

**--UNAPPROVED --**

**MINUTES OF THE  
MARSHALL PLANNING COMMISSION MEETING  
OCTOBER 9, 2019**

**MEMBERS PRESENT:** Fox, Schroeder, Steen, Edblom, Lee, Knieff and Carstens

**MEMBERS ABSENT:**

**OTHERS PRESENT:** Ilya Gutman and Glenn Bayerkohler

1. The meeting was called to order by Chairman Edblom. He asked for the approval of the minutes of the July 10, 2019, regular meeting of the Marshall Planning Commission. Knieff MADE A MOTION, SECOND BY Fox, to approve the minutes as written. ALL VOTED IN FAVOR OF THE MOTION.
  
1. Gutman explained the original MERIT Center master plan included a shooting range shown west of the driving track north of Erie Road. A recent change of Ordinance added gun ranges as conditional use permits to A-Agricultural districts. Accordingly, this is a request to consider a conditional use permit for a gun range within MERIT Center located in an A Agricultural district. Staff recommends approval to the City Council of the request by the MERIT Center, Marshall, MN for a Conditional Use Permit to have an outdoor gun range in an A – Agricultural District 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 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. Comply with NRA safety rules and clearances. Carstens asked if the gun range will be open to public or if it is for police training only. Gutman said he doesn't know at this time. Lee asked if this is in an enclosed building. Gutman said no, the gun range is outside. Knieff asked if it will be fenced in. Gutman showed where the existing fence is. Schroeder MADE A MOTION, SECOND BY Steen, to close the public hearing ALL VOTED IN FAVOR OF THE MOTION. Fox MADE A MOTION, SECOND BY Steen to recommend to City Council an approval as recommend by staff. ALL VOTED IN FAVOR OF THE MOTION.
  
2. Gutman said the owner wants to subdivide the property and carve a piece out on the northwest side to sell. The property has a public roadway easement along the southwest property line that significantly reduces buildable area. Additionally, some buildings along this easement do have 15 feet yard opposite the easement. Based on the above considerations (uniqueness of a wide easement and fitting into essential character of the locality with other buildings) the staff believes a variance request is justified. Staff recommends approval to the City Council of the request by Charles Hess for a Variance Adjustment Permit for reduction of the required rear yard from 25 feet to 15 feet. Joan Johnson, of 901 West Main Street, said that is where she lives, and she does not want a business back there with special privileges. Edblom asked if her property was backed up to the location requesting the variance. Johnson said no, but her home is her castle and they are being surrounded by businesses. Knieff said that is the way it is zoned; Hess can put anything he wanted. Johnson said that is true, but she does not want to give special privileges to a business. She wants to stick with the 25 feet for the set back and not give special privileges. Knieff said her house is

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almost a block away from the location requesting the variance and that he does not see it as a problem. Schroeder said she understands, but this is a business district. Johnson said she understands but she wants to keep it at the 25 feet set back. Hess showed the location of Johnson's house in comparison to the property that he is requesting the variance and explained that it should not affect her. Johnson said it does affect her, because if all the other businesses get a 15-foot set back, then the one behind her will eventually ask for a 15-foot set back also. Bayerkohler ask if the resident can plant a buffer of trees. Gutman said yes, but because it is not zoned residential, it is not a requirement. Johnson said she does not want trees, she likes to see around her. Fox MADE A MOTION, SECOND BY Lee, to close the public hearing ALL VOTED IN FAVOR OF THE MOTION. Knieff MADE A MOTION, SECOND BY Fox to recommend to City Council an approval as recommend by staff. ALL VOTED IN FAVOR OF THE MOTION.

3. Gutman advised this is a request by Four Seasons, LLC, Marshall, MN to rezone 800 West College Drive from I-2 General Industrial District to B-3 General Business District. The owner wants to lease the building to UCAP for a daycare use until the new Headstart daycare facility is built. The area where this building is located is currently zoned I-2 General Industrial District where daycare is not a permitted use. The City's comprehensive plan shows a strip north of West College Drive between Legion Field Road and the BNSF railroad tracks to the west as commercial use. Considering the comprehensive plan's apparent intent, it seems reasonable to rezone this property to B-3 General Business District, where daycare is a permitted use. An area to the east of this property is already zoned B-3 General Business District, so staff proposes to rezone a portion of the property located between the existing B-3 General Business District area and the property in question to B-3 General Business District as well to provide continuity of zoning district and avoid spot zoning. The State Lottery office is occupying the building located in the area staff proposes to rezone, so the use will go from nonconforming to permitted. Staff recommends approval to the City Council of the request to rezone properties at 800 West College Drive and 750 West College Drive from I-2 General Industrial District to B-3 General Business District. Fox asked if the alterative is a Conditional Use Permit. Gutman said yes, but according to Comprehensive Plan this makes sense, as this is what is in the Comprehensive Plan. Fox asked about the property owners further down if they wanted to be in a B-3 General Business District. Gutman explained that awhile back they were asked and at that time they did not want to be in a B-3 General Business District, so we did not ask them this time. Lee MADE A MOTION, SECOND BY Steen, to close the public hearing ALL VOTED IN FAVOR OF THE MOTION. Schroeder MADE A MOTION, SECOND BY Fox to recommend to City Council an approval as recommend by staff. ALL VOTED IN FAVOR OF THE MOTION.
4. Gutman explained that sometime ago it was brought to staff's attention that the ordinance requiring a Conditional Use Permit renewal for home occupation contradicts the statutes that don't allow time limits to be attached to a Conditional Use Permit. To correct this, the staff proposes to introduce an Interim Use Permit and make home occupation an interim use. The statutes allow using Interim Use Permit if time limit for a permit is desired. Many cities have provisions for Interim Use Permit, but many do not. Additionally, among cities that define them within their ordinances, some do not have any specific uses listed as interim uses. How each city approaches home occupations also varies among the cities with some listing them as accessory uses with limitations on what may be considered a home occupation, some allow them as Conditional Use Permit, like Marshall's past approach, and some have them as interim use. Staff believes that making home occupation an interim use and issuing a time limited Interim Use Permit offers the

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city the greatest amount of flexibility. It provides for public input through public hearing and allows issuing those permits on a temporary basis. The new Interim Use Permit Division 3 text is based on Conditional Use Permit Division 2, since procedures are very similar. Additionally, home occupation sections were modified by adding several conditions and excluding several activities. To make things consistent, the Bed & Breakfast use was also moved into Interim Use Permit Division 3 and Conditional Use Permit Division 2 was revised to account for a change. Staff recommends the recommendation to the City Council approving the revisions amending Article II Division 2 Conditional Use Permit, adding Division 3 Interim Use Permit, and amending sections 86-96 thru 86-102 by removing home occupation from conditional uses list. Fox asked what the fee structure would be. Gutman said we do not know that yet. The idea is that the first year is a trial and then the next 5 years is to see if it works and they make money. Then after that they would locate the business in a business district. Fox asked what the Interim Use Permit is tied to. Gutman said the applicant and property. Bayerkohler asked if they still come to Planning Commission. Gutman said yes, like it was before. If granted, it would be for the first year and then they could renew for the 5-year period. Bayerkohler said this is creating work for the Planning Commission. Gutman said it is like before, but it has an end time. Bayerkohler asked if the B&B can continue. Gutman said yes, that one can renew for any periods after the first 5-year period. Bayerkohler said his neighbor who only does a few haircuts a month will never make enough to go downtown. Gutman said if it is only a couple per month maybe they won't need a home occupation permit. Most likely we won't know about people who do it once or twice a month. We have not discussed fees, but it will be a proposal and the City Council will decide. Fox MADE A MOTION, SECOND BY Knieff to recommend to City Council an approval as recommend by staff. ALL VOTED IN FAVOR OF THE MOTION.

5. A MOTION WAS MADE BY Knieff, SECOND BY Steen to adjourn the meeting. ALL VOTED IN FAVOR. Chairman Edblom declared the meeting adjourned.

Respectfully submitted,  
Chris DeVos, Recording Secretary