



CITY OF MARSHALL
AGENDA ITEM REPORT
L&O 04/08/25

Presenter:	Ilya Gutman
Meeting Date:	Tuesday, April 8, 2025
Category:	NEW BUSINESS
Type:	ACTION
Subject:	Ordinance amending Section 86-29 Variances and 86-48 Procedures.
Background Information:	<p>According to the Minnesota Statutes and their interpretations, variances and conditional use permits may not have time limits, such as sunset provisions. However, it appears that it may be possible to limit timing between granting such a permit and its commencement or implementation. Several cities have such limitations, and our City attorney confirmed that we may implement such limits. The reason for this approach is that circumstances change, and a request that met Ordinance prescribed conditions at some point may not meet them in a year. As a result, it becomes reasonable to apply a “use it or lose it” concept.</p> <p>To make the difference between the two seemingly similar items mentioned above, it may be helpful to use an example. If someone applies for a conditional use permit for a duplex in a low-density residential district, it is granted, and they start their duplex construction in a month, their CUP cannot be revoked at any time unless they violate CUP’s conditions. However, if they don’t start construction (and in this case, we would consider an application for a building permit as an equivalent of starting construction), their CUP will expire in a year, unless they ask for extension at least one month prior to its expiration. If an extension is not asked for, or not granted, they will need to re-apply later for another CUP if they want to build this duplex in the future.</p> <p>In fact, this provision was first added to the Ordinance in 2013, for both variances and conditional use permits, but then it was removed for CUP’s in 2019, due to an incorrect interpretation that such provision would be illegal. Consequently, staff suggest adding this provision back to Conditional Use regulations; simultaneously, for the variance ordinance, where this provision has been in existence since 2013, staff recommend shifting decisions on extensions to staff, while also limiting it to a single one-year extension.</p>
Fiscal Impact:	None.
Alternative/ Variations:	None recommended.
Recommendations:	Staff recommends the recommendation to the City Council approving the revisions amending Section 86-29 Variances and 86-48 Procedures to establish a limit for conditional use permits commencement timing.