

RESOLUTION NO. 24-089

**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 August 6, 2024, for a two-family dwelling under single ownership related to property located at:

LOCATION: 906 Cheryl Avenue.

LEGAL DESCRIPTION: Lot 7, Block 1 of the Eatros Place 6th Addition

WHEREAS, the applicant for the Conditional Use Permit was the property owner Matt Schnoor,

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 R-1 Low density residence District as defined in Ordinance Sec. 86-97 and two-family dwellings under single ownership are a conditional use in this district;

WHEREAS, a public hearing was scheduled for October 9, 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) The lot in question is adjacent to the R-4 multiple family district in the back and an adjacent building is a duplex.
- (2) The property is located at the corner of Kathryn Avenue and Chery Avenue providing adequate access.
- (3) Since this use is existing, no additional traffic will be generated.
- (4) The standard R-1 landscaping requirements are applicable.
- (5) The standard R-1 outside storage provisions are applicable, which generally prohibit any outside storage.
- (6) The standard R-1 accessory buildings provisions are applicable, which limits the number of accessory buildings to two.
- (7) The building is about the same size as adjacent houses and is not excessive and compatible with other houses in the area.
- (8) The lot area is 8,400 SF which will meet the Ordinance requirements after the proposed change is adopted.
- (9) The house has an attached garage and a driveway wide enough for three cars, so it meets the Ordinance requirement of two spaces per dwelling unit.
- (10) The density of the area will stay within limits for low density residential area as defined in the City Comprehensive Plan (less than 6 units per acre).
- (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 this use (each unit already has separate utilities).
- (14) Since this is a single ownership, the owner is required to take care of the building in the same manner as a single-family building.
- (15) The building and its use as a two family dwelling has been in place for decades, so approval of a CUP will not have negative effects on the neighborhood.

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 October 22, 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. 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.
2. 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.
3. 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.
4. 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.

Mayor

ATTEST:

City Clerk