceed 25% of the building area. 6. That any building addition or new building intended for requested use shall require a new conditional use permit. 7. That no outside storage is permitted.