

**RESOLUTION NO. 24-077**

**RESOLUTION APPROVING  
CONDITIONAL USE PERMIT  
WITHIN THE CITY OF MARSHALL, MINNESOTA**

**WHEREAS**, the office of the City of Marshall Zoning Administrator received an application for Conditional Use Permit dated July 23, 2024, for three multiple unit dwellings related to property located at:

**LOCATION:** 1000 Clarice Avenue.

**LEGAL DESCRIPTION:** OUTLOT B, J-C BOYER ADDITION

**WHEREAS**, the applicant for the Conditional Use Permit was the property owner Paul and Joanne Stoneberg and a developer Steve Kuepers,

**WHEREAS**, a written request for a Conditional Use Permit is subject to the Minnesota 60-day rule as codified in Minnesota Statutes §15.99. The 60-day rule requires an approval or denial of a Conditional Use Permit within 60 days of the time Conditional Use Permit request is submitted. If no action occurs on the request for Conditional Use Permit within 60 days, it is deemed approved pursuant to Minnesota Statute;

**WHEREAS**, City staff representatives from the Community Planning Department reviewed the application for the Conditional Use Permit;

**WHEREAS**, Conditional Use Permits are granted only for those uses specifically listed as conditional uses for a particular zoning district;

**WHEREAS**, this property is zoned B-3 General Business District as defined in Ordinance Sec. 86–104 and multiple family dwellings is a Conditional Use in this district;

**WHEREAS**, a public hearing was scheduled for August 14, 2024, to consider the request for a Conditional Use Permit and notice of that hearing was published and was mailed pursuant to provisions of Ordinance Sec. 86-47 and further in compliance with Minnesota Statutes;

**WHEREAS**, the public hearing was held as scheduled and the Planning Commission considered the following standard criteria for Conditional Use Permit review as outlined in Ordinance Sec. 86–49:

- (1) Whether the proposed use is compatible with the existing neighborhood environment and use.
- (2) The adequacy of the access to roads and rights-of-way.
- (3) The additional traffic generated by facility.
- (4) The landscaping, fencing and/or screening plan.
- (5) The outside storage provisions.
- (6) The accessory buildings provisions.
- (7) The facility size.
- (8) The area of site.

- (9) The off-street parking facilities.
- (10) The density of the population and structures.
- (11) The duration of proposed interim use.
- (12) The natural features of the area.
- (13) The availability of existing utility and public service facility.
- (14) The future maintenance provisions.
- (15) Whether the proposed use will be injurious to the property or improvements in the area adjacent to such proposed use and the community as a whole.

**WHEREAS,** Staff offered the following information to the Planning Commission with a recommendation for the Planning Commission to recommend approval to the Council:

- (1) This is a commercial area so multiple story buildings and significant traffic will be compatible with current use.
- (2) The property will have access from two streets.
- (3) The additional traffic generated by this use will be safely handled by public streets.
- (4) The site will be landscaped in compliance with the landscaping ordinance.
- (5) The standard B-3 outside storage provisions will be applicable, which generally prohibit any outside storage.
- (6) The standard B-3 accessory buildings provisions will be applicable.
- (7) This building size is adequate for proposed use.
- (8) The site area is adequate for proposed development.
- (9) The ordinance parking requirements will be met.
- (10) The density of the area will not change in any significant way.
- (11) Not applicable to Conditional Use Permits.
- (12) The lot is unremarkable and similar to adjacent lots.
- (13) Existing utility and public service facility are adequate for proposed use.
- (14) All standard maintenance provisions will apply.
- (15) The proposed use will not be injurious to surrounding area (see item 1) and will be helpful to the community.

**WHEREAS,** the Planning Commission has evaluated all applicable considerations and finds and determines that granting a requested Conditional Use Permit will not be injurious to the adjacent properties and that all standards for hearing are satisfied.

**WHEREAS,** the City Council reviewed the Minutes of the Planning Commission and heard from staff, and

**WHEREAS,** Staff reiterated its findings to the Council at the August 27, 2024, Council meeting,

**NOW THEREFORE, BE IT RESOLVED,** by the City Council of the City of Marshall that the City Council accepts and adopts the findings of the Planning Commission and the following findings:

1. Because of the nature of the proposed use and its location, the requested Conditional Use will not:
  - a. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this Code.
  - b. Violate any Ordinance provisions.
2. The Conditional Use will be in harmony with the general purpose and intent of the City Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
3. The proposal is consistent with existing and future land uses in the area.

**FURTHER, BE IT RESOLVED,** that the City Council of the City of Marshall hereby approves the requested Conditional Use Permit, subject to on-going compliance with all of the following conditions:

1. If within one (1) year after approving the Conditional Use Permit, the use as allowed by the permit shall not have been initiated, the CUP shall become null and void unless a petition for an extension of time in which to complete the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
2. Pursuant to Marshall Code Article 86-II, Division 86-II-2, Section 86-49, no application for a condition modification shall be considered by the planning commission or council for at least one-year from the date of a Conditional Use Permit approval or from when circumstance sufficiently change to justify a review.
3. This Conditional Use Permit shall become effective upon filing a certified copy of the signed resolution of approval with the County Recorder pursuant to Minnesota State Statute 462.3595 to ensure the compliance of the herein-stated conditions.
4. The owner shall maintain the property to conform with the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto.
5. The owner shall obtain all relevant and required permits prior to beginning any work.
6. The City reserves the right to revoke the Conditional Use Permit if the applicant or if ownership of the property has transferred, then the current owner, has breached the conditions contained in this permit provided first, however, that the City serve the applicant with written notice specifying items of any such default and thereafter allow the applicant a reasonable time in which to cure any such default

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Mayor

**ATTEST:**

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City Clerk