



**STAFF REPORT
CITY OF BROWNSVILLE PLANNING COMMISSION**

Report Date: November 20th, 2023

Hearing Date: November 27th, 2023

PROPOSAL: CONDITIONAL USE REQUEST TO OPERATE A PART-TIME HAIR SALON IN THE HIGH-DENSITY RESIDENTIAL ZONE (HDR)

APPLICANT(S) LAURA O'DONNELL
217 KIRK AVENUE
BROWNSVILLE, OREGON 97327

LOCATION: T13S, R02W, SEC. 31CA TAX LOT 2900

ZONING: HIGH DENSITY RESIDENTIAL

COMPREHENSIVE PLAN DESIGNATION: RESIDENTIAL

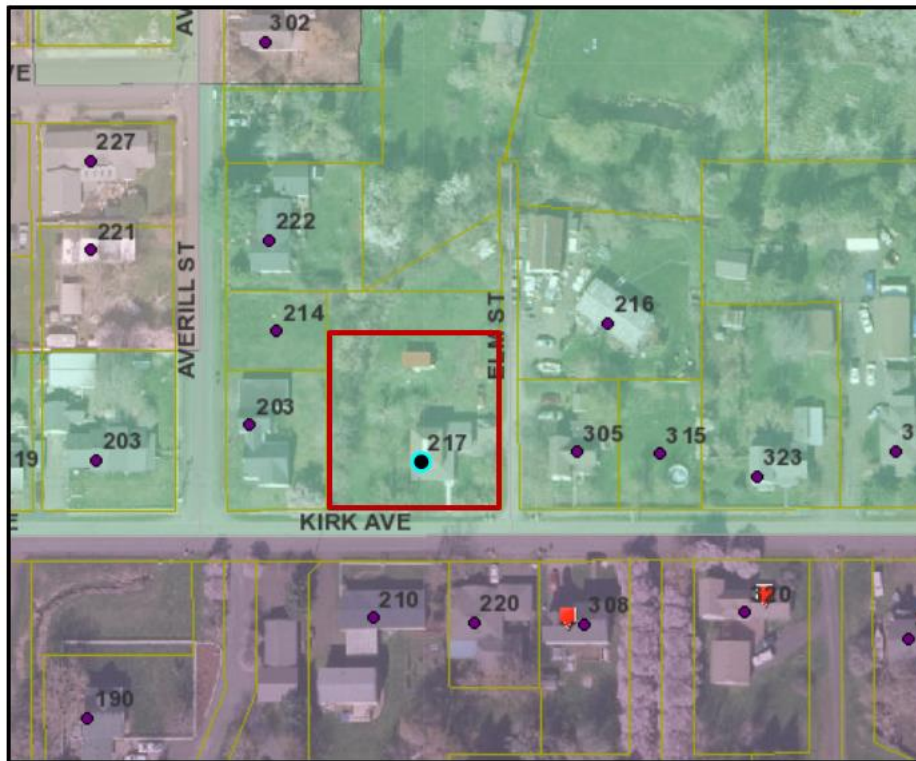
EXHIBITS: A. VICINITY MAP
B. LOCATION MAP
C. APPLICATION
D. ORDINANCE



SUMMARY:

Applicant requests approval of a Conditional Use Permit to operate a part-time hair salon at her primary residence located at 217 Kirk Avenue, in the High-Density Residential Zone. The applicant proposes to provide this service to existing clientele only, with no solicitation for new business. Basic hours of operation are proposed to be limited to three days per week, up to four hours, serving a few clients per day. The hair salon is proposed to operate exclusively within the existing residence at 217 Kirk Avenue, with no outside storage or changes to the property. Approximately 3500 square feet of existing off-street parking is on the premises and available for client use.

Exhibit A -Vicinity Map



Surrounding land uses and zoning are as follows:

	<u>Zoning</u>	<u>Land Use</u>
North:	High Density Residential Old Town Commercial	Single-Family Dwellings Single-Family Dwellings (Constructed prior to Code)
East:	High Density Residential	Single-Family Dwellings
South:	Medium Density Residential	Single-Family Dwellings
West:	High Density Residential Old Town Commercial	Single-Family Dwellings Single-Family Dwellings (Constructed prior to Code)

This property is in the 100-year flood plain.

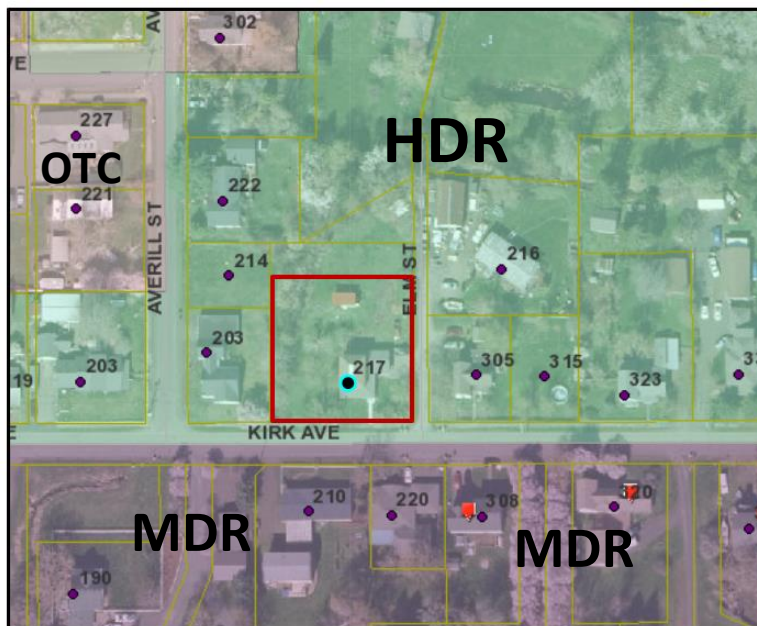


Exhibit B – LOCATION MAP & ZONING MAP
MAP & TAXLOT 13S02W31CA2900



ZONING LEGEND

HDR: High Density Residential | MDR: Medium Density Residential | OTC : Old Town Commercial



WRITTEN PUBLIC COMMENT

As of November 17th, 2023, no written public comment has been submitted regarding the applicant’s Conditional Use application. All written public comments received after November 17th, 2023, will be submitted into the record at the Planning Commission hearing.



APPLICABLE CRITERIA AND REQUIREMENTS

Brownsville Municipal Code Chapter 15.125.010 through Chapter 15.125.050 provides procedures and criteria for considering a Conditional Use request.

BMC 15.125.010

In judging whether a Conditional Use should be approved, approved with modifications, or denied, the Planning Commission shall weigh the proposal's appropriateness and desirability for the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed. In making its decision, the Planning Commission must adopt Findings of Fact addressing the following decision criteria listed in Chapter 15.125:

- 1. The proposal shall be consistent with the applicable policies of the Comprehensive Plan, the applicable provisions of the zoning code and other applicable policies, regulations and standards adopted by the City of Brownsville.**

Consistency with the Comprehensive Plan:

Finding: Comprehensive Policy that applies to this proposal are **Land Use/Residential Lands P-L2.**

Comprehensive Plan Policy P-L2 states: The City of Brownsville will continue to allow home occupations which do not distract from or interfere with the dominant use of the area in residential neighborhoods.

Staff finds that the applicant's proposal is consistent with the applicable policies of the Brownsville Comprehensive Plan.

Consistency with the Zoning Ordinance

BMC 15.80.070 (B)1

Chapter 15.80.070 High Density Residential (B)1 of the Brownsville Municipal Code states:

- B. Conditional Uses Permitted.** In an HDR zone the following uses and their accessory uses may be permitted, subject to the provisions of **Chapter 15.125 BMC:**
 - 1. Home occupation.**

Finding:

The applicant is proposing to operate a part-time hair salon at the primary residence located at 217 Kirk Avenue, in the High-Density Residential Zone. The applicant has properly applied for a Conditional Use Permit for said purposes.

Staff finds the request for a conditional use permit to operate a part-time hair salon in a Residential zone is consistent with the Zoning Ordinance.



2. The location, size, design and operating characteristics of the proposal will have minimal adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area, considering such factors as:

- A. Location, size and bulk of buildings.
- B. Location, size and design of parking areas.
- C. Screening, landscaping, exterior lighting, hours of operation, vehicular access and similar factors.

Finding:

The applicant provided a site plan showing the existing primary residence and off-street parking spaces. Additionally, conversations with the applicant and information from the application provided the following information related to Criteria #2 (A) (B) & (C) on the application:

- A. **Location, size, & bulk of buildings:** *No additional buildings added to property location, no outside storage of chemicals or items, noxious smells or noise.*
- B. **Location, size, & design of parking areas:** *Off-street parking proposed north & east of residence. Available parking approximately 3500 square feet on pavers/gravel.*
- C. **Screening, landscaping, exterior lighting, hours of operation, vehicular access, & similar factors:** *No change to existing landscaping or exterior lighting. Hours of operation will be limited to 3-4 hours per day, 3 days per week (primarily afternoon). Access is from Elm St. via Kirk Ave.*

The proposed use will be operated within the residence of 217 Kirk Avenue, ample off-street parking is available a considerable distance from Kirk Avenue for a limited number of clients, no exterior changes are proposed, and the proposed frequency of vehicular traffic is no more than what would be expected in a residential neighborhood.

Staff finds the proposed use will have minimal adverse impact on the livability, value or appropriate development of abutting properties and surrounding areas.

3. The proposal will preserve those historical, archeological, natural and scenic assets of significance to the community.

Finding:

Archeological, natural & scenic assets of significance do not apply to this proposal.

4. The proposal will not place an excessive burden on streets, sewage, water supply, drainage systems, parks, schools, or other public facilities to the area.

Finding:

The property has an existing residence and is served by City water and sewer. Public Works Superintendent, Karl Frink, provided a review stating he has no objections to the conditional use permit request, as water & sewer impacts will be minimal and little to no increase in traffic or congestion will result from the proposed use. Parks & schools will not be impacted by this proposal.



RECOMMENDED CONDITIONS OF APPROVAL

If the Planning Commission elects to approve this request, Staff recommends the following condition(s) of approval:

1. The Applicant shall comply with all requirements of applicable laws, ordinances and development regulations, Uniform Building Code requirements & applicable State regulations.
2. The Property owner shall comply with the provisions of the sign code.
3. The Conditional Use is not transferable and does not run with the property.
4. The applicant may not expand or otherwise operate beyond the proposed level without applying for a new conditional use permit.

POSSIBLE ACTIONS BY THE PLANNING COMMISSION

In considering the proposed amendments, the Planning Commission may take the following actions:

1. Leave the public hearing open to a certain date and time.
2. Close the public hearing but provide the applicant and public an opportunity to submit additional written testimony by a certain date and time.
3. Close the hearing and make a decision:
 - a. Approval.
 - b. Approval subject to conditions of approval.
 - c. Deny the application.
4. Propose Conditions of Approval. If the Planning Commission elects to approve the application, Staff recommends conditions of approval are a part of the decision.

MOTIONS

APPROVAL: To grant the Conditional Use Permit Application to Laura O'Donnell, subject to Conditions of Approval & to adopt the Findings of Fact in the staff report dated November 19th, 2023.

DENIAL: To deny the application because the applicant's proposed request for a Conditional Use Permit to operate a part-time hair salon within the residence of 217 Kirk Avenue, in the High-Density Residential Zone, fails to meet Criteria# _____, for the following reason.



Exhibit C – APPLICATION



City of Brownsville
255 N Main Street, P.O. Box 184
Brownsville, OR 97327
P: 541.466.5666 F: 541.466.5118
T1/TDD 800.735.2900

Residential Conditional Use Application

Fee: \$250.00

DATE 10/26/23

Application Submittal Includes:

- 1 Hard Copy Electronic Submittal Fee
- Site plan, drawn to scale, showing the dimensions and arrangement of the proposed development.

Office Use Only

Submittal Date 10/20 Receipt # 140150 Hearing Dates: PC 11/27/23 Council
Date Approved _____ Date Denied _____

APPLICANT INFORMATION

Name of Applicant: Laura O'Donnell Phone: 541-915-7491

Mailing Address: 217 Kirk Ave, Brownsville, OR 97327

Applicant is: Legal Owner Contract Purchaser Agent Renter

DESCRIPTION OF SUBJECT PROPERTY

Legal Owner: Patrick & Laura O'Donnell Phone: 541-915-7491

Mailing Address: 217 Kirk Ave, Brownsville, OR

Township 13S Range 02W Section 31CA Tax lot No 2900

Address of Property: Same As Above C13502W31-CA-0290

General Location: Fronting Kirk Ave Side of Elm St.
Name of Street

DESCRIBE THE PROPOSED CONDITIONAL USE

Home Occupation - Part-time hair stylist in home
salon space



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EXISTING CONDITIONS

Zone: HOR Comprehensive Plan Designation _____

Present Use of Property Single Family Residence

Is the property serviced by city sewer and water? Yes No

SUPPORTING REASONS FOR A CONDITIONAL USE REQUEST

The Brownsville Zoning Ordinance, Section 7.010 specifies criteria that must be addressed before granting a conditional use. Applicants must respond to the following criteria (refer to your site plan where appropriate):

1. The proposal is consistent with the applicable policies of the Comprehensive Plan, the applicable provisions of the zoning ordinance and other applicable policies, regulations, and standards adopted by the City of Brownsville.

Proposal is consistent with Applicable policies of the Comprehensive Plan And Zoning ordinance with regard to Home Occupations.

2. The location, size, design and operating characteristics of the proposal will have minimal adverse impact on the livability, value, or appropriate development of abutting properties and surrounding area, considering such factors as:

- A. Location, size, and bulk of buildings.

No Additional buildings Added to property location. No outside Storage of chemicals or items. No Noxious smells or nuisance Noise. No increase in traffic on Kirk Ave or Elm St.



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B. Location, size, and design of parking areas.

OFF street parking proposed north, East of residence. Available parking space approx. 3500 sq ft on pavers / gravel.

C. Screening, landscaping, exterior lighting, hours of operation, vehicular access, and similar factors.

No change to existing landscaping or exterior lighting. Hours of operation limited to 3-4 hours, 3 days / week during the Afternoon. Vehicular Access off Elm St. via Kirk Ave. Clients limited to 2 / day. NATURAL Orchard Screening on West Side of Residence.

3. The proposal will preserve those historical, archeological, natural, and scenic assets of significance to the community and the surrounding area.

Yes. Proposed property site will remain unchanged. Styling business will bring individuals from Eugene / Springfield that wouldn't typically visit Brownsville.

4. The proposal will not place an excessive burden on street, sewage, water supply, drainage systems, parks, schools or other public facilities in the area.

No impact to existing utilities or public facilities. Customers limited to current clientele only. No solicitation for new customers.



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 Brownsville, OR 97327
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 TT/TDD 800.735.2900

STATEMENT

I (we) hereby certify that the foregoing statements and answers and any other information (such as maps and drawing) attached hereto are true and accurate to the best of my (our) knowledge and belief.

APPLICANT:

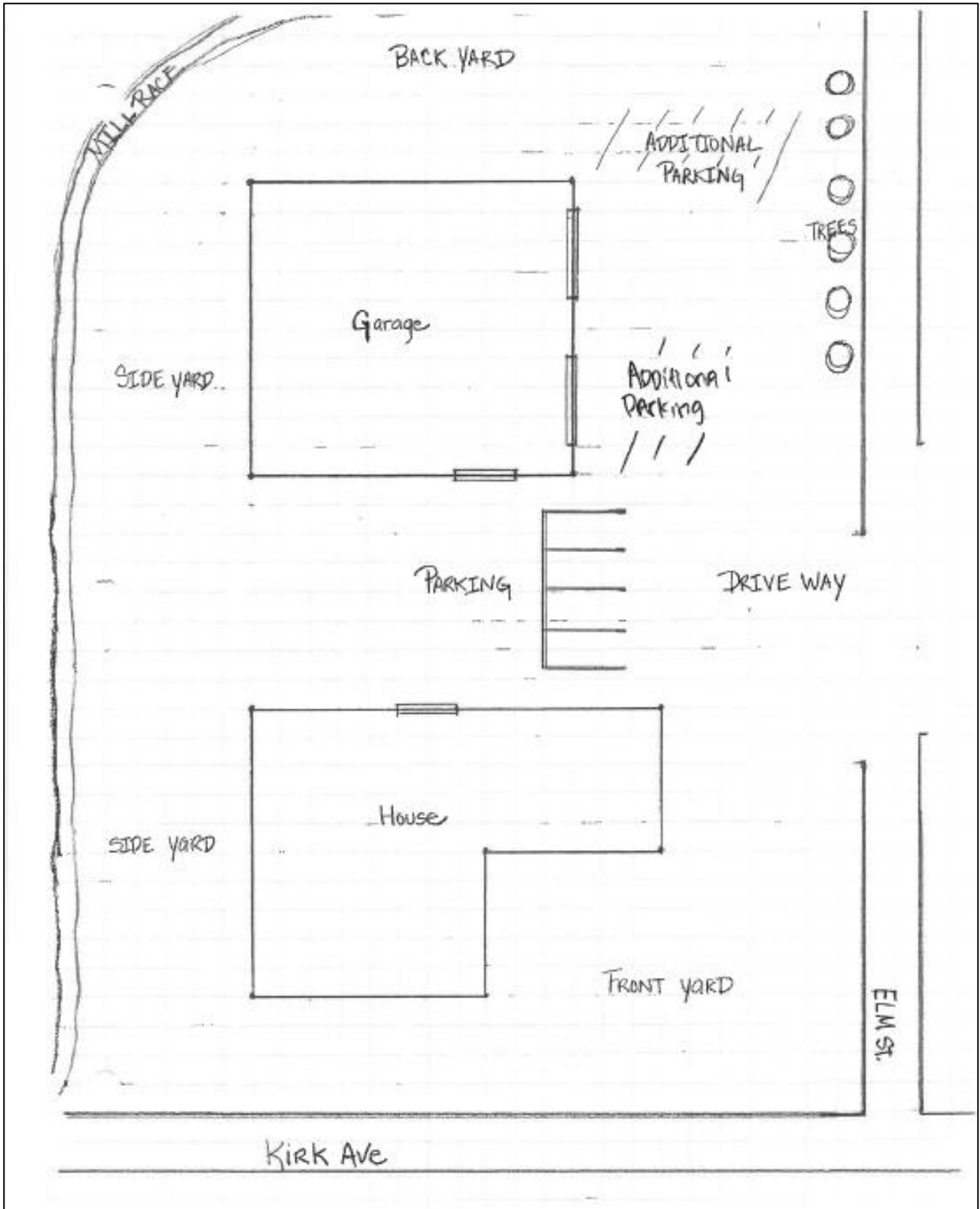
Laura O'Donnell Laura O'Donnell 10/26/23
 (Name printed) (Signature) (Date)

Patrick O'Donnell [Signature] 10.26.23
 (Name printed) (Signature) (Date)

OWNER:

Patrick O'Donnell [Signature] 10.26.23
 (Name printed) (Signature) (Date)

Laura O'Donnell Laura O'Donnell 10/26/23
 (Name printed) (Signature) (Date)





Chapter 15.125 Conditional Uses

Sections:

- [15.125.010](#) Authorization to grant or deny conditional uses.
- [15.125.020](#) Conditions which may be placed on a conditional use permit.
- [15.125.030](#) Procedure for taking action on a conditional use application.
- [15.125.040](#) Time limit on permit for conditional use.
- [15.125.050](#) Standards governing conditional uses.
- [15.125.010](#) Authorization to grant or deny conditional uses.

A conditional use listed in this division shall be permitted, altered or denied in accordance with the standards in this chapter. In the case of a use existing prior to the effective date of the ordinance codified in this chapter and classified in this chapter as a conditional use, a change in the use or in lot area, or an alteration of structure, shall conform with the requirements for conditional use and is subject to review, application and fee in the same manner as a newly proposed conditional use. In judging whether or not a conditional use proposal shall be approved or denied, the Planning Commission shall weigh its appropriateness and desirability for the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable. Home occupations are required to obtain a conditional use permit in the event they generate noise, traffic or other factors which reasonably affect neighboring properties in a negative manner. The City Administrator shall make a determination as to whether a conditional use is required. The City Administrator's decision may be appealed to the City Council.

A. The proposal shall be consistent with the applicable policies of the Comprehensive Plan, the applicable provisions of the zoning code and other applicable policies, regulations and standards adopted by the City of Brownsville.

B. The location, size, design and operating characteristics of the proposal will have minimal adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area, considering such factors as:

1. Location, size and bulk of buildings.
2. Location, size and design of parking areas.
3. Screening, landscaping, exterior lighting, hours of operation, vehicular access and similar factors.

C. The proposal will preserve those historical, archeological, natural and scenic assets of significance to the community and the surrounding area.

D. The proposal will not place an excessive burden on streets, sewage, water supply, drainage systems, parks, schools or other public facilities to the area. [Ord. 717, 2009; Ord. 644 § 1, 1996; Ord. 618 § 11, 1993; Ord. 567A § 10, 1987; Ord. 504 § 7.010, 1980; 1981 Compilation § 8-5:7.010.]



15.125.020 Conditions which may be placed on a conditional use permit.

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this division, additional conditions which it finds necessary to enforce the Comprehensive Plan and to otherwise protect the best interest of the surrounding area or the community as a whole. These conditions may include but are not limited to the following:

- A. Limiting the manner in which the use is conducted, including restricting the time a certain activity may take place and establishing restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- B. Establishing a special yard or other open space or lot area or dimension.
- C. Limiting the height, size or location of a building or other structure.
- D. Designating the size, number, location and nature of vehicle access points.
- E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.
- F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area.
- G. Limiting or otherwise designating the number, size, location, height and lighting of signs.
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding.
- I. Designating the size, height, location and materials for fences, walls or screening.
- J. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- K. Requiring ongoing maintenance of buildings and grounds and specifying procedures for assuring maintenance.
- L. Providing internal property improvements, such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, recreation areas, landscaping, fencing and screening, in order to enhance the area and protect adjacent properties. [Ord. 504 § 7.020, 1980; 1981 Compilation § 8-5:7.020.]

15.125.030 Procedure for taking action on a conditional use application.

The following procedure for taking action on a conditional use application shall be as follows:

- A. A property owner may initiate a request for a conditional use by filing an application with the City.
- B. Two weeks prior to the Planning Commission hearing, the City Administrator shall post notice of the meeting at City Hall, the post office, and the City library. Twenty days prior to the hearing date, notice of the hearing shall be mailed to all owners of record of property within 200 feet of the exterior boundaries of the property for which the conditional use has been requested. The hearing notice shall also be published in a newspaper of general circulation in the City at least twice within the two weeks prior to the hearing. Failure to receive notice does not invalidate any proceedings in connection with this application. If it is required that a state, federal, local or private agency review the conditional use permit, the agency shall be given a minimum of 20 days to submit its comments.



C. The Planning Commission shall hold a public hearing on the conditional use application. The hearing shall be scheduled within 60 days after the request for conditional use is received.

D. Within five days after a decision has been rendered on a conditional use application, the City Administrator shall provide the applicant with written notice of the decision.

E. An action or ruling of the Planning Commission may be appealed to the City Council as provided in BMC [15.75.020](#). [Ord. 618 § 12, 1993; Ord. 504 § 7.030, 1980; 1981 Compilation § 8-5:7.030.]

15.125.040 Time limit on permit for conditional use.

Authorization of a conditional use shall be void after two years or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year on request. [Ord. 504 § 7.040, 1980; 1981 Compilation § 8-5:7.040.]

15.125.050 Standards governing conditional uses.

In addition to the standards of the zone in which the conditional use is located, and the other standards of this division, conditional uses shall meet the following standards:

A. Home Occupations. A decision for approval of a home occupation shall be based on findings related to the following:

1. The building may be constructed, altered, or changed internally to accommodate the requirements of the home occupation, but the external features of the building shall be the same as those of a residence or accessory building and shall in no way be constructed, altered or changed to resemble a commercial or industrial building.
2. There shall be no exterior storage of materials associated with the home occupation.
3. A home occupation may serve as the base or headquarters of any operation, profession, occupation or business which takes place at any location, or uses or employs no more than two persons other than the members of the family residing on the premises, provided the residential character of the building is maintained and does not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
4. No home occupation shall be allowed which requires special permits from the Department of Environmental Quality or any other state, federal or local governmental agency having appropriate regulatory jurisdiction related to air or water quality or to noise.
5. Any existing home occupation operating without a conditional use permit issued by the City will be a nonconforming use which may not expand or otherwise operate beyond or above the present level. [Ord. 618 § 14, 1993; Ord. 567A § 9, 1987; Ord. 504 § 7.050, 1980; 1981 Compilation § 8-5:7.050.]