

STAFF REPORT

Application:	Request for conditional use permit to operate a retail store for the sale of produce in a Residential/Commercial (RC) zoning district and a variance for added impervious area with parking improvements that will exceed the 25 percent maximum allowed.
Applicant:	Cody Kurowski
Property Owners:	Douglas and Kristi O’Neill
Agenda Item:	4(a)

Background Information:

- **Proposal:** The applicant, Cody Kurowski, is proposing a conditional use permit to allow a retail store for the sale of produce from his garden greenhouse and other local products. An existing shed on the site would be used, remodeled to provide needed storage and a retail display area.. The O’Neill property, part of the Hunts Resort PUD, is zoned RC - Residential Commercial. and it is within the shoreland overlay district. The retail usage proposed would be allowed with an approved conditional use permit (CUP).

In October 2023, Mr. Kurowski was approved by the City Council for a conditional use permit that would allow for three greenhouse structures within his home property along North Lakeshore Drive. Kurowski will soon begin work on the third greenhouse for which he received a permit in June. As part of this earlier CUP application, Kurowski announced his intent to grow and sell produce to the local community.

The CUP application includes a plan for parking. Designed to conform to the city’s off-street parking requirements, the parking layout shows a new 13 ft concrete driveway and parking area for five vehicles with his access from South Golf Course Road. The parking plan has been reviewed by staff and determined to meet the city’s ordinance requirements for off-street parking.

Attached for review with this request is Kurowski’s description of the usage of the site and the shed, the site plan, floor plan and his plan to provide for parking needs. The calculation of existing and proposed impervious area with the addition of the proposed parking and driveway as prepared by the applicant was reviewed by staff and appears to be accurate, indicating 25.5 percent impervious with the added parking area, slightly over the 25 percent required by ordinance, but which may be allowed with a variance.

A decision from the City Council is requested regarding the conditional use permit for the proposed retail usage and variance for being potentially over the maximum requirement on total impervious area.

- **Location:**
 - Property Address: 17116 South Golf Course Road

- Sec/Twp/Range: 11-125-38
- Parcel number(s): 24-0115-629
- **Current Zoning:** RC – Residential Commercial
- **Current Land Use:** Shed structure
- **Lake Designation:** Minnewaska
- **Total Parcel Size:** 17,037 sq ft (as surveyed, Hunts Resort PUD)
 - Existing Impervious Coverage: 3,072 sq ft (18.0%)
 - Proposed Impervious Coverage: 4,340 sq ft (25.5%)
- **Natural Features:** Mostly grass cover.
 - Floodplain: The property is not located within an identified floodplain.

Planning Commission/City Council Direction: The Commission/Council may approve the request, deny the request, or table the request if it should need additional information from the applicant. If the Commission/Council should approve or deny the request, it should state the findings which support either of these actions.

Staff Recommendation: Staff would recommend approval of a conditional use permit and variance that would authorize the proposed retail usage of the property if the Commission finds this will not be a detriment to neighboring residential uses and the nearby highway. Additional conditions may be attached considering the proposed commercial usage and respecting nearby residential usage.

Applicable Statutes/Ordinances: See Appendix A

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission with regard to the conditional use permit:

- 1) **Will not be detrimental to or endanger the public health, safety, morals, comfort, convenience or general welfare of the neighborhood or the City:**

Findings Supporting Approval

The special purpose fence and the usage proposed would not appear to be detrimental to property values. Providing a retail sales space for Kurowski’s produce with safe off-street parking will contribute to the betterment of the community.

Findings Supporting Denial

The commercial usage detracts from the residential character of the area.

- 2) **Will be harmonious with the applicable specific and general objectives of the Comprehensive Plan of the City and this Ordinance.**

Findings Supporting Approval

The conditional use for a retail space would not appear to be inconsistent with the objectives of the Comprehensive Plan or the zoning ordinance.

Findings Supporting Denial

The proposed usage is not harmonious with the surrounding residential uses.

- 3) **The proposed use is or will be compatible with the future land use map of the Comprehensive Plan of the City.**

Findings Supporting Approval

The Comprehensive Plan identifies this area as suitable for commercial or residential uses.

Findings Supporting Denial

None.

- 4) **Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.**

Findings Supporting Approval

The retail usage at this location will not change the residential character of the area.

Findings Supporting Denial

The appearance of the area will be altered and detract from the residential character of the area.

- 5) **The proposed use will not tend to or actually depreciate the area in which it is proposed.**

See #1 above.

- 6) **Will not be hazardous or disturbing to existing or future neighboring uses.**

See #1 above.

- 7) **Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water, sewer systems, and schools.**

The proposed use would not have an appreciable impact on public facilities and services. Current facilities are adequate to serve the usage.

- 8) **Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.**

See # 1 and #7 above. Allowing for the new retail usage would not result in added facilities or costs to the public.

- 9) **Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors**

See #1 above.

- 10) **Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic or surrounding public thoroughfares.**

Access to the site will be from South Golf Course Road, a collector street. Signage would direct traffic to a north driveway entrance by the shed with an egress from parking to the south.

- 11) **Traffic generation by the proposed use is within capabilities of streets serving the property.**

See #10 above.

- 12) **Will have adequate facilities to provide sufficient off-street parking and loading space to serve the proposed use.**

The requirement of the ordinance is to provide at least 5 spaces for each 1000 square feet of retail floor area. The retail sales floor area indicated on the plans is 264 square feet. The parking provided is more than adequate for the amount of retail space.

- 13) **The proposed use conforms with all performance standards contained within this Ordinance.**

Applicable performance requirements of the ordinance with regard to retail activities in the RC zoning district are met.

- 14) **Will not result in the complete or extreme destruction, loss or damage of a natural, scenic, or historic feature of major importance.**

The proposed use would not appear to have any impact on natural, scenic or historic features of major importance as none of these appear to exist on the property.

- 15) **Will conform to the type of uses that are generally permitted within the district.**

The retail usage proposed is allowed as a conditional use in the RC zoning district, subject to specific standards mentioned above.

Findings of Fact: The following findings of fact with regard to the variance request are presented by Staff for consideration by the Board of Adjustment:

- 1) **Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control.**

The spirit and intent of the ordinance (impervious surface limit) is to help minimize the amount of stormwater that runs off a property where it would be more likely to negatively impact nearby properties and public right-of-way.

Findings Supporting Approval

With the mitigation provided with the removal of the shed, the small amount of additional impervious area will not impact neighboring properties or the public right-of-way. Allowing the variances would appear to be in harmony with the intent of the ordinance.

Findings Supporting Denial

None.

- 2) **Variances shall only be permitted when they are consistent with the comprehensive plan.**

The Comprehensive Plan does not directly address variance applications such as this.

- 3) The property owner proposes to use the property in a reasonable manner not permitted by an official control.**

Findings Supporting Approval

The additional impervious area is due to providing a parking plan sufficient to meet the standards required to allow the proposed conditional use. The parking area is reasonable and necessary.

Findings Supporting Denial

The increase in impervious surface area is not reasonable.

- 4) The plight of the landowner is due to circumstances unique to the property not created by the landowner.**

Findings Supporting Approval

The need for the variance is due to the existing circumstances with impervious area for the lot and to meet the parking requirements for the proposed retail usage.

Findings Supporting Denial

The need for the variance is due to the conditional use and the need to provide a paved or concrete surfaced parking area, not because of any existing circumstances.

- 5) The variance, if granted, will not alter the essential character of the locality.**

Findings Supporting Approval

Allowing for the requested parking surface would generally keep the site in character with the usage and not impact adjacent properties.

Findings Supporting Denial

The new parking area will have impacts on the character of this area.

- 6) Economic considerations alone do not constitute practical difficulties.**

Findings Supporting Approval

The need for the variance is due to non-economic factors mentioned above.

- 7) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.**

Findings Supporting Approval

The usage proposed is consistent with the Residential/Commercial zoning district as a conditional use.

Appendix A

Applicable Statutes and Ordinances

2.02: DEFINITIONS.

7. **Conditional Use:** A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood. (*Ordinance approved for Section 2.02 Definitions June 8, 2016.*)
176. **Variance:** A modification of or variation from the literal provisions of this Ordinance consistent with the state enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this Ordinance, except that a variance shall not be used for modification of the allowable uses within a district and shall not allow uses that are prohibited. (*Ordinance approved for Section 2.02 Definitions June 8, 2016.*)

SECTION 9 – RC RESIDENTIAL & COMMERCIAL TRANSITION DISTRICT

- 9.01: PURPOSE.** The purpose of the RC, Residential & Commercial Transition District is to provide locations for limited commercial development while providing for the orderly transition to residential from commercial uses.
- 9.03: CONDITIONAL USES.** Subject to applicable provisions of this Ordinance, the following are **conditional uses in the RC District** and are governed by Section 19 of this Ordinance:
- A. Multiple Family Dwellings (Apartments): Over eight (8) units.
 - B. Congregate Care Housing.
 - C. Church/worship facility, cemetery, crematory, mausoleum, government buildings, public utilities and public service uses, hospitals, homes for the aged, institutions of an education, philanthropic or charitable nature and related facilities when required for the public health, safety or welfare provided that:
 - 1. The requirements of Section 19 of this Ordinance relating to Conditional Uses are considered and satisfied.
 - 2. When abutting a residential use in an area guided toward future residential development within the Long Beach Comprehensive Plan, no building shall be located within thirty (30) feet of any lot line of an abutting lot in a Residential District and a landscaped buffer yard shall be provided. The required landscaped buffer yard shall screen the buildings/structures and parking lots from the view of the abutting residential use. The City Council shall approve the appropriateness of the landscaped buffer yard after consulting the standards for buffer yards contained in Section 11:16 of this Ordinance.
 - 3. The requirements of Section 11.17 (Off-Street Parking and Loading) of this ordinance relating to off-street parking are considered and satisfied.
 - D. Bed and breakfast establishments, provided that:
 - 1. A maximum of four (4) bed and breakfast units be established in the structure.
 - 2. The facility shall have a State license (hotel and food), and comply with building and fire codes as may be required or applicable.
 - 3. The facility shall be owner or manager occupied.
 - 4. The bed and breakfast units are located within the principal structure.
 - 5. Not more than one (1) full time person, who is not a resident of the structure, shall be employed by the bed and breakfast facility.

6. Dining and other facilities shall not be open to the general public but shall be used exclusively by the registered guests and residents.
7. Two (2) off-street parking spaces shall be provided for the home plus one (1) off-street parking space for each bed and breakfast unit.
8. Not more than one (1) identification sign not exceeding four (4) square feet in area may be attached to each wall which faces a street. The sign shall be reflective of the architectural features of the structure and may not be internally or externally illuminated.
9. Adequate lighting shall be provided between the principal structure and the parking area for safety purposes. Any additional external lighting is prohibited.

E. Restaurants.

F. Bars.

G. Hotels/Motels.

H. City Hall.

I. Sexual Oriented Uses provided that:

1. The requirements of Section 15 of this Ordinance relating to the sexually oriented uses are considered and satisfied.
2. All of City Code requirements in the Sexually Oriented Businesses Ordinance are met and satisfied.

J. Convenience Store with gasoline, provided that:

1. The sale of food items is in compliance with state and county standards and subject to the approval of a Health Inspector who shall provide specific written sanitary requirements for each proposed sale location.
2. The approximate area and location devoted to non-automotive merchandise sales shall be specified in general terms in the application.
3. Motor fuel facilities are installed in accordance with state standards. Adequate space shall be provided to access gas pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations minimize conflict with circulation, access and other activities on the site.
4. Wherever fuel pumps are to be installed, pump islands shall be installed.
5. A protective canopy located over the pump island(s) may be an accessory structure on the property however adequate visibility both on and off site shall be maintained.
6. An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles.

K. Resort facilities and incidental commercial services in connection with and incidental to the operation of a resort activity. New resort facilities and expansions shall be processed as commercial Planned Unit Developments and adhere to applicable Shoreland District requirements provided that:

1. Resort facilities shall be licensed by and meet the standards prescribed by the Minnesota Department of Health except where the provisions of this Ordinance are more restrictive, upon which the most restrictive provisions shall prevail.

L. Campground facilities and incidental commercial services in connection with and incidental to the operation of a campground activity. New campground facilities and expansions shall be processed as commercial Planned Unit Developments and adhere to applicable Shoreland District requirements provided that:

1. Campground facilities shall be licensed by and meet the standards prescribed by the Minnesota Department of Health except where the provisions of this Ordinance are more restrictive, upon which the most restrictive provisions shall prevail.
2. Each campsite shall have at least 2,000 square feet in area for primitive or dependent campsites and shall have at least 3,000 square feet in area for independent campsites.

3. Campsites designed to provide water hook-up shall also provide hook-up to a central sewage disposal system which meets the standards, criteria, rules and regulations of the Minnesota Department of Health and of this Ordinance.
4. A Campground which allows camping units with self contained sewage systems shall provide some acceptable form of on-site sewage disposal for these units.
5. Vegetative screening is installed to screening any residential uses adjacent to the campground.
6. Adequate and safe ingress and egress access shall be provided to a public road.

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N. Commercial Planned Unit Developments.

O. Medical offices and clinics, dental offices and clinics, professional offices and commercial (leased) offices, veterinary clinics (not including outside kennels) and funeral homes and mortuaries, provided that:

1. The site and related parking and service entrances are served by a collector street or street of sufficient capacity to accommodate the traffic which will be generated.
2. Adequate off-street parking is provided in conjunction with Section 11.17 of this Ordinance.
3. Vehicular entrances to parking of service areas shall create minimum conflict with through traffic movement.
4. When abutting a residential use, a buffer area with screening and landscaping in compliance with Section 11.16 of this Ordinance shall be provided.
5. All signs and visual communication devices shall be in compliance with Section 14 of this Ordinance.

P. Retail commercial activities provided that:

1. Merchandise is sold at retail.
2. The retail activity is not located within a structure whose principal use is residential.
3. No directly or indirectly illuminating sign or signs in excess of ten (10) square feet identifying the name of the business shall be visible from the outside of the building.
4. No drive thru windows permitted.

11.17: OFF-STREET PARKING AND LOADING.

- A. Scope of Regulations: The off-street parking requirements of this section shall apply within all zoning districts.
- B. Computation: When in the process of determining the number of off-street parking spaces there occurs a fraction of a space, such fraction shall deemed as a requirement for an additional whole space. The parking requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the City Council.
- C. General Provisions:
1. Added Floor Area. Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this Ordinance, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.
 2. Floor Area Defined. For the purpose of this section, "Floor Area," in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients or patients as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise, less ten (10) percent.

3. Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings, including additions thereto, requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this Section.
4. Dwellings – Same Lot. Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve.
5. Enlargement into Parking Area. Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area.
6. Use of Garage Space. No person shall alter a garage to be used as living space in any district, unless other legal provisions are made to provide the required parking for the use on the lot. Garages intended to be used to meet off-street parking requirements shall not be used instead for the storage of goods and materials unless additional off-street parking spaces are provided on site in accordance with this Section.
7. Access Distance. No curb cut access or driveway shall be located less than fifteen (15) feet from the intersection of two (2) or more street right-of-ways for residential uses, and thirty (30) feet for commercial and industrial areas. This distance shall be measured from the intersection of lot lines.
8. Curb cut Setback. Curb cut or driveways shall be a minimum of five (5) feet from the side property lines.
9. Number of Curb cuts. All properties shall be entitled to at least one (1) curb cut or driveway access. Single-family uses shall be limited to one (1) curb cut or driveway access per property. A second curb cut or driveway access may be permitted by the City Council if:
 - a. The second access is at least thirty (30) feet from the edge of the primary access.
 - b. The setbacks for the driveway or curb cut access points are met.
 - c. Impervious surface lot coverage requirements are met.
 - d. The installation of the second curb cut or driveway access will not result in two access points from the lot onto a collector street, minor arterial or arterial street.
 - e. It is determined the second curb cut or driveway access will not result in conflicts with traffic flow or endanger public safety.
 - f. On corner lots, both access points or driveways shall be onto the same street right-of-way.
10. Surfacing. All driveways and all of the areas intended to be utilized for parking space for five (5) or more vehicles shall be surfaced with a bituminous paving on a suitable base, or reinforced concrete, decorative interlocking pavers or equivalent material approved by the City. Alternative surfaces may be permitted in parking lot areas in industrial districts, provided the parking lot area is not adjacent to the street right-of-way, is not located in the front yard, and is not intended for use by employee and customer parking. These “truck parking” areas are subject to Planning Commission and City Council approval.
11. Compliance. Parking lots existing on or before the date of adoption of this Ordinance do not have to be brought into compliance with these standards until such time as any of the following events occur:

- a. A new structure is constructed on the property served by the parking lot.
 - b. An addition is constructed to any existing structure located on the property served by the parking lot.
 - c. A change in the use of the property served by the parking lot occurs which results in a remodeling of the structure requiring the issuance of a zoning or building permit.
12. Site plan. There shall be provided by the developer/owner off-street parking spaces as described on a parking plan, submitted in accordance with the parking requirements and approved by the City for all uses as hereinafter specified. All plans submitted for a zoning or building permit on residential developments with multi-family dwellings and all other developments requiring parking spaces shall include a site plan to be approved by the City Council. Such site plan shall be a part of the zoning or building permit and no approval or certificate of occupancy shall be issued until all items shown on the site plan for parking facilities have been completed. The site plan should include at least the following:
- a. Zoning, setbacks, and statement of use.
 - b. North point and scale.
 - c. All adjacent streets and alleys.
 - d. Sidewalks, curbs, gutters, and boulevard trees.
 - e. Entire ownership of lot or parcel being developed.
 - f. Completely dimensioned parking spaces and driving lane(s), if applicable.
 - g. Owner's name and current address.
 - h. Description of surface.
 - i. Drainage plan.
- D. Parking of commercial vehicles or equipment. No commercial vehicles, earth moving equipment or equipment exceeding 12,000 pounds gross weight shall be parked, stored, or otherwise continued in a residential district unless stored in a completely enclosed structure or unless they are being used in conjunction with a legitimate service being rendered for the benefit of the residential premises or unless the property has a pre-existing use of the lot for commercial vehicle or equipment storage and the City Council has approved the continued use through the issuance of an interim use permit.
- E. Parking and storage of certain vehicles. Automotive vehicles or trailers of any type without current registration or in an inoperable condition shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.
- F. Front Yard Parking. There shall be no parking allowed on any residential front yard area, except for a paved or otherwise improved driveway. Parking of recreational vehicles shall be allowed on required side and rear yard areas; however, said parking shall not encroach on any required setback.
- G. Reduction and Use of Parking. Subject to the review and processing of an interim use permit of this Section, the City Council may reduce the number of required off-street parking spaces when the applicant can demonstrate in documented form a need which is less than required. In such situations, the City shall require a site plan illustrating "Proof of Parking" availability. The plan shall illustrate where the additional parking will be located and how the traffic circulation will coordinate

with the site plan and existing parking lot should use or needs change. The City Council shall also consider:

1. The on street parking available by the site.
 2. The expected usage of the site and parking demand.
 3. Surrounding land uses and zoning districts.
 4. The provisions of this Section affecting the parking lot or loading area.
 5. Any other associated aspect that the City Council deems necessary to evaluate the request.
 6. The applicant shall install the additional required off-street parking within three (3) months of written notification by the City.
- H. Screening and Landscaping. All open automobile parking areas for commercial, industrial or institutional uses containing five or more parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residential district or any institutional premises by a wall, fence, densely-planted compact hedge, trees or other effective screen, not less than five (5) feet nor more than eight (8) feet in height, as determined by the City Council. However, the City Council may waive this requirement if the closest point of such parking area is at least seventy-five (75) feet from the nearest residential property line.
- I. Signs. Incidental, accessory signs shall be permitted on parking areas in accordance with the provisions specified under Section 14.
- J. Area of parking spaces. Loading space and drive aisles shall not be construed as supplying off-street parking space.
- K. Parking space minimum requirements.
1. Single-family residential: two (2) spaces per dwelling unit.
 2. Two-family residential: two (2) spaces per dwelling unit.
 3. Senior housing: one (1) space per dwelling unit.
 4. Multiple family residential three (3) to eight (8) units: two (2) spaces per dwelling unit.
 5. Multiple family residential over eight (8) units: one and one half (1 1/2) spaces per dwelling unit.
 6. Residential condominiums or cooperative housing processed as a PUD: one and one half (1 1/2) spaces per dwelling unit.
 7. Commercial uses: five (5) spaces per one thousand (1,000) square feet of retail sales floor area.
 8. Bed and Breakfast: one (1) space for each unit.
 9. Automobile repair stations: three (3) spaces for each stall plus one (1) for each attendant on the major shift.
 10. Auditorium, stadium, gymnasium, community center one (1) space for each four (4) permanent seats in the largest assembly area, plus one (1) seat for each two-hundred (250) square feet of office area.
 11. Office building, professional offices, banks: one (1) space for each two-hundred fifty (250)

square feet of business area.

12. Drive-in restaurants: five (5) spaces for each one hundred (100) square feet of business area.
 13. Hotel and Motel: one (1) space per dwelling unit.
 14. Restaurants and other food dispensing establishment, except drive-in restaurant: one (1) space for each four (4) seats, plus one (1) space for each two (2) employees on the shift.
 15. Furniture, automobile and boat sales, and appliance sales: one (1) space for each four hundred (400) square feet of gross floor area in the first twenty-five thousand (25,000) square feet, and one (1) space for each six hundred (600) square feet of gross floor area thereafter.
 16. Hospitals, rest homes, nursing homes, and the like: one (1) space for each four (4) beds, plus one (1) space for each employee on the major shift.
 17. Bowling alleys: five (5) spaces for each lane or alley.
 18. Car wash: five (5) spaces, plus five (5) spaces for each wash lane.
 19. Skating rink or dance hall: one (1) space for each two hundred fifty (250) square feet of gross floor area.
 20. Miniature golf course, archery range, golf, driving range: ten (10) spaces respectively.
 21. Uses Not Specified or Precisely Identified: Calculated by the City Council based upon, but not limited to, characteristics for similar uses and professional studies.
- L. Parking Lot Standards. In all districts where off-street parking lots are permitted or required such off-street parking shall be constructed and maintained subject to the following regulations:
1. Adequate ingress and egress shall be provided.
 2. Such parking lots shall be constructed and maintained in a useable condition, with a hard surface consisting of concrete, bituminous, pavement or paver stone designed to drain and dispose of surface water. Recycled bituminous or concrete shall be prohibited except as permitted in an industrial area by variance.
 3. Whenever such parking lot boundary adjoins property zoned for residential use, a setback of ten (10) feet from said lot line shall be required, and maintained.
 4. Necessary curbs or other protection against damages to adjoining properties, streets and sidewalks shall be provided and maintained.
 5. Plans for the construction of any such parking lot must be approved by the City Council before construction is started. No such land shall be used for parking until approved by the City Council.
 6. No sign shall be so located as to restrict the sight, orderly operation and traffic movement within any parking area. Only signs necessary for the orderly operation of traffic movement or parking regulation shall be permitted in any parking area. Such signs shall not be considered part of the permitted advertising space and shall be subject to signage regulations.
 7. Except in the case of single-family, two-family, and townhouse developments, parking areas shall be designed so that circulation between parking aisles or driveways occurs within the designated parking lot and does not depend upon a public street or alley and such design does not require backing onto the public street.

8. Except in the cases of single-family, two-family and townhouses, parking lot areas shall comply with the following standards:

ANGLE OF PARKING (ALONG CURB)	STANDARD STALL WIDTH	HANDICAP STALL WIDTH	STANDARD STALL DEPTH	MINIMUM DRIVEWAY WIDTH
Zero degrees	9'	11'	21'	12'
30 degrees	9'	16'	18'	12'
45 degrees	9'	16'	20'	13'
60 degrees	9'	16'	21'	18'
90 degrees	9'	16'	18'	24'

- M. Drainage and Surfacing. Driveways shall not exceed a grade of six (6) percent and all parking lots except those for less than five (5) vehicles shall be graded according to a drainage plan which has been approved by the City council. Catch basins, sumps and underground storm sewers may be required.
- N. Striping. All lots for five (5) or more vehicles shall have the organization of spaces painted on the surface according to the plan approved by the City Council.
- O. Maintenance. It shall be the responsibility of the lessee and/or owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking area, striping, landscaping and screening.
- P. Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance, and shall be in compliance with Section 11.08.
- Q. The standards outlined in Letters L, M, N, O & P shall not be applicable to parking provided for low density residential, public parks or other similar publicly owned property. In considering a request for variance or modification, the City shall consider the location of the property, size of the parking area, use of the parking area, adjacent property uses and the impact on the general well being of the community.
- R. Joint parking. Joint parking areas for several uses in the same block or in the same vicinity may be permissible, if the number of stalls provided is equal to the sum total of the individual requirements and provided that it is found by the Planning Commission, upon application thereto, that the parking demand generated by the different uses including in any joint arrangement to provide parking stalls required herein occurs at distinctly different times, as in the case of a store generating different demand for parking during its daytime business hours and thereafter generating peak demand for parking after such daytime hours, and in similar cases. The Planning Commission may recommend to the City Council the reduction of the total number of parking stalls to be jointly provided. The joint use of parking facilities shall be protected by covenants that run with the lots housing all the joint users and the lot or lots on which the parking facility which satisfies the parking requirements of this Section is provided. Those covenants shall grant a perpetual easement for parking to the joint principal use lots. The form, manner of execution, and content of such covenants must be approved by the City Council and the document containing the covenants must be recorded at the County Recorder's Office.

SECTION 19 – CONDITIONAL USE PERMITS

19.01: PURPOSE. The purpose of a conditional use permit is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety and to require conditions related to the establishment of said use necessary to carry out the intent and purpose of the Ordinance.

19.03: CRITERIA. The Planning Commission shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce any adverse effects,

and shall make a recommendation to the City Council within the guidelines as mandated by State Statutes. At a minimum, the Planning Commission shall consider the following standards as it would apply to the particular use at the proposed location. The request:

- A. Will not be detrimental to or endanger the public health, safety, morals, comfort, convenience or general welfare of the neighborhood or the City.
- B. Will be harmonious with the applicable specific and general objectives of the Comprehensive Plan of the City and this Ordinance.
- C. The proposed use is or will be compatible with the future land use map of the Comprehensive Plan of the City.
- D. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
- E. The proposed use will not tend to or actually depreciate the area in which proposed.
- F. Will not be hazardous or disturbing to existing or future neighboring uses.
- G. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water, sewer systems, and schools.
- H. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- I. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
- J. Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic or surrounding public thoroughfares.
- K. Traffic generation by the proposed use is within capabilities of streets serving the property.
- L. Will have adequate facilities to provide sufficient off-street parking and loading space to serve the proposed use.
- M. The proposed use conforms with all performance standards contained within this Ordinance.
- N. Will not result in the complete or extreme destruction, loss or damage of a natural, scenic, or historic feature of major importance.
- O. Will conform to the type of uses that are generally permitted within the district.

19.04: CONDITIONAL APPROVAL. In recommending or approving any conditional use permit, the City may impose conditions which are considered necessary to meet the standards of this Ordinance and to protect the best interests of the surrounding area or the City as a whole. Violation of any such condition is a violation of this Ordinance. These conditions may include but are not limited to the following:

- A. Ingress and egress to property and proposed structures thereon with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
- B. Negative or undue effects on nearby property as they may relate to off-street parking and loading areas, economic effects, noise, glare, or odor.

- C. The location and design of refuse and service areas as they may relate to the site, public right of ways and nearby properties.
- D. Location, availability and compatibility of utilities.
- E. Diking, fencing, berming, screening, landscaping or other facilities to protect adjacent or nearby property.
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
- G. Required yard setbacks and other open space.
- H. General compatibility with adjacent and other property in the district.