



**ZONING BOARD OF ADJUSTMENTS
AGENDA**

**Tuesday, November 20, 2018 - 4:00 PM
Council Chambers, 2nd Floor, City Hall
209 Pearl Street**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. ADOPTION OF AGENDA**
- 5. APPROVAL OF MINUTES**
- 6. PROOF OF PUBLICATION/POSTING**
- 7. REVIEW OF MEETING PROCEDURES**
- 8. PUBLIC HEARINGS**

A. CU-18-005

Public hearing on the request of Bomgaars Supply, Inc., represented by Aaron Bomgaars, for a conditional use permit to allow an 'automobile sales and rental' use in a C-2/ Commercial District, on property legally described as being part of Parcel 'B' Auditor's Subdivision of Tract No. 2 in "Sherwood", City of Council Bluffs, Pottawattamie County, Iowa.

Location: 2703 East Kaneshville Boulevard, Council Bluffs, IA 51503.

9. OTHER BUSINESS

A. Zoning Board of Adjustment 2019 Meeting and Application Dates

See attachment.

10. ADJOURNMENT

Any questions or concerns regarding this agenda and/or requests for special accommodations at this meeting should be directed to the Community Development Department at (712) 328-4629 or email at cgibbons@councilbluffs-ia.gov.

Zoning Board of Adjustment Communication

Department: Community
Development

Case/Project No.: CU-18-005

CU-18-005

Council Action: 11/20/2018

Submitted by: Christopher
Gibbons, Planning Coordinator

Description

Public hearing on the request of Bomgaars Supply, Inc., represented by Aaron Bomgaars, for a conditional use permit to allow an 'automobile sales and rental' use in a C-2/ Commercial District, on property legally described as being part of Parcel 'B' Auditor's Subdivision of Tract No. 2 in "Sherwood", City of Council Bluffs, Pottawattamie County, Iowa.

Location: 2703 East Kaneshville Boulevard, Council Bluffs, IA 51503.

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
CU-18-005 Staff Report Including Attachs	Other	11/14/2018

TO: Zoning Board of Adjustment
FROM: Community Development Department

DATE: November 20, 2018

RE: **CASE #CU-18-005**
REQUEST: A conditional use permit to allow automobile sales in a C-2/Commercial District.

APPLICABLE

CODE SECTIONS: §15.02.020 – Zoning Board of Adjustment
The Zoning Board of shall have the following powers:
 b. To make final decisions on applications for conditional uses.

§15.16.030 – Conditional Uses in a C-2/Commercial District
 3. Automobile sales and rental, as further limited by Section 15.15.060

LEGAL

DESCRIPTION: Part of Parcel “B” Auditor’s Subdivision of Tract No. 2 in “Sherwood,” Council Bluffs, Iowa, Pottawattamie County.

LOCATION: 2703 E. Kaneshville Boulevard, Council Bluffs, IA 51503

APPLICANT: Aaron Bomgaars, Bomgaars Supply Inc., 1805 Zenith Drive, Sioux City, IA 51103

OWNERS: Sherwood Plaza, LLC, P.O. Box 954, Council Bluffs, IA 51502

REPRESENTED BY: Bomgaars Supply Inc., 1805 Zenith Drive, Sioux City, IA 51103

BACKGROUND INFORMATION – The Community Development Department has received an application from Bomgaars Supply Inc. for a conditional use permit to allow ‘automobile sales and rental’ in a C-2/Commercial District. The submitted letter of intent for the proposed ‘automobile sales and rental’ use is included with this report as Attachment ‘A’. In summary, Bomgaars Supply Inc. plans to sell youth mini bikes, youth ATVs, and youth go-karts inside their existing one story, 28,376 square foot, commercial building located at 2703 East Kaneshville Boulevard. The proposed use is intended to be accessory to the overall retail operation occurring at the subject property. The applicant has indicated that the youth vehicles will be displayed indoors at all times and that no more than fifteen (15) mini bikes, three (3) go-karts, and four (4) ATVs will be on site at any time. Their hours of operation are Monday through Friday 7:30 AM to 8:00 PM, Saturday 7:30 AM to 7:00 PM, and Sunday 9:00 AM to 6:00 PM. No additional construction or signage is proposed in this request.

CURRENT ZONING AND LAND USE – The subject property is zoned C-2/Commercial District. The parcels across East Kanessville Boulevard to the north are zoned A-2/Parks, Estates, and Agricultural District and R-3/Low Density Multi-Family Residential District. The parcel to the east is also zoned C-2/Commercial District. The parcel to the south is zoned R-4/ High Density Multi-Family Residential District. To the west of the subject property across Sherwood Court are parcels zoned C-2/Commercial District, A-P/Administrative Professional District and A-2/Parks, Estates, and Agricultural District. A location/zoning map is included as Attachment “B”.

Existing land uses in the general vicinity include residential parcels across East Kanessville Boulevard to the north; a strip of commercial tenants to the east; Sherwood Forest Estates Apartments to the south; and a convenience store and the State Armory Board across Sherwood Court to the west. The future land use map of the Bluffs Tomorrow: 2030 Comprehensive Plan designates the subject property as Regional Commercial and Loess Hills Preservation Area.

The following attachments are included with the case staff report:

- Attachment A: Letter of Intent
- Attachment B: Location/Zoning Map

The following photographs show the existing condition of the subject property and surrounding area.

Exhibit A: Aerial View of the subject property

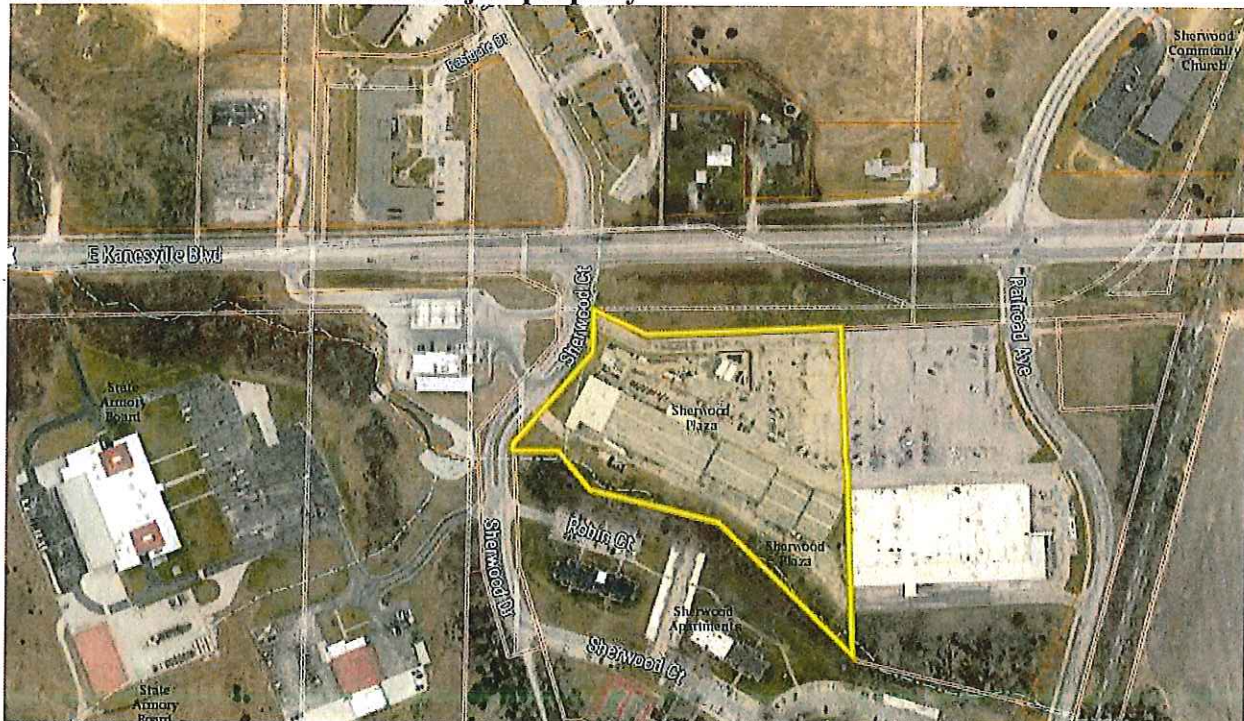


Exhibit B: Google street view image of the subject property looking southwest towards Bomgaars' commercial facility from the parking lot



CITY DEPARTMENTS AND UTILITIES – All city departments and local utility providers were notified of the proposed conditional use permit request. The following comments were received:

Council Bluffs Fire Department stated that they have no issues regarding the proposed use as long as the store's aisle widths are maintained.

Council Bluffs Public Works Department stated that they have no comments concerning the conditional use request.

Council Bluffs Building Department stated that they have no comments concerning the proposed use as long as the store's aisle widths are maintained.

Council Bluffs Community Development Department:

- a. An 'automobile sales and rental' use is defined in Section 15.03.048a, Definitions, 'Automobile sales and rental' of the Council Bluffs Zoning Ordinance as an *"establishment or place of business engaged in the storage and display for sale, lease, or rental of more than two motor vehicles of any type of trailer (provided the trailer is unoccupied) at any one time and/or a total of ten (10) or more sold, leased, or rented during the course of a calendar year and where repair or body work is incidental to the operation of the new or used vehicle sales, leasing or rental. Automobile sales includes all motor vehicle retail sales, leasing or rental, including noncommercial trucks, vans, recreational vehicles, boats, motorcycles or other similar motorized transportation vehicles. The minimum lot area for such an establishment shall be twenty-five thousand*

(25,000) square feet, except that the minimum lot area shall be 15,000 square feet for an establishment engaged solely in sales of motorcycles, motor scooters, all-terrain vehicles and other similar vehicles.” The selling of youth mini bikes, youth ATVs, and youth go-karts would fall under this definition.

- b. The minimum lot size requirement for an ‘automobile sales and rental’ use is 15,000 square feet “for an establishment engaged solely in sales of motorcycles, motor scooters, all-terrain vehicles and other similar vehicles” as per Section 15.03.048a, *Definition, Automobile sales and rental*, of the Council Bluffs Zoning Ordinance. The subject property is comprised of 6.53 acres (284,446 square feet), which exceeds the minimum lot size required for the use.
- c. The Bluffs Tomorrow: 2030 Comprehensive Plan designates the property as ‘Regional Commercial’ and ‘Loess Hills Preservation Area.’ The plan defines “Regional Commercial” as areas with “*significant commercial development in high visibility areas, such as expressway interchanges and major destination centers. Uses in these areas include big-box retailers, casinos, franchise restaurants, and large multi-tenant shopping centers. Often, regional commercial centers are arranged around an interval circulation system and with coordinated development.*” The proposed conditional use adds an additional commercial component to the Sherwood Shopping Plaza. The proposed use is consistent with the ‘regional commercial’ designation.

The plan defines ‘Loess Hills Preservation Area’ as areas “*intended to accommodate the underlying land uses while sustaining the integrity of the Loess Hills environment. Development in this area should be designed to minimize environmental impacts through cluster development, erosion control, the preservation of viewsheds, and the creation of green corridors that foster water management and the migration of local wildlife.*” The proposed conditional use will take place inside an existing commercial building. The applicant does not propose any new construction. The proposed use accommodates the underlying “regional commercial” land use without further compromising the integrity of the Loess Hills environment of the area.

- d. The applicant has indicated in their submitted letter of intent that all youth vehicles will be displayed indoors and that twenty-two (22) youth vehicles will be in store at any time. To ensure that the use remains accessory to the overall retail operation, staff recommends that the youth vehicles sales area shall comprise no more than 30% of the retail store’s gross square footage. If the applicant were to decide to utilize any outdoor space for youth automobile sales, they would need to apply to modify the proposed conditional use permit. This modification would need to be approved by the Zoning Board of Adjustment.
- e. A conditional use permit is tied to a legal description of a property and, therefore, would not be transferable if the business were to relocate to another site in the future.

MidAmerican Energy stated that they have no concerns regarding the conditional use permit.

Council Bluffs Water Works stated that they have no concerns regarding the conditional use permit.

Black Hills Energy stated that they have no concerns regarding the conditional use permit.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet were notified of the conditional use permit request. No comments have been received by the City as of the date of this report.

COMMENTS

§15.02.090 Conditional Uses: The development and execution of the Ordinance (Title 15) is based upon the division of the City into districts. Within each district the use of land and buildings, and the bulk and location of buildings and structures in relation to the land, are substantially uniform. It is recognized, however, that there are specific uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such uses may be either public or private, and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

The Zoning Board of Adjustment shall make findings of fact, based upon the evidence presented at the public hearing, with respect to each of the applicable standards in Section 15.02.090.E (Findings of Fact).

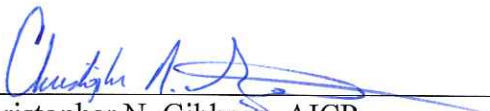
The Zoning Board of Adjustment may impose such conditions and restrictions upon the location, construction, design and use of the property benefitted by a conditional use as may be necessary or appropriate to protect the public interest, adjacent property and property values. Failure to maintain such conditions or restrictions as may be imposed shall constitute grounds for revocation of the conditional use. The terms of relief granted, including any conditions or restrictions, shall be specifically set forth in the concluding statement separate from the findings of fact. No conditional use shall be approved unless the Zoning Board of Adjustment makes findings of fact based directly on the standards and conditions imposed by this section. The findings of fact are presented below in *italics*:

1. *The proposed conditional use will comply with all applicable regulations of this Ordinance, including lot requirements, bulk regulations, use limitations, and all other standards or conditions contained in the provisions authorizing such use.* The minimum lot size requirement for an ‘automobile sales and rental’ use is 15,000 square feet for an establishment engaged solely in sales of motorcycles, motor scooters, all-terrain vehicles and other similar vehicles as per Section 15.03.048a, Definition, Automobile sales and rental, of the Council Bluffs Zoning Ordinance. The subject property is comprised of 6.53 acres (284,446 square feet) of developed land, which exceeds the minimum lot size required for the use. The use will take place in an existing 28,376 square foot commercial building on an existing lot of record.
2. *Adequate utility, drainage, and other necessary facilities or improvements have been or will be provided.* The proposed conditional use will take place in an existing commercial building with adequate facilities. No utility service extensions and/or infrastructure improvements are necessary for automobile sales, specifically youth mini bikes, youth ATVs, or youth go-karts, to occur at this location.

3. *Adequate access roads or entrance and exit drives will be designed and built to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.* The subject property has access from Sherwood Court to the west and from Railroad Avenue through an interconnection with the adjacent property to the east. No additional improvements are necessary for the request.
4. *All necessary permits and licenses required for the operation of the conditional use have been obtained, or it clearly states that such permits are obtainable for the proposed conditional use on the subject property.* The applicant shall secure all necessary permits and licenses for the sale of youth mini bikes, youth all-terrain vehicles (ATVs), and youth go-karts and shall comply with all applicable Federal, State, and local codes.
5. *All exterior lighting shall be shaded as necessary to direct the light away from neighboring residential properties.* No exterior lighting is proposed.
6. *The location and size of the conditional use, the nature and intensity of the activities, to be conducted in connection with it, the size of the site, and the relationship of the site to adjacent roadways shall be considered to assure the use is in harmony with the appropriate and orderly development of the district and the neighborhood in which it is located.* The structure is an existing commercial building in the Sherwood Plaza commercial center with access to existing public streets. All proposed sales will take place inside the existing 28,376 square foot building. The applicant intends to have twenty-two (22) youth vehicles in store at any time. To ensure that the use remains accessory to the overall retail operation, staff recommends that the youth vehicles sales area shall comprise no more than 30% of the retail store's gross square footage. Existing land uses in the general vicinity include residential parcels across East Kanesville Boulevard to the north; a strip of commercial tenants to the east; Sherwood Forest Estates Apartments to the south; and a convenience store and the State Armory Board across Sherwood Court to the west. The proposed use is consistent with the future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan. The proposed request is anticipated to have no negative impact on existing or future land uses in the surrounding area.
7. *The location, nature and height of buildings, structures, walls, and fences on the site, and the nature and extent of landscaping and screening on the site shall be designed so that the use will not reasonably hinder or discourage the appropriate development, use, and enjoyment of the adjacent land, buildings and structures.* The proposed conditional use will occur inside an existing commercial building, therefore, no additional landscaping or screening shall be required.
8. *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.* The proposed conditional use is not anticipated to have a negative impact on property values for existing or future land uses in the surrounding area.

RECOMMENDATION – The Community Development Department recommends approval of the request for a conditional use permit to allow automobile sales and rental in a C-2/Commercial District on property legally described above, subject to the comments stated above and the following conditions:

1. The applicant shall secure all necessary permits and licenses for the sale of youth mini bikes, youth all-terrain vehicles (ATVs), and youth go-karts and shall comply with all applicable Federal, State, and local codes.
2. All units shall be displayed indoors as indicated in the applicant's submittal.
3. The proposed conditional use shall remain accessory to the commercial business and shall comprise no more than 30% of the retail store's gross square footage.



Christopher N. Gibbons, AICP
Planning Coordinator
Community Development Department



Haley P. Weber
Zoning Enforcement Officer
Community Development Department

ATTACHMENT A

Bomgaars Supply, Inc.
1805 Zenith Drive
Sioux City, IA 51103

Council Bluffs Zoning Board of Adjustment

To Whom It May Concern,

Bomgaars Supply, Inc. of Sioux City, IA respectfully requests a conditional use permit for authorization to sell youth mini bikes, youth ATVs and go karts at our Council Bluffs IA retail store. These will all be displayed indoors and we anticipate having no more than the following on hand for sale at any given time.

Dirt Bikes 15, Go Karts 3, ATVs 4

Retail Store Address:

Bomgaars Supply
2703 E Kaneshville Blvd
Council Bluffs, IA 51503

We employ 31 team members and maintain operating hours as follows:

Monday – Friday	7:30 AM – 8 PM
Saturday	7:30 AM – 7 PM
Sunday	9 AM – 6 PM

Sincerely,



Aaron Bomgaars
V.P. Property Management / Store Development

Bomgaars Supply, Inc.
1805 Zenith Drive Sioux City, IA 51103
Email: abomgaars@bomgaars.com
Phone: 712-226-5000
Fax: 712-226-5142

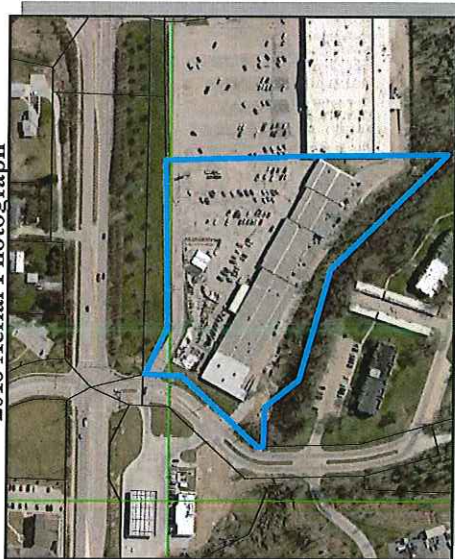
CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT LOCATION/ZONING MAP CASE # CU-18-005

Map Legend

-  CASE #CU-18-005 Subject Property
-  Parcels



2016 Aerial Photograph



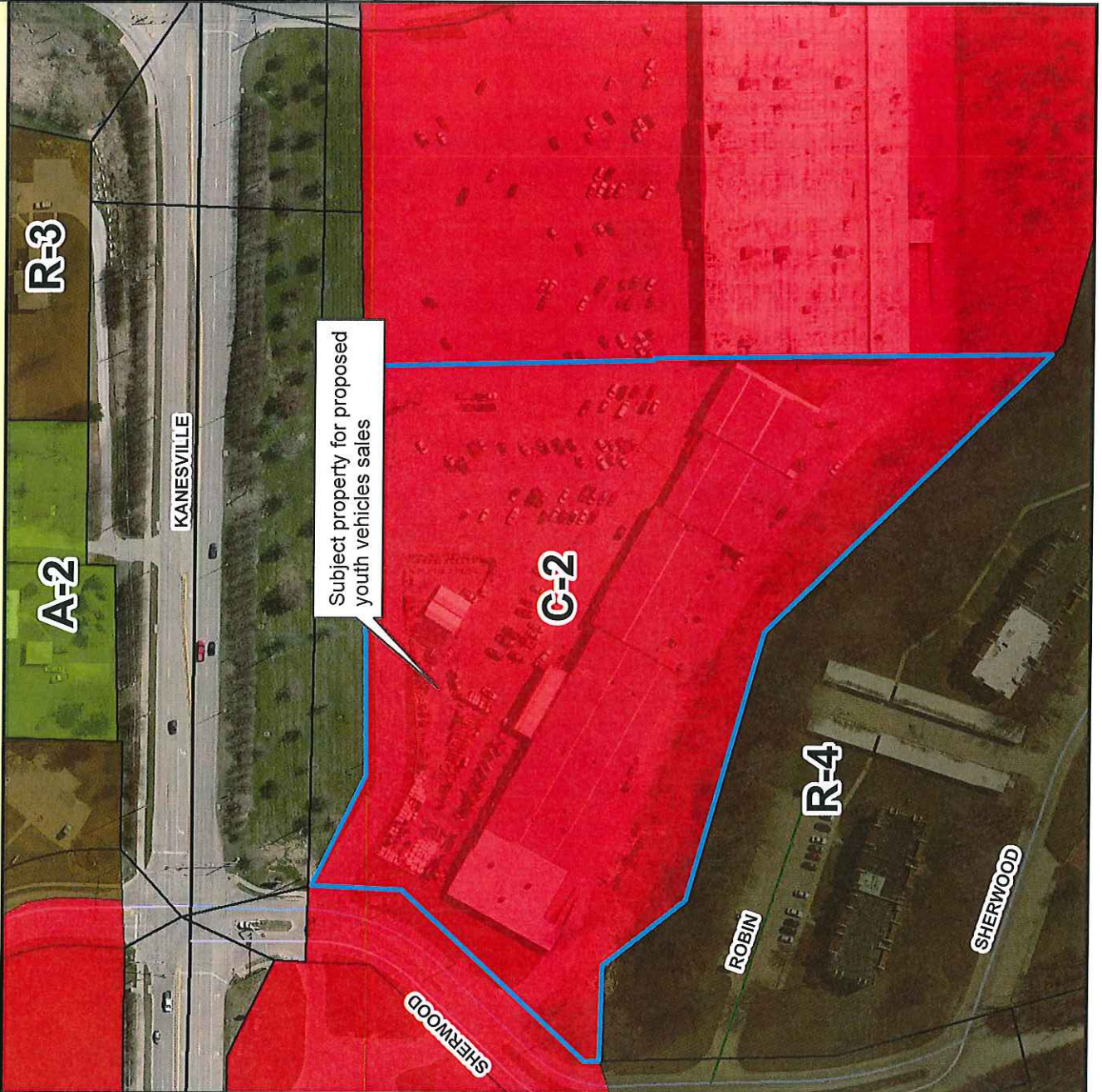
Note: Subject property is highlighted in blue.



Last Amended: 10/29/18

DISCLAIMER
This map is prepared and compiled from records and data. Users of this map are advised that the City of Council Bluffs does not warrant the accuracy of the information shown on this map. The City assumes no responsibility for any errors or omissions. This map should not be used for any purpose other than that for which it was prepared. The City assumes no responsibility for the information contained on this map.

Council Bluffs Community Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328-4029



ZONING BOARD OF ADJUSTMENT 2019

<u>Meeting Date</u>	<u>Application Deadline</u>
January 15	December 18, 2018
February 19	January 22
March 19	February 19
April 16	March 19
May 21	April 23
June 18	May 21
July 16	June 18
August 20	July 23
September 17	August 20
October 15	September 17
November 19	October 22
December 17	November 19

Zoning Board of Adjustment meets every 3rd Tuesday of the month at 4:00 p.m. in the Council Chambers located in City Hall on the 2nd Floor, unless otherwise notified.